

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

BETWEEN:

**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**MOTION RECORD**  
(returnable October 30, 2018)

October 23, 2018

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**TAB 1**

Court File No. CV-17-11811-00CL

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

B E T W E E N:

**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**NOTICE OF MOTION**

A. Farber & Partners Inc. (“**Farber**”), in its capacity as the court-appointed receiver (the “**Receiver**”) of the assets, undertakings and properties (the “**Property**”) of 2220277 Ontario Inc. (the “**Debtor**”), appointed pursuant to the Order of the Honourable Justice Mesbur, dated August 1, 2017 (the “**Receivership Order**”), will make a motion to a judge presiding over the Commercial List on October 30, 2018, at 10:00 a.m., at 330 University Avenue, Toronto, Ontario.

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

**THE MOTION IS FOR AND ORDER:**

1. If necessary, abridging the time for service of the Notice of Motion and the Motion Record and validating service thereof;
2. Approving the Receiver’s Tenth Report to the Court, dated October 23, 2018, and the activities and conduct of the Receiver described therein;



3. Approving the Receiver's Statement of Receipts and Disbursements, dated October 19, 2018 ("**R&D**");
4. Approving the fees and disbursements of the Receiver and its counsel, as set out in the Tenth Report and the affidavits as to fees filed in respect of this motion;
5. Reinstating the Sale Process (defined below) with the following amendments:
  - (a) extending the time period for the Sale Process to January 31, 2019;
  - (b) deleting paragraph 14 in its entirety thereby removing Zaherali Visram's ("**Visram**") right of first refusal ("**ROFR**") contained therein;
  - (c) providing that the Receiver cannot accept any offer for less than \$8 million without the consent of Visram; and
  - (d) declaring that the Receiver is authorized, but not required, to list the Real Property (defined below) for sale with a commercial real estate broker on such terms and at such list price as the Receiver may determine, in its sole discretion;
6. Scheduling a motion to be brought by the Receiver seeking a finding that each of Evan Karras ("**Karras**"), 756597 Ontario Limited ("**756 Ontario**"), and 2296528 Ontario Inc. ("**229 Ontario**") are in contempt of court;
7. Authorizing the Receiver, *nunc pro tunc*, to redact the commercially sensitive entries of the Affidavit of John Hendriks, sworn October 22, 2018 (the "**Hendriks Affidavit**"), and sealing the unredacted Hendriks Affidavit from the public record until the sale of the Real Property; and
8. Such other relief as the Receiver may request and this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background**

9. Pursuant to the Receivership Order, Farber was appointed as Receiver of the Property;

10. The Property includes the real property municipally known as 650 Bay Street and 55 Elm Street located in downtown Toronto, Ontario (the **“Real Property”**);
11. Eight parties, including the Applicant, hold mortgages/charges registered against the Real Property with a total face value of approximately \$13.25 million (additional amounts are alleged to be secured by the mortgages increasing the total indebtedness to approximately \$15 to \$20 million);
12. There are also various PPSA registrations against the Debtor, source deduction amounts owing to Canada Revenue Agency, property taxes owing to the City of Toronto, and various unsecured creditors;
13. At the time of the Receiver’s appointment a hotel and restaurant occupied the Real Property pursuant to leases entered into with the Debtor;
14. The Receiver terminated both leases for non-payment of rent and the premises are now vacant;
15. Karras is the sole director and directing mind of the Debtor;

#### **Sale Process**

16. Pursuant to the Order of the Honourable Justice McEwan, dated November 2, 2017, this Honourable Court approved a stalking horse sale process in respect of the Real Property;
17. No qualified bids were received, other than the stalking horse bid from 650 Bay Holdco Inc. (the **“Stalking Horse Bidder”**);
18. Unfortunately the transaction ultimately did not close and the deposit was forfeited to the Receiver;
19. Pursuant to the Order of the Honourable Justice Hainey, dated April 12, 2018 (the **“Sale Process Order”**), this Honourable Court approved a second sale process (the **“Sale Process”**) in respect of the Real Property;

20. The Sale Process includes the ROFR in favour of Visram and provides that, upon the receipt by the Receiver of an acceptable offer, in an amount less than Visram's claim, Visram has the right to submit a competing offer (which may be in the form of a credit bid) within 72 hours;
21. The Receiver conducted the Sale Process over a six (6) month period and in accordance with the Sale Process Order;
22. The Sale Process expired on October 8, 2018 without the execution of a definitive purchase agreement;
23. Over the course of the Sale Process, the Receiver received:
  - (a) one unconditional bid, which the Receiver countered at a higher price but was not accepted;
  - (b) a number of highly conditional offers, most with lengthy due diligence periods and deposits less than the requisite 10%, none of which the Receiver could recommend to this Honourable Court; and
  - (c) most recently, a conditional offer, which the Receiver countered, but was not ultimately accepted by the prospective purchaser.
24. Prospective purchasers have shown a genuine interest in the opportunity and the Receiver remains hopeful that a sale can be concluded;
25. The Receiver is of the view that the ROFR posed difficulties for some purchasers as most are unwilling to expend time and resources to conduct due diligence, pay a 10% deposit and submit an unconditional offer in light of Visram's ROFR rights;
26. The Receiver previously brought a motion to extend the term of the Sale Process, however prior to the return date of the motion, Visram advised that he intended to submit a credit bid and the Receiver did not proceed with that relief;

27. Visram submitted to the Receiver a draft credit bid, which the Receiver commented on, however the Receiver has not received a final credit bid from Visram and no definitive purchase agreement has been executed;
28. The Receiver recommends reinstating the Sale Process to run until January 31, 2019, removing the ROFR to incentivize prospective purchasers to submit new offers in respect of the Real Property and granting the Receiver the discretion to list the Real Property with a commercial real estate broker;

#### **Fees and R&D**

29. The fees and disbursements of the Receiver and its legal counsel are detailed in the Tenth Report and affidavits as to fees, filed in respect of this motion;
30. The Receiver's R&D is attached as Appendix "C" to the Tenth Report;

#### **Contempt**

31. Prior to the Receiver's appointment, on or about March 13, 2016, a pipe burst at the Real Property flooding the premises and causing substantial damage to the building and its contents;
32. Pursuant to the Order of the Honourable Justice Penny, dated September 20, 2018 (the "**September 20 Order**"), each of Karras, 756 Ontario and 229 Ontario were directed to deliver to the Receiver a full accounting of all insurance proceeds received in respect of the flood. The accounting was required to be delivered within thirty days of the date of the September 20 Order;
33. Further, pursuant to the September 20 Order, each of Karras, 756 Ontario, 229 Ontario and any other party in receipt of insurance proceeds in respect of the Debtor's building and business interruption claims were to forthwith disgorge all such monies and pay them to the Receiver in trust;
34. Each of Karras and his counsel were present at the September 20, 2018 hearing;

35. No response has been received to any of the emails from the Receiver's counsel to Karras' counsel seeking compliance with the September 20 Order;
36. The Receiver has not received the accounting, nor have the parties disgorged any insurance proceeds;
37. Given the lack of compliance with the September 20 Order, the Receiver requests that this Honourable Court schedule a contempt hearing in respect of this matter;

#### **Sealing**

38. The Hendriks Affidavit contains commercially sensitive information that, if disclosed, may jeopardize the integrity of the Sale Process;
39. According, the Receiver requests that the unredacted Hendriks Affidavit be sealed from the public record;

#### **Other Grounds**

40. Section 243 of the *Bankruptcy and Insolvency Act* (Canada);
41. Section 100 of the *Courts of Justice Act* (Ontario);
42. Rules 2.03, 3.02, 16.01 and 37 of the *Rules of Civil Procedure* (Ontario); and
43. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Tenth Report;
2. The Eleventh Report to the Court, dated October 23, 2018;
3. The Affidavit of Michael Davies, sworn October 22, 2018, and the Hendriks Affidavit; and

4. Such further and other material as counsel may advise and this Honourable Court may permit.

October 23, 2018

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Appointed Receiver of 2220277 Ontario Inc.*

**TO: SERVICE LIST**

ZAHERALI VISRAM  
Applicant

- and -

2220277 ONTARIO INC.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION  
(returnable October 30, 2018)**

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Receiver of 2220277 Ontario Inc.*

**TAB 2**



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

BETWEEN:

**ZAHERALI VISRAM**

Applicant

- and -

**2220277 ONTARIO INC.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**TENTH REPORT TO THE COURT OF A. FARBER & PARTNERS INC. IN ITS  
CAPACITY AS COURT APPOINTED RECEIVER OF 2220277 ONTARIO INC.**

**October 23, 2018**

**A. GENERAL BACKGROUND**

1. On August 1, 2017, pursuant to an order (the “**Receivership Order**”) of this Honourable Court (the “**Court**”), A. Farber & Partners Inc. was appointed receiver (the “**Receiver**”), pursuant to section 243(1) of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (“**BIA**”) and Section 101 of the *Courts of Justice Act*, R.S.O. 1990 over all of the assets, undertakings and properties (the “**Property**”) of 2220277 Ontario Inc. (the “**Debtor**”). A copy of the Receivership Order is attached hereto as Appendix “A”.
2. The Debtor is a corporation incorporated pursuant to the laws of the Province of Ontario. Evan Karras (“**Karras**”) is the sole director, (unpaid) employee and allegedly a shareholder of the Debtor.

3. The Property includes, without limitation, the real property municipally known as 650 Bay Street and 55 Elm Street located in Toronto, Ontario (the “**Real Property**”). The Debtor acquired the Real Property on November 13, 2009.
4. Eight parties, including the Applicant, hold mortgages/charges registered against the Real Property with a total face value of approximately \$13.25 million (additional amounts are alleged to be secured by the mortgages increasing the total indebtedness to approximately \$15 to \$20 million).
5. Pursuant to the Order of the Honourable Justice McEwan, dated November 2, 2017 (the “**Stalking Horse Order**”), this Honourable Court approved a stalking horse sale process in respect of the Real Property and an Agreement of Purchase and Sale, dated October 3, 2017 (the “**Stalking Horse Bid**”), between the Receiver and 650 Bay Holdco Inc. (the “**Stalking Horse Bidder**”). The Receiver conducted the stalking horse sale process in accordance with the Stalking Horse Order. However, no other qualified bids were received. The Stalking Horse Bidder requested three separate extensions of the closing date, but the transaction, ultimately, did not close.
6. Zaherali Visram (“**Visram**”), the Applicant in this proceeding, holds the first and second mortgages registered on title to the Real Property. The total quantum of Visram’s claim against the Debtor is disputed; however, by Order, dated February 22, 2018, this Honourable Court approved a distribution to Visram in the total amount of \$8,000,000, on a without prejudice basis and subject to a future accounting. This distribution was never made, save for a small distribution of \$600,000 from the deposit that the Stalking Horse Bidder forfeited after failing to close the transaction contemplated by the Stalking Horse Bid.
7. In addition to the amounts owing to the mortgagees, there are various PPSA registrations against the Debtor, approximately \$32,845.82 of source deduction amounts and \$12,612.55 of HST arrears owing to the Canada Revenue Agency (“**CRA**”), approximately \$105,000 of property taxes owing to the City of Toronto, and various unsecured creditors.

8. At the time of the Receiver's appointment, a hotel and restaurant occupied the Real Property pursuant to leases entered into with the Debtor. The Receiver terminated both leases for non-payment of rent and the premises are now vacant.
9. After the Stalking Horse Bidder failed to close the Stalking Horse Bid, this Honourable Court approved a second sales process in respect of the Real Property (the "**Sale Process**"). pursuant to the Order of the Honourable Justice Hainey, dated April 12, 2018 (the "**Sale Process Order**").

## **B. PURPOSE OF THE REPORT**

10. The purpose of this Receiver's Tenth Report to the Court (the "**Tenth Report**"), is to report to the Court on the Receiver's activities since the Ninth Report to the Court of the Receiver, dated August 27, 2018 (the "**Ninth Report**"), and seek an Order of the Court:
  - (a) Approving the Receiver's Tenth Report to the Court, and the activities and conduct of the Receiver described therein;
  - (b) Approving the Receiver's Statement of Receipts and Disbursements, dated October 19, 2018 (the "**R&D**");
  - (c) Approving the fees and disbursements of the Receiver, as described herein and the affidavits as to fees filed in respect of the Receiver's motion;
  - (d) Reinstating the Sale Process with the following amendments:
    - (i) extending the time period for the Sale Process to January 31, 2019;
    - (ii) deleting paragraph 14 in its entirety thereby removing Visram's right of first refusal ("**ROFR**") contained therein;
    - (iii) providing that the Receiver cannot accept any offer for less than \$8 million without the consent of Visram; and
    - (iv) declaring that the Receiver is authorized, but not required, to list the Real Property (defined below) for sale with a commercial real estate broker on

such terms and at such list price as the Receiver may determine, in its sole discretion;

- (e) Authorizing the Receiver, *nunc pro tunc*, to redact the commercially sensitive entries of the Affidavit of John Hendriks, sworn October 22, 2018 (the “**Hendriks Affidavit**”), and sealing the unredacted Hendriks Affidavit from the public record until the sale of the Real Property.

### C. DISCLAIMER

- 11. In preparing this Tenth Report the Receiver has relied upon unaudited, draft and/or internal financial and other information provided by the sole director and officer of the Debtor, its advisors, and other third-party sources. The Receiver has not independently reviewed or verified such information. The Receiver has prepared this Tenth Report for the sole use of the Court and of the other stakeholders in these proceedings.

### D. RECEIVER’S ACTIVITIES

- 12. The Receiver’s activities since the Ninth Report include:
  - (a) continuing to conduct the Sale Process;
  - (b) finalizing the Ninth Report and preparing for and attending Court on September 12 and September 20, 2018, to seek approval of the relief sought in the Ninth Report;
  - (c) attending to the accounting and funding of the estate, arranging for third-party financing and issuing a Receiver’s Certificate in respect of same;
  - (d) responding to queries from prospective purchasers before the expiry of the Sale Process, arranging for access to the data room and organizing site visits at the Real Property;
  - (e) responding to queries from prospective purchasers after the expiry of the Sale Process and advising that the Sale Process has expired;

- (f) coordinating various site supervision and maintenance duties of the Real Property, which include, but are not limited to, security site visits, alarm system monitoring, general property maintenance, minor property repairs and ongoing insurance and utility coverage;
- (g) ongoing discussions with legal counsel regarding the disgorgement of funds paid by Intact Insurance Company (“**Intact**”) to parties related to the Debtor prior to the receivership, the accounting thereof and the payment of settlement funds by Intact as ordered by this Court;
- (h) ongoing discussions with legal counsel regarding the \$200,000 trust funds held by Goldman Hine LLP and their cross-motion;
- (i) consulting with Visram and his legal counsel and negotiating the terms of a credit bid, including the cash component payable on closing to satisfy the priority payables;
- (j) negotiating the terms of offers submitted by prospective purchasers in respect of the Real Property;
- (k) corresponding with Visram and his legal counsel regarding offers in respect of the Real Property, the credit bid and the ROFR;
- (l) maintaining and updating the website including posting Court reports, motion materials and updated service list; and
- (m) preparing this Tenth Report.

#### **E. SALE PROCESS**

13. Pursuant to the Stalking Horse Order, this Honourable Court approved a stalking horse sale process in respect of the Real Property and the Stalking Horse Bid. The Receiver conducted the stalking horse sale process in accordance with the Stalking Horse Order, however no other qualified bids were received.

14. Pursuant to the Order of the Honourable Justice Hainey, dated January 29, 2018, this Honourable Court granted an approval and vesting order in favour of the Stalking Horse Bidder. The Stalking Horse Bidder requested three separate extensions of the closing date; however, the transaction ultimately did not close when the Stalking Horse Bidder failed to meet the conditions for the third requested extension. Consequently, the Stalking Horse Bid was terminated and the deposit was forfeited to the Receiver.
15. Pursuant to the Sale Process Order, on April 12, 2018, this Honourable Court approved the Sale Process in respect of the Real Property. A copy of the Sale Process Order is attached hereto as Appendix "B".
16. The Sale Process commenced on April 12, 2018. It contemplated the marketing of the Real Property over a 90-day time period with bids accepted at any time. Upon expiry of the initial 90-day term, on July 11, 2018, the Receiver had the authority to extend the Sale Process for an additional 90 days.
17. The Receiver conducted the Sale Process in accordance with the Sale Process Order. The Receiver advertised the opportunity in the Toronto Star and National Post on April 27, 2018 and in the Globe & Mail on May 1, 2018. In addition, by email dated May 2, 2018, Hotelier sent an ad to its distribution list and the property is noted in the Assets for Sale section of the Insolvency Insider's weekly email to the insolvency community.
18. The Receiver sent teasers in respect of the opportunity to 189 interested parties including real-estate developers, property management companies, real-estate agents and brokers, private equity fund managers, hotel owners, hotel operators, and lawyers.
19. The Receiver set up and populated the data room. A total of 30 prospective purchasers executed NDAs and accessed the data room. Various parties have conducted site visits as requested.
20. Despite its efforts, the Sale Process initial 90-day period expired on July 11, 2018, without the execution of a purchase agreement and the Receiver exercised its discretion to extend the Sale Process for an additional 90-day period.

21. In total, the Sale Process ran over a six (6) month period. It expired on October 8, 2018 without the execution of a definitive purchase agreement in respect of the Real Property.
22. Over the course of the Sale Process, the Receiver received:
  - (a) one unconditional bid, which the Receiver countered at a higher price but was not accepted;
  - (b) a number of highly conditional offers, most with lengthy due diligence periods and deposits less than the requisite 10%, none of which the Receiver could recommend to this Honourable Court; and
  - (c) most recently, one conditional offer which is described in more detail below.
23. The Receiver previously brought a motion returnable September 12, 2018 to extend the timeline of the Sale Process to January 31, 2019. However, just prior to the return date of the motion, Visram notified the Receiver that he intended to submit a credit bid in respect of the Real Property. After a one-week adjournment, a credit bid was submitted to the Receiver on September 18, 2018 and, accordingly, the Receiver did not proceed with its request to extend the Sale Process.
24. The credit bid was submitted to the Receiver by Visram's counsel in draft. The Receiver reviewed the bid and provided comments on the agreement to Visram's counsel.
25. Subsequent to the receipt of the credit bid, on October 2, 2018, a prospective purchaser submitted a conditional offer to the Receiver. With the consent of Visram, the Receiver entered into negotiations with the prospective purchaser. At Visram's request, the Receiver countered the offer received from the prospective purchaser at a higher price. Unfortunately the Receiver's counter-offer was not accepted and ultimately expired.
26. After the expiry of the Receiver's counter-offer, the Receiver contacted Visram's counsel and requested that Visram finalize his credit bid and submit same to the Receiver so that it could proceed with Court approval of same. As of the date of this Tenth Report, Visram has not submitted a final credit bid and no definitive purchase agreement has been entered into.

27. Prospective purchasers have shown a genuine interest in the opportunity and the Receiver remains hopeful that a sale can be concluded. The Receiver now seeks an order renewing the Sale Process, with certain amendments.
28. The Sale Process expressly provides that Visram, the first and second mortgagee, has a ROFR in respect of the Real Property. Specifically, in the event an acceptable offer is received, that is less than the amount Visram is owed, the Receiver is required to provide a copy of such offer to Visram, who has 72 hours to submit a competing offer for the Real Property (which may be a credit bid).
29. The Receiver is of the view that the ROFR posed difficulties for some purchasers as most were unwilling to expend time and resources to conduct due diligence, pay a 10% deposit and submit an unconditional offer in light of Visram's ROFR rights. Prospective purchasers may be more willing to submit bids compliant with the terms of the Sale Process if the ROFR is removed. The Receiver proposes providing Visram with a right to veto any sale that is below \$8,000,000.
30. The Receiver recommends reinstating the Sale Process to run until January 31, 2019 and removing the ROFR to incentivize prospective purchasers to submit new offers in respect of the Real Property.
31. The Sale Process does not contemplate listing the Real Property with a commercial broker. The Receiver is now also seeking authority to list the Real Property with a commercial real estate broker.

#### **F. FEES AND R&D**

32. The Receiver's R&D, dated October 19, 2018, is attached hereto as Appendix "C".
33. The total fees of the Receiver during the period from August 19, 2018, to October 13, 2018, amount to \$78,215.00, together with disbursements of \$855.00 and HST in the amount of \$10,167.95, totalling \$89,237.95. The fees and disbursements of the Receiver are more particularly described in the Hendriks Affidavit, filed in support of the Receiver's motion.



34. The legal fees incurred by the Receiver during the period from August 1, 2018, to September 30, 2018, for services provided by the Receiver's legal counsel, Dentons Canada LLP ("**Dentons**"), amount to \$79,129.50, together with expenses and disbursements of \$1,436.24 and HST in the amount of \$10,431.95, totalling \$90,997.69. The fees and disbursements of Dentons are more particularly described in the Affidavit of Michael Davies, sworn October 22, 2018, and filed in support of the Receiver's motion.
35. The Receiver respectfully submits that the Receiver's fees and disbursements and Dentons' fees and disbursements are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Receivership Order.

#### **G. INTACT INSURANCE PROCEEDS**

36. Pursuant to the Order of the Honourable Justice Penny, dated September 20, 2018, Intact was ordered to pay \$453,189 of insurance proceeds to the Receiver, in trust. The Receiver followed up with the adjuster regarding payment of the funds and, on October 22, 2018, the adjuster advised the Receiver that the cheque should be received within ten (10) business days.

#### **H. SEALING**

37. The Hendriks Affidavit contains commercially sensitive information that, if disclosed, may jeopardize the integrity of the Sale Process. Accordingly, a copy of the unredacted Hendriks Affidavit will be filed under seal. The Receiver requests that the unredacted Hendriks Affidavit be sealed from the public record.

#### **I. RECOMMENDATIONS**

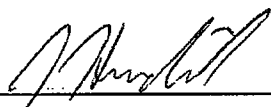
38. The Receiver respectfully requests that this Honourable Court make an order granting the relief sought by the Receiver in its Notice of Motion, dated October 23, 2018.

