

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
AND**

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO**

**MOTION RECORD
(Motion Returnable January 20, 2016)**

January 12, 2015

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED**

AND

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO**

**NOTICE OF MOTION
(RETURNABLE JANUARY 20, 2016)**

A. Farber & Partners Inc. ("**Farber**") in its capacity as court-appointed receiver (the "**Receiver**") of the debtors referred to at Schedule "A" attached hereto (collectively, the "**Debtors**") will make a motion to a judge presiding over the Commercial List on Wednesday, January 20, 2016, at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order substantially in the form of the draft order attached hereto as Schedule "B", *inter alia*:
 - (a) declaring that the timing and method of service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable;

- (b) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor and Michael Cortellucci, as purchaser (the “**Purchaser**”) made as of July 16, 2015, as amended (the “**Sale Agreement**”); and
 - (c) vesting in the Purchaser all of the right, title and interest of King City Holdings Ltd. and 1711060 Ontario Inc., if any, in and to the Purchased Assets (being the Real Property as defined in the Sale Agreement), free and clear of encumbrances other than Permitted Encumbrances (as defined in the Sale Agreement);
 - (d) sealing and treating as confidential Confidential Appendix 1 to the seventeenth report to Court of the Receiver dated January 12, 2016 (the “**Seventeenth Report**”) until closing of the Transaction or further order of the Court; and
 - (e) providing that the relief set out in the order be subject to provisional execution.
2. An order substantially in the form of the draft order attached hereto as Schedule “C”, *inter alia*:
- (a) declaring that the timing and method of service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable;
 - (b) approving the Seventeenth Report and the activities of the Receiver set out therein;
 - (c) approving the updated General Restructuring and Administrative Expenses (“**GARE**”) allocation as set out on Appendix “E” to the Seventeenth Report (the “**Updated GARE Allocation**”);

- (d) approving the additional distributions as set out in Appendix “F” to the Seventeenth Report (the “**Additional Distributions**”) and authorizing the Receiver to make the Additional Distributions;
- (e) authorizing the Receiver, to the extent that additional funds are received or expenses are incurred from time to time, to, without further Court Order, further update the GARE allocation using the same methodology embodied in the Updated GARE Allocation and make any further distributions that result from using the same methodology employed in arriving at the Additional Distributions;
- (f) approving the fees and disbursements of Farber as Receiver as set out in the affidavit of Hylton Levy sworn January, 11 2016 (the “**Levy Affidavit**”);
- (g) approving the fees and disbursements of Dentons Canada LLP (“**Dentons**”), as counsel to the Receiver as set out in the affidavit of Neil Rabinovitch sworn January 8, 2016 (the “**Rabinovitch Affidavit**”);
- (h) approving the fees and disbursements of Cassels Brock & Blackwell LLP (“**Cassels**”), as counsel to the Receiver as set out in the affidavit of Jane Dietrich sworn January 11, 2016 (the “**Dietrich Affidavit**”);
- (i) dismissing the following proceedings (the “**NOI Proceedings**”), each being a notice of intention to make a proposal pursuant to the BIA: Dondeb Inc. 31-1664344, Ace Self Storage & Business Centre 31-1664774, 1711060 Ontario Ltd. 31-1664775, 2338067 Ontario Ltd. 31-1664772, King City Holdings Ltd. 31-1671712, 1182689 Ontario Inc. 31-1671611 and 2198392 Ontario Inc. 31-1673260 and ordering the Office of the Superintendent of Bankruptcy (the “**OSB**”) to close the estates (the “**NOI Estates**”) for each NOI Proceeding; and

- (j) following the making of the payments described above and completion of the other activities as described in the Seventeenth Report, terminating the Receivership proceedings, discharging Farber as Receiver of the undertaking, property and assets of the Debtors and releasing Farber from any and all liability it may have incurred as Receiver, other than that arising from gross negligence or wilful misconduct, as set out in the draft order.
3. Such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On October 17, 2012, pursuant to the order of Justice Campbell (the “**Receivership Order**”), Farber was appointed as the Receiver over all of the undertakings, property and assets of the Debtors.
2. The Debtors comprised 12 legal entities which held 24 known real properties. During the course of the Receivership proceeding, certain additional properties owned by the Debtors became known to the Receiver. In accordance with various court approved agreements of purchase and sale, the Receiver has sold its interest in all 24 of the initially known real properties as well as certain additional assets.
3. The only remaining assets of the Debtors known to the Receiver are the vacant parcels of lands which are the subject matter of the Sale Agreement for which approval is now being sought.

SALE AGREEMENT

4. The Purchased Assets are five vacant lots located in King City township which abut or are very near real property historically owned by Melvyn Dancy or his wife Thelma Dancy personally (the “**Former Dancy Property**”). The Receiver understands that the Dancy Property has previously been sold to the Purchaser or a party related to the Purchaser.
5. Given the size and location of the five vacant lots, the only logical purchaser was either the Purchaser (as owner of the Former Dancy Property) or the Corporation of the Township of King.
6. For the reasons set out in the Seventeenth Report, the Receiver has, subject to approval of the Court, entered into the Sale Agreement with the Purchaser in respect of the Purchased Assets.
7. The Receiver is of the view that the Sale Agreement should be approved by the Court as: (i) the purchase price is on the high end of the range expressed in the opinion of value obtained; (ii) given the value of the property, the cost of any additional marketing would most likely not result in a net benefit to the estate; (iii) the nature of this smaller irregular parcel of lands including the fact they abutt a Hydro corridor, have no municipal services and only one of the five lots has frontage on a municipal road mean they have extremely limited appeal; and (iv) the Transaction is not subject to any significant conditions (other than Court approval) and the terms of the Sale Agreement are otherwise reasonable.

PROPOSED GARE ALLOCATION AND ADDITIONAL DISTRIBUTIONS

8. Pursuant to the Receivership Order, the Receiver and its counsel were required to record separately any GARE expenses which were not attributable to any specific property.
9. As discussed in detail in the Sixteenth Report, the Receiver considered various methods to allocate the GARE and, in the Sixteenth Report, recommended the

Proposed GARE Allocation which first requires proceeds held in segregated accounts where all secured creditors have been paid in full to be applied to reduce the GARE and proceeds held in the general account for Dondeb where real property mortgagees have been paid in full to be applied to reduce the GARE. Thereafter, the Proposed GARE Allocation allocated any remaining GARE based on the value of the proceeds realised or value recovered from each remaining property.

10. The Proposed GARE Allocation was slightly revised as set out in the Supplement to the Sixteenth Report dated April 22, 2015 (the “**Supplement to the Sixteenth Report**”) to take into account a reserve for certain additional fees and expenses of the Debtors’ former counsel (the “**Revised Proposed GARE Allocation**”).
11. By Order of Justice McEwen made on April 23, 2015 (the “**April 23, 2015 Order**”), the Revised Proposed GARE Allocation was approved by the Court without opposition by any person.
12. Since that time, additional realizations and expenses have taken place, primarily including the receipt of certain tax refunds. As a result, using the same allocation method embodied in the previously approved Revised Proposed GARE Allocation, the Receiver has developed the Updated GARE Allocation.
13. The Updated GARE Allocation leads to the Additional Distributions being proposed to certain secured creditors as set out on Appendix E to the Seventeenth Report.
14. For the reasons that are set forward in the Seventeenth Report and consistent with the views expressed in the Sixteenth Report the Receiver is of the view that the Updated GARE Allocation and the Additional Distributions are appropriate.
15. As the Receiver may collect additional amounts (including additional tax refunds) from time to time, the Receiver is requesting that it be authorized, without further Court Order, to update the GARE allocation and corresponding

distributions using the same methodology employed in developing the Updated GARE Allocation and the Additional Distributions. The Receiver is not expecting any further significant recoveries or expenses and is concerned that the costs to seek further Court approval of such distributions would exceed the amounts recovered.

APPROVAL OF FEES AND DISBURSEMENTS

16. The fees and expenses of the Receiver and its legal counsel Dentons and Cassels for the period up to December 31, 2014 have previously been approved by this Court, including pursuant to the April 23, 2015 Order.
17. The Receiver is now seeking the approval of the Court with respect to the fees and expenses of the Receiver and its counsel for services rendered from January 1, 2015 until December 31, 2015 as well as estimates to complete the administration of these proceedings.

NOI PROCEEDINGS

18. Prior to the granting of the Receivership Order, seven of the Debtors filed NOI Proceedings. The NOI Proceedings for these NOI Estates were stayed and suspended by the Receivership Order. With the proposed conclusion of these Receivership proceedings and the proposed discharge of the Receiver, the Receiver has been in discussions with the OSB to determine the most cost effective method of addressing these NOI proceedings.
19. As no assets will remain in the NOI Estates, it is the Receiver's view that a bankruptcy would serve no purpose and bankruptcy proceedings for seven estates, even if procedurally consolidated, would be costly.
20. After consulting with the OSB regarding the most efficient route forward, the Receiver is requesting that this Court make an order dismissing the NOI proceedings and ordering the OSB to close the NOI Estates.

DISCHARGE REQUEST

21. The Receiver is of the view that the administration of the estates is now substantially complete. Minor additional matters to be completed are set out in the Seventeenth Report. Following the completion of those additional matters, the Receiver is seeking authority to file a certificate with the Court terminating these Receivership proceedings and discharging Farber as court-appointed Receiver.

GENERAL

22. The facts as further set out in the Seventeenth Report;
23. The provisions of the *Bankruptcy and Insolvency Act*, the *Courts of Justice Act* (Ontario) and the *Rules of Civil Procedure* (Ontario); and
24. Such further and other grounds as counsel may advise and this Honourable Court permits.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. The Seventeenth Report and the appendices attached thereto;
2. The Levy Affidavit;
3. The Rabinovitch Affidavit;
4. The Dietrich Affidavit; and
5. Such further and other evidence that counsel may advise and this Honourable Court permit.

January 12, 2016

DENTONS CANADA LLP

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**CASSELS BROCK & BLACKWELL
LLP**

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Lawyers for the Receiver

To: SERVICE LIST

SCHEDULE "A"

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

SCHEDULE "B"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	WEDNESDAY, THE 20TH
)	
JUSTICE)	DAY OF JANUARY, 2016

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
AND
IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE “A” HERETO**

**APPROVAL AND VESTING ORDER
(Vacant Lots)**

THIS MOTION, made by A. Farber & Partners Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of 1711060 Ontario Ltd. (previously known as 780550 Ontario Ltd. as set out on the certificate attached as Schedule F hereto) and King City Holdings Ltd. (collectively the “**Companies**”) and the other debtors referred to at Schedule A attached hereto (collectively, the “**Debtors**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Michael Cortellucci (the “**Purchaser**”) made as of July 16, 2015 (the “**Sale Agreement**”) and amended October 7, 2015, and appended to the seventeenth report to Court of the Receiver dated January 12, 2016 (the “**Seventeenth Report**”), vesting in the Purchaser all of the right, title and interest of Companies, if any, in and to the Purchased Assets (being the Real Property as defined in the Sale Agreement) and sealing and treating confidential Confidential Appendix 1 to the Seventeenth Report until closing of the Transaction, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventeenth Report and on hearing the submissions of counsel for the Receiver, the Purchaser, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Stephanie Waugh sworn January ●, 2016 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule B hereto (the "**Receiver's Certificate**"), all of the Companies' right, title and interest in and to the Purchased Assets, if any, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Campbell dated October 17, 2012; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule D hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule E) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of York of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule C hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule D hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

9. THIS COURT ORDERS AND DECLARES that the relief granted by this order is subject to provisional execution.

10. THIS COURT ORDERS that Confidential Appendix 1 to the Seventeenth Report be and is hereby sealed and treated as confidential pending filing of the Receiver's Certificate pursuant to paragraph 5 hereof or further order of the Court.

Schedule A – Debtors

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

Schedule B – Form of Receiver’s Certificate

Court File No. CV-12-9794-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED**

AND

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE “A” HERETO**

**RECEIVER’S CERTIFICATE
(Vacant Lots)**

RECITALS

A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the “**Court**”) dated October 17, 2012, A. Farber & Partners Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of 1711060 Ontario Ltd. (previously known as 780550 Ontario Ltd.) and King City Holdings Ltd. (collectively the “**Companies**”) and the other debtors referred to at Schedule A of the order.

B. Pursuant to an Order of the Court dated January 20, 2016, the Court approved an agreement of purchase and sale between the Receiver and Michael Cortellucci (the “**Purchaser**”) made as of July 16, 2015 and amended October 9, 2015 (“**Sale Agreement**”), and provided for the vesting in the Purchaser of the Companies’ right, title and interest, if any, in and to the Purchased Assets (being the Real Property as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased

Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [TIME] on _____ [DATE].

**A. Farber & Partners Inc., in its capacity
as Receiver of the undertaking, property
and assets of the Companies', and not in
its personal capacity**

Per: _____
Name:
Title:

Schedule C – Real Property

PIN	DESCRIPTION	REGISTERED OWNER
03385-0099(LT)	PT LT 6 PL 165 KING AS IN R680594 (THIRDLY, FOURTHLY & FIFTHLY); KING	King City Holdings Ltd.
03385-0105(LT)	PT LT 6 PL 165 KING AS IN R680594 (SIXTHLY, SEVENTHLY & EIGHTHLY); KING	King City Holdings Ltd.
03385-0107(LT)	PT LT 6 PL 165 KING AS IN R680594 (FIRSTLY); KING	King City Holdings Ltd.
03385-0109(LT)	PT LT 6 PL 165 KING AS IN R680594 (SECONDLY); KING	King City Holdings Ltd.
03385-0094(LT)	PT LT 6 PL 165 KING AS IN R680598; KING	780550 Ontario Inc.

Schedule D – Claims to be deleted and expunged from title to Real Property

PIN 03385-0099(LT)

1. Instrument No. YR1904409 registered on November 29, 2012 being a Application to Register a Court Order.

PIN 03385-0105(LT)

1. Instrument No. YR1904409 registered on November 29, 2012 being a Application to Register a Court Order.

PIN 03385-0107(LT)

1. Instrument No. YR1904409 registered on November 29, 2012 being a Application to Register a Court Order.

PIN 03385-0109(LT)

1. Instrument No. YR1904409 registered on November 29, 2012 being a Application to Register a Court Order.

PIN 03385-0094(LT)

1. Nil.

**Schedule E – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 03385-0099(LT)

1. Instrument No. IF351 registered on February 19, 1951 being a Bylaw.
2. Instrument No. IF367 registered on April 28, 1952 being a Bylaw.

PIN 03385-0105(LT)

1. Instrument No. IF351 registered on February 19, 1951 being a Bylaw.
2. Instrument No. IF367 registered on April 28, 1952 being a Bylaw.

PIN 03385-0107(LT)

1. Instrument No. IF351 registered on February 19, 1951 being a Bylaw.
2. Instrument No. IF367 registered on April 28, 1952 being a Bylaw.
3. Instrument No. R484439 registered on October 3, 1988 being a Declaration from the Corporation of the Township of King regarding the Municipal Tax Sales Act.

PIN 03385-0109(LT)

1. Instrument No. IF351 registered on February 19, 1951 being a Bylaw.
2. Instrument No. IF367 registered on April 28, 1952 being a Bylaw.

PIN 03385-0094(LT)

1. Instrument No. IF351 registered on February 19, 1951 being a Bylaw.
2. Instrument No. IF367 registered on April 28, 1952 being a Bylaw.

Schedule F - Certificate of Amalgamation

Request ID: 018488633
Transaction ID: 59889408
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2016/01/06
Time Report Produced: 11:16:05
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

1711060

Corporation Name

1711060 ONTARIO LTD.

Corporate Name History

1711060 ONTARIO LTD.

Effective Date

2007/01/01

Current Business Name(s) Exist:

YES

Expired Business Name(s) Exist:

NO

Amalgamating Corporations

Corporation Name

780550 ONTARIO LTD.

1304107 ONTARIO INC.

Corporate Number

780550

1304107

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**APPROVAL AND VESTING ORDER
(Vacant Lots)**

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Lawyer: Jane O. Dietrich
LSUC: 49302U
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LAWYERS FOR the Receiver

SCHEDULE "C"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 20TH
)
JUSTICE) DAY OF JANUARY, 2016
)

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED
AND
IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT, R.S.O. 1990*
c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS
LISTED AT SCHEDULE "A" HERETO**

DISCHARGE ORDER

THIS MOTION, made by A. Farber & Partners Inc. ("**Farber**") in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of debtors referred to at Schedule A attached hereto (collectively, the "**Debtors**"), for an order (i) declaring that the timing and method of service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable; (ii) approving the seventeenth report to Court of the Receiver dated January 12, 2016 (the "**Seventeenth Report**") and the activities of the Receiver set out therein; (iii) approving the updated General Restructuring and Administrative Expenses ("**GARE**") allocation as set out on Appendix "E" to the Seventeenth Report (the "**Updated GARE Allocation**"); (iv) approving the additional distributions as set out in Appendix "F" to the Seventeenth Report (the "**Additional Distributions**") and authorizing the Receiver to make the Additional Distributions; (v) authorizing the Receiver, to the extent that additional funds are received or expenses are incurred from time to time, to, without further Court Order, further update the GARE allocation using the same methodology embodied in the Updated GARE Allocation and make any further distributions that result from using the same methodology employed in arriving at the Additional Distributions; (vi) approving the fees and

disbursements of Farber as Receiver as set out in the affidavit of Hylton Levy sworn January 11 2016 (the “**Levy Affidavit**”); (vii) approving the fees and disbursements of Dentons Canada LLP (“**Dentons**”), as counsel to the Receiver as set out in the affidavit of Neil Rabinovitch sworn January 8, 2016 (the “**Rabinovitch Affidavit**”); (viii) approving the fees and disbursements of Cassels Brock & Blackwell LLP (“**Cassels**”), as counsel to the Receiver as set out in the affidavit of Jane Dietrich sworn January 11, 2016 (the “**Dietrich Affidavit**”); (ix) dismissing the following proceedings (the “**NOI Proceedings**”), each being a notice of intention to make a proposal pursuant to the BIA: Dondeb Inc. 31-1664344, Ace Self Storage & Business Centre 31-1664774, 1711060 Ontario Ltd. 31-1664775, 2338067 Ontario Ltd. 31-1664772, King City Holdings Ltd. 31-1671712, 1182689 Ontario Inc. 31-1671611 and 2198392 Ontario Inc. 31-1673260 and ordering the Office of the Superintendent of Bankruptcy (the “**OSB**”) to close the estates (the “**NOI Estates**”) for each NOI Proceeding; and (x) following the making of the payments described above and completion of the other activities as described in the Seventeenth Report, terminating the Receivership proceedings, discharging Farber as Receiver of the undertaking, property and assets of the Debtors and releasing Farber from any and all liability it may have incurred as Receiver, other than that arising from gross negligence or wilful misconduct, as set out in the draft order; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventeenth Report, including the Levy Affidavit, the Rabinovitch Affidavit and the Dietrich Affidavit and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of Stephanie Waugh sworn January, ●, 2016, filed;

1. **THIS COURT ORDERS** that, the timing and method of services of the Notice of Motion and the Motion Record be and is hereby abridged and validated so that this Motion is properly returnable today.
2. **THIS COURT ORDERS** that the Seventeenth Report and the activities of the Receiver as set out therein be and are hereby approved.
3. **THIS COURT ORDERS** that the Updated GARE Allocation be and is hereby approved.

4. **THIS COURT ORDERS** that the Additional Distributions be and are hereby approved and the Receiver is hereby authorized to take steps necessary to make such Additional Distributions.

5. **THIS COURT ORDERS** that to the extent that additional funds are received by the Receiver or expenses are incurred by the Receiver from time to time, the Receiver be and is hereby authorized without further Court Order, to further update the GARE allocation using the same methodology embodied in the Updated GARE Allocation and make any further distributions that result from using the same methodology employed in arriving at the Additional Distributions.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report, the Levy Affidavit, the Rabinovitch Affidavit and the Dietrich affidavit including the estimated costs to complete set out therein be and are hereby approved.

7. **THIS COURT ORDERS** that the NOI Proceedings be and are hereby dismissed and the OSB is hereby ordered to close the NOI Estates.

8. **THIS COURT ORDERS** that upon the Receiver filing a certificate certifying that it has made the payments approved herein and has completed the activities described in the Seventeenth Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Farber in its capacity as Receiver.

9. **THIS COURT ORDERS AND DECLARES** that Farber is hereby released and discharged from any and all liability that Farber now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Farber while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Farber is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have

been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

DISCHARGE ORDER

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LAWYERS FOR the Receiver

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
c. B-3, AS AMENDED AND

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO
DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION
(returnable January 20, 2016)**

DENTONS CANADA LLP
77 King Street West, Suite 400,
Toronto Ontario, M5K 0A1

CASSELS BROCK & BLACKWELL LLP
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LAWYERS FOR the RECEIVER

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED
AND**

**IN THE MATTER OF SECTION 101 OF *THE COURTS OF JUSTICE ACT*, R.S.O.
1990 C. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL
THE DEBTORS LISTED AT SCHEDULE "A" HERETO**

**A. FARBER & PARTNERS INC.
COURT APPOINTED RECEIVER**

SEVENTEENTH REPORT OF THE RECEIVER

JANUARY 12, 2016

1. OVERVIEW

1. Dondeb Inc. (“**Dondeb**”) and the other 11 corporations listed on **Appendix “A”** (collectively, the “**Debtors**” or the “**Dondeb Group**”), sought protection under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, C-36, as amended (“**CCAA**”) by application originally returnable October 11, 2012 (the “**CCAA Application**”). Prior to the commencement of the CCAA Application, seven of the Debtors, had filed notices of intention to make a proposal (“**NOIs**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). A. Farber & Partners Inc. (“**Farber**”) had been appointed proposal trustee under the NOIs and was proposed as monitor in the CCAA Application.
2. Collectively, the Debtors were in the primary business of acquiring or developing properties (each a “**Property**” and collectively, the “**Properties**”) for rent or sale throughout Southern Ontario.
3. At the time of the CCAA Application there were 24 identified Properties held by the 12 Debtors which included: four retirement homes and/or independent living homes; two multiple unit apartment buildings; two private schools; five commercial properties; one residential condo unit; one golf course; and nine properties under development comprising vacant land. The list of known properties and assigned numbers is attached as **Appendix “B”**. Property numbers and names as defined in Appendix “B” are used throughout this report.
4. At the hearing of the CCAA Application, which took place over four days, 11 of the 19 different secured lenders who had provided approximately 29 separate loans and various amendments to those facilities attended at court, the majority of who opposed the CCAA Application. Of the 19 lenders who had registered security over the various Properties, 7 had registered security over more than one Property resulting in complex cross-collateralization amongst the Debtors’ assets. Significant deemed trust amounts were also owing to Canada Revenue Agency (“**CRA**”) by a number of the Debtors. As a result of the cross-collateralization, and, as explained below, the integrated operational nature

of the Debtors, it was difficult to unwind any one Debtor or any one Property from the Dondeb Group.

5. At the conclusion of the CCAA Application hearing on October 17, 2012, Justice Campbell dismissed the CCAA Application and instead appointed Farber as receiver (the “**Receiver**”) of the assets, properties and undertakings of all of the Debtors. The form of order was finalized the next day. As a result, by order dated October 18, 2012, Farber was appointed as Receiver. The relevant Court Order was subsequently amended to be dated October 17, 2012 (the “**Receivership Order**”). A copy of the Receivership Order is attached as **Appendix “C”**.
6. On November 22, 2012, Justice Campbell released written reasons supporting the granting of the Receivership Order (the “**Original Reasons**”). A copy of the Original Reasons are attached as **Appendix “D”**.
7. In order to address the allocation of costs of administration, the Receivership Order provided at paragraph 3, that all funds received in respect of any Property be deposited into a property-specific account (the “**Segregated Accounts**”). Only disbursements in respect of a specific Property were to be withdrawn from that Property’s Segregated Account. The Receivership Order also provided in paragraph 19 that the Receiver and its counsel were to keep separate records for General Restructuring Administrative Expenses (“**GARE**”); being those expenses that were not specifically attributable to any individual Property.
8. The following table summarizes the 26 Segregated Accounts which were maintained. The legal entity which owned each property/asset also indicated.

Dondeb Group of Companies - Properties and Assets

Legal Entity	Property/Asset	Legal Entity	Property/Asset
Dondeb Inc	Ace Self Storage	1182689 Ontario Inc	Hatch House
Dondeb Inc	Ontario Street	1182689 Ontario Inc	Orillia Prep School
Dondeb Inc	Coldwater	King City Holdings Ltd	Pepper/ Palmer
Dondeb Inc	Devonshire Place	1267818 Ontario Ltd	Georgian Manor
Dondeb Inc	Prospan Rockin Boats	1281515 Ontario Inc	Whispering Pines Scotia Road
Dondeb Inc	Remos Ristoranti	1281515 Ontario Inc	Laftontaine Terrace
Dondeb Inc	Orillia Retirement Residence	1711060 Ontario Ltd	Tudhope Manor
Dondeb Inc	Barrie Business Centre	2009031 Ontario Inc.	Orillia Independent Living
Dondeb Inc	Sussex Place	2198392 Ontario Ltd	Dorset Place
Dondeb Inc	Tim Hortons/ Wendys	2338067 Ontario Inc	Leons
Dondeb Inc	Yeomen Street	Briarbrook Apartments Inc.	Preston Springs Gardens
Dondeb Inc	Brechin	Guelph Financial Corporation	
Dondeb Inc	FIT Contract - asset		
Dondeb Inc	Panelization – asset		

9. The Receivership Order also stayed and suspended the NOIs.
10. The Receivership proceedings are now nearing their end. To date, sales of all of the 24 originally known Properties have been completed. As well, one subsequently discovered Property, being a vacant piece of land located at 20 Scotia Road in Emsdale, Ontario (Township of Perry) owned by 1281515 Ontario Inc. (the “**Scotia Road Property**”) has been sold. Other significant assets which have been dealt with by the Receiver include certain Feed-In-Tariff contracts (“**FIT Contracts**”) held by Dondeb at the time of the Receivership Order and a panelization machine (the “**Panelization Machine**”) transferred by Dondeb, out of the ordinary course of business, shortly before the Receivership Order, but which remained subject to the relevant secured creditors’ claims. In terms of accounting for proceeds, fees, costs and expenses, the Receiver has treated the FIT Contracts and the Panelization Machine as if they were each a Property. There remains within the Receivership proceedings, five lots of vacant land (the “**Vacant Lands**”) owned by King City Holdings Inc. and 1711060 Ontario Inc. for which an approval and vesting order is now being sought.
11. As outlined in more detail below and in the Sixteenth Report to Court of the Receiver dated April 14, 2015 (the “**Sixteenth Report**”), the Court has previously approved a

number of transactions which have resulted in approximately 15 different secured loans (some to the same secured lender) being repaid in full or assumed by a new party and another 14 different secured loans as well as CRA, receiving partial distributions.

