

**ONTARIO**

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

**KENNETH WESTLAKE**

**Applicant**

**- and -**

**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**

**Respondent**

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**MOTION RECORD  
(Returnable February 10, 2017)**

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(Updated January 31, 2017)**

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**(Updated January 30, 2017)**

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

**Applicant**

- and -

**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**

**Respondent**

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Court File No.: CV16-11520-00CL

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

**KENNETH WESTLAKE**

**Applicant**

**- and -**

**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**

**Respondent**

**NOTICE OF MOTION**

**A. FARBER & PARTNERS INC.** (“**Farber**”), in its capacity as the Court-appointed receiver (the “**Receiver**”) of the assets, undertakings and property of Exclusive Transfer Enterprise Corporation (the “**Debtor**”) will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), on Friday, February 10, 2017 at 10:00 am, or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

**THE MOTION IS FOR:**

1. Orders substantially in the form attached at Tabs 3 and 4 of the Motion Record, *inter alia*:
  - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record so that the motion is properly returnable on February 10, 2017, and dispensing with service on any person other than those served;

- (b) approving the First Report of the Receiver dated January 30, 2017 (the “**First Report**”) and the Receiver’s conduct and activities described therein;
- (c) approving the sale transactions completed by the Receiver and its auctioneer, Kevin Barker Auctions Ltd. (“**Barker**”), at the public auction held November 12, 2016 of certain of the Debtor’s assets (the “**Auctioned Assets**”) set out in Schedule “A” to the form of Order attached at Tab 3 of the Motion Record, and vesting all right, title and interest to the Auctioned Assets in the relevant purchasers, free and clear of any and all Encumbrances (as defined in the draft Order);
- (d) declaring that the Disputed Fleet Assets and the Insurance Refund constitute and properly form part of the Debtor’s Property, as defined in the Order of the Honourable Mr. Justice Newbould dated September 15, 2016 (the “**Appointment Order**”);
- (e) approving the occupancy agreement dated September 29, 2016 between the Receiver and the Applicant, as appended to the First Report;
- (f) declaring that the Exclusive Action, as defined in the First Report, is abandoned by the Receiver and that the Receiver shall have no liability or further obligations with respect to the Exclusive Action;
- (g) authorizing the Receiver to make a distribution of the net proceeds from the sale of the Company’s Assets, the Insurance Refund and the AR Funds, as more fully described in the First Report, pursuant to the order of priorities set out therein;
- (h) approving the Receiver’s first interim statement of receipts and disbursements for the period from August 12, 2016 to December 31, 2016 and appended to the First Report;

- (i) approving the fees and disbursements of the Receiver for the period of August 12, 2016 to December 31, 2016 and the Receiver's counsel, WeirFoulds LLP, for the period of July 31, 2016 to December 31, 2016;
- (j) subject to the Receiver's completion of the Remaining Activities, discharging the Receiver and releasing the Receiver from any and all further obligations as Receiver of the Property and any and all liability that Farber now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Farber while acting as Receiver, save and except for the Receiver's gross negligence or willful misconduct; and
- (k) such other and further relief as counsel may request and this Honourable Court may allow.

**THE GROUNDS FOR THE MOTION ARE:**

- 2. capitalized terms not otherwise defined herein have the meaning given to them in the First Report or the Appointment Order;
- 3. the Debtor carried on business as a full service, asset-based transportation provider that offered various services to its clients, including full truckload and expedited cargo shipments throughout Ontario, Quebec and the United States;
- 4. on August 8, 2016, the Debtor filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") and Farber was appointed as the Debtor's trustee in bankruptcy (the "Trustee");
- 5. pursuant to the Appointment Order, Farber was appointed as Receiver over the assets, undertakings and property of the Debtor;

6. after negotiating alternative lease arrangements for the storage of the Debtor's Property, the Receiver solicited and evaluated proposals from auctioneers and other parties to assist the Receiver in determining the appropriate method of realizing upon the Property;
7. while determining the best manner in which to realize upon the Debtor's Property, the Receiver also evaluated the claims of various creditors and others filed with the Trustee in respect of, among other things, property owned by third parties in the possession of the Debtor, including but not limited to leased trucks and trailers;
8. after evaluating the proposals submitted, the Receiver chose the proposal submitted by Barker and entered into an auction agreement dated September 30, 2016;
9. following a fulsome advertising campaign, a public auction was held on November 12, 2016 and the Company Assets were sold to various purchasers;
10. pursuant to the projected distribution schedule attached to the First Report, the Receiver seeks the Court's approval of a distribution to, among others, employees of the Debtor on account of the Employee Claims and Canada Revenue Agency on account of the Deemed Trust Claim;
11. the proceeds held by the Receiver from its realization efforts in respect of the Debtor's Property are currently insufficient to retire the priority Employee Claims, Deemed Trust Claim and the claim of the Receiver under the Receiver's Charge;
12. such further and other grounds as set out in the First Report;
13. the provisions of the BIA and the inherent and equitable jurisdiction of this Honourable Court;
14. Rules 1.04, 1.05, 2.01, 2.03, 16 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended,.

**AND FURTHER TAKE NOTICE** that the following materials will be filed in support of this application, namely:

- (a) the First Report;
- (b) the affidavit of Andy Fisher sworn January 30, 2017;
- (c) the affidavit of Danny M. Nunes sworn January 31, 2017; and
- (d) such further and other material as counsel may advise and this Honourable Court may allow.

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Applicant**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**

Respondent

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

PROCEEDINGS COMMENCED AT TORONTO

**NOTICE OF MOTION  
(RETURNABLE FEBRUARY 10, 2017)****WEIRFOULDS LLP**  
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# TAB 2

Estate No. 31-458198  
Court File No. CV16-11520-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE RECEIVERSHIP OF  
EXCLUSIVE TRANSFER ENTERPRISE CORPORATION, A BANKRUPT,  
OF THE TOWN OF BETHANY IN THE PROVINCE OF ONTARIO**

**FIRST REPORT OF A. FARBER & PARTNERS INC.,  
in its capacity as Court-Appointed Receiver of  
Exclusive Transfer Enterprise Corporation**

**January 30, 2017**

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## INTRODUCTION

1. On August 8, 2016 (the “**Bankruptcy Date**”), Exclusive Transfer Enterprise Corporation (“**Exclusive**” or the “**Company**”) filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”) and A. Farber & Partners Inc. (“**Farber**”) was appointed as the Company’s trustee in bankruptcy (the “**Trustee**”). Attached hereto as Appendix “A” is a true copy of the Certificate of Appointment issued by the Office of the Superintendent in Bankruptcy Canada.
2. Pursuant to the Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 15, 2016 (the “**Appointment Order**”), Farber was appointed as the receiver and manager (the “**Receiver**”) over the assets, property and undertaking (the “**Property**”) of the Company pursuant to an application by Kenneth Westlake (“**Westlake**”), the sole shareholder and, prior to the Bankruptcy Date, chief executive officer of the Company. Attached hereto as Appendix “B” is a copy of the Appointment Order.
3. Exclusive carried on business as a full service, asset-based transportation provider that offered various services to its clients, including full truckload and expedited cargo shipments throughout Ontario, Quebec and the United States. Exclusive maintained a fleet of leased and owned trucks and trailers of varying sizes.
4. Exclusive operated out of leased premises located in Bethany, Ontario and its registered head office is located at 1534 Dranoel Road, Bethany, Ontario (the “**Dranoel Road**”).

**Property**”). Exclusive leased the aforementioned premises from Westlake and Exclusive Transfer Enterprise (a business operated by Westlake as a sole proprietorship). The Dranoel Road Property consists of a building/office space, storage garage and a parking area. The Dranoel Road Property is located on the same property as Westlake’s personal residence.

5. Exclusive also stored various trucks and trailers at 1288 Highway 7A, Bethany, Ontario (the “**Hwy 7A Property**”), which is a lot owned by an individual named Bill Jones (“**Jones**”). Exclusive did not have a lease with Jones, nor did Exclusive pay rent, for the use of the Hwy 7A Property. The Hwy 7A Property consisted of a large unpaved parking area, a personal residence for Jones, an abandoned building that formerly housed a restaurant and an abandoned fuel station. According to Westlake, Jones provided Exclusive with use of the Hwy 7A Property for an interim period while Jones considered redevelopment of the premises.
6. In addition to providing for the appointment of the Receiver, the Appointment Order also provided for, *inter alia*:
  - a) the Receiver’s empowerment and authority to deal with, and realize upon, the Property; and
  - b) a first charge (the “**Receiver’s Charge**”) on the Property in favour of the Receiver and its counsel, WeirFoulds LLP (“**WF**”), for reasonable fees and disbursements, including Westlake’s costs in respect of his application for the Receiver’s appointment, up to and including entry and service of the Appointment Order, in each case at their standard rates and charges unless otherwise ordered by the Court

on the passing of accounts, as security for such fees and disbursements, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Appointment Order), but subject to sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

7. The actions of the Trustee from the Bankruptcy Date to the date of the Receiver's appointment are described in the Trustee's First Report to Court dated September 8, 2016 (the "**Trustee's First Report**"). A copy of the Trustee's First Report, without appendices, is attached hereto as Appendix "C". It is noted that some of the Trustee's actions during the interim period between the Bankruptcy Date and the date of the Receiver's appointment were performed in anticipation of the appointment of the Receiver and for the benefit of the receivership estate.
8. Those actions taken by the Receiver, including its agents and counsel, as well as those of the Trustee in anticipation of the Appointment Order and for the benefit of the Receiver, are described in greater detail throughout this First Report to Court by the Receiver (the "**Receiver's First Report**").

#### **PURPOSE OF FIRST REPORT**

9. The purpose of the Receiver's First Report is to report to the Court on the activities of the Receiver, both, prior to and subsequent to the date of the Receiver's appointment and to provide the Court with the necessary information and evidence in support of the Receiver's request for the following relief:



- a) approving the Receiver's First Report and the actions and activities detailed herein;
- b) approving all sale transactions completed by the Receiver and its auctioneer, Kevin Barker Auctions Ltd. ("**Barker**" or the "**Auctioneer**"), and vesting the Company Assets (as defined below) sold at public auction on November 12, 2016 in their respective purchasers free and clear of any and all prior encumbrances;
- c) approving the Occupancy Agreement (as defined below);
- d) approving the Receiver's first interim statement of receipts and disbursements (the "**Receiver's First SRD**") for the period from August 12, 2016 to December 31, 2016;
- e) authorizing the Receiver to make a distribution of the net proceeds from the realization of the Company Assets completed by the Receiver pursuant to the order of priorities described in greater detail herein;
- f) approving the professional fees and disbursements of the Receiver and WF to December 31, 2016; and
- g) such further and other relief as the Court may deem just.

## DISCLAIMER

10. In preparing the Receiver's First Report, the Receiver has relied upon certain unaudited, draft and/or internal financial information, the Company's books and records, discussions with Westlake and Company employees and information from other third party sources. The Receiver assumes no responsibility or liability for loss or damage occasioned by any party as a result of the circulation, publication, reproduction or use of the Receiver's First

Report or for any use which any party makes of the Receiver's First Report or any reliance on or decision made based upon it other than for the express purposes set out in the Receiver's First Report.

11. Unless otherwise stated, all monetary amounts contained herein are in Canadian dollars.

#### **ACTIVITIES OF THE RECEIVER**

12. Further to the Trustee's First Report, the Trustee's activities undertaken in anticipation of the Receiver's appointment since the Bankruptcy Date have included, among other things:
- a) attending at the Dranoel Road Property and at the Hwy 7A Property to continue with the safeguarding of the Property located at those sites;
  - b) reviewing Exclusive's records relating to the Property for the purpose of locating the Property not stored at the Dranoel Road Property or the Hwy 7A Property;
  - c) corresponding and consulting with various parties in possession of, or with interests in, the Property;
  - d) insuring the Property stored at the Dranoel Road Property and the Hwy 7A Property against theft and damage;
  - e) engaging the services of an appraiser to assess the potential realizable value of the Property on a forced liquidation basis; and
  - e) administering the Wage Earner Protection Program (the "WEPP") on behalf of the eligible employees of Exclusive.
13. Since the date of the Appointment Order, the activities of the Receiver have included,

among other things:

- a) corresponding with Exclusive's creditors by telephone and email;
- b) taking over the administration of the WEPP from the Trustee, as it relates to the Property of Exclusive;
- c) evaluating the claims of certain creditors and others filed with the Trustee and/or Receiver in respect of:
  - i) employee payroll source deductions owed to the Canada Revenue Agency ("CRA") (the "**Deemed Trust Claim**");
  - ii) wages and vacation pay owed to the employees and former employees of Exclusive (collectively, the "**Employee Claims**");
  - iii) the various secured debts of Exclusive; and
  - iv) property owned by third parties in the possession of Exclusive, including but not limited to leased trucks and trailers;
- d) negotiating an alternative lease arrangement with Westlake, in his capacity as landlord of Exclusive (the "**Landlord**"), that provided for a lower occupancy rate for the Receiver at the Dranoel Road Property than provided for in the existing commercial lease between the Landlord and Exclusive;
- e) soliciting and evaluating proposals from auctioneers and other parties to assist in the Receiver's decision on the appropriate method of realization for the Property;
- f) engaging the Auctioneer to complete an auction sale of substantially all of Exclusive's assets on behalf of the Receiver, including:
  - i) trucks and trailers (the "**Fleet Assets**");

- ii) parts inventory (the “**Inventory**”);
  - iii) mechanical tools and equipment (the “**Equipment**”); and
  - iv) office furniture, fixtures and other equipment (the “**FF&E**” and, together with the Fleet Assets, the Inventory and the Equipment, the “**Company Assets**”);
- g) coordinating minor repairs to the Fleet Assets, on an “as required basis”, as determined by the Receiver and in consultation with the Auctioneer, with a view to preserving the value of the Fleet Assets as operational motor vehicles;
- h) reviewing and reconciling the proceeds of the Company Assets for the purpose of determining the priority of interests of various stakeholders in said proceeds;
- i) reviewing the factoring agreement and related Company records between Exclusive and Riviera Finance of Texas, Inc. (“**Riviera**”) for the purpose of determining which of the Company’s accounts receivable, if any, were property of the receivership estate;
- j) liaising with Exclusive’s insurance broker and insurance premium financier to obtain a certain insurance refund owed to Exclusive (the “**Insurance Refund**”);
- k) reviewing the records relating to the claim of Exclusive against 1327900 Ontario Ltd. (“**132**”), among others, and the counterclaim therein (the “**Exclusive Action**”) for the purpose of evaluating the chose in action as an asset of the receivership estate; and
- l) reviewing the records of the Company and the Trustee relating to transactions by Exclusive that may constitute a preference, transfer at undervalue or an otherwise

voidable transaction pursuant to the BIA or any other applicable statutes.

### **Reconciliation of Fleet Assets and Related Security Interests**

14. On its appointment as Trustee, Farber undertook the exercise of protecting all of the Company's Property, which included efforts to locate, catalogue, secure and safeguard all Company Property, wherever situated. As at the Bankruptcy Date, Exclusive had 17 trucks and trailers that were owned outright by the Company, 22 trucks and trailers that were owned by Exclusive but subject to financing agreements and 10 trucks and trailers that were leased to Exclusive but appeared to be owned by third parties (collectively, the **"Initial Fleet Assets"**).
15. As claims were received by the Trustee from various parties in respect of third party ownership of certain trucks and trailers, the Trustee reviewed said claims for accuracy and subsequently released its right, title or interest, if any, in those particular trucks and trailers owned by third parties, where applicable. It was initially anticipated by the Trustee that only 10 trucks would be released, however, after further review of the claims filed, a total of 15 trucks and trailers from the Initial Fleet Assets were released by the Trustee.
16. Subsequent to its appointment, the Receiver located one additional truck, which brought the total number of trucks and trailers in the Fleet Assets as at the date of the Appointment Order to 31. These 31 trucks and trailers constituted the Fleet Assets upon which the Receiver would realize.
17. It is noted that the ownership of four of the Fleet Assets has been disputed by counsel for

Trailer Wizards Ltd. (“**Trailer Wizards**”). In particular, the disputed Fleet Assets in question are all 2012 Manac trailers, each with its own Vehicle Identification Number (“**VIN**”) (namely, 5MC435325CK013872, 5MC435327CK014084, 5MC435329CK014085 AND 5MC435320CK014086 and together, the “**Disputed Fleet Assets**”). The status of the Disputed Fleet Assets will be discussed in greater detail later in the Receiver’s First Report.