- 10 -

**ALL OF WHICH IS RESPECTFULLY SUBMITTED  
THIS 23rd DAY OF OCTOBER, 2018.**

**A. Farber & Partners Inc. in its capacity  
as Court-appointed Receiver of 2220277 Ontario Inc.  
and not in its personal or corporate capacity**

**Per:** \_\_\_\_\_

  
Name: John Hendriks

Title: Managing Director

**TAB A**

Court File No. CV-17-11811-00CL

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

THE HONOURABLE

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TUESDAY, THE 1<sup>st</sup>

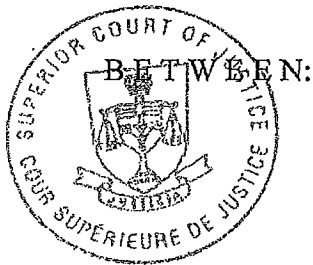
JUSTICE

*Mesbur*

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DAY OF AUGUST, 2017

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**ZAHERALI VISRAM**

Applicant

- and -

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ORDER  
(appointing Receiver)**

**THIS APPLICATION** made by the Applicant 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 (the "**Receiver**") without security, of all of the assets, undertakings and properties of the Respondent, 2220277 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Zaherali Visram sworn May 15, 2017 and the Exhibits thereto, the Reply Affidavit of Zaherali Visram sworn June 7, 2017 and the Exhibits thereto, the Affidavit of Evan Karras sworn May 31, 2017 and the Exhibits thereto, and the Minutes of Settlement and Endorsement of Justice Conway dated July 14, 2017, and on hearing the submissions of counsel for the Applicant, and on reading the consent of A. Farber & Partners Inc. to act as the Receiver,

#### **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 of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**"), which includes, without limitation, the real property municipally known as 650 Bay Street and 55 Elm Street, Toronto, ON and legally described as follows:

PIN 21199-0067 (LT)

Property Description: PT LT 2 PL 60 TORONTO AS IN  
CA720524; CITY OF TORONTO

Land Registry Office: #66

#### **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 Debtor, 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 Debtor;
- (d) 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) 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 Debtor, for any purpose pursuant to this Order;
- (i) 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 Debtor, 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;
- (j) 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;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court, and in 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;

- (l) 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;
- (m) 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;



- (r) 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 Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

3. **THIS COURT ORDERS** that (i) the Debtor, (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.

4. **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 Debtor, 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 4 or in paragraph 5 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.

5. **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.

6. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any

applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. **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 DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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**

10. **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 Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Debtor's 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 Debtor 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**

12. **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 into one or more new accounts 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**

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's 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**

14. **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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. **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**

16. **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, 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**

17. **THIS COURT 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 unless otherwise ordered by the Court on the passing of accounts, 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, both before and 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, mortgages, 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*.

18. **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.

19. **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 standard 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**

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered 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 \$250,000 (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. The whole of the Property 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*.

21. **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.

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

23. **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.

#### **SERVICE AND NOTICE**

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **GENERAL**

27. **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.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **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.

30. **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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, 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 Debtor's estate with such priority and at such time as this Court may determine.

32. **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.



C. Irwin  
Registrar

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

AUG 01 2017

PER / PAR: 

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that A. Farber & Partners Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties 2220277 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 1<sup>st</sup> day of August, 2017 (the "**Order**") made in an application having Court File No. CV-17-11811-00CL, 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 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.

- 2 -

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 \_\_\_\_\_, 20\_\_.

A. FARBER & PARTNERS INC., solely in its  
capacity as Receiver of the Property, and not in  
its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**ZAHERALI VISRAM**  
Applicant

-and-

**2220277 ONTARIO INC.**  
Respondent  
Court File No. CV-17-11811-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**  
**(appointing Receiver)**

**CHAITONS LLP**  
5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

**Harvey Chaiton** (LSUC No. 21592F)  
Tel: (416) 218-1129  
Fax: (416) 218-1849  
E-mail: harvey@chaitons.com

**Sam Rappos** (LSUC No. 51399S)  
Tel: (416) 218-1137  
Fax: (416) 218-1837  
E-mail: samr@chaitons.com

**Lawyers for the Applicant**

**TAB B**

Court File No. CV-17-11811-00CL

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

THE HONOURABLE

JUSTICE

*HAINES*

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THURSDAY, THE 12th

DAY OF APRIL, 2018

BETWEEN:

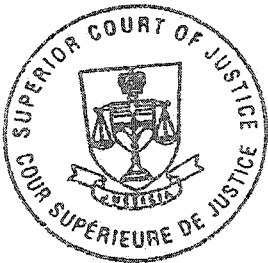
**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent



APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF*  
*JUSTICE* ACT, R.S.O. 1990, C. C-43, AS AMENDED

**ORDER**

**THIS MOTION**, made by A. Farber & Partners Inc., in its capacity as the court appointed receiver (the “**Receiver**”) of the assets, undertakings and properties of 2220277 Ontario Inc. (the “**Debtor**”), for an order approving the Sale Process (defined below), authorizing the Receiver to dispose of the assets of bE SixFifty Hotel Inc. (“**bE SixFifty**”), ratifying an interim distribution to Zaherali Visram (“**Visram**”), and granting certain other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Eighth Report of the Receiver, dated March 29, 2018 (“**Eighth Report**”), the affidavits of the Receiver and its counsel as to fees (the “**Fee Affidavits**”), and on



hearing the submissions of counsel for the Receiver, Visram, the Debtor and any other party appearing:

#### **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and the Motion Materials be and is hereby abridged and validated and this Motion is properly returnable today.

#### **REPORT AND ACTIVITIES**

2. **THIS COURT ORDERS** that the Receiver's Seventh Report to the Court, dated March 5, 2018, and the Eighth Report, and the activities of the Receiver described in each report, be and are hereby approved.

#### **INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

3. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from August 1, 2017 to March 28, 2018, be and is hereby approved.

#### **INTERIM DISTRIBUTION**

4. **THIS COURT ORDERS** that the interim distribution of \$600,000 to Visram be and is hereby ratified, and that such interim distribution is without prejudice to the rights of all the other parties and is subject to a future accounting by Visram in respect of the two mortgages.

#### **FEES AND DISBURSEMENTS**

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, for the period from January 1, 2018 to March 16, 2018, and its counsel, for the period from January 1, 2018 to March 19, 2018, as set out in the Eighth Report and the Fee Affidavits, be and are hereby approved.

**SALE PROCESS**

6. **THIS COURT ORDERS** that the sale process (the “Sale Process”), attached hereto as Appendix “A”, be and is hereby approved.

7. **THIS COURT ORDERS** that the Receiver is authorized and directed to implement the Sale Process and do all such things as are necessary and desirable to conduct and give effect to the Sale Process, and to carry out its obligations therein.

**BE SIXFIFTY ASSETS**

8. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to dispose of the property of bE SixFifty held by the Receiver in storage, by whatever means the Receiver may, in its sole discretion, determine to be commercially reasonable (including donating certain of the assets), apply the proceeds of disposition against the costs of removal, storage and disposal, and retain any remaining proceeds, in trust, pending settlement of all outstanding matters between the Debtor and bE SixFifty.

**NOTING IN DEFAULT**

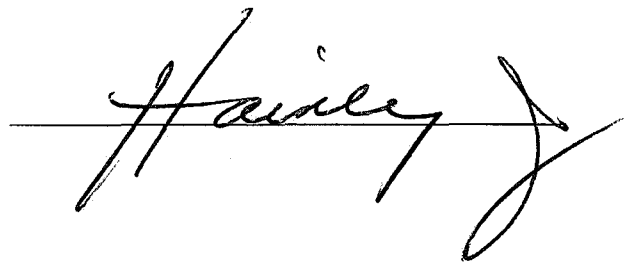
9. **THIS COURT ORDERS** that that the Receiver be and is hereby authorized and directed to consent to an Order setting aside the noting in default of Visram in the action commenced by the Debtor, pursuant to Statement of Claim bearing Court File No. 17-574395.

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ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

APR 12 2018

PER / PAR:

NB

A handwritten signature in black ink, appearing to read "Hainley", written over a horizontal line.

**Appendix “A”**  
**Sale Process**

## SALE PROCESS

### Purpose

1. The within sale process (the “**Sale Process**”) will be conducted by A. Farber & Partners Inc. in its capacity as court-appointed receiver (the “**Receiver**”) of the assets, undertakings and property of 2220277 Ontario Inc. (the “**Debtor**”) in consultation with the Debtor’s stakeholders as the Receiver deems appropriate. The purpose of the Sale Process is to identify one or more purchasers of the real property municipally known as 650 Bay Street and 55 Elm Street, Toronto, Ontario (the “**Real Property**”) of the Debtor.
2. Unless otherwise indicated herein any event that occurs on a day that is not a business day shall be deemed to occur on the next business day.

### Sale Process Procedures

3. The Receiver will compile a list of prospective investors and purchasers (together with any other party expressing an interest in the Real Property, the “**Interested Parties**”). The Receiver will make best efforts to canvass the interest of all Interested Parties.
4. The Sale Process will be conducted by the Receiver and will provide Interested Parties with the opportunity to submit offers to purchase the Real Property.
5. The Receiver shall cause a notice of the Sale Process to be published in one or more of The Globe and Mail (National Edition), National Post and Toronto Star, as well as any hotel or other industry publications as the Receiver may deem appropriate.
6. The Receiver will post information in respect of the opportunity on its website.
7. The Receiver will distribute to Interested Parties an interest solicitation letter which will provide an overview of this opportunity and the Real Property. A form of confidentiality agreement (“**CA**”) will be attached to the interest solicitation letter that Interested Parties will be required to sign in order to gain access to confidential information and to commence performing due diligence (each Interested Party who signs a CA being referred to herein as, a “**Prospective Offeror**”).

8. The Receiver will provide to each Prospective Offeror (i) a Confidential Information Memorandum, (ii) access to an electronic data room (which will include certain financial and other information with respect to the Debtor), and (iii) a proposed form of agreement of purchase and sale (the “APS”). The APS will contemplate the purchase and sale of the Real Property on an “as is, where is” basis with no representations or warranties.
9. The Receiver will facilitate diligence by Prospective Offerors, including arranging site visits.
10. The Receiver shall have the right to limit any Prospective Offeror's access to confidential information. This will include limiting access, if deemed appropriate, to parties who the Receiver reasonably believes are not likely to be serious offerors.

#### **Offers**

11. Offers may be submitted to the Receiver at any time.
12. All offers from Prospective Offerors should meet the following criteria:
  - (a) provide the identity of each person or entity (including its shareholders) that is sponsoring or participating in the offer and the complete terms of such participation and evidence of corporate authority;
  - (b) submitted in writing and include a blackline of the offer to the APS, reflecting any proposed changes;
  - (c) accompanied by a cash deposit (the “**Deposit**”) in the form of wire transfer or bank draft payable to the Receiver which is equal to at least 10% of the aggregate purchase price payable under the offer;
  - (d) a binding offer capable of acceptance, irrevocable until Court approval of an agreement of purchase and sale in respect of the Real Property;
  - (e) not contain any contingency relating to due diligence or financing or any other material conditions precedent to the offeror’s obligation to complete the transaction; and

- (f) contain written evidence of a commitment for financing or other evidence of the offeror's financial ability to consummate the sale.
- 13. Upon receipt of an offer the Receiver may, in its discretion, accept such offer (subject to paragraph 14 below), terminate the Sale Process and take such steps as are necessary to finalize and complete an agreement of purchase and sale.
- 14. If the Receiver determines that an offer is acceptable, it will provide a copy of the offer to Zaherali Visram's legal counsel, provided that the amount of the offer is less than Visram's claim. Mr. Visram will have 72 hours from delivery of the offer to his counsel to submit a competing bid (including a credit bid) in respect of the Real Property. The Receiver may, in its discretion, accept Mr. Visram's competing bid and promptly notify the other offeror of its decision.
- 15. The Receiver shall be under no obligation to accept the highest or best offer and the acceptance of any offer shall be entirely in the discretion of the Receiver. The Receiver may accept any offer that doesn't meet all of the criteria set out in paragraph 12 above.
- 16. Any acceptance of an offer by the Receiver is subject to Court approval. Once an offer is accepted, the Receiver will seek Court approval of the agreement of purchase and sale and obtain a vesting order.

#### **Other Terms**

- 17. The Sale Process shall commence upon Court approval of the Sale Process and run for a period of not more than ninety (90) days. The Receiver may, in its discretion, extend the Sale Process by an additional ninety (90) days.
- 18. Notwithstanding anything else contained herein, if it becomes evident to the Receiver that no acceptable offers will be received, the Receiver may terminate the Sale Process.
- 19. At any time during the Sale Process, the Receiver may, upon reasonable notice to the service list, apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

20. The Deposit will be refunded in the event an offer, as submitted, is not accepted by the Receiver.
21. The sale of the Real Property is strictly on an "as is, where is" basis.
22. No party shall be paid any break, termination or similar fee. For greater certainty, all Interested Parties, Prospective Offerors and successful offerors shall be responsible for their own fees, including legal fees, brokerage and realtor fees, and costs relating to any transaction.

Court File No: CV-17-11811-00CL

**ZAHERALI VISRAM**  
Applicant

- and -

**2220277 ONTARIO INC.**  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**DENTONS CANADA LLP**

77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**Kenneth Kraft** (LSO # 31919P)

Tel: 416-863-4374

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**Sara-Ann Van Allen** (LSO # 56016C)

Tel: (416) 863-4402

[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*



**TAB C**

## APPENDIX C

Page 1 of 1

**IN THE MATTER OF THE RECEIVERSHIP OF  
2220277 ONTARIO INC.  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
as at October 19, 2018**

	\$
<b>RECEIPTS</b>	
Stalking Horse Bid forfeited deposit	1,503,705.87
Stalking Horse Bid extension fees	65,000.00
Receiver Certificate Advances	700,000.00
Interest	4,941.76
Rental Income	42,679.95
HST Refunds	956.19
HST collected	5,548.41
<b>Total Receipts</b>	<b>\$ 2,322,832.18</b>
<b>DISBURSEMENTS</b>	
Filing Fee to Official Receiver	70.00
HST Paid	156,314.36
License Fee	275.00
Sale Process Advertising	13,381.74
Insurance	124,673.40
Appraisal fees	21,307.00
Security	52,519.75
Storage	11,710.00
Utilities	17,902.43
Receiver Disbursements	5,793.62
Receiver Fees	521,797.50
Legal Fees	560,365.61
Miscellaneous	59.00
<b>Total Disbursements</b>	<b>\$ 1,486,169.41</b>
<b>RECEIPTS IN EXCESS OF DISBURSEMENTS</b>	<b>\$ 836,662.77</b>
<b>Comprised of:</b>	
Repayment of Secured Debt	600,000.00
Cash on Hand	236,662.77
	<b>836,662.77</b>

**ZAHERALI VISRAM**  
**Applicant**

- and -

**2220277 ONTARIO INC.**  
**Respondent**

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

PROCEEDING COMMENCED AT TORONTO

**TENTH REPORT OF A. FARBER & PARTNERS  
INC. IN ITS CAPACITY AS COURT APPOINTED  
RECEIVER OF 2220277 ONTARIO INC.**

**DENTONS CANADA LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**Kenneth Kraft** (LSO # 31919P)  
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Fax: (416) 863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Sara-Ann Van Allen** (LSO # 56016C)  
Tel: (416) 863-4402  
[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*

**TAB 3**

Court File No. CV-17-11811-00CL

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

BETWEEN:

**ZAHERALI VISRAM**

Applicant

- and -

**2220277 ONTARIO INC.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**ELEVENTH REPORT TO THE COURT OF A. FARBER & PARTNERS INC. IN ITS  
CAPACITY AS COURT APPOINTED RECEIVER OF 2220277 ONTARIO INC.**

**October 23, 2018**

**A. GENERAL BACKGROUND**

1. On August 1, 2017, pursuant to an order (the “**Receivership Order**”) of this Honourable Court (the “**Court**”), A. Farber & Partners Inc. was appointed receiver (the “**Receiver**”), pursuant to section 243(1) of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990 over all of the assets, undertakings and properties (the “**Property**”) of 2220277 Ontario Inc. (the “**Debtor**”). A copy of the Receivership Order is attached hereto as Appendix “A”.
2. The Debtor is a corporation incorporated pursuant to the laws of the Province of Ontario. Evan Karras (“**Karras**”) is the sole director, (unpaid) employee and allegedly a shareholder of the Debtor.

3. The Property includes, without limitation, the real property municipally known as 650 Bay Street and 55 Elm Street located in Toronto, Ontario (the “**Real Property**”). The Debtor acquired the Real Property on November 13, 2009.
4. Eight parties, including the Applicant, hold mortgages/charges registered against the Real Property with a total face value of approximately \$13.25 million (additional amounts are alleged to be secured by the mortgages increasing the total indebtedness to approximately \$15 to \$20 million).
5. In addition to the amounts owing to the mortgagees, there are various PPSA registrations against the Debtor, approximately \$32,845.82 of source deduction amounts and \$12,612.55 of HST arrears owing to the Canada Revenue Agency, approximately \$105,000 of property taxes owing to the City of Toronto, and various unsecured creditors.
6. At the time of the Receiver’s appointment, a hotel and restaurant occupied the Real Property pursuant to leases entered into with the Debtor. The Receiver terminated both leases for non-payment of rent and the premises are now vacant.

#### **B. DISCLAIMER**

7. In preparing this Eleventh Report the Receiver has relied upon unaudited, draft and/or internal financial and other information provided by the sole director and officer of the Debtor, its advisors, and other third-party sources. The Receiver has not independently reviewed or verified such information. The Receiver has prepared this Eleventh Report for the sole use of the Court and of the other stakeholders in these proceedings.

#### **C. PURPOSE OF THE REPORT**

8. The purpose of this Receiver’s Eleventh Report to the Court, is to request this Honourable Court schedule a date for a motion the Receiver intends to bring for a contempt order.

#### **D. CONTEMPT**

9. Prior to the Receiver’s appointment, on or about March 13, 2016, a pipe burst at the Real Property flooding the premises and causing substantial damage to the building and its contents. At the time of the flood, two restaurants (the “**Restaurants**”), operated by related

parties, and a boutique hotel operated by the Debtor as bE SixFifty Hotel (the “**Hotel**”) occupied the Real Property.

10. The flood caused damage to the physical premises and resulted in the interruption of the business operations of the Restaurants and the Hotel. The Debtor and other insured parties filed a claim under their joint policy with their insurer, Intact Insurance Company (“**Intact**”).
11. As detailed in the Receiver’s Ninth Report to the Court, dated August 27, 2018, the Receiver reviewed information received from Intact regarding payments Intact made on account of damage and business interruption losses caused by the flood. Based on its review, the Receiver understands that, prior to the Receivership Order, Intact paid out \$1,046,755.09, including \$810,034 paid in respect of building and business interruption losses suffered by the Debtor. Attached hereto as Appendix “B” is a copy of the spreadsheet provided by Intact to the Receiver detailing the payments.
12. As of date of the Receivership Order, certain repair costs and a portion of the business interruption claims remained unpaid. Pursuant to the Notice of Action, issued March 3, 2017, and a Statement of Claim, dated March 30, 2017, the Debtor, 756597 Ontario Limited (“**756 Ontario**”), and 2296528 Ontario Inc. (“**229 Ontario**”, and collectively, the “**Plaintiffs**”) commenced an action bearing Court File No. CV-17-570808 (the “**Action**”) against Intact for damages incurred as a result of the flood. Copies of the Notice of Action and the Statement of Claim are attached hereto as Appendix “C”.
13. Karras is the sole director and officer of each of the Plaintiffs named in the Action. Copies of the corporate profile reports of each of 756 Ontario and 229 Ontario are attached hereto as Appendix “D”.
14. The Statement of Claim, which was issued prior to the Receivership Order, states that the Restaurants were operated by 756 Ontario and the Hotel was operated by the Debtor. The Statement of Claim describes 229 Ontario as the parent company of the Debtor. However the Receiver has been unable to verify this statement and Karras has, at times, represented that he owns the Debtor directly.

15. The Receiver conducted a review of the Debtor's limited banking records and there is no record of any insurance payments being deposited into the Debtor's bank account. Accordingly, it does not appear that the Debtor received such funds and it is unclear to whom Karras directed the \$810,034 proceeds be paid to.
16. Pursuant to the Order of the Honourable Justice Penny, dated September 20, 2018 (the "**September 20 Order**"), each of Karras, 756 Ontario and 229 Ontario were directed to deliver to the Receiver a full accounting of all insurance proceeds received in respect of the flood. The accounting was required to be delivered within thirty days of the date of the September 20 Order. A copy of the September 20 Order is attached hereto as Appendix "E".
17. Further, pursuant to the September 20 Order, each of Karras, 756 Ontario, 229 Ontario and any other party in receipt of insurance proceeds in respect of the Debtor's building and business interruption claims were to forthwith disgorge all such monies and pay them to the Receiver, in trust.
18. Karras' counsel and Karras were both personally in attendance at the September 20, 2018 hearing. By emails, dated September 20, October 11, October 18 and October 22, 2018, the Receiver's counsel wrote to Karras' counsel seeking compliance with the September 20 Order. No response has been received to any of the emails. Copies of the emails from the Receiver's counsel to Karras' counsel are attached hereto as Appendix "F".
19. As of the date of this Eleventh Report, the Receiver has not received the accounting, nor have the parties disgorged any insurance proceeds. Given the lack of compliance with the September 20 Order, the Receiver requests that this Honourable Court schedule a contempt hearing in respect of this matter.

#### **E. RECOMMENDATIONS**

20. The Receiver respectfully requests that this Honourable Court schedule a motion to be brought by the Receiver seeking an Order finding that each Karras, 756 Ontario and 229 Ontario are in contempt of the September 20 Order.



- 5 -

**ALL OF WHICH IS RESPECTFULLY SUBMITTED  
THIS 23rd DAY OF OCTOBER, 2018.**

**A. Farber & Partners Inc. in its capacity  
as Court-appointed Receiver of 2220277 Ontario Inc.  
and not in its personal or corporate capacity**

**Per:**  \_\_\_\_\_

Name: John Hendriks

Title: Managing Director

**TAB A**

Court File No. CV-17-11811-00CL

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

THE HONOURABLE

)

TUESDAY, THE 1<sup>st</sup>

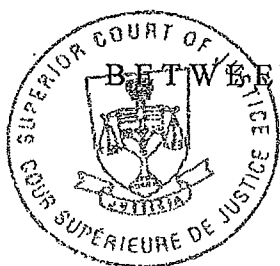
JUSTICE

Mesbur

)

DAY OF AUGUST, 2017

)



BETWEEN:

**ZAHERALI VISRAM**

Applicant

- and -

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ORDER  
(appointing Receiver)**

**THIS APPLICATION** made by the Applicant 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 (the "**Receiver**") without security, of all of the assets, undertakings and properties of the Respondent, 2220277 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Zaherali Visram sworn May 15, 2017 and the Exhibits thereto, the Reply Affidavit of Zaherali Visram sworn June 7, 2017 and the Exhibits thereto, the Affidavit of Evan Karras sworn May 31, 2017 and the Exhibits thereto, and the Minutes of Settlement and Endorsement of Justice Conway dated July 14, 2017, and on hearing the submissions of counsel for the Applicant, and on reading the consent of A. Farber & Partners Inc. to act as the Receiver,

#### **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 of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**"), which includes, without limitation, the real property municipally known as 650 Bay Street and 55 Elm Street, Toronto, ON and legally described as follows:

PIN 21199-0067 (LT)

Property Description: PT LT 2 PL 60 TORONTO AS IN  
CA720524; CITY OF TORONTO

Land Registry Office: #66

#### **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 Debtor, 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 Debtor;
- (d) 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) 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 Debtor, for any purpose pursuant to this Order;
- (i) 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 Debtor, 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;
- (j) 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;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court, and in 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;

- (l) 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;
- (m) 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;

- (r) 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 Debtor, and without interference from any other Person.

### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

3. **THIS COURT ORDERS** that (i) the Debtor, (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.

4. **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 Debtor, 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 4 or in paragraph 5 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.

5. **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.

6. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any

applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. **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 DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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**

10. **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 Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Debtor's 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 Debtor 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**

12. **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 into one or more new accounts 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**

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's 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**

14. **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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. **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**

16. **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, 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**

17. **THIS COURT 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 unless otherwise ordered by the Court on the passing of accounts, 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, both before and 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, mortgages, 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*.

18. **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.

19. **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 standard 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**

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered 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 \$250,000 (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. The whole of the Property 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*.

21. **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.

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

23. **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.

#### **SERVICE AND NOTICE**

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.



26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **GENERAL**

27. **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.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **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.

30. **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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, 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 Debtor's estate with such priority and at such time as this Court may determine.


32. **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.



C. Irwin  
Registrar

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

AUG 01 2017

PER / PAR: 

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that A. Farber & Partners Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties 2220277 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 1<sup>st</sup> day of August, 2017 (the "**Order**") made in an application having Court File No. CV-17-11811-00CL, 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 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.

- 2 -

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 \_\_\_\_\_, 20\_\_.

A. FARBER & PARTNERS INC., solely in its  
capacity as Receiver of the Property, and not in  
its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**ZAHERALI VISRAM**  
Applicant

-and-

**2220277 ONTARIO INC.**  
Respondent  
Court File No. CV-17-11811-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(appointing Receiver)**

**CHAITONS LLP**

5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

**Harvey Chaiton (LSUC No. 21592F)**

Tel: (416) 218-1129

Fax: (416) 218-1849

E-mail: harvey@chaitons.com

**Sam Rappos (LSUC No. 51399S)**

Tel: (416) 218-1137

Fax: (416) 218-1837

E-mail: samr@chaitons.com

**Lawyers for the Applicant**

**TAB B**

Insured: 650 Hotel  
ClaimsPro File: 34712-1064961  
Payment Summary (Updated August 11, 2017)

**Building**

Payee	Description	Amount Requested	Amount Received	Cheque No.	Date of Issuance
Restoration Aid	Emergency	\$101,125.24	\$101,125.24	3328694	27-Apr-16
650 Hotel	Building Advance	\$30,000.00	\$30,000.00	3331446	31-May-16
Burkes	Building Advance	\$20,000.00	\$20,000.00	337354	16-Aug-16
Burkes	Building Advance	\$10,511.63	\$10,511.63	3337355	16-Aug-16
650 Hotel	Building Advance	\$20,000.00	\$20,000.00	3337963	24-Aug-16
650 Hotel	Building Advance	\$75,000.00	\$75,000.00	3346933	30-Dec-16
ServiceMaster of Markham	Payment Invoice #224159	\$2,655.50	\$2,655.50	224159	14-Jun-17
Burkes Restoration		NA	\$66,863.78	3358644	22-SER-17
<b>Total</b>		<b>\$259,292.37</b>	<b>\$326,156.15</b>		

**Contents**

Payee	Description	Amount Requested	Amount Received	Cheque No.	Date of Issuance
650 Hotel	Contents Payment	\$20,420.68	\$20,420.68	3355100	14-Jun-17
Relectronic-Remech Inc.	Invoice #1706499 (New Payment Request)	\$4,324.90	\$4,324.90	3359908	26-OCT-17V
<b>Total</b>		<b>\$24,745.58</b>	<b>\$24,745.58</b>		

**Business Interruption**

Payee	Description	Amount Requested	Amount Received	Cheque No.	Date of Issuance
650 Hotel	BI Advance	\$20,000.00	\$20,000.00	3325897	28-Mar-16
650 Hotel	BI Advance	\$20,000.00	\$20,000.00	3325897	28-Mar-16
650 Hotel	BI Advance	\$20,000.00	\$20,000.00	3326800	7-Apr-16
650 Hotel	BI Advance	\$20,000.00	\$20,000.00	3328344	22-Apr-16
650 Hotel	BI Advance	\$200,000.00	\$200,000.00	3334745	15-Jul-16
650 Hotel	BI Advance	\$150,000.00	\$150,000.00	3342992	3-Nov-16
650 Hotel	BI Advance	\$227,113.00	\$227,113.00	3348358	26-Jan-17
<b>Total</b>		<b>\$657,113.00</b>	<b>\$657,113.00</b>		

**Extra Expense**

Payee	Description	Amount Requested	Amount Received	Cheque No.	Date of Issuance
Musa Suleman	Account Fee	\$15,000.00	\$15,000.00	3330750	20-May-16
650 Hotel	Account Fee	\$7,500.00	\$7,500.00		15-Jul-16
<b>Total</b>		<b>\$22,500.00</b>	<b>\$22,500.00</b>		

**Professional Fees**

Payee	Description	Amount Requested	Amount Received	Cheque No.	Date of Issuance
Matson Driscoll & Damico	Invoice #50201700224	\$10,321.42	\$10,321.42	3355104	14-Jun-17
Matson Driscoll & Damico	Invoice #50201700818	\$5,918.94	\$5,918.94	3355104	14-Jun-17
<b>Total</b>		<b>\$16,240.36</b>	<b>\$16,240.36</b>		

**TAB C**



Court File No.

CV-17-570808

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:



756597 ONTARIO LIMITED, 2296528 ONTARIO INC.  
and 2220277 ONTARIO INC.

PLAINTIFFS

- and -

INTACT INSURANCE COMPANY

DEFENDANT

## NOTICE OF ACTION

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

(Where the claim made is for money only, include the following:)

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1500.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date March 3, 2017Issued by [Signature]

Local registrar

Address of  
Court Office 393 University Avenue, 10<sup>th</sup> Floor,  
Toronto, Ontario M5G 1E6

TO: Intact Insurance Company, 1 - 700 University Avenue, Toronto, Ontario M5G 1X7

## CLAIM

1. The Plaintiffs claim as against the Defendant:
  - (a) Compensation and indemnity under insurance policy 501351778 for losses incurred as a result of flooding and the consequent business interruption and consequential damages arising therefrom which occurred on 13<sup>th</sup> of March 2016 in the amount of \$1,500,000.00;
  - (b) Interest in accordance with the Courts of Justice Act;
  - (c) Costs on a substantial indemnity basis;
  - (d) Punitive damages of \$50,000.00 for bad faith in the settlement of this claim;
  - (e) Such further and other relief as to this Honourable Court may seem just.

Date of Issue: *March 3, 2017*

Alfred Schorr  
Barrister & Solicitor  
227 Eagle Street East, Suite 200  
Newmarket Ontario L3Y 1J8

Alfred Schorr 905-940-9252  
Fax: 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff

Action No. CV-17-570808

756597 Ontario Limited et al

and Intact Insurance Company

Plaintiff

Defendant

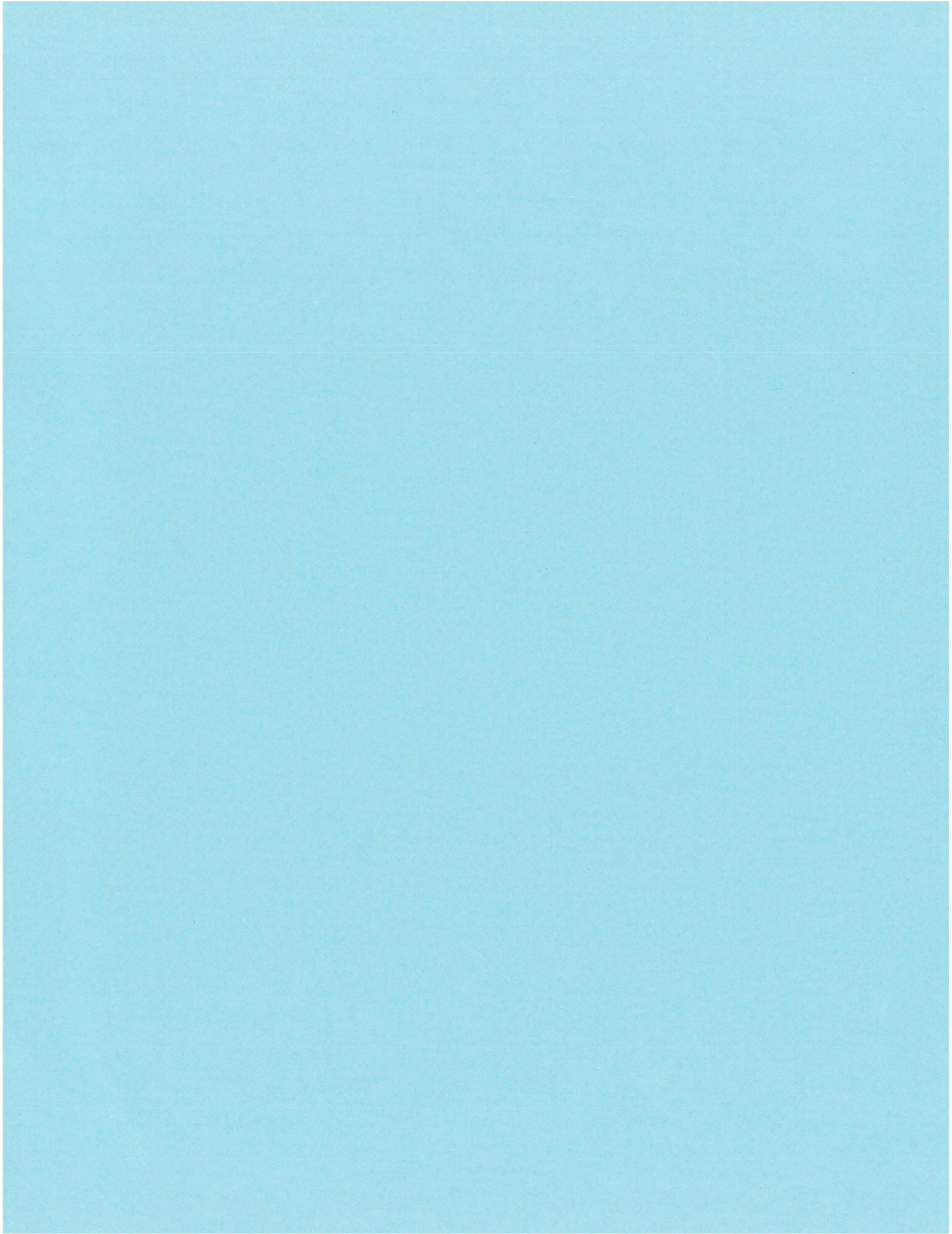
ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceedings commenced in  
Toronto

NOTICE OF ACTION

ALFRED S. SCHORR,  
Barrister and Solicitor,  
227 Eagle Street East  
Suite 200  
Newmarket Ontario L3Y 1J8

(905) 940-9252  
Telecopier 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff



Court File No. CV-17-570808

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N :

756597 ONTARIO LIMITED, 2296528 ONTARIO INC.  
and 2220277 ONTARIO INC.

PLAINTIFFS

- and -

INTACT INSURANCE COMPANY

DEFENDANT

STATEMENT OF CLAIM  
Action commenced by way of Notice of Action  
Issued March 3 2017.

1. Plaintiffs claim as against the Defendant:
  - (a) Compensation and indemnity under insurance policy 501351778 for losses incurred as a result of flooding and the consequent business interruption and consequential damages arising therefrom which occurred on 13<sup>th</sup> of March 2016 in the amount of \$1,500,000.00;
  - (b) Interest in accordance with the Courts of Justice Act;
  - (c) Costs on a substantial indemnity basis;
  - (d) Punitive damages of \$50,000.00 for bad faith in the settlement of this claim;
  - (e) Such further and other relief as to this Honourable Court may seem just.
2. The Plaintiffs are corporations incorporated pursuant to the Laws of the Province of Ontario.

3. The Defendant is an insurance company licensed to issue casualty insurance in the Province of Ontario.
4. 2220277 Ontario Inc. is the registered owner of a building municipally known as 55 Elm Street, Toronto, Ontario but which also has a municipal address of 650 Bay Street, Toronto, Ontario. The addresses are interchangeable.
5. The Plaintiff 756597 Ontario Limited is a tenant of the Plaintiff 2220277 Ontario Inc. and operates two restaurants known as 650 Café Bistro and Sliced Gourmet.
6. The Plaintiff 2296528 Ontario Inc. is the parent company of 2220277 Ontario Inc. (which originally operated a hotel located at the subject premises) which hotel is now operated by Be SixFifty Hotel Inc., a wholly owned subsidiary of the Plaintiff 2296528 Ontario Inc.
7. The Plaintiffs and others applied for and the Defendant issued a policy of insurance number 501351778 providing, among other provisions, for indemnity for any losses sustained as a result of a number of perils including flooding. The aforesaid policy covered the period from November 25 2015 to November 25 2016.

8. On or about the 13<sup>th</sup> of March 2016 a water pipe burst at the subject premises resulting in substantial water damage to the ceilings and walls of the hotel and the two restaurants and considerable business interruption.

9. The Plaintiffs immediately reported the loss to the Defendant and the Defendant engaged the services of an adjuster to provide immediate assistance, to value the claim and to negotiate with the Plaintiffs a settlement of the Plaintiffs' claims.

10. A number of the Plaintiffs' claims have been adjusted and paid. There remain, however, many unresolved claims, particularly in connection with business loss and in particular, but without limitation, the claims for business loss as established by Matson Driscoll & Damico Ltd. (Forensic Accountants) of \$748,341.00 (covering only the period up to July 2016). Additionally there remains outstanding claims for physical damage to the premises and business losses after July of 2016.

11. The Defendant has not requested any of the Plaintiffs to provide Proofs of Loss but has delayed in adjusting the claim.

12. The Plaintiffs claim that under all of the circumstances the Defendant is estopped from relying on any failure of the Plaintiffs to provide Proofs of Loss or

any other documentation except as may be specifically requested and that the Defendant is delaying resolution, in bad faith.

13. The Plaintiffs submit that they are entitled to the relief as pleaded in paragraph 1 herein.

Delivered at Toronto this 30<sup>th</sup> day of March 2017.

Alfred Schorr  
Barrister & Solicitor  
227 Eagle Street East, Suite 200  
Newmarket, Ontario L3Y 1J8

Toronto No. 905-940-9252  
Toronto Fax 905-940-5583  
Newmarket No. 905-898-8176  
Newmarket Fax 905-898-4935  
LSUC #11693H  
Lawyer for the Plaintiffs



**Action No. CV-17-570808**

**756597 Ontario Limited et al**

**and Intact Insurance Company**

**Plaintiff**

**Defendant**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
  
Proceedings commenced in  
Toronto**

**Statement of Claim**

**ALFRED S. SCHORR,  
Barrister and Solicitor,  
227 Eagle Street East  
Suite 200  
Newmarket Ontario L3Y 1J8  
  
(905) 940-9252  
Telecopier 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff**

**TAB D**

Request ID: 021277555  
Transaction ID: 67121885  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/02/12  
Time Report Produced: 13:45:18  
Page: 1

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Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
756597	756597 ONTARIO LIMITED	1988/01/26
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
259 GERRARD STREET EAST	NOT APPLICABLE	NOT APPLICABLE
	New Amal. Number	Notice Date
TORONTO	NOT APPLICABLE	NOT APPLICABLE
ONTARIO		Letter Date
CANADA M5A 2G1		NOT APPLICABLE
Mailing Address	Revival Date	Continuation Date
261 GERRARD STREET EAST	NOT APPLICABLE	NOT APPLICABLE
	Transferred Out Date	Cancel/Inactive Date
TORONTO	NOT APPLICABLE	NOT APPLICABLE
ONTARIO		
CANADA M5A 2G1		
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors Minimum Maximum	Date Ceased in Ontario
	UNKNOWNUNKNOWN	NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

Request ID: 021277555  
Transaction ID: 67121885  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/02/12  
Time Report Produced: 13:45:18  
Page: 2

83

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

756597

756597 ONTARIO LIMITED

Corporate Name History

Effective Date

756597 ONTARIO LIMITED

1988/01/26

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

YES - SEARCH REQUIRED FOR DETAILS

Administrator:  
Name (Individual / Corporation)

Address

EVAN

261 GERRARD STREET EAST

KARRAS

TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/31

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

DIRECTOR

Y

Request ID: 021277555  
Transaction ID: 67121885  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/02/12  
Time Report Produced: 13:45:18  
Page: 3

84

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

756597

756597 ONTARIO LIMITED

Administrator:

Name (Individual / Corporation)

Address

EVAN

261 GERRARD STREET EAST

KARRAS

TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/31

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

PRESIDENT

Y

Administrator:

Name (Individual / Corporation)

Address

EVAN

261 GERRARD STREET EAST

KARRAS

TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/31

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

SECRETARY

Y

Request ID: 021277555  
Transaction ID: 67121885  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/02/12  
Time Report Produced: 13:45:18  
Page: 4

85

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

756597

756597 ONTARIO LIMITED

Last Document Recorded

Act/Code Description

Form

Date

CIA ANNUAL RETURN 2011

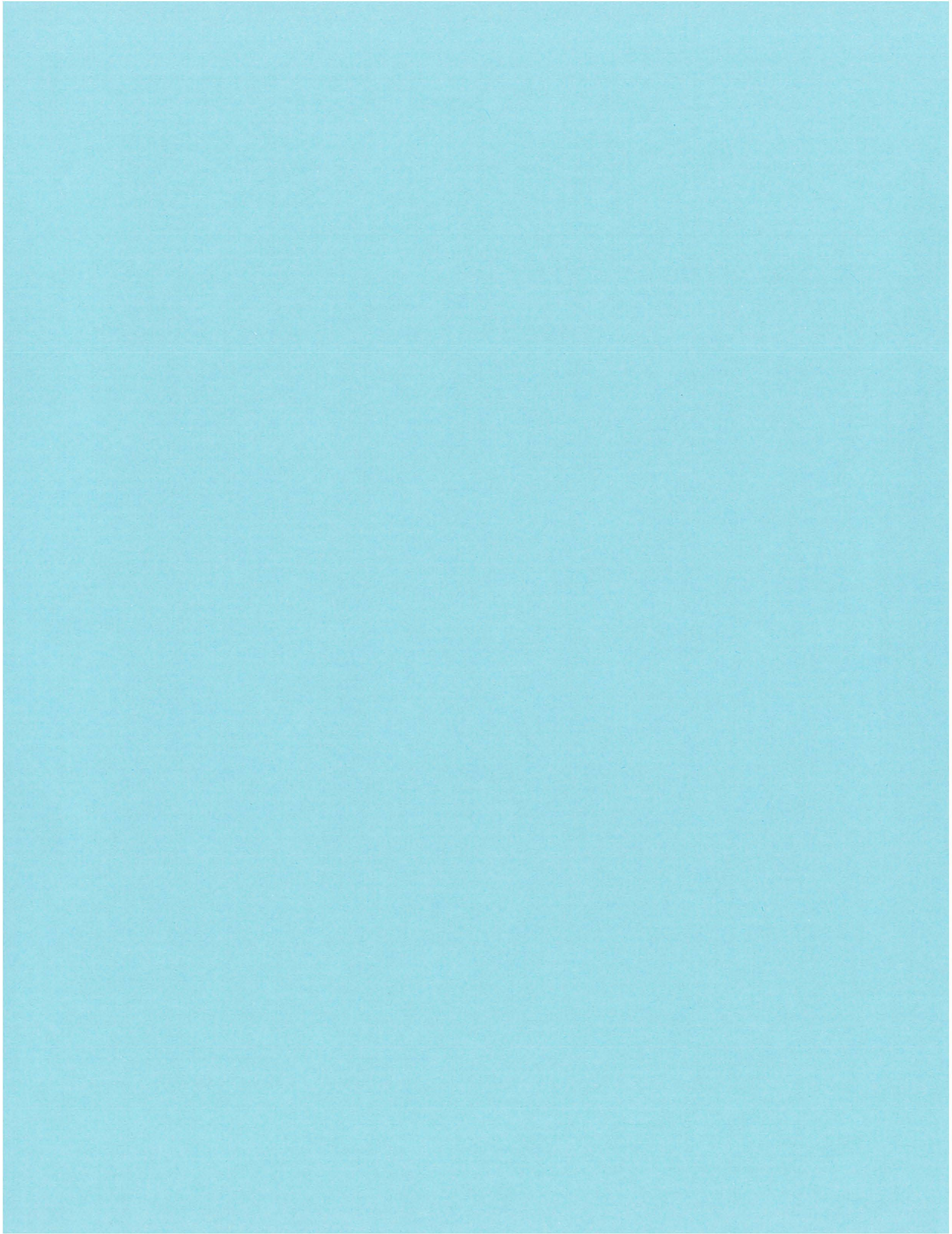
1C

2011/10/01 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this certified report in electronic form is authorized by the Ministry of Government Services.