12. In total, realizations during the Receivership proceeding have been approximately \$47.0 million.

2. PURPOSE OF REPORT

13. The Purpose of this seventeenth report to the Court of the Receiver (the “**Seventeenth Report**”) is to report to the Court on the activities of the Receiver since the filing of the Sixteenth Report and the Supplement to the Sixteenth Report dated April 22, 2015 (the “**Supplement to the Sixteenth Report**”) and to provide support for the Receiver’s request for Orders:

- (a) approving the sale transaction (the “**Transaction**”) with respect to the Vacant Lands contemplated by an agreement of purchase and sale between the Receiver, as vendor and Michael Cortellucci, as purchaser (the “**Purchaser**”) made as of July 16, 2015, as amended (the “**Sale Agreement**”) and vesting in the Purchaser all of the right, title and interest of King City Holdings Ltd. and 1711060 Ontario Inc., if any, in and to the Vacant Lands, free and clear of encumbrances other than Permitted Encumbrances (as defined in the Sale Agreement);
- (b) approving the Seventeenth Report and the activities of the Receiver set out therein;
- (c) approving the updated GARE allocation as set out on **Appendix “E”** hereto (the “**Updated GARE Allocation**”);
- (d) approving the additional distributions as set out in **Appendix “F”** hereto (the “**Additional Distributions**”) and authorizing the Receiver to make the Additional Distributions;
- (e) authorizing the Receiver, to the extent that additional funds are received or expenses are incurred from time to time, to, without further Court Order, further update the GARE allocation using the same methodology embodied in the Updated GARE

Allocation and make any further distributions that result from using the same methodology employed in arriving at the Additional Distributions;

- (f) approving the fees and disbursements of Farber as Receiver as set out in the affidavit of Hylton Levy sworn January 11, 2016 (the “**Levy Affidavit**”);
- (g) approving the fees and disbursements of Dentons Canada LLP (“**Dentons**”), as counsel to the Receiver as set out in the affidavit of Neil Rabinovitch sworn January 8, 2016 (the “**Rabinovitch Affidavit**”);
- (h) approving the fees and disbursements of Cassels Brock & Blackwell LLP (“**Cassels**”), as counsel to the Receiver as set out in the affidavit of Jane Dietrich sworn January 11, 2016 (the “**Dietrich Affidavit**”);
- (i) dismissing the following proceedings (the “**NOI Proceedings**”), each being a notice of intention to make a proposal pursuant to the BIA: Dondeb Inc. 31-1664344, Ace Self Storage & Business Centre 31-1664774, 1711060 Ontario Ltd. 31-1664775, 2338067 Ontario Ltd. 31-1664772, King City Holdings Ltd. 31-1671712, 1182689 Ontario Inc. 31-1671611 and 2198392 Ontario Inc. 31-1673260 and ordering the Office of the Superintendent of Bankruptcy (the “**OSB**”) to close the estates (the “**NOI Estates**”) for each NOI Proceeding;
- (j) following the making of the payments described above and completion of the other remaining activities as described herein, terminating the Receivership proceedings, discharging Farber as Receiver of the undertaking, property and assets of the Debtors and releasing Farber from any and all liability it may have incurred as Receiver, other than that arising from gross negligence or wilful misconduct, as set out in the draft order; and
- (k) sealing and treating as confidential Confidential Appendix 1 to this report until closing of the Transaction or further order of the Court.

3. **DISCLAIMER**

14. Farber has relied upon the financial records and information provided by the Debtors, as well as other information supplied by management, appraisers, accountants, auditors and advisors.

4. **BACKGROUND AND CHRONOLOGY OF EVENTS**

15. Since its appointment on October 17, 2012, the Receiver has submitted sixteen prior reports to Court as well as a five supplemental reports. The reports were submitted in support of the prior 39 Orders granted in this Receivership proceeding.

16. A description of the various orders received and significant steps in the Receivership proceeding up to April 14, 2015 is included in the Sixteenth Report a copy of which (without appendices) is attached hereto as **Appendix “G”**. A copy of the Supplement to the Sixteen Report (including appendices) is attached hereto as **Appendix “H”**.

17. Following delivery of the Sixteenth Report and the Supplement to the Sixteenth Report, the Court granted two orders on April 23, 2015. An approval and vesting order was made in respect of the sale of the Leon’s property. As well, an order, among other things, approving the GARE allocation proposed by the Receiver, the fees and expenses of the Receiver and its counsel up to December 31, 2014 as well as certain additional distributions to secured creditors was also made. Copies of the Orders made on April 23, 2015 are attached as **Appendices “I” and “J”**.

18. Copies of the Orders and all reports are available on the Receiver’s website at <http://www.farberfinancial.com/insolvency-engagements/topic/dondeb-inc-et-al> and copies of the various orders will be available for the Court at the hearing.

5. **RECEIVER’S ACTIVITIES**

19. Since April 14, 2015, the Receiver’s activities have included, among other things:

- Monitoring receipts and disbursements and liaising with mortgagees, as appropriate;

- Working to complete closures of the two FIT Contract sale transactions (Prospan Rockin Boats FIT and Barrie Business Centre FIT) which were previously approved by the Court and closed on May 19, 2015 and March 13, 2015 respectively;
- Preparing for and attendance at Court on April 23, 2015;
- Attending to the distribution of the Additional Distributions approved by the Court on April 23, 2015;
- Closing of the Leon's Property sale transaction approved by the Court on April 23, 2015;
- Negotiating an agreement of purchase and sale of the Vacant Lands as described further below.
- Attending to the updating of the books and records of Dondeb in order to prepare and file corporate tax returns for the years 2010 to 2014;
- Filing of monthly HST returns; and
- Corresponding by email and telephone with Mr. Dancy and creditors of the Debtors.

20. Additionally, in August of 2015, the Receiver was advised by the OSB that Mr. Dancy had filed a complaint with the OSB in respect of Farber's role related to these proceedings. Attached to the complaint filed with the OSB was a copy of an affidavit of Mr. Dancy sworn on January 14, 2013 in connection with these proceedings and previously filed with this Court. The Receiver had previously responded to certain of the issues raised by Mr. Dancy in its Second Supplement to the Second Report of the Receiver dated January 15, 2013. At a contested hearing on January 15, 2013 before RSJ Morawetz, the relief requested by the Receiver at that time was granted and in his endorsement RSJ Morawetz stated:

...Mr. Apps filed an affidavit of Mr. Dancy sworn January 14, 2013.

A considerable portion of the affidavit does not, in my view, address the matters at issue on this motion. Rather the affidavit focuses to a large extent on historical aspects of the file, including the CCAA proceedings initiated by Dondeb which resulted in C.

Campbell J., declining to issue an initial order under the CCAA and instead pronounce a global receivership order. Extensive reasons were provided by C. Campbell J. To the extent that Mr. Dancy is challenging past events, it is noted that no appeal was filed from the order of C. Campbell J. appointing Farber as Receiver, nor has any request been made to extend the time for appeal.

In my view these issues are not before the court...

To the extent that Mr. Dancy in his affidavit challenges the role of the receiver, including any potential conflict issues, it seems to me that if this challenge, is to go forward, Mr. Dancy will first have to obtain leave pursuant to section 215 of the Bankruptcy and Insolvency Act (“BIA”) and pursuant to the provisions of the order appointing the Receiver. (emphasis added) [pages 3-5]

A copy of the January 2013 endorsement referenced above is attached as **Appendix “K”**.

21. Four months later, on May 6, 2013, Mr. Dancy brought a motion in the Receivership Proceedings seeking, among other things, to adjourn certain sale approval motions brought by the Receiver, require certain information be provided to Mr. Dancy purportedly required for a ‘recapitalization transaction’ and “*grant leave to [Mr. Dancy] to file a complaint with the Office of the Superintendent of Bankruptcy and the Canadian Association of Insolvency and Restructuring Practitioners on behalf of the Debtors against [Farber] with respect to its conduct prior to its appointment as Receiver*”. In response, the Receiver filed a Supplement to the Fifth Report of the Receiver dated May 9, 2013. On May 10, 2013, Justice Newbould adjourned the portion of the Dancy motion requesting leave to file a complaint against Farber (the “**Dancy Leave Motion**”) to a time to be scheduled at a 9:30 appointment. Over the next six months, Dancy did nothing to pursue the adjourned Dancy Leave Motion.
22. On November 26, 2013, Farber filed a motion with the Court containing the Tenth Report to Court of the Receiver and containing a request for an order that the Dancy Leave Motion be dismissed with prejudice as no steps had been taken to schedule the motion. Following service of the November 26, 2013 motion, discussions with Dancy’s then

counsel took place whereby amended language regarding the dismissal of the Dancy Leave Motion was agreed to between counsel. As reflected in Justice Newbould's endorsement from December 2, 2013; "... *An agreement has been reached with Mr. Dancy's counsel regarding his motion for leave which is reflected in the order to be signed today.*" The December 2, 2013 Order goes on to provide:

5. THIS COURT ORDERS that the Dancy Leave Motion, as it relates to the proposed complaints against the Receiver, be and is hereby dismissed on a without prejudice basis and without costs. Provided however that unless Dancy provides written notice to the Receiver on or before January 10, 2014 of Dancy's intention to bring a similar motion, and by no later than January 24, 2014 has delivered full motion material and booked a 9:30 appointment to schedule same, such dismissal will be on a with prejudice basis.

A copy of the December 2 endorsement and order of Justice Newbould are attached hereto as **Appendix "L"**.

23. As was reported to the Court by the Receiver in subsequent reports to Court, Dancy did not provide notice to the Receiver in accordance with paragraph 5 of the December 2, 2013 Order. Consequently, the Dancy Leave Motion has been dismissed on a with prejudice basis.

24. In the context of Mr. Dancy having brought his concerns before this Court and of the order dismissing the Dancy Leave Motion with prejudice, the Receiver was surprised that Mr. Dancy filed a complaint with the OSB. The Receiver, however, has responded to the OSB and understands that the OSB has now closed its file with respect to Mr. Dancy's complaint.

6. SALE APPROVAL OF VACANT LANDS – KING CITY, ONTARIO

25. In the Sixteenth Report, the Receiver advised the Court that in terms of residual real property, there remained five parcels of land, the Vacant Lands, very near the former main residence of Mr. Dancy. The Receiver understands that adjacent lands had previously been sold to the Purchaser (or a related party), but the Receiver was not involved in such sale.

26. A depiction of the Vacant Lands is attached as **Appendix “M”** hereto. As shown on that drawing the Vacant Lots are noted as numbers 3, 4, 5, 7 and 8. The Vacant Lots are small irregular shaped lots, only one of which has access to a municipal road and they are interspersed with land owned by King Township and the Hydro-Electric Power Commission of Ontario. Parcels 1 and 2 on the drawing are now owned by the Purchaser (or a related party). Parcel 6 remains registered in the name of Mr. Dancy.
27. The Vacant Lands are located in the Corporation of the Township of King (“**King Township**”). Four parcels of the Vacant Lands are registered in the name of King City Holdings Limited (which is a Debtor in these proceedings).
28. One parcel of the Vacant Lands is registered in the name of 780550 Ontario Limited (“**780**”). According to the Corporate Profile Report, 780 and 1304107 Ontario Inc. amalgamated and continued as 1711060 Ontario Ltd. (“**171**”) on January 1, 2007. 171 is one of the Debtors named in the Receivership Order. A copy of the Corporate Profile Report is attached as **Appendix “N”**.
29. Copies of the Real Property abstracts for the five parcels of the Vacant Lands are attached as **Appendix “O”**.
30. There is also, approximately \$38,000 of outstanding property taxes as of December 2015 owing in respect of the Vacant Lands.
31. The Receiver consulted with Royal LePage Terrequity (the real estate agent who acted on the sale of the other lands) with respect to the Vacant Lands. The Receiver also retained a local realtor (York National Realty Inc.) to provide an opinion of value (dated June 15, 2015) with respect to the Vacant Lands. A copy of the opinion of value is attached hereto as **Confidential Appendix “1”**. The Receiver is requesting that the opinion of value be sealed pending further Court order or closing of the Transaction so as not to impact on market value of the Vacant Lands should the Transaction not close.
32. Given the location and limitations of the Vacant Lands, the Receiver’s view was that there would be very limited buyers for the property, primarily King Township and the Purchaser (as purchaser of the main residence).

33. King Township was approached by the Receiver but they did not provide any expression of interest or offer. Rather as they advised the Receiver that they were only interested if the Vacant Lands if the property parcels represented by the main residence were also included.
34. Negotiations between the Receiver and the Purchaser took place in June and early July 2015 which culminated in the Receiver entering into an agreement of purchase and sale with the Purchaser dated July 16, 2015. Key Terms of the original Sale Agreement included: a Purchase Price of \$90,000 plus HST, a deposit of \$15,000 which was provided to the Receiver at signing; as is where is sale; a condition that an approval and vesting order be obtained by no later than October 15, 2015; and a closing of ten Business Days following granting of an approval and vesting order.
35. On October 7, 2015 the Receiver and Purchaser executed an amendment to the agreement which extended the date by which an approval and vesting order be obtained to no later than January 29, 2016.
36. A copy of the Agreement is attached as **Appendix “P”**.
37. The Receiver was contacted by Mr. Dancy who verbally expressed interest in acquiring the Vacant Lands in mid December of 2015. As the Receiver had already contracted with the Purchaser, subject to Court approval, the Receiver advised Mr. Dancy that the Receiver was not in a position to discuss a sale transaction with him at this time.
38. The Receiver is of the view that the Transaction should be approved for the following reasons: (i) the purchase price is on the high end of the range expressed in the opinion of value obtained; (ii) given the value of the property, the cost of any additional marketing would most likely not result in a net benefit to the estate; (iii) the nature of this smaller irregular parcel of lands including the fact they abutt a Hydro corridor, have no municipal services and only one of the five lots has frontage on a municipal road mean they have extremely limited appeal; and (iv) the Transaction is not subject to any significant conditions (other than Court approval) and the terms of the Sale Agreement are otherwise reasonable.

7. UPDATED GARE ALLOCATION AND PROPOSED ADDITIONAL DISTRIBUTIONS

39. Pursuant to the Receivership Order, the Receiver and its counsel were required to record separately both property specific expenses as well as any GARE which was not attributable to any specific property.
40. As discussed in detail in the Sixteenth Report, the Receiver considered various methods to allocate the GARE and, in the Sixteenth Report, recommended the Proposed GARE Allocation which first requires proceeds held in segregated accounts where all secured creditors have been paid in full to be applied to reduce the GARE and proceeds held in the Dondeb General Account (where real property mortgagees have been paid in full) to be applied to reduce the GARE. Thereafter, the Proposed GARE Allocation allocated any remaining GARE based on the value of the proceeds realised or value recovered from each remaining property.
41. The Proposed GARE Allocation was slightly revised as set out in the Supplement to the Sixteenth Report to take into account a reserve for certain additional fees and expenses of the Debtors' former counsel (the "**Revised Proposed GARE Allocation**"). As noted above, by Order of Justice McEwen made on April 23, 2015, the Revised Proposed GARE Allocation was approved by the Court without opposition by any person.
42. Since that time, additional realizations and expenses have taken place. As set out in the Sixteenth Report, the Revised Proposed GARE Allocation was based on an assumption of total GARE of approximately \$900,000. This assumption was based off of GARE as of December 31, 2014 of approximately \$820,000. However, GARE has been higher than anticipated. The increase in GARE primarily relates to:
- a. Additional professional time related to the April 23, 2015 motion. Specifically, greater than anticipated time was spent in discussions with creditors regarding the Proposed GARE Allocation and various alternative models. Along with overall allocation principals, this included analysis and consultation regarding complex matters of marshalling, apportionment and priority disputes. Further, the Revised Proposed GARE Allocation, to take into account the additional fees and expenses of the Debtors' former counsel, was not anticipated. This resulted in the filing of

the Supplement to the Sixteenth Report and additional consultation with creditors. Although the April 23, 2015 motion was unopposed by any party, significant time was spent by the Receiver and Counsel in preparation for such motion and consultation with creditors regarding same;

- b. Unanticipated communications with the OSB. As detailed above, the Receiver and its counsel were required to spend time responding to a complaint filed by Mr. Dancy (which was not anticipated given the previous Court order in this proceeding dismissing Mr. Dancy's motion for similar relief). The Receiver and counsel have also spent time considering the issues surrounding the NOI Estates and consulting with the OSB on the most efficient and cost effective way to close off those estates (as discussed below); and
 - c. Greater than expected time spent compiling and preparing company financial information in order to process corporate tax returns for the years 2010-2014 and obtaining confirmation from CRA that all deemed trust amounts owing by Dondeb have been paid in full which was necessary in order to obtain HST tax refunds in the approximate total amount of \$290,000.
43. The Updated GARE Allocation also results in the proposed Additional Distributions. Those Additional Distribution, if approved, would see payment in full to First Source/Cosman.¹ Because First Source/Cosman had registered mortgages over a number of properties owned by Dondeb, this payment in full permits the consolidation of a number of property specific Segregated Accounts into the Dondeb General Account.
44. Specifically, the Order granted on March 24, 2014 in these proceedings authorized the Receiver to consolidate the Segregated Accounts for any Property held by Dondeb where the secured mortgagees had been repaid in full. At the time of the Order, this included

¹ As noted in the Sixteenth Report, the Receiver has reviewed the relevant payout statements for those receiving Additional Distributions and previously reported to the Court on same. In particular, the Receiver notes that, as described in the Sixteenth Report, the Receiver had engaged in discussions with First Source/Cosman and agreed with First Source/Cosman that the total outstanding amount was agreed to be \$542,000. The proposed Additional Distributions take into account a further payment of \$40,000 to First Source/Cosman which will, taking into account previous distributions, result in payment in full to First Source/Cosman.

Ontario Street, Coldwater, Devonshire Place, Sussex Place, 240 Yeoman Street, Brechin and Dorset Place. Assuming the payment in full of First Source/Cosman, and taking into account potential rights of apportionment / marshalling, the Receiver is now able to consolidate the Segregated Accounts for Remo's Ristoranti, Sussex Place and Tim Hortons & Wendy's into the Dondeb General Account as well. The Updated GARE Allocation assumes this consolidation has occurred.

45. Taking into account these additional levels of receipts and disbursements, the Receiver, using the same allocation method embodied in the previously approved Revised Proposed GARE Allocation, has developed the Updated GARE Allocation which assumes with total GARE fees and costs of \$1.175 million. The Updated GARE Allocation is summarized below and set out in detail on Appendix "E".
46. The Updated GARE Allocation leads to the Additional Distributions being proposed to certain secured creditors with a total of \$93,712.00, which is set out on Appendix "F".
47. All of the parties who are proposed to receive Additional Distributions have previously received distributions approved by prior Court Orders made in these proceedings and the proposed Additional Distributions are made in accordance with the same principles. As previously noted, the Receiver has received (and previously reported to the Court) on independent security opinions provided to the Receiver by counsel with respect to all of the parties to receive a distribution as noted in Appendix "F". Each of the security opinions received provided that, subject to customary qualifications and assumptions the security held by those secured creditors was valid. As well, the Receiver has reviewed the relevant payout statements for those receiving Additional Distributions and is satisfied that at least the amount proposed to be distributed to such remaining secured creditors is properly owing.
48. For these, and the reasons that were set forward in the Sixteenth Report, the Receiver is of the view that the Updated GARE Allocation and the Additional Distributions are appropriate.
49. As the Receiver may collect additional amounts (including additional tax refunds) from time to time, the Receiver is requesting that it be authorized, without further Court Order,

to update the GARE allocation and corresponding distributions using the same methodology employed in developing the Updated GARE Allocation and the Additional Distributions. The Receiver is not expecting any further significant recoveries or expenses and is concerned that the costs to seek further Court approval of such distributions would exceed the amounts recovered.

8. CLOSURE OF THE NOI ESTATES

50. Prior to the granting of the Receivership Order, seven of the Debtors filed NOI Proceedings. The NOI proceedings for these NOI Estates were stayed and suspended by the Receivership Order. With the proposed conclusion of these Receivership proceedings and the proposed discharge of the Receiver, the Receiver has been in discussions with the OSB to determine the most cost effective method of addressing these NOI proceedings.

51. As no assets will remain in the NOI Estates, it is the Receiver's view that a bankruptcy would serve no purpose and bankruptcy proceedings for seven estates, even if procedurally consolidated, would be costly.

52. After consulting with the OSB regarding the most efficient route forward, the Receiver is requesting that this Court make an order dismissing the NOI proceedings and ordering the OSB to close the NOI Estates.

9. APPROVAL OF RECEIVER AND LEGAL COUNSEL FEES AND EXPENSES

53. Pursuant to paragraph 20 of the Appointment Order, the Receiver and its legal counsel are to seek approval from the Court for their fees and expenses from time to time.

54. The fees and expenses of the Receiver and its legal counsel Dentons and Cassels for the period up to December 31, 2014 have previously been approved by this Court, by Orders dated April 23, 2015 and July 28, 2014.

55. The Receiver is now seeking the approval of the Court with respect to the fees and expenses of the Receiver and its counsel for services rendered from January 1, 2015 until December 31, 2015, as well as estimates to complete the administration of these proceedings.

56. As outlined in detail in the Sixteenth Report, the Receivership proceedings of the Dondob Group have been extremely complex and difficult given the number and condition of the Debtors and Properties.
57. Since January 1, 2015, the majority of the activity of the Receiver and its counsel has involved: extensive analysis and reporting required to compete and submit the Sixteenth Report, the Supplement to the Sixteenth Report and related relief sought; negotiation and closure of the Leon's Transaction; attending to closing the FIT Contact sale transactions; negotiation of the sale of the Vacant Lands, dealing with required filing of information to enable collection of tax refunds; attending to segregated accounting requirements and reporting; dealing with the Dancy Complaint and reporting to the OSB as outlined above and review and preparation of this report and corresponding motion to seek the Receiver's discharge.
58. The fees and expenses of Farber for which approval is being sought are set out in detail in the Levy Affidavit, a copy of which is attached as **Appendix "Q"**. The total amount of fees of Farber for which approval is now sought is \$304,873.75 plus HST and expenses.
59. The fees and expenses of Dentons for which approval is being sought are set out in detail in the Rabinovitch Affidavit, a copy of which is attached as **Appendix "R"**. The total amount of fees of Dentons for which approval is now sought is \$71,519.10 plus HST and expenses.
60. The fees and expenses of Cassels for which approval is being sought are set out in detail in the Dietrich Affidavit, a copy of which is attached as **Appendix "S"**. The total amount of fees of Cassels for which approval is now sought is \$66,061.50 plus HST and expenses.

10. FINAL MATTERS & RECEIVER'S DISCHARGE

61. The Receiver is of the view that the administration of the estates is now substantially complete. Remaining matters to be completed include, if the relief requested is granted, the making of the Additional Distributions, updating additional tax returns and closing the sale of the Vacant Lands. Following the completion of these remaining matters, the

Receiver is seeking authority to file a certificate with the Court terminating these Receivership proceedings and discharging Farber as court-appointed Receiver.

