

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

**MOTION RECORD
(Motion Returnable June 24, 2024)**

June 20, 2024

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**Lawyers for the Court-appointed
Receiver, MNP Ltd.**

TO: SERVICE LIST

SERVICE LIST
(as at March 18, 2024)

Receiver's URL: www.mnpdebt.ca/2724393&100017943Ontario

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<p>1000179473 ONTARIO INC. and 2724393 ONTARIO INC. 21 Beechmont Drive Brampton, ON, L6Y 0X9</p> <p>Eftikhar Malik Email: ihawan.ca@gmail.com</p> <p>Respondents</p>	<p>CANADA REVENUE AGENCY c/o Department of Justice Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto ON M5H 1T1</p> <p>ED PARK AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</p>
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D	Redacted Report of Avison Young dated March 5, 2024
E	Avison Young "Teaser"
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I	Fee Affidavit of Veronica Cesario sworn June 19, 2024

TAB 1

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

and

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

NOTICE OF MOTION

MNP LTD., in its capacity as court-appointed receiver (the “**Receiver**”) without security, of the assets, undertakings and property of 1000179473 Ontario Inc. (“**1000 Corp**”) and 2724393 Ontario Inc. (“**272 Corp**”, together with 1000 Corp, the “**Companies**” and collectively the properties of 272 Corp and 1000 Corp, the “**Property**”), will make a motion to a judge presiding over the Superior Court of Justice, Commercial List (the “**Court**”) on Monday, June 24, 2024, at 12:30 p.m., or as soon after that time as the motion can be heard.

THE PROPOSED METHOD OF HEARING:

- In writing under subrule 37.12.1 (1) because it is (insert one of on consent, unopposed or made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- BY VIDEO CONFERENCE.**

THE MOTION IS FOR:

1. an order, *inter alia*,
 - (a) approving the sale transaction (the “**1000 Transaction**”) contemplated by an agreement of purchase and sale (the “**1000 APS**”) between the Receiver and Dynamic Investment Corp. (the “**Purchaser**”) dated May 22, 2024 and authorizing the Receiver to take all necessary steps to complete the 1000 Transaction; and
 - (b) vesting in Dynamic Investment Corp. all of 1000 Corp’s right, title and interest in and to the Property, free and clear of claims and encumbrances, other than claims and encumbrances specifically provided for in the 1000 APS, upon closing of the 1000 Transaction and the delivery of a Receiver’s certificate to the Purchaser certifying that the Purchase Price and conditions to Closing (as defined in the 1000 APS) have been satisfied or waived and the 1000 Transaction has been completed to the satisfaction of the Receiver;
 - (c) authorizing and directing the Receiver to distribute an amount to CWB net of a holdback in the amount of \$250,000 in respect of potential statutory priorities and the Receiver and its counsel’s outstanding fees from the sale proceeds of the 1000 Transaction;
 - (d) empowering the Receiver to file an assignment in bankruptcy on behalf of 1000 Corp with MNP acting as trustee in bankruptcy as this will arm MNP with the powers available under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”) to recover the value of the missing fuel;

- (e) approving the Third Report and the activities of the Receiver described therein;
 - (f) approving the fees and disbursements of the Receiver and of the Receiver's independent counsel, Chaitons LLP ("**Chaitons**");
 - (g) approving the interim statement of receipts and disbursements through the period ending June 7, 2024 (the "**Interim R&D**");
 - (h) sealing the confidential appendices to the Third Report of the Receiver dated June 19, 2024 (the "**Third Report**"), pending completion of the 1000 Transaction or further order of the Court; and
2. such further and other relief that the Receiver may request and this Honourable Court may consider just.

THE GROUNDS FOR THE MOTION ARE:

Background

3. The Receiver was appointed by Order of this Court on July 21, 2023 (the "**Appointment Order**").
4. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Rod Randall of the Canadian Western Bank ("**CWB**") sworn July 13, 2023, and filed in support of the Appointment Order (the "**Randall Affidavit**").
5. 1000 Corp owns land municipally known as 269 Erie Street East, Stratford, Ontario and operated a gas station and convenience store on the property under the "Inver" banner (the "**1000 Station**") at the relevant time. All of this location's fuel was supplied by BCP IV Service Station

LP o/a Greenenergy (“**Greenenergy**”).

6. 272 Corp. owns lands municipally known as 181 Brant Road, St. George, Ontario and operated a gas station and convenience store on the property under the “Ultramar” banner (the “**272 Station**”, together with the 1000 Station, the “**Stations**”). All of this location’s fuel and related items were supplied by Parkland Fuel Corporation (“**Parkland**”) pursuant to supply and brand agreements between 272 Corp. and Parkland.

7. As set out in the Randall Affidavit, both the St. George and Stratford Stations were shut down by the Companies since June 2023. There were no active employees of the Companies at the Stations at the date of the Receiver’s appointment.

Sale Process

8. On November 14, 2023, this Honourable court issued an order approving a marketing and Sale Process for the Property.

9. To assist in marketing the Property for sale, the Receiver engaged Avison Young Commercial Real Estate Services LP (“**Avison Young**”) for the development and implementation of the real property sale process (the “**Sale Process**”).

10. On October 30, 2023, the 1000 Station was listed for sale on the Toronto Real Estate Board MLS by Avison Young for an initial 90 day period for \$2,500,000. On October 31, 2023 the 1000 Station was listed for sale on the Waterloo Association of Realtors Interboard at the same listing price set out above.

11. Avison Young provided the Receiver with on-going reports regarding its activities to market the 1000 Station, the response to the Listing and expressions of interest in the 1000 Station generally.

12. The following is a summary of the Avison Young marketing activity:

- (a) preparation of a teaser (the “**Teaser**”) that was sent on October 19, 2023, November 2, 2023 and November 29, 2024 by way of an email. The third email reached 2,113 realtors and prospective purchasers in the Greater Toronto Area and the local region of the 1000 Station;
- (b) in relation to the email delivered November 29, 2023, a total of 443 parties opened Avison Young’s email blast and forty-four (44) clicked through the content;
- (c) subsequently, the email blast was resent on March 7, April 8, April 22 and May 6, 2024 to solicit interest from prospective purchasers;
- (d) preparation of a secure on-line data room, with the Receiver’s assistance, to facilitate potential purchasers’ due diligence. The data room contained, among other things, available information regarding sales, operating costs, equipment and supply agreements with fuel suppliers;
- (e) twenty-three (23) realtors and interested parties responded to the Teaser and executed Non-disclosure Agreements that were prepared by the Receiver;
- (f) eleven (11) prospective purchasers that executed NDAs viewed the data room of which three (3) made on-site inspections of the 1000 Station; and
- (g) three (3) offers were received and are summarized in Confidential Appendix “1” to the Third Report. This includes the offer from the 1000 Purchaser.

The 1000 APS

13. Following consultations with CWB and Avison Young, the 1000 APS was negotiated with the 1000 Purchaser. Key terms of the 1000 APS are set out below:

Purchase Price	Sealed pending completion of the 1000 Transaction.
Deposits paid	\$145,000.
Purchased Assets	The property and all assets and equipment currently located on site.
Conditions	None.
Closing Date	30th day following the date of Court approval and issuance of the approval and vesting order.

14. In the Receiver's opinion, the 1000 APS represents the best and highest offer for the 1000 Station and the Sale Process completed was fair and reasonable for the following reasons:

- (a) the Receiver along with Avison Young made sufficient effort to expose the 1000 Station to a wide variety of potential purchasers;
- (b) the current market for gas stations is saturated with more than thirty (30) stations for sale in southern Ontario many of which are in insolvency proceedings;
- (c) the purchase price represents the best price available in the circumstances; and
- (d) CWB who will suffer a shortfall on its security, supports completion of the 1000 Transaction.

Proposed Distributions

15. If the 1000 APS is approved and the sale of the Property to the Purchaser is completed, the Receiver seeks the Court's approval to make the distribution to CWB as described in the Third Report.

16. The Receiver has obtained a legal opinion confirming that the charges registered on title to the Property are valid and enforceable, subject to certain assumptions and qualifications typically included in opinions provided to trustees or receivers in insolvency proceedings.

Pre-Receivership Bulk Fuel Sales

17. Parkland, the exclusive fuel supplier to the St. George Station had evidence that approximately 100,000 litres of fuel was removed from the 272 Station and sold to a third party in the Orillia Region, prior to the Receiver's appointment. The Receiver was contacted by the Ontario Provincial Police who confirmed the removal of the missing fuel based on their investigation.

18. In mid March 2024, the Receiver was contacted by Greenenergy, the exclusive fuel supplier to the 1000 Station. At that time, Greenenergy advised the Receiver that they believe that prior to the Receiver's appointment, approximately 70,000 litres of fuel was removed from the 1000 Station and sold to that same third party in the Orillia Region.

19. The Receiver seeks the power to file an assignment in bankruptcy on behalf of 1000 Corp with MNP acting as trustee in bankruptcy this will arm MNP with the powers available under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "BIA") to recover the value of the missing fuel. This will also allow MNP as trustee in bankruptcy to examine anyone with knowledge or information regarding the missing fuel pursuant to s. 163 of the BIA.

Approval of Fees

20. The Third Report includes detailed descriptions of the fees and disbursements to date of the Receiver and its counsel, Chaitons LLP.

21. The Receiver is of the view that its fees and disbursements and the fees and disbursements of Chaitons LLP as described in the Third Report are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Appointment Order.

Interim Statement of Receipts and Disbursements

22. The Receiver's Interim Statement of Receipts and Disbursements for the period ending June 7, 2024, reports net interim receipts over disbursements totaling \$273,930.25.

Sealing Order

23. The Confidential Appendices to the Third Report contain confidential and commercially sensitive information related to the Sale Process, the 1000 Transaction, including information regarding the bids received through the Sale Process, which if disclosed would be harmful and materially prejudicial to the receivership estate and stakeholders in the event of any further marketing of the Property if the 1000 Transaction does not close as anticipated.

24. The Receiver recommends that this information be sealed pending closing of the Transaction.

Other

25. Rules 2.03, 3.02, 16.01 and 37 of the *Rules of Civil Procedure* (Ontario).

26. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

27. The Third Report.

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

June 20, 2024

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**Lawyers for MNP Ltd., in its capacity as
Court-Appointed Receiver**

TO: SERVICE LIST

TAB 2

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

and

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Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
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ACT, R.S.O. 1990, c. C-43, AS AMENDED

THIRD REPORT OF THE RECEIVER

JUNE 19, 2024

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APPENDICES

- Appendix “A”:** Appointment Order dated July 21, 2023
- Appendix “B”:** Receiver’s First (without appendices) dated November 14, 2023
- Appendix “C”:** Receiver’s Second Report (without appendices) dated March 19, 2024
- Appendix “D”** Redacted Report of Avison Young dated March 5, 2024
- Appendix “E”** Avison Young “Teaser”
- Appendix “F”** Redacted 1000 Station Agreement of Purchase and Sale
- Appendix “G”** Interim Statement of Receipts and Disbursements as of June 7, 2024
- Appendix “H”** Fee Affidavit of Sheldon Title sworn June 17, 2024
- Appendix “I”** Fee Affidavit of Veronica Cesario sworn June 19, 2024

CONFIDENTIAL APPENDICES

- Confidential Appendix “1”:** Summary of Offers Received
- Confidential Appendix “2”:** 1000 Station Agreement of Purchase and Sale (Unredacted)

INTRODUCTION AND BACKGROUND

1. On July 21, 2023, MNP Ltd. (“**MNP**”) was appointed as the receiver (the “**Receiver**”) without security, of the assets, undertakings and property of 1000179473 Ontario Inc. (“**1000 Corp**”) and 2724393 Ontario Inc. (“**272 Corp**”, together with 1000 Corp, the “**Companies**” and collectively the properties of 272 Corp and 1000 Corp, the “**Property**”) by order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). A copy of the Appointment Order and its corresponding endorsement is attached as **Appendix “A”**.

2. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Rod Randall of the Canadian Western Bank (“**CWB**”) sworn July 13, 2023, and filed in support of the application for the Appointment Order (the “**Randall Affidavit**”).

3. 1000 Corp owned land municipally known as 269 Erie Street East, Stratford, Ontario and operated a gas station and convenience store on the property under the “Inver” banner (the “**1000 Station**”) at the relevant time. All of this location’s fuel was supplied by BCP IV Service Station LP o/a Greenenergy (“**Greenenergy**”);

4. 272 Corp owns lands municipally known as 181 Brant Road, St. George, Ontario and operated a gas station and convenience store on the property under the “Ultramar” banner (the “**272 Station**”, together with the 1000 Station, the “**Stations**”). All of this location’s fuel and related items were supplied by Parkland Fuel Corporation (“**Parkland**”) pursuant to supply and brand agreements between 272 Corp and Parkland.

5. As set out in the Randall Affidavit, both the St. George and Stratford Stations were shut down by the Companies in June 2023. There were no active employees of the Companies at the Stations at the date of the Receiver’s appointment.

6. On November 9, 2023, the Receiver filed its first report (the “**First Report**”) to, among other things, provide the Court with information with respect to:

- (a) the Receiver’s activities since its appointment;
- (b) the Receiver’s unsuccessful attempts to obtain possession of the Companies’ books and records from its principal, Eftikhar Malik (“**Malik**”);
- (c) the Receiver’s proposed sale process for the Stations;

- (d) the removal of approximately \$160,000 in value of fuel from the 272 Station and transferred to a third party in advance of the Receiver's appointment; and
- (e) supporting the issuance of an order (s), *inter alia*:
 - (i) approving a marketing and sale process for the property; and
 - (ii) approving the First Report and the activities of the Receiver as set out therein.

A copy of the First Report (without appendices) is attached hereto as **Appendix "B"**.

7. On November 14, 2023, this Honorable Court issued an order that, *inter alia*:

- (a) approved a marketing and sale process for the property; and
- (b) approved the First Report and the activities of the Receiver as set out therein.

8. On March 19, 2024, the Receiver filed its second report (the "**Second Report**") to, among other things, provide the Court with information with respect to:

- (a) the Receiver's activities since the date of the First Report;
- (b) the transaction contemplated in the Agreement of Purchase and Sale dated February 12, 2024 (the "**272 APS**") between 15678072 Canada Inc. (the "**272 Purchaser**"), as purchaser and the Receiver as Vendor (the "**272 Transaction**");
- (c) the Receiver's continued investigation of the Missing Fuel (as such term is defined in the First Report) and request for an expansion of the Receiver's powers to examine under oath, any person having knowledge or information relating to the Missing Fuel including the sole director and officer of the Companies, Malik; and
- (d) the Companies' potential liabilities for unremitted HST and employee source deductions.

A copy of the Second Report (without appendices) is attached hereto as **Appendix "C"**.

9. On March 21, 2024, this Honorable Court issued a Sale Approval and Vesting Order (the "**AVO**") that among other things:

- (a) approved the 272 APA and authorized the Receiver to complete the 272 Transaction;
- (b) upon completion of the 272 Transaction and the Receiver issuing the prescribed certificate regarding same, vested title pursuant to the AVO in the 272 Purchaser, free and clear of any and all security interests and other encumbrances;
- (c) authorized the Receiver to distribute the net sale proceeds of the 272 Transaction to CWB subject to maintaining a holdback of \$250,000 for potential priority payables and for the fees and expenses of the Receiver and its legal counsel;
- (d) authorized the Receiver to file an assignment in bankruptcy on behalf of 272 Corp under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”);
- (e) approved the activities of the Receiver as set out in the Second Report and the fees and disbursements of the Receiver and its legal counsel; and
- (f) allowed the Confidential Appendices to be sealed and not form part of the public report until completion of the 272 Transaction or further order of the Court.

PURPOSE OF THIS THIRD REPORT

10. The purpose of the Receiver’s third report (the “**Third Report**”) is to provide the Court with information with respect to:

- (a) the Receiver’s activities since the date of the Second Report;
- (b) the completion of the 272 Transaction;
- (c) the transaction in respect of 1000 Corp’s real and personal property contemplated in the Agreement of Purchase and Sale dated May 29, 2024 (the “**1000 APS**”) between Dynamic Investment Corp. (the “**1000 Purchaser**”), as purchaser and the Receiver as Vendor (the “**1000 Transaction**”);
- (d) 1000 Corp’s potential liabilities for unremitted HST and employee source deductions;
- (e) the fees and disbursements of the Receiver and its legal counsel, Chaitons since the previous approval obtained from the Court on April 2, 2024;
- (f) the Receiver’s recommendation for an order (s), *inter alia*:

- (i) approving the 1000 APS and authorizing the Receiver to take all necessary steps to complete the 1000 Transaction;
- (ii) vesting 1000 Corp.'s right, title and interest, in and to the Purchased Assets (as defined in the 1000 APS) in the 1000 Purchaser, free and clear of any encumbrances, save and except any permitted encumbrances;
- (iii) approving the interim statement of receipts and disbursements dated June 7, 2024 (the "**Interim R&D**");
- (iv) approving the fees and disbursements of the Receiver and its legal counsel, Chaitons, since previous approval was obtained from the Court on April 2, 2024;
- (v) authorizing and directing the Receiver to make another distribution to CWB, up to the balance of indebtedness owed and net of a holdback in the amount of \$250,000 in respect of potential statutory priorities and the Receiver and its counsel's outstanding fees from the sale proceeds of the 1000 Transaction;
- (vi) empowering the Receiver to file an assignment in bankruptcy on behalf of 1000 Corp with MNP to be appointed as Licensed Insolvency Trustee of the bankruptcy estate;
- (vii) approving this Third Report, and the activities of the Receiver as set out herein; and
- (viii) sealing **Confidential Appendices "1" and "2"** pending completion of the 1000 Transaction or further order of the Court.