Request ID: 020581011  
Transaction ID: 65299181  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/08/09  
Time Report Produced: 15:52:16  
Page: 1

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## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2296528	2296528 ONTARIO INC.	2011/08/24
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
100 KING STREET WEST 1 FIRST CANADIAN PLACE Suite # 6000 TORONTO ONTARIO CANADA M5X 1E2	NOT APPLICABLE	NOT APPLICABLE
	New Amal. Number	Notice Date
	NOT APPLICABLE	NOT APPLICABLE
		Letter Date
Mailing Address		NOT APPLICABLE
100 KING STREET WEST 1 FIRST CANADIAN PLACE Suite # 6000 TORONTO ONTARIO CANADA M5X 1E2	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
	Transferred Out Date	Cancel/Inactive Date
	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors Minimum Maximum	Date Commenced in Ontario
	00001 00010	NOT APPLICABLE
Activity Classification		Date Ceased in Ontario
NOT AVAILABLE		NOT APPLICABLE



Request ID: 020581011  
Transaction ID: 65299181  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/08/09  
Time Report Produced: 15:52:16  
Page: 2

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## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2296528

2296528 ONTARIO INC.

Corporate Name History

Effective Date

2296528 ONTARIO INC.

2011/08/24

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Administrator:  
Name (Individual / Corporation)

Address

EVAN  
KARRAS

261 GERRARD STREET  
  
TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/24

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

DIRECTOR

Y

Request ID: 020581011  
Transaction ID: 65299181  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/08/09  
Time Report Produced: 15:52:16  
Page: 3

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## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2296528

2296528 ONTARIO INC.

Administrator:  
Name (Individual / Corporation)

Address

EVAN  
KARRAS

261 GERRARD STREET  
  
TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/24

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

PRESIDENT

Y

Administrator:  
Name (Individual / Corporation)

Address

EVAN  
KARRAS

261 GERRARD STREET  
  
TORONTO  
ONTARIO  
CANADA M5A 2G1

Date Began

First Director

2011/08/24

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

SECRETARY

Y

Request ID: 020581011  
Transaction ID: 65299181  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/08/09  
Time Report Produced: 15:52:16  
Page: 4

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## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2296528

2296528 ONTARIO INC.

### Last Document Recorded

Act/Code	Description	Form	Date
CIA	INITIAL RETURN	1	2011/08/29 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Request ID: 020581014  
Transaction ID: 65299186  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/08/09  
Time Report Produced: 15:52:25  
Page: 1

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## CORPORATION DOCUMENT LIST

**Ontario Corporation Number**  
2296528

**Corporation Name**  
2296528 ONTARIO INC.

ACT/CODE	DESCRIPTION	FORM	DATE (YY/MM/DD)
CIA	INITIAL RETURN PAF: SHNEIDER, ILANA	1	2011/08/29 (ELECTRONIC FILING)
BCA	ARTICLES OF INCORPORATION	1	2011/08/24 (ELECTRONIC FILING)

THIS REPORT SETS OUT ALL DOCUMENTS FOR THE ABOVE CORPORATION WHICH HAVE BEEN FILED ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

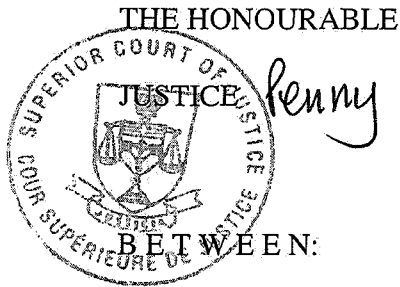
ALL "PAF" (PERSON AUTHORIZING FILING) INFORMATION IS DISPLAYED EXACTLY AS RECORDED IN ONBIS. WHERE PAF IS NOT SHOWN AGAINST A DOCUMENT, THE INFORMATION HAS NOT BEEN RECORDED IN THE ONBIS DATABASE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

# **TAB E**

Court File No. CV-17-11811-00CL

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



THE HONOURABLE

)

THURSDAY, THE 20th

)

DAY OF SEPTEMBER, 2018

)

BETWEEN:

**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**ORDER**

**THIS MOTION**, made by A. Farber & Partners Inc., in its capacity as the court appointed receiver (the “**Receiver**”) of the assets, undertakings and properties of 2220277 Ontario Inc. (the “**Debtor**”), appointed pursuant to the Order of the Honourable Justice Mesbur, dated August 1, 2017 (the “**Receivership Order**”), for an order approving the Receiver’s fees and those of its counsel, increasing the Receiver’s borrowing capacity, directing Intact Insurance Company (“**Intact**”) to pay the Insurance Proceeds (defined below) to the Receiver, and granting certain other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Ninth Report of the Receiver, dated August 27, 2018 (“**Ninth Report**”), the affidavits of the Receiver and its counsel as to fees (the “**Fee Affidavits**”), and on

hearing the submissions of counsel for the Receiver, Zaherali Visram, the Debtor, and 650 Bay Limited Partnership, no other parties appearing:

#### **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and the Motion Materials be and is hereby abridged and validated and this Motion is properly returnable today.

#### **REPORT AND ACTIVITIES**

2. **THIS COURT ORDERS** that the Ninth Report, and the activities and conduct of the Receiver described therein, be and are hereby approved.

#### **STATEMENT OF RECEIPTS AND DISBURSEMENTS**

3. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements, dated August 18, 2018, attached as Appendix "B" to the Ninth Report, be and is hereby approved.

#### **FEES AND DISBURSEMENTS**

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, for the period from March 17, 2018, to August 18, 2018, and its counsel, for the period from March 5, 2018, to July 31, 2018, as set out in the Ninth Report and the Fee Affidavits, be and are hereby approved.

#### **FUNDING OF THE RECEIVERSHIP**

5. **THIS COURT ORDERS** that paragraph 20 of the Receivership Order be and is hereby amended such that the maximum principal amount that the Receiver is empowered to borrow by way of revolving credit or otherwise is increased from \$250,000 to \$700,000 (or such greater amount as this Court may by further Order authorize).

#### **PRE-RECEIVERSHIP INSURANCE PROCEEDS**

6. **THIS COURT ORDERS AND DIRECTS** Evan Karras ("**Karras**"), 756597 Ontario Limited ("**756 Ontario**") and 2296528 Ontario Inc. ("**229 Ontario**") to deliver to the Receiver a

full accounting of all insurance proceeds received in respect of the March 13, 2016 flood (the "**Flood**") at 650 Bay Street and 55 Elm Street, Toronto, Ontario. The accounting is to be delivered within 30 days of the date hereof.

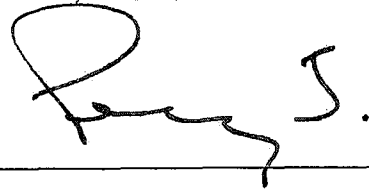
7. **THIS COURT ORDERS AND DIRECTS** Karras, 756 Ontario, 229 Ontario and any other party in receipt of the \$810,034 of insurance proceeds paid out by Intact in respect of the Debtor's building and business interruption claims arising as a result of the Flood, or any portion thereof, to forthwith disgorge same and deliver such monies to the Receiver to be held in trust by the Receiver until further Order of this Honourable Court or written agreement of Karras, 756 Ontario, 229 Ontario and the Receiver.

### **INSURANCE PROCEEDS**

8. **THIS COURT ORDERS AND DIRECTS** Intact to forthwith pay CAD \$453,189.00 (the "**Insurance Proceeds**") to the Receiver, to be held in trust by the Receiver until further Order of this Honourable Court or written agreement of Karras, 756 Ontario, 229 Ontario and the Receiver.

9. **THIS COURT ORDERS** that, effective upon the filing with this Honourable Court of a certificate of the Receiver confirming the receipt of the Insurance Proceeds:

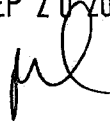
- (a) the action in the Ontario Superior Court of Justice, bearing Court File No. CV-17-570808 (the "**Action**"), commenced by Notice of Action, dated March 3, 2017, and Statement of Claim, dated March 30, 2017, attached hereto as Schedule "A", shall be dismissed, with prejudice and without costs; and
- (b) Intact shall be released from and against any and all claims, actions, causes of action, demands for monies, losses, and damages arising from or relating to the issues raised in, or that could have been raised in, the Action.



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

SEP 20 2018

PER / PAR:





**Schedule "A" – Notice of Action and Statement of Claim**

ONTARIO  
SUPERIOR COURT OF JUSTICE

Court File No.

CV-17-570808

BETWEEN:



756597 ONTARIO LIMITED, 2296528 ONTARIO INC.  
and 2220277 ONTARIO INC.

PLAINTIFFS

- and -

INTACT INSURANCE COMPANY

DEFENDANT

NOTICE OF ACTION

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

(Where the claim made is for money only, include the following:)

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1500.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date March 3, 2017

Issued by [Signature]

Address of  
Court Office 393 University Avenue, 10<sup>th</sup> Floor,  
Toronto, Ontario M5G 1E6

Local registrar

TO: Intact Insurance Company, 1 - 700 University Avenue, Toronto, Ontario M5G 1X7

## CLAIM

1. The Plaintiffs claim as against the Defendant:
  - (a) Compensation and indemnity under insurance policy 501351778 for losses incurred as a result of flooding and the consequent business interruption and consequential damages arising therefrom which occurred on 13<sup>th</sup> of March 2016 in the amount of \$1,500,000.00;
  - (b) Interest in accordance with the Courts of Justice Act;
  - (c) Costs on a substantial indemnity basis;
  - (d) Punitive damages of \$50,000.00 for bad faith in the settlement of this claim;
  - (e) Such further and other relief as to this Honourable Court may seem just.

Date of Issue: *March 3, 2017*

Alfred Schorr  
Barrister & Solicitor  
227 Eagle Street East, Suite 200  
Newmarket Ontario L3Y 1J8

Alfred Schorr 905-940-9252  
Fax: 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff

Action No. CV-17-570808

756597 Ontario Limited et al

and Intact Insurance Company

Plaintiff

Defendant

ONTARIO  
SUPERIOR COURT OF JUSTICE  
  
Proceedings commenced in  
Toronto

NOTICE OF ACTION

ALFRED S. SCHORR,  
Barrister and Solicitor,  
227 Eagle Street East  
Suite 200  
Newmarket Ontario L3Y 1J8

(905) 940-9252  
Telecopier 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff

Court File No. CV-17-570808

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

756597 ONTARIO LIMITED, 2296528 ONTARIO INC.  
and 2220277 ONTARIO INC.

PLAINTIFFS

- and -

INTACT INSURANCE COMPANY

DEFENDANT

STATEMENT OF CLAIM  
Action commenced by way of Notice of Action  
Issued March 3 2017.

1. Plaintiffs claim as against the Defendant:
  - (a) Compensation and indemnity under insurance policy 501351778 for losses incurred as a result of flooding and the consequent business interruption and consequential damages arising therefrom which occurred on 13<sup>th</sup> of March 2016 in the amount of \$1,500,000.00;
  - (b) Interest in accordance with the Courts of Justice Act;
  - (c) Costs on a substantial indemnity basis;
  - (d) Punitive damages of \$50,000.00 for bad faith in the settlement of this claim;
  - (e) Such further and other relief as to this Honourable Court may seem just.
2. The Plaintiffs are corporations incorporated pursuant to the Laws of the Province of Ontario.

3. The Defendant is an insurance company licensed to issue casualty insurance in the Province of Ontario.
4. 2220277 Ontario Inc. is the registered owner of a building municipally known as 55 Elm Street, Toronto, Ontario but which also has a municipal address of 650 Bay Street, Toronto, Ontario. The addresses are interchangeable.
5. The Plaintiff 756597 Ontario Limited is a tenant of the Plaintiff 2220277 Ontario Inc. and operates two restaurants known as 650 Café Bistro and Sliced Gourmet.
6. The Plaintiff 2296528 Ontario Inc. is the parent company of 2220277 Ontario Inc. (which originally operated a hotel located at the subject premises) which hotel is now operated by Be SixFifty Hotel Inc., a wholly owned subsidiary of the Plaintiff 2296528 Ontario Inc.
7. The Plaintiffs and others applied for and the Defendant issued a policy of insurance number 501351778 providing, among other provisions, for indemnity for any losses sustained as a result of a number of perils including flooding. The aforesaid policy covered the period from November 25 2015 to November 25 2016.

8. On or about the 13<sup>th</sup> of March 2016 a water pipe burst at the subject premises resulting in substantial water damage to the ceilings and walls of the hotel and the two restaurants and considerable business interruption.

9. The Plaintiffs immediately reported the loss to the Defendant and the Defendant engaged the services of an adjuster to provide immediate assistance, to value the claim and to negotiate with the Plaintiffs a settlement of the Plaintiffs' claims.

10. A number of the Plaintiffs' claims have been adjusted and paid. There remain, however, many unresolved claims, particularly in connection with business loss and in particular, but without limitation, the claims for business loss as established by Matson Driscoll & Damico Ltd. (Forensic Accountants) of \$748,341.00 (covering only the period up to July 2016). Additionally there remains outstanding claims for physical damage to the premises and business losses after July of 2016.

11. The Defendant has not requested any of the Plaintiffs to provide Proofs of Loss but has delayed in adjusting the claim.

12. The Plaintiffs claim that under all of the circumstances the Defendant is estopped from relying on any failure of the Plaintiffs to provide Proofs of Loss or

any other documentation except as may be specifically requested and that the Defendant is delaying resolution, in bad faith.

13. The Plaintiffs submit that they are entitled to the relief as pleaded in paragraph 1 herein.

Delivered at Toronto this 30<sup>th</sup> day of March 2017.

Alfred Schorr  
Barrister & Solicitor  
227 Eagle Street East, Suite 200  
Newmarket, Ontario L3Y 1J8

Toronto No. 905-940-9252  
Toronto Fax 905-940-5583  
Newmarket No. 905-898-8176  
Newmarket Fax 905-898-4935  
LSUC #11693H  
Lawyer for the Plaintiffs



Action No. CV-17-570808

756597 Ontario Limited et al

and Intact Insurance Company

Plaintiff

Defendant

ONTARIO  
SUPERIOR COURT OF JUSTICE  
  
Proceedings commenced in  
Toronto

Statement of Claim

ALFRED S. SCHORR,  
Barrister and Solicitor,  
227 Eagle Street East  
Suite 200  
Newmarket Ontario L3Y 1J8

(905) 940-9252  
Telecopier 905-940-5583  
Law Society No. 11693H  
Lawyer for the Plaintiff

Court File No: CV-17-11811-00CL

**ZAHERALI VISRAM**  
**Applicant**

- and -

**2220277 ONTARIO INC.**  
**Respondent**

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

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**DENTONS CANADA LLP**

77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**Kenneth Kraft** (LSO # 31919P)

Tel: 416-863-4374

Fax: (416) 863-4592

[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Sara-Ann Van Allen** (LSO # 56016C)

Tel: (416) 863-4402

[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*

**TAB F**

Subject: 650 Bay - Outstanding Issues and today's Order

Date: 20/09/2018 3:28 PM

From: "Van Allen, Sara-Ann" <sara.vanallen@dentons.com>

To: "wjaskiewicz@kmblaw.com" <wjaskiewicz@kmblaw.com>

Cc: "Stuart Mitchell" <smitchell@farbergroup.com>, "John Hendriks" <jhendriks@farbergroup.com>, "Kraft, Kenneth" <kenneth.kraft@dentons.com>

Wojtek,

Further to this morning's court appearance, below is a list of outstanding matters between Karras and the estate. This list was included in previous correspondence with Mr. Jenkins of your office.

- (a) outstanding pre-receivership and post-receivership rent owing to the Debtor by bE SixFifty Hotel Inc. in the amount of approximately \$235,917;
- (b) \$200,000 held in trust by Robert Hine;
- (c) the Debtor's insurance proceeds, totalling approximately \$810,034, that were paid by Intact Insurance Company, pre-receivership, to companies controlled by Mr. Karras; and
- (d) the allocation of the \$450,000 of insurance proceeds from Intact.

Also attached is the order from this morning's appearance. The Order directs Mr. Karras and his companies to forthwith disgorge the Debtor's \$810,034 of insurance proceeds received pre-receivership and deliver such funds to the Receiver, to be held in trust.

Regards,  
Sara



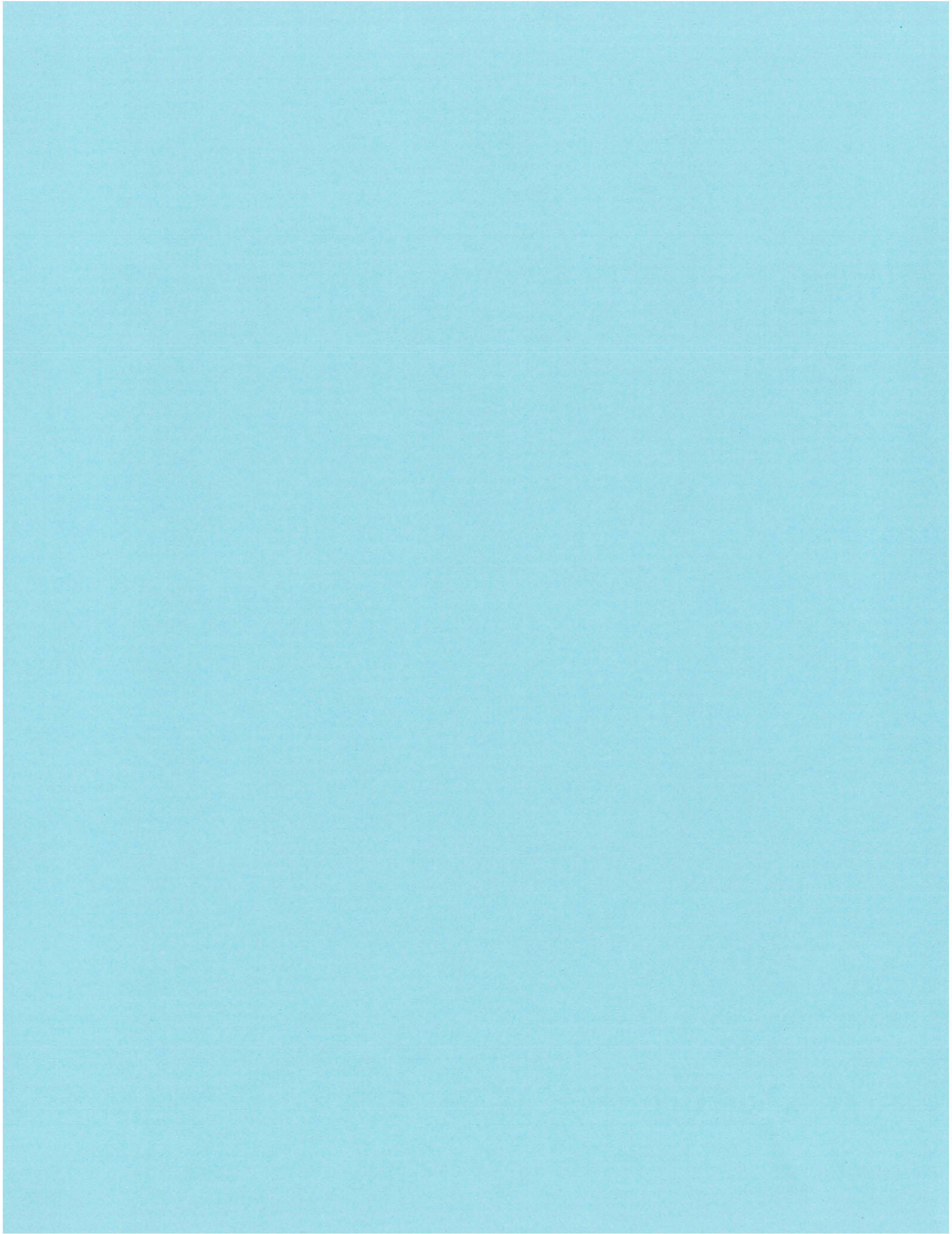
Sara-Ann Van Allen  
Counsel

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[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)  
[Bio](#) | [Website](#)

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77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

Maclay Murray & Spens > Gallo Barrios Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF Partners > 大成 > McKenna Long

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Subject: RE: 650 Bay - Outstanding Issues and today's Order  
 Date: 11/10/2018 2:54 PM  
 From: "Van Allen, Sara-Ann" <sara.vanallen@dentons.com>  
 To: "Van Allen, Sara-Ann" <sara.vanallen@dentons.com>, "wjaskiewicz@kmblaw.com" <wjaskiewicz@kmblaw.com>  
 Cc: "smitchell@farbergroup.com" <smitchell@farbergroup.com>, "jhendriks@farbergroup.com" <jhendriks@farbergroup.com>, "Kraft, Kenneth" <kenneth.kraft@dentons.com>

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Regards,



Sara-Ann Van Allen  
 Counsel

D +1 416 863 4402  
[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)  
[Bio](#) | [Website](#)

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 Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF  
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---

**From:** Van Allen, Sara-Ann <sara.vanallen@dentons.com>  
**Sent:** September 20, 2018 3:29 PM  
**To:** [wjaskiewicz@kmblaw.com](mailto:wjaskiewicz@kmblaw.com)  
**Cc:** [smitchell@farbergroup.com](mailto:smitchell@farbergroup.com); [jhendriks@farbergroup.com](mailto:jhendriks@farbergroup.com); [kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)  
**Subject:** 650 Bay - Outstanding Issues and today's Order