18. According to the Receiver’s review of PPSA registrations, claims filed with the Trustee and various correspondence with the Company’s secured creditors, it is the Receiver’s understanding that:

- a) five of the Fleet Assets were financed by CIMC Leasing USA, Inc. (“**CIMC**”);
- b) six of the Fleet Assets, as well as some individual pieces of Equipment, were financed by Wells Fargo Equipment Finance Company (“**Wells Fargo**”);
- c) the Disputed Fleet Assets were reportedly financed by GTA Trailer Rentals Inc., a company that is purportedly owned by Trailer Wizards, however, partial PPSA discharges had been registered prior to the Bankruptcy Date;
- d) sixteen of the Fleet Assets were not, or no longer, subject to financing arrangements and were owned outright by Exclusive;
- e) Kal Tire (“**Kal Tire**”) claimed to have repair and storage liens on the following Fleet Assets:
  - i) one 2008 Chevrolet Silverado truck financed by CIMC;
  - ii) two of the Disputed Fleet Assets, each being a 2012 Manac trailer; and
- f) both Riviera and Westlake had registered general security agreements with

Exclusive, encumbering all Property of Exclusive, including the Fleet Assets.

## MARKETING AND SALE PROCESS

### Factors Relating to Realization

19. As noted in the Trustee's First Report, an appraisal was conducted by McLean Auctions on the Initial Fleet Assets, the Inventory, the Equipment and the FF&E located at both the Dranoel Road Property and the Hwy 7A Property (the "**McLean Appraisal**") to assist in establishing a baseline value for the Property prior to embarking upon any sale process. Attached hereto as Appendix "**D**" is a copy of the McLean Appraisal.
20. It is noted that the McLean Appraisal included valuations on items in the Initial Fleet Assets which were subsequently found to be owned by parties other than the Company (collectively, the "**Third Party Assets**"). In general, the Third Party Assets were either owned by Westlake, one of Westlake's family members that resided at the Dranoel Road Property or, an Equipment lessor that was subsequently identified as having retained ownership and title of that particular item. As ownership and title of many of the assets that comprised the Initial Fleet Assets and Equipment had yet to be confirmed by the Trustee, it was deemed prudent to obtain valuations on everything on site and reconcile ownership at a later date.
21. The Receiver undertook extensive efforts to catalogue all items that were to be sold by the Receiver, namely the Company Assets, and reconcile that list with the McLean Appraisal. The reconciled appraised value of the Inventory, Equipment and FF&E, collectively, was

\$67,255, which is \$1,500 lower than the figure in the Trustee's First Report. The reconciled appraised value of the Fleet Assets was \$315,500, which is \$84,500 lower than the amount set out in the Trustee's First Report. The aforementioned variances in value were identified as being the result of the identification of Third Party Assets subsequent to the Trustee's First Report.

22. All of the Company's Inventory, Equipment and FF&E were stored at the Dranoel Road Property. Most of the Fleet Assets were stored at the Dranoel Road Property, with some of the Fleet Assets initially stored at the Hwy 7A Property. The Company had a commercial lease agreement with Westlake dated June 8, 2015 (the "**Dranoel Road Lease**") in respect of the Dranoel Road Property, however, the Company did not have a lease agreement with Jones for use of the Hwy 7A Property. It was and remains the Receiver's understanding that the use of the Hwy 7A Property by Exclusive was permitted by Jones on an interim basis without payment. The Receiver engaged in negotiations with both Westlake and Jones for occupancy by the Receiver and storage of the Company Assets at both locations while the Receiver determined the best course of action to realize upon the Company Assets.
23. In negotiations in respect of the Hwy 7A Property, the Receiver was advised by Jones that he would accept no less than \$5,000 per month in occupation rent from September 1, 2016 onwards or the Receiver was to forthwith remove any and all of the Company's Property from the Hwy 7A Property. As the bulk of the Fleet Assets were stored at the Dranoel Road Property, the Receiver made the decision to have those Fleet Assets located at the Hwy 7A Property relocated to the Dranoel Road Property and negotiations with Jones were



discontinued.

24. In light of it being financially infeasible to continue occupying the Hwy 7A Property, the Receiver explored the possibility of either occupying the Dranoel Road Property or removing all of the Company's Assets from the Dranoel Road Property and storing them elsewhere during a marketing and sale process. The Dranoel Road Lease provided for occupancy rent payments of \$4,500 per week or approximately \$643 per diem.
25. The Receiver had the opportunity to pay the Trustee rent pursuant to the Dranoel Road Lease, which the Trustee had yet to disclaim, assign or retain. The cost to occupy the Dranoel Road Property under the Dranoel Road Lease over a three month period, from the Bankruptcy Date to the first week of November when it was estimated that an auction of the Company Assets could be completed, was estimated to be approximately \$57,870.
26. The Receiver, with the aid of McLean Auctions and the Auctioneer, researched other options for storage, including local facilities with the ability to house all of the Company Assets and a potential auction sale. Based on that research, it was determined that:
  - a) the removal costs would be between \$300 and \$500 per truck and trailer plus \$4,000 for the Inventory, Equipment and FF&E, totalling between \$13,600 and \$20,000;
  - b) the storage costs for the Fleet Assets would be a minimum of \$30 per month, without hydro, for each truck and trailer (\$50 per month with hydro), equating to a per diem cost of between \$32 and \$53 for Fleet Asset storage;
  - c) the storage costs for the Inventory, Equipment and FF&E was estimated to be

\$1,000 per month (approximately \$33 per diem); and

- d) the Trustee/Receiver was likely to be liable for occupancy rent from the Bankruptcy Date until the Company Assets were removed, which, as noted above, would cost the estate approximately \$643 per diem.

Accordingly, when factoring in the occupation cost of the Dranoel Road Lease to the date of the Appointment Order, plus the occupation of, and moving costs to, a new facility and assuming that the Receiver would have completed the liquidation by November 17, 2016, it was estimated that the total cost to liquidate the Company Assets from a facility other than the Dranoel Road Property would be between \$42,123 and \$49,783.

- 27. In an effort to minimize costs for the estate, the Receiver negotiated a new occupancy agreement with Westlake for use of the Dranoel Road Property and a property adjacent that consisted of a dry sand pit which Westlake advised the Receiver was controlled by him and where the Fleet Assets could be stored (the “**Occupancy Agreement**”). The Occupancy Agreement provided for, *inter alia*: (i) a per diem occupancy rate of \$225, to be paid retroactively from the Bankruptcy Date until all Company Assets had been sold and removed; (ii) unfettered access to the Dranoel Road Property; and (iii) the opportunity for Westlake to consolidate personal items into an auction sale by the Receiver. Attached hereto as Appendix “E” is a copy of the Occupancy Agreement.
- 28. Accordingly, the occupancy cost to the estate to November 17, 2016 was estimated to be \$22,725 or approximately 46% lower than the low range of the estimated cost to move the Company Assets and liquidate them from a different facility. As a result of the foregoing,

the Receiver's view is that the Occupation Agreement was fair, commercially reasonable and ultimately beneficial to the receivership estate.

29. Concurrent with negotiations to secure premises upon which to hold a sale of the Company Assets, the Receiver solicited liquidation proposals from three auctioneers, including McLean Auctions, Barker and Benaco Sales. Auction proposals were received from McLean Auctions and Barker. Of the two proposals received, neither included a net minimum guarantee and both were similar in cost and commission rates. The Barker, however, included no provision for a buyer's premium which is often a factor in net auction realizations. As such, the Receiver selected the Barker proposal. A copy of the agreement between the Receiver and Barker is attached hereto as Appendix "F".

#### **Sale by Public Auction**

30. In evaluating the reasonableness of the auction proposals and, ultimately, the Receiver's decision to sell the Company Assets via public auction, the Receiver considered the total debt of the Company and the positions of the Company's various creditors with security interests and other priority creditors, including CRA and employees of the Company. The Receiver also considered the estimated value of the Company Assets against known priority claims, which included the Deemed Trust Claim and the Employee Claims.
31. The Receiver advised creditors with security interests and priority claims of the Receiver's intention to sell all of the Company Assets via public auction, with priorities and distribution of sale proceeds to be determined at a later date. Attached hereto as Appendix "G" is a copy of correspondence from the Receiver's counsel to CRA, as well as email

correspondence from the Receiver to certain of the Company's creditors, namely CIMC, Riviera, Wells Fargo and Trailer Wizards.

32. The Receiver also received an offer to purchase only the Company's trailers (not including the trucks, Inventory, Equipment or FF&E) from Ryson Equipment Sales ("**Ryson**") for a total of \$326,500. The trailers were appraised at a total of \$263,000 on a forced liquidation value basis and were the most valuable portion of the Company Assets. However, due to the nature of the Inventory, Equipment and FF&E, as well as the limited value of the remaining Fleet Assets, specifically the Company's trucks, it was the Receiver's estimation that a public auction would result in the fairest and most commercially reasonable net result to the estate due to the following reasons:
- a) if the trailers were sold separately to Ryson, interest in the auction for the rest of the Company Assets would likely have greatly diminished and may have produced a negative result after allowance for the Auctioneer's costs such as labour and clean up;
  - b) Ryson was familiar with the trailers due to previous dealings with Exclusive and the Company Assets had yet to be marketed for sale to the public, giving Ryson what could be deemed an unfair advantage over other potentially interested third parties;
  - c) Ryson would have the ability to bid on individual trailers at the auction, which would neither prejudice their rights nor any other interested third parties' rights to a fair opportunity at participating in a sale process; and

- d) a properly advertised auction would yield the fairest market price and provide for the liquidation of all Company Assets, as opposed to interested parties being able to “cherry-pick” only certain of the Company Assets.

Accordingly, the Receiver declined Ryson’s offer to purchase the Company’s trailers and advised the Auctioneer to proceed with auction preparations.

33. In order to expose the Company Assets to the marketplace with a view to maximizing realizations, the Auctioneer undertook to promote the auction, to be held on November 12, 2016 at the Dranoel Road Property, via an extensive advertising campaign, which included:

- a) sending email blasts to the Auctioneer’s web mailing list;
- b) sending email blasts through Auctionsfind.com and the Auctioneers Association of Ontario;
- c) daily print and web advertisements in the *Toronto Star* from October 29, 2016 to November 5, 2016;
- d) print and web advertisements in local newspapers, such as the Kawartha Lakes This Week, Orillia Today, Midland Mirror, Northumberland, Peterborough This Week, Oshawa This Week, Brock Citizen, Uxbridge Times Journal, Woodbridge Advertiser, Chesterville Record, Russell Villager and Eastern Ontario AgriNews;
- e) print and web advertisements in trade publications such as Ontario Farmer, Farmers Forum, Farm View and Truck and Trailer; and
- f) posting and distributing flyers at local businesses, auction houses and at other auctions hosted by the Auctioneer prior to the scheduled date of the Exclusive

auction.

Attached hereto as Appendix “H” are examples of the materials used during the advertising campaign.

34. The auction took place on Saturday, November 12, 2016. The Inventory, FF&E and most of the Equipment were sold during the live auction, with the Fleet Assets and some of the larger pieces of Equipment sold via a combination of live and online auction. The gross sale proceeds from the auction totalled \$386,987.50 and after the deduction of the Auctioneer’s commission and costs, the net sale proceeds totalled \$329,033.38.
35. The following four subsections of the Receiver’s First Report detail certain miscellaneous matters and issues that arose in relation to the auction.

#### **Westlake**

36. Just prior to the start of the auction, the Auctioneer advised the Receiver that it was approached by Westlake who stated that Westlake and some of his family members were interested in purchasing some of the Company Assets and intended on bidding during the auction. As the Company Assets were properly marketed for sale and available for purchase by the public during the auction, with no preference given to any prospective purchaser, the Receiver deemed that it was fair for the Auctioneer to accept bids from potential related parties if they provided the highest bid. At the start of the auction, the Auctioneer announced to the crowd that Westlake and certain of his family members may bid on Company Assets.

37. Alana Westlake, Westlake's spouse, purchased the following four lots at the auction (the corresponding category of the Company Assets in which the lots fall is set out in parentheses): (i) CAT parts (Inventory); (ii) a tool chest (FF&E); (iii) assorted truck maintenance fluids (Inventory); and (iv) a Case W14B front-end loader (Equipment) (the "**Westlake Transaction**"). A copy of the Auctioneer's invoice to Ms. Westlake is attached hereto as Appendix "I". The Receiver requests the Court's approval of the sale of the aforementioned items to Ms. Westlake, a related party.

#### **Kal Tire**

38. On arrival at the Dranoel Road Property on the day of the auction, the Receiver noted that there were a number of lots of new and used tires which were not previously accounted for by the Receiver (the "**Tire Lots**"). It was confirmed by the Auctioneer that the Tire Lots were not previously seen nor considered a part of the auction, however, they did appear on the morning of the auction and the Auctioneer told the Receiver that it was asked by Westlake to include them as lots in the auction. The Receiver asked the Auctioneer to make sure the Tire Lots were included in the Receiver's reconciliation of sales.
39. Following its appointment, the Receiver (and Trustee) had discussions with a sales representative of Kal Tire that claimed to have sold a number of tires to Exclusive just prior to the Bankruptcy Date. At that time, the Receiver advised the representative of Kal Tire that a property claim pursuant to section 81.1 of the BIA could be filed and, if the test for 30 day goods under the BIA was met, Kal Tire could repossess its goods. The Trustee also made inquiries at that time about the tires with the Company's management and was

advised that all tires were in use and on the Company's trucks.

40. The same Kal Tire representative attended at the auction and noted to the Receiver that some of the Tire Lots were the same tires Kal Tire provided to Exclusive on credit just prior to the Bankruptcy Date. The Receiver advised the Kal Tire representative that it had not received any 30 day goods property claim from Kal Tire to date and, in fact, the Receiver noted that the Trustee had just days prior to the auction received a secured proof of claim from Kal Tire that did not include a 30 day goods property claim. A copy of the Kal Tire proof of claim dated November 8, 2016 is attached hereto as Appendix "J". Accordingly, the Receiver did not allow Kal Tire to remove the Tire Lots from the auction sale and they were sold during the course of the auction.

#### **Jensen Trailers**

41. Brian Jensen ("**Jensen**"), owner of Jensen Trailers located in Oshawa, Ontario ("**Jensen Trailers**"), also attended the auction. One of the Fleet Assets had a large advertisement wrap emblazoned with "Jensen Trailers" across the sides and back of the trailer (the "**Jensen Lot**"). Just prior to the Jensen Lot being auctioned off, Jensen advised the Auctioneer that he would commence litigation if the advertisement wrap was not removed from the Jensen Lot trailer. The Auctioneer advised the Receiver's representative at the auction of Jensen's position and the Receiver advised Jensen that all lots were being sold on an 'as is, where is' basis and that the removal of the wrap was neither possible at that time nor would the estate be willing to bear that cost. The Receiver suggested to Jensen that the Auctioneer could advise potential bidders of the requirement to remove the wrap or paint



over it, as Jensen did not want his company name on the trailer any longer. Jensen confirmed that he was satisfied with that condition, however, he also wanted to be put in contact with the eventual purchaser after the auction.