TERMS OF REFERENCE

11. In preparing the Third Report, the Receiver has relied on unaudited financial and other information regarding the Companies and their assets which includes, but is not limited to, information (collectively, the "**Information**");

- (a) provided by the Companies and Malik;
- (b) provided by CWB and its legal counsel, Chaitons;

- (c) provided by Parkland and Greenenergy;
- (d) obtained in discussions with Avison Young Commercial Real Estate Services, LP (“**Avison Young**”), CBRE Limited and Colliers International Realty Advisors Inc. (“**Colliers**”);
- (e) obtained from EXP Realty Brokerage that had listed the Stations for sale prior to the Receiver’s appointment;
- (f) obtained by attending at the Stations;
- (g) provided by the prospective purchasers of 272 Corp and 1000 Corp; and
- (h) obtained in discussions with the Ontario Provincial Police.

12. Except as described in the Third Report, the Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

13. All currency references are in Canadian Dollars unless otherwise specified.

ACTIVITIES TO DATE

14. The Receiver’s activities since March 19, 2024, the date of the Second Report, have concentrated on:

- (a) taking those steps considered commercially necessary to continue the safeguarding, protecting and otherwise maintaining of the Stations including continuing security surveillance equipment with ongoing site visits, insurance coverage, ensuring uninterrupted utility services and general security surveillance of the properties;
- (b) responding to enquiries and to the extent available, providing information regarding the assets and prior operations of 1000 Station to Avison Young for furtherance to potential purchasers;
- (c) consulting with CWB and Chaitons regarding the Listing (as such term is later defined), offers received for the 1000 Station, including the 1000 APS;

- (d) negotiating the 1000 APS;
- (e) consulting with Greenenergy regarding this proceeding, as appropriate; and
- (f) preparing this Third Report.

COMPLETION OF THE 272 TRANSACTION

15. On April 18, 2024, the 272 Transaction was completed. Net proceeds of \$1,449,289 were remitted to the Receiver as set out below:

	Amount
Purchase price	\$ 1,510,000
Less: Commission fees to Avison Young (incl HST)	(51,189)
Less: County of Brant- outstanding taxes	(9,792)
Add: Credit for Realty taxes paid by Receiver	270
Net proceeds	1,449,289

LISTING AGREEMENTS AND RESULTS

16. On October 30, 2023, the 1000 Station was listed for sale on the Toronto Real Estate Board MLS by Avison Young for an initial 90-day period for \$2,500,000. On October 31, 2023, the 1000 Station was listed for sale on the Waterloo Association of Realtors Interboard at the same listing price (the “**Listing**”). A copy of the Listing is included in the redacted report of Avison Young dated March 5, 2024 (the “**Avison Report**”) attached as **Appendix “D”**.

17. On February 23, 2024, the Receiver extended the listing agreement for the 1000 Station with Avison Young for another 90 days at a reduced price of \$1,750,000.

18. Avison Young has provided the Receiver with on-going reports regarding its activities to market the 1000 Station, the response to the Listing and expressions of interest in the 1000 Station generally. The following is a summary of the Avison Young marketing activity as set out in the Avison Report;

- (a) preparation of a teaser (the “**Teaser**”) that was sent on October 19, 2023, November 2, 2023 and November 29, 2023, by way of an email. The third email reached 2,113 realtors and prospective purchasers in the Greater Toronto Area and the local region of the 1000 Station. A copy of Teaser is attached hereto as **Appendix “E”**;

- (b) in relation to the email delivered November 29, 2023, a total of 443 parties opened Avison Young’s email blast and forty-four (44) clicked through the content;
- (c) subsequently, the email blast was resent on March 7, April 8, April 22 and May 6, 2024 to solicit interest from prospective purchasers;
- (d) preparation of a secure online data room, with the Receiver’s assistance, to facilitate potential purchasers’ due diligence. The data room contained, among other things, available information regarding sales, operating costs, equipment and supply agreements with fuel suppliers;
- (e) Twenty-three (23) realtors and interested parties responded to the Teaser and executed Non-disclosure Agreements that were prepared by the Receiver;
- (f) Eleven (11) prospective purchasers that executed NDAs viewed the data room of which three (3) made on-site inspections of the 1000 Station; and
- (g) Three (3) offers for the 1000 Station were received and are summarized in **Confidential Appendix “1”** attached hereto. This includes the offer from the 1000 Purchaser.

19. Following consultations with CWB and Avison Young, the 1000 APS was negotiated with the 1000 Purchaser. Key terms of the 1000 APS are set out below:

Purchase Price	Redacted
Deposits paid	\$145,000
Purchased Assets	The property and all assets and equipment currently located on site
Conditions	None
Closing Date	30 th day following the date of Court approval and issuance of the approval and vesting order.

A copy of a redacted version of the 1000 APS is attached hereto as **Appendix “F”**. A copy of an unredacted version is attached as **Confidential Appendix “2”**.

20. In the Receiver’s opinion, the 1000 APS represents the best and highest offer for the 1000 Station and the Sale Process completed was fair and reasonable for the following reasons:

- (a) the Receiver along with Avison Young made sufficient effort to expose the 1000 Station to a wide variety of potential purchasers;
- (b) the current market for gas stations is saturated with more than thirty (30) stations for sale in southern Ontario, many of which are in insolvency proceedings.
- (c) the purchase price represents the best price available in the circumstances; and
- (d) CWB, who will suffer a shortfall on its security even after the potential sale of the 1000 Station, supports the completion of the 1000 Transaction.

21. Accordingly, the Receiver respectfully requests that the Court approve the 1000 Transaction, grant an order vesting the right, title and interest in the 1000 Station in the 1000 Purchaser and authorize the Receiver to take all steps necessary to complete the 1000 APS.

PRE-RECEIVERSHIP MISSING FUEL

22. As set out in the Second Report, Parkland, the exclusive fuel supplier to the 272 Station, had evidence that approximately 100,000 litres of fuel was removed from the 272 Station and sold to a third party in the Orillia Region, prior to the Receiver's appointment. The Receiver was contacted by the Ontario Provincial Police who confirmed the removal of the missing fuel based on their investigation.

23. In mid March 2024, the Receiver was contacted by Greenenergy, the exclusive fuel supplier to the 1000 Station. At that time, Greenenergy advised the Receiver that they believe that prior to the Receiver's appointment, approximately 70,000 litres of fuel was removed from the 1000 Station and sold to that same third party in the Orillia Region.

24. The Receiver therefore seeks the power to file an assignment in bankruptcy on behalf of 1000 Corp. with MNP to be appointed as the Licensed Insolvency Trustee of the bankruptcy estate. If this relief is granted, MNP as trustee in bankruptcy would utilize the additional powers available under the BIA to investigate and assist in potentially recovering the value of the missing fuel. This will also allow MNP, as trustee in bankruptcy, to examine anyone with knowledge or information regarding the missing fuel pursuant to s. 163 of the BIA.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

25. The Interim R&D reports net interim receipts over disbursements totaling \$273,930.25. The Receiver respectfully requests that the Court approve the Interim R&D. A copy of the Interim R&D is attached hereto as **Appendix “G”**.

STATUTORY LIABILITIES

26. The Receiver was advised by Malik, that when the Stations ceased operations all employee wages and vacation pay were paid as well as employee source deductions were remitted to CRA.

27. CRA has not assigned an auditor to this proceeding nor has CRA filed any trust claims for unremitted HST or employee source deductions. Accordingly, the Receiver is unable to determine the extent of any pre-receivership arrears of source deductions and HST.

FEES AND DISBURSEMENTS

28. The Receiver has provided services and incurred disbursements during the period of February 21, 2024, to May 30, 2024, totalling \$26,573.59 inclusive of disbursements and applicable HST as set out in the Affidavit of Sheldon Title sworn June 17, 2024 (the “**Title Affidavit**”). Details of the hours spent, the hourly rates and total fees and disbursements for the Receiver during the relevant period are attached in the Title Affidavit. A copy of the Title Affidavit is attached hereto as **Appendix “H”**.

29. The Receiver believes that the invoice attached to the Title Affidavit accurately reflects the work that was done in connection with this matter and that all of the time spent by the Receiver was reasonable and necessary.

30. During the period from March 1, 2024 up to and including April 30, 2024, Chaitons expended a total of 38.5 hours in connection with this matter, giving rise to fees and disbursements totaling \$19,515.71 (comprised of fees of \$16,048, disbursements of \$1,237 and HST of \$2,230.71), as more particularly set out in the Affidavit of Veronica Cesario sworn June 19, 2024. A copy of the Cesario Affidavit is attached hereto as **Appendix “I”**.

31. The Receiver confirms that the fees and disbursements set out in the Cesario Affidavit relate to advice and assistance sought by the Receiver. It is the Receiver's view that the fees and disbursements of Chaitons are reasonable and appropriate in the circumstances.

32. The Receiver requests that this Court approve its fees and disbursements along with those of its counsel as set forth above.

SECURITY OPINION

33. CWB holds as security over all of the assets and property of the Companies pursuant to:

- (a) general security agreements executed by each of the Companies in favour of CWB; and
- (b) Charge/Mortgage registered against each of the Stations' property for the stated principal amounts of \$3,650,000 and \$3,690,000 for the 272 Station and the 1000 Station, respectively.

34. Jaffe Peritz LLP provided the Receiver with an independent legal opinion regarding CWB's security that confirms subject to the usual qualifications and assumptions that CWB's security is valid and enforceable in accordance with its terms.

DISTRIBUTION

35. CWB has provided its statement of account that indicates as of February 29, 2024, the Companies' secured indebtedness to CWB totals \$5,578,460 plus accruing interest and legal fees. On April 18, 2024, MNP distributed \$1,250,000 to CWB from the proceeds of the 272 Transaction based on the approval obtained from the Court on April 2, 2024.

36. Accordingly, the Receiver proposes to distribute the net proceeds of the 1000 Transaction, up to the balance of the indebtedness owed to CWB and subject to maintaining a holdback of \$250,000 in respect of Receiver's fees and expenses, including its counsel's outstanding fees, and potential statutory priorities.

CONCLUSIONS AND RECOMMENDATIONS

37. Based on the foregoing and as outlined in this Third Report, the Receiver respectfully requests that this Court issue an order providing the relief sought above in paragraph 10(f).

All of which is respectfully submitted this 19th day of June, 2024.

MNP LTD.,
in its capacity as Court Appointed Receiver of
1000179473 Ontario Inc. and 2724393 Ontario Inc.

Per:

A handwritten signature in blue ink, appearing to read "Jerry Henechowicz".

Jerry Henechowicz CPA, CA, CIRP, LIT
Senior-Vice President

Appendix “A”



Court File No. CV-23-00702801-00CL

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

THE HONOURABLE)
JUSTICE STEELE)
FRIDAY, THE 21st
DAY OF JULY, 2023

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

- and -

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing MNP Ltd. ("**MNP**") as receiver (the "**Receiver**") without security, of all of the assets, undertakings and properties of 1000179473 Ontario Inc. ("**1000 Ontario**") and 2724393 Ontario Inc. ("**272 Ontario**") together with 1000 Ontario, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day via videoconference.

ON READING the affidavit of Rod Randall sworn July 13, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and for the Respondents, and on reading the consent of MNP to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application 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, MNP is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "**Property**"), including, without limitation, the real property described in **Schedule "A"** attached hereto.

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;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on the Debtors 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 Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 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 DEBTORS OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors'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 Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

Order or hereafter coming into existence, shall be deposited 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 Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors'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 Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, 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, 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 \$200,000 (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 "B" 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.

RETENTION OF COUNSEL

25. **THIS COURT ORDERS** that the Receiver may retain lawyers to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order. Such lawyers may include Chaitons LLP, lawyers for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent lawyers in respect of any legal advice or services where a conflict exists, or may exist.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) 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 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL “●”.

27. **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 Debtors's creditors or other interested parties at their respective addresses as last shown on the records of the Debtors 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.

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

GENERAL

29. **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.

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

31. **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

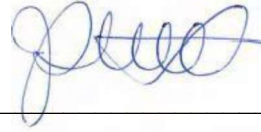
Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

32. **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.

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

34. **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.

35. **THIS COURT ORDERS** that this order is effective from the date it is made, and it is enforceable without any need for entry and filing, provided that any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be.



SCHEDULE "A"

Municipal Address: 181 Brant Rd., St. George, Ontario

PIN: 32037-0039 (LT)

Property Description: PT LT 13, CON 2, SOUTH DUMFRIES, AS IN A412953; ;
SOUTH DUMFRIES

Municipal Address: 269 Erie St., Stratford, Ontario

PIN: 53115-0217 (LT)

Property Description: PT LT 133 PL 20 STRATFORD; PT LT 134 PL 20 STRATFORD
DESIGNATED AS PART 1 ON PLAN 44R-5415; STRATFORD;
CITY OF STRATFORD

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that MNP Ltd., the receiver (the "**Receiver**") of the assets, undertakings and properties of 1000179473 Ontario Inc. and 2724393 Ontario Inc. (the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 21st day of July, 2023 (the "**Order**") made in an application having Court file number CV-23-00702801-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the ____ day of _____, 202__.

MNP LTD., solely in its capacity as Receiver of
the Property, and not in its personal capacity

Per: _____

Name:

Title:

CANADIAN WESTERN BANK

-and-

1000179473 ONTARIO INC. et al.

Applicant

Respondents

Court File No. CV-23-00702801-00CL

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

ORDER

CHAITONS LLP

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Lawyers for the Applicant

Appendix “B”

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

**FIRST REPORT OF MNP LTD. AS RECEIVER OF THE ASSETS, UNDERTAKINGS AND
PROPERTIES OF THE RESPONDENTS**

November 9, 2023

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APPENDICES

- Appendix “A”:** Appointment Order dated July 21, 2023
- Appendix “B”:** Letter from Chaitons LLP dated August 15, 2023
- Appendix “C”:** Email correspondence dated August 15, August 16, and August 25, 2023
- Appendix “D”:** Letter from Receiver dated October 12, 2023

Confidential Appendix “1”: Appraisals of Colliers

Confidential Appendix “2”: Summary of Listing Proposals

Confidential Appendix “3”: Listing Agreements

Confidential Appendix “4”: Supply Agreement

Confidential Appendix “5”: Email exchange between a fuel transportation company and Parkland

INTRODUCTION

1. On July 21, 2023, MNP Ltd. (“**MNP**”) was appointed as the receiver (the “**Receiver**”) without security, of the assets, undertakings and property of 1000179473 Ontario Inc. (“**1000 Corp**”) and 2724393 Ontario Inc. (“**272 Corp**”, together with 1000 Corp, the “**Companies**” and collectively the property of 272 Corp and 1000 Corp, the “**Property**”) by order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). A copy of the Appointment Order and its corresponding endorsement is attached as **Appendix “A”**.

2. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Rod Randall of the Canadian Western Bank (“**CWB**”) sworn July 13, 2023, filed in support of the Appointment Order (the “**Randall Affidavit**”).

3. 1000 Corp owns land municipally known as 269 Erie Street East, Stratford, Ontario and operated a gas station and convenience store on the property under the “Inver” banner (the “**1000 Station**”). All of this location’s fuel was supplied by BCP IV Service Station LP o/a Greenenergy (“**Greenenergy**”);

4. 272 Corp. owns lands municipally known as 181 Brant Road, St. George, Ontario and operated a gas station and convenience store on the property under the “Ultramar” banner (the “**272 Station**”, together with the 1000 Station, the “**Stations**”). All of this location’s fuel is supplied by Parkland Fuel Corporation (“**Parkland**”) pursuant to supply and brand agreements between 272 Corp. and Parkland.

5. As set out in the Randall Affidavit, both the St. George and Stratford Stations were shut down by the Companies since late June 2023. There were no active employees of the Companies at the Stations at the date of the Receiver’s appointment.