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Regards,  
Sara



Sara-Ann Van Allen  
Counsel

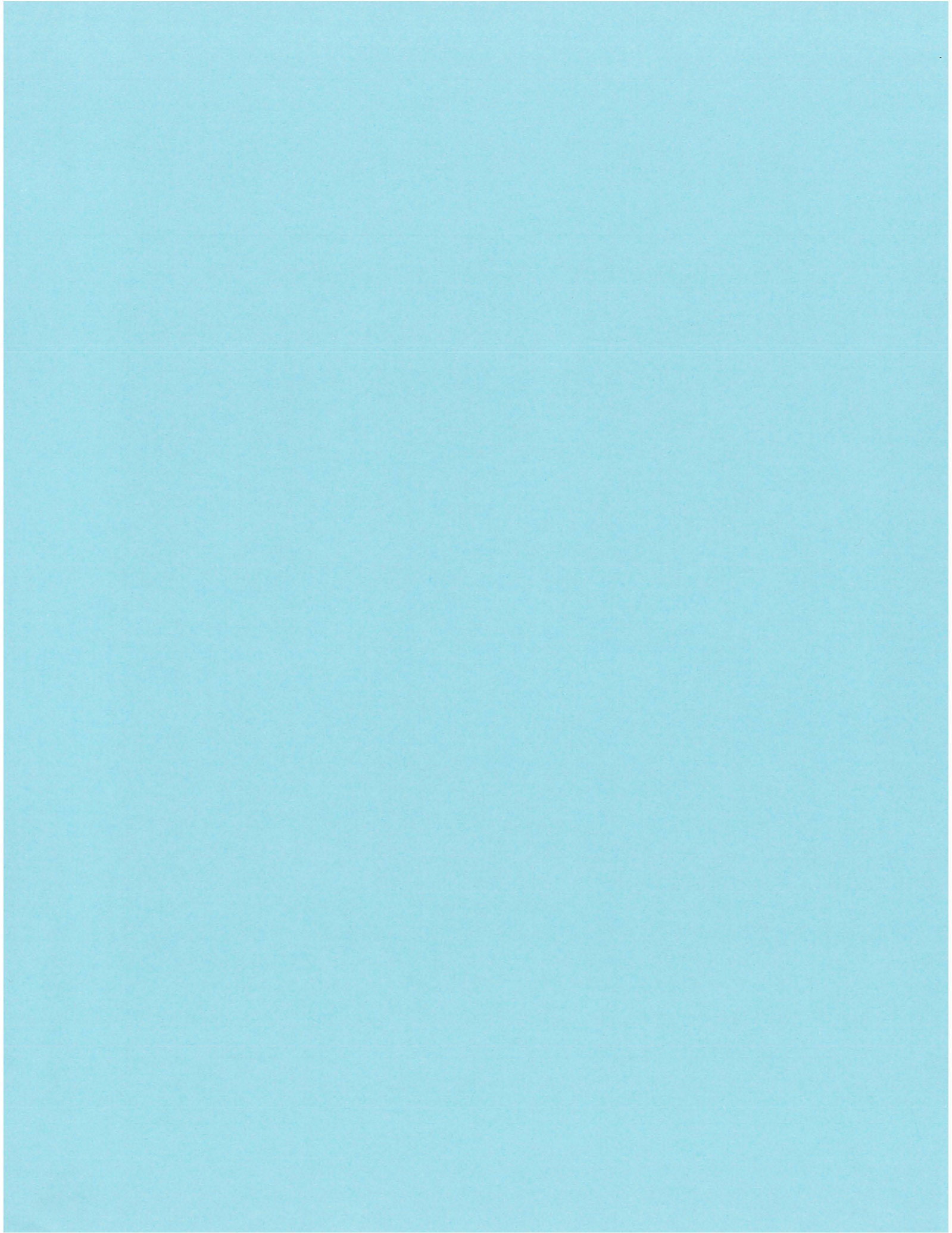
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**Van Allen, Sara-Ann**

**From:** Van Allen, Sara-Ann  
**Sent:** October 18, 2018 4:46 PM  
**To:** 'wjaskiewicz@kmblaw.com'  
**Cc:** 'smitchell@farbergroup.com'; 'jhendriks@farbergroup.com'; Kraft, Kenneth  
**Subject:** RE: 650 Bay - Outstanding Issues and today's Order

Wojtek,

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Regards,



**Sara-Ann Van Allen**  
 Counsel

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 sara.vanallen@dentons.com  
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**To:** Van Allen, Sara-Ann <sara.vanallen@dentons.com>; 'wjaskiewicz@kmblaw.com' <wjaskiewicz@kmblaw.com>  
**Cc:** 'smitchell@farbergroup.com' <smitchell@farbergroup.com>; 'jhendriks@farbergroup.com' <jhendriks@farbergroup.com>; Kraft, Kenneth <kenneth.kraft@dentons.com>  
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Regards,



**Sara-Ann Van Allen**

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**Subject:** 650 Bay - Outstanding Issues and today's Order

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Sara



Sara-Ann Van Allen  
Counsel

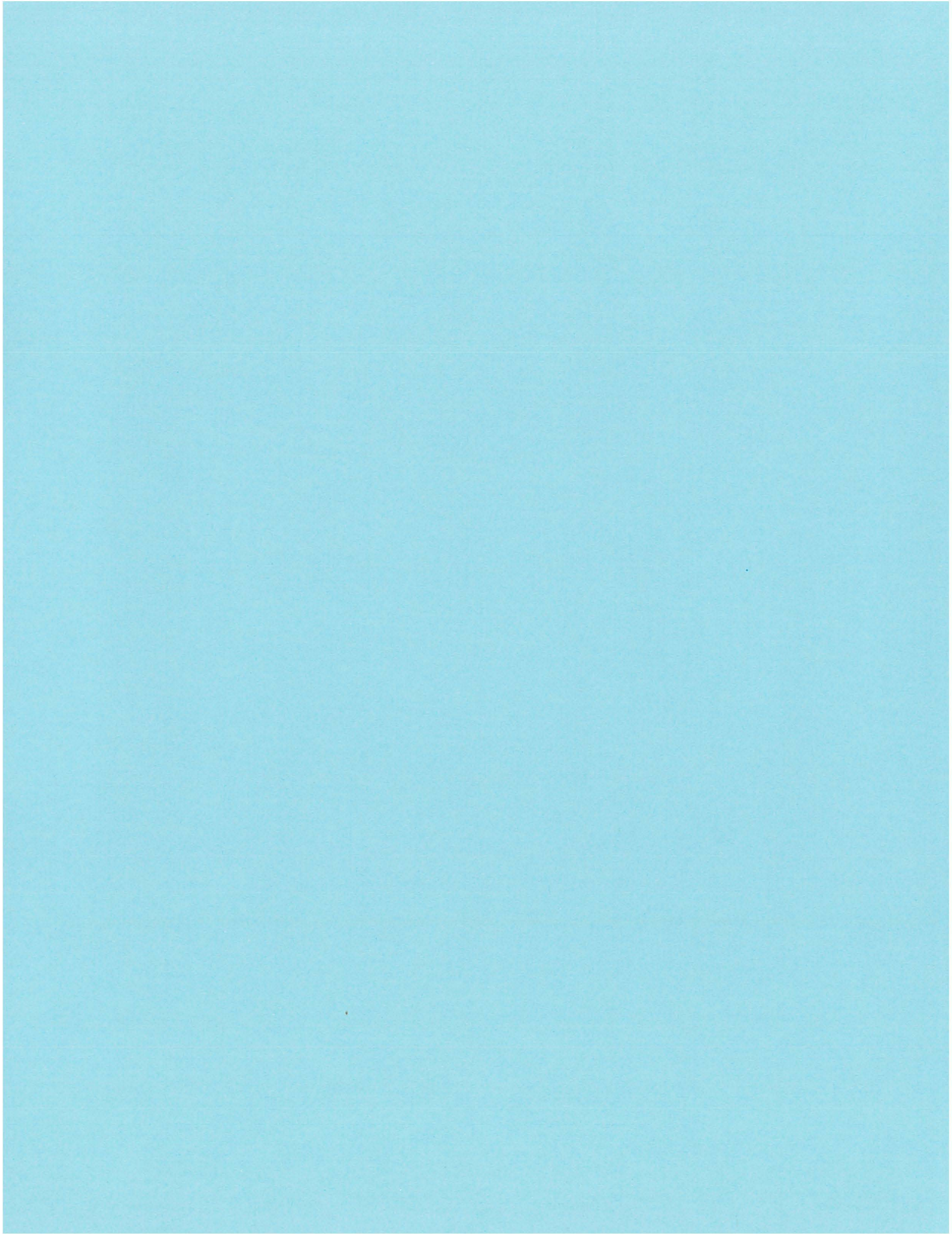
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109



**Van Allen, Sara-Ann**

**From:** Van Allen, Sara-Ann  
**Sent:** October 22, 2018 11:41 AM  
**To:** 'wjaskiewicz@kmblaw.com'  
**Cc:** 'smitchell@farbergroup.com'; 'jhendriks@farbergroup.com'; Kraft, Kenneth  
**Subject:** RE: 650 Bay - Outstanding Issues and today's Order

Wojtek,

Pursuant to the September 20, 2018 Order:

- (a) your client was required to deliver an accounting on or before today's date; and
- (b) your client was required to disgorge all insurance proceeds *forthwith*.

Please confirm that the accounting and payment of the insurance proceeds will both be delivered to the Receiver today.

Regards,



Sara-Ann Van Allen  
 Counsel

D +1 416 863 4402  
 sara.vanallen@dentons.com  
 Bio | Website

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 77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

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**Subject:** RE: 650 Bay - Outstanding Issues and today's Order

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**From:** Van Allen, Sara-Ann

**Sent:** October 11, 2018 2:54 PM

**To:** Van Allen, Sara-Ann <[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)>; 'wjaskiewicz@kmblaw.com' <[wjaskiewicz@kmblaw.com](mailto:wjaskiewicz@kmblaw.com)>

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Regards,



Sara-Ann Van Allen  
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From: Van Allen, Sara-Ann <sara.vanallen@dentons.com>

Sent: September 20, 2018 3:29 PM

To: [wjaskiewicz@kmbllaw.com](mailto:wjaskiewicz@kmbllaw.com)

Cc: [smitchell@farbergroup.com](mailto:smitchell@farbergroup.com); [jhendriks@farbergroup.com](mailto:jhendriks@farbergroup.com); [kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

Subject: 650 Bay - Outstanding Issues and today's Order

112

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Sara



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Counsel

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**ZAHERALI VISRAM**  
**Applicant**

- and -

**2220277 ONTARIO INC.**  
**Respondent**

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

PROCEEDING COMMENCED AT TORONTO

**ELEVENTH REPORT OF A. FARBER & PARTNERS  
INC. IN ITS CAPACITY AS COURT APPOINTED  
RECEIVER OF 2220277 ONTARIO INC.**

**DENTONS CANADA LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**Kenneth Kraft** (LSO # 31919P)  
Tel: (416) 863-4374  
Fax: (416) 863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Sara-Ann Van Allen** (LSO # 56016C)  
Tel: (416) 863-4402  
[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*



**TAB 4**

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

BETWEEN:

**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY*  
*ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF*  
*JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**AFFIDAVIT OF MICHAEL DAVIES**  
**(Sworn October 22, 2018)**

I, **MICHAEL DAVIES**, of the City of Mississauga, in the Province of Ontario, **SWEAR**  
**AND SAY AS FOLLOWS:**

1. I am a Partner with Dentons Canada LLP (“**Dentons**”), as such, I have knowledge of the matters to which I hereinafter depose.
2. Pursuant to an Order dated August 1, 2017 (the “**Receivership Order**”), A. Farber & Partners Inc. was appointed as receiver (the “**Receiver**”) of the assets, properties and undertakings of 2220277 Ontario Inc.
3. The Receiver retained Dentons as counsel to advise it with regard to the matters related to its appointment and the exercise of its powers and performance of its duties.

4. The Receivership Order provides at paragraph 17 that the Receiver, and counsel to the Receiver, shall be paid their reasonable fees and disbursements at their standard rates and charges.
5. The fees and disbursements of Dentons for the period of August 1, 2018 to September 30, 2018 (the “**Fee Period**”), are set out in the invoices rendered to the Receiver (collectively, the “**Invoices**”). The Invoices are a fair and accurate description of the services provided, the disbursements incurred and the amounts charged by Dentons. Attached and marked as **Exhibit “A”** hereto are the Invoices.
6. Attached and marked as **Exhibit “B”** hereto is a schedule summarizing the Invoices, the total billable hours charged per invoice, the total fees charged per invoice along with the average hourly rate charged per invoice.
7. Attached and marked as **Exhibit “C”** hereto is a schedule summarizing the respective years of call and standard billing rates of each of the lawyers at Dentons who acted for the Receiver.
8. To the best of my knowledge, the rates charged by Dentons throughout the course of these proceedings are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services.

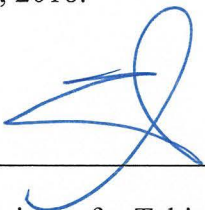
9. I make this affidavit in support of the motion for, among other things, approval of the fees and disbursements of the Receiver's counsel and for no other or improper purpose.

**SWORN** before me at the City of Toronto  
in the Province of Ontario, this 22nd day of  
October, 2018.

  
\_\_\_\_\_  
A Commissioner for Taking Affidavits, etc.

  
\_\_\_\_\_  
**MICHAEL DAVIES**

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF SERVICE OF MICHAEL DAVIES  
SWORN BEFORE ME THIS 22nd DAY OF  
OCTOBER, 2018.

A handwritten signature in blue ink, consisting of a large loop and a horizontal stroke, positioned above a horizontal line.

A Commissioner for Taking Affidavits, etc.

**大成 DENTONS**

Dentons Canada LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON, Canada M5K 0A1

T 416 863 4511  
F 416 863 4592

大成 Salans FMC SNR Denton McKenna Long  
dentons.com

A. Farber & Partners Inc.  
150 York Street  
Suite 1600  
Toronto, ON M5H 3S5  
Attention: Stuart Mitchell

**INVOICE # 3371616**

GST/HST # R121996078  
QST # 1086862448 TQ 0001

<u>Date</u>	<u>Matter Number</u>	<u>Lawyer</u>
August 31, 2018	559456-000003	Michael Davies

A. Farber & Partners Inc.  
Re: A. Farber & Partners Inc. in its capacity as Court Appointed  
Receiver of 2220277 Ontario Inc.

Professional Fees	\$ 37,475.50
Disbursements	872.76
HST (13.0%) on \$38,188.26	4,964.48
<b>Total Amount Due</b>	<b>\$ <u>43,312.74</u> CAD</b>

DENTONS CANADA LLP

Per:   
Michael Davies

<b>Payment Options:</b>	
<b>Cheques:</b> Cheques payable to Dentons Canada LLP and mailed to the above noted address.	<b>Internet Banking:</b> Accepted at most financial institutions. Your payee is Dentons Canada LLP and your account number is 559456. Please email us at <a href="mailto:Edm.Accounting@dentons.com">Edm.Accounting@dentons.com</a> referencing invoice number and payment amount.
<b>Wire Transfer:</b> Bank of Montreal 1st Canadian Place, Toronto, ON Swift Code: BOFMCAM2 Bank ID: 001 Transit: 00022 CAD Funds Bank Account : 0004-324	<b>Credit Card:</b> Payments are accepted via telephone, email or fax. We accept American Express, MasterCard or Visa (please circle one). Card No. _____ Expiry Date: _____ Amount: _____ Cardholder Name: _____ Signature: _____
Please email us at <a href="mailto:AR.Canada@dentons.com">AR.Canada@dentons.com</a> referencing invoice number and payment amount. Payment due on receipt. Interest will be charged at the rate of 1.3% per annum on all outstanding amounts over 30 days.	

*We are very grateful to have you as a client and appreciate your business.  
Please provide your feedback to us at [www.dentons.com/en/clientfeedbackcanada](http://www.dentons.com/en/clientfeedbackcanada)*

**Invoice Detail**

TO PROFESSIONAL SERVICES RENDERED in connection with the above noted matter:

Date	ID	Description of Work	Hours
02-Aug-18	SV	Review and respond to email from Stuart Mitchell regarding correspondence from Evan Karras.	0.3
02-Aug-18	KK	Stuart Mitchell e-mail.	0.1
03-Aug-18	KK	E-mails.	0.3
07-Aug-18	SV	Call with Stuart Mitchell and John Hendriks regarding sale process and next steps. Consider relief for motion.	1.5
07-Aug-18	KK	Conference call with Stuart Mitchell, John Hendriks and Sara-Ann Van Allen to discuss situation and next steps to outline court report and options to address various Evan Karras issues. Follow on discussion with Sara-Ann Van Allen regarding nature of relief to be requested and outline of court report.	1.3
08-Aug-18	KK	Update e-mail.	0.1
09-Aug-18	SV	Draft notice of motion and ninth report. Correspond with the court regarding motion date and emails to Stuart Mitchell regarding same. Emails to Sam Rappos regarding motion date.	7.5
09-Aug-18	KK	Numerous e-mails in relation to court date and outline of materials for next court report.	0.4
10-Aug-18	SV	Continue drafting Ninth Report and notice of motion. Call with Sam Rappos and reporting email to Stuart Mitchell.	4.7
10-Aug-18	KK	Update from Sara-Ann Van Allen regarding court date and discussions with Sam Rappos.	0.3
13-Aug-18	SV	Continue drafting Ninth Report and Notice of Motion. Review emails from John Hendriks regarding sale process and cash requirements. Review and respond to court regarding booking motion time. Email to John Hendriks regarding motion date. Revise and update service list. Review email from Stuart Mitchell regarding call to Chaitons. Review emails from Stuart Mitchell and John Hendriks regarding fee affidavits.	6.5
14-Aug-18	SV	Review and redact invoices for fee affidavit. Emails to John Hendriks regarding fee affidavits. Email to Ken Kraft regarding fee affidavits. Continue drafting order and discuss same with Ken Kraft. Review emails regarding cash requirements. Discuss draft report with Ken Kraft.	2.5
14-Aug-18	KK	Various e-mails related to next court report. Telephone call with Harvey Chaiton. Update note to Stuart Mitchell. Review draft 9th report. Discuss comments with Sara-Ann Van Allen.	1.5
15-Aug-18	SV	Email to service list regarding motion. Revise draft order. Revise Ninth Report and email to John Hendriks and Stuart Mitchell.	2.5
15-Aug-18	KK	Exchanges with Sara-Ann Van Allen on Intact claim issues. E-mails	0.4

Date	ID	Description of Work	Hours
		related to draft report.	
16-Aug-18	SV	Call with John Valeriote regarding Intact payment and review email from John Valeriote regarding service. Revise notice of motion and email draft materials to Farber. Review consent to subrogation claim and emails regarding same.	1.4
16-Aug-18	KK	E-mails to update on draft 9th report and discussions with Intact.	0.4
17-Aug-18	SV	Review comments on Ninth Report and revise same. Discussion with Ken Kraft regarding privilege issues and consider same.	3.1
17-Aug-18	KK	E-mails. Discuss with Sara-Ann Van Allen comments on draft report. Review comments from Stuart Mitchell and John Hendriks. Consider privilege issues.	1.2
20-Aug-18	SV	Discussion with Mark Evans regarding privilege issues. Revise Ninth Report. Revise order and notice of motion and email materials to Stuart Mitchell and John Hendriks. Execute and forward consent to Payam Ezzatian. Receipt of Farbers invoices and consider redactions of Dentons invoices.	4.2
20-Aug-18	MGE	Discussion and advice regarding privilege issues.	0.5
20-Aug-18	KK	Reviewing revised motion material. E-mails related to certain productions in report and what should be included.	0.5
21-Aug-18	SV	Review comments on draft Ninth Report. Review Farber accounts and redact same. Continue revising Ninth Report, notice of motion and draft order. Various emails to and from John Hendriks and Stuart Mitchell regarding draft Report, fees and amounts owing. Review comments on statement of receipts and disbursements. Review appendices and revise. Call from John Hendriks. Discussion with Ken Kraft regarding motion materials and further revise. Email draft Report to Chaitons. Review and respond to emails from Stuart Mitchell regarding fees and statement of receipts and disbursements. Review email from Harvey Chaiton regarding Ninth Report and emails to Stuart Mitchell regarding same.	6.5
21-Aug-18	KK	Working on 9th report and related motion material. Discuss comments with Sara-Ann Van Allen. Various e-mails. Considering Harvey Chaiton request pending ability for him to obtain instructions from Visram.	1.0
22-Aug-18	SV	Review email from John Hendriks regarding amounts owing and update Report. Email to Harvey Chaiton regarding service of report. Email draft materials to Ken Kraft. Review and respond to email from John Valeriote. Review email from John Valeriote regarding quantum of insurance proceeds. Review and consider emails from Evan Karras and John Valeriote. Emails to Stuart Mitchell and John Hendriks regarding quantum of insurance proceeds. Email to John Valeriote regarding insurance proceeds amount.	2.0
22-Aug-18	KK	E-mails related to report and finalizing motion material. E-mails on insurance settlement amount discrepancy.	0.6
25-Aug-18	SV	Review and consider email from Harvey Chaiton regarding waiver of ROFR and emails to and from Stuart Mitchell regarding same.	0.4



DENTONS CANADA LLP  
A. Farber & Partners Inc.  
Re: A. Farber & Partners Inc. in its capacity as Court Appointed  
Receiver of 2220277 Ontario Inc.

INVOICE 3371616

Page 4 of 5

Matter # 559456-000003

Date	ID	Description of Work	Hours
25-Aug-18	KK	E-mail exchanges related to Ali Visram position on amendment to ROFR.	0.3
26-Aug-18	SV	Review and consider various emails regarding ROFR and review revised motion materials. Emails to Ken Kraft regarding ROFR.	0.4
26-Aug-18	KK	Various e-mails. Revise 9th report. Exchanges with Stuart Mitchell and Harvey Chaiton to clarify removal of ROFR conditional on veto if offer for property is less than \$8 million. Revise draft 9th report and related notice of motion and draft order. Finalize report, notice of motion and order and instructions to Amanda regarding compiling and serving motion record tomorrow.	1.5
27-Aug-18	SV	Review emails regarding service of motion materials. Review final motion record and emails regarding service. Review emails from Robert Hine, Ken Kraft and Stuart Mitchell regarding cross-motion.	0.7
27-Aug-18	KK	Dealing with finalizing and arranging to serve motion material and related e-mail exchanges and letter. Robert Hine exchanges around motion. E-mail to Harvey Chaiton. E-mail exchanges with Stuart Mitchell.	0.8
28-Aug-18	SV	Review emails from Stuart Mitchell and Ken Kraft regarding cross-motion. Review Commercial List request form.	0.4
28-Aug-18	KK	Exchanges with Stuart Mitchell and Robert Hine in relation to issues related to trust funds in Hine's account from partnership unit transfer.	0.4
29-Aug-18	KK	E-mail from Commercial List regarding scheduling of Lalu's cross-motion.	0.1
31-Aug-18	SV	Receipt of cross-motion materials.	0.2
31-Aug-18	KK	Review and consider 650 Bay motion record regarding trust funds Goldman Hine trust account.	0.4
<b>Total</b>			<b>56.9</b>

**TOTAL PROFESSIONAL FEES** **\$ 37,475.50**

**TAXABLE DISBURSEMENTS**

Binding Books / Documents	\$ 97.55
Conference Call charges	3.46
Photocopy & Printing Charges	611.75
<b>TOTAL TAXABLE DISBURSEMENTS</b>	<b>\$ 712.76</b>

**NON-TAXABLE DISBURSEMENTS**

Filing Fee*	\$ 160.00
<b>TOTAL NON-TAXABLE DISBURSEMENTS</b>	<b>\$ 160.00</b>

**TOTAL DISBURSEMENTS** **872.76**

**TOTAL FEES AND DISBURSEMENTS** **\$ 38,348.26**

DENTONS CANADA LLP  
A. Farber & Partners Inc.  
Re: A. Farber & Partners Inc. in its capacity as Court Appointed  
Receiver of 2220277 Ontario Inc.