42. After making the announcement about the removal of the advertisement wrap, the Auctioneer opened the floor to bids on the Jensen Lot. Jensen proceeded to bid on the Jensen Lot in competition with other bidders. The Jensen Lot was ultimately sold to a third party in attendance. Jensen approached the Receiver and advised the Receiver that he approved of the purchaser of the Jensen Lot although he still wanted to be put in contact with the purchaser.
43. During the week following the auction, Jensen contacted the Receiver and the Auctioneer to get the contact information of the purchaser of the Jensen Lot. The Receiver advised Jensen that the purchaser would have to agree to give out his contact information before the Receiver or Auctioneer could authorize the release of such information. As of the date of the Receiver's First Report, the Receiver is unaware if Jensen has contacted the purchaser of the Jensen Lot, however, the Receiver notes that the issue of getting authorization from the purchaser was left in the care of the Auctioneer.

#### **Disputed Fleet Assets**

44. On October 5, 2016, the Receiver emailed counsel for Trailer Wizards to advise of the Receiver's intention to take the Company Assets to auction. At that time, it was the Receiver's understanding that:

- a) the Disputed Fleet Assets were previously financed by Trailer Wizards or its subsidiary, GTA Trailer Rentals Inc.;
  - b) prior to the Bankruptcy Date, Exclusive executed an agreement to buy out the Trailer Wizards' finance leases on the Disputed Fleet Assets and ownership of the Disputed Fleet Assets was transferred to "Westlake, Kenneth, B" and "Exclusive Transfer Ent" effective August 3, 2016. Notwithstanding that title to the Disputed Fleet Assets was transferred, the license plate permits were kept in the name of the Company. Copies of the Disputed Fleet Assets' vehicle permits and license plate permits are attached hereto as Appendix "K";
  - c) based on prior discussions with Westlake, the Receiver was of the opinion that the ownership permits of the Disputed Fleet Assets should have been registered in the name of the Company as it was on the license plate permit and not to "Westlake, Kenneth, B" or "Exclusive Transfer Ent"; and
  - d) the Disputed Fleet Assets were effectively owned by the Company, notwithstanding the error in ownership registration and, as such, should have been included in the auction sale by the Receiver.
45. Accordingly, the Receiver included the Disputed Fleet Assets in the auction sale process as Company Assets. Just prior to the auction date, counsel for Trailer Wizards contacted the Receiver on November 8, 2016, requesting that the Disputed Fleet Assets be released to Trailer Wizards. Counsel for Trailer Wizards provided additional information about the Disputed Fleet Assets, including a copy of the buyout invoice from Trailer Wizards (the "TW Buyout") which is attached hereto as Appendix "L". The Receiver has not been

provided with a copy of the financing lease agreement in respect of the Disputed Fleet Assets (the “**TW Lease**”) nor has the Receiver been able to locate a copy of the TW Lease in the Company records in the possession of the Trustee.

46. Although no formal position was presented to the Receiver in writing by Trailer Wizards, it is the Receiver’s understanding that Trailer Wizards’ position in respect of the Disputed Fleet Assets is that they were leased assets and never property of Exclusive, notwithstanding the transfer of ownerships to the Disputed Fleet Assets. As the Receiver had not, as of the date of the auction, received evidence of Trailer Wizards’ title to the Disputed Fleet Assets and the TW Buyout was brought to the attention of the Receiver virtually on the eve of the auction with the Disputed Fleet Assets already having been marketed for sale by the Auctioneer, the Receiver included the Disputed Fleet Assets in the auction sale.
47. In the Receiver’s opinion and based upon discussions with Westlake, Trailer Wizards and Exclusive likely erred in the transfer of title of the Disputed Fleet Assets before the transaction contemplated in the TW Buyout was completed and title should have been transferred to Exclusive. If not for the bankruptcy of Exclusive, any irregularities with respect to the title transfer would likely have been rectified.
48. Notwithstanding the Receiver’s opinion regarding ownership to the Disputed Fleet Assets based upon the information available to it, if the Disputed Fleet Assets were previously in the name of Trailer Wizards or GTA Trailer Rentals Inc. or some other subsidiary of Trailer Wizards, and subject to the provisions of the TW Lease, it is the understanding of the Receiver that the proceeds (the “**Disputed Proceeds**”), less reasonable selling costs, would

not be property of the receivership estate and, therefore, not subject to the Deemed Trust Claim nor would those proceeds be subject to the security interests of stakeholders, other than Trailer Wizards, or created by order of the Court, by operation of law or by contract. In that case, the Receiver would be prepared to release the Disputed Proceeds, less reasonable selling costs, to Trailer Wizards.

49. Absent any evidence that would contradict the only evidence that has been available and reviewed by the Receiver to date, the Disputed Fleet Assets were previously in the name of Exclusive or a related party and, as such, it is the position of the Receiver that any Disputed Proceeds would be subject to, and distributed in accordance with, the order of priorities described in greater detail herein.
50. A such, the Receiver requests that the Court:
  - a) deem the Disputed Fleet Assets as forming part of the Property; and
  - b) authorize the Receiver to distribute any Disputed Proceeds pursuant to the order of priorities set out in the Receiver's First Report.

## **OTHER ASSETS**

### **Insurance Refund**

51. On October 20, 2016, the Receiver received an email from Exclusive's insurance broker, Jones DesLauriers Insurance Management Inc. (the "**Insurance Broker**"), advising that Exclusive's insurance provider, Zurich Insurance, was to provide a refund of unused insurance premiums paid by Exclusive due to changes to the policy throughout the year

preceding the Bankruptcy Date (the “**Insurance Refund**”).

52. The Insurance Broker also asked the Receiver for permission to issue the proceeds of the Insurance Refund to First Insurance Funding of Canada (“**FIRST**”), the financier of Exclusive’s commercial insurance premiums, in order to assist FIRST in recouping some of its outstanding losses. The Receiver instructed the Insurance Broker to send the Insurance Refund to the Receiver, as it is the opinion of the Receiver that the Insurance Refund is Property of the Company subject to the provisions of the Appointment Order.
53. On October 28, 2016, FIRST sent a letter to the Receiver indicating its position with respect to the Insurance Refund (the “**FIRST Letter**”). The FIRST Letter sets out, *inter alia*, that:
- a) pursuant to Exclusive’s premium finance agreement with FIRST (the “**PFA**”), Exclusive assigned to FIRST “all gross unearned premiums plus applicable taxes that may accrue by reason of the cancellation or termination of the [p]olicy(ies)”; and
  - b) section 138(1) of the *Insurance Act*, R.S.O. 1990 c I.8, as amended (the “**Insurance Act**”), requires that payment of any Insurance Refund be remitted to the assignee and not to the insured, notwithstanding any provision of an insurance contract.
- Copies of the FIRST Letter and the PFA are attached hereto as Appendices “**M**” and “**N**”, respectively.
54. On October 31, 2016, the Receiver responded to FIRST and outlined its position with respect to the Insurance Refund, which included, *inter alia*, that, while the Receiver was not

denying that FIRST may have a security interest in the Insurance Refund, the proceeds of the Insurance Refund may be subject to priority interests created by the Appointment Order, the BIA (the Employee Claims) and/or various other federal statutes (the Deemed Trust Claim). Accordingly, the Receiver noted that it would collect the Insurance Refund and seek an order of the Court authorizing the distribution of the proceeds of the Insurance Refund. A copy of the aforementioned Receiver's response to FIRST is attached hereto as Appendix "O".

55. The Receiver submits that the Insurance Refund is subject to certain security interests in priority to FIRST's on account of the following:
- a) the CRA's interest regarding the Deemed Trust Claim created by operation of certain federal statutes, including subsections 227(4) or (4.1) of the *Income Tax Act*, subsections 23(3) or (4) of the *Canada Pension Plan* or subsections 86(2) or (2.1) of the *Employment Insurance Act*;
  - b) the security interest in respect of the Employee Claims created by operation of subsection 81.4(4) of the BIA; and
  - c) the security interest granted to the Receiver by way of the Receiver's Charge, created by the Appointment Order.
56. The Receiver also submits that subsection 138(1) of the *Insurance Act* does not provide for the creation of a trust, or a deemed trust, in favour of FIRST in respect of the Insurance Refund, notwithstanding that paragraph 4 of the PFA does have the effect of Exclusive granting a security interest in, among other things, the Insurance Refund to FIRST.

57. Accordingly, the Receiver hereby requests that the Court:
- a) deem the Insurance Refund as forming part of the Property; and
  - b) approve the distribution of the Insurance Refund proceeds pursuant to the order of priorities set out in the Receiver's First Report.

**Exclusive Action**

58. On March 20, 2015, Exclusive commenced the Exclusive Action (Court File No. 84-15) against 132. The claim originally named only 132 as a defendant but subsequent amendments sought to add as co-defendants, on a joint and several basis, the following parties: 1675438 Ontario Limited, Mary Linden, Stephen Brooks and 2276472 Ontario Limited.
59. Exclusive claimed that the defendants to the Exclusive Action had verbally and constructively entered into a lease agreement which was then unlawfully repudiated by the defendants. Exclusive sought, amongst other things, an order to obtain specific performance of the contract for the commercial lease or compensatory damages in the sum of \$6,270,519.38.
60. After reviewing the claim in the Exclusive Action, along with responding materials filed by the defendants and discussing the claim with Exclusive's counsel with carriage of the matter, the Receiver is not prepared to continue with the Exclusive Action given the uncertainty regarding any recovery and the costs that would have to be incurred to fund litigation. As such, the Receiver hereby abandons its interest, if any, in the Exclusive

Action.

61. The Receiver notes that the Exclusive Action shall be dealt with as part of the Company's bankruptcy administration and will be available to the creditors of Exclusive to take an assignment of the action under section 38 of the BIA if they wish to do so.

### **Accounts Receivable**

62. Exclusive entered into a factoring agreement with Riviera on July 7, 2011 whereby Exclusive factored or sold its accounts receivable to Riviera at a discount to assist with cash flow. As of the date of the Appointment Order, it was the Receiver's understanding that all accounts receivable of the Company were factored by Riviera, with title to those accounts receivable belonging to Riviera, and, as such, there was nothing for the Receiver to collect.
63. Notwithstanding the above, as of the date of the Receiver's First Report, the Receiver has collected and deposited two cheques from SM Freight and General Motors Disbursement Services in the aggregate amount of \$1,991.48 which cheques were made payable to Exclusive (the "**AR Funds**"). The AR Funds were received by the Trustee through its redirection of mailing address, though neither of the cheques were accompanied by a statement or letter from the payor advising what the payment was for. The AR Funds were originally deposited to the bankruptcy estate, as they were received prior to the appointment of the Receiver and have not, as of yet, been transferred to the Receiver's estate account.
64. The Receiver made inquiries of both Riviera and Westlake regarding the source of the AR Funds and whether or not those specific accounts had been factored by Riviera. The



Receiver was advised as follows:

- a) Westlake advised the Receiver via email correspondence on December 2, 2016, 2016 that he assumed that the cheque received from SM Freight in the amount of \$1,400 was not factored by Riviera but could not confirm without access to the Exclusive computer server; and
- b) Westlake further advised the Receiver that the cheque from General Motors Disbursement Services in the amount of \$591.48 could be in respect of damages to trailers or wait time charges, neither of which were factored by Riviera.

Attached hereto as Appendix “P” is a copy of Westlake’s email correspondence to the Receiver regarding the AR Funds.

- 65. The cheques received by the Trustee were not accompanied by any statements and did not reference any account or invoice number. Copies of the cheques were provided to Riviera’s counsel, however, Riviera was unable to match them to any factored accounts. Riviera provided the Receiver with a reconciliation of outstanding factored accounts which reconciliation did not include the AR Funds nor the payors of the AR Funds.
- 66. Despite the cooperation of Riviera and Westlake, the Receiver has been unable to confirm if the AR Funds were previously factored by Riviera. As such, the Receiver has included the AR Funds as Property of Exclusive.
- 67. Subsequent to its appointment, the Receiver discovered Company records indicating that there may be additional outstanding accounts receivable totalling \$9,132 that were not

factored by Riviera. Further investigation into this matter is ongoing, however, the Receiver requests that the Court approve the distribution of the AR Funds, both currently on deposit and any that may be collected by the Receiver in the future, with the caveat that the Receiver confirms whether or not the account has been factored by Riviera prior to any distribution.

### **Reviewable Transactions**

68. It is the Receiver's understanding that the Trustee is conducting a review of the books and records of Exclusive to determine if any transactions were made that were either fraudulent or transfers at under value pursuant to any applicable statutes (the "**Reviewable Transactions**").
69. Notwithstanding the potential priority interest of the receivership estate over the proceeds of any efforts or actions in respect of the Reviewable Transactions, the Receiver is not prepared to continue with, or take assignment of, any such efforts or actions related to any potential Reviewable Transactions given the costs that would have to be incurred to fund any efforts or actions. As such, the Receiver abandons its interest, if any, in regard to any Reviewable Transactions and any subsequent legal action that may be found by the Trustee per the above review.
70. The Receiver notes that the Reviewable Transactions shall be dealt with as part of the Company's bankruptcy administration and will be available to the creditors of Exclusive to take an assignment of any claims or actions under section 38 of the BIA if they wish to do so.

**CLAIMS AND PRIORITY ANALYSIS**

71. The Appointment Order provides for the priority payment of the Receiver's Charge over, among other things, all claims and trusts, including the Deemed Trust Claim, save and except for claims relating to subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
72. Accordingly, it is the Receiver's position that the order of priorities in respect of the distribution of the proceeds of the Company's Property is as follows:
- a) the Employee Claims (as against current assets only);
  - b) the Receiver's Charge;
  - c) the Deemed Trust Claim; and
  - d) the claims of secured creditors.
73. The Receiver has not undertaken a full review of PPSA registrations to determine the priorities of the various securities as the proceeds from the sale of the Property is currently insufficient in retiring the priority claims of the Employee Claims (in the amount of \$49,955.96), the Deemed Trust Claim (in the amount of \$281,722.59) and the Receiver's Charge. A full accounting of current receipts and disbursements, as well as projected receipts and disbursements to complete the receivership administration are set out below.

**STATEMENT OF RECEIPTS AND DISBURSEMENTS**

74. The Receiver's First SRD and interim report pursuant to subsection 246(2) of the BIA for the period from the date of the Appointment Order to December 31, 2016 is attached hereto as Appendix "Q".

75. The cash balance on hand in the Receiver's trust account as at December 31, 2016 was \$303,241.65.
76. The Receiver notes the following regarding the Receiver's First SRD:
- a) the Trustee is currently holding the AR Funds in the Trustee's bankruptcy estate account. The AR Funds will be transferred to the Receiver's trust account in due course and will be accounted for as current assets, thus subject to the priority security interest of the Employee Claims;
  - b) receipts have been allocated into sub-categories referred to as "Current Assets", "Non-Current Assets" and "Other Receipts"; and
  - c) all receipts from the auction are net of the Auctioneer's expenses, including commission, advertising, labour, repairs, disposal fees and miscellaneous disbursements. Copies of the Auctioneer's settlement sheet, cheque to the Receiver and sale reconciliation (the "**Settlement Sheet**") are attached hereto as Appendix "**R**". The total net sale on the Settlement Sheet is understated by \$2,900 as one item sold on behalf of the Receiver was inadvertently and erroneously included in the settlement of Westlake's personal items consolidated into the auction. The Receiver reconciled the issue by having Westlake issue a credit note in respect of Occupation Rent for \$2,610, being \$2,900 less the Auctioneer's 10% commission.