PURPOSE OF THIS REPORT

6. The purpose of the Receiver’s first report, (the “**First Report**”) is to provide the Court with information with respect to:

- (a) the Receiver’s activities since its appointment;
- (b) the Receiver’s attempts to obtain possession of the Companies’ books and records from its principal, Eftikhar Malik (“**Malik**”);

- (c) the Receiver's proposed sale process for the Stations;
- (d) the removal of approximately \$160,000 in value of fuel from the 272 Station and transfer to a third party in advance of the Receiver's appointment;
- (e) the Receiver's recommendation for an order (s), *inter alia*:
 - i. approving the Sale Process and authorizing the Receiver to execute the Listing Agreements, *nunc pro tunc*;
 - ii. that Malik and/or his accountant provide the Receiver with complete unfettered access to the Companies' books and records by no later than 10 business days after the issuance of the order;
 - iii. sealing **Confidential Appendices "1" to "5"** pending a further order of the Court;
 - iv. approving the First Report and the activities of the Receiver as set out herein.

TERMS OF REFERENCE

7. In preparing the First Report, the Receiver has relied on unaudited financial and other information regarding the Companies and their assets which includes, but is not limited to, information (collectively, the "**Information**"):

- (a) provided by the Companies;
- (b) provided by CWB and its legal counsel, Chaitons LLP ("**Chaitons**");
- (c) provided by Parkland and Greenenergy;
- (d) obtained in discussions with Avison Young Commercial Real Estate Services, LP ("**Avison Young**"), CBRE Limited ("**CBRE**") and Colliers International Realty Advisors Inc. ("**Colliers**") and together with Avison Young and CBRE the "**Brokers**";
- (e) obtained from EXP Realty Brokerage ("**EXP**") that had listed the Stations for sale prior to the Receiver's appointment;
- (f) obtained by attending at the Stations; and

(g) as otherwise available to the Receiver and Chaitons.

8. Except as described in this First Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

9. All currency references are in Canadian Dollars unless otherwise specified.

ACTIVITIES TO DATE

10. The Receiver's activities since its appointment have concentrated on:

- (a) taking possession and control of the Stations and related assets; confirming and continuing insurance coverage for the Stations;
- (b) arranging for the security and clean-up of the Stations including reinstating utility services, as necessary;
- (c) arranging for listing proposals from the Brokers;
- (d) completing an inventory of the Stations consumable inventory including fuel in the underground storage tanks;
- (e) converting the Companies' known bank accounts to deposit only and having the balances remitted to the Receiver on an on-going basis;
- (f) filing and mailing statutory Receivership Reports based on available information; and
- (g) preparing this First Report

11. The Receiver attempted with very limited success to obtain from Malik financial information and records of the Companies necessary to administer these proceedings. On August 15, 2023, Chaitons wrote to Malik reminding him of his obligations to co-operate with the Receiver as required by the Appointment Order. A copy of Chaitons correspondence is attached as **Appendix "B"**.

12. On August 16, 2023, Malik responded by email advising of his health issues and directing the Receiver to his external accountant. On August 25, 2023, Malik sent a further request to his accountant, Mr. Khalid Nur directing the documents in Mr. Nur's possession be sent to the Receiver. The Receiver then made its request for books and records directly to Mr. Nur. As of the date of this First Report, the Receiver has not received any financial information from Malik or Mr. Nur. Copies of this correspondence are attached as **Appendix "C"**.

13. Based on the above, the Receiver is seeking an order requiring Malik and Nur to provide the Receiver with unfettered access to all of the Companies' financial records, whether physical or electronic by no later than 10 business days following the issuance of the order.

APPRAISALS

14. CWB financed the purchase of the Stratford and St. George Stations pursuant to commitment letters dated January 4, 2023 and April 25, 2023, respectively based on appraisals of the Stations prepared by Colliers in August and November 2022. A copy of the Colliers appraisals are attached hereto as **Confidential Appendix "1"**.

15. Prior to the Receiver's appointment, the Companies listed the Stations for sale with EXP for an aggregate amount which is less than the indebtedness to CWB. These listings were terminated by the Receiver shortly after its appointment.

LISTING AGREEMENTS AND SALE PROCESS

16. The Appointment Order, among other things, authorizes the Receiver to market and sell the Stations.

17. The Receiver invited three (3) commercial realtors, Avison Young, CBRE and Colliers, to each submit listing proposals for the marketing and sale of the Stations. A summary of these listing proposals is attached hereto as **Confidential Appendix "2"**.

18. The Receiver consulted with CWB and Chaitons regarding the options of listing the Stations for sale and Avison Young was selected as broker (the **"Broker"**) based on:

- (a) the commission rate payable to the Broker;

- (b) the Broker’s experience in selling gas stations;
- (c) the Broker’s knowledge of the market;
- (d) the Broker’s view on the value of the Stations.

19. The Receiver entered into listing agreements with Avison Yong for the marketing and sale of each Station, copies of which are attached hereto as **Confidential Appendix “3”**.

20. Avison Young’s Sale Process for the Stations is summarized in the table below:

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Pre-marketing</i>		
Due diligence	➤ Review all available documents concerning the Property, including environmental reports and planning and development reports	Pre-marketing launch
Finalize marketing materials	➤ Avison Young and the Receiver to: <ul style="list-style-type: none"> ○ prepare a teaser; ○ populate a virtual data room (“VDR”); ○ prepare a Confidentiality Agreement (“CA”); and ○ prepare a Confidential Information Memorandum (“CIM”) ○ prepare form of Agreement of Purchase and Sale 	September 2023
Prospect Identification	➤ develop a master prospect list; pre-marketing discussions with targeted developers.	September 2023
<i>Phase 2 – Marketing</i>		
Stage 1	➤ Mass market introduction, including: <ul style="list-style-type: none"> ○ Print offering summary and marketing materials; ○ List property for sale on MLS ○ Telephone and email canvassing of leading prospects; and ○ Meet with and interview prospective purchasers. 	October 2023
Stage 2	➤ provide detailed information to qualified prospects which sign the CA, and access to the data room; and ➤ Facilitate all diligence by interested parties.	October 2023
Stage 3	➤ prospective purchasers to submit offers to purchase	Bid deadline 60 days following marketing launch
<i>Phase 3 – Offer Review and Negotiations</i>		

Summary of Sale Process		
Milestone	Description of Activities	Timeline
Selection of successful bid	➤ review of offers in consultation with CWB, negotiate best offers, select successful bidder and finalize definitive documents.	2 weeks after bid deadline.
Sale Approval Motion and Closing	➤ Motion for sale approval and close transaction.	As soon as possible following selection of the successful bidder

21. Additional aspects of the Sale Process include:

- (a) the Stations will be marketed on an “as is, where is” basis;
- (b) the Receiver will have the right to reject any and all offers, including the highest offer; and
- (c) any transaction will be subject to court approval.

22. The Receiver is of the view that the Sale Process is appropriate for the following reasons:

- (a) the Receiver will retain an experienced and well-recognized commercial real estate brokerage firm to sell the Stations; and
- (b) the Sale Process has optimized the chance of securing the best possible price for the Stations.

23. The Receiver respectfully requests that an Order be granted, *nunc pro tunc*, (i) approving the Sale Process, and (ii) authorizing the Receiver to execute the Listing Agreements and to proceed with implementing the Sale Process.

PRE-RECEIVERSHIP BULK FUEL SALES

24. On or about August 8, 2023, the Receiver was contacted by Parkland, the exclusive fuel supplier to the St. George Station who advised they had evidence that approximately 100,000 litres of fuel that was located at the St. George Station (the “**Missing Fuel**”) was removed, delivered, transferred to and sold by a third party in the Orillia Region. Further, Parkland was claiming priority to any recovery related to the allegedly missing fuel pursuant to the terms of Parkland’s fuel

consignment agreement with 272 Corp (the “**Supply Agreement**”) since this fuel was not paid for by 272 Corp. A copy of the Supply Agreement and a copy of an email exchange between a fuel transportation company and Parkland that appears to confirm the removal of the fuel are attached as **Confidential Appendices “4”** and **“5”**, respectively.

25. Chaitons is providing an opinion on the enforceability and priority of Parkland’s claim noted above. In the interim, and as set out below, the Receiver is taking steps to obtain payment for the missing fuel. In the event the Missing Fuel is determined to be the property of Parkland, it has been agreed between the receiver and Parkland that the proceeds of the fuel will be sent to Parkland less the Receiver’s fees in connection with the recovery of the proceeds.

26. On October 6, 2023, the Receiver was contacted by an Ontario Provincial Police Officer (“**OPP Officer**”) who investigated the removal, transfer and sale of the Missing Fuel.

27. Through his investigation, the OPP officer confirmed that:

- (a) the Missing Fuel was delivered to 2691355 Ontario Inc. that operated a Husky Gas Station at 8873 Hwy 11 North, Orillia, Ontario (the “**Husky Station**”);
- (b) Mr. Ansab Chaudhry (“**Chaudhry**”) was the owner/operator of the Husky Station; and
- (c) all of the Missing Fuel was already sold by the Husky Station.

28. The Receiver then contacted Chaudhry who:

- (a) confirmed receipt of the Missing Fuel and its subsequent sale;
- (b) advised that he accepted the Missing Fuel in payment of funds he alleged were owed to him by 272 Corp.; and
- (c) held approximately \$50,000 in proceeds from the sale of the Missing Fuel over and above the amount he alleged was owed to him by 272 Corp. but did not know to whom the funds should be remitted.

29. On October 12, 2023, the Receiver then wrote to Chaudhry to obtain a full accounting of the sale proceeds for the Missing Fuel and request that the remaining proceeds held by Chaudry be remitted

to the Receiver. A copy of the Receiver's correspondence to Chaudhry is attached hereto as **Appendix "D"**.

30. As of the date of the First Report, Chaudhry has not provided a full accounting of the sale proceeds for the Missing Fuel. Chaitons is now taking steps to pursue Chaudhry for a full accounting of the Missing Fuel sale proceeds and remittance of same to the Receiver.

CONCLUSIONS AND RECOMMENDATIONS

31. Based on the foregoing and as outlined in this First Report, the Receiver respectfully requests that this Court issue an order providing the relief sought above in paragraph 6(e).

All of which is respectfully submitted this 9th day of November, 2023.

**MNP LTD. Court Appointed Receiver of
1000179473 Ontario Inc. and 2724393
Ontario Inc.**

Per:



Jerry Henechowicz CPA, CA, CIRP, LIT
Senior-Vice President

Appendix “C”

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

and

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

SECOND REPORT OF THE RECEIVER

March 19, 2024

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APPENDICES

- Appendix “A”:** Appointment Order dated July 21, 2023
- Appendix “B”:** Receiver’s First Report (without appendices) dated November 9, 2023
- Appendix “C”:** Redacted Report of Avison Young dated March 5, 2024
- Appendix “D”** Avison Young “Teaser”
- Appendix “E”** Redacted 272 Station Agreement of Purchase and Sale
- Appendix “F”** Receiver’s correspondence to Chaudry dated October 12, 2023
- Appendix “G”** Interim Statement of Receipts and Disbursements as at March 1, 2024
- Appendix “H”** Fee Affidavit of Jerry Henechowicz sworn March 15, 2024
- Appendix “I”** Fee Affidavit of Veronica Cesario sworn March 19, 2024

CONFIDENTIAL APPENDICES

- Confidential Appendix “1”:** 272 APS
- Confidential Appendix “2”:** Summary of Offers Received
- Confidential Appendix “3”:** Supply Agreement
- Confidential Appendix “4”:** Email exchange between a fuel transportation company and
Parkland

INTRODUCTION

1. On July 21, 2023, MNP Ltd. (“**MNP**”) was appointed as the receiver (the “**Receiver**”) without security, of the assets, undertakings and property of 1000179473 Ontario Inc. (“**1000 Corp**”) and 2724393 Ontario Inc. (“**272 Corp**”, together with 1000 Corp, the “**Companies**” and collectively the properties of 272 Corp and 1000 Corp, the “**Property**”) by order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). A copy of the Appointment Order and its corresponding endorsement is attached as **Appendix “A”**.

2. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Rod Randall of the Canadian Western Bank (“**CWB**”) sworn July 13, 2023, and filed in support of the Appointment Order (the “**Randall Affidavit**”).

3. 1000 Corp owns land municipally known as 269 Erie Street East, Stratford, Ontario and operated a gas station and convenience store on the property under the “Inver” banner (the “**1000 Station**”) at the relevant time. All of this location’s fuel was supplied by BCP IV Service Station LP o/a Greenenergy (“**Greenenergy**”);

4. 272 Corp. owns lands municipally known as 181 Brant Road, St. George, Ontario and operated a gas station and convenience store on the property under the “Ultramar” banner (the “**272 Station**”, together with the 1000 Station, the “**Stations**”). All of this location’s fuel and related items were supplied by Parkland Fuel Corporation (“**Parkland**”) pursuant to supply and brand agreements between 272 Corp. and Parkland.

5. As set out in the Randall Affidavit, both the St. George and Stratford Stations were shut down by the Companies since June 2023. There were no active employees of the Companies at the Stations at the date of the Receiver’s appointment.

6. On November 14, 2024, the Receiver filed its first report, (the “**First Report**”) to, among other things, provide the Court with information with respect to:

- (a) the Receiver’s activities since its appointment;
- (b) the Receiver’s unsuccessful attempts to obtain possession of the Companies’ books and records from its principal, Eftikhar Malik (“**Malik**”);
- (c) the Receiver’s proposed sale process for the Stations; and

- (d) the removal of approximately \$160,000 in value (NTD: is this at cost or retail value?) of fuel from the 272 Station and transferred to a third party in advance of the Receiver's appointment.

A copy of the First Report (without appendices) is attached as **Appendix "B"**.

7. On November 14, 2023, this Honourable Court issued an order that:

- (a) approved a marketing and sale process for the Stations; and
- (b) approved the First Report and the activities of the Receiver as set out therein.

PURPOSE OF THIS SECOND REPORT

8. The purpose of the Receiver's second report (the "**Second Report**") is to update the Court regarding:

- (a) the Receiver's activities since the date of the First Report dated November 9, 2023;
- (a) the sales and marketing process conducted by the Receiver for the sale of the 272 Station and the results therefrom;
- (b) the transaction (the "**272 Transaction**") contemplated in the Agreement of Purchase and Sale dated February 12, 2024 (the "**272 APS**") between 15678072 Canada Inc. (the "**272 Purchaser**"), as purchaser and the Receiver as Vendor;
- (c) the Receiver's continued investigation of the bulk fuel removal;
- (d) an expansion of the receiver's power to file an assignment in bankruptcy on behalf of 272 Corp., with MNP appointed as trustee in bankruptcy;
- (e) the Companies' potential liabilities for unremitted HST and employee source deductions;
- (f) the fees and disbursements of the Receiver and its legal counsel, Chaitons LLP;
- (g) the Receiver's recommendation for an order, *inter alia*:
 - i. approving the 272 APS and authorizing the Receiver to take all necessary steps to complete the 272 Transaction;

- ii. vesting 272 Corp.'s right, title and interest, in and to the Purchased Assets (as defined in the 272 APS) in the Purchaser, free and clear of any encumbrances, save and except any permitted encumbrances;
- iii. authorizing and directing the Receiver to distribute an amount to CWB net of a holdback in the amount of \$250,000 in respect of potential statutory priorities and the Receiver and its counsel's outstanding fees from the sale proceeds of the 272 Transaction;
- iv. empowering the Receiver to file an assignment in bankruptcy on behalf of 272 Corp with MNP acting as trustee in bankruptcy as this will arm MNP with the powers available under the Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3 (the "BIA") to recover the value of the missing fuel;
- v. approving the Second Report and the activities of the Receiver as set out herein;
- vi. approving the fees and disbursements of the Receiver and its legal counsel, Chaitons LLP ("**Chaitons**");
- vii. approving the interim statement of receipts and disbursements dated March 1, 2024 (the "**Interim R&D**"); and
- viii. sealing **Confidential Appendices "1" to "4"** pending completion of the 272 Transaction or further order of the Court.

TERMS OF REFERENCE

9. In preparing the Second Report, the Receiver has relied on unaudited financial and other information regarding the Companies and their assets which includes, but is not limited to, information (collectively, the "**Information**");

- (a) provided by the Companies and Malik;
- (b) provided by CWB and its legal counsel, Chaitons LLP ("**Chaitons**");
- (c) provided by Parkland and Greenenergy;

- (d) obtained in discussions with Avison Young Commercial Real Estate Services LP (“**Avison Young**”), CBRE Limited (“**CBRE**”) and Colliers International Realty Advisors Inc. (“**Colliers**” and together with Avison Young and CBRE the “**Brokers**”);
- (e) obtained from EXP Realty Brokerage (“**EXP**”) that had listed the Stations for sale prior to the Receiver’s appointment;
- (f) obtained by attending at the Stations; and
- (g) obtained in discussions with the Ontario Provincial Police.