INVOICE 3371616

Page 5 of 5

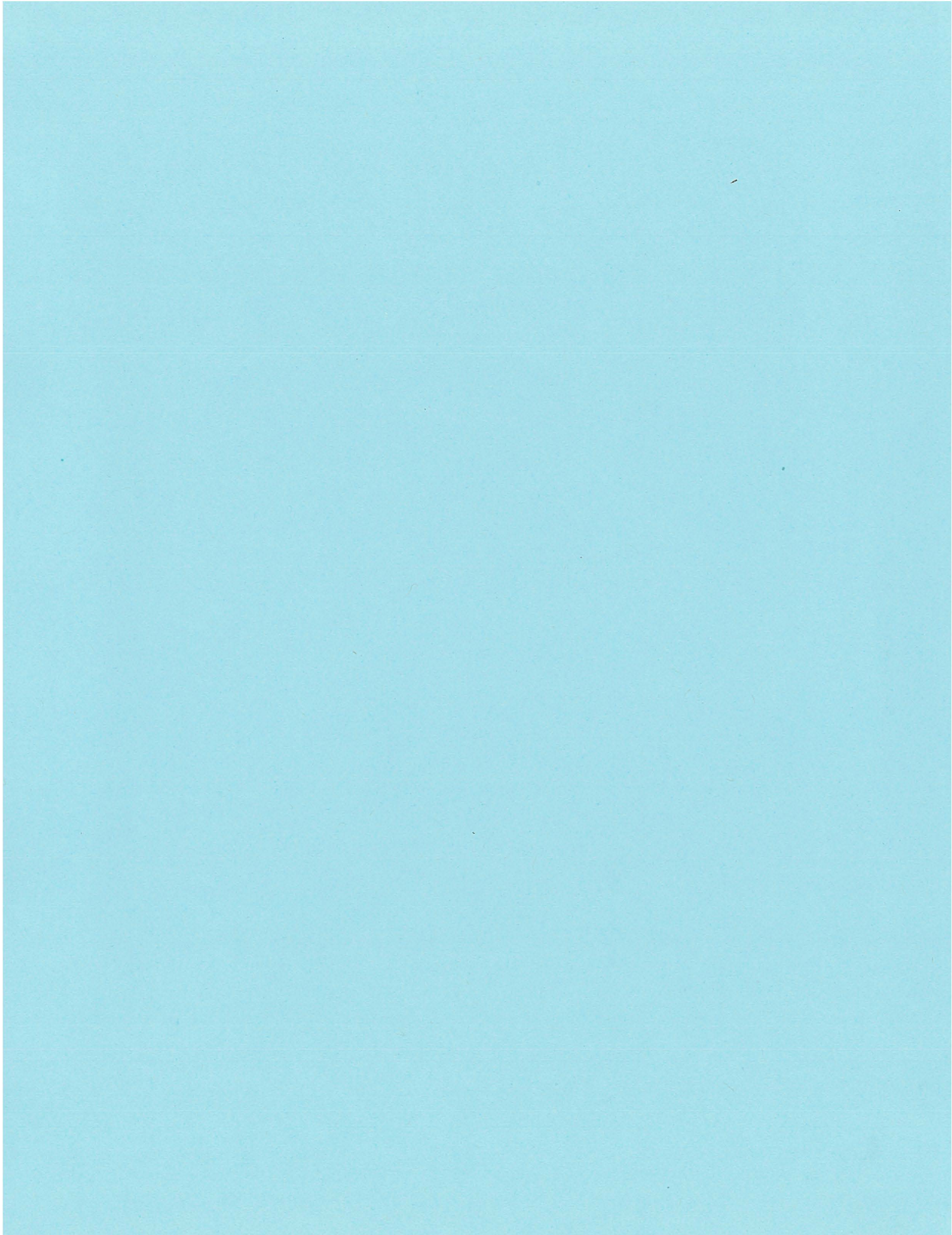
Matter # 559456-000003

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**TAXES**

HST (13.0%) on Professional Fees of \$37,475.50 \$ 4,871.82

HST (13.0%) on Taxable Disbursements of \$712.76 92.66**TOTAL TAXES** 4,964.48**TOTAL AMOUNT DUE** \$ 43,312.74 CAD



Dentons Canada LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON, Canada M5K 0A1

T 416 863 4511  
F 416 863 4592

大成 Salans FMC SNR Denton McKenna Long  
dentons.com

A. Farber & Partners Inc.  
150 York Street  
Suite 1600  
Toronto, ON M5H 3S5  
Attention: Stuart Mitchell

INVOICE # 3377226

GST/HST # R121996078  
QST # 1086862448 TQ 0001

<u>Date</u>	<u>Matter Number</u>	<u>Lawyer</u>
September 30, 2018	559456-000003	Michael Davies

A. Farber & Partners Inc.  
Re: A. Farber & Partners Inc. in its capacity as Court Appointed  
Receiver of 2220277 Ontario Inc.

Professional Fees	\$ 41,654.00
Disbursements	563.48
HST (13.0%) on \$42,057.48	5,467.47
<b>Total Amount Due</b>	<b>\$ 47,684.95 CAD</b>

DENTONS CANADA LLP

Per: \_\_\_\_\_

Michael Davies

<b>Payment Options:</b>	
<b>Cheques:</b> Cheques payable to Dentons Canada LLP and mailed to the above noted address.	<b>Internet Banking:</b> Accepted at most financial institutions. Your payee is Dentons Canada LLP and your account number is 559456. Please email us at <a href="mailto:Edm.Accounting@dentons.com">Edm.Accounting@dentons.com</a> referencing invoice number and payment amount.
<b>Wire Transfer:</b> Bank of Montreal 1st Canadian Place, Toronto, ON Swift Code: BOFMCAM2 Bank ID: 001 Transit: 00022 CAD Funds Bank Account : 0004-324	<b>Credit Card:</b> Payments are accepted via telephone, email or fax. We accept American Express, MasterCard or Visa (please circle one). Card No. _____ Expiry Date: _____ Amount: _____ Cardholder Name: _____ Signature: _____
Please email us at <a href="mailto:AR.Canada@dentons.com">AR.Canada@dentons.com</a> referencing invoice number and payment amount. Payment due on receipt. Interest will be charged at the rate of 1.3% per annum on all outstanding amounts over 30 days.	

*We are very grateful to have you as a client and appreciate your business.  
Please provide your feedback to us at [www.dentons.com/en/clientfeedbackcanada](http://www.dentons.com/en/clientfeedbackcanada)*

**Invoice Detail**

TO PROFESSIONAL SERVICES RENDERED in connection with the above noted matter:

Date	ID	Description of Work	Hours
04-Sep-18	SV	Email to John Valeriote regarding Intact. Discussion with Ken Kraft regarding cross-motion and review cross-motion record.	0.6
04-Sep-18	SF	File the Motion Record, USB Key, Affidavit of Service and cheque at the Commercial List.	0.8
04-Sep-18	KK	Discuss status with Sara-Ann Van Allen. Various e-mails.	0.4
05-Sep-18	SV	Emails from and to Stuart Mitchell regarding cross motion. Email to Brian Jenkins regarding cross motion. Review email from Ken Kraft to Sam Rappos and responding email. Review email from Stuart Mitchell regarding settlement and consider same. Review responding email from Ken Kraft regarding settlement.	0.7
05-Sep-18	KK	E-mails in relation to 650 Bay Holdco cross motion and positions of Karras and Visram.	0.3
06-Sep-18	SV	Review emails from Ken Kraft and Stuart Mitchell regarding discussion with Harvey Chaiton. Email from Brian Jenkins.	0.3
07-Sep-18	SV	Review and respond to emails from Sam Rappos and Ken Kraft regarding insurance direction. Review chart of insurance payments.	0.4
07-Sep-18	KK	Voice mail for and telephone calls with Harvey Chaiton in regard to costs of additional funding and Visram's position. Update e-mails to Stuart Mitchell and John Hendriks. Sam Rappos e-mail exchanges on Intact direction and whether Visram to retain rights if there was a breach of the direction in his favour and whether deal with them will proceed. Review Intact payment and direction timing issues with Sara-Ann Van Allen and when direction was delivered to them. John Hendriks' e-mail exchanges on Intact issues.	1.0
10-Sep-18	SV	Call from John Valeriote regarding Intact insurance proceeds and emails to Stuart Mitchell and Sam Rappos regarding same. Review email from John Valeriote. Leave message for Brian Jenkins.	0.5
11-Sep-18	SV	Message from Brian Jenkins and email to Stuart Mitchell regarding same. Review motion record and prepare for next days motion. Call with Robert Hine regarding trust funds. Email to and from Commercial List regarding motion. Email to Stuart Mitchell regarding discussion with Robert Hine. Leave message for Brian Jenkins. Review and prepare draft orders. Call from Sam Rappos and emails to Sam Rappos regarding motion. Emails to and from Stuart Mitchell regarding discussion with Sam Rappos.	6.5
11-Sep-18	KK	Reviewing e-mails and responses in relation to tomorrow's motion and position Visram is now taking on issues and credit bid decision. Reviewing material to prepare for hearing. Bill Jenkins voice mail.	1.0
12-Sep-18	SV	Attend court on motion for amendments to sale process et al. Review	3.0

Date	ID	Description of Work	Hours
		emails from Stuart Mitchell regarding motion. Circulate endorsement. Review and respond to email from Liliana Ferreira. Call from Liliana Ferreira regarding court appearance.	
12-Sep-18	KK	E-mails. Attend before Justice Chiappetta. Follow up meeting with Stuart Mitchell and John Hendriks to discuss today's attendance. Additional e-mails. DIP loan follow up.	5.3
13-Sep-18	SV	Draft order regarding adjournment and circulate to counsel.	1.2
13-Sep-18	KK	Discussion with Sara-Ann Van Allen around need for order to reflect endorsement yesterday from Justice Chiappetta. Review draft order and discuss follow up with counsel.	0.5
16-Sep-18	KK	Review and consider e-mail outlining Evan Karras' position on money in Hines' trust account.	0.1
17-Sep-18	SV	Review email from Wojtek Jaskiewicz and emails regarding same. Internal discussions regarding bid and trust funds issue. Email to Sam Rappos regarding credit bid. Emails to and from Stuart Mitchell and John Hendriks regarding fees and calculation of borrowing needs. Review spreadsheet regarding borrowing needs. Call from Robert Hine regarding trust funds. Correspond with process server regarding taking out order. Email to counsel regarding approving draft order. Revise draft order in respect of borrowing capacity et al.	2.7
17-Sep-18	KK	Discussions and e-mails around credit bid, timing for approval and closing, revised calculation of receiver's borrowing charge. E-mails around funds in Hines' trust account. Discussion with Sara-Ann Van Allen around follow up to having order from last week issued.	0.6
18-Sep-18	SV	Review and respond to various emails from Stuart Mitchell and Sam Rappos regarding credit bid and priority payables. Further revise draft order. Arrange to take out Order of Justice Chiappetta and discussions regarding same. Call from Sam Rappos regarding credit bid. Review credit bid. Email credit bid to Stuart Mitchell and review responding email from John Hendriks. Review and respond to emails from Stuart Mitchell and Ken Kraft regarding credit bid.	3.7
18-Sep-18	KK	Follow up on order from last week's attendance. E-mails on credit bid issues. E-mails in relation to this Thursday's attendance. Brief review of Visram credit bid and initial e-mail exchanges around issues to consider.	1.6
19-Sep-18	SV	Review and respond to email from Stuart Mitchell regarding credit bid and litigation claims. Review and respond to email from John Hendriks regarding litigation claims. Consider litigation claims and funding of same.	1.5
19-Sep-18	KK	Various e-mails related to credit bid and issues for attendance tomorrow.	0.4
20-Sep-18	SV	Review emails from Stuart Mitchell regarding credit bid. Attend court on motion for approval of fees et al. Attend at court office to take out order. Review and respond to emails from Stuart Mitchell and John Hendriks regarding court order. Email to Wojtek Jaskiewicz regarding	4.0

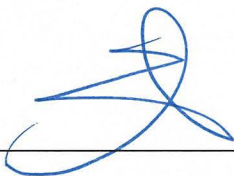


Date	ID	Description of Work	Hours
		outstanding issues and disgorging funds. Email to John Valeriotte regarding Intact payment. Discussion with Ken Kraft regarding credit bid and possible bankruptcy. Email to Farber regarding call to discuss credit bid and next steps.	
20-Sep-18	SF	Attend the commercial list to pick up the second page of the endorsement.	1.1
20-Sep-18	KK	Exchange various e-mails with Stuart Mitchell in regard to today's order. Attend before Justice Penny to follow up on last week's attendance and to obtain order approving various matters related to Receiver's 9th report. Discussions with Sam Rappos around parts of credit bid issues. Scheduling hearings for credit bid approval and Hines' trust fund issues. E-mails and discussion with Sara-Ann Van Allen on next steps both in addressing Visram credit bid and steps in receivership.	2.6
21-Sep-18	SV	Draft notice of motion, order and Tenth Report. Consider bankruptcy and next steps. Call with Stuart Mitchell and John Hendriks regarding credit bid and revise same. Circulate revised credit bid. Continue drafting motion materials. Review Visram mortgage terms.	5.8
21-Sep-18	KK	Detailed review of credit bid provisions. Conference call with Stuart Mitchell, John Hendriks and Sara-Ann Van Allen to review credit bid and other issues in receivership and discuss next steps. Meet with Sara-Ann Van Allen to discuss comments on credit bid.	1.0
22-Sep-18	SV	Review and respond to email from Stuart Mitchell regarding credit bid.	0.2
22-Sep-18	KK	Exchange e-mails related to credit bid provisions and clarifying certain language around excluded assets.	0.3
23-Sep-18	SV	Review emails from John Valeriotte and Stuart Mitchell regarding Intact payment. Revise credit bid and email to Sam Rappos.	0.8
23-Sep-18	KK	E-mails related to credit bid and Intact payment.	0.3
24-Sep-18	SV	Continue drafting notice of motion and orders for approval of sale of real property. Review email from John Hendriks regarding potential offer. Review and respond to emails from Liliana Ferreira regarding credit bid. Leave message for Sam Rappos regarding credit bid.	3.8
24-Sep-18	AF	Emails with Sara Van Allen. Obtain updated parcel abstract and forward same to Sara Van Allen.	0.2
25-Sep-18	SV	Continue drafting Tenth Report and revising motion materials. Review and respond to email from Nelson Garcia and emails to Stuart Mitchell regarding same.	1.5
25-Sep-18	KK	E-mails on various issues.	0.4
26-Sep-18	SV	Review and respond to emails from John Hendriks and Stuart Mitchell regarding offer in respect of property and calls to Sam Rappos. Email to Sam Rappos regarding credit bid and review responding email. Draft and revise fee affidavit.	1.0
26-Sep-18	KK	E-mails related to credit bid and potential new offer.	0.3
27-Sep-18	SV	Call from Nelson Garcia. Review from John Hendriks in respect of	3.0

Date	ID	Description of Work	Hours
		property. Review and consider draft offer and call from John Hendriks. Call with Farber regarding offer. Revise offer and email to Farber. Review email from John Hendriks to prospective offeror.	
27-Sep-18	KK	E-mails in regard to potential new offer and site inspection arrangements. Review and comment on draft purchase agreement and related e-mails. Conference call with Stuart Mitchell, John Hendriks and Sara-Ann Van Allen to discuss offer. Discussion with Sara-Ann Van Allen on approach to Chaitons to discuss ROFR in connection with latest offer and whether can run timelines to preserve October 16th court date. Review further revised draft of new offer with proposed changes and John Hendriks e-mail back to prospective party with explanations.	1.2
28-Sep-18	SV	Email to Sam Rappos regarding potential offer. Discussions with Sam Rappos regarding potential offer and email to Farber regarding same. Emails to and from Farber regarding potential offer.	0.7
28-Sep-18	KK	E-mails related to follow up with Sam Rappos on Visram's ROFR in connection with new potential offer.	0.4
29-Sep-18	KK	E-mails.	0.3
30-Sep-18	SV	Review emails from Stuart Mitchell and John Hendriks regarding site visit.	0.2
		<b>Total</b>	<b>62.2</b>
<b>TOTAL PROFESSIONAL FEES</b>			<b>\$ 41,654.00</b>
<b>TAXABLE DISBURSEMENTS</b>			
		Photocopy & Printing Charges	\$ 307.00
		Courier & Delivery	96.48
<b>TOTAL TAXABLE DISBURSEMENTS</b>			<b>\$ 403.48</b>
<b>NON-TAXABLE DISBURSEMENTS</b>			
		Filing Fee*	\$ 160.00
<b>TOTAL NON-TAXABLE DISBURSEMENTS</b>			<b>\$ 160.00</b>
<b>TOTAL DISBURSEMENTS</b>			<b>563.48</b>
<b>TOTAL FEES AND DISBURSEMENTS</b>			<b>\$ 42,217.48</b>
<b>TAXES</b>			
		HST (13.0%) on Professional Fees of \$41,654.00	\$ 5,415.02
		HST (13.0%) on Taxable Disbursements of \$403.48	52.45
<b>TOTAL TAXES</b>			<b>5,467.47</b>
<b>TOTAL AMOUNT DUE</b>			<b>\$ 47,684.95 CAD</b>



THIS IS EXHIBIT "**B**" REFERRED TO IN THE  
AFFIDAVIT OF SERVICE OF MICHAEL DAVIES  
SWORN BEFORE ME THIS 22nd DAY OF  
OCTOBER, 2018.

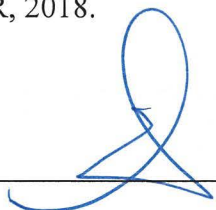
A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

A Commissioner for Taking Affidavits, etc.

**EXHIBIT "B"****Summary of Invoices and Calculation of Average Hourly Billing Rates of Dentons Canada  
LLP****The Period of August 1, 2018 to September 30, 2018**

<b>Date</b>	<b>Invoice No.</b>	<b>Fees</b>	<b>Disbursements</b>	<b>Taxes(HST)</b>	<b>Hours</b>	<b>Average Rate</b>	<b>Total</b>
August 31, 2018	3371616	37,475.50	872.76	4,964.48	56.9	751.67	43,312.74
September 30, 2018	3377226	41,654.00	563.48	5,467.47	62.2	510.00	47,684.95
<b>Total:</b>		\$79,129.50	\$1,436.24	\$10,431.95	119.1	\$ 630.84	\$90,997.69

THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF SERVICE OF MICHAEL DAVIES  
SWORN BEFORE ME THIS 22nd DAY OF  
OCTOBER, 2018.

A handwritten signature in blue ink, consisting of a large loop at the top and a series of smaller loops and strokes below it, positioned above a horizontal line.

A Commissioner for Taking Affidavits, etc.

**EXHIBIT "C"****Standard Billing Rates of Dentons Canada LLP**

	<b><u>Rate</u></b>	<b><u>Year of Call</u></b>
Kenneth Kraft	\$880.00	1991
Sara-Ann Van Allen	\$600.00	2008
Annette Fournier	\$300.00	Law Clerk
Susan Fridlyand	\$260.00	Articling Student

ZAHERALI VISRAM  
Applicant

- and -

2220277 ONTARIO INC.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF MICHAEL DAVIES**  
(sworn October 22, 2018)

**DENTONS CANADA LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**Kenneth Kraft** (LSO # 31919P)  
Tel: 416-863-4374  
Fax: (416) 863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Sara-Ann Van Allen** (LSO # 56016C)  
Tel: (416) 863-4402  
[sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*

**TAB 5**

Court File No. CV-17-11811-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

**BETWEEN:**

**ZAHERALI VISRAM**

**Applicant**

**AND**

**2220277 ONTARIO INC.**

**Respondent**

**AFFIDAVIT OF JOHN HENDRIKS**

I, John Hendriks, CPA, CA, CIRP, LIT of the City of Toronto, in the Province of Ontario,  
MAKE OATH AND STATE AS FOLLOWS:

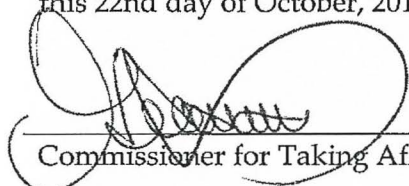

1. I am a Trustee at A. Farber & Partners Inc. and, as such, have knowledge of the matters to which I hereinafter depose.
2. A. Farber & Partners Inc. ("Receiver") was appointed Receiver over all the assets, undertakings and properties of 2220277 Ontario Inc. pursuant to an Order of this Court made on August 1, 2017.

3. The Receiver has rendered an invoice for the period of August 17, 2018 to October 13, 2018 in the total amount of \$89,237.95. A summary of time is attached herewith as Exhibit 1. A copy of the invoice rendered is attached as Exhibit 2.

4. The total of the Receiver's fees as outlined in Exhibit 1 is \$78,215.00 together with disbursements of \$855.00 and H.S.T. of \$10,167.95, the sum of which equals \$89,237.95. The average hourly rate in respect of time as outlined in Exhibit 1 is \$548.88.

5. This Affidavit is made in support of a motion to, *inter alia*, seek approval of the foregoing fees and disbursements as fair and reasonable.

SWORN BEFORE ME at the  
City of Toronto, in the  
Province of Ontario,  
this 22nd day of October, 2018

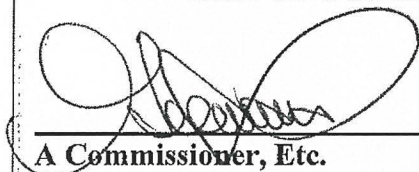
  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
\_\_\_\_\_  
John Hendriks, CPA, CA, CIRP, LIT

**GEANINA SCHMIDT, A Commissioner, etc.,  
Province of Ontario, for A. Farber & Partners Inc.  
Expires: April 6, 2021.**



**EXHIBIT 1**

**THIS IS EXHIBIT "1" TO  
THE AFFIDAVIT OF JOHN HENDRIKS  
SWORN BEFORE ME THIS 22<sup>nd</sup>  
DAY OF OCTOBER, 2018**

  
A Commissioner, Etc.