#### **RECEIVER'S FEES AND DISBURSEMENTS**

77. Pursuant to paragraph 19 of the Appointment Order, the Receiver and WF are required to

pass their accounts from time to time. The Receiver and WF have maintained detailed records of their time and costs relating to the receivership proceedings.

78. The Receiver has incurred fees and disbursements in the amount of \$107,309.07, inclusive of HST and the legal fees and disbursements of Westlake on account of his application for the Receiver's appointment (as provided for in the Appointment Order) (the "**Appointment Costs**"), for the period of August 12, 2016 through December 31, 2016. A copy of the detailed billings of the Receiver, supported by the Affidavit of Andy Fisher sworn January 30, 2017, is attached hereto as Appendix "S". A copy of the detailed billings of the Plaintiff's legal counsel, Moncur Mowbray LLP, in respect of the Appointment Costs are attached as Appendix "T".
79. WF has incurred fees and disbursements in the amount of \$23,753.05, inclusive of HST, for the period of July 31, 2016 through December 31, 2016. A copy of WF's detailed billings, supported by the Affidavit of Danny M. Nunes sworn January 30, 2017, is attached hereto as Appendix "U".
80. Assuming that there are no disputes or unexpected issues, it is estimated that the remaining fees and disbursements of the Receiver and its legal counsel to complete the administration of the estate will be no more than \$10,000 for the Receiver and \$7,500 for its legal counsel, plus HST (the "**Accrual Amount**").
81. It is the Receiver's opinion that its accounts, and those of WF and Westlake's counsel, are fair and reasonable in the circumstances.

**PROPOSED DISTRIBUTION**

82. As noted above, it has become apparent to the Receiver that there will not be sufficient funds to pay out the full amount of the Deemed Trust Claim or the Employee Claims.
83. Accordingly, the Receiver intends to distribute the balance of funds pursuant to the order of priorities set out above after payment of the fees and disbursements of the Receiver, its counsel, including the Appointment Costs and the Accrual Amount, and any remaining outstanding balances on accounts incurred by the Receiver during the course of the receivership administration.
84. For further clarification, the Receiver attaches hereto a projected distribution schedule as Appendix “V”, which includes actual and projected amounts for distribution in respect of the Employee Claims, the Receiver’s Charge and the Deemed Trust Claim. Projections have been based on the Receiver’s expected future collections, including post-appointment HST refunds and a refund from the Receiver’s insurer, and expected additional fees and costs of the receivership administration.
85. As noted above, CRA is expected to incur a shortfall in respect of the Deemed Trust Claim. The Deemed Trust Claim totals \$281,722.59. As such, the Distribution does not include any funds for secured creditors. A copy of the CRA proof of claim in respect of the Deemed Trust Claim is attached hereto as Appendix “W”.
86. It is further noted that gross receipts in respect of Current Assets shall be distributed solely to the employees in respect of the Employee Claims or Service Canada on account of its

being subrogated to the position of the employees pursuant to the *Wage Earner Protection Program Act*, to a maximum of \$49,955.96. A copy of the WEPP statement of account dated November 26, 2016 is attached hereto as Appendix "X".

## DISCHARGE

87. From and after the date of the Receiver's First Report, aside from the relief sought herein, there are no significant activities for the Receiver to perform, save and except for reporting under section 246 of the BIA, coordinating statutory filings with CRA and making a final distribution of funds pursuant to the order of priorities set out herein (the "**Remaining Activities**").
88. Upon completion of the Remaining Activities, all of the duties and activities of the Receiver will be complete and satisfied and the Receiver will file a discharge certificate with the Court confirming that the administration of the receivership has been completed.

## RECOMMENDATION

89. The Receiver respectfully recommends that this Court grant an order for the relief requested in paragraph 9 hereof and such other relief as may be requested and the Court deems just.

**DATED AT TORONTO** this 30<sup>th</sup> day of January, 2017.

**A. FARBER & PARTNERS INC.**  
**In its capacity as Receiver of Exclusive**  
**Transfer Enterprise Corporation, a bankrupt,**  
**And not in its personal capacity**

*A. Farber & Partners Inc.*

# APPENDIX

“A”





Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of: Ontario  
Division No.: 10 - Peterborough  
Court No.: 31-2153298  
Estate No.: 31-2153298

In the Matter of the Bankruptcy of:  
**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**  
Debtor

**A. FARBER & PARTNERS INC.**  
Licensed Insolvency Trustee  
Ordinary Administration

---

Date and time of bankruptcy:	August 08, 2016, 15:21	Security:	\$0.00
Date of trustee appointment:	August 08, 2016		
Meeting of creditors:	August 31, 2016, 10:00 Holiday Inn Peterborough-Waterfront 150 George Street North, Garden Court Rm Peterborough, Ontario Canada,		
Chair:	Trustee		

---

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: August 08, 2016, 15:27

E-File/Dépôt Electronique

Official Receiver

25 St. Clair Avenue East, 6th floor, Toronto, Ontario, Canada, M4T1M2, (877)376-9902

Canada

# APPENDIX

## “B”

Court File No. CV16-11520-00CL

**ONTARIO****SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**THE HONOURABLE MR

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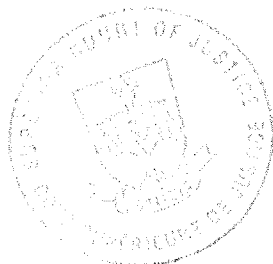
THURSDAY, THE 15TH

JUSTICE McRae

)

DAY OF SEPTEMBER, 2016

)

**KENNETH WESTLAKE****Applicant****- and -****EXCLUSIVE TRANSFER ENTERPRISE CORPORATION****Respondent****ORDER  
(appointing Receiver)**

THIS MOTION made by the Plaintiff 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 Exclusive Transfer Enterprise Corporation (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 Kenneth Westlake sworn September 4, 2016 and the Exhibits thereto, the First Report of A. Farber & Partners Inc. in its capacity as the Trustee in

Bankruptcy of the Debtor, and on hearing the submissions of counsel for Kenneth Westlake and the Receiver, no one else appearing although duly served as appears from the affidavits of service of Donna McEvoy, sworn September 8, 2016 and Rachelle Moncur, sworn September 8, 2016, and on reading the consent of A. Farber & Partners Inc. to act as the Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. 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").

### **RECEIVER'S POWERS**

3. 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;

- 3 -

- (c) 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;
- (d) 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;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- (j) 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;
- (k) 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;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (m) 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;
- (n) 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;

- 5 -

- (o) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (p) 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**

4. 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.

5. 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 5 or in paragraph 6 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.

6. 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.

7. 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**

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

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. 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**

10. 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**

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

#### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the 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**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited 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**

14. 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**

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

such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

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

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

**RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, and such disbursements shall include the costs of the Plaintiff in respect of this motion, up to and including entry and service of this Order, 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, 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.

19. 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.

20. 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**

21. 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 \$100,000 (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.

22. 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.

23. 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.

24. 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**

25. 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.

26. 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.

#### 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.

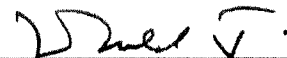
30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized 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 any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

SEP 15 2016

PER / PAR: 



# SCHEDULE "A"

## RECEIVER CERTIFICATE

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

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

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] 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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_\_-CL-\_\_\_\_\_, 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.

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.

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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\_\_\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:



Court File No. CV 16-11520-00CL

KENNETH WESTLAKE

-and -

EXCLUSIVE TRANSFER ENTERPRISE CORPORATION

Applicant

Respondents

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

**Proceedings commenced at Toronto**

**ORDER**  
**(September 15, 2016)**

**MONCUR MOWBRAY LLP**  
 Barristers and Solicitors  
 2300 Yonge Street, Suite 1600  
 Toronto, ON M4P 1E4

**Rachelle F. Moncur - LSUC No. 47474I**

Tel: (416) 549-5056  
 Email: rmoncur@m2legal.ca

Lawyers for the Applicant

# APPENDIX

## “C”

Estate No. 31-2153298  
Court File No. 31-2153298

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY OF EXCLUSIVE  
TRANSFER ENTERPRISE CORPORATION, OF THE TOWN OF BETHANY IN THE  
PROVINCE OF ONTARIO

FIRST REPORT OF A. FARBER & PARTNERS INC.,  
in its capacity as Trustee in Bankruptcy of  
Exclusive Transfer Enterprise Corporation

September 8, 2016

## INTRODUCTION

1. On August 8, 2016, Exclusive Transfer Enterprise Corporation (“**Exclusive**” of the “**Company**”) filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”) and A. Farber & Partners Inc. was appointed as the Company’s trustee in bankruptcy (the “**Trustee**”). Attached hereto as Appendix “A” is a true copy of the Certificate of Appointment issued by the Office of the Superintendent in Bankruptcy Canada.
2. Exclusive is a full service, asset based transportation provider that offers various services to its clients, including full truckload and expedited cargo shipments throughout Ontario, Quebec and the United States. Exclusive maintains a fleet of leased and owned trucks and trailers of varying sizes to suit the needs of its customers.
3. Exclusive operated out of leased premises located in Bethany, Ontario and its registered head office is located at 1534 Dranoel Road, Bethany, Ontario (the “**Dranoel Road Property**”). Exclusive leases the aforementioned premises from Kenneth Westlake (“**Westlake**”) and Exclusive Transfer Enterprise (a business name operated by Westlake as a sole proprietorship). The leased premises consist of a building/office space, storage garage and a parking area. The Dranoel Property is located on the same property as Westlake’s personal residence.
4. The purpose of this First Report of the Trustee (the “**First Report**”) is to:
  - (i) report on the activities of the Trustee since the date of its appointment,

- including all steps taken by the Trustee to secure Exclusive's assets, including the Fleet Assets (as defined herein);
- (ii) report on the financial position of Exclusive's estate; and
  - (iii) report on the implications of the appointment of a receiver by Westlake over the property, assets and undertakings of Exclusive.

#### **THE FLEET ASSETS**

5. As at the date of bankruptcy, Exclusive had a fleet of twenty-six (26) trucks and twenty – three (23) trailers (the “**Fleet Assets**”). Attached hereto as Appendix “**B**” is a list of the Fleet Assets, including each vehicle's make, model, year and vehicle identification number.
6. On and after the Trustee's appointment, the Trustee took the following conservatory measures to secure and safeguard the Fleet Assets:
  - (i) attended at the Dranoel Road Property and at a second property where additional Fleet Assets were stored located at 1288 Highway 7A, Bethany, Ontario (the “**Highway 7A Property**”) to review safeguard measures in place;
  - (ii) inventoried the Fleet Assets and the various equipment, new and used parts inventory, shop equipment and office furniture (the “**Equipment Assets**” and together with the Fleet Assets, the “**Assets**”);
  - (iii) reviewed the status of Exclusive's insurance on the Assets and, after determining that Exclusive's insurance was about to expire, arranged to

insure the Assets through the Trustee's insurer, Firstbrook Cassie & Anderson Ltd; and

- (iv) assessed the costs and feasibility of moving the Assets to another location versus the cost of leaving most of the Assets at the Dranoel Road Property and certain Fleet Assets at the Highway 7A Property.

7. In addition to the above-noted conservatory measures, the Trustee arranged to have the Assets appraised and valued on a forced liquidation basis.
8. As of the date of bankruptcy, the Company leased ten (10) of its trucks. Five (5) of these leased trucks have since been released by the Trustee to their respective lessors.
9. As at the date of this First Report, the Fleet Assets are comprised of forty-five (45) trucks and trailers. As mentioned above, Exclusive has five (5) leased trucks, which have not yet been released by the Trustee, as well as twenty-two (22) trucks and trailers whose purchase was financed by various third parties.
10. As at the date of this First Report, twenty (20) trucks and nine (9) trailers are located on the Dranoel Road Property. The trucks and trailers on the Dranoel Road Property are parked outside, however, it is the Trustee's understanding that access to the trucks and trailers is blocked by other vehicles such that the trucks and trailers cannot not be removed.
11. As at the date of this First Report, twelve (12) trailers are located on the Highway 7A Property. The Highway 7A Property is a lot that contains a gas station, restaurant and garage, none of which are operational. The trailers are parked at the back of the Highway

7A Property. The Highway 7A Property is not monitored by a security guard and access to the property from the road is unrestricted. Westlake advised the Trustee that when Exclusive was operating, it typically stored a substantial number of vehicles at the Highway 7A Property. Westlake also advised the Trustee that there is no room to move the trailers stored at the Highway 7A Property to the Dranoel Road Property and, as such, the Trustee insured the trailers located at the Highway 7A Property for theft.

12. An appraisal was conducted of the Fleet Assets on August 18, 2016 by McLean Auctions at the request of the Trustee. The Fleet Assets were appraised at an aggregate value of \$650,000 which includes the appraised value of those leased trucks that have not been released by the Trustee being \$250,000. The Equipment Assets were appraised at an aggregate value of \$68,755. Based on discussions between the Trustee and Westlake, the McLean Auctions appraisal appears to provide a conservative valuation of the Fleet Assets and, as such, there may be additional value in some of the Fleet Assets.

#### **OTHER ASSETS**

13. Exclusive was engaged in legal action against various parties, which may have value to the estate and/or be subject to the rights of secured creditors. The Trustee is still evaluating the merits of this legal action and what value, if any, can be ascribed to it.

#### **FIRST MEETING OF CREDITORS AND CREDITOR CLAIMS**

14. In accordance with the terms of the BIA, the Trustee held a meeting of Exclusive's creditors on August 31, 2016. Though there was a quorum of unsecured creditors at the first

meeting, no creditor wished to act as an inspector of the estate. As such, it was resolved not to appoint inspectors to the estate. Attached hereto as Appendix "C" is a Claims Register updated with all claims received by the Trustee as of the date of this First Report.

15. The Trustee has received a property claim (deemed trust) in respect of employee payroll source deductions from Canada Revenue Agency ("CRA") in the amount of \$281,722.59 which would rank in priority to any claims of Exclusive's secured creditors.
16. Pursuant to section 81(2) of the BIA, the Trustee has fifteen (15) days from the filing of property claims or fifteen (15) days after the first meeting of creditors, whichever is the later date, to admit the claim and deliver possession of the property claimed by the claimant or send notice to the claimant that their claim is disputed. It is noted that the Trustee has received two (2) such property claims from equipment lessors which require a response from the Trustee no later than September 15, 2016.
17. The Trustee has received secured claims totalling \$2,450,426.67 in respect of certain financed equipment, trucks and trailers. The Trustee anticipates the receipt of additional secured claims from other creditors in respect of their equipment financing loans or general security agreements.
18. The Trustee has received claims from former employees of Exclusive in relation to the Wage Earner Protection Program totalling \$46,886.17. These employee claims for wages and vacation pay have been claimed as having a secured interest in the current assets of Exclusive pursuant to Section 81.3 and/or 81.4 of the BIA.



19. As at the date of this First Report, the Trustee has received claims from unsecured creditors in the aggregate amount of \$2,177,099.79.
20. Based on the foregoing, the Trustee anticipates that while there may be funds available to Exclusive's secured creditors, there is unlikely to be any funds available for distribution to unsecured creditors.

#### **ESTATE DISBURSEMENTS**

21. As of the date of this First Report, the Trustee has incurred disbursements in the amount of \$2,586.67 which include, among other things, the costs of redirecting mail, wages for Exclusive's staff to assist with payroll and accounting issues, travel expenses and filing fees. The Trustee has yet to account for other incidental expenses, such as the advertisement of the first meeting of creditors or occupation rent for the Dranoel Road Property. In addition, the Trustee is currently incurring the cost of \$6,517.20 per month to maintain insurance on the Assets, which insurance has been in place since the date of bankruptcy.
22. The Trustee is in receipt of a third party deposit in the amount of \$25,000 to cover professional fees and disbursements in relation to Exclusive's bankruptcy, with little to no prospect of recouping the above-noted expenses from the bankruptcy estate.
23. There are no other assets upon which the Trustee can realize to fund the necessary costs of the estate, including but not limited to, the costs to maintain and preserve the Assets for CRA and the secured creditors and to contest the claims or valuations filed by secured

creditors and equipment lessors.