10. Except as described in the Second Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

11. All currency references are in Canadian Dollars unless otherwise specified.

ACTIVITIES TO DATE

12. The Receiver’s activities since November 9, 2023, the date of the First Report, have concentrated on:

- (a) taking those steps considered commercially necessary to safeguard, protect and otherwise maintain the Stations including continuing security surveillance equipment with on-going site visits, insurance coverage, ensuring uninterrupted utility services and general security surveillance of the properties;
- (b) negotiating the Listing Agreements for the Stations with Avison Young (the “**Listings**”);
- (c) responding to enquiries and to the extent available, providing information regarding the Stations’ assets and prior operations to Avison Young for furtherance to potential purchasers;
- (d) consulting with CWB and Chaitons regarding the Listings, offers received for the Stations, including the 272 APS;

- (e) negotiating the 272 APS; and
- (f) preparing this Second Report.

LISTING AGREEMENT AND RESULTS

13. On October 30, 2023, the 272 Station was listed for sale on the Toronto Real Estate Board MLS by Avison Young for an initial 90 day period for \$2,550,000. On October 31, 2024 the 272 Station was listed for sale on the Waterloo Association of Realtors Interboard at the same listing price set out above. A copy of Listing is included in the Final Progress Report of Avison Young dated March 5, 2024 (the “**Avison Report**”), redacted to remove details of the offers received and attached as **Appendix “C”**.

14. Avison Young provided the Receiver with on-going reports regarding its activities to market the Stations, the response to the Listings and expressions of interest in the Stations generally. The following is a summary of the Avison Young marketing activity:

- (a) preparation of a teaser (the “**Teaser**”) that was sent on October 19, 2023, November 2, 2023 and November 29, 2024 by way of an email. The third email reached 2,113 realtors and prospective purchasers in the Greater Toronto Area and the local region of the Stations. A copy of Teaser is attached as **Appendix “D”**;
- (b) a total of 540 parties opened Avison Young’s email blast and 59 clicked through the content;
- (c) preparation of a secure on-line data room, with the Receiver’s assistance, to facilitate potential purchasers’ due diligence. The data room contained, among other things, available information regarding sales, operating costs, equipment and supply agreements with fuel suppliers;
- (d) 13 realtors and interested parties responded to the Teaser and executed Non-disclosure Agreements that were prepared by the Receiver;
- (e) 9 prospective purchasers that executed NDA’s viewed the data room and 4 made on site inspections of the Stations; and

- (f) 2 offers were received and are summarized in **Confidential Appendix “2”**. This includes the offer from the 272 Purchaser.

15. Following consultations with CWB and Avison Young, the 272 APS was negotiated with the 272 Purchaser. Key terms of the 272 APS are set out below:

Purchase Price	Sealed pending completion of the 272 Transaction. Details are contained in Confidential Appendix “1” .
Deposits paid	\$150,000.
Purchased Assets	The property and all assets and equipment currently located on site.
Conditions	Termination of all agreements and leases of any kind with fuel suppliers.
Closing Date	The later of 60 days following mutual acceptance of the agreement or the 15 th day that is not a holiday following the date of Court approval and issuance of the approval and vesting order.

A copy of a redacted version of the 272 APS is attached as **Appendix “E”**.

16. In the Receiver’s opinion, the 272 APS represents the best and highest offer for the 272 Station and the Sale Process completed was fair and reasonable for the following reasons:

- (a) the Receiver along with Avison Young made sufficient effort to expose the 272 Station to a wide variety of potential purchasers;
- (b) the current market for gas stations is saturated with over 30 stations for sale in southern Ontario many of which are in insolvency proceedings;
- (c) the purchase price represents the best price available in the circumstances; and
- (d) CWB who will suffer a shortfall on its security, supports completion of the 272 Transaction.

17. Accordingly, the Receiver respectfully requests that the Court approve the 272 Transaction, grant an order vesting the right, title and interest in the 272 Station in the Purchaser and authorize the Receiver to take all steps necessary to complete the 272 APS.

PRE-RECEIVERSHIP BULK FUEL SALES

18. On or about August 8, 2023, the Receiver was contacted by Parkland, the exclusive fuel supplier to the St. George Station who advised they had evidence that approximately 100,000 litres of fuel that was located at the 272 Station (the “**Missing Fuel**”) was removed and sold to a third party in the Orillia Region. Pursuant to the terms of Parkland’s fuel consignment agreement with 272 Corp. (the “**Supply Agreement**”) since this fuel was not paid for by 272 Corp., Parkland was claiming the fuel was its property and entitled to any sale proceeds of the missing fuel. A copy of the Supply Agreement and a copy of an email exchange between a fuel transportation company and Parkland that appears to confirm the removal of the fuel are attached as **Confidential Appendices “3”** and **“4”** to the Second Report, respectively.

19. On October 6, 2023, the Receiver was contacted by the Ontario Provincial Police (“**OPP**”) who at the request of Parkland were investigating the Missing Fuel. Parkland had advised the OPP that the removal of the fuel and its sale was a theft of Parkland’s property.

20. The OPP officer advised that his investigations confirmed that:

- (a) the Missing Fuel was delivered to 2691355 Ontario Inc. that operated a Husky Gas Station at 8873 Hwy 11 North, Orillia, Ontario (the “**Husky Station**”);
- (b) Mr. Ansh Chaudhry (“**Chaudhry**”) was the owner/operator of the Husky Station; and
- (c) all of the Missing Fuel was already sold by the Husky Station.

21. The Receiver then contacted Chaudhry who confirmed receipt of the Missing Fuel and its subsequent sale. Further that he accepted the Missing Fuel in payment of funds owed to him by 272 Corp and held approximately \$50,000 of proceeds over and above the amount owed to him by 272 Corp but did not know who to remit the funds to.

22. On October 12, 2023, the Receiver then wrote to Chaudhry to confirm the conversation, obtain a full accounting of the sale proceeds from the Missing Fuel and require the remaining proceeds held by Chaudhry remitted to the Receiver. A copy of the Receiver’s correspondence to Chaudhry is attached as **Appendix “F”**.

23. To-date, Chaudhry has not responded to the Receiver or returned the Receiver’s calls.

24. In the interim, the Receiver is taking steps to obtain payment for the missing fuel. The Receiver has arranged with CWB and Parkland for the Receiver to take steps to recover the value of the fuel that was removed and to split the recovery between CWB and Parkland.

25. The Receiver seeks the power to file an assignment in bankruptcy on behalf of 272 Corp with MNP acting as trustee in bankruptcy this will arm MNP with the powers available under the Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3 (the “**BIA**”) to recover the value of the missing fuel. This will also allow MNP as trustee in bankruptcy to examine anyone with knowledge or information regarding the missing fuel pursuant to s. 163 of the BIA.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

26. The Receiver’s Interim Statement of Receipts and Disbursements for the period ending March 1, 2024, reports net interim receipts over disbursements totaling \$138,625.40. The Receiver respectfully requests that the Court approve the Interim R&D. A copy of the Interim R&D is attached as **Appendix “G”**.

STATUTORY LIABILITIES

27. The Receiver was advised by Malik, that when the Stations ceased operations all employee wages and vacation pay as well as employee source deductions were remitted to CRA.

28. CRA has not assigned an auditor to this proceeding nor has CRA filed any trust claims from CRA for unremitted HST or employee source deductions.

FEES AND DISBURSEMENTS

29. The Receiver has provided services and incurred disbursements during the period of July 13, 2024 to February 26, 2024 totaling \$153,783.03 inclusive of disbursements and applicable HST as set out in the Affidavit of Jerry Henechowicz sworn on March 15, 2024 (the “**Henechowicz Affidavit**”). Details of the hours spent, the hourly rates and total fees and disbursements for the Receiver during the relevant period are included in the Henechowicz Affidavit. A copy of the Henechowicz Affidavit is attached as **Appendix “H”**.

30. The Receiver believes that the invoice attached to the Henechowicz Affidavit accurately reflects the work that was done in connection with this matter and that all of the time spent by the Receiver was reasonable and necessary.

31. During the period from July 24, 2023 to February 29, 2024, Chaitons expended a total of 49.50 hours in connection with this matter, giving rise to fees and disbursements totaling \$25,166.60 (comprised of fees of \$21,471.00, of disbursements of \$527.76, and \$2,811.84 of HST), as more particularly set out in the Affidavit of Veronica Cesario sworn March 18, 2024 (the “Cesario Affidavit”). A copy of the Cesario Affidavit is attached as **Appendix “I”**.

32. The Receiver confirms that the fees and disbursements set out in the Cesario Affidavit relate to advice and assistance sought by the Receiver. It is the Receiver’s view that the fees and disbursements of Chaitons are reasonable and appropriate in the circumstances.

SECURITY OPINION

33. CWB holds as security over the assets and property of the Companies:

- (a) general security agreements by each of the Companies in favour of CWB; and
- (b) Charge/Mortgage registered against each of the Stations’ property for the stated principal amounts of \$3,650,000 for the 272 Station and \$3,690,000 for the 1000 Station.

34. Jaffe Peritz LLP provided the Receiver with an independent legal opinion regarding CWB’s security that confirms subject to the usual qualifications and assumptions that CWB’s security is valid and enforceable in accordance with its terms.

DISTRIBUTION

35. CWB has provided its statement of account that indicates as at February 29, 2024, the Companies secured indebtedness to CWB totals \$5,578,460 plus accruing interest and legal fees.

36. Accordingly, the Receiver proposes to distribute the net proceeds of the 272 Transaction Station to CWB subject to maintaining a holdback of \$250,000 in respect of potential statutory priorities and Receiver and its counsel's outstanding fees.

CONCLUSIONS AND RECOMMENDATIONS

37. Based on the foregoing and as outlined in this Second Report, the Receiver respectfully requests that this Court issue an order providing the relief sought above in paragraph 8(g).

All of which is respectfully submitted this 19th day of March, 2024. .

**MNP LTD. Court Appointed Receiver of
1000179473 Ontario Inc. and 2724393
Ontario Inc.**

Per:

A handwritten signature in blue ink, appearing to read "Jerry Henechowicz", is written over a light blue rectangular background.

Jerry Henechowicz CPA, CA, CIRP, LIT
Senior-Vice President

Appendix “D”

Final Progress Report



181 Brant Road, St. George (Brant County), ON

March 5, 2024

Capital Markets Group

Prospects

The following groups have signed the approved Confidentiality Agreement and were granted data room access:

#	First name	Last name	Company	Direct/ Co-Broker	Data Room Accessed	Toured
1	Priya	Patel	Private Investor	Principal	Y	
2	Tarvinder	Sobti	Centex Petroleum	Principal	Y	
	Aaron	Salter	Equip Law Corporation	Lawyer	Y	
3	Moosa	Sedu	Private Investor			
	Nathan	Blanco	Exp Realty	Co-Broker	Y	
4	Balwinder	Kaur	Private Investor			
	Kiki	Mehat	Cityscape Real Estate Ltd. Brokerage	Co-Broker		
5	Sari	Samarah	Value Insight Realty	Buyer/Broker		
6	Gerard	Saad	Private Investor			Y
	Fadi	Melhem	Royal LePage Your Community Realty	Co-Broker	Y	Y
7	Amtiaz	Wariach	Private Investor			
	Altaf	Mian	HomeLife Miracle Realty	Co-Broker	Y	
8	Vince	Capotorto	Private Investor		Y	
	Jason	Tangorra	Royal LePage Brant Realty	Co-Broker	Y	
9	Steve	Pocrnic	Pocrnic Realty Advisors Inc.	Principal	Y	
	Virginia	Rowe	Pocrnic Realty Advisors Inc.		Y	
10	Karnal	Singh	Private Investor			Y
	Sukhjot	Naroo	Century 21 Empire Realty Inc.	Co-Broker	Y	Y
11	Rohan	Sharma	Private Investor	Principal		
	Rishi	Agarwal	Private Investor		Y	
	Manik	Jain	Private Investor			
12	Dean	McTavish	Direct Fleet Group	Principal	Y	
13	Lorraine	Kouwenberg	Kouwenberg Living Inc			
	Bettianne	Hedges	Keller Williams Edge Realty	Co-Broker		

Offers

REDACTED

Email marketing statistics

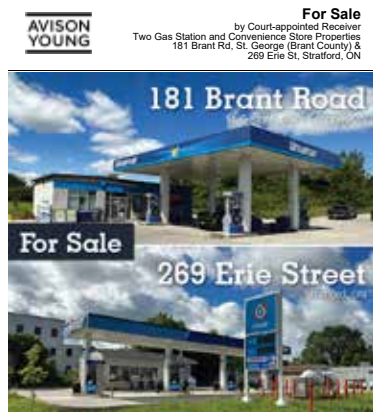
For Sale Eblast Sent on	October 19, 2023 at 2:00 pm EST	
Total People Contacted	1,772	
Opened The Email	387	22%
Avison Young Average Opens		23%
Industry Average		19%
Clicked Through To Content	41	11%
Downloaded the Brochure	40	10%

For Sale 2nd Eblast Sent on	November 2, 2023 at 10:00 am EST	
Total People Contacted	2,173*	
Opened The Email	540	25%
Avison Young Average Opens		23%
Industry Average		19%
Clicked Through To Content	59	11%
Downloaded the Brochure	59	11%

*Brokers were included in this Eblast

For Sale 3rd Eblast Sent on	November 29, 2023 at 10:00 am EST	
Total People Contacted	2,113*	
Opened The Email	443	21%
Avison Young Average Opens		23%
Industry Average		19%
Clicked Through To Content	44	10%
Downloaded the Brochure	43	10%

*Brokers were included in this Eblast



Property Highlights

- Two gas station and convenience store properties on major thoroughfares
- Prominent frontages on high-traffic roadways
- 181 Brant Rd is centred among urban centres - Brantford to the south, Cambridge and Kitchener/Waterloo to the north, Hamilton to the east
- 269 Erie St is centrally located in Downtown Stratford, near amenities, institutions and transit
- **The Properties are available to be purchased together or separately**

Investment Summary

Principal CA

Cobroker CA

For more information, please contact:

Kelly Avison, AACI
Principal, Broker
+1 416.673.4030
kelly.avison@avisonyoung.com

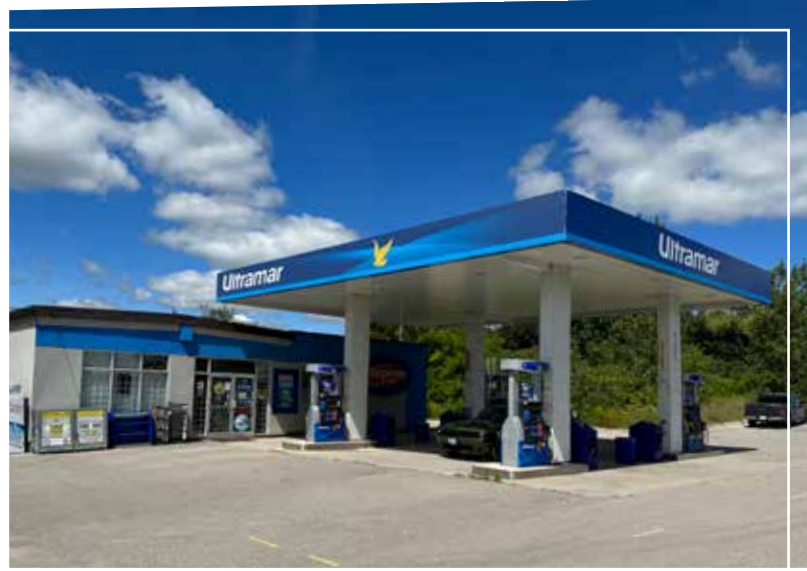
Matt Perco
Associate, Sales Representative
+1 226.366.9001
matt.perco@avisonyoung.com

TRREB & WRAR MLS View

The Property was posted on Toronto Real Estate Board MLS on October 30, 2023 and on Waterloo Region Association of REALTORS Interboard on October 31, 2023