11. RECOMMENDATION

62. The Receiver respectfully recommends that this Court grant an order for the relief requested in Section 2 hereof.

**A. FARBER & PARTNERS INC.
In its capacity as Receiver of the Debtors
Listed on Appendix A and not in its personal capacity**

A. Farber & Partners Inc.

APPENDIX “A”

SCHEDULE "A"

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

APPENDIX “B”

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	No.	Property Name	Municipal Description	Mortgages
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	1	Ace Self Storage (437 Indoor storage units and office rental space, 105,000 sq ft)	256 Hughes Rd, Orillia, ON 270 Hughes Rd, Orillia, ON 4575 Huronia Rd, Orillia, ON	<u>COLLATERAL</u> 1 - Pace Savings & Credit Union Limited 2 - Pace Savings & Credit Union Limited 3 - Pace Savings & Credit Union Limited (Pace loans collateralized with Ace Self Storage and Business Centre Inc.) 4 - Vector Financial Services Limited 5 - First Source Mortgage Corporation/Mark Cosman
	2	Ontario St. (Vacant land zoned for industrial, 1.5 acres)	6 Ontario St., Orillia, ON	1- Fred Rankel
	3	Coldwater (Vacant land zoned for 120 unit condominiums, 3.96 acres)	233, 249 & 261 Coldwater Ave. Orillia, ON	1- Fred Rankel
	4	Devonshire Place (1 Unit Rental Condo, 550 sq ft)	15390 Yonge St Unit 208 Aurora, ON	1- Laurentian Bank of Canada
	5	ProSpan / Rockin Boats (Tenanted 1 unit industrial building, 26,000 sq ft)	61 Forest Plain Rd., Orillia, ON	1- The Canada Trust Company <u>COLLATERAL</u> 2- First Source Mortgage Corporation
	6	Remo's Restaurant (Vacant restaurant, 4,155 sq ft on 0.845 acres of land)	480 West St. South, Orillia ON	1 - Ontario Wealth Management Corporation
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	7	Orillia Retirement Residence (31 unit retirement home, 27,438 sq ft)	24 Simcoe St., Orillia ON	1 - Vector Financial Services Limited 2- A.&L. Cabrio Investments Ltd. et al (New Haven)
	8	Sussex Place (47 unit apartment building, 6 storeys, located on 0.9 acres of land)	205 Vodden Street East Brampton, ON	1- The Empire Life Insurance Company 2- Ontario Wealth Management Corporation <u>COLLATERAL</u> 3- First Source Mortgage Corporation / Mark Cosman
	9	Barrie Business Center (1 tenant large industrial space under construction, 90% complete for phase 1 current building 34,500 sq addition is 26,000 sq ft)	92 Davidson St, Barrie, ON	1- First Source Mortgage Corporation / Mark Cosman 2- 1160145 Ontario inc.
	10	Tim Hortons & Wendy's (Leased restaurant, 3,700 sq ft on 1.86 acres of land)	525 - 545 Memorial Ave Orillia, ON	1- Clarica Life Insurance Company 2- Ontario Wealth Management Corporation 3 - Bank of Nova Scotia Trust Company <u>COLLATERAL</u> 4 - First Source Mortgage Corporation/Mark Cosman
	11	240 Yeoman (Vacant land zoned for 68 unit condominium site, 3.96 acres)	240 Yeoman St., Belleville, ON	1- Fred Rankel
	12	Brechin (100 acre farm, no residence on it)	Brechin (near Orillia, ON)	<u>COLLATERAL</u> 1- Fred Rankel

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	No.	Property Name	Location / Description	Mortgages
1182689 Ontario Inc. (NOI Under the BIA filed 1-Oct-12)	13	Hatch House Montessori School (School, 8,315 sq ft on 21,389 sq ft of land)	301 Byron Street South, Whitby, ON	1- The Empire Life Insurance Company 2- Minister of Finance
	14	Orillia Prep School (School, 3,681 sq ft on 11,475 sq ft of land)	547 Lacle St, Orillia, ON	1- Ontario Wealth Management Corporation
King City Holdings Ltd. (NOI Under the BIA filed 1-Oct-12)	15	Belleville (Pepper) (Vacant land zoned for 17 townhomes, 4.77 acres)	Belleville, ON	1- Ontario Wealth Management Corporation
	16	Belleville (Palmer) (Vacant land zoned for 16 townhomes, 4.72 acres)	Belleville, ON	1- Ontario Wealth Management Corporation
1267818 Ontario Ltd.	17	Georgian Manor Banquet Hall (Vacant 2 storey banquet hall, 5,497 sq ft)	52 Morrow Rd, Barrie, ON	1- Duca Financial Services Credit Union Ltd. <u>COLLATERAL</u> 2- Fred Rankel
1281515 Ontario Inc.	18	Whispering Pines (9 Hole Golf Course)	451 Golf Course Rd, Huntsville, ON	1- Vector Financial Services Limited 2- Robert Weisz/The Bank of Nova Scotia Trust Company
1711060 Ontario Ltd. (NOI Under the BIA filed 12-Sep-12)	19	Lafontaine Terrace (38 unit retirement home on 1.52 acres of land)	169 Borden Ave, Kitchener, ON	1- RMG Mortgages, a division of MCAP Financial Corporation 2- David Sugar et al
2009031 Ontario Inc.	20	Tudhope Manor (40 unit retirement home, 12,340 sq ft on 19,638 sq ft of land)	127 Peter St. N, Orillia, ON	1- Lutheran Life Insurance Society of Canada (now Faith Life) 2- Minister of Finance
2198392 Ontario Ltd.	21	Orillia Independent Living (32 unit retirement home, 24,205 sq ft on 28,837 sq ft of land)	20 Simcoe St., Orillia, ON	1- Addenda Capital Inc. 2- Cameron Stephens Financial Corporation 3- Virgin Venture Capital Corporation
2338067 Ontario Inc. (NOI Under the BIA filed 12-Sep-12)	22	Dorset Place (51 unit apartment building on 0.76 acres, 6 storeys)	90 Gumett Street, Aurora, ON	1- The Empire Life Insurance Company 2- Virgin Venture Capital Corporation <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman
Briarbrook Apartments Inc.	23	Leon's (41,612 sq ft retail store)	555 Memorial Ave, Orillia, ON	1- The Empire Life Insurance Company 2- The Bank of Nova Scotia Trust Company <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman
Guelph Financial Corporation	24	Preston Springs Gardens (Former retirement home under construction 50% complete, on 2.386 acres)	102-110 Fountain St. North, Cambridge, ON	1- First Source Mortgage Corporation <u>COLLATERAL</u> 2- Ontario Wealth Management Corporation (note that this is to secure payment of arrears on all other Ontario Wealth loans to July 1, 2012)

APPENDIX “C”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 17TH
JUSTICE C. CAMPBELL) DAY OF OCTOBER, 2012

THE TORONTO-DOMINION BANK AND THE CANADA TRUST COMPANY

Applicants

- and -

**DONDEB INC., FIRST SOURCE MORTGAGE CORPORATION AND ONTARIO
WEALTH MANAGEMENT CORPORATION**

Respondents

ORDER

THIS APPLICATION made by the Applicants including the Creditors defined in Schedule "B" hereto for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing A. Farber & Partners Inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of the Debtors referred to at Schedule "A" attached hereto (the "Debtors") acquired for, or used in relation to the business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

WHEREAS those Debtors are defined in Schedule "A" to the Notice of Application in Court File Number CV-12-00009865-00CL which Schedule is attached hereto as Schedule "A".

ON READING the materials filed by the parties in Court File No. CV-12-00009865-00CL and upon hearing the submissions of the Counsel for the Debtors and Counsel for the Creditors listed in Schedule "B" hereto,

APPOINTMENT

1. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. Farber & Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties including real property listed as Schedule "C" hereto ("Real Property") of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

2. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

- (d) after consulting with the relevant mortgagees, and upon obtaining their consent or FURTHER ORDER OF THIS COURT market any or all of the Real Property, including advertising and soliciting offers in respect of the Real Property or any part or parts thereof, signing listing agreements in respect of the Real Property or any part(s) thereof, and negotiating such terms and conditions of sale as the Receiver in consultation with the Mortgagees may deem appropriate, subject to prior approval of this Court being obtained before any sale is completed;
- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (g) to receive and collect all monies subject to provisions in paragraph number 3 herein and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (h) to settle, extend or compromise any indebtedness owing to the Debtors;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (j) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;

- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (l) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (m) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the

Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (r) to file assignments into bankruptcy for any of the Debtors with leave of the Court on notice to the Debtors;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (u) to undertake improvements to the property municipally known as 92 Davidson Street, Barrie, Ontario upon the consent of the mortgagees thereof; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

Ring-Fencing and Use of Funds

3. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected, from and after the making of this Order, from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable of the Debtors in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into new property-specific accounts (the "Segregated Accounts") to be opened by the Receiver immediately. The number of Segregated Accounts so opened shall be equivalent to the number of properties owned by the Debtors in the aggregate. The Segregated Accounts shall be segregated such that all receipts in respect of a property shall be deposited into the Segregated Account opened in respect of such property and all permitted disbursements (the "Permitted Disbursements") in respect of such property shall be withdrawn therefrom, if sufficient funds are available. "Permitted Disbursements" shall mean, in relation to the property in respect of which a Segregated Account has been opened, realty taxes, utilities, payroll, insurance, maintenance expenses, other reasonable property-specific expenses and business expenses associated with such property. The Receiver shall have sole signing authority over the Segregated Accounts. The monies, if any, standing to the credit of each Segregated Account, net of any Permitted Disbursements provided for herein, shall be paid on a monthly basis to the mortgagees of such property according to the priority of the registration of such mortgagees' mortgages, or any further Order of this Court. For greater certainty, the term "property" in this paragraph shall include the Business operated by Ace Self Storage and Business Centre Inc. and Pace Savings Credit Union Limited shall be treated as a mortgagee thereof.

4.

- a. THIS COURT ORDERS THAT no payments shall be made to any secured creditor, pursuant to paragraph 3 or 4 otherwise, by the Receiver unless and until the Receiver receives an opinion that such secured creditor's security is valid and enforceable, subject to customary qualifications and assumptions or further Order of the Court.

- b. THIS COURT ORDERS that the lock box arrangements with respect to Briarbrook Apartments Inc. shall remain in effect.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. THIS COURT ORDERS that (i) the Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully

copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited in the appropriate Segregated Accounts as outlined in paragraph 3 herein to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or

relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order including without limitation, pursuant to Retirement Homes Act, 2010, S.O. 2010 ch.11, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18.

- a) THIS COURT ORDERS that the Receiver and its counsel shall be entitled to and is hereby granted a Charge (the "Pre-Filing Receiver's Charge") on the Property as security for such fees and disbursements incurred before this Order was made, to be paid upon sale or refinancing of the relevant Property or Business to each of the Real Properties described in Schedule "C" hereto in the amount of \$11,000.00 per Real Property or Business.
- b) THIS COURT FURTHER ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are

hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements incurred after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

- c) The Receiver and its Counsel shall allocate their respective fees and disbursements with respect to work done on each of the Debtor's Property including Ace Self Storage & Business Centre Inc.

19. THIS COURT ORDERS that the Receiver is hereby authorized to deposit proceeds of sale of any personal property of the Debtors into the appropriate Segregated Account and in connection with Dondob Inc., the Receiver shall be authorized to apply the said proceeds to the General Restructuring Administrative Expenses (GARE). The Receiver and its Counsel shall keep separate records for GARE defined in paragraph 19 herein.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and is empowered with the consent of the Mortgagees, not including Collateral Mortgagees, of the Real Property against which the borrowings are required to borrow by way of a revolving credit or otherwise, such

monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. For greater certainty the foregoing limit shall not include borrowings for completion of the Barrie Business Centre. The whole of each Real Property as defined in respect of which the borrowings have been incurred shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "D" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

GENERAL

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a Trustee in Bankruptcy of the Debtors.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. THIS COURT ORDERS that in order to facilitate the administration of the within Receivership, the following proceedings, each being Notices of Intention to Make a Proposal. Specifically:

- (a) Dondob Inc. – 31-1664344
- (b) Ace Self Storage & Business Centre – 31-1664774
- (c) 1711060 Ontario Ltd. – 31-1664775
- (d) 2338067 Ontario Ltd. – 31-1664772
- (e) King City Holdings Ltd. – 31-1671712
- (f) 1182689 Ontario Inc. – 31-1671611
- (g) 2198392 Ontario Inc. – 31-1673260.

are hereby stayed and suspended pending further Order of the Court.

31. THIS COURT ORDERS that the title of proceedings in this matter be changed to read as follows:

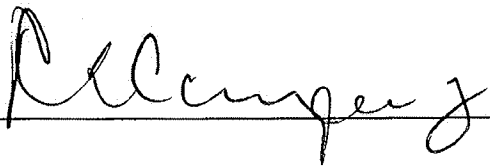
IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO.

32. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

33. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.

OCT 22 2012



Schedule "A"

The Debtors

Dondeb Inc.

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

Schedule "B"

The Creditors Present in Court on October 17, 2012

Pace Savings & Credit Union Limited

Vector Financial Services Limited

First Source Mortgage Corporation

Mark Cosman, Trustee

The Empire Life Insurance Company

RMG Mortgages, a division of MCAP Financial Corporation

FaithLife Financial

Addenda Capital Inc.

Virgin Venture Capital Corporation

The Bank of Nova Scotia Trust Company, in trust

RDB (Toronto) Holdings Inc.

Susan Michaels Holdings Limited

Comfort Capital Inc.

JLJR Investments Inc.

1522648 Ontario Inc.

Berend Koopmans

Michael Swartz

Audrey Michaels

The Toronto-Dominion Bank and The Canada Trust Company

Schedule "C" - Real Properties

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Major Assets	Current Liabilities	Interest Rate	Maturity Date	Classification
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	1	Ace Self Storage (437 indoor storage units and office rental space, 105,000 sq ft)	256 Hughes Rd, Orillia, ON; 270 Hughes Rd, Orillia, ON; 4575 Huronia Rd, Orillia, ON; Huronia Rd., Orillia, ON	\$135,962.59 (256 Hughes Rd.) \$49,141.14 (270 Hughes Rd.) \$10,458.12 (4575 Huronia Rd.) = \$195,561.85	COLLATERAL 1 - Pace Savings & Credit Union Limited 2 - Pace Savings & Credit Union Limited 3 - Pace Savings & Credit Union Limited (Pace loans collateralized with Ace Self Storage and Business Centre Inc.) 4 - Vector Financial Services Limited 5 - First Source Mortgage Corporation / Mark Cosman	\$3,450,000 \$1,550,000 \$1,550,000	Prime +1% Prime +1% Prime +1%	Matured Matured Matured	
	2	Ontario St. (Vacant land zoned for industrial, 1.5 acres)	6 Ontario St. Orillia, ON	\$2,647.54	1 - Fred Rankel	\$900,000	12.00%	1-Jan-14	● Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.
	3	Coldwater (Vacant land zoned for 120 unit condominiums, 3.96 acres)	233, 249 & 261 Coldwater Ave. Orillia, ON	1,226,77 (233) + 832,10 (249) + 1,212,94 (261) = \$3,251,81	1 - Fred Rankel	\$800,000	12.00%	1-Jan-14	● Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.
	4	Devonshire Place (1 Unit Rental Condo, 550 sq ft)	35390 Yonge St Unit 208 Aurora, ON	NIL	1 - Laurentian Bank of Canada	\$73,868	3.00%	1-Aug-14	● Laurentian loan - Mel Dancy
	5	ProSpan / Rockin Boats (Tenanted 1 unit industrial building, 26,000 sq ft)	61 Forest Plain Rd. Orillia, ON	\$108,861.18	1 - The Canada Trust Company COLLATERAL 2 - First Source Mortgage Corporation	\$572,974.25 (as of June 12, 2012) \$300,000 = \$872,974	5.74% 10.5%	Matured 1-Aug-12	● Canada Trust Company loan - Mel Dancy ● First Source loan - Mel Dancy
	6	Remo's Ristranti (Vacant restaurant, 4,155 sq ft on 0.845 acres of land)	480 West St. South, Orillia ON	NIL	1 - Ontario Wealth Management Corporation	\$1,000,000	12.75%	1-Jan-11 (Derek advises extended to 1-Jan-13)	● Ontario Wealth Management loan - Mel Dancy

Properties of Dondob Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Amount	Registered Assets	Current Loans	Interest Rate	Maturity Date	Signature
Dondob Inc. (NOI Under the BIA filed 11-Sep-12)	7	Orillia Retirement Residence (31 unit retirement home, 27,438 sq ft)	24 Simcoe St. Orillia, ON	\$44,823.31		1 - Vector Financial Services Limited 2 - A.&L. Cabrio Investments Ltd. et al (New Heaven)	\$2,900,000 \$1,500,000 =\$4,400,000	8.75% 8.75%	10-Jun-12 26-Apr-12	•Vector loan - Mel Dancy
	8	Sussex Place (47 unit apartment building, 6 storeys, located on 0.9 acres of land)	205 Volden Street East Brampton, ON	\$40,850.29		1 - The Empire Life Insurance Company 2 - Ontario Wealth Management Corporation COLLATERAL 3 - First Source Mortgage Corporation / Mark Cosman	\$2,682,892.11 (as of September 14, 2012) \$800,000 \$4,121,840.71 (as of September 20, 2012) =\$7,604,733	5.3% 12.5% 9.5%	1-Oct-15 1-Feb-08 1-Sep-13	• Empire Life loan - Mel Dancy • Ontario Wealth Management loan - Mel Dancy, 1194927 Ontario Inc.
	9	Barrie Business Center (1 tenant large industrial space under construction, 90% complete for phase 1 current building 34,500 sq addition is 26,000 sq ft)	92 Davidson St Barrie, ON	\$11,876.61		1 - First Source Mortgage Corporation / Mark Cosman 2 - 1160145 Ontario Inc.	\$4,121,840.71 (as of September 20, 2012) \$53,773 =\$4,175,614	9.5% 4.00%	1-Sep-13 11-Oct-12	•1160145 Ontario Inc. loan - Mel Dancy
	10	Tim Hortons & Wendy's (leased restaurant, 3,700 sq ft on 1.86 acres of land)	525 - 545 Memorial Ave Orillia, ON	\$12,069.00		1 - Clarica Life Insurance Company 2 - Ontario Wealth Management Corporation 3 - Bank of Nova Scotia Trust Company COLLATERAL 4 - First Source Mortgage Corporation/Mark Cosman	\$481,298.41 (as of 18-Sep-12) \$1,000,000 \$1,600,000 \$150,000 (as of September 20, 2012) =\$3,231,298	4.3% 12.75% 11.5% 9.5%	1-Jun-16 1-Jan-11 (Derek address extended to 1-Feb-13) 28-Aug-13 1-Sep-13	•Clarica life loan - Mel Dancy •Ontario Wealth Management loan Mel Dancy
	11	240 Yeoman (Vacant land zoned for 68 unit condominium site, 3.96 acres)	240 Yeoman St. Bellefleur, ON	\$12,114.29		1 - Fred Rankel	\$860,000	17.00%	1-Jan-14	•Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Address	Municipal Description	Property Value	Property Tax Amount	Mortgages	Current Balance	Interest Rate	Maturity Date	Supplier
	12	Brechin (100 acre farm, no residence on it)	Brechin (near Orillia, ON)	\$507.99	\$507.99	COLLATERAL 1- Fred Rankel	\$800,000	12.00%	1-Jan-14	•Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.

Properties of Dondob Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Physical Description	Property Value	Mortgages	Current Balance	Interest Rate	Maturity Date	Collateral
1182689 Ontario Inc. (NOI Under the BIA filed 1-Oct-12)	13	Hatch House Montessori School (School, 8,315 sq ft on 21,389 sq ft of land)	301 Byron Street South, Whitby, ON	\$59,197.70	1- The Empire Life Insurance Company 2- Minister of Finance	\$493,270 (as of 14-Sep-12) \$518,235 = \$1,011,505	5.60%	1-Apr-2016	• Empire Life loan - Mel Dancy
	14	Orillia Prep School (School, 3,681 sq ft on 11,475 sq ft of land)	547 Lucie St, Orillia, ON	\$1,267.66	1- Ontario Wealth Management Corporation	\$1,000,000	12.75%	1-Jan-2011 (pre-advices extended 1-Jan-2013)	• Ontario Wealth Management loan - Mel Dancy
King City Holdings Ltd. (NOI Under the BIA filed 1-Oct-12)	15	Belleville (Pepper) (Vacant land zoned for 17 townhomes, 4.77 acres)	Belleville, ON	\$1,486.91	1- Ontario Wealth Management Corporation	\$300,000	10.00%	1-Apr-10	• Ontario Wealth Management loan - Mel Dancy
	16	Belleville (Palmer) (Vacant land zoned for 16 townhomes, 4.72 acres)	Belleville, ON		1- Ontario Wealth Management Corporation	\$300,000	10.00%	1-Apr-10	• Ontario Wealth Management loan - Mel Dancy
1267818 Ontario Ltd.	17	Georgian Manor Banquet Hall (Vacant 2 storey banquet hall, 5,497 sq ft)	52 Morrow Rd, Barrie, ON	\$14,583.99	1- Duca Financial Services Credit Union Ltd. COLLATERAL 2- Fred Rankel	\$405,610 (as at 4 Sep-12) \$800,000 = \$1,205,610	7.3% 12%	15-Aug-11 1-Jan-14	• Duca loan - Mel Dancy • Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.
	18	Whispering Pines (9 Hole Golf Course)	451 Golf Course Rd, Huntsville, ON	\$7,253.92	1- Vector Financial Services Limited 2- Robert Weisz/The Bank of Nova Scotia Trust Company	\$600,000 \$250,500 (as at 1-Sep-12) = \$850,000	9.5% 10%	10-Oct-10 (Derek advises extended 1-Aug-2012 in forbearance) 15-Jan-10	• Vector loan - Mel Dancy • Robert Weisz loan - Mel Dancy • Robert Weisz loan - Mel Dancy
1711060 Ontario Ltd. (NOI Under the BIA filed 12-Sep-12)	19	Latontaine Terrace (38 unit retirement home on 1.52 acres of land)	169 Borden Ave, Kitchener, ON	NIL	1- RMG Mortgages, a division of MFCAP Financial Corporation 2- David Sugar et al	\$759,820 \$467,829.38 (as of 1-Sep-12) = \$1,227,199	bank + 1.7% 12.00%	10-Mar-11 1-Nov-11	• RMG loan - Mel Dancy

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Status	Property Tax Amount	Mortgages	Current Balance	Interest Rate	Maturity Date	Stipulator
2009031 Ontario Inc.	20	Tudhope Manor (40 unit retirement home, 12,340 sq ft on 19,658 sq ft of land)	127 Peter St. N Orillia, ON		\$109,657.11	1- Lutheran Life Insurance Society of Canada (now Faith Life) 2- Minister of Finance	\$2,056,859 (as at 4-Oct-12) \$275,525 = \$2,372,384	5.88%	1-Dec-12	Lutheran Life loan - Dondeb and Mel Dancy

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Property Name	Municipal Description	Property Value	Assessed for 2012	Market Value	Current Balance	Interest Rate	Maturity Date	Collateral
2198392 Ontario Ltd.	21 Orillia Independent Living (32 unit retirement home, 24,205 sq ft on 28,837 sq ft of land)	20 Simcoe St Orillia, ON	\$15,794.13	1- Addenda Capital Inc. 2- Cameron Stephens Financial Corporation 3- Virgin Venture Capital Corporation	\$3,951,362.33 (as of August 1, 2012)	4.8%	1-Apr-12	• Addenda loan - Mel Dancy	
2338067 Ontario Inc. (NOI Under the BIA filed 12-Sep-12)	22 Dorset Place (51 unit apartment building on 0.76 acres, 6 storeys)	90 Gurnett Street Aurora, Ontario	\$10,882.05	1- The Empire Life Insurance Company 2- Virgin Venture Capital Corporation <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman	\$3,114,577.93 (as of August 10, 2012) \$2,774,978.27 (as at 4-Oct-12) \$150,000 (as of September 20, 2012) -\$6,036,455	5.5% 11.5% 9.5%	10-Mar-16 1-Sep-13 1-Sep-13	• Empire Life loan - Mel Dancy • Virgin loan - Mel Dancy, Derek Dancy, and 2198392 Ontario Inc. (note also cross collateralized)	
Briarbrook Apartments Inc.	23 Leon's (41,612 sq ft retail store)	555 Memorial Ave Orillia, ON	\$32,470.00	1- The Empire Life Insurance Company 2- The Bank of Nova Scotia Trust Company <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman	\$1,539,042 (as of September 14, 2012) \$1,600,000 \$4,121,840.71 (as of September 20, 2012) -\$7,260,882	5.6% 11.5% 9.5%	1-Apr-16 23-Aug-13 1-Sep-13	• Empire Life loan - Mel Dancy • Bank of Nova Scotia loan - Mel Dancy	
Guelph Financial Corporation	24 Preston Springs Gardens (Former retirement home under construction 50% complete, on 2.385 acres)	102-110 Fountain St. North, Cambridge, Ontario	25,417.64 (102 Fountain St. 5) + 14157.74 (110 Fountain St. 5) -\$39, 575.38	1- First Source Mortgage Corporation <u>COLLATERAL</u> 2- Ontario Wealth Management Corporation (note that this is to secure payment of arrears on all other Ontario Wealth loans to July 1, 2012)	\$300,000 \$2,100,000 (note: no funds advanced; amount represents security for all outstanding Ontario Wealth loans) -\$2,400,000	10.5%	1-Aug-12	• First Source loan - Mel Dancy and Dondeb Inc. • Ontario Wealth Management loan - King City Holdings Ltd., Dondeb Inc. and 1182689 Ontario Inc.	
TOTAL					\$5,163,405			(Please note that some collateral listed below were only included in this total)	

SCHEDULE "D"

RECEIVER CERTIFICATE

"PROPERTY" [Municipal Address]

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that A. Farber & Partners Inc., the receiver (the "Receiver") of the assets, undertakings and properties of [DEBTOR'S NAME] acquired for, or used in relation to the Property described above, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 18^h of October, 2012 (the "Order") made in an action having Court file number CV-12-00009794-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver in respect of the above-noted Property pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of MONTH, 20YR.

A. Farber & Partners Inc., solely in its capacity
as Receiver of the [Debtors], and not in its
personal capacity

Per: _____

Name:

Title:

The Toronto-Dominion Bank et al.