**GEANINA SCHMIDT, A Commissioner, etc.,  
Province of Ontario, for A. Farber & Partners Inc.  
Expires: April 6, 2021.**

## EXHIBIT 1

A. FARBER & PARTNERS INC.  
 2220277 ONTARIO INC.  
 SUMMARY OF RECEIVER'S FEES  
 AUGUST 17, 2018 TO OCTOBER 13, 2018

Name	Rate Per Hour	Total Hours	Total Fees
S. Mitchell	\$625.00	74.50	\$ 46,562.50
J. Hendriks	\$550.00	45.30	\$ 24,915.00
N. Litwack	\$425.00	8.90	\$ 3,782.50
M. Litwack	\$350.00	1.30	\$ 455.00
A. Binelli	\$200.00	0.20	\$ 40.00
L. Lloyd-Key	\$200.00	0.30	\$ 60.00
L. Samoilov	\$200.00	8.20	\$ 1,640.00
G. Schmidt	\$200.00	3.80	\$ 760.00
<b>Total</b>		<b>142.50</b>	<b>\$ 78,215.00</b>

*Average hourly rate* \$ 548.88

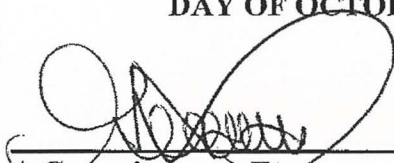
Expenses:		\$ 855.00
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HST:		\$ 10,167.95
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Totals:		\$ 89,237.95
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**EXHIBIT 2**

**THIS IS EXHIBIT "2" TO  
THE AFFIDAVIT OF JOHN HENDRIKS  
SWORN BEFORE ME THIS 22nd  
DAY OF OCTOBER, 2018**

  
A Commissioner, Etc.

**GEANINA SCHMIDT, A Commissioner, etc.,  
Province of Ontario, for A. Farber & Partners Inc.  
Expires: April 6, 2021.**

# FARBER

150 York Street, Suite 1600  
Toronto, ON, Canada, M5H 3S5  
T: 1.855.775.8777  
F: 416.496.3839

October 18, 2018

650 Bay Hotel (2220277 Ontario Inc.)  
650 Bay Street  
Toronto, ON M7A 2A3

Invoice No. 18-520

**TO PROFESSIONAL SERVICES RENDERED BY A. FARBER & PARTNERS INC. for the period of August 17, 2018 to October 13, 2018:**

DATE	SERVICE	STAFF
08/17/2018	Consulting fees - Corporate Review, revise, and discuss 9th Report, Motion and Order as well as the Statement of Receipts and Disbursements. Work with S Van Allen regarding the Intact Subrogation Action Consent to Order	Mitchell
08/18/2018	Consulting fees - Corporate Review the redrafted Notice of Motion together with attachments, make further revisions and correspond about same with Dentons and Farber staff	Mitchell
08/19/2018	Consulting fees - Corporate Emails with site supervisor and prospective offeror to set up site tour.	Litwack
08/19/2018	Consulting fees - Corporate Review the redrafted Notice of Motion together with attachments, make further revisions and correspond about same with Dentons and Farber staff	Mitchell
08/20/2018	Consulting fees - Corporate Emails N. Litwack, M. Litwack, Tert & Ross and Mitchell re pest and fire panel issues at the premises; coordinate statement of fee up to last week for inclusion in 9th report, review same, corrections with Schmidt, draft redactions and to Dentons for review	Hendriks
08/20/2018	Consulting fees - Corporate Work on redactions to the Statements of Fees. Review the revised 9th Court Report of Receiver, Notice of Motion and Order and follow up with Dentons regarding the request of Chaiton's on behalf of their client Visram for comments on our proposed Relief. Direct M Litwack and J Tergias regarding fire panel issues caused by a	Mitchell

# FARBER

	leaking roof and the need for a new panel and monitoring	
08/20/2018	Consulting fees - Corporate Emails re fire system and active monitoring; Voicemail from and call to City of Toronto re property tax; Cheque requests and updating cash flow chart.	Litwack(M)
08/20/2018	Consulting fees - Corporate Emails with site supervisor regarding maintenance quotes; follow up with J Hendriks and M Litwack regarding maintenance requirements.	Litwack
08/20/2018	Consulting fees - Corporate Document preparation.	Schmidt
08/20/2018	Banking - Corporate Banking, posting.	Samoilov
08/21/2018	Consulting fees - Corporate Review and comment on redraft of 9th report including reviewing bill and expanding Receiver Activities section; review and comment on first drafts of notice of motion and draft order; forward same to Mitchell for review; review and finalize statement of account and prepare redacted version thereof	Hendriks
08/21/2018	Consulting fees - Corporate Work further to make amendments and then finalize the Report to Court and other related documents. As requested by Chaiton's, forward to them, for consideration and discussion with their client, then draft Court materials. Work on the Statement of Receipts and Disbursements and final changes to the Notice of Motion, Order and redacted Fee Statements	Mitchell
08/21/2018	Consulting fees - Corporate Review of files and email re outstanding property taxes.	Litwack(M)
08/21/2018	Consulting fees - Corporate Email response to S Mitchell regarding property tax issue and ninth report of the receiver.	Litwack
08/21/2018	Consulting fees - Corporate Document preparation.	Schmidt
08/22/2018	Consulting fees - Corporate Provide additional information to Van Allen for inclusion in 9th report; final review and swearing of Receiver affidavit of fee; updates to R&D as requested by Mitchell; Mitchell and Litwack re fire panel, water damage and pest control; Mitchell and Dentons re pending comments from Chaitons/Visram and impact on timing of finalizing report and service date	Hendriks

# FARBER

08/22/2018	Consulting fees - Corporate	Mitchell	Correspondence with Chaiton's and K Kraft regarding request that we postpone serving our materials until August 26th while Visram is considering our draft Notice of Motion. Determine the CRA trust amount owing and the Realty tax arrears and include same in the Court Report. Finalize the statement of receipts and disbursements. Direct staff regarding the roof water leak, the possible rodent problem, the repair and replacement of the fire monitoring equipment and other Real Property related concerns. Work with S Van Allen to negotiate Consent terms with Intact
08/22/2018	Consulting fees - Corporate	Litwack	Various emails and calls with Site supervisor regarding rain and maintenance requirements; memo to S Mitchell and J Hendriks regarding same; several emails with S Mitchell regarding same.
08/22/2018	Banking - Corporate	Samoilov	Banking, posting.
08/23/2018	Consulting fees - Corporate	Hendriks	Mitchell re pending comments on report from Chaitons and Visram
08/23/2018	Consulting fees - Corporate	Mitchell	Generally, throughout the day direct lawyers and staff in respect of the upcoming Hearing, the Relief sought; and ensure BIA compliance with all matters under administration
08/23/2018	Consulting fees - Corporate	Litwack	Maintenance update from site supervisor.
08/23/2018	Banking - Corporate	Samoilov	Banking.
08/24/2018	Consulting fees - Corporate	Mitchell	Direct N Litwack and Jay Tergias regarding the fire alarm monitoring. Emails with S Van Allen & H Chaiton regarding the request of A Visram for a veto of any offers less than 8 million dollars. Direct Dentons to revise the draft Notice of Motion, Order and Report in order to provide for A Visram's request
08/24/2018	Consulting fees - Corporate	Litwack	Call and email with prospective offeror; call with site supervisor regarding fire alarm monitoring protocol; email memo to S Mitchell and J Hendriks regarding same; updated interested party control worksheet.
08/25/2018	Consulting fees - Corporate	Mitchell	Many emails and phone calls with H Chaiton, lawyers at Denton's and Farber staff to amend the draft Notice of

# FARBER

Motion, Order and Report in order to comply with the request of A Visram

08/26/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Many emails and phone calls with H Chalton, lawyers at Denton's and Farber staff to amend the draft Notice of Motion, Order and Report in order to comply with the request of A Visram</p>
08/27/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Throughout the day, numerous emails and phone calls with J Hendriks, K Kraft &amp; S Van Allen to finalize the amended Notice of Motion, together with ancillary documents, and to arrange service. Work with N Litwack regarding quotes to repair the leaking roof and as well in respect of pest control and cleaning concerns. Email from R Hine, lawyer for Lalu, regarding the \$200,000 trust fund and a Cross-Motion he intends to bring. Work with M Litwack regarding a further Receiver borrowing of \$450,000. Discuss with N Litwack the ongoing interest of possibly providing a purchase offer from W Smulowitz of Birch and Bond</p>
08/27/2018	<p>Consulting fees - Corporate Litwack</p> <p>Emailed teaser and blank confidentiality agreement to new interested party; correspondence with site supervisor regarding maintenance quote; memo to S Mitchell and J Hendriks regarding same; email memo to S Mitchell and J Hendriks regarding update on sale process and particular prospective offerors.</p>
08/27/2018	<p>Consulting fees - Corporate Litwack(M)</p> <p>Messages with N Edell re extension of DIP loan.</p>
08/28/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Discussion with N Litwack regarding the directions to J Tergias respecting the fire alarm monitoring agreement call notification protocol. Discussions with N Litwack and G Schmidt re the data room access [REDACTED]</p> <p>[REDACTED] Work with L Samoilov regarding HST filings. Discussions with K Kraft about the proposed Cross Motion to be brought by R Hine, acting for Lalu, in respect of the \$200,000 Trust Fund. Direct staff to post the Notice of Motion on the Farber website</p>
08/28/2018	<p>Consulting fees - Corporate Litwack</p> <p>Reviewed and received executed confidentiality agreement from new prospective offeror; provided access to same for virtual data room; email to J Hendriks regarding fire alarm monitoring of property.</p>
08/28/2018	<p>Consulting fees - Corporate Schmidt</p> <p>Add user to dataroom.</p>

# FARBER

08/28/2018	Consulting fees - Corporate Update website engagement.	Schmidt
08/28/2018	Banking - Corporate Review acc. activity. E-mail exchange with J. Hendriks and S. Mitchell re. HST filing.	Samoilov
08/29/2018	Consulting fees - Corporate Throughout the day, deal with various prospects' inquiries including providing Non-Disclosure Agreements and access to the virtual data room. Generally, review all matters under Administration and ensure compliance with BIA	Mitchell
08/29/2018	Consulting fees - Corporate Finalized new case website draft update; direction to staff for posting same; various emails with S Mitchell regarding same.	Litwack
08/30/2018	Consulting fees - Corporate Direct staff regarding preparation of an introduction for the new Notice of Motion which is posted on our website. Correspond with new prospective purchasers and arrange access to data room. Direct staff regarding payment of insurance premiums and other amounts	Mitchell
08/30/2018	Consulting fees - Corporate Provided confidentiality agreement to new interested party; provided access to virtual data room to same upon receipt of executed confidentiality agreement; emails with site supervisor regarding maintenance requirements and quotes for roof repairs; call with prospective purchaser to discuss sale process.	Litwack
08/30/2018	Consulting fees - Corporate Add users to dataroom.	Schmidt
08/30/2018	Banking - Corporate Banking, posting.	Samoilov
08/31/2018	Consulting fees - Corporate Throughout the day, emails and other correspondence with lawyers for the various Mortgagees, with lawyers at Dentons and with staff to address issues raised in respect of the September 12th Notice of Motion and generally to prepare for that Hearing. As well, assist prospective buyers by responding to inquiries	Mitchell
08/31/2018	Consulting fees - Corporate Emails and call with prospective offeror to discuss the property and sale process; email memo to S Mitchell regarding property maintenance requirements; email follow up to site supervisor regarding same.	Litwack



# FARBER

08/31/2018	Consulting fees - Corporate Update website engagement.	Schmidt
09/01/2018	Consulting fees - Corporate Discuss with N Litwack the quote for the cleanup and sanitization of the basement premises as well as quotes for roof repairs due to leaking including in the interior walls	Mitchell
09/03/2018	Consulting fees - Corporate Receive and read the Cross Motion filed by R Hine for Lalu, then correspond with Dentons on alternatives and a response	Mitchell
09/04/2018	Consulting fees - Corporate Meeting M. Litwack re premises; call from party re connection, if any, to Templar Hotel file; call from interested party to address their questions following their review of data room materials	Hendriks
09/04/2018	Banking - Corporate Banking, posting.	Samoilov
09/05/2018	Consulting fees - Corporate Email re DIP loan.	Litwack(M)
09/05/2018	Consulting fees - Corporate Emails with lawyers at Dentons regarding inquiries of lawyers at KMB as well as Chaitons in respect of the positions of E Karras and A Visram in response to the Cross Motion filed by the lawyers for Lalu seeking release of the \$200,000 in trust funds and payment to R Hine, lawyer for Lalu, of \$34,000 for unpaid legal fees. Direct staff regarding posting of the Cross Motion to our website. Discuss with M Litwack the likely further Receiver borrowing of \$450,000 from N Edell of Clanton Capital, subject to an Order being granted at the September 12th Hearing	Mitchell
09/05/2018	Consulting fees - Corporate Emails and calls re roof repair update, no response from Karras on notice of motion, funder for further Receiver Certificates when approved by Court, etc.; meeting L. Litwack and Mitchell re ongoing administration and utility monitoring; Schmidt re adding Hine response materials to website	Hendriks
09/05/2018	Consulting fees - Corporate Followed up with site supervisor regarding maintenance requirements and quotes; various emails regarding same.	Litwack
09/06/2018	Consulting fees - Corporate Correspondence with K Kraft & H Chaiton regarding the position of A Visram on: the increased Receiver	Mitchell

# FARBER

borrowings; the \$8 million threshold for offers; and, the \$200,000 trust funds held by R Hine. Email exchange with S Van Allen regarding the lawyer for E Karras, B Jenkins of KMB, setting a time to confer regarding the Cross Motion in respect of the \$200,000 trust fund

09/07/2018	Consulting fees - Corporate Document production	Binelli
09/07/2018	Consulting fees - Corporate Emails Mitchell and Kraft re response from Chaitons on behalf of Visram re motion material and re funding for expected Receiver Certificate increase; emails Kraft re timing and quantum of payments from Intact to "650 Bay Hotel", impact of assignment from 650 Bay to Visram and impact on relief being sought in Court report	Hendriks
09/07/2018	Consulting fees - Corporate Numerous emails and phone calls with lawyers at Denton's, Chaitons, KMB and Hine as well as Ardellini reaching out for the various stakeholders' positions on the Motion and the proposed Draft Order. Receive and consider request from Visram to be the Lender for the Receiver's borrowings increase and correspond about same with K Kraft and Chaitons. Hear from N Edell advice that he is prepared to advance the \$450,000 as soon as possible. Correspondence from S Rappos regarding the Intact Order component and wanting to preserve the rights of Visram under the Assignment of insurance claim proceeds then communicate about that request with K Kraft, S Van Allen and J Hendriks to sort out the details and prepare a response to Chaiton's	Mitchell
09/10/2018	Consulting fees - Corporate Hear from S Van Allen that John V, representative of Intact, has agreed to our Draft Order terms for payout to the Receiver in Trust of the Intact Settlement funds. Hear from S Van Allen of her efforts to reach B Jenkins of KMB trying to learn the position of E Karras on the various elements of our Motion to be heard later this week. Receive and review the Intact confirmation letter and instruct that it be forwarded to S Rappos	Mitchell
09/10/2018	Consulting fees - Corporate Review and respond to emails from Kraft, Van Allen and Mitchell re preparing for Wednesday's hearing, trying to get Visram, Karras and Intact's position, etc.; email from new interested party	Hendriks
09/10/2018	Banking - Corporate Banking, posting.	Samoilov
09/11/2018	Consulting fees - Corporate Various correspondence with B Jenkins of KMB and S Van Allen regarding the E Karras position on the various	Mitchell

# FARBER

Motion matters. Hear from S Van Allen that Ardellini has no response on the Motion. Correspondence with s Van Allen and R Hine regarding his client's position on the \$200,000 held in trust. S Rappos correspondence setting out the new position of Visram regarding: the Intact Settlement, the Sales Process, the \$200,000 in trust and that he will now bring a credit bid forthwith. Emails late into the night and phone calls with lawyers at Dentons and Chaiton and Farber staff to prepare for the Court Hearing tomorrow and to in particular conclude how best to deal with the last-minute requests made by the various stakeholders.

- |            |   |
|------------|---|
| 09/11/2018 | <p>Consulting fees - Corporate                      Hendriks</p> <p>Call from new interested party re availability, background, data room access, relief being sought tomorrow in Court, etc.; forward him Teaser, link to website and confidentiality agreement; Schmidt and Litwack to update tracking of new party and access to website; emails Dentons and meeting Mitchell re planning for tomorrow's hearing and for potential positions to be taken by other parties</p>  |
| 09/11/2018 | <p>Consulting fees - Corporate                      Litwack</p> <p>Call with prospective offeror regarding sale process updates.</p>  |
| 09/12/2018 | <p>Consulting fees - Corporate                      Mitchell</p> <p>Early morning correspondence with lawyers at Chaiton's, KMB, Dentons and with Farber staff all making last-minute requests and comments in efforts to sort out what appears to be new positions at the last moment in respect of the Motion to be heard at 10 a.m. this morning, including the sudden demands of both Visram and Karras for an adjournment of the entire Motion for 4 weeks. Direct lawyers and staff regarding Court attendance. After the Court Hearing, meet with K Kraft &amp; J Hendriks at length to review the Endorsement terms, made by the Judge, in detail. Eventually receive a copy of the written Endorsement, review same and direct it's posting to our website. Correspond with N Edell regarding the Receiver borrowing \$450,000 advance that he is prepared to make</p> |
| 09/12/2018 | <p>Consulting fees - Corporate                      Hendriks</p> <p>Emails from last night and meeting Mitchell re Visram position and potential credit bid and impact on relief being sought today; prepare for and attend Court re 9th report and discussions in Court re adjournment, sale process, likely credit bid and draft endorsement; debrief with Kraft and Mitchell re same; emails party that is prepared to fund if further extensions of Receiver Certificate limits; endorsement to Schmidt for website</p>   |

# FARBER

09/12/2018	Consulting fees - Corporate Update website engagement.	Schmidt
09/13/2018	Consulting fees - Corporate Utility and security invoice review and impact on cash flow; review interested party notes re impact of yesterday's adjournment to sales process and respond to interested party queries;	Hendriks
09/13/2018	Banking - Corporate Banking, posting.	Samoilov
09/14/2018	Consulting fees - Corporate Update to Litwack re Court on Wednesday, adjournment and impact on file, including sales process, in the meantime.	Hendriks
09/14/2018	Consulting fees - Corporate Update discussions with J Hendriks regarding court hearing from previous day; email and telephone correspondence with various interested parties and prospective purchasers regarding sale process; email update to site supervisor regarding sale process and maintenance requirements; address virtual data room access issue.	Litwack
09/16/2018	Consulting fees - Corporate Correspondence from and to S Van Allen, E Karras and KMB regarding E Karras now claiming an interest in the \$200,000 trust fund held by R Hine.	Mitchell
09/17/2018	Consulting fees - Corporate Correspondence with lawyers at Dentons regarding the next steps to respond to the Cross Motion brought by R Hine and in particular how to address the Claim to the trust fund now being asserted by KMB on behalf of E Karras. Hear from S Van Allen & S Rappos that Visram now wants to close a credit bid deal ASAP; as well as discussions regarding the Receiver Borrowing needs and the further costs to be incurred up to closing and beyond. Work with J Hendriks on a review of his draft Carrying Cost Estimate Analysis to October 31, 2018. Emails from S Rappos regarding the credit bid terms and priority payables estimates.	Mitchell
09/17/2018	Consulting fees - Corporate Mitchell and Van Allen re Karras position on the funds in Hine trust account; emails re credit bid forthcoming; initial discussions and prepare summary re costs to close for potential priority claims and Receiver Admin Charge including WIP updates, utilities, security, insurance etc. for Rappos; Litwack re interested parties and status of sales process;	Hendriks

# FARBER

09/17/2018	Consulting fees - Corporate Emails with site supervisor regarding maintenance requirements and quote for same.	Litwack
09/17/2018	Consulting fees - Corporate Add user to dataroom.	Schmidt
09/17/2018	Banking - Corporate Banking.	Samoilov
09/18/2018	Consulting fees - Corporate Discussions with lawyers at Dentons regarding the likely need for a bankruptcy of the debtor company after closing the credited transaction, in order to address the remaining issues. S Rappos correspondence to inform in respect of the possible opposition of Ardellini to a credit bid as well as to inform regarding the status of the Intact proceeds both pre and post Receivership. S Van Allen correspondence regarding; E Karras and the accounting for as well as disgorgement of the pre-Receivership Intact proceeds; as well as a discussion with S Rappos who appears to be expanding the definition of Assets in the Asset Purchase Agreement to possibly include certain personal property including the Intact funds. Correspondence between R Hine and S Van Allen about scheduling the Cross Motion as soon as possible and to advise that Lalu and E Karras are not in settlement discussions over the \$200,000 trust fund. G Schmidt provided and I reviewed a copy of City of Toronto latest realty tax arrears statement. Late-afternoon receive, review and comment on the draft credit bid of Visram as received from S Rappos. Discussions with K Kraft about Chaitons' request to advise what amount of credit bid we think is appropriate; and, about the admin charge on all of the assets, not just the real property; and, alternatives to what is likely needed including a bankruptcy post-closing.	Mitchell
09/18/2018	Consulting fees - Corporate Receive and review credit bid from Visram and provide/receive comments to/from Dentons and Mitchell; queries from interested parties including through White; emails re attendance at Court on Thursday and potential issues that may arise; updates to projected costs estimates; emails Mitchell and Dentons re Karras disclosure timing re pre-receivership payments from Intact to "650 Bay Hotel"	Hendriks
09/19/2018	Consulting fees - Corporate Emails from and to S Van Allen and J Hendriks re: The draft credit bid terms and uncertainties raised; a summary of all of the PPSA registrants which may have claims to personal property assets; continuing unclear emails from S Rappos regarding his definition of the	Mitchell

09/19/2018	Consulting fees - Corporate	Hendriks	Ongoing review and comments on the credit bid including which assets Visram intended to include/exclude, potential Karras position re tomorrow's hearing, estimated costs and funding, disposition of remaining assets that may or may not be covered by Visram security and potential bankruptcy to deal with potential unsecured assets and claims
09/20/2018	Consulting fees - Corporate	Mitchell	Discuss with J Hendriks and K Kraft the Order granted by the Court this morning. Direct Dentons to send correspondence to KMB to set out all of the outstanding matters between the Receiver and E Karras and as well to observe that today's Order requires that all of the pre-Receivership Intact proceeds be disgorged forthwith. Receive and read the Orders granted today, forward same to G Schmidt for posting on to our website. Direct S Van Allen to send wire transfer information to Intact so that the \$453,000 can be distributed to the Receiver in Trust at this time. Discuss with J Hendriks and then correspond with N Edell to provide a copy of today's Order and request a \$450,000 Receiver Borrowing at this time to be secured by a Receiver Certificate. Organize a conference call for tomorrow with lawyers at Dentons to discuss the: funds reserved for completion of the receivership; and, the outstanding litigation over the personal property.
09/20/2018	Consulting fees - Corporate	Hendriks	Prepare for and attend Court; debrief with Mitchell; get copy of order from Dentons for website and for funder; emails and call funder re Receiver Certificate #3 and draft same; follow up with Dentons re outstanding bills
09/20/2018	Consulting fees - Corporate	Schmidt	Add user to dataroom.
09/20/2018	Banking - Corporate	Samoilov	Banking, posting.
09/20/2018	Banking - Corporate	Lloyd-Key	Bank reconciliation for August 2018.
09/21/2018	Consulting fees - Corporate	Mitchell	Discussion with N Litwack regarding: the status of the clean up and smell in the hotel lower level; as well as the outstanding quotes for the roof repairs that may be needed. Email to N Edell regarding the \$450,000 Receiver Borrowing. Conference call with J Hendriks, S Van Allen and K Kraft regarding: the credit bid terms;

# FARBER

priority payables; funding personal property litigation; propriety of a bankruptcy post-closing; Intact trust funds; and, prior payments made by Intact to E Karras. Received from S Van Allen the amended credit bid with changes from Denton's and Farber, review and respond and direct it be sent to S Rappos at Chaitons on behalf of Visram.