	<p>181 Brant Rd Brant Ontario NOE 1N0 Brant South Dumfries Brant</p> <p>SPIS: N For Sale Taxes: \$5,565.00 / 2023 / Annual Last Status: New Legal: PT LT 13, CON 2, SOUTH DUMFRIES, AS IN A412953* DOM: 11</p> <p>Commercial/Retail Occu: Vacant Lea Term Mths: / Highway Commercial Freestanding: Y SPIS: N Holdover: 60 Automotive Related Franchise: 60 Com Cnld Fee: Dir/Cross St: Brant Rd/Blue Lake Rd</p> <p>MLS#: X7258420 Sellers: Mnp Ltd., Solely In Its Capacity As Court-Appointed Receiver OP** Contact After Exp: N PIN#: 320370039 ARN#: 292001602043900</p>
<p>Total Area: 0.56 Acres Ofc/Apt Area: Indusl Area: Retail Area: 1,200 Sq Ft Apx Age: Volts: Amps: Zoning: C2 - General Commercial Truck Level: Grade Level: Drive-In: Double Man: Clear Height: Sprinklers: Heat: Gas Forced Air Close Phys Hdcp-Eqp:</p>	<p>Survey: Lot/Bldg/Unit/Dim: 0 x 0.56 Acres Lot Lot Irreg: Bay Size: %Bldg: Washrooms: Water: Well Water Supply: Sewers: Septic A/C: Utilities: Y Garage Type: None Park Spaces: #Tri Spc: Energy Cert: Cent Level: GreenPIS:</p>
<p>Actual/Estimated: Taxes: Heat: Issu: Hydro: Mgmt: Water: Maint: Other:</p>	<p>Soil Test: Out Storage: Rail: Crane: Basement: Elevator: UFFI: Assessment: Chattels: LLBO: Days Open: Hours Open: Employees: Seats: Area Infl:</p>
<p>Client Remks: Excellent opportunity to acquire a gas station and convenience store property, situated on a major thoroughfare (Brant Road/Highway 24) connecting the cities of Brantford, Cambridge and Guelph. Property being sold by Court-appointed Receiver and all sales subject to court approval. Property taxes are estimated-Buyers to verify and perform own due diligence. Estires: Dec-2022 Phase 2 ESA in hand. (*Legal cont'd: as in A412953; SOUTH DUMFRIES.) Inclusions: Exclusions: Rental Items: Brkage Remks: Further property details available upon execution of the LA NDA. Fees only paid on successful closing. **Seller name cont'd: 1000179473 Ontario Inc., and 2724393 Ontario Inc. and not in any corporate or personal capacity. 2nd Listing Agent: Matt Perco: 226-366-9001 Mortgage Comments: treat as clear AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP Ph: 416-955-0000 Fax: 416-955-0724 222 Bay St #2500 Toronto M5K1J5 Appt: Via List Agent Contact Date: 10/27/2023 Expiry Date: 1/31/2024 Last Update: 10/30/2023</p>	<p>For Year: Financial Stmt: Gross Inc/Sales: Est Value/Inv At Cost: -Vacancy Allow: Com Area Upchrg: -Operating Exp: % Rent: -NetIncB4Debt:</p>

<p>181 BRANT Road, St. George, Ontario NOE 1N0</p>	
<p>Member Full Active / Commercial Sale</p>	<p>Confidential for REALTORS® Only</p>
<p>MLS#: 40507421 List Price: \$2,550,000.00/For Sale (New Listing)</p>	
<p>Brant County/2100 - NW Rural/2101 - NW Rural Building and Land/ Retail</p> <p>Alt MLS#: 27258420 Bid Area Total (SF): 1,200 Bid Area Total Src: 3/2 SF Range: 1001 to 1500 DOM/CDOM: 3/2 Lot Size Source: GesWarehouse Tax Amt/Yr: \$5,565.00/2023</p> <p>Recent: 10/31/2023 : New Listing Seller: MNP Ltd., solely in its capacity as Court-appointed Receiver of* ARN/PIN: 292001602043900 / 320370039 Legal: PT LT 13, CON 2, SOUTH DUMFRIES, AS IN A412953; ; SOUTH DUMFRIES</p>	<p>Common Interest: Freehold/None Common Elements: No Free Standing Y/N: No</p>
<p>Public: Excellent opportunity to acquire a gas station and convenience store property, situated on a major thoroughfare (Brant Road/Highway 24) connecting the cities of Brantford, Cambridge and Guelph. Property being sold by Court-appointed Receiver and all sales subject to court approval. Property taxes are estimated. REALTOR®: Dec-2022 Phase 2 ESA in hand. *Seller name cont'd: 1000179473 Ontario Inc., and 2724393 Ontario Inc. and not in any corporate or personal capacity. Further property details available upon execution of the LA NDA. Fees only paid on successful closing. Directions to Property: Near the corner of Brant Rd and Hwy 5.</p>	
<p>Property Access: Municipal Road Environment Phase: Phase 2 Lot Shape: C2 Lot Front (Ft): 141.50 Lot Depth (Ft): 174.90 Area Influences: High Traffic Area, Highway Access Topography: Local Improv: # Res Units: # Write Units: # Other Units: 0</p>	<p>Rd Acc Fee: Electrical: Sewer: Septic Water Source: Well</p>
<p>Basement: None, Seating Capacity: # Hind Wshrms:</p>	
<p>Common Elem Fee: No Legal Desc: PT LT 13, CON 2, SOUTH DUMFRIES, AS IN A412953; ; SOUTH DUMFRIES Zoning: C2 Assess Val/Year: \$549,000/2023 PIN: 320370039 ROLL: 292001602043900 Possession/Date: Immediate</p>	<p>Local Improvements Fee: Survey: None/ Hold Over Days: 60 Occupant Type: Vacant</p>
<p>Showing Requirements: TISP (List Salesperson) Showings: Showing Remarks: By appointment only via listing agents. Possession: Immediate</p>	<p>Marketing Brokerage Information List Date: 10/27/2023 Expiration Date: 01/31/2024 Int Bearing Bkg Trust Account: No Financing: SPIS: Contact After Expired: No Buyer Agency Compensation Remarks: 1.25% Original List Price: \$2,550,000.00 List Brokerage: Avison Young Commercial Real Estate Services, LP List Salesperson: Kelly Avison, Salesperson Email: kelly.avison@avisonyoung.com List Brokerage 2: AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP List Salesperson 2: Matt Perco, Salesperson Email: matt.perco@avisonyoung.com</p>
<p>Audit Logs</p>	<p>Brpge #: 416-955-0000 Direct #: 416-673-4030 L/SP Cell: 226-366-9090 Phone: 226-366-9090 L/SP2 Cell: 226-366-9001</p>



For more information, please contact the listing agents:

Kelly Avison, AACI
Principal, Broker
416.673.4030
kelly.avison@avisonyoung.com

Matt Perco
Associate, Sales Representative
226.366.9001
matt.perco@avisonyoung.com

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Appendix “E”

AVISON
YOUNG

181 Brant Road

St. George (Brant County), ON



269 Erie Street

Stratford, ON



Two Gas Station and Convenience Store Properties
For Sale by Court-Appointed Reciever

INVESTMENT SUMMARY

 **BEST
MANAGED
COMPANIES**

Platinum member

The Opportunity

Avison Young has been retained by MNP Ltd. in its capacity as Court-appointed Receiver, to advise and manage the sale of 181 Brant Road, St. George (Brant County) and 269 Erie Street, Stratford, ON (the "Properties"). This offering presents the opportunity to acquire two gas station and convenience store properties, each fronting a high-traffic major thoroughfare in their respective regions.

181 Brant Road is located in Brant County, north of the city of Brantford and west of the town of St. George. It is situated on a major thoroughfare (Brant Road/Highway 24) connecting the cities of Brantford, Cambridge and Guelph. This busy stretch of road sees an annual average daily traffic (AADT) volume of 17,300.

269 Erie Street is centrally located in Downtown Stratford. The Property is within 1 km of both the Huron Perth Healthcare Centre and Stratford ViaRail station. It is situated on one of two major thoroughfares (Erie Street/Highway 7) that meet in Stratford's centre. This stretch of Erie Street sees an AADT volume of 9,650.

The Properties are available to be purchased together or separately. All sales are subject to court approval.



Property Details

181 Brant Road

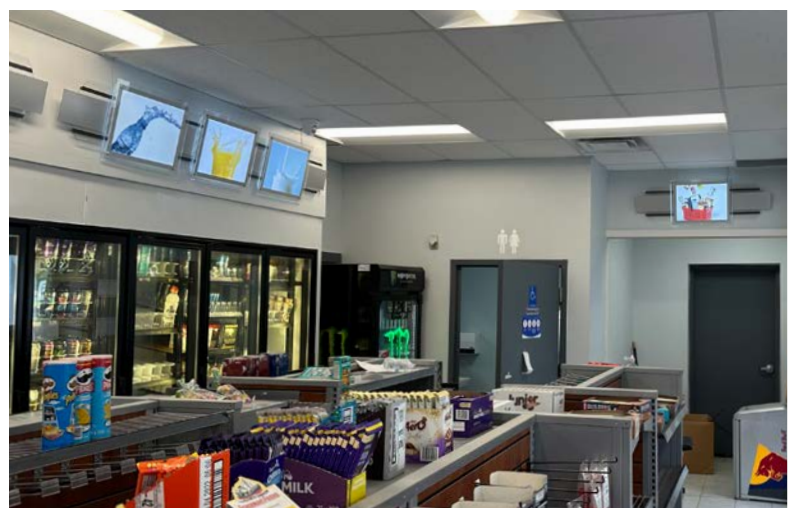
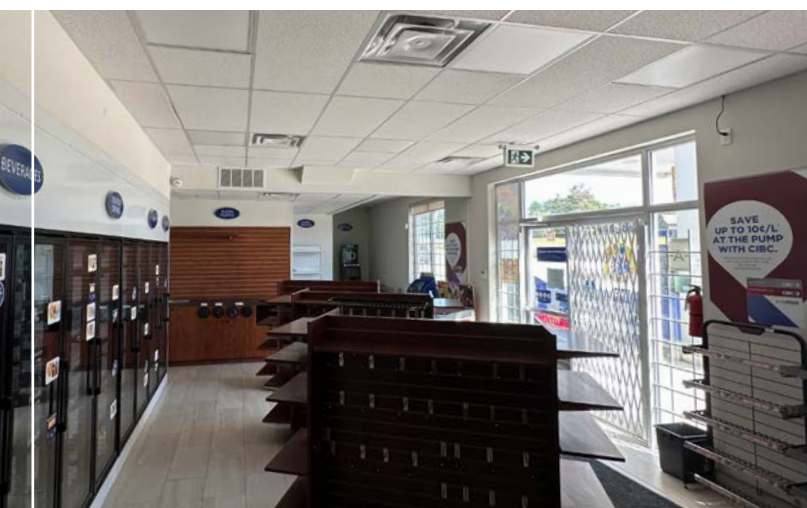
Total Site Area 0.56 acres	Building Area 1,168 sf
Official Plan Community Node	Zoning C2 - General Comm.
Price* \$2,550,000	Fuel Pumps/Dispensers 4/8

* Vacant possession upon closing

269 Erie Street

Total Site Area 0.345 acres	Building Area 970 sf
Official Plan Commercial Area	Zoning Highway Commercial
Price* \$2,250,000	Fuel Pumps/Dispensers 3/6





Sale Process and Offer Format

All offers MUST be submitted on the Receiver's form of Agreement of Purchase and Sale ("APS"), available in the data room. Detailed sale process overview is outlined in the electronic dataroom. Offer/bids must indicate the names of the ultimate beneficial owners and their respective interests. Prospective purchasers should note that the Vendor is under no obligation to respond to or accept any APS. The Vendor reserves the right to remove the Offering from the market and to alter the offering process described above and timing thereof, at its sole discretion.

Data Room

Detailed information has been assembled by Avison Young and is available to prospective purchasers. Access to the electronic data room will be provided upon receipt of an executed confidentiality agreement.

For more information, please contact the listing agents:

Kelly Avison, AACI

Principal, Broker
416.673.4030
kelly.avison@avisonyoung.com

Matt Perco

Associate, Sales Representative
226.366.9001
matt.perco@avisonyoung.com

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Appendix “F”

AGREEMENT OF PURCHASE AND SALE

This AGREEMENT dated the 22nd day of May, 2024.

BETWEEN:

MNP Ltd., solely in its capacity as court-appointed receiver over the of all of the assets, undertakings and properties of 1000179473 Ontario Inc. and not in its personal or corporate capacity and without personal or corporate liability

(the “**Vendor**” or “**Receiver**”)

OF THE FIRST PART

and

DYNAMIC INVESTMENT CORP.,
a corporation incorporated in accordance with the laws of the Province of Ontario

(the “**Purchaser**”)

OF THE SECOND PART

WHEREAS

- A Pursuant to the Receivership Order, MNP Ltd. was appointed receiver and manager of the assets and undertaking of the Debtor; and
- B. Subject to the Court issuing the Approval and Vesting Order, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the right, title and interest of the Debtor in and to the Purchased Assets on the terms and conditions set out herein.

IN CONSIDERATION of the mutual agreements contained in this Agreement, the receipt and sufficiency of which are acknowledged by each of the Vendor and the Purchaser, the Vendor and the Purchaser agree as follows:

1. DEFINITIONS

In this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) “**Acceptance Date**” means the date upon which this agreement is executed and delivered by the Receiver and the Purchaser;
- (b) “**Act**” means, for purposes of Section 22 only, the *Excise Tax Act* (Canada);
- (c) “**Agreement**” means this agreement together with the attached schedules;
- (d) “**Approval and Vesting Order**” means an order of the Court substantially in the form attached hereto as Schedule 1 approving the Transaction and ordering that the Debtor’s

right, title and interest in the Purchased Assets be vested in the Purchaser free and clear of encumbrances, except for Permitted Encumbrances, upon satisfaction by the Purchaser of its obligations under this Agreement;

- (e) “**Buildings**” means the buildings situate on the Lands, including all improvements thereto and all fixtures forming a part thereof, and including all of the Debtor’s rights and interests under leases entered into with tenants of such buildings;
- (f) “**Business Day**” means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;
- (g) “**Chattels**” means the items listed in Schedule 1(g);
- (h) “**Closing**” shall have the meaning ascribed to it in Section 9;
- (i) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (j) “**Date of Closing**” shall have the meaning ascribed to it in Section 9 hereof;
- (k) “**Debtor**” means 1000179473 Ontario Limited;
- (l) “**Deposit**” shall have the meaning ascribed to it in Section 5;
- (m) “**Environmental Law**” means any and all applicable international, federal, provincial, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives and all authorizations relating to the environment, occupational health and safety, health protection or any Hazardous Materials;
- (n) “**Government Authority**” means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal governments having or claiming to have jurisdiction over part or all of the Property, the transaction contemplated in this Agreement and/or one or both of the parties hereto;
- (o) “**HST**” shall have the meaning ascribed thereto in Section 22 hereof;
- (p) “**Hazardous Materials**” means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any “**Contaminants**”, “**Dangerous Substances**”, “**Hazardous Materials**”, “**Hazardous Substances**”, “**Hazardous Wastes**”, “**Industrial Wastes**”, “**Liquid Wastes**”, “**Pollutants**” and “**Toxic Substances**”, all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono or poly-chlorinated biphenyl wastes;

- (q) **“Lands”** means the lands and premises municipally known as 269 Erie St, Stratford, Ontario, N5A 2N1, as legally described in Schedule 3;
- (r) **“Permitted Encumbrances”** means those encumbrances listed in Schedule 4.
- (s) **“Property”** means the Lands and all of the assets and undertakings of the Debtor acquired for, or used in relation to, the Lands, including all proceeds therefrom;
- (t) **“Purchase Price”** shall have the meaning ascribed thereto in Section 4 hereof;
- (u) **“Purchased Assets”** means the interests of the Debtor in the Buildings, Lands and Chattels;
- (v) **“Purchaser”** shall have the meaning ascribed to it on page 1 above;
- (w) **“Purchaser’s Solicitors”** means Syed, Ellison and Viraney Law Professional Corporation, 1112 – 250 Consumers Rd, Toronto, ON, 416-546-2626 ext 112;
- (x) **“Receiver”** means MNP Ltd. in its capacity as receiver appointed pursuant to the Receivership Order;
- (y) **“Receivership Order”** means the order of the Court dated July 21, 2023 appointing MNP Ltd. as receiver of all of the assets, undertakings and properties of 1000179473 Ontario Inc. and 2724393 Ontario Inc. ;
- (z) **“Registry Office”** shall have the meaning ascribed thereto in Section 10 hereof;
- (aa) **“Transaction”** means the transaction contemplated under this Agreement;
- (bb) **“Vendor”** shall have the meaning ascribed to it on page 1 above;
- (cc) **“Vendor’s Solicitors”** means the firm of Chaitons LLP.

2. SCHEDULES

The following Schedules are appended to this Agreement:

Schedule 1	Approval and Vesting Order
Schedule 2	Chattels
Schedule 3	Lands
Schedule 4	Permitted Encumbrances

3. NATURE OF TRANSACTION

The Purchaser shall purchase and the Vendor shall sell the Purchased Assets, upon and subject to the terms of this Agreement.

4. PURCHASE PRICE

The aggregate purchase price (the “Purchase Price”) for the Purchased Assets shall be the sum of [REDACTED]

5. METHOD OF PAYMENT

The Purchase Price shall be paid, accounted for and satisfied as follows.