Applicant(s)

- and -

Dondeb Inc. et al

Respondent(s)

Court File No.: CV-12--9794-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding Commenced at Toronto

ORDER

**KESTENBERG SIEGAL LIPKUS
LLP**

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65 Granby Street
Toronto, Ontario
M5B 1H8

MICHAEL R. KESTENBERG

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Telephone: (416) 597-0000

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Solicitors for the Applicants

0608-872

APPENDIX “D”



SUPERIOR COURT OF JUSTICE
 Judges' Administration
 Court House
 361 University Avenue, Room 170
 TORONTO, ONTARIO M5G 1T3
 Tel: (416) 327-5284 Fax: (416) 327-5417

FAX / MAIL COVER SHEET

Date: November 22, 2012

To	Fax No.
David P. Preger / Lisa S. Corne / Michael Weinczok	416-865-1398
Gary Sugar	416-366-8571
D.R. Rothwell	416-593-7740
Harry Fogul	416-863-1515
Robin Dodokin	416-869-0547
Beverly Jusko / M.R. Kestenberg	416-597-6567
Roger Jaipargas	416-761-7067
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Jeffrey Larry	416-646-4301
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M. Church	416-775-4675

From: Aggie Gomez
 Secretary to C. Campbell J.

Total No. of Pages (incl. cover page): 9

Message: DONDEB INC.

COURT FILE NO.: CV-12-00009865-00CL

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CITATION: Dondeb Inc. (Re), 2012 ONSC 6087
COURT FILE NO.: CV-12-00009865-00CL
DATE: 20121122

**SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)**

BETWEEN:

IN THE MATTER OF THE COMPANIES
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.
C-36, AS AMENDED

- AND -

IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH
RESPECT TO DONDEB INC. and the
ADDITIONAL APPLICANTS LISTED ON
SCHEDULE "A" HERETO (collectively, the
"APPLICANTS")

Applicants

)
)
) *David P. Preger, Lisa S. Corne, Michael*
) *Weinczok, for the Applicants*
)
)

)
) *Jeffrey J. Simpson, A. Ronson, for Pace Savings*
) *& Credit Union Limited*
) *Gary Sugar, for David Sugar, et al*
) *D.R. Rothwell, for RMG Mortgage/MCAP*
) *Financial Corporation*
) *Harry Fogul, for Regional Financial*
) *Robin Dodokin, for Empire Life Insurance Co.*
) *Beverly Jusko, M.R. Kestenberg, for TD Bank*
) *Canada Trust*
) *Roger Jaipargas, for Faithlife Financial*
) *R.B. Bissell, for Vector Financial Services*
) *Limited*
) *Jeffrey Larry, for First Source Mortgage*
) *Corporation*
) *Douglas Langley, for Virgin Venture Capital*
) *Corporation*
) *David Mende, for Addenda Capital Inc.*
) *J. Dietrich, W. Rabinovitch, for A. Farber &*
) *Partners Inc.*
) *M. Church, for SEIU (Union)*
)

HEARD: October 11, 15, 17 and 18, 2012

C. CAMPBELL J.

REASONS FOR DECISION

[1] The applicants seeking an Initial Order under the *Companies Creditors Arrangement Act* are a group of companies owned and controlled by or through the main holding company Dondeb Inc. The proposed relief would include a stay of proceedings in respect of the various companies which own and or operate businesses and real property in Ontario.

[2] The application is vigorously opposed by numerous secured creditors which have mortgage or other security on property beneficially owned by one or more of the companies in the Dondeb "group".

[3] The applicants seek the protection of the *CCAA* to enable an orderly liquidation of the assets and property of the various companies to enable what is asserted to be the remaining equity after sale and expenses to accrue to the benefit of the Dondeb Group.

[4] It is urged that the flexible mechanism of the *CCAA* is appropriate as there are common expenses across some of the companies', common security across others and that any order in liquidation would prevent the incurrence of added cost should individual properties and companies placed in liquidation with the loss of remaining equity.

[5] The applications propose a Debtor in Possession (DIP) financing and administrative charge to secure the fees of professionals and expenses associated with *CCAA* administration. The application is opposed by approximately 75% in value of the secured creditors.

[6] The basis of the opposition can be summarized as follows:

- i) That in many instances the properties over which security is held is sufficiently discrete with specific remedies including sale being more appropriate than the "enterprise" approach posed by the applicants.
- ii) That the proposed DIP/financial and administration changes are an unwarranted burden to the equity of specific properties are evidence of the inappropriate application of the *CCAA*.
- iii) That in the circumstances individual receivership orders for many of the properties is a more appropriate remedy where the creditors and not the debtor would have control of the process.
- iv) That the creditors have lost confidence in the Dondeb family owners of the Dondeb group for a variety of reasons including for breach of promise and representation.
- v) That it is now evident that the applicants will be unable to propose a realistic plan that is capable of being accepted by creditors given a difference in position with respect to value of various properties.

[7] Those who support the applicants in the main wish to see those businesses that are operating on some of the properties such as in one instance, a school, and others like retirement homes continue in a way that may not be possible in a bankruptcy.

[8] During the course of the submissions on the first return date an alternative was proposed by a number of secured creditors, namely a joint or consolidated receivership of the various entities to maximizing creditor control of the process and ensure that costs of administration be allocated to each individual property and company.

[9] The application was adjourned to be returnable October 15, 2012 to allow both the applicants and the opposing creditors to consider their positions hopefully achieve some compromise. In the meantime 4 notices of intention under the BIA were stayed.

[10] The return of the application on October 15, 2012 did produce some modification of position on both sides but not sufficient to permit a CCAA order to be agreed to.

[11] The applicants revised the proposed form of Initial Order to allow for segregation of accounts on the individual properties an entitlement.

[12] The rationale of the applicants for the original Initial Order sought was that if liquidated or otherwise operated in an orderly way by the debtor and a "super" monitor, greater value could be achieved than the secured debt owing in respect to at least a number of the properties which could be available (a) to other creditors in respect of which guarantees or multiple property security could enhance recovery and or (b) the equity holders.

[13] The second major reason advanced by a significant number of creditors appearing through counsel was that they no longer had any confidence in Mr. Dandy, the principal of Dondeb Inc. Significant examples of alleged misleading supported the positions taken.

[14] I accept the general propositions of law advanced on behalf of the applicants that pursuant to s.11.02 of the CCAA the court has wide discretion "on any terms it may impose" to make an Initial Order provided the stay does not exceed 30 days [see *Nortel Networks Corporation (Re)* 2009, CanLII 39492 (ONSC) at para 35 and *Lehndorff General Partners Ltd. (Re)* (1993), 17 CBR (3d) 24 (Ont.Gen.Div. Commercial) CF 33.

[15] The more recent decision of the Supreme Court of Canada in *Century Services Inc. v. Canada (Attorney General)*, (2010), (S.C.C.) 60 at para 15 confirms the breadth and flexibility of the CCAA to not only preserve and allow for restructuring of the business as a going concern but also to permit a sale process or orderly liquidation to achieve maximum value and achieve the highest price for the benefit of all stakeholders. See also *Timminco Limited (Re)* (2012), ONSC 506 at para 49-50 (leave to appeal denied 2012 ONCA 552).

[16] I also accept the general proposition that given the flexibility inherent in the CCAA process and the discretion available that that an Initial Order may be made in the situation of "enterprise" insolvency where as a result of a liquidation crisis not all of the individual entities comprising the "enterprise" may be themselves insolvent but a number are and to propose of the restructuring is to restore financial health or maximize benefit to all stakeholders by permitting further financing. Such process can include liquidation. See *First Leaside Wealth Management (Re)* (2012) (ONSC) 1299 and also *Edgeworth Properties Inc. (Re)* CV-11-9409-CL [Commercial List].

[17] I also accept that while each situation must be looked at on its individual facts the court should not easily conclude that a plan is likely to fail. See *Azure Dynamics Corp. (Re)* (2012), (BCSC) 781 at paras 7-10.

[18] In *Cliffs Over Maple Bay Investments, Ltd. v. Fisgard Capital Corp.* 2008 Carswell BC 1758 (BCCA), the British Columbia Court of Appeal overturned the decision of the chambers' judge extending a stay of proceedings and authorizing DIP financing under the CCAA in the case of a debtor company in the business of land development because:

Although the CCAA can apply to companies whose sole business is a single land development as long as the requirements set out in the CCAA are met, it may be that, in view of the nature of its business and financing arrangements, such companies would have difficulty proposing an arrangement or compromise that was more advantageous than the remedies available to its creditors. The priorities of the security against the land development are often straightforward, and there may be little incentive for the creditors having senior priority to agree to an arrangement or compromise that involves money being paid to more junior creditors before the senior creditors are paid in full. If the developer is insolvent and not able to complete the development without further funding, the secured creditors may feel that they will be in a better position by exerting their remedies rather than by letting the developer remain in control of the failed development while attempting to rescue it by means of obtaining refinancing, capital injection by a new partner or DIP financing.

[19] Similarly, in *Octagon Properties Group Ltd.* 2009 Carswell Alta 1325 (Q.B.) paragraph 17, Kent, J. made the following comments:

This is not a case where it is appropriate to grant relief under the CCAA. First, I accept the position of the majority of first mortgagees who say that it is highly unlikely that any compromise or arrangement proposed by Octagon would be acceptable to them. That position makes sense given the fact that if they are permitted to proceed with foreclosure procedures and taking into account the current estimates of value, for most mortgagees on most of their properties they will emerge reasonably unscathed. There is no incentive for them to agree to a compromise. On the other hand if I granted CCAA relief, it would be these same mortgagees who would be paying the cost to permit Octagon to buy some time. Second, there is no other reason for CCAA relief such as the existence of a large number of employees or significant unsecured debt in relation to the secured debt. I balance those reasons against the fact that even if the first mortgagees commence or continue in their foreclosure proceedings that process is also supervised by the court and to the extent that Octagon has reasonable arguments to obtain relief under the foreclosure process, it will likely obtain that relief.

[20] A similar result occurred in *Shire International Real Estate Investments Ltd.* (2010) CarswellAlta 234 even after an initial order had been granted.

[21] In *Edgeworth*, dealing with the specifics of that case I noted:

Were it not for the numerous individual investors (UDIs, MICs) and others who claim to have any interest in various of the lands as opposed to being general creditors of the Edgeworth companies, I doubt I could have been persuaded to grant the Initial CCAA Order.

[22] At the conclusion of oral submissions which followed on a hearing of the application which commenced on Friday October 11, 2012 continued on October 15 with additional written material and concluded on Wednesday October 17, 2012 again with additional written material and oral submissions the following conclusions were reached.

- (i) The application for an Initial Order under the CCAA based on the material filed be dismissed.
- (ii) The issue of costs incurred by the proposed Monitor Farber and of counsel to the debtor be reserved for further consideration (if not resolved) basis on material to be provided to counsel for the creditors and their submissions.
- (iii) The request for a more limited CCAA Initial Order which like the Original Application is opposed by a significant body of creditors is also rejected.
- (iv) A Global Receivership Order which is supported by most of the creditors appearing to oppose the application and which has the support of Farber which will become Receiver of those companies and properties covered by the application will issue in a format to be approved by counsel and the court.

[23] For ease of administration the Global Receivership Order will issue in Court File No. CV-12-9794-CL and make reference to the various companies and properties to be covered by the Order.

[24] In order to further facilitate administration the following proceedings, each being Notices of Intention to make a proposal

Dondeb Inc.	31-1664344
Ace Sel/Storage & Business Centre	31-1664774
1711060 Ontario Ltd.	31-1664775
2338067 Ontario Ltd.	31-1664772
King City Holdings Ltd.	31-1671612
1182689 Ontario Inc.	31-1671611
2198392 Ontario Inc.	31-1673260

hereby stayed and suspended pending further order of the court.

[25] The request for an Initial Order under the CCAA was dismissed for the simple reason that I was not satisfied that a successful plan could be developed that would receive approval in any meaningful fashion from the creditors. To a large extent, Mr. Dandy is the author of his own misfortune not just for the liquidity crisis in the first place but also for a failure to engage with creditors as a whole at an early date.

[26] In his last affidavit filed Mr. Dandy explained why certain properties were transferred into individual corporations to allow additional financing that would permit the new creditors access to those properties in the event of default. To a certain extent this was perceived by creditors as "robbing Peter to pay Paul" and led to the distrust and lack of confidence the vast majority of creditors exhibit. Had there been full and timely communication both the creditors and the court may have concluded that a CCAA plan could be developed.

[27] Under the proposed Initial Order the fees of the proposed monitor and of counsel to the debtor were an issue as well as leaving the debtor in possession with the cost that would entail.

[28] Counsel for each of the various creditors represented urged that their client's individual property should not be burdened with administrative expenses and professional fees not associated with that property.

[29] Counsel for the debtor advised that to the extent possible his client and the monitor would keep individual accounts. This proposal did not appease the opposing creditors who did agree that their clients could accept what was described as a "global" receiver and that the Farber firm would be acceptable as long as the receiver's charge was allocated on an individual property basis. In other words, the opposing creditors are prepared to accept the work of the professionals of the receiver but not fund the debtor or its counsel.

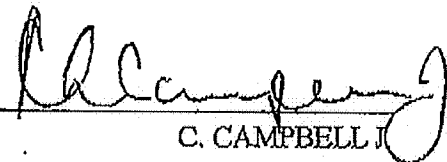
[30] The issue of the fees of Farber incurred to date in respect of preparation of the CCAA application was agreed between the opposing creditors, Farber and its counsel and are not an issue. Counsel for the debtor requested that the court consider a request for fees and costs on the part of the debtor. In order to give an opportunity for the parties to consider the details of such request and possible resolution the issue was deferred to a later date.

[31] Following further submissions on behalf of the debtor I advised the parties that in my view the conditions necessary for approval of an Initial CCAA Order were not met but that a comprehensive Receivership Order should achieve an orderly liquidation of most of the properties and protect the revenue from the operating properties with the hope of potential of some recovery of the debtor's equity.

[32] Counsel are to be commended for the effort and success in reaching agreement on the form of order acceptable to the court.

[33] The CCAA is a flexible instrument, which with judicial discretion, is capable of permitting restructuring, including in appropriate situations, liquidation.

[34] In my view the use of the CCAA for the purpose of liquidation must be used with caution when liquidation is the end goal, particularly when there are alternatives such as an overall less costly receivership that can accomplish the same overall goal.


C. CAMPBELL J

Schedule "A"

1. Dondob Inc.
2. Ace Self Storage and Business Centre Inc.
3. 1182689 Ontario Inc.
4. King City Holdings Inc.
5. 1267818 Ontario Ltd.
6. 1281515 Ontario Inc.
7. 1711060 Ontario Ltd.
8. 2009031 Ontario Inc.
9. 2198392 Ontario Ltd.
10. 2338067 Ontario Inc.
11. Briarbrook Apartments Inc.
12. Guelph Financial Corporation

CITATION: Dondob Inc. (Re), 2012 ONSC 6087
COURT FILE NO.: CV-12-00009865-00CL
DATE: 20121122

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL)

BETWEEN:

IN THE MATTER OF THE COMPANIES CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED

- AND -

IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT
TO DONDEB INC. and the ADDITIONAL APPLICANTS
LISTED ON SCHEDULE "A" HERETO (collectively, the
"APPLICANTS")

Applicants

REASONS FOR DECISION

C. CAMPBELL J.

Released: November 22, 2012

APPENDIX “E”

A. Farber & Partners Inc.

Appendix "E"

Dondeb et al

Proposed GARE Allocation - 17th Court Report of the Receiver

GARE Estimate - \$ 1,175,000

Funding:

Pepper/ Palmer	\$	148,328
Preston Springs Gardens	\$	256,285
Dondeb General	\$	530,584
Proceeds funded GARE	\$	935,196

Property funded GARE \$ 239,804

No.	Group	Property
1	Dondeb	Ace Self Storage (note 1)
2	Dondeb	Ontario Street
3	Dondeb	Coldwater
4	Dondeb	Devonshire Place
5	Dondeb	Rockin' Boats
6	Dondeb	Remo's Ristorante
7	Dondeb	Orillia Retirement Residence
8	Dondeb	Sussex Place
9	Dondeb	Barrie Business Centre
10	Dondeb	Tim Horton's/Wendy's
11	Dondeb	240 Yeoman
12	Dondeb	Brechin
22	Dondeb	Dorset
26	Dondeb	Panelization Machine
27	Dondeb	FIT Contracts
Dondeb subtotal		
13	1182689	Hatch House
14	1182689	Orillia Prep School
17	1267818	Georgian Manor
18	1281515	Whispering Pines
25	1281515	Scotia Rd Emsdale
19	1711060	Lafontaine
20	2009031	Tudhope Manor
21	2198392	Orillia Independent Living
23	Briarbrook	Leon's
24	Guelph	Preston Springs
15/16	KCH	King City Holdings

17.3%
82.7%

Property Value	%
\$ 6,874,234	14.6%
\$ 115,000	0.2%
\$ 780,000	1.7%
\$ 165,000	0.4%
\$ 680,000	1.4%
\$ 360,000	0.8%
\$ 3,180,000	6.8%
\$ 5,412,500	11.5%
\$ 3,275,000	7.0%
\$ 2,000,000	4.3%
\$ 245,594	0.5%
\$ 55,000	0.1%
\$ 7,325,000	15.6%
\$ 178,000	0.4%
\$ 850,000	1.8%
\$ 31,495,329	67.1%
\$ 1,273,500	2.7%
\$ 455,000	1.0%
\$ 600,000	1.3%
\$ 730,000	1.6%
\$ 25,000	0.1%
\$ 1,585,000	3.4%
\$ 1,200,000	2.6%
\$ 4,970,000	10.6%
\$ 3,200,300	6.8%
\$ 1,200,000	2.6%
\$ 198,000	0.4%
\$ 46,932,129	100%

Total GARE	%
\$ 59,319	24.7%
\$ -	0.0%
\$ -	0.0%
\$ -	0.0%
\$ 5,868	2.4%
\$ -	0.0%
\$ 27,441	11.4%
\$ -	0.0%
\$ -	0.0%
\$ -	0.0%
\$ -	0.0%
\$ -	0.0%
\$ 1,536	0.6%
\$ 7,335	3.1%
\$ 101,498	42.3%
\$ 12,546	5.2%
\$ 4,483	1.9%
\$ 5,911	2.5%
\$ 7,192	3.0%
\$ 246	0.1%
\$ 15,615	6.5%
\$ 11,822	4.9%
\$ 48,963	20.4%
\$ 31,528	13.1%
\$ -	0.0%
\$ -	0.0%
\$ 239,804	100%

Total Property Values / Property funded Gare

Total Proceeds funded GARE

Proposed GARE Allocation

\$ 935,196

\$ 1,175,000

APPENDIX “F”

**Dondeb Group - Summary of Proposed Revised Additional Distributions
17th Court Report of the Receiver**

Appendix "F"

Lender to whom Distribution is Proposed	Property Silo's	Distribution Amount
First Source Mortgage Corporation	Barrie Business Centre Remo's Ristorante Panelization Machine Sussex Place Tim Horton's/Wendy's	40,000
The Toronto Dominion Bank	Rockin' Boats Panelization Machine FIT Contracts	6,000
Empire Life Insurance Company	Hatch House Orillia Prep School	13,333
Pace Savings & Credit Union Ltd.	Ace Self Storage	15,000
Cameron Stevens Financial Corporation	Orillia Independent Living	10,000
FaithLife Financial	Tudhope Manor	5,000
Imperial Tool & Die Ltd.	Panelization Machine	4,379
Total Distribution		93,712

APPENDIX “G”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED
AND**

**IN THE MATTER OF SECTION 101 OF *THE COURTS OF JUSTICE ACT*, R.S.O.
1990 C. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL
THE DEBTORS LISTED AT SCHEDULE "A" HERETO**

**A. FARBER & PARTNERS INC.
COURT APPOINTED RECEIVER**

SIXTEENTH REPORT OF THE RECEIVER

APRIL 14, 2015

1. OVERVIEW

1. Dondeb Inc. (“**Dondeb**”) and the other 11 corporations listed on **Appendix “A”** (collectively, the “**Debtors**” or the “**Dondeb Group**”), sought protection under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, C-36, as amended (“**CCAA**”) by application originally returnable October 11, 2012 (the “**CCAA Application**”). Prior to the commencement of the CCAA Application, seven of the Debtors, had filed notices of intention to make a proposal (“**NOIs**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). A. Farber & Partners Inc. (“**Farber**”) had been appointed proposal trustee under the NOIs and was proposed as monitor in the CCAA Application.
2. Collectively, the Debtors were in the primary business of acquiring or developing properties (each a “**Property**” and collectively, the “**Properties**”) for rent or sale throughout Southern Ontario.
3. At the time of the CCAA Application there were 24 identified Properties held by the 12 Debtors which included: four retirement homes and/or independent living homes; two multiple unit apartment buildings; two private schools; five commercial properties; one residential condo unit; one golf course; and nine properties under development comprising vacant land. The list of known properties and assigned numbers is attached as **Appendix “B”**. Property numbers and names as defined in Appendix “B” are used throughout this report.
4. At the hearing of the CCAA Application, which took place over four days, 11 of the 19 different secured lenders who had provided approximately 29 separate loans and various amendments to those facilities attended at court, the majority of who opposed the CCAA Application. Of the 19 lenders who had registered security over the various Properties, 7 had registered security over more than one Property resulting in complex cross-collateralization amongst the Debtors’ assets. Significant deemed trust amounts were also owing to Canada Revenue Agency (“**CRA**”) by a number of the Debtors. As a result of the cross-collateralization, and, as explained below, the integrated operational nature of the Debtors, it was difficult to unwind any one Debtor or any one Property from the Dondeb Group.

5. At the conclusion of the CCAA Application hearing on October 17, 2012, Justice Campbell dismissed the CCAA Application and instead appointed Farber as receiver (the “**Receiver**”) of the assets, properties and undertakings of all of the Debtors. The form of order was finalized the next day. As a result, by order dated October 18, 2012, Farber was appointed as Receiver. The relevant Court Order was subsequently amended to be dated October 17, 2012 (the “**Receivership Order**”). A copy of the Receivership Order is attached as **Appendix “C”**.
6. On November 22, 2012, Justice Campbell released written reasons supporting the granting of the Receivership Order (the “**Original Reasons**”). A copy of the Original Reasons are attached as **Appendix “D”**.
7. The Original Reasons (see paragraph 8) note that the concept of appointing Farber as Receiver was an alternative proposed by a number of the secured creditors, to maximize creditor control of the process and ensure that costs of administration be allocated to each individual property and company. Further, Justice Campbell noted that a significant number of creditors had opposed the CCAA Application because they had lost confidence in Mr. Mel Dancy (“**Dancy**”) the principal of the Dondob Group.
8. In order to address the allocation of costs of administration, the Receivership Order provided at paragraph 3, that all funds received in respect of any Property be deposited into a property-specific account (the “**Segregated Accounts**”). Only disbursements in respect of a specific Property were to be withdrawn from that Property’s Segregated Account. The Receivership Order also provided in paragraph 19 that the Receiver and its counsel were to keep separate records for General Restructuring Administrative Expenses (“**GARE**”); being those expenses that were not specifically attributable to any individual Property.

9. The following table summarizes the 26 Segregated Accounts which were maintained. The legal entity which owned each property/asset also indicated.

Dondeb Group of Companies - Properties and Assets

Legal Entity	Property/Asset	Legal Entity	Property/Asset
Dondeb Inc	Ace Self Storage	1182689 Ontario Inc	Hatch House
Dondeb Inc	Ontario Street	1182689 Ontario Inc	Orillia Prep School
Dondeb Inc	Coldwater	King City Holdings Ltd	Pepper/ Palmer
Dondeb Inc	Devonshire Place	1267818 Ontario Ltd	Georgian Manor
Dondeb Inc	Prospan Rockin Boats	1281515 Ontario Inc	Whispering Pines Scotia Road
Dondeb Inc	Remos Ristoranti	1281515 Ontario Inc	Laftontaine Terrace
Dondeb Inc	Orillia Retirement Residence	1711060 Ontario Ltd	Tudhope Manor
Dondeb Inc	Barrie Business Centre	2009031 Ontario Inc.	Orillia Independent Living
Dondeb Inc	Sussex Place	2198392 Ontario Ltd	Dorset Place
Dondeb Inc	Tim Hortons/ Wendys	2338067 Ontario Inc	Leons
Dondeb Inc	Yeomen Street	Briarbrook Apartments Inc.	Preston Springs Gardens
Dondeb Inc	Brechin	Guelph Financial Corporation	
Dondeb Inc	FIT Contract - asset		
Dondeb Inc	Panelization - asset		

10. The Receivership Order also stayed and suspended the NOIs.

11. The Receivership proceedings are now nearing their end. To date, sales of 23 of the 24 originally known Properties have been completed and a request for approval of the sale of the remaining Property, is now being brought to the Court. As well, one subsequently discovered Property, being a vacant piece of land located at 20 Scotia Road in Emsdale Ontario (Township of Perry) owned by 1281515 Ontario Inc. (the “**Scotia Road Property**”) has also been sold. Other significant assets which have been dealt with by the Receiver include certain Feed-In-Tariff contracts (“**FIT Contracts**”) held by Dondeb at the time of the Receivership Order and a panelization machine (the “**Panelization Machine**”) transferred by Dondeb out of the ordinary course of business shortly before the Receivership Order, but which remained subject to the relevant secured creditors’ claims. In terms of accounting for proceeds, fees, costs and expenses, the Receiver has, to date, treated the FIT Contracts and the Panelization Machine as if they were each a Property.

12. In total, estimated realizations during the Receivership proceeding are approximately \$47.0 million.
13. As outlined in more detail below, the Court has previously approved a number of transactions which have resulted in approximately 15 different secured loans (some to the same secured lender) being repaid in full or assumed by a new party and another 14 different secured loans as well as CRA, receiving partial distributions.