## CONCLUSION

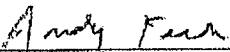
24. It is the Trustee's understanding that Westlake will be bringing an application for the appointment of Farber as receiver over all of the property, assets and undertakings of Exclusive.
25. It is the Trustee's view that absent additional funding or the appointment of a receiver, the Trustee will be forced to abandon the Assets and release its interest therein, if any, to the secured creditors. This may ultimately be to the detriment of various stakeholders, as there will be no means by which to properly adjudicate the various secured claims and possible conflicting interests of those creditors, as well as CRA and other stakeholders.
26. Furthermore, it is the Trustee's view that a receivership would provide for the payment of CRA's deemed trust claim in a fair and equitable manner from all of the Company's assets subject to secured interests.
27. The appointment of a receiver by the Court will provide a mechanism for maximizing the value of the Assets and distributing the proceeds of sale within a Court-supervised process and in accordance with legal priorities. It is the Trustee's view that the appointment of a receiver would be just and equitable under the circumstances described in this First Report.

**DATED AT TORONTO** this 8<sup>th</sup> day of September, 2016.

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**A. FARBER & PARTNERS INC.**

In its capacity as Trustee in the estate of  
Exclusive Transfer Enterprise Corporation, a bankrupt

  
\_\_\_\_\_  
Per: Andy Fisher, CIRP, LIT

# APPENDIX

## A



Industry Canada

Industrie Canada

Office of the Superintendent  
of Bankruptcy CanadaBureau du surintendant  
des faillites Canada

District of: Ontario  
 Division No.: 10 - Peterborough  
 Court No.: 31-2153298  
 Estate No.: 31-2153298

In the Matter of the Bankruptcy of:

EXCLUSIVE TRANSFER ENTERPRISE CORPORATION

Debtor

A. FARBER &amp; PARTNERS INC.

Licensed Insolvency Trustee

Ordinary Administration

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Date and time of bankruptcy:	August 08, 2016, 15:21	Security:	\$0.00
Date of trustee appointment:	August 08, 2016		
Meeting of creditors:	August 31, 2016, 10:00 Holiday Inn Peterborough-Waterfront 150 George Street North, Garden Court Rm Peterborough, Ontario Canada,		
Chair:	Trustee		

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CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: August 08, 2016, 15:27

E-File/Dépôt Electronique

Official Receiver

25 St. Clair Avenue East, 6th floor, Toronto, Ontario, Canada, M4T1M2, (877)376-9902

Canada

# APPENDIX

## B

## Appendix "B"

### List of Fleet Assets as at the Date of Bankruptcy

#### Leased Trucks [10]

<b>Make</b>	<b>Model</b>	<b>Year</b>	<b>Plate</b>	<b>VIN</b>
Peterbilt	579	2012	8419PL	1XP4DP9X1CD147762
Peterbilt	579	2014	9620PK	1XPBDP9X4ED245033
Peterbilt	579	2014	4364PM	1XPBDP9X2ED245032
Peterbilt	579	2014	4374PN	1XPBDP9X0ED245031
Peterbilt	579	2014	9207PJ	1XPBDP9X9ED245030
Peterbilt	579	2014	9619PK	1XPBDP9X2ED245029
Peterbilt	579	2014	9209PJ	1XPBDP9X0ED245028
Peterbilt	579	2014	9206PJ	1XPBDP9X9ED245027
Peterbilt	579	2014	4199PM	1XPBDP9X7ED245026
Kenworth	CON	2014	8668PM	1XKYDP9X6EJ965614

#### Purchased Trucks (subject to financing) [4]

<b>Make</b>	<b>Model</b>	<b>Year</b>	<b>Plate</b>	<b>VIN</b>
Ford	F250	2009	AM12785	1FTSW21579EA63884
Ford	F550	2007	AA63700	1FDAF57P47EB28107
International	20S	2000	4355PM	1HTGLATT0YH699079
Chevrolet	Silverado	2008	AM12768	1GCHK29K88E203925

#### Trucks Owned Outright [12]

<b>Make</b>	<b>Model</b>	<b>Year</b>	<b>Plate</b>	<b>VIN</b>
Volvo	WCN	1998	9212PJ	4VAJBAP2WN861781
Mack	600	2003	9213PJ	1M1AA13Y73W150732
Mack	600	2001	4304PM	1M1AE07Y01W010432
Mack	600	2000	4306PM	1M1AA09Y5YW021347
Mack	600	1999	8580PM	1M1AA13Y5XW114317
Mack	CH	2000	9216PJ	1M1AA14Y2YW117191
Mack	CXN	2007	9205PJ	1M1AK06Y17N016023
Mack	600	2007	4355PM	1M1AP02Y67N002318
Kenworth	CON	2005	9210PJ	1XKTDU8X05J982760
Kenworth	CON	2005	N/A	1XKTDU8X95J982756
Kenworth	CON	2005	2334PK	1XKTDU8XX5J982748
Kenworth	CON	2005	9211PJ	1XKTDU8X55J982740

#### Trailers (subject to financing) [18]

<b>Make</b>	<b>Model</b>	<b>Year</b>	<b>Plate</b>	<b>VIN</b>
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CRTI	COO	2014	L9896N	527SR5323EM003959
CRTI	COO	2014	L9895N	527SR532XEM003960
CRTI	COO	2014	L9897N	527SR532XEM003957
CRTI	COO	2014	L9907N	527SR5332EM003962
CRTI	COO	2014	L9906N	527SR5334EM003963
PJTR	C51	2015	N1169B	4P5C51827F3013738
MARK	843	1991	N1163B	2M9843202M0662318
Manac	VAN	2012	J4497H	5MC435325CK013872
Manac	VAN	2012	J4505H	5MC435329CK014085
Manac	VAN	2012	J4504H	5MC435327CK014084
Manac	VAN	2012	J4506H	5MC435320CK014086
Vanguard	VXP	2014	J2481P	5V8VC5324EM402723
Wabash		2015		1JJV532DXFL867929
Wabash		2015		1JJV532D6FL867931
Wabash		2015		1JJV532D4FL867926
Wabash		2015		1JJV532D6FL867930
Wabash		2015		1JJV532D1FL867933

Trailers Owned Outright [6]

Make	Model	Year	Plate	VIN
Trailmobile	01B	2008	J47137	2MN01BAH181002612
Trailmobile	01B	2008	J47167	2MN01BAHX81002611
Trailmobile	01B	2008	J47157	2MN01BAH881002610
Trailmobile	01B	2008	J4714Z	2MN01BAH181002609
Vanguard				5V8VC5326EM402853
Vanguard				5V8VC5327EM402862



# APPENDIX

## C

**A. FARBER & PARTNERS INC.****Claims Register**

In the matter of the bankruptcy of  
**EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**  
of the Village of Bethany, in the Province of Ontario

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
<b>Preferred creditors</b>						
1. Baginski, Peter WEPP	Yes	Not proved			1,000.79	
2. Barefoot, David WEPP	Yes	Not proved			1,360.02	
3. Beaudry, Donald WEPP	Yes	Not proved			1,710.36	
4. Boucher, Lindsay WEPP	Yes	Not proved			1,750.38	
5. Bradley, Ashley WEPP	Yes	Not proved			585.00	
6. Braithwaite, Paul WEPP	Yes	Not proved			1,123.20	
7. Brown, Gregory WEPP	Yes	Not proved			956.80	
8. Burgess, James WEPP	Yes	Not proved			705.41	
9. Cook, Randall WEPP	Yes	Not proved			561.60	
10. Davenport, Wayne WEPP	Yes	Not proved			2,000.00	
11. Dullaart, Joseph WEPP	Yes	Not proved			2,000.00	
12. Farmer, Darren WEPP	Yes	Not proved			2,000.00	
13. Farnsworth, William WEPP	Yes	Not proved			2,000.00	
14. Francis, Karen WEPP	Yes	Not proved			1,569.23	
15. Fuller, David WEPP	Yes	Not proved			2,000.00	
16. Gauthier, Darrin WEPP	Yes	Not proved			2,000.00	
17. Goddard, Jeff WEPP	Yes	Not proved			1,560.34	
18. Ifill, Anthony WEPP	Yes	Not proved			2,000.00	
19. Kelly, Roger WEPP	Yes	Not proved			974.56	
20. Ken Westlake	Yes	Not proved			288,461.53	
21. Leblanc, Brittany WEPP	Yes	Not proved			338.00	
22. Levesque, Jacques WEPP	Yes	Not proved			1,498.96	

## Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Continued

Insolvency Date: 08-Aug-2016  
Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
23. Macdonnell, Jacqueline WEPP	Yes	Not proved			2,000.00	
24. Mackin, Randall WEPP	Yes	Not proved			900.80	
25. Martin, Gary WEPP	Yes	Not proved			1,308.79	
26. Masters, Douglas WEPP	Yes	Not proved			1,331.20	
27. McKenna, Cathy WEPP	Yes	Not proved			2,000.00	
28. Nattress, Keith WEPP	Yes	Not proved			104.00	
29. Petittlerc, Michael WEPP	Yes	Not proved			1,819.90	
30. Quinton, Brad WEPP	Yes	Not proved			919.23	
31. Runhart, Ronald WEPP	Yes	Not proved			1,144.86	
32. Sprayson, Kari WEPP	Yes	Not proved			1,811.54	
33. Tomlinson, Colton WEPP	Yes	Not proved			728.00	
34. Vella, Thomas WEPP	Yes	Not proved			1,123.20	
35. Weeden, Mark WEPP	Yes	Not proved			2,000.00	
Total : Preferred creditors					335,347.70	

**Secured creditors**

1. Bodkin Leasing Corporation Attn: Shannon Nigalis 30788	Yes	Secured asset released		82,000.00	124,037.79
2. Cervus Equipment Corporation Attn: Monique Morin	Yes	Not proved		864,000.00	
3. CIMC Capital	No	Not proved		224,000.00	
4. CLE Leasing - Ontario and Western Canada	Yes	Not proved		98,000.00	213,519.78
5. CRA - Canada Revenue Agency - Tax - Ontario Attn: c/o London Taxes Services Office Division Regional Intake Centre for Insol RP0001	Yes	Not proved			281,722.59
6. Element Financial	Yes	Not proved		137,000.00	253,638.68
7. GE Canada Equipment Financing G.P.	No	Not proved		97,500.00	
8. GE Finance	No	Not proved		89,000.00	
9. Gould Leasing Ltd. Attn: Susan Voth 08839	Yes	Secured asset released		82,000.00	97,152.62
10. Kempenfelt Vehicle Leasing, A Division of Equirex Vehicle Leasing 2007 Inc. Attn: Shannon Nigalis ZSKF1312	Yes	Secured asset released		82,000.00	111,490.02

## Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Continued

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
11. Ken Westlake	Yes	Not proved		146,502.00	891,000.00	
12. Riordan Leasing Attn: Stacey Martin	Yes	Secured asset released		164,000.00	188,037.70	
13. Riviera Finance of Texas, Inc. Attn: Gregory W. Kmiecik	Yes	Not proved			1.00	
14. Wells Fargo Equipment Finance Company Attn: Kirstin Perreira 9773305001 / 9831152001	Yes	Not proved			289,826.49	
Total : Secured creditors				2,066,002.00	2,450,426.67	

## Unsecured creditors

1. 407 ETR Express Toll Route Attn: Marion Richardson/Collections 711006272	No					
2. AGL Signs	No	Not proved		271.20		
3. American Express c/o FCT Default Solutions Attn: Insolvency Department	No	Not proved		28,000.00		
4. Atlantis Radiator	No	Not proved		474.60		
5. Atralyn Products	No	Not proved		1,925.79		
6. Axon Development Corporation	No	Not proved		632.80		
7. B&G Truck and Trailer Attn: Carolyn Prince 984393	Yes	Not proved		1,808.00	1,808.00	
8. Baginski, Peter WEPP	Yes	Not proved			808.94	
9. Bell Canada F-88 - Business Attn: Insolvency Department 7052779044	No			1.00		
10. Bodkin Leasing Corporation Attn: Shannon Nigalis 30788	Yes	Secured asset released		14,000.00		
11. Boucher, Lindsay WEPP	Yes	Not proved			181.14	
12. Bradley, Ashley WEPP	Yes	Not proved			661.90	
13. Braithwaite, Paul WEPP	Yes	Not proved			4,225.47	
14. Brown, Gregory WEPP	Yes	Not proved			1,104.68	
15. Bullied, Cody WEPP	Yes	Not proved			1,331.83	
16. Burgess, James WEPP	Yes	Not proved			987.51	
17. Canadian Semi Trailer Ltd.	No	Not proved		6,981.14		
18. Canadian Transit Company	No	Not proved		2,857.50		
19. Cat Financial	No	Not proved		30,035.00		
20. Cervus Equipment Corporation Attn: Monique Morin	Yes	Not proved		1,136,000.00	920,467.20	
21. Chamber of Commerce Group Insurance Plan	No	Not proved		6,791.17		

## Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Continued

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
22. Checker Flag Leasing Inc.	No	Not proved		9,439.62		
23. Cintas	No	Not proved		1,923.61		
24. Cook, Randall WEPP	Yes	Not proved			468.61	
25. Cooper Glass	No	Not proved		7,491.90		
26. Cornwall Tire Service Ltd.	No	Not proved		507.39		
27. CRA - Canada Revenue Agency - Tax - Ontario Attn: c/o London Taxes Services Office Division Regional Intake Centre for Insol RP0001	Yes	Not proved			187,900.38	
28. Davenport, Wayne WEPP	Yes	Not proved			2,100.00	
29. DELL COMPUTERS	No	Not proved		3,000.00		
30. Detroit International Bridge Company	No	Not proved		2,289.50		
31. Dullaart, Joseph WEPP	Yes	Not proved			1,802.75	
32. Farmer, Darren WEPP	Yes	Not proved			2,759.75	
33. Farnsworth, William WEPP	Yes	Not proved			1,346.28	
34. Fastenal Canada Ltd.	No	Not proved		25.13		
35. Federal Express Canada Ltd. - Revenue Recovery Department Attn: Lynn Tassone	No	Not proved		26.20		
36. Feeney Hardware	No	Not proved		972.38		
37. FIRST Insurance Funding of Canada Attn: Arrears department	No	Not proved		29,992.23		
38. Francis, Karen WEPP	Yes	Not proved			893.07	
39. Fuller, David WEPP	Yes	Not proved			1,253.83	
40. Gauthier, Darrin WEPP	Yes	Not proved			2,408.92	
41. GE Canada Equipment Financing G.P.	No	Not proved		37,500.00		
42. GE Finance	No	Not proved		69,000.00		
43. Gibson Engineering	No	Not proved		1,716.47		
44. Giffen Legal Professional Corporation Attn: Jaclyn P. Giffen	Yes	Not proved		288.90	5,856.45	
45. Glasvan Great Dane	No	Not proved		11,548.19		
46. Goddard, Jeff WEPP	Yes	Not proved			193.50	
47. Gould Leasing Ltd. Attn: Susan Voth 08839	Yes	Secured asset released		18,000.00		
48. Grand River Personnel Ltd.	Yes	Not proved		1,243.00	1,469.00	
49. HD Supply - Brafasco Attn: Sandy Soares	Yes	Not proved		1,250.04	1,250.04	

Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Continued

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
50. HK Truck and Trailer	Yes	Not proved		4,134.99	4,134.99	
51. Hudson Hall	No	Not proved		16,500.00		
52. Husky Energy	No	Not proved		50,000.00		
53. Ifill, Anthony WEPP	Yes	Not proved			2,540.83	
54. Jamie DeMerchant Former Director/Wages	Yes	Not proved			5,672.94	
55. JDM Industrial Maintenance Inc.	No	Not proved		658.23		
56. Jenkins Business Equipment	No	Not proved		276.85		
57. Joint Brothers Carrier	No	Not proved		2,400.00		
58. Kal Tire	No	Not proved		20,993.03		
59. Kelly, Roger WEPP	Yes	Not proved			2,782.11	
60. Kempenfelt Vehicle Leasing, A Division of Equirex Vehicle Leasing 2007 Inc. Attn: Shannon Nigalis ZSKF1312	Yes	Secured asset released		16,000.00		
61. Ken Westlake	Yes	Not proved		1,853,498.00	353,339.92	
62. Levesque, Jacques WEPP	Yes	Not proved			1,556.51	
63. Liftlock City Freightliner	No	Not proved		674.75		
64. Macdonnell, Jacqueline WEPP	Yes	Not proved			2,162.85	
65. Mackin, Randall WEPP	Yes	Not proved			890.13	
66. Martin, Gary WEPP	Yes	Not proved			827.73	
67. Mary McCaskie & 2276472 Ontario Ltd.	Yes	Not proved			51,850.00	
68. Masters, Douglas WEPP	Yes	Not proved			1,730.63	
69. McColl Turner Attn: Bonnie Wease V5199.000	Yes	Not proved		17,651.15	18,763.42	
70. McKenna, Cathy WEPP	Yes	Not proved			2,900.00	
71. MegaWash Canada	No	Not proved		440.02		
72. Mike Clark Excavating & Septic Pumping	No	Not proved		6,235.00		
73. Ministry of Finance - ON PST, EHT & Other Taxes Attn: Mrs. Asta Alberry 817015514TE0001	Yes	Not proved		32,000.00	66,344.77	
74. Ministry of Labour	No			1.00		
75. Ministry of Transportation	No	Not proved		85,000.00		
76. Money Mart	No			1.00		
77. MV Preferred	No	Not proved		19,156.39		
78. Nattress, Keith WEPP	Yes	Not proved			216.32	

## Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Continued

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
79. One Network Enterprises	No	Not proved		150.00		
80. Oxford Mobile Fleet Service Inc.	No	Not proved		137.53		
81. Paliare Roland Rosenberg Rothstein LLP	No	Not proved		336.18		
82. Parkland Industries Ltd. Attn: Tariq Remtulla	Yes	Not proved		40,000.00	40,607.19	
83. Peterborough Automotive & Machine Ltd. Attn: Scott Anderson	Yes	Not proved		2,281.02	3,098.12	
84. Peterborough Chamber of Commerce	No	Not proved		6,791.17		
85. Peterborough Emission Centre	No	Not proved		988.75		
86. Pilon Fuel - MacEwen Petroleum Inc. Attn: Sylvie Lanthier	No	Not proved		684.12		
87. Praxair Canada Inc.	No	Not proved		435.87		
88. Progressive Waste Solutions Attn: Beth Cavanagh	Yes	Not proved		576.84	842.51	
89. Purolator Courier Limited Attn: Ortie Nesci	No	Not proved		76.85		
90. Quick Truck Lube Attn: Shishpal Mangat	Yes	Not proved		2,145.64	5,125.82	
91. Quinton, Brad WEPP	Yes	Not proved			1,912.00	
92. Reefer Sales	No	Not proved		6,347.98		
93. Riordan Leasing Attn: Stacey Martin	Yes	Secured asset released		34,000.00		
94. Robert Young Construction	No	Not proved		4,362.75		
95. RP Oil Limited	No	Not proved		1,483.78		
96. Seagrave Building Systems Attn: Justin Kowalczyk	Yes	Not proved		18,532.00	24,182.00	
97. Sprayson, Kari WEPP	Yes	Not proved			1,913.47	
98. Stephen Brooks & 1327900 Ontario Ltd.	Yes	Not proved			113,185.00	
99. Strike Furlong Ford Barristers & Solicitors	No	Not proved		3,214.33		
100. Superior Propane	No	Not proved		131.85		
101. Tandet National Lease Ltd. (TFleet Services) Attn: Sue Ann Corrighan	Yes	Not proved		4,588.88	9,352.15	
102. TD Canada Trust Visa c/o BankruptcyHighway.com	No	Not proved		46.95		
103. Telus	No	Not proved		6,610.43		
104. TF Graphics	No	Not proved		1,006.68		
105. The Minute Maid Company Canada Inc.	No	Not proved		342.37		
106. Thermo king	No	Not proved		995.30		
107. Tomlinson, Colton WEPP	Yes	Not proved			1,100.99	
108. Trailer Wizards	No	Not proved		20,000.00		
109. Upper Canada Fuels Attn: Yangzom Tashi	Yes	Not proved		207,005.69	218,902.67	

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Claims Register for EXCLUSIVE TRANSFER ENTERPRISE CORPORATION - Concluded

Insolvency Date: 08-Aug-2016

Estate Number: 31-2153298

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
110. Vella, Thomas WEPP	Yes	Not proved			878.41	
111. VFS Canada Inc. Attn: Murielle Graff	Yes	Not proved			18,308.86	
112. Wabash Canada Attn: Nancy Muzzell	Yes	Not proved		4,318.86	4,318.86	
113. Weeden, Mark WEPP	Yes	Not proved			1,492.93	
114. Winslow Gerolamy Motors	No	Not proved		41,922.44		
115. Workplace Safety & Insurance Board Attn: Eric Kupka 8474036	Yes	Not proved		102,235.95	74,886.41	
Total : Unsecured creditors				4,063,363.38	2,177,099.79	
<b>Deemed Trust Claim</b>						
1. CRA - Canada Revenue Agency - Tax - Ontario Attn: c/o London Taxes Services Office Division Regional Intake Centre for Insol RP0001	Yes	Not proved		494,423.85		
Total : Deemed Trust Claim				494,423.85		
Grand Total:				6,623,789.23	4,962,874.16	



Court File No.: 31-2153298

Estate File No. 31-2153298

**IN THE MATTER OF THE BANKRUPTCY OF EXCLUSIVE TRANSFER ENTERPRISE CORPORATION, OF THE  
TOWN OF BETHANY, IN THE PROVINCE OF ONTARIO**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)**

Proceeding commenced at Toronto

**FIRST REPORT OF A. FARBER & PARTNERS INC., in its  
capacity as Trustee in the estate of Exclusive Transfer  
Enterprise Corporation, a bankrupt**

**WEIRFOULDS LLP**

Barristers and Solicitors  
The TD Bank Tower, Suite 4100  
66 Wellington Street West  
Toronto, ON M5K 1B7

**Danny M .Nunes (LSUC No. 53802D)**

Tel.: 416.619.6293

Fax: 416.365.1876

Email: [dnunes@weirfoulds.com](mailto:dnunes@weirfoulds.com)

Lawyers for the Trustee

# APPENDIX

## “D”

# APPRAISAL REPORT

OF ASSETS

**Exclusive Transfer Enterprise Corporation  
1534 Dranole Road & 1288 Hwy 7A,  
Bethany, On.**

For

**Mr. Noah Litwack  
Farber Financial Group  
150 York Street, Suite 1600,  
Toronto, Ontario  
M5H 3S5**

DATE: August 18, 2016

APPRAISAL DONE BY:

**BARRY MCLEAN  
AUCTIONEER, CPPA APPRAISER**

**MCLEAN AUCTIONS,  
2140 LITTLE BRITAIN RD.  
LINDSAY, ONTARIO  
K9V 4R2**

**PHONE (705) 324-2783  
TOLL FREE 1-800-461-6499  
FAX (705) 324-6632  
EMAIL: [barry@mcleanauctions.com](mailto:barry@mcleanauctions.com)  
[www.mcleanauctions.com](http://www.mcleanauctions.com)**

MEMBER:

**NATIONAL AND ONTARIO AUCTIONEERS ASSOCIATION, CANADIAN  
PERSONAL PROPERTY APPRAISERS GROUP**

August 18, 2016

Noah Litwack  
**Farber Financial Group**  
150 York Street, Suite 1600  
Toronto, On, M5H 3S5

**Attention:** Mr. Noah Litwack,

**Subject: Appraisal of assets-Exclusive Transfer Enterprise Corporation**  
**-1534 Dranole Road and 1288 Hwy 7A Bethany, On.**

Dear Noah:

As per your instructions we have completed an appraisal which constitutes an opinion of value regarding the assets located in the above noted locations. A summary of the said assets may be found in the attached Schedule A & B.

The purpose of the appraisal is to determine the liquidation value of the assets.

The assets herein valued have been identified to us during our visit to the above locations by Mr. Ken Westlake and Mr. Noah Litwack on Monday August 8<sup>th</sup>, 2016.

The appraisal was conducted on an individual item by item basis, each on their own merit reflecting a 'liquidation value'.

**Definition of term - Liquidation Value** represents the value at which the property would change hands when there was a financial situation, or other circumstances, existing at the time of sale so as to require a sacrifice

Our findings are as follows:

For all the assets detailed on the attached Schedule A & B

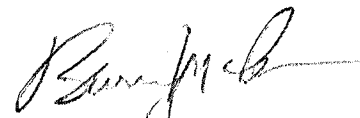
**Liquidation Value is   \$1, 274, 055.00 CDN**  
**One Million, Two Hundred and Seventy-four Thousand, Fifty-five Dollars**

This appraisal is subject to McLean Auctions standard terms and conditions and qualifications attached hereto.

We sincerely hope this information is sufficient for your present needs, and should you require any additional information, please feel free to contact us at your earliest convenience. Until then we remain,

Yours truly,

McLean Auctions



Barry J. McLean,  
Auctioneer, C.P.P.A. Appraiser/Auctioneer

**Member:**  
**Canadian Personal Property Appraisers Group**

### Conditions

The appraisal attached hereto is subject to the following conditions:

1. This appraisal is for the exclusive use of the client to whom this report is addressed.
2. This appraisal may not be copied in whole or part, used for advertising, public relations, news, sales, legal proceedings or otherwise without the prior written consent and approval of McLean Auctions.
3. This appraisal is to be used in its entirety only and may not be used for any other purpose other than as stated in this report.
4. The question as to title, liens, encumbrances, rental or lease agreements that may pertain to any or all of the subject assets in question have not been investigated in this report unless otherwise specifically outlined.
5. The inspection of assets has been conducted on a visual basis where possible in order to determine description criteria and general overall appearance only. The utility, functions, performance, operation, flaws inherent, hidden or otherwise have not been considered unless specifically outlined.
6. The information gathered for this report whether through documented, hearsay or other means is believed to be both reliable and correct, however, McLean Auctions shall not be held liable whatsoever for any errors and/or omissions.
7. Definition of terms: 'Liquidation Value', 'Fair Market Value', or 'Going Concern Value' are to be interpreted only as defined in the report.
8. Fluctuating economic conditions require that this appraisal remain valid for a period of 60 [sixty] days only. Any extensions must be obtained in writing from McLean Auctions.
9. McLean Auctions in its capacity as appraisers has no present interest in the aforementioned company or its assets which would affect our evaluation.
10. Barry McLean of McLean Auctions has successfully completed the Personal Property Appraiser Certification program with the Canadian Personal Property Appraisers' Group and is a member in good standing. This report was prepared in accordance with the Standards and Practices of the Canadian Personal Property Appraisers' Group. The writer is not required to give testimony or attendance in court by reason of this opinion unless arrangements have been previously made.

## APPRAISER'S QUALIFICATIONS

### Education

- Canadian Personal Property Appraisers Group, London, Ontario. Personal property appraiser certification program. Certified August 1995.
- Reisch's World-wide School of Auctioneering, Mason City, Iowa, Graduated June 1981.
- Ontario Real Estate Association, Graduated 1998
- Ryerson University – Polytechnical Institute, Toronto, Ontario, Graduated Spring 1978.

### Professional Memberships:

*Member in Good Standing of:*

National Auctioneers Association  
 Auctioneers Association of Ontario  
 Canadian Personal Property Appraisers Group  
 Kawartha Lakes Real Estate Association  
 Ontario Real Estate Association  
 Canadian Real Estate Association

### Professional Experience:

Twenty-five years experience as a full time professional auctioneer, with an office in Lindsay. Have conducted auctions throughout central Ontario and Eastern Canada.

Twenty years experience as an appraiser through regular course of auction business.

Work approximately 125 auctions per year.

Experienced in agriculture, automobiles, business closures, commercial equipment, construction equipment, industrial equipment, real estate, quality estates and antiques.

Clients include auction management firms, investment companies, insurance companies, financial institutions, Ministry of Finance, City of Kawartha Lakes, accountants, lawyers, trustees and executors.

Description	Qty	Price	Total
<b>Shop</b>			
3 - 45 gallon drums, with one barrel pump	1	50.00	50.00
Air Hose	1	50.00	50.00
Ingersol-Rand 30T Air Compressor Model 242ON5 Serial #30T 770308	1	500.00	500.00
Delta Milwaukee Cut off Saw	1	250.00	250.00
Torch gauges	1	25.00	25.00
extention cords	1	25.00	25.00
Air hose caddy with hose	1	50.00	50.00
Miller Big Blue 300 Pro Cat CC/CV Diesel Welder Serial #mb090231e	1	3,000.00	3,000.00
yellow steel tank Pneumatic tire bead seater	1	50.00	50.00
Orange Tool Cabinet (2 door & 10 drawers)	1	500.00	500.00
Stainless steel rod oven	1	25.00	25.00
Handle	1	25.00	25.00
Orange Markers	1	5.00	5.00
Air impact wrench	1	25.00	25.00
Heavy duty sockets	1	200.00	200.00
New red tool cabinet	1	500.00	500.00
Hand cart	1	10.00	10.00
5 Miller Weldcraft A-150 Series welding kits with case	5	50.00	250.00
Grease gun in tub	1	10.00	10.00
3 - 45 gallon drums	1	30.00	30.00
Construction Light	1	10.00	10.00
extention cords	1	10.00	10.00
2008 Can Am Outlander ATV	1	5,000.00	5,000.00
Iron horse Air Compressor - 90 gallon	1	250.00	250.00
Lincoln electric Vantage 500 Welder on trailer	1	3,000.00	3,000.00
Case W14B front end loader	1	5,500.00	5,500.00
Cardboard dump bin	1	200.00	200.00
Skid of assorted hoses	1	200.00	200.00
New red Heavy duty work bench Model 9' 6" WB15D-R	1	500.00	500.00
Red Max Construction heaters	2	50.00	100.00
Sky Jack 3220 Scissor lift	1	2,000.00	2,000.00
Truck Hubs	1	100.00	100.00
Skid Lot Rolls of fencing & barbed wire	1	100.00	100.00
Scrap engine	1	100.00	100.00
Skid of battery cores	1	200.00	200.00
Yellow heavy duty floor jack	1	50.00	50.00
Gantry Crane	1	500.00	500.00
3 Jack stands	1	25.00	25.00
Sunex Tools 22 ton air hydraulic truck jack	1	200.00	200.00
2 Hydraulic jacks	1	50.00	50.00
2 Jack stands	1	20.00	20.00