- a) a deposit in the amount of [REDACTED] (the “Deposit”) shall be paid by the Purchaser within 2 Business Days of Acceptance of this Agreement to the Vendor by cheque certified drawn on a Canadian chartered bank or a Canadian trust company or bank draft payable to the Vendor, in trust;
- b) the Deposit will be held by the Vendor in a trust account as a deposit pending completion or other termination of this Agreement, with the Deposit to be credited on account of the Purchase Price on Closing;
- c) the Parties agree that the Vendor will pay no interest on the Deposit;
- d) if the Transaction is not closed by reason of the failure by the Purchaser to perform any of the covenants or agreements on the Purchaser’s part to be performed hereunder, then the Deposit shall be forfeited to the Vendor on account of liquidated damages and the Vendor shall be entitled to pursue all of its rights and remedies against the Purchaser, including the resale of the Purchased Assets. Upon any such resale, the Purchaser shall pay to the Vendor: (i) an amount equal to the amount, if any, by which the Purchase Price under the Agreement exceeds the net purchase price received by the Vendor pursuant to such resale, and (ii) an amount equal to all costs and expenses incurred by the Vendor in respect of the Transaction or occasioned by the Purchaser’s failure to comply with this Agreement;
- e) if the Transaction is not closed for any other reason, the Deposit shall be returned to the Purchaser without interest and no Party to this Agreement shall have a claim against any other Party hereto with respect to this Agreement other than the Purchaser’s claim to the return of the Deposit;
- f) The Parties agree that, at the Time of Closing, the Purchaser shall pay the balance of the Purchase Price by Wire Transfer from a Canadian Chartered Bank using the Large Value Transfer system payable to the Vendor in the amount of the Purchase Price less the Deposit.

6. ALLOCATION OF PURCHASE PRICE

The Vendor and the Purchaser acknowledge and agree that they shall each, acting reasonably, make their own allocations of the Purchase Price between the Purchased Assets for the purposes of the *Income Tax Act* (Canada) and any filings in accordance with the provisions thereof.

7. APPROVAL AND VESTING ORDER

Following the Acceptance Date (subject to approval of the Court) and payment by the Purchaser of the Deposit, the Vendor will seek an appointment with the Court for a motion to be heard, or otherwise as soon as reasonably possible, to seek the Approval and Vesting Order. The Vendor and the Purchaser acknowledge and agree that the above-noted term is a true condition precedent to the completion of the Transaction that cannot be waived by either party.

8. CLOSING ADJUSTMENTS

- (a) Adjustments shall be made, as of 12:01 a.m. on the Date of Closing, for all operating costs, realty taxes, local improvement rates, rental payments, municipal/provincial levies and charges, water and assessment rates, security deposits and interest thereon (if any), utilities, chattels and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a receivership sale. The day of Closing shall be for the account of the Purchaser.
- (b) Notwithstanding any other provision of this Agreement, the Purchaser acknowledges and agrees that there shall be no adjustment in favour of the Purchaser for any increase in realty taxes for the Property resulting from changes in the assessed value of the Property in respect of any period prior to the Closing Date. Without limiting the foregoing, the Purchaser acknowledges and agrees that, notwithstanding any other provision of this Agreement, the Receiver shall have no obligation or liability of any kind whatsoever for payment of any additional or supplementary taxes that may become payable in respect of the year of Closing and/or prior taxation years as a result of reassessments, adjustments or recalculation of such realty taxes. The Purchaser further acknowledges and agrees that the Approval and Vesting Order to be requested by the Receiver shall provide that title to the Purchased Assets shall vest in the Purchaser subject to any potential liability for increased realty taxes (including, without limitation, any increases in taxes and/or supplementary taxes in respect of the current taxation year and taxation years *prior* to Closing) as a result of the reassessments, adjustments or recalculation of such realty taxes and that all such potential liability for increased and/or supplementary taxes will be a “permitted encumbrance” under the Approval and Vesting Order.
- (c) If the final cost or amount of an item that is to be adjusted cannot be determined at Closing, then an initial adjustment for such item shall be made at Closing, such amount to be estimated by the Vendor, acting reasonably, as of the Closing Date on the basis of the best evidence available at the Closing as to what the final cost or amount of such item will be. In each case, when such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other and within 30 days thereafter the Vendor and Purchaser shall make a final adjustment as of the Closing Date for the item in question. In the absence of

agreement by the parties, the final cost or amount of an item shall be determined by an accountant or such other financial professional appointed jointly by the Vendor and the Purchaser, with the cost of such accountant's or other financial professional's determination being shared equally between the parties. All re-adjustments shall be requested in a detailed manner on or before the 60th day after the Closing Date, after which time neither party shall have any right to request re-adjustment.

9. DATE OF CLOSING

The Transaction will close on the 30th day, that is not a Saturday, Sunday or statutory holiday in the Province of Ontario, following the date on which the Approval and Vesting Order is granted, or such other date as agreed between the Vendor and Purchaser in writing (the "**Date of Closing**" or "**Closing**"). If, prior to the Closing, the Approval and Vesting Order (or any orders dismissing appeals thereof) shall have been appealed or a proceeding shall have been commenced to restrain or prevent the completion of the Transaction, then the Date of Closing may be extended by the Vendor, in which case the Date of Closing shall mean the day that is two Business Days after the date on which any such appeals and/or proceedings are dismissed or otherwise finally determined.

10. ELECTRONIC REGISTRATION

The Transaction will be completed by electronic registration (through use of the "**Teraview Electronic Registration System**" or "**TERS**") and the following provisions shall govern:

- (a) The Purchaser shall retain a solicitor who is authorized to use the Teraview Electronic Registration System and who is in good standing with the Law Society of Upper Canada. The Receiver and the Purchaser shall cause their respective solicitors to enter into a document registration agreement ("**DRA**") substantially in the most recent form adopted by the Joint LSUC-CBAO Committee on Electronic Registration of Title Documents to govern the electronic registration of any documents intended to be registered in connection with the completion of this transaction.
- (b) The delivery and exchange of the closing documents and money provided for in this Agreement and the release of them to the Purchaser and the Receiver, as the case may be: (i) shall not occur at the same time as registration of the Approval and Vesting Order (and any other documents intended to be registered in connection with the completion of this transaction); and (ii) shall be governed by the DRA, pursuant to which the solicitor receiving the closing documents and/or funds will be required to hold them in escrow and will not be entitled to release them except in accordance with the terms of the DRA.
- (c) Any documents not intended for registration on title to the Property may be delivered to the other party's solicitor by email or facsimile transmission (or by a similar system reproducing the original), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto.
- (d) If the Purchaser is unable to register the Approval and Vesting Order electronically on the Closing Date as the result of any malfunction, delay or temporary unavailability of the TERS, then the Closing Date shall be automatically extended until the next day on

which such system is operating so as to permit electronic registrations in the Land Titles Office.

- (e) Notwithstanding anything contained in this Agreement or in the DRA to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by either party (in this paragraph called the “**Tendering Party**”) upon the other party (in this paragraph called the “**Receiving Party**”) when the solicitor for the Tendering Party has:
- (i) delivered all applicable closing documents and confirmation of availability of funds to the Receiving Party’s solicitor in accordance with the provisions of the DRA;
 - (ii) advised the solicitor for the Receiving Party in writing that the Tendering Party is ready, willing and able to complete the transaction in accordance with the provisions of this Agreement;
 - (iii) completed all steps required by TERS to complete the transaction that can be performed or undertaken by the Tendering Party’s solicitor without the cooperation or participation of the Receiving Party’s solicitor, and specifically when the Tendering Party’s solicitor has electronically “signed” the Application to Register the Approval and Vesting Order (and any other registrable documents) for completeness and granted “access” to the Receiving Party’s solicitor (but without the Tendering Party’s solicitor releasing such documents for registration by the Receiving Party’s solicitor);

without the necessity of personally attending upon the Receiving Party or the Receiving Party’s solicitor with the documents and/or funds and without the requirement to have an independent witness evidencing the foregoing.

11. PRE-CLOSING RISK

The Purchased Assets are and shall remain at the Vendor’s risk until Closing and the Vendor shall hold any insurance policies and the proceeds thereunder, in trust, for the parties as their respective interests may appear pending Closing. In the event that the Purchased Assets shall be materially damaged prior to Closing, then the Vendor shall promptly notify the Purchaser in writing of such damage. If the cost of rectifying such damage exceeds Five Hundred Thousand (\$500,000) Dollars, as determined by an independent third party expert appointed by the Vendor, then the Purchaser shall be entitled, in its sole and absolute discretion, to elect to terminate this Agreement, by delivery of written notice to the Vendor within ten (10) Business Days following receipt of the Vendor’s notice of damage, and in such event the parties hereto shall be released from all obligations and liabilities hereunder and the Deposit shall be returned to the Purchaser forthwith, without interest or deduction. If the Purchaser does not elect to terminate this Agreement as set out above, or if the cost of rectifying such damage does not exceed Five Hundred Thousand (\$500,000) Dollars, then the Transaction shall be completed and the Vendor shall release its interest in the insurance proceeds payable in respect thereof, if any, to the Purchaser.

12. PURCHASER’S REPRESENTATIONS AND WARRANTIES

The Purchaser represents and warrants to the Vendor that, as at the date hereof:

- (a) the Purchaser is a corporation duly incorporated, organized and validly subsisting under the laws of the Province of Ontario and has all requisite corporate power, authority and capacity to execute and deliver and to perform each of its obligations pursuant to this Agreement; neither the execution of this Agreement nor the performance (such performance shall include, without limitation, the exercise of any of the Purchaser's rights and compliance with each of the Purchaser's obligations hereunder) by the Purchaser of the Transaction will violate:
- (i) the Purchaser's articles of incorporation and by-laws;
 - (ii) any agreement to which the Purchaser is bound;
 - (iii) any judgement or order of a court of competent authority or any Government Authority; or
 - (iv) any applicable law;
- and the Purchaser has duly taken, or has caused to be taken, all requisite corporate action required to be taken by it to authorize the execution and delivery of this Agreement and the performance of each of its obligations hereunder;
- (b) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms;
- (c) there are no orders or proceedings pending before any Government Authority, or threatened to be brought by or before any Government Authority by or against the Purchaser, affecting the legality, validity or enforceability of this Agreement or the consummation of the Transaction;
- (d) the Purchaser has made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price to the Vendor on Closing;
- (e) the Purchaser will be responsible for and will remit to or reimburse, as applicable, all taxes, including (without limitation) land transfer tax, levies or the like that arise from the sale of the Purchased Assets unless otherwise specified in this Agreement; and
- (f) either (i) the Purchaser is not a "**non-Canadian**", as defined in the *Investment Canada Act* (Canada) ("**ICA**"); or (ii) if the Purchaser is a "**non-Canadian**", this transaction is not a reviewable transaction under the ICA, *or*, if applicable, the Purchaser is a non-Canadian for the purpose of the ICA and will within three (3) Business Days of the execution of this Agreement submit to Investment Canada a fully completed Application for Review with respect to the transaction contemplated in this Agreement and will use its best efforts to obtain approval from Investment Canada prior to Closing.

The Purchaser shall promptly deliver to the Vendor written notice specifying the occurrence or likely occurrence of any event which may result in any of the Purchaser's representations and warranties contained in this Agreement not continuing to be true as at Closing.

13. PURCHASER'S ACKNOWLEDGEMENT

The Purchaser acknowledges that:

- (a) the interest of the Debtor in the Purchased Assets may be limited and the Vendor will be obliged to convey to the Purchaser only such interest as the Debtor has therein and no interest of any third party, provided that nothing in this subsection 1.1.1.1(a) shall be applied or construed so as to derogate from the title or interest acquired by the Purchaser pursuant to and in accordance with the Approval and Vesting Order. To the extent that any obligation of the Vendor requires the co-operation or assistance of any third party, the Vendor will not be required to compel any such co-operation or assistance for the purposes of making any conveyance to the Purchaser;
- (b) the Purchaser shall be solely responsible for obtaining all consents required by the Purchaser in accordance with the terms hereof to the assignment and transfer to the Purchaser of the Purchased Assets. The Vendor agrees that it will do or cause to be done such things as are reasonable and requested by the Purchaser in order to assist the Purchaser to obtain required consents provided that the Vendor shall have no obligation to obtain any consents or to provide or pay any consideration or incur any costs to obtain such consents;
- (c) the Purchaser has inspected the Purchased Assets, has relied entirely upon its own inspection and investigation, and is purchasing the Debtor's right, title and interest, in and to the Purchased Assets on an "as is, where is" basis and that there is no representation, warranty or condition, express or implied, statutory or otherwise, as to the title, encumbrances, description, fitness for any purpose, merchantability, quality, quantity, state, condition (environmental or otherwise), defect (patent or latent), existence, location, value, the validity or enforceability of any rights (including intellectual property rights), any requirement to licences, permits, approvals, consents for transfer, ownership, occupation or use, compliance with any governmental laws, regulations, by-laws and orders or in respect of any other matter or thing whatsoever. Without limiting the generality of the foregoing, no condition, warranty or representation provided for or implied by the *Sale of Goods Act* (Ontario) has been or will be given by the Vendor, and the Purchaser expressly waives all express or implied conditions, warranties and representations by the Vendor;
- (d) Without limiting the generality of paragraph (c), the Purchaser acknowledges and agrees that the parties have expressly agreed to exclude from this Agreement all representations and warranties with respect to the following matters:
 - (i) the description, title, condition, state of repair and fitness for any purpose of the Purchased Assets;
 - (ii) the compliance of the Property with: zoning by-laws and regulations; or applicable fire and building codes;

- (iii) any easements, rights of way or other registered or unregistered interest in the Property which impacts the use, enjoyment or development opportunities connected with the Property;
 - (iv) that the present use or any future use of the Property is or will be lawful or permitted;
 - (v) the execution, good standing, validity, binding effect or enforceability of the Permitted Encumbrances;
 - (vi) that the Receiver has any right, title or interest in any goodwill associated with the Property, or the use of any name associated with the operation of the Property; and
 - (vii) the compliance of the Property with environmental laws or the existence or non-existence of hazardous materials, environmental, soil or water contamination or pollution on or about the Property, or otherwise with respect to the environmental condition of the Property;
- (e) any asset lists, information packages and other material concerning the Purchased Assets or the sale thereof provided by or on behalf of the Vendor have been prepared solely for the convenience of the Purchaser and are not warranted or represented to be complete or accurate and are not part of this Agreement (unless specifically provided in such material) and the descriptions of the Purchased Assets provided to the Purchaser are for the purposes of identification only, and no condition, warranty or representation has been or will be given by the Vendor concerning the accuracy, completeness or any other matter concerning such descriptions;
- (f) save as to any valid objection to title made in respect of matters arising after the Acceptance Date, and save and except any objection going to the root of title which the law allows to be made and which is made after the Acceptance Date, the Purchaser shall be conclusively deemed to have accepted the title to the Property and to have accepted the Property subject to all applicable laws, by-laws and regulations affecting its use. If any such valid objection going to the root of title shall be made by the Purchaser prior to the Closing Date, which the Receiver is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive or which is not covered by title insurance, then the Receiver may terminate this Agreement by Notice to the Purchaser, whereupon, except as herein expressly set forth, the Deposit without interest shall be forthwith returned to the Purchaser without deduction and each of the Purchaser and the Receiver shall be released from all obligations under this Agreement;
- (g) the Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title except such of the foregoing as are in the possession or control of the Receiver;
- (h) except as set forth in this Agreement, the Vendor makes no covenants, representations or warranties whatsoever, including with respect to the condition of the Purchased Assets and the sufficiency or condition of the Debtor's title thereto;

- (i) there shall not be, surviving Closing, any express or implied representation or warranty by the Receiver or any condition as to title, merchantable quality, fitness for any purpose or otherwise, except to the extent expressly provided for in this Agreement;
- (j) despite issuance of the Approval and Vesting Order, the Purchaser (or such Permitted Assign and/or nominee title holder for the Purchaser or such Permitted Assign) shall have no rights thereunder, nor any right, title or interest in the Purchased Assets until the Receiver's Certificate is executed by the Receiver, as aforesaid;

14. ENCROACHMENTS

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Buildings or Lands, or encroachments onto adjoining lands, or to remove same, or for any matters relating to any applicable laws, including without limitation, zoning regulations or by-laws in existence now or in the future affecting any of the Purchased Assets.

15. INDEMNIFICATION

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees, agents and representatives (collectively, the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgements, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Buildings or Lands on or after the Closing Date, or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws on or after the Closing Date, or as a result of the disposal, storage, release or spill, or threat of release or spill, on or about the Lands and/or the Building, of any Hazardous Substance on or after the Closing Date. The obligation of the Purchaser hereunder shall survive the Closing.

16. RELEASE

The Purchaser hereby releases and discharges the Vendor together with its directors, officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Buildings or Lands. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up, remediate or remove or pay for the cleanup, remediation or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Buildings or Lands, or seek an abatement in the Purchase Price or damages in connection with any Hazardous Materials existing before or after Closing. This provision shall not expire with, or be terminated or extinguished by or merged in, the Closing of the Transaction and shall survive the termination of this Agreement for any reason or cause whatsoever and the completion of the Transaction.

17. NON-REGISTRATION

The Purchaser hereby covenants and agrees that it shall not register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document, instrument or court order or judgement providing evidence of this Agreement against title to the Buildings or Lands. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending

litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Buildings or Lands. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Buildings or Lands. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Section as a full estoppel to any proceeding, suit, claim, motion or other action brought by the Purchaser in order to obtain and attempt to register against the title to the Buildings or Lands any of the items set out in this Section 17.