2. PURPOSE OF REPORT

14. The Purpose of this sixteenth report to the Court of the Receiver (the “**Sixteenth Report**”) is to report to the Court on the activities of the Receiver since the filing of the Receiver’s Fifteenth Report to the Court and to provide support for the Receiver’s request for an Order:
- (i) approving this Sixteenth Report and the activities of the Receiver set out herein;
 - (ii) approving the completion of the sale transaction (the “**Leon’s Transaction**”) contemplated by the agreement of purchase and sale in respect of the real property municipally known as 555 Memorial Avenue, Orillia, ON and the business located thereon, between the Receiver as vendor and 555 Memorial (Orillia) Inc. as purchaser (the “**Leon’s Purchaser**”) made as of February 24, 2015, (the “**Leon’s APS**”); vesting in the Leon’s Purchaser the Real Property (as defined in the Leon’s APS) free and clear of encumbrances, other than Permitted Encumbrances (as defined in the Leon’s APS); and providing that the relief set out in the order be subject to provisional execution;
 - (iii) approving the Proposed GARE Allocation as set out in **Appendix “L”** hereto and as defined and described below;
 - (iv) approving the Additional Distributions as set out in **Appendix “M”** hereto and as defined and described below;

- (v) approving the fees and disbursements of Farber as Receiver as set out in the affidavit of Paul Denton sworn April 14, 2015 (the “**Denton Affidavit**”);
- (vi) approving the fees and disbursements of Dentons Canada LLP, formerly FraserMilner Casgrain LLP (“**Dentons**”), as counsel to the Receiver as set out in the affidavit of Neil Rabinovitch sworn April 14, 2015 (the “**Rabinovitch Affidavit**”); and
- (vii) approving the fees and disbursements of Cassels Brock & Blackwell LLP (“**Cassels**”), as counsel to the Receiver as set out in the affidavit of Jane Dietrich sworn April 14, 2015 (the “**Dietrich Affidavit**”).

3. **DISCLAIMER**

15. Farber has relied upon the financial records and information provided by the Debtors, as well as other information supplied by management, appraisers, accountants, auditors and advisors.

4. **BACKGROUND**

16. Since its appointment on October 17, 2012, the Receiver has submitted fifteen prior reports to Court as well as four supplemental reports. The reports were submitted in support of the prior 37 Orders granted in this Receivership proceeding. A description of the various orders received and significant steps in the Receivership proceeding is outlined below. Copies of the Orders and the reports are available on the Receiver’s website at <http://www.farberfinancial.com/insolvency-engagements/topic/dondeb-inc-et-al> and copies of the various orders will be available for the Court at the hearing.
17. By Order dated October 26, 2012, the Court, among other matters, authorized Receiver Borrowings, with the consent of the mortgagees, by way of a revolving credit up to \$500,000, secured by the Properties, with the foregoing limit excluding borrowings for the completion of the Barrie Business Centre (Property #9). The Receiver was also granted authority, without the consent of The Empire Life Insurance Company (“**Empire Life**”), to borrow by way of revolving credit of up to \$60,000 for the purpose of funding interim expenditures in respect of the real property located at 301 Byron Street South, Whitby, Ontario and the Hatch House Montessori School operated thereon (Property #13).

Collectively, such borrowings were to be secured by way of a fixed and specific charge (“**Receiver’s Borrowing Charge**”) as security for payment of monies, in priority to all security interests, trusts and lien claims including but not limited to deemed trust claims under subsection 227(4) and (4.1) of the *Income Tax Act*, subsection 23(3) and (4) of the *Canada Pension Plan* and subsection 86(2) and (2.1) of the *Employment Insurance Act*, but subordinate in priority to the Receiver’s Charge (as defined in the Receivership Order) and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. On January 8, 2013, the Receiver filed its Second Report to Court (the “**Original Second Report**”) seeking, among other things, approval of agreements of purchase and sale for the following four Properties: (i) Devonshire Place property (Property #4); (ii) Tim Hortons/Wendy’s property (Property #10); (iii) Dorset Place property (Property #22); and (iv) Preston Springs Gardens property (Property #24).
19. On January 11, 2013, the Receiver filed a supplement to its Second Report (the “**First Supplement**”) addressing minor amendments to the transactions involving the Tim Hortons/Wendy’s and the Preston Springs Gardens Properties.
20. On January 14, 2013, (i) without objection from any party, the Court granted the approval and vesting order approving the Devonshire Place property sale; and (ii) the Debtors advised the Court that they were in the process of retaining new counsel and requested an adjournment of one week for the remaining relief; an adjournment until January 15, 2013 for the approval of the remaining agreements of purchase and sale was granted.
21. On the morning of January 15, 2013, the Debtors, having retained new counsel, filed a responding affidavit and in reply the Receiver filed a second supplement to the Second Report (the “**Second Supplement**” and together with the Original Second Report and the First Supplement, the “**Second Report**”).
22. After hearing submissions on January 15, 2013, Justice Morawetz delivered his endorsement orally (the “**January 15 Endorsement**”), *inter alia* (i) approving the Tim Hortons/Wendy’s, the Dorset Place and the Preston Springs Gardens agreements of purchase and sale; and (ii) adjourning the requested approval of the Receiver’s activities as set out in the Second Report so that new counsel for the Debtors had time to consider the matters addressed therein with

such approval to be brought back before the Court within 60 days. A copy of the January 15 Endorsement is attached as **Appendix “E”** hereto.

23. The Tim Hortons/Wendy’s property transaction closed on January 17, 2013. The Dorset Place property transaction closed on January 22, 2013. The Preston Springs Gardens property transaction closed on January 28, 2013.
24. By Court Order dated February 13, 2013, among other matters, the Receiver’s activities were approved as set out in the Second Report and the Third Report of the Receiver dated February 6, 2013, and interim distributions of proceeds held for the Dorset Place, Preston Springs Gardens and Tim Hortons/Wendy’s Properties were approved. Approval and vesting orders were also granted on February 13, 2013, in respect of transactions involving the Coldwater (Property #3) and Brechin (Property #12) Properties.
25. The Coldwater property transaction closed on February 15, 2013. The Brechin property transaction closed on February 28, 2013. The Devonshire Place property transaction closed on March 1, 2013.
26. On March 25, 2013, the Court granted orders (i) approving an interim distribution in respect of the Coldwater and Devonshire Place Properties; and (ii) approving the activities of the Receiver set out in the Fourth Report of the Receiver dated March 15, 2013. In addition, on March 25, 2013, the Court granted approval and vesting orders as requested by the Receiver in respect of transactions for the sale of the Sussex Place (Property #8) and the Georgian Manor (Property #17) Properties.
27. The Georgian Manor property transaction closed on March 27, 2013. The Sussex Place property transaction closed on April 24, 2013.
28. On May 10, 2013, the Court granted orders (i) approving agreements of purchase of sale of the following properties: Ontario Street (Property #2), Hatch House Montessori School (Property #13) and Tudhope Manor (Property #20); (ii) approving an Auction Agreement for the Panelization Equipment, as well as approval of a stalking horse sales agreement for the Ace Self Storage property and business (Property #1) and stalking horse sales process for same; (iii) approving the distribution of funds held in respect of the Georgian Manor and

Sussex Place Properties; and (iv) approving the activities of the Receiver set out in the Fifth Report of the Receiver dated May 3, 2013.

29. The Ontario Street property transaction closed on May 15, 2013 and the Hatch House Montessori School transaction closed on May 21, 2013.
30. On May 29, 2013, the Court granted (i) an order approving an interim distribution in respect of the Ontario Street and Hatch House Montessori School properties; and (ii) an approval and vesting order in respect of the sale of the Lafontaine Terrace property (Property #19).
31. On June 11, 2013, following a contested hearing, Justice Newbould made two Orders which, among other things, declared that Empire Life was not entitled to an interest differential on four properties: Dorset Place, Sussex Place, Hatch House Montessori School and Leon's (Property #23), and approved interim distributions on the Tudhope Manor and Lafontaine Terrace properties, which had closed on May 30 and June 4, 2013, respectively.
32. In a motion originally returnable on July 30, 2013, the Receiver sought an approval and vesting order in respect of the Ace Self Storage business and property. Dancy appeared in person at the hearing and advised the Court that he was again attempting to retain new counsel and requested an adjournment of the Receiver's motion. Justice Morawetz granted an adjournment until August 6, 2013. At the return of the Motion on August 6, 2013, Dancy advised that he had still not been able to retain new counsel. Notwithstanding same, the approval and vesting Order was granted for the sale of the Ace Self Storage business and property to Pace Savings & Credit Union Limited ("**Pace**") (the "**Ace Self Storage Transaction**"), which sales transaction was the result of the previously approved stalking horse sales process. Upon closing of the Ace Self Storage Transaction, \$6.2 million was authorized to be distributed to the purchaser, Pace. In addition, an Order of the Court was granted on August 6, 2013 which, among other matters, approved interim distributions to the secured creditor of the Coldwater Property and the Brechin Property and reallocation of proceeds from 2338067 Ontario Inc. to Dondeb Inc., related to the sale of the Dorset Place property.
33. On December 2, 2013, the Court granted (i) an order approving a distribution from the remaining proceeds of sale of the Lafontaine Terrace Property; (ii) approval and vesting

orders in respect of the sales of the Orillia Prep School (Property #14), Orillia Retirement Residence (Property #7), Whispering Pines (Property #18), Pepper/Palmer (Property # 15/16) and the 240 Yeoman Street (Property #11) properties; and (iii) an order that a motion brought by Dancy seeking leave to file a complaint against Farber be dismissed on a with prejudice basis and without costs unless Dancy provided written notice on or before January 10, 2014 of his intention to bring on the motion. Dancy did not provide such notice.

34. On March 24, 2014, the Court granted an order (i) authorizing the Receiver to consolidate the Segregated Accounts for any Property held by Dondeb where the secured mortgagees had been repaid in full, including Ontario Street, Coldwater, Devonshire Place, Sussex Place, 240 Yeoman Street, Brechin and Dorset Place into one account (the “**Dondeb General Account**”); (ii) authorizing the Receiver to transfer \$108,565.68 from the Dondeb General Account to the Tim Hortons/Wendy’s property Segregated Account to reimburse the Tim Hortons/Wendy’s property in respect of deemed trust amounts owing by Dondeb to CRA which were paid to the CRA pursuant to the Order of Justice Morawetz made on February 13, 2013; (iii) authorizing the Receiver to make partial distributions to Faithlife Financial from proceeds of the Tudhope Manor property; (iv) authorizing the Receiver to make a partial distribution to CRA in respect of amounts deemed to be held in trust by the Debtor 1182689 Ontario Inc. (“**118**”); (v) authorizing the Receiver to make a partial distribution to Empire Life from the proceeds of the Hatch House Montessori School property; (vi) authorizing the Receiver to make a distribution to Sun Life Assurance Company of Canada in full and final satisfaction of all amounts owing to Sun Life by Dondeb; and (vii) authorizing the Receiver to make a distribution to The Bank of Nova Scotia, Trustee (“**BNS**”) in full and final satisfaction of all amounts secured in respect by a charge/mortgage granted by 2339506 Ontario Inc. in favour of BNS as against the Tim Hortons/Wendy’s Property. Also on March 24, 2014, approval and vesting orders in respect of the sales of the Prospan Rockin Boats (Property #5), Remo’s Ristoranti (Property #6), Scotia Road and Barrie Business Centre (Property #9) properties were granted. As well, an approval and vesting order in respect of a transaction involving the FIT Contract between Dondeb and Ontario Power Authority (the “**OPA**”) related to the Prospan Rockin Boats property was made.

35. On May 2, 2014, the Court granted an Order (i) approving the Twelfth Report and the activities of the Receiver set out therein; (ii) authorizing the Receiver to make a partial distribution to First Source Mortgage Corporation and Mark Cosman (“**First Source/Cosman**”) from the funds held by the Receiver in the account maintained for the BBC property; (iii) authorizing the Receiver to make an additional partial distribution to First Source/Cosman from the funds held by the Receiver in the account maintained for the Remo’s Ristoranti property; and (iv) authorizing the Receiver to make a partial distribution to The Toronto-Dominion Bank (“**TD**”) from the proceeds of sale of the Prospan Rockin Boats property.
36. On July 28, 2014, the Court granted Orders (i) approving the Thirteenth Report to Court of the Receiver and the activities of the Receiver set out therein; (ii) approving the completion of the sale transaction related to the FIT Contract associated with the Barrie Business Centre property location; and (iii) approving Farber’s fees and disbursements as Receiver for the period October 17, 2012 to May 31, 2014 and the fees and disbursements of Farber’s independent legal counsel, Dentons, for the period October 17 2012 to May 31, 2014 and Cassels for the period March 2, 2014 to May 31, 2014 for the following 13 properties: Ace Self Storage and Business Centre Inc., 240 Yeoman, Brechin, Coldwater, Devonshire, Dorset Place, Georgian Manor, King City Holdings (Belleville – Pepper/Palmer), Ontario Street, Orillia Independent Living, Preston Springs, Sussex Place and Tudhope Manor.
37. On September 12, 2014, the Court granted an Order approving the sale transaction in respect of the Orillia Independent Living (Property #21) (“**OIL**”) and approving the Fourteenth Report to Court of the Receiver and the activities of the Receiver as set out therein. The OIL Transaction closed on September 17, 2014.
38. On October 22, 2014 the Court granted an Order authorizing, among other matters, the Receiver to make a distribution to Addenda Capital Inc. (“**Addenda**”) and in full and final satisfaction of the charge/mortgage granted by Dondeb to Addenda and to make a partial distribution to Cameron Stephens Financial Corporation (“**Cameron Stephens**”) in respect of a charge/mortgage granted by Dondeb in favour of Cameron Stephens against the OIL Real Property. The October 22, 2014, Order also approved the Fifteenth Report to the Court of the Receiver and the activities of the Receiver as set out therein.

39. In summary, to date, of the 25 Properties, sales have been completed in respect of the following 24 Properties: Tim Hortons/Wendy's, Dorset Place, Preston Springs Gardens, Devonshire Place, Coldwater, Brechin, Georgian Manor, Sussex Place, Ontario Street, Hatch House Montessori School, Tudhope Manor, Lafontaine Terrace, Ace Self Storage, Orillia Prep School, Orillia Independent Living, Orillia Retirement Residence, Whispering Pines, Pepper/Palmer, Yeomen Street, Prospan Rockin Boats, Remo's Ristoranti property, Scotia Road, and the Barrie Business Centre. Sales have also been complete in respect of the FIT Contracts and the Panelization Machine. The only remaining property is the Leon's Property, for which approval of sale transaction is now being sought.

5. RECEIVER'S ACTIVITIES

40. Since October 14 , 2014, the Receiver's activities have included, among other things:

- Monitoring receipts and disbursements, coordinating debt service payments where cash flow permits and liaising with mortgagees, as appropriate;
- Working to complete the two FIT Contract sale transactions previously approved by the Court including executing assignment agreements; extensive discussions with Independent Electricity System Operator ("IESO") (formerly the OPA) and respective purchasers to negotiate and finalize all necessary agreements. The transaction to sell the FIT Contract in respect of the Prospan Rockin Boats Property is scheduled to close prior to the hearing scheduled for April 23, 2015 and the Receiver expects to receive proceeds of sale of \$350,000. The transaction to sell the FIT Contract in respect of the Barrie Business Centre Property closed on March 12, 2015 and the Receiver received proceeds of sale of \$500,000;
- Preparing for and attendance at Court on October 24, 2014 for approval of the OIL distributions;
- Attending to the distribution of OIL proceeds pursuant to the Court Order dated October 24, 2014;

- Further marketing of the Leon's Property and negotiating of the Leon's APS;
- Undertaking extensive review and analysis of GARE fees and costs to develop a recommendation as to the most appropriate allocation of GARE;
- Discussing with various stakeholders the Proposed GARE Allocation and Additional Distributions;
- Drafting this Sixteenth Report and supporting motion materials including preparing Proposed GARE Allocation and extensive analysis and preparation of fee affidavit materials; and
- Corresponding by email and telephone with the Debtors' creditors.

6. SALE APPROVAL OF LEON'S PROPERTY, 555 MEMORIAL AVE, ORILLIA, ONTARIO

41. The Leon's Property is piece of real property located at 555 Memorial Avenue, Orillia on which is a 41,612 square foot retail store. Pursuant to a lease (the "**Lease**"), the building is leased to a franchisee who operates a Leon's furniture store from the premises. The Property is owned by Briarbrook Apartments Inc. ("**Briarbrook**"). The mortgagees of record are Empire Life and BNS, with a collateral mortgage, held by First Source / Cosman. A title abstract for the Leon's Property is attached as **Appendix "F"**.
42. The Receiver has obtained a legal opinion from its independent legal counsel, Dentons that, subject to the customary assumptions and qualifications, the Empire Life Charge and BNS charges registered against the Leon's Property are valid. A copy of the Dentons' security opinion dated March 18, 2013 is attached as **Appendix "G"**.
43. Throughout the receivership proceeding, the Leon's Property was operated under a lock-box arrangement with the tenant subject to the Lease. Proceeds were collected through the lock-box arrangement by the second mortgagee (BNS) which was an arrangement in place prior to commencement of these Receivership proceedings. BNS and the Receiver have joint signing authority on the Leon's Property bank account, and have been making monthly mortgage payments to Empire Life and BNS throughout the receivership proceedings. The Receiver is

currently working with BNS to finalize the HST returns and pay the HST liabilities. The Receiver anticipates that all outstanding HST liabilities will be finalized at the time of closing of the Leon's Transaction, if approved by this Honourable Court.

44. After consultation with Empire Life and BNS, the Receiver listed the Leon's Property with DTZ Barnicke on November 15, 2012. The Receiver received offers from 2 prospective purchasers under the DTZ Barnicke listing period. Due to a variety of reasons (further described below), none of the offers received by the Receiver moved to a binding agreement of purchase and sale.
45. The DTZ listing agreement expired and the Receiver, with the mortgagees' consent, listed the property with Remax Orillia Realty (1996) Ltd ("**Remax**") on May 15, 2013. One offer was received during the Remax listing, however the offer was not on terms acceptable to the Receiver and the relevant mortgagees. The Remax listing expired on August 31, 2013. After consultation with the relevant mortgagees, the Leon's Property was re-listed with Royal LePage First Contact Realty ("**RLP**") from November 18, 2013 to March 31, 2014, with further extensions until July 31, 2014. The RLP listing resulted in five (5) prospective purchasers entering into conditional agreements of purchase and sale. The Receiver negotiated with four (4) of the prospective purchasers in an attempt to sell the property, however, the anticipated selling price could not be satisfied or the prospective purchaser's due diligence conditions ultimately could not be waived.
46. Notwithstanding the fact the market was extensively canvassed and three different brokers had listed the property, no satisfactory offer was received over that time period that culminated in the Receiver entering into an unconditional agreement of purchase and sale.
47. The Receiver, in marketing the Leon's Property, was advised by prospective purchasers that the ability to conclude a transaction was made difficult by the fact that the Lease expires on February 28, 2017. The Receiver understands that in past dealings with Briarbrook, the tenant would confirm and extend its Leon's franchise agreement prior to negotiating an extension to the Lease. Notwithstanding that the tenant has leased the Leon's Property since 1992, the tenant will not commit to a Lease extension until such time as the Leon's franchise agreement has been extended. Without the secure long term rental stream of a tenant with

the corresponding long term franchise agreement, the valuation of the Leon's Property is uncertain. The Receiver has canvassed the tenant on numerous occasions, as well as the franchisor in an effort to secure a firm agreement of purchase and sale, with little success.

48. As noted above, the Receiver engaged the services of three well known real estate brokerages in an attempt to market the Leon's Property. The market has been widely canvassed by the real estate brokers over a period of approximately 20 months. In total, 9 offers were submitted under the three different listings, none of which culminated in a transaction being able to be finalized satisfactory to the Receiver and relevant mortgagees.
49. Ultimately in late 2014, the second mortgagee BNS determined that it would proceed with an offer to purchase the Leon's Property from the Receiver given the continuing uncertainty over whether a deal could be concluded and the ongoing fees and costs of the Receiver. Through negotiation in December 2014, January and February 2015 the Receiver entered into the Leon's APS made as of February 24, 2015, which was ultimately fully signed on March 17, 2015 with the Leon's Purchaser.
50. Key terms of the Leon's APS include: (i) a Purchase Price of \$3,200,300 which includes, a deposit of \$50,000 at signing, assumption of the first mortgage held by Empire Life in the principal amount of approximately \$1,335,131 effective March 1, 2015, assumption of the second mortgage held by BNS in the approximate principal amount of \$1,686,154 at February 26, 2015 with the balance of the purchase price to be paid at closing subject to closing adjustments; (ii) as a condition to Closing, an assignment of the Lease to the Leon's Purchaser; and (iii) closing of the transaction 5 business days after the granting of the approval and vesting order by the Court.
51. A copy of the Leon's APS is attached as **Appendix "H"**.

Evaluation of the Leon's APS

52. The Receiver is of the view that the Leon's APS should be approved by the Court for the following reasons: (i) the Receiver is of the view that the market was extensively canvassed and a competitive process undertaken; (ii) the purchase price is the best offer received and on

terms most acceptable to the Receiver in the circumstances; and (iii) the relevant mortgagees Empire Life and BNS have approved the Receiver entering into the Leon’s APS.

7. PROPOSED ALLOCATION OF GARE

53. As noted above, the Receivership Order required the Receiver to not only establish the Segregated Accounts, but to also separately record any GARE (being expenses not attributable specifically to any one Property). Specifically, paragraph 19 of the Receivership Order reads:

“..the Receiver is hereby authorized to deposit proceeds of sale of any personal property of the Debtors into the appropriate Segregated Account and in connection with Dondeb Inc., the Receiver shall be authorized to apply the said proceeds to the General Restructuring Administrative Expenses (GARE). The Receiver shall keep separate records for GARE defined in paragraph 19 herein”

54. The Receiver and its independent legal counsel have kept separate records of GARE fees and costs, with those fees and expenses for the period October 17, 2012 to December 31, 2014 summarized below and detailed in the Denton Affidavit, the Rabinovitch Affidavit and the Dietrich Affidavit attached as **Appendices “I”, “J” and “K”**.

55. A summary of the amounts of GARE incurred until December 31, 2014 is set out below.

**Dondeb Group - GARE Receiver and Legal Fees
October 17, 2012 to December 31, 2014**

Firm	
Receiver A. Farber & Partners Inc.	559,997.81
Dentons	241,498.96
Cassels	18,357.14
Total	819,853.91

Includes fees, disbursements and HST

Current estimate to completion 900,000.00

56. The activities which are captured as GARE include: set up and maintenance of the segregated banking and accounting; attending to group insurance program; attending to physical security, possession and control of properties and assets; coordination of CRA review and

audits; managing ongoing banking relationships and transition to the global receivership and segregated banking structure, which included ensuring no interruption to pre-authorized deposits from tenant of the various properties; dealing with multiple proposals/ offers from Dancy or associated entities for the refinancing of the group and related court proceedings; drafting and finalization of the agreement of purchase and sale template; management of ongoing general supplier and overhead queries and correspondence including head office expenses; maintenance of the corporate records including payroll records and dealing with WSIB; maintenance of the Receiver's web site; court attendance and general reporting; fee and cost accounting; review of marshalling and apportionment issues across the Dondeb Group given the extensive cross collateralization; and review and analysis of GARE and the appropriate basis of allocation.

57. A strict reading of Paragraph 19 of the Receivership Order may lead to the conclusion that proceeds from the Dondeb personal property only, be first applied to reduce the GARE. However, it is the Receiver's understanding that at the time of granting of the Receivership Order, and in particular when Paragraph 19 was negotiated amongst the parties, the impact of first applying proceeds of Dondeb personal property to reduce GARE was not fully appreciated. Specifically, no consideration was given to the impact of the realized value of the FIT Contracts (as personal property of Dondeb) or more specifically the secured creditors who held the FIT Contracts as collateral, or to the surplus in a number of the Debtor's estates after payment in full of secured creditor and mortgagee claims. Further, the Receivership Order provides no guidance on how GARE should be allocated amongst the Properties.
58. When considering allocation of GARE, given the extensive effort undertaken to review and negotiate sale of the FIT Contracts and the Panelization Machine, the Receiver has treated these as if they were separate properties and has maintained segregated ring fenced accounting to track realizations, costs and fees. In essence, these significant assets have been treated as if they were separate properties.
59. Further, as it relates to evaluation of the most appropriate allocation of GARE fees across the Dondeb Group, as more fully explained below, in the period preceding the Receivership, due to the increasing liquidity challenges of the Dondeb Group (all 12 legal entities and underlying properties), income and cash flow generated by legal entities and the underlying

properties were comingled and transferred across the group on a day to day basis, to allow operations to continue. Likewise much of the security given to support the group's credit facilities were blanketed over multiple properties and legal entities. In many respects, the Dondeb Group operated as one entity throughout this period.

60. After considering a number of different methods to allocate GARE, for the reasons set out below, the Receiver recommends the following (the "**Proposed GARE Allocation**"):

- (i) Proceeds held in the Dondeb General Account (including proceeds transferred from Dondeb Segregated Accounts where the registered real property mortgagees have been paid in full (or are proposed to be paid in full under the Additional Distributions described below) in accordance with the Order of this Court dated March 24, 2014 in the approximate amount of \$218,671 would first be applied to reduce GARE;
- (ii) Proceeds held in Segregated Accounts where all secured creditors have been paid in full (being the Preston Springs Gardens account in the approximately amount of \$244,907 and Pepper/Palmer account in the approximate amount of \$109,294) would then be applied to reduce GARE;
- (iii) The remaining amount of GARE, being approximately \$327,127, assuming a total estimated GARE of \$900,000 would be allocated amongst the remaining Segregated Accounts based on the value of the proceeds realized from such Property.

61. The amounts of the Proposed GARE Allocation in respect of the various Properties is attached as **Appendix "L"** hereto.