- |            |  |
|------------|--|
| 09/21/2018 | <p>Consulting fees - Corporate                      Hendriks</p> <p>Emails and call Dentons and Mitchell re review and comments on credit bid; Litwack re status of other interested parties, quote on roof repair, security, pest control, etc.; Dentons re insurance rent disgorgement per order and Intact re court order on post-receivership settlement</p>   |
| 09/21/2018 | <p>Consulting fees - Corporate                      Litwack</p> <p>Emails to various prospective offerors regarding update on court proceeding from Thursday; follow up telephone discussions with same; various discussions with staff, and correspondence with site supervisor, regarding roof maintenance requirements and quotes regarding same.</p>   |
| 09/22/2018 | <p>Consulting fees - Corporate                      Mitchell</p> <p>Work with Dentons to expand the definition of excluded Assets in the form of Asset Purchase Agreement to include: rent arrears; pre-receivership Intact funds paid out; post-receivership Intact monies to be paid to the Receiver in trust; and, the \$200,000 trust fund held by R Hine. Throughout the day correspond with S Van Allen to draft the revisions.</p>  |
| 09/23/2018 | <p>Consulting fees - Corporate                      Mitchell</p> <p>Representative of Intact, J Valeriote, correspondence regarding funding the \$450,000 amount ordered by the court to be paid to us in Trust. Work with S Van Allen and S Rappos on the revised Asset Purchase Agreement credit bid. Speak to S Van Allen regarding further changes to the excluded assets definition in the APA to make it more clear.</p>   |
| 09/24/2018 | <p>Consulting fees - Corporate                      Mitchell</p> <p>Numerous emails with S Van Allen and S Rappos regarding the further changes to the credit bid APA. Correspondence from [REDACTED] and J Hendriks regarding a possible, firm, cash offer to come this week. Also, correspondence with N Litwack re [REDACTED] regarding another possible, firm cash offer to come this week. Inform S Van Allen and direct that she advise S Rappos of these possible offers. N Litwack and J Tertigas update regarding the cleanup of the interior of the building and the roof repair quotes.</p> |

# FARBER

- 09/24/2018 Consulting fees - Corporate Hendriks  
Phone call from new interested party that wants to submit unconditional offer in next 3 days notwithstanding Visram credit bid; update to Mitchell and Dentons re same; follow up with Litwack re two other parties still interested in proceeding notwithstanding credit bid; follow up with Samoilov re receiver certificate #3 funding still pending and timing of expense payments; Litwack updates re roof repairs quote and resolution of pest issue; Samoilov and Mitchell re HST reporting periods, outstanding returns and efforts to amend from being an annual filer
- 09/24/2018 Consulting fees - Corporate Litwack  
Correspondence with prospective offerors about court hearing from previous week and forthcoming offers; correspondence with site supervisor regarding cleaning undertaken and quotes for roof maintenance; reviewed outstanding invoices for site supervision.
- 09/24/2018 Banking - Corporate Samoilov  
Banking; phone call to RBC following up incoming wire payment.
- 09/25/2018 Consulting fees - Corporate Mitchell  
Letter from Intact representative regarding forwarding the \$453,000 fund in Trust by certified check instead of wire transfer. Email from [REDACTED]  
[REDACTED], regarding a possible offer on the hotel property. J Hendriks discuss a call from a prospective buyer wanting to buy and or lease the building and to use it as an ESL School. Talk to N Litwack regarding quotes for roof repairs.
- 09/25/2018 Consulting fees - Corporate Hendriks  
Mitchell re Critical Path letter from Intact; call from party interested in using building for an ESL school
- 09/25/2018 Consulting fees - Corporate Litwack  
Reviewed new quote for roof maintenance with S Mitchell and J Hendriks; various discussions regarding same.
- 09/26/2018 Consulting fees - Corporate Mitchell  
Talk to J Hendriks regarding J Tertigas to arrange a site visit for a prospective buyer, possibly offering [REDACTED] dollars on an unconditional basis, from [REDACTED] together with [REDACTED] to attend on Friday afternoon. Talk to S Van Allen to notify S Rappos of this prospective offer and other new prospective offers and to inquire of S Rappos as to where is the credit bid offer from Visram. N Edell and J Hendriks follow-up regarding the \$450,000 Receiver borrowing advance which is to be issued in exchange for a Receiver Certificate today. Ask S Rappos and receive an email



# FARBER

regarding no instructions yet from Visram on his credit bid.

- 09/26/2018 Consulting fees - Corporate Hendriks  
Call from broker for party interested in visiting property on Friday and submitting a cash offer notwithstanding current status of credit bid; update Dentons and Mitchell re same; Tertigas to arrange site visit; calls from funder re Receiver Certificate #3 funding; email and call to another interested party that approached Dentons
- 09/27/2018 Consulting fees - Corporate Mitchell  
Work with N Edell and J Hendriks to process the wire transfer of \$450,000 being the Receivers borrowing and then approve disbursements and sign check requisitions. Review the draft [REDACTED] offer from 2064472 Ontario Inc prepared by its agent P Murphy and discuss with Dentons as well as arrange a showing on site tomorrow afternoon for that prospective buyer. Conference call with S Van Allen, K Kraft and J Hendriks to revise the draft Offer prepared by [REDACTED] and send it back to him today with an explanatory cover email.
- 09/27/2018 Consulting fees - Corporate Hendriks  
Broker and Tertigas re setting up site visit for tomorrow; Mitchell and Dentons re potential offer and re credit bid amendments and no comments yet from Visram; call with yet another interested party and coordinate with Van Allen who also spoke to this party; Samoilov and Edell re outstanding wire sent from funder but not yet in Receiver's account; receipt of draft form of offer from broker, reviews and provide comments to Dentons and Mitchell; call Dentons and Mitchell to discuss the offer, changes to the Court-approved form of offer, write-back, etc.; copy of revised draft offer agreement back to broker
- 09/27/2018 Consulting fees - Corporate Litwack  
Correspondence with site supervisor regarding obtaining additional quotes for spot repairs and maintenance to roof.
- 09/27/2018 Banking - Corporate Samoilov  
Phone calls to RBC following up incoming wire transfer; banking, posting.
- 09/28/2018 Consulting fees - Corporate Hendriks  
Emails and calls Murphy, Tertigas and Mitchell re site visit and status of pending offer; Firstbrook re September insurance invoice; Samoilov and Edell to confirm funding receipt and then process expense and Court-approved fee payments
- 09/28/2018 Banking - Corporate Samoilov  
Banking, posting.

# FARBER

09/29/2018	<p>Consulting fees - Corporate Mitchell</p> <p>S Van Allen email regarding S Rappos and the comments of Visram on the prospective [REDACTED] offer and the status of the proposed credit bid. Information from S Van Allen on a call to her from [REDACTED] on another prospective offer. Update from J Hendriks and [REDACTED] regarding the site visit yesterday and the status of the prospective offer now expected.</p>
09/30/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Approve payments including for the monthly Insurance costs. Approve issuance of the \$450,000 Receiver Certificate to N Edell. Update the status of prospective offers.</p>
10/01/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Correspondence with S Van Allen and J Hendriks throughout the day getting updates on the site visits and the status of incoming offers.</p>
10/01/2018	<p>Consulting fees - Corporate Hendriks</p> <p>Calls and emails broker re status of pending offer; emails Mitchell and Dentons re same and re timing issues for report to be prepared for full notice; finalize Receiver Certificate #3 and forward to funder</p>
10/02/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Emails with J Hendriks for an update re [REDACTED] possible offer. Also speak to J Hendriks re the offer from the client of [REDACTED], which was expected yesterday. S Van Allen follow up with S Rappos re the Visram credit bid; and, also re the Intact cheque for \$453K which is now due. Text from [REDACTED] re incoming offer this evening.</p>
10/02/2018	<p>Consulting fees - Corporate Hendriks</p> <p>Email and call follow up re pending offer and updates to Mitchell and Dentons re same; preliminary review of offer received this evening and to Mitchell and Dentons with initial comments thereon; Mitchell and Dentons re other current expressions of interest; follow up with Van Allen re Intact funds per Court order still outstanding</p>
10/02/2018	<p>Banking - Corporate Samoilov</p> <p>Banking, posting.</p>
10/03/2018	<p>Consulting fees - Corporate Hendriks</p> <p>Prepare summary of Visram security position and estimated net realizations/costs to assess affected parties of recent offer; meeting offeror re their offer and their slightly updated offer presented this morning; Mitchell and Dentons on numerous calls and emails through the day re Visram position on offer, proposed signback, waiver from Visram re his request to not</p>

# FARBER

present the initial offer for his ROFR as specified by the Court-approved sales process, re-write of offer and sign back to offeror;

- 10/03/2018 Consulting fees - Corporate Mitchell  
 Receive and review the virtually firm [REDACTED] offer sent by representative [REDACTED] on behalf of his client [REDACTED]. Over the course of the next while, many email exchanges during the day with S Van Allen, K Kraft, S Rappos and J Hendriks regarding: the Visram first right of refusal; Visram's request that the receiver counter-offer to [REDACTED]; the waiver of Visram's first right of refusal in respect of the [REDACTED] offer; possible need to reschedule the court hearing to a later date; the need to change the offer to the court approved form of APA; to delete provisions regarding the first right of refusal on the abutting properties; extend the title search timing; and some other minor amendments. Work with J Hendriks and K Kraft regarding the analysis of Visram's material shortfall upon acceptance of even the offer as high as [REDACTED] and therefore no likely need to involve the subsequent mortgagees in the considerations. Organize for [REDACTED] and the Buyer to meet later today at our offices to discuss the offer and possible counteroffer. Conference call with J Hendriks, S Van Allen and K Kraft regarding the [REDACTED] right of refusal versus [REDACTED] request of Visram to counter offer; and to seek acknowledgement from Visram that he asks us not to comply with the right of first refusal terms under the court-ordered sales process. Emails with S Rappos and K Kraft regarding the terms of the right of first refusal, the counter offer, the release of responsibility if the counteroffer is rejected and other concerns. Direct J Hendriks to sign back the offer formally at [REDACTED]
- 10/03/2018 Banking - Corporate Samoilov  
 Banking, posting JE adjustments; filing HST return for the period ending Sep 30, 2018.
- 10/04/2018 Consulting fees - Corporate Hendriks  
 Call with offeror's brokers on signback offer being amended and signed back to Receiver; email to offeror as requested with summary of proceedings to date, the stalking horse bid and links to the website with the corresponding documents/support; update to Mitchell and Dentons re estimated timing of revised offer and planned closing dates; call with offeror; Mitchell and Dentons re status of offer, Visram position, pending Court date and suggested deferral until offer or credit bid finalized, etc.; emails re suggested signback

# FARBER

- 10/04/2018 Consulting fees - Corporate Mitchell  
Follow up with J Hendriks on the status of the [REDACTED] counter- counter offer made and to assist in answering the Buyer's queries. Contact S Van Allen regarding the status of the \$453,000 trust fund outstanding from Intact. Enquire of K Kraft on the status of the \$810,000 insurance settlement proceeds to be disgorged by E Karras and to contact his lawyers at KMB to inquire. Receive from [REDACTED] the counter-counter-counter offer of [REDACTED] and forward same to the lawyers at Dentons and Chaitons to initiate a dialogue with Visram about this.
- 10/05/2018 Consulting fees - Corporate Hendriks  
Prepare sign back as discussed with Dentons and Mitchell and forward to offeror's brokers with cover email re changes; call and emails from/to another interested party that wants to review and submit offer before sales process expires; update to Receiver Certificate funder re expected extensions re Court approval and closing
- 10/05/2018 Consulting fees - Corporate Mitchell  
Review email interest and inquiry from [REDACTED] regarding a possible purchase or lease of the property; and direct J Hendriks to attempt to accelerate the possible purchase given the late stage of the court-approved sales process. Correspondence with N Edell to update on the change of hearing date as a result of the new offer and counter-offers . Work with K Kraft S Rappos by emails to attempt to determine Visram's position on the [REDACTED] offer vs. his right to credit bid.
- 10/05/2018 Banking - Corporate Samoilov  
Banking, posting.
- 10/09/2018 Consulting fees - Corporate Hendriks  
Calls from two more interested parties via Litwack and Nunes; call Van Allen re her conversation with Nunes and respond to Nunes queries; Mitchell and Dentons re Karras response to Court-ordered accounting and disgorgement of funds, re Visram position on offers, right of first refusal and credit bid and re Intact funds not paid to Receiver yet
- 10/09/2018 Consulting fees - Corporate Mitchell  
Direct N Litwack and J Hendriks in respect of emails from [REDACTED] about a possible offer. Follow up with S Van Allen, K Kraft and S Rappos regarding the [REDACTED] offer and the necessity for Visram to make a decision on how he wishes to proceed including phone discussions and emails. Work with S Van Allen and direct Dentons to contact KMB about the court order that their client, E Karras, disgorge over \$800,000

# FARBER

of insurance settlement proceeds and provide an accounting for same. Also follow up with S Van Allen to correspond with the representative of Intact regarding the \$343,000 settlement funds which remain unpaid despite the court order last month. Follow up during the day several times with S Van Allen and S Rappos on the promised revised credit bid from Visram.

- 10/10/2018 Consulting fees - Corporate Hendriks  
Calls from new interested parties and advise re current sales process expired; ongoing calls and emails Dentons and Mitchell re revised cash offer and awaiting Visram response; call Chaitons and Dentons re Visram position; follow up with Dentons and Mitchell re ability to proceed as requested and confirmation from Visram that he is aware re risks on existing offer if it is signed back and not accepted; Schmidt to notify Insolvency Insider to remove hotel from Assets For Sale as current sales process expired.
- 10/10/2018 Consulting fees - Corporate Mitchell  
Email correspondence with [REDACTED] regarding updates on the status of the offer from [REDACTED]. Email from s Rappos arising from our conference call this morning with S Van Allen, J Hendriks, H Chaiton, S Rappos and A Visram regarding his request to proceed by counter offering the [REDACTED] offer and making some other revisions. Several emails and phone calls to J Hendriks and lawyers at Dentons as well as Chaitons to further clarify and refine and seek written confirmation of amendments to the earlier position set out on behalf of A Visram. Finally, email correspondence exchanges between Chaitons and Dentons to determine precisely how to proceed and respond to the latest offer [REDACTED]  
[REDACTED] Direct J Hendriks and S Van Allen to prepare and present the counter offer to [REDACTED]  
[REDACTED] with no due diligence; And no title search (because of the Vesting order); to be open until next Tuesday; with the closing of the transaction to be on November 15th.
- 10/11/2018 Consulting fees - Corporate Hendriks  
Calls and emails Dentons, Chaitons and Mitchell re cash offer and Visram position on terms of signback vis-a-vis his right of first refusal; make changes and signback offer; conference call brokers and Mitchell re signback; call from another interested party and advise re current sales process expired; updates to Chaitons vis Dentons; Litwack and Mitchell re property repairs
- 10/11/2018 Consulting fees - Corporate Mitchell  
Discuss with N Litwack and direct approval for Pros Contracting to make spot roof repairs based on the quote. Direct sending of the counter- counter- counter offer to [REDACTED]. Discuss

# FARBER

that sign back APA with Dentons and arrange a conference call with [REDACTED] to go over it and the revisions from their previous offer and to respond to any queries as well as to explain the status of Mr Visram's Right of First Refusal. Direct S Van Allen to again follow up with KMB regarding the \$810,000 to be disgorged by E Karras and the accounting to be provided. Conference call with J Hendriks, [REDACTED] regarding the most recent signed back APA, to answer queries, to explain the background and to request confirmation at least verbally of acceptance of the dollar amount being 9.5 million dollars, subject of course to review by their lawyers. Approved email to be sent by J Hendriks [REDACTED] to extend the time in which the APA is open for acceptance until next Tuesday and to set the date of closing at November 15. Also provide that information to Dentons and request that they update lawyers at Chaiton's on behalf of Mr. Visram.

10/12/2018	<p>Consulting fees - Corporate Hendriks</p> <p>Preliminary review of draft report to Court from Van Allen and forward to Litwack re comments on parties contacted during sales process; meeting Mitchell and emails with offeror, Dentons and Chaitons re status of sign back; call from new interested party and advise re sale process closed</p>
10/12/2018	<p>Consulting fees - Corporate Mitchell</p> <p>Received from S Van Allen a draft of the 10th report of Receiver, the draft Order and the draft Approval and Vesting Order and make a preliminary review of same to summarize some suggested amendments. Correspond to K Kraft about the need for a later court date due to the last-minute offer negotiations which are open until next Tuesday leaving insufficient time to send the motion record to the service list. Direct N Litwack regarding roof repairs. Reach out [REDACTED] to follow up on any decisions by [REDACTED] on the recent APA counter offer, especially with respect to the purchase price amount.</p>

Expenses: Photocopies, faxes, etc.

Total for Services	\$ 78,215.00
Total for Expenses	<u>855.00</u>
Subtotal	79,070.00
HST	<u>10,167.95</u>
Current Amount Due	<u>\$ 89,237.95</u>

HST#136800752RT0001

# FARBER

## A. FARBER & PARTNERS INC.

650 BAY HOTEL (2220277 ONTARIO INC.)

### SUMMARY OF TIME INCURRED AUGUST 17, 2018 TO OCTOBER 13, 2018

Name	Total Hours	Rate Per Hour	Billing
S. Mitchell	74.50	\$625.00	\$46,562.50
J. Hendriks	45.30	\$550.00	\$24,915.00
N. Litwack	8.90	\$425.00	\$3,782.50
M. Litwack	1.30	\$350.00	\$455.00
A. Binelli	0.20	\$200.00	\$40.00
L. Lloyd-Key	0.30	\$200.00	\$60.00
S. Samoilov	8.20	\$200.00	\$1,640.00
G. Schmidt	3.80	\$200.00	\$760.00
<b>Total</b>	<b>142.50</b>	<b>average rate</b>	<b>\$78,215.00</b>
		<b>\$548.88</b>	

ZAHERALI VISRAM  
Applicant

- and -

2220277 ONTARIO INC.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF JOHN HENDRIKS  
(sworn October 22, 2018)**

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*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*



**TAB 6**

Court File No. CV-17-11811-00CL

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

THE HONOURABLE	)	TUESDAY, THE 30th
	)	
JUSTICE	)	DAY OF OCTOBER, 2018

BETWEEN:

**ZAHERALI VISRAM**

Applicant

– and –

**2220277 ONTARIO INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF*  
*JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**ORDER**

**THIS MOTION**, made by A. Farber & Partners Inc., in its capacity as the court appointed receiver (the “**Receiver**”) of the assets, undertakings and properties of 2220277 Ontario Inc. (the “**Debtor**”), for an order reinstating the Sale Process (defined below), and granting certain other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Tenth Report of the Receiver, dated October 23, 2018 (the “**Tenth Report**”), the Affidavit of John Hendriks, sworn October 22, 2018 (the “**Hendriks Affidavit**”) and the Affidavit of Michael Davies, sworn October 22, 2018 (together with the Hendriks Affidavit, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, Zaherali Visram (“**Visram**”), the Debtor, and any other parties appearing:

## **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and the Motion Materials be and is hereby abridged and validated and this Motion is properly returnable today.

## **REPORT AND ACTIVITIES**

2. **THIS COURT ORDERS** that the Tenth Report, and the activities and conduct of the Receiver described therein, be and are hereby approved.

## **STATEMENT OF RECEIPTS AND DISBURSEMENTS**

3. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements, dated October 19, 2018, attached as Appendix "C" to the Tenth Report, be and is hereby approved.

## **FEES AND DISBURSEMENTS**

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Tenth Report and the Fee Affidavits, be and are hereby approved.

## **SALE PROCESS**

5. **THIS COURT ORDERS** that the sale process (the "**Sale Process**") attached as Appendix "A" to the Order of the Honourable Justice Hainey, dated April 12, 2018, be and is reinstated with the following amendments:

- (a) the Sale Process shall expire on January 31, 2019;
- (b) paragraph 14 is deleted in its entirety thereby removing Visram's right of first refusal contained therein;
- (c) the Receiver shall not sell the Real Property (as defined in the Sale Process) for an amount less than \$8 million without Visram's consent; and

- (d) the Receiver is authorized, but not required, to list the Real Property for sale with a commercial real estate broker on such terms and at such list price as the Receiver may determine, in its sole discretion.

**SEALING**

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized, *nunc pro tunc*, to redact the commercially sensitive entries of the Hendriks Affidavit served any party other than this Honourable Court.

7. **THIS COURT ORDERS** that the unredacted Hendriks Affidavit filed with this Honourable Court, be sealed from the public record until the closing of a sale of the property municipally known as 650 Bay Street and 55 Elm Street, Toronto Ontario.

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Court File No: CV-17-11811-00CL

**ZAHERALI VISRAM**  
**Applicant**

- and -

**2220277 ONTARIO INC.**  
**Respondent**

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

PROCEEDING COMMENCED AT TORONTO

**ORDER**

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*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*

Court File No: CV-17-11811-00CL

ZAHIRALI VISRAM  
Applicant

- and -

2220277 ONTARIO INC.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD**  
(Returnable October 30, 2018)

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*Lawyers for A. Farber & Partners Inc., Court Appointed  
Receiver of 2220277 Ontario Inc.*