18. VENDOR'S CLOSING DELIVERIES

The Vendor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date expressly provided herein:

- (a) the Approval and Vesting Order;
- (b) a Statement of Adjustments prepared in accordance with Section 8 hereof;
- (c) the Vendor's certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada); and
- (d) the Vendor shall make arrangements for delivery immediately following Closing, at the office of the Vendor, of:
 - (i) all duplicate keys and master keys for the Property that are within the Vendor's possession or control; and
 - (ii) correspondence, records, files, books of account, operating manuals, plans, surveys and other documents (or copies thereof) pertaining to the operation of the Property in the Vendor's possession or control, other than documents, books and records which the Vendor is required by law to retain or which the Vendor reasonably believes it has a duty to retain.

19. PURCHASER'S CLOSING DELIVERIES

The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or prior to Closing:

- (a) **Purchaser's Certificates:** the Purchaser's certificate and indemnity setting out that each of the Purchaser's representations and warranties contained in this Agreement are true as at Closing and, if applicable, the Purchaser's certificate described in Subsection 22(b) hereof;
- (b) **HST Indemnity:** the indemnity provided for under Subsection 22(c) hereof;
- (c) **Direction re Title:** a direction re title to confirm the name in which title to the Purchased Assets will be taken (together with the agreement of the assignee, if any, as provided in Section 39 of this Agreement), provided that such direction (and agreement) must be

provided to the Vendor no less than 5 Business Days before the hearing date for the motion to obtain the Approval and Vesting Order;

- (d) **Realty Taxes:** an undertaking with respect to refunds and/or reassessments of all realty taxes attributable to the period prior to the Date of Closing;
- (e) **Balance Due at Closing:** the balance of the Purchase Price described in Subsection 5.a) hereof;
- (f) **Application for Vesting Order(s):** the Purchaser's solicitor will prepare the application for vesting order in Teraview in accordance with the Purchaser's direction re title; and
- (g) **Further Documentation:** any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.

20. DOCUMENTATION PREPARATION AND REGISTRATION

The Vendor shall prepare or cause to be prepared all documentation described in Sections 18 and 19 hereof, except as otherwise provided herein to the contrary, and shall deliver draft documentation to the Purchaser not less than three (3) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and substance satisfactory to the Vendor and the Purchaser, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the Transaction. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

21. LAND TRANSFER TAXES AND RETAIL SALES TAXES

The Purchaser shall pay all land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)) and, if applicable, all retail sales taxes (as required pursuant to the *Retail Sales Tax Act* (Ontario)) payable in connection with the transfer of the Purchased Assets pursuant to this Agreement.

22. HARMONIZED SALES TAX

- (a) **Application of HST to this Agreement:** The Purchaser acknowledges and agrees that the Transaction shall be subject to the goods and services tax and harmonized sales tax ("HST") levied pursuant to the Act, that HST shall be in addition to and not included in the Purchase Price, that the Purchaser shall be responsible for the payment of HST and that HST shall be collected and remitted in accordance with the Act.
- (b) **Self-Assessment:** If:
 - (i) the Vendor is a non-resident of Canada or the Vendor would be a non-resident of Canada but for Subsection 132(2) of the Act; and/or
 - (ii) the Purchaser is a "prescribed recipient" under the Act and/or is registered under the Act,

then the Purchaser shall deliver, prior to Closing, its certificate in form prescribed by the Act or, if no such form is prescribed, then in form satisfactory to the Vendor and the Vendor's Solicitors, certifying that the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate Government Authority all HST payable in respect of the transaction contemplated hereunder. If Subsection (b)(i) hereof shall be applicable, then the said certificate of the Purchaser shall also include certification of the Purchaser's prescription and/or registration, as the case may be, and the Purchaser's HST registration number. If the Purchaser shall fail to deliver the said certificate, then the Purchaser shall tender to the Vendor, at Closing, in addition to the balance otherwise due at Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the Transaction.

- (c) **HST Indemnity:** The Purchaser shall indemnify and save harmless the Vendor, its directors, officers, employees, agents and representatives from all claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of HST payable in respect of the transaction contemplated hereunder and the Purchaser shall deliver an Indemnity on closing to reflect same.

23. PLANNING ACT (ONTARIO)

This Agreement shall be effective to create an interest in the Property for the Purchaser only if the Part IV of the *Planning Act* (Ontario) are complied with.

24. NOTICE

Any notice given hereunder shall be in writing and delivered or communicated by telecopier machine or e-mail to:

in the case of the Purchaser at:

- tikarana@gmail.com
- sukhjotnaroo@yahoo.ca

and in the case of the Vendor at:

MNP Ltd.
1 Adelaide Street East, Suite 1900
Toronto, ON M5C 2V9

Fax: 416.323.5242
Attention: Jerry Henechowicz
Email: Jerry.Henechowicz@mnp.ca

with a copy to the Vendor's Solicitors:

Chaitons LLP

Fax:
Attention: Mr. Harvey Chaiton
Email: Harvey@chaitons.com

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A party may change its address and/or e-mail address by providing notice in accordance with this Section 24.

25. WAIVER OF CONDITIONS

Except as otherwise provided in this Agreement, all conditions contained herein have been inserted for the benefit of either the Vendor or the Purchaser, as indicated, and are conditions of the obligations of such party to complete the transaction contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting party without prejudice to the benefiting party's right of termination in the event of the non-fulfilment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the Transaction by a party hereof shall be deemed to be a waiver by such party of compliance with any condition inserted for its benefit and not satisfied at Closing.

26. SEVERABILITY

If any provision contained in this Agreement or the application thereof to any person/entity or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such provision to persons/entities or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each provision contained in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

27. DIVISION/HEADINGS

The division of this Agreement into Sections, Subsections, Paragraphs and Subparagraphs and the insertion of headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part hereof.

28. ENTIRE AGREEMENT

This Agreement and the schedules attached hereto constitute the entire agreement between the Vendor and the Purchaser in respect of the Purchased Assets. Each of the parties acknowledges that, except as contained in this Agreement, there is no representation, warranty, collateral agreement or condition (whether a direct or collateral condition or an express or implied condition) which induced it to enter into this Agreement. Each of the parties agrees that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and except where otherwise expressly stipulated herein, shall survive the closing of the transactions contemplated by this Agreement.

29. CUMULATIVE REMEDIES

No remedy conferred upon or reserved to one or both of the parties hereto is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

30. INTERPRETATION

This Agreement shall be read with all changes of gender and number as required by the context.

31. REFERENCES TO STATUTES

Except as otherwise provided in this Agreement, references to any statute herein shall be deemed to be a reference to such statute and any and all regulations from time to time promulgated thereunder and to such statute and regulations as amended or re-enacted from time to time. Any reference herein to a specific section or sections, paragraph or paragraphs and/or clause or clauses of any statute or regulations promulgated thereunder shall be deemed to include a reference to any corresponding provision of future law.

32. TIME OF ESSENCE

Time shall in all respects be of the essence hereof provided that the time for the doing or completing of any matter referred to herein may be extended or abridged by an agreement, in writing, executed by the Vendor and the Purchaser or their respective solicitors who are hereby expressly appointed for that purpose.

33. CANADIAN FUNDS

Except as otherwise provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian Dollars and any payment contemplated by this Agreement shall be made by certified cheque, bank draft or wire transfer.

34. TENDER

Any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by a negotiable cheque certified or bank draft drawn on or issued by a Canadian chartered bank.

35. FURTHER ASSURANCES

Except as otherwise expressed herein to the contrary, each party shall, without receiving additional consideration therefor, co-operate with and take such additional actions as may be requested by the other party, acting reasonably, in order to carry out the purpose and intent of this Agreement.

36. CONFIDENTIALITY

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and, without the Vendor's prior written consent shall not be disclosed to any third party. If for any reason Closing does not occur, all such documents shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser and Vendor further agree that unless and until the terms of this Agreement become public knowledge in connection with an application to the Court, the Purchaser shall keep such terms confidential and shall not disclose them to anyone

except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

37. NON-BUSINESS DAYS

In the event that any date specified or any date contemplated in this Agreement shall fall upon a day other than a Business Day, then such date shall be deemed to be the next following Business Day.

38. GOVERNING LAWS

This Agreement has been executed in the Province of Ontario and, for all purposes, shall be construed in accordance with and governed by the laws in effect within the Province of Ontario.

39. ASSIGNMENT

No party may assign its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, the Purchaser shall have the right, until five (5) Business Days prior to the granting of the Approval and Vesting Order, upon written notice to the Vendor's Solicitors, to assign, in whole or part, its rights to acquire the Purchased Assets hereunder to any company or companies affiliated (as that term is defined in the Ontario *Business Corporations Act*) with the Purchaser, provided that the said assignee agrees in writing to assume and be bound by all obligations and liabilities of the Purchaser in this Agreement and such assignment shall not release the Purchaser from its obligations and liabilities under this Agreement.

40. VENDOR'S CAPACITY

The Vendor is entering into this Agreement solely in its capacity as court-appointed receiver of the assets, undertakings and properties of the Debtor and that the Vendor shall have no personal or corporate liability under or as a result of this Agreement. Any claim against the Vendor shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as Receiver and shall not apply to its personal property and other assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

41. NO BROKERAGE OR FINDER'S FEE

Each of the Parties represents and warrants to each other that such Party has not taken, and agrees that it will not take any action that would cause any other Party to become liable to any claim or demand for real estate commission, brokerage fee, finder's fee or other similar payment.

42. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

43. COUNTERPARTS

This Agreement may be executed in several counterparts, with the same effect as if each of the Parties had signed the same document, and will become effective when one or more counterparts have been

signed by both of the Parties and delivered to the other. All counterparts will be construed together and evidence only one agreement, binding on the Parties hereto, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the first date set out above and accepted on the date of the last signature, and only one of which need be produced for any purpose.

44. NOTICE TO READER

The Property is currently vacant, and any gas station operations have ceased to operate, and the Receiver is now in control of the Property. As such, any prior lease agreements, assignments, fuel supply agreements, etc., are considered to be no longer valid.

45. Irrevocability

This Offer is open for acceptance by the Purchaser until 6pm on May 29th, 2024 after which time, if not accepted, this offer shall become null and void.

DATED as of the date first mentioned above.

Khan Mudassar Ahmad

Per: _____

Name: Khan Mudassar Ahmad

05/29/2024

Title: **Director**

I/We have authority to bind the Corporation.

05/29/2024, 01:31:17 AM EDT

The Vendor hereby accepts this Agreement to purchase and its terms and agrees with the Purchaser to duly complete the transaction contemplated thereunder.

DATED at Toronto, Ontario this 27th day of May, 2024, -2023.

MNP Ltd., solely in its capacity as court-appointed Receiver of the assets, undertakings and properties of 1000179473 Ontario Inc. and 2724393 Ontario Inc., and not in its personal or corporate capacity and without personal or corporate liability



Per: _____

Name: Jerry Henechowicz, CPA, CA, CIRP, LIT

Title: Senior Vice President

I have authority to bind the corporation.

SCHEDULE 1(D)

APPROVAL AND VESTING ORDER

Court File No. CV-23-00702801-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE ►) ► DAY, THE ► DAY
JUSTICE ►) OF ►,

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

- and -

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by MNP Ltd. in its capacity as the court-appointed receiver (the “**Receiver**”) of all of the assets, undertakings and properties of _____ Ontario Inc. (the “**Debtor**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and [NAME OF PURCHASER] (the “**Purchaser**”) made as of [DATE] and appended to the Report of the Receiver dated [DATE] (the “**Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at ●.

ON READING the Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

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

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated July 21, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*], the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule D hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule B hereto.

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT 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.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00702801-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

- and -

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Steele dated July 21, 2023, MNP Ltd. was appointed as the receiver (the “**Receiver**”) of all of the assets, undertakings and properties of _____ Ontario Inc. (the “**Debtor**”), including all proceeds therefrom.

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the “**Sale Agreement**”) between the Receiver and [NAME OF PURCHASER] (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

MNP Ltd., solely in its capacity as court-appointed Receiver of the assets, undertakings and properties of 1000179473 Ontario Inc1000179473 ONTARIO INC. and 2724393. and 2724393 Ontario Inc., and not in its personal or corporate capacity and without personal or corporate liability

Per: _____
Name:
Title:

I have authority to bind the corporation.

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

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

(unaffected by the Vesting Order)

Schedule D – Legal Description

PIN:

SCHEDULE 2

CHATTELS

Convenience Store

- Acoustic tile ceiling
- Ceramic tile flooring
- Service counter and related supplies
- Movable racking
- 3 monitors
- Built in refrigerated area
- Fluorescent lighting
- Heating, air conditioning and ventilation system
- Other comprised entirely or partially of
 - Pump controller
 - Fuel inventory management system
 - Shelving, display case stands and/or counters
 - Security cameras and systems
 - Alarm system

Exterior Canopy

Fuel Dispensers including

4 fuel pumps with 3 fuel pumps having 2 dispensers each and 4th fuel pump having 4 dispensers
2 for gasoline and 2 for diesel

Compressed Air Machine

Underground Storage Tanks

2 underground storage tanks with 75,000 litre tank for regular gasoline, and 25,000 litre split tank for supreme gasoline and 25,000 litre split tank for diesel

SCHEDULE 3
LANDS

PIN: 53115027

LEGAL DESCRIPTION: PT LT 133 PL 20 STRATFORD; PT LT 134 PL 20 STRATFORD
DESIGNATED AS PART 1 ON PLAN 44R-5415; STRATFORD CITY OF STRATFORD



Property outlined approximately in blue in above aerial.

SCHEDULE 4
PERMITTED ENCUMBRANCES

Appendix “G”

**THE RECEIVERSHIP OF 2724393 ONTARIO INC. AND 1000179473 ONTARIO INC.
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD ENDED JUNE 7, 2024**

RECEIPTS

Receiver's Sale (272 Gas Station)	\$ 1,510,000.00
Deposits received (1000 Gas Station)	\$ 145,000.00
Advance from Canadian Western Bank	14,000.00
Recovery of expenses/miscellaneous income	883.51
Interest earned	2,001.97
	<u>1,671,885.48</u>

DISBURSEMENTS

Distribution to Canadian Western Bank	1,250,000.00
Realtor commission	45,300.00
Legal fees and disbursements	39,695.01
HST paid	13,363.80
Insurance	13,193.52
Repairs and maintenance	11,989.78
Transfer to Bankruptcy Estate; 2724393 Ontario Inc.	10,000.00
Property taxes	9,522.12
Utilities	4,769.80
Filing fees	150.60
Bank charges	73.00
	<u>1,398,057.63</u>

EXCESS OF CASH RECEIPTS OVER DISBURSEMENTS

\$ 273,827.85

Appendix “H”

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

AFFIDAVIT OF SHELDON TITLE

(Sworn June 17, 2024)


I, Sheldon Title, of the City of Toronto, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Vice President and a Licensed Insolvency Trustee with MNP Ltd., the Court-appointed receiver and manager (the “**Receiver**”) of 1000179473 Ontario Inc. and 2724393 Ontario Inc. (the “**Companies**”), and as such have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of the assets, property and undertaking of the Companies by Order of the Honourable Madame Justice Steele dated July 21, 2023.
3. The Receiver has prepared the Statement of Account in connection with its appointment as Receiver detailing its services rendered and disbursements incurred for the period February

21, 2024, to May 30, 2024, totalling \$26,573.59, comprising fees of \$23,352.25, disbursements of \$164.20 and applicable HST of \$3,057.14. The average hourly rate in respect of the account is \$529.50. Attached hereto and marked as Exhibit "A" to this my Affidavit is the Statement of Account.

4. This Affidavit is made in support of a motion to, *inter alia*, approve the fees and disbursements of the Receiver and its accounts.

SWORN before me by)
videoconference at the City of)
Toronto, in the Province of Ontario)
This 17th day of June, 2024.)
)
)

Deborah Gina Liza Hornbostel,
a Commissioner, etc. Province of
Ontario, for MNP Ltd.
Expires February 5, 2025



SHELDON TITLE

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF SHELDON TITLE

Sworn before me by video conference

This 17th day of June, 2024



Deborah Gina Liza Hornbostel, a Commissioner, etc.

Province of Ontario, for MNP Ltd.

Expires February 5, 2025

Invoice



Invoice Number : 11774496

Client Number : 1036044

Invoice Date : Jun 12 2024

Invoice Terms : Due Upon Receipt

2724393 Ontario Inc. & 1000179473 Ontario Inc.
c/o MNP Ltd
1900 1 Adelaide Street East
Toronto, ON M5C 2V9

For Professional Services Rendered :

Professional services as Court-appointed Receiver and Manager of 2724393 Ontario Inc. and 1000179473 Ontario Inc. for the period February 21 to May 30, 2024 as set out on the attached time and billing summary.	23,516.45
Harmonized Sales Tax :	<u>3,057.14</u>
Total (CAD) :	<u>26,573.59</u>

HST Registration Number : 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We sincerely appreciate your trust in us.