62. The Receiver did consider other GARE allocation scenarios, including allocating GARE against each of the Segregated Property Accounts based on realization value without regard to whether or not secured creditors were satisfied in full on any Property ("**Pure Valuation Allocation**"). However, in the Receiver's view such would not be equitable as it would not be consistent with the equitable principal of marshalling: being that a prior common charge should first look to assets for which there is no subordinate encumbrance.

63. The Receiver also considered allocation of GARE in accordance with a strict reading of Paragraph 19 of the Receivership Order (the “**Dondeb Personal Property First**”) scenario. However, as noted above, the Receiver’s view is that secured creditors with a specific charge of the FIT Contracts and the Panelization Machine would be unfairly prejudiced in this scenario.
64. The Receiver’s view after considering the Pure Valuation Allocation, the Dondeb Personal Property First Allocation, the Proposed GARE Allocation and other variations, is the above Proposed GARE Allocation is equitable, reasonable and appropriate in that: (i) it first places the burden of GARE, which is a common charge on all of the Debtors and the Properties, against the funds available after satisfaction of secured debts. This proposed allocation method is entirely consistent with how the Dondeb Group conducted its affairs pre-receivership and in essence operated as if one single entity; (ii) the basis of allocation (being value recovered) as amongst secured creditors with a specific security interest in a Segregated Account is consistent with allocations employed in other similar insolvency proceedings such as the CCAA and Receivership Proceedings of the First Leaside Group; and (iii) it respects the underlying premise in Paragraph 19 of the Receivership Order that generally once real property secured creditors had been paid in full, the remaining amounts in Dondeb should be used to satisfy GARE, while modifying such to recognize the significant realizations from the FIT Contracts and Panelization Machine that are subject to specific security interests.
65. The Receiver has consulted with a number of the affected secured creditors with respect to the Proposed GARE Allocation and specifically with a majority of the Remaining Secured Creditors who will suffer a shortfall in recoveries. To the date of this reporting, a number of those parties have expressed support of the Proposed GARE Allocation.

8. PROPOSED ADDITIONAL DISTRIBUTIONS

66. If the Proposed GARE Allocation is approved, it will permit the Receiver to make the Additional Distributions attached as **Appendix “M”** hereto.
67. Other than with respect to the FIT Contracts and the Panelization Machine, these distributions are to secured creditors where interim distributions have previously been

approved by the Court. The amounts proposed to be distributed to such secured creditors noted in Appendix “M” in the total amount of \$1,370,737, will if approved operate to partially satisfy the remaining secured creditors (collectively, the “**Remaining Secured Creditors**”).

68. The Additional Distributions also reflect a settlement agreed to between CRA and Empire Life. Previously a dispute had existed between CRA and Empire Life in respect of the priority between CRA’s deemed trust claim and Empire Life’s security and specifically the amount of Empire Life’s ‘prescribed security interest’ in accordance with the *Income Tax Act* and related regulations. The Receiver understands that CRA and Empire Life have now agreed on a settlement of this amount which is reflected in the Additional Distribution to Empire Life and CRA related to the Hatch House Montessori School and Orillia Prep School properties.

Panelization Machine Distribution

69. The proposed distribution in respect of the Panelization Machine reflects a settlement between TD, Imperial Tool & Die Ltd. (“**Imperial**”) and First Source/Cosman, the three parties who may have an interest in the Panelization Machine proceeds.

70. The Panelization Machine was located on the Prospan Rockin Boats premises at 61 Forest Plain Road, Orillia, Ontario (“**61 Forest Plain**”). Prior to the Receivership Order, Imperial had performed certain repair work on the Panelization Machine which was owned by Dondeb. Dondeb, not having the cash to pay Imperial, instead agreed with Imperial to sell the Panelization Machine to Imperial in August of 2012.

71. As the sale of the Panelization Machine was out of the ordinary course of business of Dondeb, arguably, the sale was not free and clear of the interest of secured creditors who had a security interest over the Panelization Machine.

72. The results of a search of the personal property registration system in Ontario against Dondeb Inc. (current as to April 1, 2015) are attached hereto as **Appendix “N”** (the “**PPSA Search Results**”). The search shows multiple registrations against Dondeb, however, the majority of

the registrations contain general collateral descriptions limiting the collateral over which security is perfected to properties other than 61 Forest Plain.

73. The two creditors with specific registrations over 61 Forest Plain are TD and OWMCO. OWMCO and Dancy also have general registrations with no limiting collateral description.

74. From a timing point of view, the Receiver is advised that TD's registration was originally made on October 31, 2005, lapsed on October 31, 2011 and was reperfected on February 27, 2014. TD's registration had therefore lapsed between October 31, 2011 and February 27, 2014 (the "**Lapsed Period**").

75. It was during this Lapsed Period that Imperial obtained an interest (i.e. purchased) the Panelization Machine. The relevant order of events is:

- (i) TD Registration: October 31, 2005
- (ii) OWMCO registration specific to Panelization Machine: January 15, 2007
- (iii) Dancy general registration: December 3, 2008
- (iv) OWMCO general registration: December 19, 2008
- (v) TD Registration Lapses: October 31, 2011
- (vi) Imperial purchase of Panelization Machine: August 2012
- (vii) TD Reperfection: February 27, 2014

76. As a result, when Imperial obtained an interest in the Panelization Machine in August of 2012, OWMCO had a perfected security interest in the Panelization Machine. The security interest granted to OWMCO in the Panelization Machine was collateral security for the principal amount of \$800,000 which was also secured by a charge of the Sussex Place Property. OWMCO was paid in full from the proceeds of sale of the Sussex Place Property. In accordance with the Order of May 10, 2013, the distribution to OWMCO from the Sussex Place Property was without prejudice to the rights of subordinate creditors on the Sussex Place Property, and specifically First Source/Cosman, with respect to marshalling or

apportionment. First Source/Cosman, has not been paid in full and therefore has apportionment rights, through OWMCO's security over the Panelization Machine.

77. Dentons has previously provided the Receiver with opinions that, subject to typical assumptions and qualifications the security held by TD, OWMCO and First Source/Cosman is valid. No review of security held by Dancy has been done. The Receiver notes that at the time Dancy made his registration under the PPSA, both TD and OWMCO held perfected security over the personal property at 61 Forest Plain.
78. The proceeds of sale, net of costs, of the Panelization Machine are \$140,796 as detailed in the statement of receipts and disbursements attached as **Appendix "O"** hereto.
79. Given the competing circular claims of TD, First Source/Cosman (through OWMCO) and Imperial to the Panelization Machine proceeds, rather than engage in a litigious determination as to entitlement to proceeds, the Receiver engaged each of TD, First Source/Cosman and Imperial in discussions regarding a potential settlement. Through those discussions, TD, First Source/Cosman and Imperial have each agreed to accept 1/3 of the estimated net proceeds as a settlement of the potential priority dispute, provided however, that the other relief (i.e. additional distributions and fee approval/allocation) is also granted (the "**Proposed Settlement**").
80. The Proposed Settlement is reflected in the Additional Distributions attached as Appendix "M". In the Receiver's view given the potential for a circular priority fight, the costs of litigation and relative amounts in dispute, the Proposed Settlement is reasonable in the circumstances. Further, given the amounts in dispute, the Receiver's view is that no other party would have an interest in the Panelization Machine net proceeds and therefore requests the Court approve the Additional Distributions which reflect the Proposed Settlement.

FIT Contract Distributions

81. Distributions in respect of the FIT Contracts (being contracts in respect electricity produced at the Prospan Rockin Boats Property (the "**Rockin Boats FIT Contract**") and Barrie Business Centre Property (the "**BBC FIT Contract**")) are proposed to be made to TD and First Source/Cosman respectively.

82. Both FIT Contracts were personal property of Dondeb.
83. As noted above, with respect to the Rockin Boats FIT Contract, TD's registration, originally made on October 31, 2005 and reperfected on February 27, 2014 appears to have priority over the net proceeds. No party appears to have obtained rights in the Dondeb personal property associated with 61 Forest Plain during the Lapsed Period. As a result, the Receiver proposes to distribute the net proceeds of the Rockin Boats FIT Contract, which are estimated to be approximately \$270,000 to TD as noted in the Additional Distributions.
84. In accordance with the PPSA Search Results, First Source/Cosman, appears to have the first registration over the personal property of Dondeb associated with 92 Davidson Drive, Barrie (being the Barrie Business Centre Property associated with the BBC FIT Contract). As a result, the Receiver proposes to distribute the net proceeds of the BB FIT Contract, which are estimated to be approximately \$380,000 to First Source/Cosman as noted in the Additional Distributions.
85. A statement of receipts and disbursements for the FIT Contracts is attached as **Appendix "P"**. For the purposes of this assessment the Rockin Boats FIT Contract sale is assumed closed by the hearing date on April 23, 2015 with closing proceeds accrued in the statement of receipts and disbursement. The fees and disbursements specifically allocable to the FIT Contracts have been allocated among the proceeds of the Rockin Boats FIT Contract and the BBC FIT Contract based on the value received for each such FIT Contract. In the Receiver's view, such an allocation is fair and reasonable as many of the expenses incurred were in furtherance of monetizing the FIT Contracts generally and not specifically with respect to any one FIT Contract. Further, the Receiver has discussed such a proposed allocation with both TD and First Source/Cosman who, provided the remainder of the relief requested (i.e. with respect to fees, allocation and distribution of Panelization Machine proceeds) is granted, have consented to such.

Summary

86. The Receiver has previously received (and reported to the Court) on the independent security opinions provided to the Receiver by Dentons for each of the secured creditors for which approval for Additional Distributions are now being sought. Each of the security opinions received provided that, subject to customary qualifications and assumptions, the security held by those secured creditors was valid.
87. The Receiver has reviewed the relevant payout statements for the Remaining Secured Creditors and is satisfied, subject to the comments below regarding First Source / Cosman, that at least the amount proposed to be distributed to such Remaining Secured Creditor as set out in Appendix M is properly owing.
88. The Receiver notes that with respect to the amounts claimed to be owing by First Source / Cosman, the Receiver had certain concerns with the treatment of prior distributions as well as certain amounts claimed. The Receiver has engaged in discussions with First Source / Cosman who has agreed to treat the total outstanding amount as \$542,000 (the “**Outstanding Amount**”) as opposed to the \$607,000 claimed. In the Receiver’s view this is reasonable given the amounts involved and the estimated costs of finally determining the amounts that may be owing. The proposed Additional Distributions for First Source / Cosman are less than the agreed Outstanding Amount.
89. As a result, should the Court approve the Proposed GARE Distribution, the Receiver recommends the Court also approve the Additional Distributions.

9. APPROVAL OF THE RECEIVER’S AND INDEPENDENT COUNSEL’S FEES AND EXPENSES

90. Pursuant to paragraph 20 of the Appointment Order, the Receiver and its legal counsel are to seek approval from this Honourable Court for their fees and expenses from time to time.
91. On July 28, 2014 the Receiver and its legal counsel, Dentons and Cassels previously sought and were granted approval of their fees and expenses for the period from October 17, 2012 to May 31, 2014 on the 13 following Properties: Ace Self Storage and Business Centre, 240 Yeoman, Brechin, Coldwater, Devonshire, Dorset Place, Georgian Manor, Pepper/Palmer,

Ontario Street, OIL, Preston Springs, Sussex Place and Tudhope Manor (collectively, the “**Previously Approved Properties**”).

92. The Receiver is now seeking approval of the Receiver’s fees and expenses as well as those of Dentons and Cassels:

- (i) for those properties/assets not previously approved (being Barrie Business Centre, Hatch House Montessori School, Lafontaine Terrace, Leon’s, Orillia Prep School, Orillia Retirement Residence, Remo’s Ristoranti, Prospan Rockin Boats, Tim Hortons/Wendy’s, Scotia Road, Whispering Pines, the FIT Contracts and the Panelization Machine) from the commencement of the Receivership proceedings until December 31, 2014; (referred to as “Additional Properties”).
- (ii) for the Previously Approved Properties, from June 1, 2014 until December 31, 2014; and
- (iii) for the GARE from the commencement of the Receivership proceedings until December 31, 2014

93. The Receivership proceedings of the Dondeb Group have been extremely complex and difficult given the number and condition of the Debtors and Properties. Below is a summary of certain background information to provide context on the complexity and challenges faced during the Receivership proceedings.

94. The Dondeb Group and underlying properties represented a diverse range of properties, operations and stakeholders. As noted above, Properties ranged from a golf course to schools to retirement homes to apartment buildings to commercial properties for lease, each with some form of ongoing operation, and also various properties held for development. It comprised 12 companies, 25 Properties, as well as the FIT Contracts and Penalization Machine with 19 secured lenders many with various cross-collateralized loans and multiple other stakeholders.

95. In the period preceding the receivership, the combination of severe liquidity challenges as well as management and infrastructure shortcomings, negatively impacted the state and

condition of the individual properties and underlying operations in a significant way. In addition, the individual debtor company's financial reporting and controls were in significant arrears and of little utility at the time of the Receivership Order, which presented further challenges in managing the affairs of the Dondeb Group. Deficiencies at the time of the Receivership Order included:

- (i) Cash management and banking was in significant disarray. There was neither cash management nor bank accounts in place by individual property and legal entity, rather cash was pooled from across the property portfolio and transferred between entities and properties as needed. Additionally, funds borrowed by specific entities were routinely utilized across the Dondeb Group.
- (ii) The books and records of the Debtors and underlying properties were in excess of 3 months in arrears at the Receiver's appointment, while the most recent annual financial statements (review engagement) for legal entities completed was up to December 31, 2010 and/or December 31, 2009 or April 30, 2010 in the case of King City Holdings Ltd.
- (iii) There was over \$2 million in CRA payroll and HST obligations accrued and owing which related to obligations going back over three years for six entities and related properties.
- (iv) Significant arrears in municipal property taxes had accrued (in excess of \$800,000).
- (v) There were numerous deficiencies in property management, reporting and compliance including: failure to pay insurance premiums resulting in issuance of cancellation notices; threatened or actual disconnection of property service and utility providers including elevator services due to non payment; deferral of property maintenance, which in certain instances resulted in municipal by-law infractions; failure to comply with Retirement Home Regulatory Authority Agency application and reporting deadlines; failure to coordinate in a timely and orderly fashion audit and other

regulatory reporting to obtain certain government funding (grants and subsidies) for day care and domiciliary subsidies for retirement homes; and non-compliance with certain safety and environmental matters.

- (vi) As a result of increasing liquidity challenges prior to the receivership, which included the fact the Dondeb Group was forced to sell revenue producing properties, the Dondeb Group continued to leverage the existing property portfolio with expensive subordinated debt and collateral mortgages. This layering on of debt and further obligations has made for a complex unwinding of the legal entities and property portfolio and ensuing sale of individual properties. This added a level of complexity in terms of the formulation of the marketing and sales strategy for each property, the determination of rights of certain mortgagees and creditors, and ultimately the sale of each property and distribution of proceeds. In particular, in addition to specific security rights, there have been and are allocation, apportionment and marshalling rights which are required to be addressed.

96. In summary, the Receiver and its independent legal counsel inherited a highly dysfunctional group of entities and properties, which required extensive effort to first stabilize operations and then put in place the infrastructure to help manage individual properties and legal entities going forward in order to market the assets in a way to maximize value.

97. Further, with the benefit of hindsight, the value of the individual properties and overall portfolio asserted by Dancy prior to the Receivership Order was much inflated, with many properties located outside the greater Toronto area in tougher real estate markets, and in certain instances not fully developed. As a consequence, significant time and resources were committed on the part of the Receiver and its legal counsel to work with the relevant mortgagees, and as appropriate seek appraisals and multiple competitive listing proposals, so that a marketing and sales process could be tailored to the property and mortgagees, and in so doing validate where the market value truly was for these properties.

98. Since the onset of the Receivership, the Receiver has on a regular basis distributed invoices of the Receiver and its legal counsel to the relevant mortgagees on the relevant Property for review.
99. Detailed particulars of the fees and expenses of the Receiver and its legal counsel are set out in the affidavit of fees provided by the Receiver and its legal counsel, which are referenced below. Key activities common to most properties have included: control, stabilization and ongoing monitoring of operations including in certain instances the need to attend to resumption of essential services and deferred maintenance; implementation and maintenance of ring fenced accounting, segregated banking and ongoing monitoring of cash flow, including attending to Receiver's Borrowings; liaising with the mortgagees; liaising with legal counsel; retaining real estate listing agents to list and market the properties for sale; compilation of information to facilitate interested party due diligence; review of offers in conjunction with the listing agents and the relevant mortgagees; negotiation of sale agreement documents; reporting to court; court approval of transactions and closing of same; review of security and attending to approval of distribution of proceeds to the mortgagees.
100. Significant time was also spent dealing with the opposition to a number of motions, which included motions by and/or ad hoc requests by Dancy (on behalf of the Debtors), in concert with various advisors, in respect of a number of unsuccessful attempts at recapitalization of the Dondob Group and termination of the Receivership Proceedings. More specifically the Receiver and its legal counsel had to deal with relief sought by Dancy to seek approval of multiple recapitalization plans, termination of the receivership and deferral of approval of various Property sale transactions, which had already been approved by the relevant mortgagees.
101. In addition, outside of dealing with court motion materials, the Receiver and its legal counsel participated in extensive negotiations with Dancy, prospective financiers introduced by Dancy and his various legal counsel. Specifically multiple recapitalization plans were brought to the Receiver by Dancy throughout the majority of 2013 and involved purported offshore funding, which in the end, proved baseless.

102. Ultimately, the Debtor’s recapitalization plans were not successful. Nonetheless, extensive time and effort was required on the part of the Receiver and its legal counsel, in order to deal these matters on a fair and equitable basis. The delay and extra time and effort had a significant impact on the level of fees and disbursements incurred by the Receiver and its counsel.

103. The fees and expenses of Farber for which approval is being sought are set out in detail in the Denton Affidavit, a copy of which is attached as Appendix “I”. A summary of those fees and expenses are set out in the below tables as follows: (i) Previously Approved Properties; (ii) Additional Properties and (iii) GARE.

104. The fees and expenses of Dentons for which approval is being sought are set out in detail in the Rabinovitch Affidavit, a copy of which is attached as Appendix “J”. A summary of those fees and expenses are set out in the below tables as follows: (i) Previously Approved Properties; (ii) Additional Properties and (iii) GARE.

105. The fees and expenses of Cassels for which approval is being sought are set out in detail in the Dietrich Affidavit, a copy of which is attached as Appendix “K”. A Summary of those fees and expenses are set out in the below tables as follows: (i) Previously Approved Properties; (ii) Additional Properties and (iii) GARE.

Dondeb Group - Summary of Receiver and Legal Fee Taxation (\$ inclusive of HST)

Previously Approved Properties

June 1, 2014 to December 31, 2014

Property	Receiver	Dentons	CBB	Total
240 Yeomen	1,471.65	0.00	537.88	2,009.53
Ace Self Storage	7,804.14	805.13	463.30	9,072.57
Brechin	1,238.58	0.00	298.32	1,536.90
Coldwater	1,123.64	0.00	463.30	1,586.94
Devonshire Place	2,195.58	0.00	463.30	2,658.88
Dorset	3,629.52	961.91	463.30	5,054.73
Georgian Bay (Georgian Manor)	1,576.61	0.00	485.90	2,062.51
King City Holdings (Palmer/Pepper)	1,517.33	0.00	463.30	1,980.63
Ontario Street	1,058.07	0.00	463.30	1,521.37
Orillia Independent Living	96,055.37	7,373.25	18,389.32	121,817.94
Preston Springs	1,433.08	0.00	463.30	1,896.38
Sussex Place	2,400.97	881.40	463.30	3,745.67
Tudhope Manor	1,650.80	791.85	465.00	2,907.65
Totals:	123,155.34	10,813.54	23,882.82	157,851.70

Dondeb Group - Summary of Receiver and Legal Fee Taxation (\$ inclusive of HST)

Additional Properties

October 17, 2012 to December 31, 2014

Property	Receiver	Dentons	CBB*	Total
Barrie Business Centre	161,819.98	221,831.78	8,363.74	392,015.50
Hatch House	173,177.65	132,495.42	372.90	306,045.97
Lafontaine	119,859.98	81,001.20	0.00	200,861.18
Leon's	70,742.90	79,343.32	1,939.08	152,025.30
Orillia Prep School	160,193.13	29,897.92	2,834.04	192,925.09
Orillia Retirement Residence	94,844.56	35,330.75	0.00	130,175.31
Remo's Ristorante	57,441.87	22,696.45	7,304.93	87,443.25
Prospan Rockin' Boats	88,592.00	60,205.03	7,320.47	156,117.50
Panelization Machine	15,361.76	20,150.73	522.06	36,034.55
FIT Contracts	88,081.54	138,617.88	13,403.33	240,102.75
Tim Hortons/Wendy's	67,563.19	74,799.86	0.00	142,363.05
Scotia Road	6,102.22	4,617.36	4,844.31	15,563.89
Whispering Pines	64,663.11	35,901.81	0.00	100,564.92
Totals:	1,168,443.89	936,889.51	46,904.86	2,152,238.26

** Period for CBB invoices is March 2, 2014 to December 31, 2014.*

Dondeb Group - GARE Receiver and Legal Fees (\$ inclusive of HST)

October 17, 2012 to December 31, 2014 (note see dates below)

Firm	Receiver - 12/31/14	Dentons LLP	CBB	Total
General (GARE)	559,997.81	241,498.96	18,357.14	819,853.91

106. Given the complexities set out above, in the circumstances, the Receiver's view is that the fees and expenses for which approval is now being sought are reasonable and appropriate. The Receiver recommends the approval of such fees and disbursements as set out in the Denton Affidavit, the Rabinovitch Affidavit and the Dietrich Affidavit.

10. OTHER MATTERS

107. As noted above, the Receivership proceeding is nearing its end. Remaining matters to be addressed include:

- (i) working to finalize HST returns;
- (ii) closing of the Leon's Transaction, if approved by this Court;
- (iii) completing the administration of five vacant land parcels adjacent to or abutting the main residence of Dancy, in the Corporation of the Township of King ("**King Township**"), four of which are owned by King City Holdings Limited one of which is held in the name of 780550 Ontario Limited (which was amalgamated into the Debtor 1711060 Ontario Ltd.). These are relatively small irregular shaped lots, only one of which has access to a municipal road (Weston Road). The Receiver understands that approximately \$26,000 of outstanding property taxes are owing on these parcels. The Receiver is liaising with King Township in this regard and as well as the realtor which the Receiver understands has been engaged to sell the Dancy residence; and
- (iv) completing the Additional Distributions, if authorized by the Court to do so.

11. RECOMMENDATION

108. The Receiver respectfully recommends that this Court grant an order for the relief requested in Section 2 hereof.

A. FARBER & PARTNERS INC.

In its capacity as Receiver of the Debtors

Listed on Appendix A and not in its personal capacity

A. Farber & Partners Inc

APPENDIX “H”

Court File No. CV-12-9794-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED
AND**

**IN THE MATTER OF SECTION 101 OF *THE COURTS OF JUSTICE ACT*, R.S.O.
1990 C. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL
THE DEBTORS LISTED AT SCHEDULE "A" HERETO**

**A. FARBER & PARTNERS INC.
COURT APPOINTED RECEIVER**

SUPPLEMENT TO THE SIXTEENTH REPORT OF THE RECEIVER

APRIL 22, 2015

1. INTRODUCTION

1. By Court Order dated October 18, 2012, A. Farber & Partners Inc. (“**Farber**”) was appointed receiver (the “**Receiver**”) of the assets undertakings and properties of Dondeb Inc. (“**Dondeb**”) and those debtors listed on **Appendix “A”** (collectively the “**Debtors**”). The Court Order was subsequently amended and restated to be dated October 17, 2012.
2. The Receiver filed its Sixteenth Report to Court dated April 14, 2015 (the “**Sixteenth Report**”) in support of a motion of the Receiver returnable April 23, 2015. This report is supplemental to the Sixteenth Report; it should be read in conjunction therewith and is subject to the same qualifications set out therein.
3. All capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Sixteenth Report.

2. PURPOSE OF THIS REPORT

4. The purpose of this Supplement to the Sixteenth Report is to provide an update to the Court on the certain matters which have arisen following the service of the Receiver’s motion returnable April 23, 2015 and the impact of those matters on the relief requested by the Receiver.

3. COMMUNICATIONS FROM DEBTOR’S FORMER COUNSEL

5. Following service of the Receiver’s motion, on the afternoon of Friday, April 17, 2015, former counsel to the Debtors, Dickinson Wright LLP (“**DW**”) sent a letter to the service list advising that they intended to bring a motion for payment of their outstanding fees and requesting a Charging Order over certain of the Debtor’s property. As they advised that they had not completed their material, an adjournment of 10 days was requested. A copy of the correspondence from DW dated April 17, 2015 is attached hereto as **Appendix “B”**.
6. Upon the hearing of the original CCAA Application in October of 2012, DW had also raised the issue of payment of their outstanding fees and disbursements. In his Original Reasons (which are attached as Appendix D to the Sixteenth Report) at paragraph 30, Justice

Campbell had stated: “Counsel for the debtor requested that the court consider a request for fees and costs on the part of the debtor. In order to give an opportunity for the parties to consider the details of such request and possible resolution the issue was deferred to a later date.”

7. Following receipt of the correspondence from DW, the Receiver engaged in a number of discussions with DW and with a number of the secured creditors. The Receiver understands that DW has agreed that an amount of \$80,000 be held back from the proceeds of the Preston Springs Garden Property (the “**Reserve**”) and the impacted secured creditor have indicated to the Receiver that they do not oppose the creation of such a Reserve.