**Tool storage trailer/workshop inside Shop**

Assorted hammers, clamps, binder etc	1	25.00	25.00
4 Bolt Bins & contents	4	100.00	400.00
Parts Washer	1	50.00	50.00
Work Bench with grinder, stool & contents	1	100.00	100.00
wall mount wire dispenser and wire	1	50.00	50.00
Work Bench & contents including sockets & parts bins & hose	1	100.00	100.00
Tool box with tools	1	50.00	50.00
shelf with truck parts and bin with hose	1	50.00	50.00
Rolling cabinet with truck part contents	1	500.00	500.00
Yellow multi drawer truck parts & contents	1	100.00	100.00
Quantity of hydraulic hoses	1	100.00	100.00
Quantity of uniforms	1	100.00	100.00
Blue parts drawer cabinet	1	50.00	50.00
Wurth parts cabinet - nipples	1	200.00	200.00
Wurth parts cabinet - couplers & plugs	1	200.00	200.00
Assorted clamps	1	50.00	50.00
Assorted uniforms	1	50.00	50.00
Assorted Uniforms	1	50.00	50.00
Parts drawer	1	300.00	300.00
Chest on cabinet red tool cabinet & contents	1	200.00	200.00
Rolls of wire on rack	1	100.00	100.00
Packages of red & amber truck & trailer marker lights etc	1	100.00	100.00
Gray metal shelf contents -Stemco	1	50.00	50.00
Gray metal shelf contents -exhaust pipe	1	100.00	100.00
Gray metal shelf contents - filters	1	100.00	100.00
Gray metal shelf contents - boxed parts	1	50.00	50.00
Gray metal shelf contents - boxed parts	1	100.00	100.00
Gray metal shelf contents - green bin & orange filters	1	200.00	200.00
Gray metal shelf contents - Paccar genuine parts	1	300.00	300.00
Assorted uniforms	1	100.00	100.00
Coat hangers on rack	1	25.00	25.00
Brass fittings Bins	1	50.00	50.00
Brass fittings Bins	1	50.00	50.00
Hydraulic hoses & shelf contents	1	50.00	50.00
Gray shelf contents	1	50.00	50.00
partial rolls of wire	1	25.00	25.00
Belts	1	25.00	25.00
hose & mirrors on gray shelf	1	10.00	10.00
Accel sticker on red tool box	1	100.00	100.00
Job lot wire, hose and gas cans	1	25.00	25.00
Assorted of cases of tools & testers	1	300.00	300.00
Belts	1	10.00	10.00
Assorted cans of Kleen flo etc	1	10.00	10.00
Gray shelf contents truck parts	1	100.00	100.00
Gray shelf contents - drills, air tools, etc	1	200.00	200.00
Cases of tools - testers	1	100.00	100.00
Fastenal blue bins & parts	1	300.00	300.00



Assorted sized wrenches	1	200.00	200.00
Job lot Bosch box	1	50.00	50.00
Job lot absorbent sand	1	20.00	20.00
Brand new boxed item & hydraulic tool	1	50.00	50.00
grease gun, battery tester, pipe wrench, etc	1	50.00	50.00

#### Shop continued

red fuel tank	1	25.00	25.00
Blue-Point R-12 & R-134a refrigerant management center	1	100.00	100.00
generator	1	150.00	150.00
Diamond plate steel tool box	1	50.00	50.00

#### Concrete pad outside Shop

approximately 20 new and used truck tires	1	1,000.00	1,000.00
yellow lift	1	50.00	50.00

#### Storage trailer Contents

##### Storage trailer 1

3 skids of hydraulic hoses	3	250.00	750.00
skid of pipe fittings	1	100.00	100.00
chainlink fencing	1	50.00	50.00
bin of dozer teeth	1	500.00	500.00
skid box of parts	1	200.00	200.00
skid box of light bulbs	1	50.00	50.00
skid box of John Deere Hydraulic filters	1	500.00	500.00
skid box of radiators, coolers	1	200.00	200.00
skid box of Goodyear LW Arctic Tank Truck Petroleum hose	1	200.00	200.00
box of assorted hose	1	50.00	50.00
box of parts	1	50.00	50.00
pipe fittings	1	25.00	25.00
crate of assorted parts	1	200.00	200.00
crate of assorted Cat and John Deere parts	1	500.00	500.00
Tennant floor cleaner	1	100.00	100.00

##### Storage trailer 2

truck wheel drums	1	100.00	100.00
Snap-On air compressor with electric motor	1	150.00	150.00
2 mechanics creepers	1	20.00	20.00
jack stands	1	50.00	50.00
aluminum gas tank	1	100.00	100.00
approximately 23 new truck tires	23	100.00	2,300.00
assorted truck rims	1	500.00	500.00
quantity of moving/packing blankets	1	200.00	200.00
2 load secure bars	1	40.00	40.00

##### Storage trailer 3

white board	1	5.00	5.00
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skid box of JCB and Cat parts	1	500.00	500.00
2 paper shredders	1	10.00	10.00
Miller CP-302 welder with Miller 22A wire feeder & cart	1	1,000.00	1,000.00
Donaldson filters	1	10.00	10.00
skid of truck light panels	1	200.00	200.00
skid of assorted Cat, etc parts	1	300.00	300.00
skid of truck light panels	1	100.00	100.00
3 skids of assorted filters, parts, etc	1	300.00	300.00

#### Storage trailer 4

aluminum extension ladder	1	75.00	75.00
approximately 13 used tires	13	50.00	650.00
2 pallet trucks	2	100.00	200.00
blue rolling stairs	1	100.00	100.00
2 plastic pallets	1	10.00	10.00
2 water containers	1	50.00	50.00

#### Storage trailer 5

truck hubs	1	100.00	100.00
pallet truck	1	100.00	100.00
small box of brass fittings	1	50.00	50.00
skid crate of oil filters	1	200.00	200.00
air filters	1	100.00	100.00
skid box of hydraulic hoses	1	200.00	200.00
engine hoist	1	200.00	200.00
Hydraulic hoses and controls for Kumasu	1	300.00	300.00
bearings	1	300.00	300.00
fluid filters	1	200.00	200.00
mufflers	1	300.00	300.00
headlights	1	200.00	200.00
Fuller transmission clutch parts	1	500.00	500.00
4 hydraulic oil pumps	1	200.00	200.00

#### Storage trailer 6

yellow parts boxes	1	50.00	50.00
wall mount wrench holder and some wrenches	1	20.00	20.00
hydraulic jack and jack stand	1	50.00	50.00
light covers and markers	1	25.00	25.00
jack stands	1	25.00	25.00
grey shelf with truck part contents and grease gun	1	100.00	100.00
grey shelf with 6 pin valves, CH camshaft L& R, oil filters, etc	1	500.00	500.00
red 2 tier metal shelf and contents	1	25.00	25.00
grey metal shelf with com tubes, belts, etc	1	20.00	20.00
truck drums	1	50.00	50.00
new headlights for Mack trucks	1	100.00	100.00
fender panels	1	100.00	100.00
ABS diagnostics	1	100.00	100.00

Bumpers, bumper ends	1	100.00	100.00
new side panel for Peterbilt	1	50.00	50.00
Temperature controlled blankets	1	100.00	100.00
side skirts for trailer	1	100.00	100.00
electronic Calibrators	1	50.00	50.00

<b>Office</b>			
office desks, chairs, files, copiers, computers, printers, supplies, etc	1	1,000.00	1,000.00
<b>TOTAL</b>			<b>\$46,755.00</b>

Exclusive Transfer Enterprise Corporation  
List of Trucks and Trailers

**VEHICLES IN NAME OF EXCLUSIVE TRANSFER ENTERPRISE CORPORATION**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Reported Secured	Blanket PPSA search secured	VIN PPSA Search Secured
ETE0904	Trailer	CRTI	COO	2014	L9896N	527SR5323EM003959	CIMC		CIMC LEASING USA, INC.
ETE0906	Trailer	CRTI	COO	2014	L9895N	527SR532XEM003960	CIMC		CIMC LEASING USA, INC.
ETE0908	Trailer	CRTI	COO	2014	L9897N	527SR532XEM003957	CIMC		CIMC LEASING USA, INC.
ETE03905	Trailer	CRTI	COO	2014	L9907N	527SR5332EM003962	CIMC	Tri-axle	CIMC LEASING USA, INC.
ETE03907	Trailer	CRTI	COO	2014	L9906N	527SR5334EM003963	CIMC		CIMC LEASING USA, INC.
FB2	Trailer	PJTR	C51	2015	N1169B	4P5C51827F3013738	GE	GE Canada Equipment Financing G.P.	NO MATCH
N/A	Trailer	MARK	843	1991	N1163B	2M9843202M0662318	GE	GE Canada Equipment Financing G.P.	NO MATCH
ETE0811	Trailer	Trailmobile	01B	2008	J47137	2MN01BAH181002612	None		NO MATCH
ETE0812	Trailer	Trailmobile	01B	2008	J47167	2MN01BAHX81002611	None		NO MATCH
ETE0813	Trailer	Trailmobile	01B	2008	J47157	2MN01BAH881002610	None		NO MATCH
ETE0814	Trailer	Trailmobile	01B	2008	J4714Z	2MN01BAH181002609	None		NO MATCH
ETE0612	Trailer	Vanguard	VXP	2014	J2481P	5V8VCS324EM402723	None		GTA TRAILER RENTALS INC. (DISCHARGED)
15	Truck	Volvo	WCN	1998	9212PJ	4VAJBAPE2WN861781	None		NO MATCH
19	Truck	Mack	600	2003	9213PJ	1M1AA13Y73W150732	None		NO MATCH
21	Truck	Mack	600	2001	4304PM	1M1AE07Y01W010432	None		NO MATCH
22	Truck	Mack	600	2000	4306PM	1M1AA09Y5YW021347	None		NO MATCH
23	Truck	Mack	600	1999	8580PM	1M1AA13Y5XW114317	None		NO MATCH
24	Truck	Mack	CH	2000	9216PJ	1M1AA14Y2YW117191	None		NO MATCH
25	Truck	Mack	CXN	2007	9205PJ	1M1AK06Y17N016023	None		NO MATCH
26	Truck	Mack	600	2007	4355PM	1M1AP02Y67N002318	None		NO MATCH
29	Truck	Kenworth	CON	2005	9210PJ	1XKTU8X05J982760	None		NO MATCH
30	Truck	Kenworth	CON	2005	N/A	1XKTU8X95J982756	None		NO MATCH Unknown-not here
31	Truck	Kenworth	CON	2005	2334PK	1XKTU8XX5J982748	None		NO MATCH
32	Truck	Kenworth	CON	2005	9211PJ	1XKTU8X55J982740	None		NO MATCH
SS2 or ST2	Truck	Ford	F250	2009	AM12785	1FTSW21579EA63884	GE	GE CANADA EQUIPMENT FINANCING G.P.	GE CANADA EQUIPMENT FINANCING G.P.
SS1	Truck	Ford	F550	2007	AA63700	1FDAF57P47EB28107	GE	GE CANADA EQUIPMENT FINANCING G.P.	GE CANADA EQUIPMENT FINANCING G.P.
DT1	Truck	International	20S	2000	4355PM	1HTGLATT0YH699079	GE	GE CANADA EQUIPMENT FINANCING G.P.	GE CANADA EQUIPMENT FINANCING G.P.
N/A	Truck	Chevrolet	Silverado	2008	AM12768	1GCHK29K88E203925	GE	GE CANADA EQUIPMENT FINANCING G.P.	GE CANADA EQUIPMENT FINANCING G.P.

**VEHICLES IN NAME OF KENNETH B WESTLAKE BUT PLATED FOR ETEC FLEET**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Reported Secured	Blanket PPSA search secured	VIN PPSA Search Secured
ETE0598	Trailer	Manac	VAN	2012	J4497H	5MC435325CK013872	None		GTA TRAILER RENTALS INC. (DISCHARGED)
ETE0601	Trailer	Manac	VAN	2012	J4505H	5MC435329CK014085	None		GTA TRAILER RENTALS INC. (DISCHARGED)
ETE0602	Trailer	Manac	VAN	2012	J4504H	5MC435327CK014084	None		GTA TRAILER RENTALS INC. (DISCHARGED)
ETE0599	Trailer	Manac	VAN	2012	J4506H	5MC435320CK014086	None		GTA TRAILER RENTALS INC. (DISCHARGED)

**CAPITAL LEASE VEHICLES**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Name on Ownership	Blanket PPSA search secured	VIN PPSA Search Secured
59	Truck	Peterbilt	579	2012	8419PL	1XP4DP9X1CD147762	Element Financial		Broke down in Lordstown, OH
48	Truck	Peterbilt	579	2014	9620PK	1XPBDP9X4ED245033	Element Financial		
47	Truck	Peterbilt	579	2014	4364PM	1XPBDP9X2ED245032	Bodkin Leasing		
46	Truck	Peterbilt	579	2014	4374PN	1XPBDP9X0ED245031	CLE Leasing Enterprise		
45	Truck	Peterbilt	579	2014	9207PJ	1XPBDP9X9ED245030	Riordan Leasing		
44	Truck	Peterbilt	579	2014	9619PK	1XPBDP9X2ED245029	Element Financial		
43	Truck	Peterbilt	579	2014	9209PJ	1XPBDP9X0ED245028	Equirex Vehicle Leasing 2007		
42	Truck	Peterbilt	579	2014	9206PJ	1XPBDP9X9ED245027	Riordan Leasing		
41	Truck	Peterbilt	579	2014	4199PM	1XPBDP9X7ED245026	Gould Leasing Ltd		Gould Leasing Ltd.
40	Truck	Kenworth	CON	2014	8668PM	1XXYDP9X6EJ965614	CLE Leasing Enterprise		

**MISSING OWNERSHIPS BUT ON STATEMENT OF AFFAIRS**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Reported Secured	Blanket PPSA search secured	VIN PPSA Search Secured
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51	Truck	Peterbilt		2015		1XPBDP9X8FD270566	Cervus/Peterbilt		
52	Truck	Peterbilt		2015		1XPBDP9XXFD270567	Cervus/Peterbilt		
54	Truck	Peterbilt		2015		1XPBDP9X3FD270569	Cervus/Peterbilt		
55	Truck	Peterbilt		2015		1XPBDP9XXFD270570	Cervus/Peterbilt		
56	Truck	Peterbilt		2015		1XPBDP9X1FD270571	Cervus/Peterbilt		
57	Truck	Peterbilt		2015		1XPBDP9X3FD270572	Cervus/Peterbilt		
58	Truck	Peterbilt		2015		1XPBDP9X5FD270573	Cervus/Peterbilt		
ETE0623	Trailer	Wabash		2015	M4874E	1JJV532DXFL867929	GE	GE Canada Equipment Financing G.P.	NO MATCH -in yard at 1288 Hwy 7 Bethany
ETE0624	Trailer	Wabash		2015	M4872E	1JJV532D6FL867931	GE	GE Canada Equipment Financing G.P.	NO MATCH
ETE0625	Trailer	Wabash		2015	m4875e	1JJV532D4FL867926	GE	GE Canada Equipment Financing G.P.	NO MATCH
ETE0626	Trailer	Wabash		2015	m4873e	1JJV532D6FL867930	GE	GE Canada Equipment Financing G.P.	NO MATCH
ETE0627	Trailer	Wabash		2015		1JJV532D1FL867933	GE	GE Canada Equipment Financing G.P.	NO MATCH

**NOT ON STATEMENT OF AFFAIRS AND NO OWNERSHIP (PER M LITWACK VISIT)**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Reported Secured	Blanket PPSA search secured	VIN PPSA Search Secured
ETE0619	Trailer	Vanguard		2013?	L1421E	5V8VC5326EM402853			
ETE0620	Trailer	Vanguard		2013?	L1430E	5V8VC5327EM402862			
ETE0621	Trailer	Vanguard				5V8VC5323EM402857	did not see		
ETE0706	Trailer	Stoughton				1DW1A5324HB706619	did not see		