4. IMPACT ON THE RELIEF SOUGHT

8. Providing for this Reserve and payment to DW, impacts on Proposed GARE Allocation and the Additional Distributions.
9. Attached hereto as **Appendix C** is a revised Proposed GARE Allocation (the “**Revised Proposed GARE Allocation**”) taking into account the Reserve.
10. Attached hereto as **Appendix D** is a revised listing of Additional Distributions (the “**Revised Additional Distributions**”) taking into account the Reserve.
11. It is the Revised Proposed GARE Allocation and Revised Additional Distributions that the Receiver now intends to seek approval of on April 23, 2015.

5. ADDITIONAL MATTERS

12. As noted in paragraph 40 of the Sixteenth Report, the transaction to sell the FIT Contract in respect of the Prospan Rockin Boats Property, which was previously approved by the Court, was expected to close prior to the return of the Receiver’s motion on April 23, 2015. At this time the transaction still has not closed, but the Receiver expects that it will close shortly on the terms previously approved by this Honourable Court. Should the transaction not close for any reason, the Receiver will return to this Court to seek directions as the relief requested assumes a closing of such transaction.

13. As well, in paragraph 50 of the Sixteenth Report, in discussing the terms of the Leon's APS for which approval is being sought, the Receiver noted, among other things that (i) a deposit of \$50,000 had been received and (ii) closing was scheduled for 5 business days following approval of the transaction, if granted. The Receiver notes that the provision requiring payment of a deposit was struck from the Leon's APS as the Leon's Purchaser is a party related to the second mortgagee on the Leon's Property and therefore it was determined by the Receiver that a deposit was not necessary in the circumstances. Further the Leon's Purchaser has advised that it will likely request an extension of the closing date, and the Receiver is inclined to agree to such an extension.

6. RECOMMENDATION

14. The Receiver respectfully recommends that this Court grant an order for the relief requested in Section 2 of the Sixteenth Report as modified by the Revised Proposed GARE Allocation and the Revised Additional Distributions.

A. FARBER & PARTNERS INC.
In its capacity as Receiver of the Debtors
Listed on Appendix A and not in its personal capacity

A. Farber & Partners Inc.,

APPENDIX “A”

SCHEDULE "A"

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

APPENDIX “B”

April 17, 2015

VIA EMAIL

Neil Rabinovitch
Dentons Canada LLP
77 King Street West
Suite 400
Toronto, Ontario M5K 0A1

- and -

Jane Dietrich
Cassels Brock
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Dear Mr. Rabinovitch and Ms. Dietrich:

**Re: In the Matter of Dondob Inc., et al. Court File No.: CV-12-9794-00CL
Our File No.: 52394-1**

As you know, we previously represented the companies listed on Schedule "A" to the Receiver's Notice of Motion ("Debtors") in connection with an Application by the Debtors for relief pursuant to the *Companies Creditors Arrangement Act*.

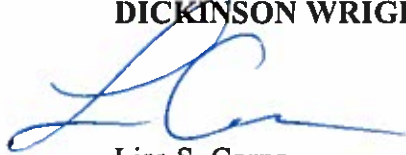
We intend to bring a motion for payment and Charging Order over all unencumbered funds remaining in the estates of the Debtors in order to secure payment of amounts outstanding pursuant to accounts for legal services and disbursements rendered by our firm to the Debtors.

We have not yet completed preparation of our motion material and accordingly we are seeking an adjournment for a period of ten days, of the Receiver's Motion for approval of the

April 17, 2015
Page 2

proposed allocation of general administrative and restructuring expenses. If that is not acceptable, please contact the undersigned and we will arrange to speak to the matter in Chambers early next week.

Very truly yours,
DICKINSON WRIGHT LLP



Lisa S. Corne

LSC/jss

cc: Service List
David Preger
TORONTO 52394-1 1031684v1

APPENDIX “C”

A. Farber & Partners Inc.
 Dondeb et al
 Proposed Revised GARE Allocation
 GARE Estimate - \$ 900,000

No.	Group	Property	Property Value	%
1	Dondeb	Ace Self Storage	\$ 6,874,234	14.6%
2	Dondeb	Ontario Street (note 1)	\$ 115,000	0.2%
3	Dondeb	Coldwater (note 1)	\$ 780,000	1.7%
4	Dondeb	Devonshire Place (note 1)	\$ 165,000	0.4%
5	Dondeb	Rockin' Boats	\$ 680,000	1.4%
6	Dondeb	Remo's Ristorante	\$ 360,000	0.8%
7	Dondeb	Orillia Retirement Residence	\$ 3,180,000	6.8%
8	Dondeb	Sussex Place	\$ 5,412,500	11.5%
9	Dondeb	Barrie Business Centre	\$ 3,275,000	7.0%
10	Dondeb	Tim Horton's/Wendy's	\$ 2,000,000	4.3%
11	Dondeb	240 Yeoman (note 1)	\$ 245,594	0.5%
12	Dondeb	Brechin (note 1)	\$ 55,000	0.1%
22	Dondeb	Dorset (note 1)	\$ 7,325,000	15.6%
26	Dondeb	Panelization Machine	\$ 178,000	0.4%
27	Dondeb	FIT Contracts	\$ 850,000	1.8%
Dondeb subtotal			\$ 31,495,329	67.1%
13	1182689	Hatch House	\$ 1,273,500	2.7%
14	1182689	Orillia Prep School	\$ 455,000	1.0%
17	1267818	Georgian Manor	\$ 600,000	1.3%
18	1281515	Whispering Pines	\$ 730,000	1.6%
25	1281515	Scotia Rd Emsdale	\$ 25,000	0.1%
19	1711060	Lafontaine	\$ 1,585,000	3.4%
20	2009031	Tudhope Manor	\$ 1,200,000	2.6%
21	2198392	Orillia Independent Living	\$ 4,970,000	10.6%
23	Briarbrook	Leon's	\$ 3,200,300	6.8%
24	Guelph	Preston Springs	\$ 1,200,000	2.6%
15/16	KCH	King City Holdings	\$ 198,000	0.4%
Total Property Values / Property funded Gare			\$ 46,932,129	100%

Total Proceeds funded GARE
 Proposed GARE Allocation

Note 1: Pursuant to a Court Order dated March 24, 2014 the Receiver was authorized to consolidate segregated accounts for Ontario Street, Coldwater, Devonshire Place, Sussex Place, 240 Yoemen, Brechin and Dorset Place. These funds were consolidated into the Dondeb General Account.

"Appendix C"

Dondeb General 218,671
 KC Cash 109,294
 Guelph Cash 164,907
 Property Funded 407,127

Total GARE	%
72,229	17.7%
-	0.0%
-	0.0%
-	0.0%
7,145	1.8%
3,783	0.9%
33,413	8.2%
56,871	14.0%
34,411	8.5%
21,015	5.2%
-	0.0%
-	0.0%
-	0.0%
1,870	0.5%
8,931	2.2%
239,668	58.9%
15,191	3.7%
5,427	1.3%
7,157	1.8%
8,708	2.1%
298	0.1%
18,906	4.6%
14,314	3.5%
59,284	14.6%
38,174	9.4%
-	0.0%
-	0.0%
407,127	100%

492,873
 900,000

APPENDIX “D”

**Dondeb Group - Summary of Proposed Revised Additional Distributions
Supplement to the 16th Court Report**

Appendix "D"

Property	Lender to whom Distribution is Proposed	Revised
1 240 Yeoman		
2 Ace Self Storage	Pace Savings & Credit Union Ltd.	40,000
3 Barrie Business Centre	First Source Mortgage Corporation	30,000
4 Brechin		-
5 Coldwater		-
6 Devonshire Place		-
7 GENERAL		-
8 Dorset		-
9 Georgian Manor		-
10 Hatch House	Canada Revenue Agency	220,737
10 Hatch House	Empire Life Insurance Company	9,500
11 King City Holdings		-
12 Lafontaine		-
13 Leon's		-
14 Ontario Street		-
15 Orillia Independent Living	Cameron Stevens Financial Corporation	50,000
16 Orillia Prep School	Empire Life Insurance Company	115,500
17 Orillia Retirement Residence		-
18 Preston Springs		-
19 Remo's Ristorante	First Source Mortgage Corporation	25,000
20 Rockin' Boats	The Toronto Dominion Bank	28,000
21 Panelization Machine	First Source Mortgage Corporation	40,000
21 Panelization Machine	Imperial Tool & Die Ltd.	40,000
21 Panelization Machine	The Toronto Dominion Bank	40,000
22 FIT Contracts	First Source Mortgage Corporation	380,000
22 FIT Contracts	The Toronto Dominion Bank	270,000
23 Sussex Place	First Source Mortgage Corporation	2,000
24 Tim Horton's/Wendy's	First Source Mortgage Corporation	25,000
25 Tudhope Manor	FaithLife Financial	19,000
26 Scotia Rd Emsdale		-
27 Whispering Pines		-
Total Proposed Distributions		<u><u>\$ 1,334,737</u></u>

2198392 Ontario Ltd.**Operating as Orillia Independent Living****Court Approved Distributions to March 31, 2015**

Distribution made to Addenda Capital Corporation Inc.	22-Oct-14	4,363,131.71
Distribution made to Cameron Stephens Financial Corporation	23-Oct-14	100,000.00
Total Distributions to date:		<u>4,463,131.71</u>

2198392 Ontario Ltd.**Operating as Orillia Independent Living****Proposed Further Interim Distributions**

Funds held in segregated account - March 31, 2015 131,895

Reserve for Proposed GARE Allocation: 59,284
less Interim GARE funded: 0 59,284

Reserve for Fees (work in progress) as at March 31, 2015

Receiver 7,653
Legal - Dentons 87
Legal - Cassels Brock 181 7,921

Receiver and Legal Fees to Complete 14,500

Total reserves 81,705

Sub Total 50,190

Less:

Proposed distribution to Cameron Stephens 50,000

Funds held for remaining costs, fees 190

1701532 Ontario Inc.**Formerly operating as Ace Self Storage and Business Centre Inc.****Court Approved Distributions to March 31, 2015**

Distributions made to Pace Savings and Loan:	14-Aug-13	6,200,000.00	
	23-Oct-14	<u>45,000.00</u>	
Total Distributions to date:			<u><u>6,245,000.00</u></u>

1701532 Ontario Inc.**Formerly operating as Ace Self Storage and Business Centre Inc.****Proposed Further Interim Distributions**

Funds held in segregated account - March 31, 2015		<u>139,876</u>	
---	--	----------------	--

Reserve for Proposed GARE Allocation:	72,229		
less Interim GARE funded:	<u>(42,931)</u>	29,298	

Reserve for Fees (work in progress) as at March 31, 2015

Receiver	2,067		
Legal - Dentons	0		
Legal - Cassels Brock	<u>0</u>	2,067	

Receiver and Legal Fees to Complete		<u>14,400</u>	
Total reserves		<u>45,765</u>	
Sub Total		94,111	
Less:			
Proposed payment of CRA trust claim (note 1)		54,045	
Proposed distribution to Pace Savings and Loan		<u>40,000</u>	
Funds held for remaining costs, fees		<u>66</u>	

Note 1 - Payment of trust claims of 51,103.61 for HST and \$2,941.07 with respect to payroll deductions.

1182689 Ontario Inc.**Hatch House and Orillia Prep****Court Approved Distributions to March 31, 2015**

	<u>Hatch House</u>	<u>Orillia Prep</u>	<u>Total</u>
Distributions made to Empire Life:			
29-May-13	280,000.00	0.00	280,000.00
24-Mar-14	160,000.00	0.00	160,000.00
Distributions to CRA			
29-May-13	120,000.00	0.00	120,000.00
24-Mar-14	0.00	180,000.00	180,000.00
Total Distributions to date:	560,000.00	180,000.00	740,000.00

1182689 Ontario Inc.**Hatch House and Orillia Prep****Proposed Further Interim Distributions**

	<u>Hatch House</u>	<u>Orillia Prep</u>	<u>Total</u>
Funds held in segregated account - March 31, 2015	245,223	129,427	374,650
Reserve for Proposed GARE Allocation:	15,191	5,427	
less Interim GARE funded:	(14,955) 236	(5,343) 84	320
Reserve for Fees to December 31, 2014 - invoiced but unpaid as at March 31, 2015			
Receiver	0	3,158	
Legal - Dentons	0	0	
Legal - Cassels Brock	373 373	3,158	3,531
Reserve for Fees (work in progress) as at March 31, 2015			
Receiver	3,671	3,140	
Legal - Dentons	631	32	
Legal - Cassels Brock	0 4,303	0 3,172	7,475
Receiver and Legal Fees to Complete	10,000	7,000	17,000
Total reserves	14,912	13,414	28,326
Sub Total	230,311	116,013	346,324
Less:			
Proposed payment of CRA trust claim	220,737	0	220,737
Proposed distribution to Empire Life	9,500	115,500	125,000
Funds held for remaining costs, fees	74	513	587

Note (1) CRA trust claim of \$520,737 was paid down \$300,000. Balance of \$220,737 is proposed to be paid out as part of this motion.

Note (2) The Prescribed Security Interest that Empire Life agreed with CRA on the 118 properties was \$379,149.39.

However as the funds from the proceeds of sale from both 118 properties have been sufficient to satisfy both the prescribed security interest and CRA deemed trust claims, both parties priorities and order of distribution have been satisfied

Dondeb et al**First Source****Court Approved Distributions to March 31, 2015**

Distributions made to First Source:

May 10, 2013 (Sussex Place)	835,000.00
June 28, 2013 (Sussex Place)	250,000.00
June 28, 2013 (Dorset Place)	194,677.17
May 2, 2014 (Barrie Business Centre)	2,630,000.00
May 2, 2014 (Tim Hortons)	160,000.00

Total Distributions

4,069,677.17

Dondeb et al**First Source - Security over Various Properties****Proposed Further Interim Distributions**

	Total	FS portion						TOTAL
	Panelization	Panelization	BBC	BBC FIT	Tim Hortons	Remo's	Sussex	
Funds held in segregated account - March 31, 2015	140,796	46,932	79,679	416,381	35,085	35,688	11,794	625,559
Reserve for Proposed GARE Allocation:	1,870	623	34,411	5,254	21,015	3,783	56,871	121,957
less Interim GARE funded:	(1,996)	(665)	0	0	(23,092)	0	(51,741)	(75,498)
								0
Reserve for Fees to December 31, 2014 - invoiced but unpaid as at March 31, 2015								0
Receiver	0	0			0			0
Legal - Dentons (see note 2)	0	0		6,948	0	337	881	8,166
Legal - Cassels Brock	522	174		88	0			262
								0
Reserve for Fees (work in progress) as at March 31, 2015								0
Receiver	1,940	647	3,991	14,598	1,759	1,306	507	22,808
Legal - Dentons	82	27	410	4,062	8			4,508
Legal - Cassels Brock	0	0		219				219
								0
Receiver and Legal Fees to Complete	8,000	3,000	10,000	5,000	3,000	3,000	3,000	27,000
Total reserves	10,418	3,806	48,812	36,169	2,690	8,425	9,519	109,422
Sub Total	130,378	43,126	30,867	380,212	32,395	27,263	2,275	516,137
Less:								
Proposed distribution to First Source	0	40,000	30,000	380,000	25,000	25,000	2,000	502,000
Funds held for remaining costs, fees	130,378	3,126	867	212	7,395	2,263	275	14,137

Note 1 - First Source realisations on remaining cash proceeds from Tim Hortons/ Remo's is capped at approximately \$50,000.

Dondeb et al**TD Bank****Court Approved Distributions to March 31, 2015**

Distributions made to TD Bank:

May 6, 2014

250,000.00

Total Distributions250,000.00

Rockin Boats/ Prospan - TD Bank**Proposed Further Interim Distributions**

	Total	TD Portion		Rockin Boats	
	Panelization	Panelization	Rockin Boats	FIT	Total
Funds held in segregated account - March 31, 2015	140,796	46,932	51,018	298,871	396,821
Reserve for Proposed GARE Allocation:	1,870	623	7,146	3,677	11,446
less Interim GARE funded:	(1,996)	(665)	0	0	(665)
Reserve for Fees to December 31, 2014 - invoiced but unpaid as at March 31, 2015					
Receiver	0	0			0
Legal - Dentons (see note 2)	0	0		4,863	4,863
Legal - Cassels Brock	522	174	150	61	385
Reserve for Fees (work in progress) as at March 31, 2015					
Receiver	1,940	647	1,137	10,219	12,002
Legal - Dentons	82	27	451	2,844	3,322
Legal - Cassels Brock	0	0	0	154	154
Receiver and Legal Fees to Complete	8,000	2,667	12,500	6,000	21,167
Total reserves	10,418	3,473	21,384	27,818	52,674
Sub Total	130,378	43,459	29,634	271,053	344,147
Less:					
Proposed distribution to TD	0	40,000	28,000	270,000	338,000
Funds held for remaining costs, fees	130,378	3,459	1,634	1,053	6,147

Dondeb et al

2009031 Ontario Inc. - Tudhope Manor

Court Approved Distributions to FaithLife to March 31, 2015

Initial Payment to secured creditor (June 11, 20136))	(620,000.00)
Supplemental Payment to secured creditor (March 26, 2014)	<u>(180,000.00)</u>
Total Distributions	<u>(800,000.00)</u>

Funds held in segregated account - March 31, 2015 22,700

Reserve for Proposed GARE Allocation: 14,314
less Interim GARE funded: (14,092) 222

Reserve for Fees to December 31, 2014 - invoiced but unpaid as at March 31, 2015

Receiver 0
Legal - Dentons 792
Legal - Cassels Brock 792

Reserve for Fees (work in progress) as at March 31, 2015

Receiver 679
Legal - Dentons 0
Legal - Cassels Brock 0 679

Reserve for op costs

Receiver and Legal Fees to Complete 2,000

Total reserves 3,692

Cash after reserves 19,008

Proposed distribution to FaithLife Financial 19,000

Funds held for remaining costs, fees 8

Imperial Tool & Die Ltd**Proposed Distribution**

	Total	Imperial Portion
	Panelization	Panelization
Funds held in segregated account - March 31, 2015	140,796	46,932
Reserve for Proposed GARE Allocation:	1,503	501
less Interim GARE funded:	(1,996)	(665)
Reserve for Fees to December 31, 2014 - invoiced but unpaid as at March 31, 2015		
Receiver	0	0
Legal - Dentons (see note 2)	0	0
Legal - Cassels Brock	522	174
Reserve for Fees (work in progress) as at March 31, 2015		
Receiver	1,940	647
Legal - Dentons	82	27
Legal - Cassels Brock	0	0
Receiver and Legal Fees to Complete	8,000	2,667
Total reserves	10,051	3,350
Sub Total	130,745	43,582
Less:		
Proposed distribution to TD	0	40,000
Funds held for remaining costs, fees	130,745	3,582

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT TORONTO

SUPPLEMENT TO THE SIXTEENTH
REPORT OF THE RECEIVER
(April 22, 2015)

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LAWYERS FOR the Receiver

APPENDIX “I”



Court File No. CV-12-9794-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) THURSDAY, THE 23RD
JUSTICE T. MCEWEN)
) DAY OF APRIL, 2015
)

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
AND

IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO

ORDER

THIS MOTION made by A. Farber & Partners Inc. ("**Farber**") in its capacity as court-appointed receiver (the "**Receiver**") of the debtors referred to at Schedule "A" attached hereto (collectively, the "**Debtors**") for an order *inter alia*: (i) declaring that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that the motion is properly returnable; (ii) approving the sixteenth report to Court of the Receiver dated April 14, 2015 (the "**Sixteenth Report**") and the activities of the Receiver set out therein; (iii) approving the Proposed GARE Allocation as set out in Appendix "L" to the Sixteenth Report; (iv) approving the Additional Distributions as set out in Appendix "M" to the Sixteenth Report; (v) approving the fees and disbursements of Farber as Receiver as set out in the affidavit of Paul Denton sworn April 14, 2015 (the "**Denton Affidavit**"); (vi) approving the fees and disbursements of Dentons Canada LLP, formerly Fraser Milner Casgrain LLP ("**Dentons**"), as counsel to the Receiver as set out in the affidavit of Neil Rabinovitch sworn April 14, 2015 (the "**Rabinovitch Affidavit**"); and (vii) approving the fees and disbursements of Cassels Brock & Blackwell LLP

(“**Cassels**”), as counsel to the Receiver as set out in the affidavit of Jane Dietrich sworn April 14, 2015 (the “**Dietrich Affidavit**) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated April 14, 2015 and the Sixteenth Report, the supplemental report to the Sixteenth Report of the Receiver dated April 22, 2015 (the “**Supplemental Report**”), the Denton Affidavit, the Rabinovitch Affidavit and the Dietrich Affidavit and upon hearing the submissions of the counsel for the Receiver, Bank of Nova Scotia as trustee, counsel for Empire life Insurance Company, counsel for First Source Mortgage Corporation and Mark Cosman (Trustee), and no other party appearing, although duly served, as appears from the Affidavits of Service of Monique Sassi sworn April 15, 2015, and of Stephanie Waugh sworn April 15, 2015 and April 22, 2015 filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today.
2. **THIS COURT ORDERS** that the Sixteenth Report and the activities of the Receiver set out therein, be and are hereby approved.
3. **THIS COURT ORDERS** that the Revised Proposed GARE Allocation, as defined in the Supplemental Report and attached thereto as Appendix “C”, be and is hereby approved.
4. **THIS COURT ORDERS** that the Revised Additional Distributions, as defined in the Supplemental Report and attached thereto as Appendix “D”, be and are hereby approved and the Receiver is authorized to take such steps as a necessary to complete same.
5. **THIS COURT ORDERS AND DECLARES** that the distributions contemplated by this Order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its independent legal counsel Dentons and Cassels as set out in the Denton Affidavit, the Rabinovitch Affidavit and the Dietrich Affidavit be and are hereby approved.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO..

APR 23 2015

NB

SCHEDULE "A"

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

Court File No: CV-12-9794-00CL
IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO
DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**ORDER
(April 23, 2015)**

DENTONS CANADA LLP
77 King Street West, Suite 400,
Toronto Ontario, M5K 0A1

CASSELS BROCK & BLACKWELL LLP
2100 Scotia Plaza, 40 King Street West,
Toronto Ontario M5H 3C2

Lawyer: Neil S. Rabinovitch / Jane O. Dietrich
LSUC: 33442F / 49302U
E-mail: neil.rabinovitch@dentons.com /
jdietrich@caselsbrock.com

Tele: 416 863-4656 / 416 860-5223
Fax: 416 863-4592 / 416 640-3144

LAWYERS FOR the RECEIVER

APPENDIX “J”



Court File No. CV-12-9794-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) THURSDAY, THE 23RD
JUSTICE T. MCEWEN) DAY OF APRIL, 2015

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
AND
IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO

APPROVAL AND VESTING ORDER
(LEON'S)

THIS MOTION, made by A. Farber & Partners Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Briarbrook Apartments Inc. ("**Briarbrook**") and the other debtors referred to at Schedule A attached hereto (collectively, the "**Debtors**"), for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and 555 Memorial (Orillia) Inc. (the "**Purchaser**") made as of February 24, 2015 (the "**Sale Agreement**"), and appended to the sixteenth report to Court of the Receiver dated April 14, 2015 (the "**Sixteenth Report**"), and vesting in the Purchaser all of the right, title and interest of Briarbrook, if any, in and to the Purchased Assets (being the Real Property as defined in the Sale Agreement), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Sixteenth Report and on hearing the submissions of counsel for the Receiver, Bank of Nova Scotia as trustee, the Purchaser, counsel for Empire life Insurance Company, counsel for First Source Mortgage Corporation and Mark Cosman

(Trustee), and no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Monique Sassi sworn April 15, 2015 and of Stephanie Waugh sworn April 15, 2015, and April 22, 2015 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule B hereto (the "**Receiver's Certificate**"), all of Briarbrook's right, title and interest in and to the Purchased Assets, if any, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Campbell dated October 17, 2012; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule D hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule E) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Simcoe of an Application for Vesting Order in the form

prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule C hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule D hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Briarbrook's records related to the Purchased Assets which pertain to the past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Briarbrook.

7. THIS COURT ORDERS that, notwithstanding:
- (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of any of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

10. THIS COURT ORDERS AND DECLARES that the relief granted by this order is subject to provisional execution.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

APR 23 2015



Schedule A – Debtors

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

Schedule B – Form of Receiver’s Certificate

Court File No. CV-12-9794-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED**

AND

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990
c. C.43, AS AMENDED WITH RESPECT TO **DONDEB INC. AND ALL THE DEBTORS
LISTED AT SCHEDULE “A” HERETO****

**RECEIVER’S CERTIFICATE
(Leons’s)**

RECITALS

A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the “**Court**”) dated October 17, 2012, A. Farber & Partners Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Briarbrook Apartments Inc. (“**Briarbrook**”) and the other debtors referred to at Schedule A of the order.

B. Pursuant to an Order of the Court dated April 23, 2015, the Court approved an agreement of purchase and sale between the Receiver and 555 Memorial (Orillia) Inc. (the “**Purchaser**”) made as of February 24, 2015 (“**Sale Agreement**”), and provided for the vesting in the Purchaser of Briarbrook’s right, title and interest, if any, in and to the Purchased Assets (being the Real Property as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [TIME] on _____ [DATE].

A. Farber & Partners Inc., in its capacity as Receiver of the undertaking, property and assets of Briarbrook Apartments Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule C – Real Property

PIN: 58569-0016 (LT) – Land Registry Office #51: PT LT 12 CON 3 SOUTH ORILLIA; PT E1/2 LT 11 CON 3 SOUTH ORILLIA PT 1 & 2, 51R17266; S/T INTEREST IN RO957119; S/T RO1456988; ORILLIA

Municipally known as 555 Memorial Avenue, Orillia, Ontario.

Schedule D – Claims to be deleted and expunged from title to Real Property

1. Charge granted by Dondob Inc. (“**Dondob**”) in favour of First Source Mortgage Corporation (“**First Source**”) and Mark Cosman (“**Cosman**”), in the principal amount of \$7,100,000, registered September 1, 2011 as Instrument No. SC928258;
2. Notice of assignments of rent granted by Dondob in favour of First Source and Cosman, registered on September 1, 2011 as Instrument No. SC928301;
3. Postponement granted by First Source and Cosman in favour of The Bank of Nova Scotia Trust Company, RDB (Toronto) Holdings Inc., Susan Michaels Holdings Limited, Comfort Capital Inc., JLJR Investments Limited, 1522648 Ontario Inc., Berend Koopmans, Michael Swartz and Audrey Michaels, registered on August 23, 2012 as Instrument No. SC1006336;
4. Charge granted by Briarbrook Apartments Inc. in favour of Marc Lean, Neil Rabinovitch, Craig Johnston and A. Farber & Partners Inc. (“**Farbers**”), in the principal amount of \$1,000,000.00, registered October 4, 2012 as Instrument No. SC1016354; and
5. Application for Court Order granted by the Ontario Superior Court of Justice in favour of Farbers, registered on October 29, 2012 as Instrument No. SC1020873.

**Schedule E – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

1. Instrument 51R7848 registered on June 23, 1978, being a PLAN REFERENCE;
2. Instrument 51R15464 registered on April 13, 1987, being a PLAN REFERENCE;
3. Instrument RO957119Z registered on June 30, 1987, being a REST COV APL ANNEX;
4. Instrument 51R17266 registered on June 2, 1988, being a PLAN REFERENCE;
5. Instrument SC201329 registered on March 9, 2004, being a NOTICE OF LEASE between Dondeb Inc. and J. & B. Brown Furniture & Appliances Inc.;
6. Instrument SC419716 registered on March 16, 2006, being a charge in favour of The Empire Life Insurance Company;
7. Instrument No. SC419717 registered on March 16, 2006, being a Notice of Assignment of Rents – General in favour of The Empire Life Insurance Company;
8. Instrument No. SC1006296 registered August 23, 2012 being a charge in favour of The Bank of Nova Scotia Trust Company as to \$900,000.00, RDB (Toronto) Holdings Inc. as to \$150,000.00, Susan Michaels Holdings Limited as to \$150,000.00, Comfort Capital Inc. as to \$100,000.00, JLJR Investments Limited as to \$100,000.00, 1522648 Ontario Inc. as to \$50,000.00, Berend Koopmans as to \$50,000.00 Michael Swartz as to \$50,000.00 and Audrey Michaels as to \$50,000.00;
9. Instrument No. SC1006297 registered August 23, 2012 being a Notice of Assignment of Rents – General in favour of The Bank of Nova Scotia Trust Company as to \$900,000.00, RDB (Toronto) Holdings Inc. as to \$150,000.00, Susan Michaels Holdings Limited as to \$150,000.00, Comfort Capital Inc. as to \$100,000.00, JLJR Investments Limited as to \$100,000.00, 1522648 Ontario Inc. as to \$50,000.00, Berend Koopmans as to \$50,000.00 Michael Swartz as to \$50,000.00 and Audrey Michaels as to \$50,000.00;

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER
(Leon's)

DENTONS CANADA LLP
77 King Street West
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Toronto Ontario
M5K 0A1

Lawyer: Neil S. Rabinovitch
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CASSELS BROCK & BLACKWELL LLP
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40 King Street West
Toronto, ON
M5H 3C2

Lawyer: Jane O. Dietrich
LSUC: 49302U
E-mail: jdietrich@casselsbrock.com
Telephone/Facsimile: 416 860-5223 / 416 640-3144

LAWYERS FOR the Receiver

APPENDIX “K”

principles, I determined that the Sealy
Order was appropriate in the
circumstances.

[Signature]

Jan 15, 2013

For well reasons determined today,
the Tim Horrows Tract, the
Preston Spring Cinders Tract and the
Dorset Place Tract are
approved. ~~and subject to~~ Approval
and Vesting Orders granted under
orders are subject to provisional
execution.

Approval Note relating to Revere's
Report deferred to a later date;
to be set by Council within

60 days.
Sealy Order granted with respect to
Expedited Approval
A-D. *[Signature]*

CV-12-00009794-00CL

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED
AND

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O.
1990 c. C.43, AS AMENDE WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS

ENDORSEMENT

BEFORE THE HONOURABLE JUSTICE G. B. MORAWETZ on January 15th,
2013, at TORONTO, Ontario

APPEARANCES:

A. Apps Counsel for the Defendant
J. Dietrich Counsel for the Receiver A Farber and Partners Inc
N. Rabinovitch
K. Stigler

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 January 15, 2013

-2- UPON COMMENCING...

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E N D O R S E M E N T

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6 G. B. Morawetz, J. (Orally)

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THE COURT: A Farber and Partners Inc., ("Farber" or "the Receiver"), in its capacity as court appointed receiver of Dondeb Inc. and related debtors, ("Dondeb" or the "Debtor"), brought this motion for approval of its Second Report and the activities of the receiver set out therein, and for an order approving four transactions: The Tim Horton's Transaction, the Preston Springs Transaction, the Devonshire Transaction, and the Dorset Place Transaction.

The motion was originally returned on January 14, 2013. On the return of the motion, counsel of record to Dondeb advised that Mr. Apps was now

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 acting on behalf of Dondeb. An adjournment was
2 requested.

3
4 The adjournment was objected to by the Receiver
5 and by the mortgagees in attendance. The reason
6 for the objection was primarily that the
7 transactions in question had certain time limits
8 that form part of the contractual agreements that
9 required court approval and the issuance of an
10 approval and vesting order on a timely basis.

11
12 The motion for approval of the Devonshire
13 Transaction did proceed on January 14, 2013. The
14 transaction was approved and the approval and
15 vesting order was issued.

16
17 Counsel for the Receiver advised there was a
18 condition in the Tim Horton's Transaction and the
19 Preston Springs Transaction that vesting orders be
20 granted no later than January 15, 2013 and the
21 Dorset Place Transaction had an approval deadline
22 of January 21, 2013.

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

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Under the circumstances I determined that it was appropriated to adjourn the motion for a period of twenty-four hours to today, namely, January 15th, so as to provide Mr. Apps with the opportunity to put forth argument on behalf of Dondeb. Mr. Apps filed an affidavit of Mr. Dancy sworn January 14, 2013.

A considerable portion of the affidavit does not, in my view, address the matters at issue on this motion. Rather the affidavit focuses to a large extent on historical aspects of the file, including the CCAA proceedings initiated by Dondeb which resulted in C. Campbell J., declining to issue an initial order under the CCAA and instead pronounce a global receivership order. Extensive reasons were provided by C. Campbell J. To the extent that Mr. Dancy is challenging past events, it is noted that no appeal was filed from the order of C. Campbell J. appointing Farber as

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 Receiver, nor has any request been made to extend
2 the time for appeal.

3
4 In my view these issues are not before the court.
5 To the extent that Mr. Dancy wishes to challenge
6 the adequacy of the legal representation that he
7 received during these proceedings, it appears to
8 me that his remedy, if any, does not lie in the
9 proceedings before the court today. In that
10 respect, it is noted that the former solicitor has
11 contacted the Law Society Practice Advisory
12 Department to advise them of the concerns raised
13 by Mr. Dancy and Mr. Apps has confirmed that the
14 former solicitor has fully cooperated with him in
15 the preparation for today's motion.

16
17 To the extent that Mr. Dancy in his affidavit
18 challenges the role of the receiver, including any
19 potential conflict issues, it seems to me that if
20 this challenge, is to go forward, Mr. Dancy will
21 first have to obtain leave pursuant to section 215
22 of the Bankruptcy and Insolvency Act ("BIA") and

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 pursuant to the provisions of the order appointing
2 the Receiver.

3
4 In the circumstances, however, I do feel that it
5 is prudent to defer the request of the Receiver to
6 receive approval of its Report until such time as
7 Mr. Apps has had an opportunity to fully consider
8 the issue.

9
10 The focus of the hearing today then shifted to the
11 Motion to approve the three transactions.

12
13 Section 247(b) of the BIA provides that a receiver
14 shall deal with the property of the insolvent
15 person in a commercially reasonable manner. The
16 receiver's duty is not to obtain the best price
17 but to do everything reasonably possible in the
18 circumstances to obtain the best price.

19 *Skyepharma PLC v. Hyal Pharmaceutical Corp.*, 12
20 C.B.R. (4th) 87. The duties of the court in
21 reviewing a proposed sale of assets by a receiver

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondéb Inc.

1 that is opposed by other interested parties are as
2 follows:

3

4 1) It should consider whether the receiver has
5 made a sufficient effort to obtain the best
6 price and has not acted improvidently,

7

8 2) It should consider the interests of all
9 parties,

10

11 3) It should consider the efficacy and
12 integrity of the process of which offers have
13 been obtained, and

14

15 4) It should consider whether there has been
16 unfairness in the working out of the process.

17

18 *Royal Bank v. Soundair Corp.*, 7 C.B.R. (3rd) 1,
19 (Ont C. A.) *National Bank of Canada v. Global*
20 *Fasteners and Clamps, Ltd.*, 24 C.B.R. (4th) 228.

21 The court must not, however, enter into the
22 marketplace. It must not sit as if it were

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 hearing an appeal from the decision of the
2 receiver, reviewing in detail every element of the
3 process by which the receiver has arrived at its
4 recommendation. *Crown Trust Co. v. Rosenberg* 67
5 C.B.R. (N.S.) 320. If the receiver has acted
6 fairly and reasonably and not arbitrarily, the
7 court will ordinarily approve the recommendation
8 of the receiver. *Integrated Building Corp. v.*
9 *Bank of Nova Scotia*, 75 C.B.R. (N.S.) 158.

10
11 It is only in exceptional circumstances that the
12 court will intervene and proceed contrary to the
13 recommendation of the receiver. *Crown Trust*
14 *supra*.

15
16 In this case the receiver has filed its Second
17 Report and two supplements to the Second Report.
18 I am not going to take the time in this
19 endorsement to set out all of the facts that the
20 receiver has relied on in arriving at its
21 recommendation to proceed with the court

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 application for the approval of the three
2 transactions in question today.
3

4 In addition, certain documentation is the subject
5 of a request for sealing order. It seems to me
6 that the confidential appendices do contain
7 confidential information, the disclosure of which
8 might be detrimental to stakeholders. In this
9 respect I am satisfied, based on the Sierra Club
10 principles, that the sealing order ought to be
11 granted.
12

13 I am given to understand that certain information
14 has been provided to Mr. Apps that relates to the
15 proposed purchase price of the transactions in
16 question. I have also taken into account all the
17 marketing efforts that receiver has referenced in
18 its second report.
19

20 The receiver is of the view that the market was
21 extensively canvassed and a competitive process
22 undertaken. The evidentiary background to the

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 sale of the property with respect to the Tim
2 Horton's Agreement, the Preston Springs
3 Agreements, and the Dorset Place Agreement
4 indicates that the Receiver has made substantial
5 efforts in obtaining an adequate purchase price
6 based on the multiple offers received and the
7 negotiations entered into after showing the
8 property to a variety of interested parties.
9

10 With the respect to the Tim Horton's Agreement
11 specifically, the Receiver is of the view that the
12 highest and best purchase price has been received
13 and the proposed purchaser has provided a
14 substantial deposit and the relevant mortgagees
15 have approved the Receiver entering into the
16 agreement.
17

18 With respect to the Preston Springs Agreement, the
19 Receiver is of the view that the Preston Springs
20 Agreement contains the highest and best purchase
21 price of the offers received and that a
22 substantial deposit has been provided and that the

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondob Inc.

1 prompt sale will curtail the ongoing need to fund
2 holding costs of this vacant property and the
3 mortgagee has approved the entering into of the
4 agreement.

5
6 With the respect to Dorset Place, the Receiver is
7 of the view that the Dorset Place Agreement
8 contains the highest and best purchase price of
9 the offers received and that a substantial deposit
10 has been provided and the relevant mortgagees have
11 provided their approval to the entering into the
12 transaction.

13
14 I have also taken into account certain financial
15 information that Mr. Dancy provided on the return
16 of the CCAA Application which detailed a value
17 that he himself had ascribed to certain
18 properties. I am satisfied that the purchase
19 price for the Tim Horton's Agreement and the
20 Dorset Place Agent are reasonably consistent with
21 the values put on the properties by Mr. Dancy.

22 With respect to Preston Springs agreement, it does

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 appear that the purchase price is somewhat less
2 that the value ascribed by Mr. Dancy. However, I
3 am satisfied based on the reasons provided by the
4 Receiver that it cannot be said to be an
5 unreasonable amount.
6

7 With respect to the Preston Springs Property the
8 position put forth by Mr. Dancy is that there are
9 alternatives available. Mr. Dancy's Affidavit
10 references a commitment from Pacific Financial
11 Group and a commitment of up to \$650, 000. Mr.
12 Apps indicated that other arrangements could be
13 put in place to satisfy obligations owing to the
14 second mortgagee and there were some suggestion
15 that there had been some discussion with the
16 second mortgagee, but the fact remains that
17 counsel to the second mortgagee supports the sale.
18

19 Further, there are also some practical
20 difficulties with the proposal put forth by Mr.
21 Apps with respect to Preston Springs as it would
22 require that property to be extracted from the

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondé Inc.

1 receivership proceedings. The receivership
2 proceedings involve a number of properties and
3 although there may very well be a transaction that
4 could produce a higher monetary result than the
5 one put forth by the receiver, I must take into
6 account that there would be considerable risks in
7 not approving the transaction.

8
9 For example, there is the "drop dead" purchase
10 date and also an indication that it does not
11 appear that the conditions in the PNC financing
12 commitments with respect to free and clear title
13 or insurance, among other things, could be
14 fulfilled. This has to be contrasted with the
15 high degree of certainty that the transaction as
16 recommended by the Receiver will proceed and
17 produce the expected results to the secured
18 creditors on this property.

19
20 On balance, I am satisfied that the Receiver has
21 conducted a proper sales prospect with respect to
22 all the properties involved and has considered the

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 interests of all parties. I am also satisfied
2 that the process has been fairly worked out. I
3 have not been persuaded that Mr. Dancy has
4 demonstrated that the transactions should not be
5 approved. It cannot be overlooked that the
6 negotiations involved with respect to these
7 properties have been ongoing for a considerable
8 period of time and Mr. Dancy and Dondeb elected to
9 wait until "one minute before midnight" before
10 objecting to the transactions involved.

11
12 Accordingly, the three transactions are approved.

13
14 The Receiver has also requested that the court
15 grant an order and declaration that the relief
16 granted is subject to provisional execution. The
17 Receiver expresses concern that if a notice of
18 appeal is filed, it will have the effect of
19 rendering this order moot, as the requirement of
20 two of the agreement is that the vesting order be
21 obtained today and not be subject to appeal.
22

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 In support of the argument that the declaration
2 should be made, the Receiver references
3 *Computershare Trust Company of Canada and*
4 *Beachfront Developments, Inc.*, 70 C.B.R. (5th) 284,
5 a decision of Newbould J. Newbould J. adopted
6 what appears to be a variation of the test for
7 injunctive relief that is set out in *RJR*
8 *MacDonald, Inc. v. Canada (Attorney General)*
9 (1994) 1 S.C.R. 311.

10
11 The three part test being that,

- 12
13 1) A serious issue has been identified,
14 2) Irreparable harm,
15 3) Balance of convenience.
16

17 This test has been adopted in cases not unlike the
18 one before me. In *BDC Venture Capital, Inc. v.*
19 *Natural Convergence Inc.* 2009 ONCA 637. Lang J.A.
20 referenced *After Eight Interiors Inc. v. Glenwood*
21 *Homes, Inc.* (2006) 391 AR 202. Lang J.A. stated
22 that the criteria included whether there was a

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 serious issue to be appealed, whether the moving
2 party would suffer irreparable harm if the stay
3 was not lifted, and whether the moving party would
4 suffer greater harm than the responding party if
5 the stay was not lifted.

6
7 In the *After Eight* decision, Fruman J.A. stated
8 that courts generally in applications under
9 section 195 of the BIA focus on the relative
10 prejudice to the parties and the interests of
11 justice generally. In my view it is appropriate
12 to consider this test, in these circumstances, to
13 be a variation of the RJR test.

14
15 As Newbould J. indicated in the *Computershare*
16 decision, (and I agree) I would not presume to
17 consider whether an appeal in this case on my
18 decision is or is not without serious merit. If
19 that is a factor to be considered, I will assume
20 there is some merit to the appeal. Focusing on
21 the issue of irreparable harm in this case, the
22 Receiver has put forth the argument that the

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 transactions may not be consummated if there is a
2 delay caused by an appeal. This would obviously
3 cause harm to the mortgagees in question. Whether
4 it is irreparable is another question.
5 Irreparable in the context of an injunction
6 usually that means that it cannot be calculated in
7 damages.

8
9 It is at this point that it is necessary to
10 consider the relative prejudice to the parties.
11 The Dondeb proceedings were commenced by way of an
12 application for CCAA relief. This requires that
13 the applicant Dondeb be insolvent. In these
14 circumstances, it is questionable as to whether or
15 not a damage award could be paid or honoured by
16 Dondeb and one has to consider the position of the
17 mortgagees in question for whose benefit the
18 receivership order was granted.

19
20 In these circumstances it appears to me that that
21 there would be serious and irreparable harm to the
22 mortgagees in question if the transactions could

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

1 not be consummated and as a result, there is
2 substantial risk that the Receiver would then have
3 to remarket the properties.
4

5 The balance of convenience aspect also favours, in
6 my view, the secured creditors. Again, I have to
7 emphasize the lateness with which these objections
8 were raised by Dondeb. It is clear from the
9 record that the negotiations resulting in the
10 agreements being put forth for approval today were
11 entered into some time ago. There is also some
12 evidence that Mr. Dancy's son has been actively
13 involved and following along in the marketing
14 process and has some knowledge of matters.
15

16 In these circumstances I find that the balance of
17 convenience favours the position of the secured
18 creditors and I do give effect to the submission
19 of Mr. Rabinovitch that the entire declaration
20 could be moot if it is not subject to provisional
21 execution, which is therefore granted. Subject to
22 any questions counsel, that concludes my reasons.

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of
the Courts of Justice Act with respect to Dondeb Inc.

1

2

3

Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5 (2))

Evidence Act

I, Santiago Orbe, certify that this document is a true and accurate transcript of the recording of *Application Pursuant to Section 243(1) of the Bankruptcy and Insolvency Act and Section 101 of the Courts of Justice Act with respect to Dondeb Inc.* in the Superior Court of Justice of Ontario held at 330 University Avenue, Toronto, Ontario, taken from recording No. 4899_8-1_20130115_161934-10, which has been certified in Form 1.

(Date)

(Signature of Authorized Person)

Photo static copies of this transcript are not certified and have not been paid for unless they bear the signature of SANTIAGO ORBE in blue ink, and accordingly are in direct violation of Ontario Regulation 587/91, Courts of Justice Act, January 1, 1990.

APPENDIX “L”

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) MONDAY, THE 2ND
)
JUSTICE NEWBOULD) DAY OF DECEMBER, 2013

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
AND**

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE
DEBTORS LISTED AT SCHEDULE "A" HERETO**

ORDER

THIS MOTION made by A. Farber & Partners Inc. in its capacity as court-appointed receiver (the "Receiver") of the debtors referred to at Schedule "A" attached hereto (collectively, the "Debtors") for an order *inter alia*: (i) declaring that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that the motion is properly returnable; (ii) approving the tenth report to Court of the Receiver dated November 26, 2013 (the "Tenth Report") and the activities of the Receiver set out therein; (iii) authorizing the Receiver to distribute the remaining proceeds of sale of the Lafontaine Terrace Property, as set out in the Tenth Report; (iv) declaring that the distributions contemplated by the order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have; (v) declaring that nothing in the order prevents a person from challenging the amount and allocation of the holdbacks and reserves being retained by the Receiver at a future date;

(vi) dismissing, with prejudice, the motion brought by Melvyn A. Dancy ("Dancy") by notice of motion date May 6, 2013 seeking leave to file a complaint with the Office of the Superintendent of Bankruptcy and the Canadian Association of Insolvency and Restructuring Practitioners (sic) on behalf of the Debtors against Farber with respect to its conduct prior to its appointment as Receiver in these proceedings (the "Dancy Leave Motion"); and (vii) sealing and treating as confidential Confidential Appendix 5 to the Tenth Report subject to further order of the Court; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated November 25, 2013 and the Tenth Report, and upon hearing the submissions of the counsel for the Receiver, the Sugars (as defined below), no other party appearing, although duly served, as appears from the Affidavit of Service of Stephanie Waugh sworn November 26, 2013, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Tenth Report, and the activities of the Receiver set out therein, be and are hereby approved.

DISTRIBUTIONS

- (a) **THIS COURT ORDERS** that the Receiver is hereby authorized to distribute the following amounts from the remaining proceeds of sale of the Lafontaine Terrace property:
 - (i) \$142,055.92 to RMG Mortgages, A Division of MCAP Financial Corporation ("MCAP") in full and final satisfaction of the charge/mortgage, as amended, granted by a prior owner of the Lafontaine Terrace Property and assumed by 1711060 Ontario Ltd. ("1711060"), in favor of MCAP (as assignee) in the original principal sum of \$1,326,000.00, registered on September 2, 1994 as Instrument No. 1229446 against the Lafontaine Terrace Property;

(ii) \$20,000 to Canada Revenue Agency in full and final satisfaction of all amounts owing to the CRA in priority to the Sugar Mortgage (as defined below); and

(iii) ^{120,000} ~~\$200,000~~ to David Sugar, Phyllis Sugar, Moe Shuster and Ruther Shuster (collectively, the "Sugars") by paying ~~\$200,000~~ ^{40,000} to Robert Kaplan, in trust and ~~\$80,000~~ ^{80,000} to GMS Law Professional Corp. in trust in partial satisfaction of the charge/mortgage granted by 1711060 in favour of the Sugars in the original principal sum of \$450,000, registered on October 26, 2007 as Instrument No. WR339106 against the Lafontaine Terrace Property (the "Sugar Mortgage").

3. **THIS COURT ORDERS AND DECLARES** that the distributions contemplated by this Order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have.

4. **THIS COURT ORDERS AND DECLARES** that that nothing in this Order prevents a person from challenging the amount and allocation of the holdbacks and reserves being retained by the Receiver at a future date.

5. **THIS COURT ORDERS** that the Dancy Leave Motion, as it relates to the proposed complaints against the Receiver, be and is hereby dismissed on a without prejudice basis and without costs. Provided however that unless Dancy provides written notice to the Receiver on or before January 10, 2014 of Dancy's intention to bring a similar motion, and by no later than January 24, 2014 has delivered full motion materials and booked a 9:30 appointment to schedule same, such dismissal will be on a with prejudice basis.

6. **THIS COURT ORDERS AND DIRECTS** that Confidential Appendix 5 of the Tenth Report be and is hereby sealed until further order of this Court which motion is to be made on notice to Dancy.

2013 J.

ENTREED AT / INSCRIT A TORONTO
ON / BOOK NO.
LE / DANS LE REGISTRE NO.

DEC - 2 2013

MB

SCHEDULE "A"

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

Court File No: CV-12-9794-00CL

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
c. B-3, AS AMENDED AND
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO
DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**ORDER
(December 2, 2013)**

**DENTONS CANADA LLP
77 King Street West
Suite 400
Toronto Ontario
M5K 0A1**

**Lawyer: Neil S. Rabinovitch /
Jane O. Dietrich**

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Facsimile: 416 863-4592

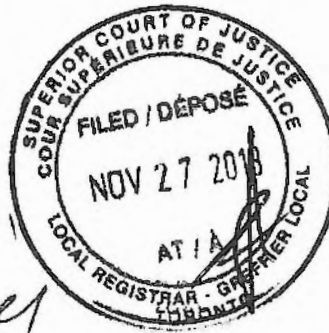
IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

DEC 2/13

December 2, 2013

Mr. Sugar opposes the distribution on the La Fontaine property. He opposes the holdback of the receiver's potential costs of \$37,500 and ^{amounts} that it ^{should} be paid to his clients, the Sugar mortgages. Reliance is placed on what is said to have been a representation in the eighth report of the receiver that the total revenue of the receiver would be limited to \$70,000, which has now been exceeded. I do not read the eighth report as saying that the receiver's costs will



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

MOTION RECORD
(Motion Returnable December 2, 2013)

DENTONS CANADA LLP
77 King Street West
Suite 400
Toronto Ontario
M5K 0A1

LAWYERS FOR the Receiver

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Telephone: 416 863-4656 / 416 863-4467
Facsimile: 416 863-4592

~~Not~~ group. No receiver could ever say that. Nor do I read the affidavit of David Saper as containing any cogent evidence of a representation to that effect. It is an assertion without any evidence as to how or when any representation was made.

The proposed distribution of the proceeds on the Co. Britain property ~~as~~ set out in the 10th report is approved.

An agreement has been reached with Mr. Davy's counsel regarding his motion for leave which is reflected in the order to be signed today.

The relief sought as set out in the 10th report of the receiver is reasonable and I am satisfied with the actions of the receiver as disclosed in the 10th report.

Orders to be signed / leave signed

25 Dec 71.