**NOT ON STATEMENT OF AFFAIRS AND NO OWNERSHIP (NOT SURE OF OWNERSHIP - TO CONFIRM WITH KEN)**

No.	Truck/Trailer	Make	Model	Year	Plate	VIN	Reported Secured	Blanket PPSA search secured	VIN PPSA Search Secured
36	Truck	Kenworth	T660	2007					
35	Truck	Kenworth	T2000	2006	9222PJ	1XKTDU2X87J991662			
37	Truck	Kenworth	T2000	2005	8418PL	1XKTDU8X56J985753			
ST1	Truck	Ford	F550	2011				Service truck listed above as a 2007	
V10	Van	GM	Cargo Van	2011		1GCWGF6A6B1127485			
	Auto	Chevrolet	224	1998		1G1JF12T1W7291729			Lambo doors, Nitros, Fosgate sound
597	Trailer	Stoughton		1994					
003	Trailer	Utility		1999					
002	Trailer	Wabash		2003		1JJV532W73L846808		instructed not to include	
376	Trailer	Stoughton		Unknown				instructed not to include	
383	Trailer	Stoughton		1996		1DW1A5324V5090514		instructed not to include	
053	Trailer	Manac		1998				Workshop trailer inside building	
	Trailer	PJ				C591832S2K1GT		covered above as FB2	
	Trailer	Cerka		?					
ETE0622	Trailer	Vanguard		2013/14?		5V8VC5325EM402858			
ETE0716	Trailer	Stoughton		2016/2017	N2335V	1DW1A5325HB718407			
ET0703	Trailer	Stoughton		2016?	n5267N	1DW1A5320HB706617			
ETE0712	Trailer	Stoughton		2016/2017	n2331v	1DW1A5328HB718403			
ETE0717	Trailer	Stoughton		2016/2017	N2336v	1DW1A5327HB718408			
ET0702	Trailer	Stoughton		2016?	N5267N	1DW1A5324HB706622			
ETE0718	Trailer	Stoughton		2016/2017	N2337V	1DW1A5329HB718409			
ETE0705	Trailer	Stoughton		2016?	N5269N	1DW1A5320HB706620			
ETE0715	Trailer	Stoughton		2016/2017	N2334V	1DW1A5323HB718406			
Forklift	Clark	C500-120		1995		915-0018-12,000lb	Propane, 1213 Hours showing on meter		
Skid Steer	Cat	256C		2010		CAT0256CADWS01575	with fork-lift attachment, 7276h 2-Speed		
Bucket	?		?				large bucket		
Blade							Skid Steer Dozer blade attachment		
Grapple Bucket							Skid Steer bucket with hydraulic claw grapple		
GP533431	Trailer	Stoughton		2013/2014	L9064A	1DW1A5327EB455722	Purported Driver owned		

**Total**

Location	Notes	MILEAGE	
1288 Hwy 7A, Bethany			35000
1288 Hwy 7A, Bethany			35000
1288 Hwy 7A, Bethany	not here		35000
1288 Hwy 7A, Bethany			35000
1288 Hwy 7A, Bethany			35000
1534 Dranoel Rd, Bethany	BLACK CAR HAULER TRAILER - WELLS FARGO		2500
? Not here	FLATBED - WELLS FARGO POC received		500
1534 Dranoel Rd, Bethany	Offer from Ryson Equipment		5000
1534 Dranoel Rd, Bethany	Offer from Ryson Equipment		5000
1534 Dranoel Rd, Bethany	Offer from Ryson Equipment		5000
1534 Dranoel Rd, Bethany	Offer from Ryson Equipment		5000
1288 Hwy 7A, Bethany	Unknown? Not here		15000
1534 Dranoel Rd, Bethany	JUNK SHUNT TRUCK	490704	1500
1534 Dranoel Rd, Bethany	BLOWN MOTOR - FIXED	1521287	2500
1534 Dranoel Rd, Bethany		2398800	3500
1534 Dranoel Rd, Bethany		934328	2500
1534 Dranoel Rd, Bethany		252750	2500
1534 Dranoel Rd, Bethany		406321	2500
1534 Dranoel Rd, Bethany		680783	7500
1534 Dranoel Rd, Bethany	BLOWN MOTOR	1160873	1000
1534 Dranoel Rd, Bethany		2178852	5000
1534 Dranoel Rd, Bethany	UNFIT - NOT PLATED		3500
1534 Dranoel Rd, Bethany	SALVAGE	2626261	3500
1534 Dranoel Rd, Bethany	BLOWN MOTOR	2035771	1500
1534 Dranoel Rd, Bethany	Wells Fargo POC received		7500
1534 Dranoel Rd, Bethany	Wells Fargo POC received	282000	5000
1534 Dranoel Rd, Bethany	DUMP - YARD USE ONLY - WELLS	361521	2500
1534 Dranoel Rd, Bethany	Wells Fargo POC received		5000

Location	Notes	MILEAGE	
1288 Hwy 7A, Bethany			15000
1288 Hwy 7A, Bethany			15000
1288 Hwy 7A, Bethany			15000
1288 Hwy 7A, Bethany			15000

Location	Notes	MILEAGE	
Lordstown, Ohio	POC received - under review	625302	30000
1534 Dranoel Rd, Bethany	POC received - under review	603692	55000
1534 Dranoel Rd, Bethany	Released Aug 12	568215	55000
1534 Dranoel Rd, Bethany		631340	55000
1534 Dranoel Rd, Bethany	Released Aug 16	562643	55000
1534 Dranoel Rd, Bethany	POC received - under review	638540	55000
1534 Dranoel Rd, Bethany	Released Aug 12	616542	55000
1534 Dranoel Rd, Bethany	Released Aug 16	588440	55000
1534 Dranoel Rd, Bethany	Released Aug 10	597056	55000
1534 Dranoel Rd, Bethany		667995	55000

Location	Notes	MILEAGE
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REPOSSESSED	518189
REPOSSESSED	453810
REPOSSESSED	435350
REPOSSESSED	544708
REPOSSESSED	567261
REPOSSESSED	430018
REPOSSESSED	425619

Not Burlington	Not Sitting at Ryson in Burlington	17000
? At 1288 Hwy 7 Bethany	At Select Trailer Sales - Dan Forfar?	17000
? At 1288 Hwy 7 Bethany	Ken found ownership - Wells Fargo POC rece	17000
? At 1288 Hwy 7 Bethany	Ken found ownership - Wells Fargo POC rece	17000
? Not here	Ken found ownership - Wells Fargo POC rece	17000

Location	Notes	MILEAGE
1288 Hwy 7A, Bethany		15000
1288 Hwy 7A, Bethany		15000
1288 Hwy 7A, Bethany		
1288 Hwy 7A, Bethany	May be same as on list below	

Location	Notes	MILEAGE
1534 Dranoel Rd, Bethany		1604035
1534 Dranoel Rd, Bethany		705923
1534 Dranoel Rd, Bethany		308442
1534 Dranoel Rd, Bethany	did not see in yard	282000
1534 Dranoel Rd, Bethany		216360
1534 Dranoel Rd, Bethany	2 DR coupe w/ superior sound system	6500
1534 Dranoel Rd, Bethany		2500
1534 Dranoel Rd, Bethany		1500
1534 Dranoel Rd, Bethany		2000
1534 Dranoel Rd, Bethany		3500
1534 Dranoel Rd, Bethany		2500
1534 Dranoel Rd, Bethany		2500
1534 Dranoel Rd, Bethany		1500
1534 Dranoel Rd, Bethany	20' Flatbed float trailer w/ Beavertail	
1534 Dranoel Rd, Bethany	Snowmobile trailer	300
1288 Hwy 7A, Bethany		15000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		20000
1288 Hwy 7A, Bethany		3000
		17500
		500
		500
		500
1288 Hwy 7A, Bethany		15000

\$ 1,227,300.00

# APPENDIX

## “E”



September 29, 2016

Kenneth Westlake  
1534 Dranoel Road  
Bethany, Ontario L0A 1A0

**Re: Occupation Agreement in respect of Dranoel Road properties**

Dear Ken:

As you are aware, A. Farber & Partners Inc. was appointed as receiver (the "**Receiver**") of Exclusive Transfer Enterprise Corporation (the "**Company**") pursuant to the Order of the Honourable Mr. Justice Newbould dated September 15, 2016 (the "**Appointment Order**"). The Company was party to a commercial lease agreement with you and Exclusive Transfer Enterprise pursuant to which the Company agreed to lease certain premises located at 1534 Dranoel Road, Bethany, Ontario (the "**Dranoel Road Property**"), including building/office space and a parking area.

As at this letter's date, the Company has approximately 16 trucks and 16 trailers located at the Dranoel Road Property in addition to other varied assets of the company. The Receiver has accepted a proposal from Kevin Barker Auctions Ltd. (the "**Auctioneer**") to conduct an auction of the Company's assets. The auction is scheduled to take place on November 12, 2016 (the "**Auction**").

Further to the email correspondence between yourself and the Receiver, you have agreed that the Company's trucks and trailers located at the Dranoel Road Property, in addition to its other assets located thereon, may remain at the property until the auction is conducted. Set out below are the terms agreed upon by the Receiver and yourself for the continued storage of the Company's assets at the Dranoel Road Property. All amounts set out below are in Canadian currency.

- 1) The Receiver shall pay the per diem amount of \$225 excluding HST for the weekly aggregate amount of \$1,575 to Kenneth Westlake (the "**Occupation Rental Amount**"). The Receiver shall not be responsible for the withholding or remittance of taxes in respect of the Occupation Rental Amount and that responsibility shall be the sole responsibility of Kenneth Westlake.
- 2) The Occupation Rental Amount shall be paid retroactively from the date of the Company's bankruptcy, August 8, 2016. The Occupation Rental Amount, and any other amounts payable by the Receiver hereunder, shall be paid to Kenneth Westlake within five (5) business days of the Receiver being provided with a full settlement of funds by the Auctioneer.

(w)

- 3) The Receiver shall be entitled to occupy both the premises currently occupied at the Dranoel Road Property in addition to the dry sand pit property adjacent to the Dranoel Road Property (collectively referred to hereinafter as the "Property").
- 4) The Receiver and its agents, as well as the Auctioneer and its agents, shall be entitled to unfettered access to the Property as well as the limited use of a telephone line and hydro access. For greater clarity, the unfettered access of the Auctioneer and its agents to the Property shall not be limited solely to the date of the Auction but the Auctioneer and its agents shall have unfettered access to the Property prior to the date of the Auction as well as such time after the date of the Auction as necessary and required by the Auctioneer to dispose of the Company's assets and see to their removal from the Property.
- 5) You shall be permitted to add items to the Auction with the cost of advertising and other labour expenses relating to the Auction paid for by the Receiver provided that you assist with any sorting or moving of the Company's assets located on the Property, as required and only as requested by the Receiver and/or its agents. Should the Receiver require your assistance, the Receiver shall pay you the rate of \$20/per hour. As set out above, all amounts payable by the receiver shall be paid to Kenneth Westlake only after the Receiver has been provided with a full settlement of funds by the Auctioneer.
- 6) Upon relinquishing the premises back to you, the Receiver shall leave the leased premises in a broom swept condition.
- 7) Unless otherwise provided for herein, this agreement constitutes the entire agreement between the Receiver and yourself with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral.
- 8) The terms of the Appointment Order shall continue to apply, as applicable, to the Receiver's obligations hereunder and should there be any conflict between the terms set out herein and the terms of the Appointment Order, the Appointment Order shall govern.

Should the terms set out above be agreeable to you, please sign below and provide an executed copy to the Receiver.

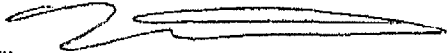
Regards,

**A. Farber & Partners Inc., solely in its capacity  
as Receiver of Exclusive Transfer Enterprise Corporation  
and not in its personal capacity**

*A. Farber & Partners Inc.*

*(w)*

**ACKNOWLEDGED AND AGREED** to by the undersigned with effect as of the date first written above.

Per:   
Name: Kenneth Westlake

# APPENDIX

## “F”

# Auction Sale Contract

Between: Kevin Barker Auctions Ltd.  
1080 Linden Valley Road, Woodville, ON K0M 2T0  
(705) 374-4478 B (705) 374-4510 F hereafter, the Auctioneer

- and -

A. Farber & Partners Inc., Receiver of Exclusive Transfer Enterprise Corporation  
Corporate Head Office: 150 York Street, Suite 1600, Toronto, ON M5H 3S5  
1-855-775-8777 TF 416-498-3719 B 416-498-3839 F hereafter, the Vendor

Upon signing of this Contract the Vendor agrees to pay the Auctioneer the sum of approximately \$ 4,000.00 for advertising. Note: Advertising costs would be in addition to our commission, and publications may vary depending on dates, deadlines and desired targets. Vendor also agrees to pay the Auctioneer 10.0% commission of the contents net sale price. Content items will be sold 'without reserve', whereby there is no minimum selling price, and the Vendor guarantees that all items are sold free and clear of any liens. Both sale preparation costs for set up and display of items as well post sale responsibilities will be calculated at \$20.00 per hour per person if required and be the responsibility of the Vendor. Clerks utilized the day of sale are included in the Auctioneer's commission. Additional expenses i.e. repairs, the Auctioneer will make suggestions as to any repairs needed that would increase the value and aid in the selling of an item, for example, minor repairs including batteries, tires, etc. any mechanical inspections, labour and repairs would be at the discretion and expense, of the Vendor.

The Auctioneer will be responsible for up to and not exceeding \$2,000,000.00 General Liability Insurance for the day of the sale and for any day that employees of the Auctioneer may work at said sale location in preparation for sale, and that this insurance will cover the Auctioneer and his employees and contractors on said days for any damages arising from their actions.

The auction is to be conducted on Saturday, November 12, 2016 starting at 10:00 a.m.

The highest bidder is deemed to be the buyer. Any disputes with the bidding will be settled by the Auctioneer, and that decision will be final. All items sold through Kevin Barker Auctions Ltd. are sold "as is".

The Vendor agrees that if warranted he/she will allow viewing of the item(s) and will allow the Purchaser to pick up the item(s) or make alternative arrangements within 7 days.

The Vendor agrees that the items auctioned remain the property of the Vendor and/or Auctioneer until payment in full has been made.

The Vendor agrees that the descriptions of items are based on opinions and should not be relied upon as statements or representations of fact. The Auctioneer makes no guarantees, warranties or representations, expressed or implied with respects to the items for sale as to the accuracy of the pictures, descriptions or other descriptions of the authenticity, attribution, condition, origin, size, quality, rarity, importance, provenance, period, age or historical relevance. No statement, whether oral or written shall be deemed such a guarantee, warranty or representation.

The Auctioneer reserves the right to consolidate items up for auction, and reject any bid for any reason.


The Auctioneer will leave the premises in a broom-swept condition no later than 10 days from completion of the auction.

By signing of the Contract both parties have read and agreed to the Terms & Conditions as set forth.

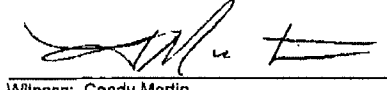
Signed at 1080 LINDEN VALLEY RD., WOODVILLE, ON K0M 2T0

In the City/Town of WOODVILLE In the regional municipality of DURHAM, Ontario, Canada

Dated this the 30 day of SEPTEMBER, 2016



Kevin Barker, Owner  
Kevin Barker Auctions Ltd.  
The Auctioneer



Witness: Candy Martin

Signed at 1220 Sheppard Ave E, Suite 300, North York ON, M2K 2S5

In the City/Town of North York In the regional municipality of Toronto, Ontario, Canada

Dated this the 30 day of September, 2016



Noah M. Litwack, CIRP, LIT, Manager,  
Financial Advisory Services  
A. Farber & Partners Inc., Receiver of Exclusive Transfer  
Enterprise Corporation  
The Vendor



Witness: Gynnis Bass  
Print Name