Licensed Insolvency Trustees
1 ADELAIDE ST E, SUITE 1900; TORONTO ON; M5C 2V9
P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

MNP LTD.**COURT APPOINTED RECEIVER AND MANAGER OF 2724393 ONTARIO INC. AND 1000179473 ONTARIO INC.****FOR THE PERIOD FEBRUARY 21 TO MAY 30, 2024**

DATE	PROFESSIONAL	HOURS	DESCRIPTION
21-Feb-2024	Jerry Henechowicz	.20	Receipt of listing agreement, court application and approval call with Chaitons
21-Feb-2024	Jordan Bowles	.25	Check premises and report to Aldis
21-Feb-2024	Chahna Nathwani	.40	Prepared chq req for Hydro One invoice, processed in system for approval, printed and mailed
22-Feb-2024	Jerry Henechowicz	1.00	Drafting of estimated realizations, execution of Stratford listing extension
23-Feb-2024	Jerry Henechowicz	.70	Preparation of R&D and ERV, forwarding same to CWB
26-Feb-2024	Jerry Henechowicz	.20	Emails to arrange security opinion from B Jaffe
26-Feb-2024	Upasana Nayak	.60	Prepare requisition and payment for Jerry's reimbursements and for transfer to Shell.
26-Feb-2024	Yujun liu	.30	cheque requisition for utility service and record it in ascend
26-Feb-2024	Aldis Makovskis	.50	Visit to St. George premises to review status of premises.
27-Feb-2024	Jerry Henechowicz	.50	Initial 2nd report drafting, arranging for security opinion on CWB security, email with Parkland on removed fuel
27-Feb-2024	Jordan Bowles	.25	Check premises and report to Aldis
27-Feb-2024	Upasana Nayak	.20	Prepared cheque requisition.
28-Feb-2024	Jerry Henechowicz	.50	Preparation for and call with Parkland re sale approval and fees for continuing investigation
04-Mar-2024	Jerry Henechowicz	2.30	Drafting of second report to Court
05-Mar-2024	Jerry Henechowicz	1.90	Drafting of Second Report to Court, update call with Parkland, call with E. Peritz re security opinions and claim of Parkland to fuel proceeds
06-Mar-2024	Jerry Henechowicz	1.80	Drafting of 2nd report, call with Chaitons and CWB on missing fuel
06-Mar-2024	Jordan Bowles	.25	Check premises and report to Aldis
07-Mar-2024	Jerry Henechowicz	1.00	Further drafting of 2nd report, email to Parkland re next steps and cost sharing
07-Mar-2024	Aldis Makovskis	.50	Visit to St. George premises to review status of premises.
08-Mar-2024	Jerry Henechowicz	1.80	2nd report drafting and forwarding to Chaitons for review
08-Mar-2024	Aldis Makovskis	1.00	Telephone discussion with TekSavvy representative on assumption and cancellation of internet services. Email to M. Perco requesting whether purchasers wish to assume or cancel existing internet services. Telephone discussion with individual interested in Stratford location and forward individual's contact information to representatives of Avison Young.
10-Mar-2024	Jerry Henechowicz	.50	Drafting of 2nd Report Fee affidavit
11-Mar-2024	Jerry Henechowicz	.80	Update to report and preparation of fee Affidavit, call with Parkland
11-Mar-2024	Aldis Makovskis	.50	Visit to St. George premises to review status of premises and pick up mail.
14-Mar-2024	Akhil Kapoor	.10	Email comm with the franchisor re status of sale of the gas station
15-Mar-2024	Lisa Visconti	.20	BANK REC

MNP LTD.**COURT APPOINTED RECEIVER AND MANAGER OF 2724393 ONTARIO INC. AND 1000179473 ONTARIO INC.****FOR THE PERIOD FEBRUARY 21 TO MAY 30, 2024**

DATE	PROFESSIONAL	HOURS	DESCRIPTION
15-Mar-2024	Jerry Henechowicz	1.10	Drafting of second report to Court
16-Mar-2024	Jordan Bowles	.25	Check premises and report to Aldis
18-Mar-2024	Jerry Henechowicz	1.20	Review of drafts from Chaitons, completion of second report and sending of affidavits for report to Court
20-Mar-2024	Jerry Henechowicz	.50	Emails and calls with Laura Culleton of questions of service and likely need for an adjournment
20-Mar-2024	Chahna Nathwani	.20	Uploaded motion record to the webpage
21-Mar-2024	Jerry Henechowicz	.60	Court attendance and related follow up
23-Mar-2024	Aldis Makovskis	.50	Visit to St. George premises on March 18, 2024 to review status of premises.
25-Mar-2024	Jerry Henechowicz	.50	Call with Greenenergy and Chaitons on issues related to missing fuel;
28-Mar-2024	Jordan Bowles	.25	Check premises
31-Mar-2024	Jerry Henechowicz	.40	Review of pre and post HST and Source liabilities
01-Apr-2024	Jerry Henechowicz	.20	Review and payment of utility bills
01-Apr-2024	Chahna Nathwani	.70	Investigating on received invoices v/s payments, prepared requisitions for remaining invoices of Festival Hydro and Enbridge, processed cheques for signing, mailed
02-Apr-2024	Jerry Henechowicz	.50	Receipt of Brant AVO order, advising CWB and realtor, arranging web posting
03-Apr-2024	Jerry Henechowicz	.30	Review and payment of operating expenses
03-Apr-2024	Chahna Nathwani	.20	Uploaded doc to case website
03-Apr-2024	Chahna Nathwani	.30	Preparing payment for GreenLeaf Electric Lawn Care, processed cheques in Ascend for signing,
03-Apr-2024	Aldis Makovskis	1.00	Telephone discussion with A. Davison of purchaser's personnel present at St. George location. Telephone discussion with M. Perco regarding telephone discussion with A. Davison and his informing purchaser that visits are restricted to previous authorizations and he would inform purchaser that he has to be notified of any required visits. Emails on accounts payable.
04-Apr-2024	Chahna Nathwani	.20	payment requisition for repair invoice, processed chq for signing
04-Apr-2024	Evani Patel	.50	Creating Cheque requisition for repairs and maintenance invoices
05-Apr-2024	Jerry Henechowicz	.30	Reveiw of updates from Avison Young on Stratford, preparation for Closing
05-Apr-2024	Evani Patel	.40	Cheque Requisition for client's invoices
07-Apr-2024	Jordan Bowles	.25	Check premises
09-Apr-2024	Jerry Henechowicz	.30	emails related to preparation for closing of Brant Station
11-Apr-2024	Aldis Makovskis	.50	Provide gas meter number to M. Perco requested by purchaser. Exchange of emails with M. Perco on transfer of internet services at St. George to purchaser. Telephone discussion with TekSavvy transferring internet services to purchaser and related email to M. Perco.
12-Apr-2024	Akhil Kapoor	.20	Discussion regarding closure of the transaction, invoices to be paid and Enbridge communication on April 17th

MNP LTD.**COURT APPOINTED RECEIVER AND MANAGER OF 2724393 ONTARIO INC. AND 1000179473 ONTARIO INC.****FOR THE PERIOD FEBRUARY 21 TO MAY 30, 2024**

DATE	PROFESSIONAL	HOURS	DESCRIPTION
12-Apr-2024	Aldis Makovskis	.50	Meeting at St. George location with A. Davison to obtain keys to premises. Check on cellular telephone that internet was working. Email to M. Perco querying disposition of keys subsequent to closing of sale.
13-Apr-2024	Jordan Bowles	.25	Check premises
15-Apr-2024	Jerry Henechowicz	.60	Review of closing documents and emails with Ultramar and MNP team
16-Apr-2024	Jerry Henechowicz	1.20	Review updating and execution of closing documents
16-Apr-2024	Akhil Kapoor	.10	Discussion re transaction closure on April 17 and communicating with Enbridge (along with C. Nathwani)
16-Apr-2024	Aldis Makovskis	.50	Telephone discussion with J. Henechowicz regarding closing of sale of St. George location, statement of adjustments and removal of covers by Ultramar. Meeting with M. Perco to provide keys to premises and fuel dispensers, and information on access to internet.
17-Apr-2024	Jerry Henechowicz	.70	Confirmation of closing of Brant and receipt of funds as well as closing related issues
17-Apr-2024	Aldis Makovskis	.50	Premises' visit to Stratford location to check on status of premises and subsequently pick up mail. Return travel from Kitchener to Stratford.
17-Apr-2024	Evani Patel	.75	Cheque Requisition for Chaitons invoices - 5 invoices paid out
18-Apr-2024	Jerry Henechowicz	.50	allocation of sale proceeds and distribution to CWB
18-Apr-2024	Matthew Lem	.10	wire authorization
18-Apr-2024	Deborah Hornbostel	.20	Review and approve disbursements
18-Apr-2024	Evani Patel	.75	Wire Requisition for CWB - Transferring sale proceeds
20-Apr-2024	Jordan Bowles	.25	Check premises
22-Apr-2024	Evani Patel	.40	Cheque Requisition for Enbridge and Festival Hydro
23-Apr-2024	Jerry Henechowicz	.30	Emails with Ultramar regarding removal of equipment
24-Apr-2024	Lisa Visconti	.20	BANK REC
25-Apr-2024	Jordan Bowles	.25	Check premises
07-May-2024	Evani Patel	.25	Enbridge Cheque Requisition for 2724393 Ontario Inc.
08-May-2024	Jordan Bowles	.25	Check premises
13-May-2024	Jordan Bowles	.25	Check premises
14-May-2024	Deborah Hornbostel	.10	Review and approve disbursement
14-May-2024	Evani Patel	.50	Cheque requisition for Chaitons invoices - legal fees
15-May-2024	Evani Patel	.50	Bank Reconciliation April 2024
17-May-2024	Jerry Henechowicz	.40	Review of offer and email with Kelly Avison
17-May-2024	Evani Patel	.30	Syl-Mar Management invoice reconciliation and entering them in Ascend for cheque requisitions.

MNP LTD.

COURT APPOINTED RECEIVER AND MANAGER OF 2724393 ONTARIO INC. AND 1000179473 ONTARIO INC.

FOR THE PERIOD FEBRUARY 21 TO MAY 30, 2024

DATE	PROFESSIONAL	HOURS	DESCRIPTION
21-May-2024	Jerry Henechowicz	.30	Review of updated offer for Stratford and email with Avison Young
22-May-2024	Jerry Henechowicz	.50	Emails with Avison Young re offers for Stratford
22-May-2024	Misha Chopra	.20	prepared cheque requisition
23-May-2024	Evani Patel	.30	Cheque Requisition for Syl-Management Group
23-May-2024	Misha Chopra	.20	prepared cheque requisition
24-May-2024	Jerry Henechowicz	.30	Payment of expenses, receipt of Stratford sign back.
24-May-2024	Jordan Bowles	.25	Check premises
27-May-2024	Jerry Henechowicz	.80	Discussion of signback on Stratford with CWB, review with Avison Young, execution of agreement
28-May-2024	Misha Chopra	.20	prepared chq reconciliation for Festival Hydro
29-May-2024	Jerry Henechowicz	.60	Emails related to acceptance of APS on Stratford Property
30-May-2024	Jordan Bowles	.25	Check premises
		44.10	

BILLING SUMMARY			
PROFESSIONAL	HOURS	HOURLY RATE	AMOUNT
Akhil Kapoor	0.40	425.00	170.00
Aldis Makovskis	6.00	425.00	2,550.00
Chahna Nathwani	2.00	220.00	440.00
Deborah Hornbostel	0.30	550.00	165.00
Evani Patel	4.65	350.00	1,627.50
Jerry Henechowicz	25.30	650.00	16,445.00
Jordan Bowles	3.25	425.00	1,381.25
Lisa Visconti	0.40	220.00	88.00
Matthew Lem	0.10	650.00	65.00
Misha Chopra	0.60	220.00	132.00
Upasana Nayak	0.80	220.00	176.00
Yujun liu	0.30	375.00	112.50
Total	44.10		23,352.25

DISBURSEMENTS

Site Internet	77.95
Courier	86.25
	164.20

TOTAL FEES AND DISBURSEMENTS

23,516.45

Appendix “I”

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

BETWEEN:

CANADIAN WESTERN BANK

Applicant

-and-

1000179473 ONTARIO INC. and 2724393 ONTARIO INC.

Respondents

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

AFFIDAVIT OF VERONICA CESARIO

(sworn June 19, 2024)

I, **VERONICA CESARIO**, of the City of Vaughan, in the Province of Ontario **MAKE**

OATH AND SAY AS FOLLOWS:

1. I am a lawyer with the law firm of Chaitons LLP (“**Chaitons**”), lawyers for MNP Ltd., in its capacity as Court-appointed receiver of 1000179473 Ontario Inc. and 2724393 Ontario Inc. (the “**Receiver**”) and as such have knowledge of the matters to which I hereinafter depose.

2. Attached hereto as the following exhibits are copies of the following accounts issued by Chaitons to the Receiver totalling \$19,515.71 (comprised of fees of \$16,048, disbursements of \$1,237 and HST of \$2,230.71) with respect to this proceeding:

Exhibit “A” - Account for the period beginning March 1, 2024 up to and including March 31, 2024;

Exhibit “B” - Account for the period beginning April 1, 2024 up to and including April 30, 2024.

3. I confirm that the accounts described above accurately reflect the services provided by Chaitons in this matter and the fees and disbursements claimed by it from March 1 to April 30, 2024.

4. Attached hereto as **Exhibit “C”** is a summary of additional information with respect to Chaitons’ accounts, indicating all members of Chaitons who have worked on this matter, their year of call to the bar, total time charged and hourly rates, and I hereby confirm that this list represents an accurate account of such information.

SWORN remotely by Veronica Cesario of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, Province of Ontario, on this 19th day of June, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits
(or as may be)

}



Veronica Cesario

Laura Culleton

**THIS IS EXHIBIT "A" TO
THE AFFIDAVIT OF VERONICA CESARIO
SWORN BEFORE ME THIS 19TH
DAY OF JUNE, 2024**



A Commissioner Etc.

INVOICE NUMBER: 297006

March 31, 2024

MNP LTD.
1 ADELAIDE ST. EAST
SUITE 1900
TORONTO, ON M5C 2V9

Re: 1000179473 ONTARIO INC. AND 2724393 ONTARIO INC.
Our file: 005715-83731

FOR PROFESSIONAL SERVICES RENDERED on this matter up to and including March 31, 2024:

PROFESSIONAL FEES

SUBJECT TO HST	\$9,813.50	
SUB-TOTAL		\$9,813.50

DISBURSEMENTS

SUBJECT TO HST	\$566.00	
SUB-TOTAL		\$566.00
HST at 13.00%		\$1,349.34

GRAND TOTAL

\$11,728.84

Amount payable on the current invoice	\$11,728.84
Plus outstanding invoices on this matter	\$24,810.60
Amount Due	<u>\$36,539.44</u>
Trust Balance	

PROFESSIONAL FEES:

- Mar 5, 24 Telephone calls with J Henechowicz; E-mail correspondence to B Jaffe.
- Mar 6, 24 Telephone conference call with the bank and receiver with respect to missing fuel claim;
- Mar 6, 24 Meeting with H Chaiton, J Henechowicz, K Gordon, C Stark and T Thornton.
- Mar 11, 24 Receipt and review of e-mail correspondence from J Henechowicz; Reviewing draft second report of the Receiver.
- Mar 13, 24 E-mail correspondence to J Henechowicz regarding draft second report.
- Mar 14, 24 E-mail correspondence to J Henechowicz with comments on draft report.
- Mar 16, 24 Review draft Second Report;
- Mar 17, 24 Telephone call with L. Culleton;
- Mar 17, 24 E-mail correspondence and Telephone call with H Chaiton; Revising Second Report of the receiver.
- Mar 18, 24 Review and swear Fee Affidavit;
- Mar 18, 24 Revising Second Report of the Receiver; E-mail correspondence with J Henechowicz; Preparing appendices for second report; reviewing and commissioning fee affidavit of Veronica Cesario; Drafting factum for the sale approval and vesting order; E-mail correspondence with J Henechowicz regarding appendices.
- Mar 19, 24 Drafting notice of motion for sale approval and vesting order motion; reviewing agreement of purchase and sale; Reviewing revised fee affidavit; Drafting aide memoire; E-mail correspondence to J Henechowicz; Receipt and review of service e-mail from A De Pinto; Drafting factum.

- Mar 20, 24 E-mail correspondence to J Henechowicz; Researching precedents for permitting a receiver to file an assignment in bankruptcy on behalf of a Debtor; Drafting and revising factum; Revising draft order; E-mail correspondence with S Borenstein and M Shiner; Receipt and review of e-mail correspondence with A Shakespeare; Receipt and review of e-mail correspondence from M Crilly; Drafting participant information form.
- Mar 21, 24 Appearing for and attending at hearing for sale approval; E-mail correspondence with A Shakespeare and J Henechowicz; Receipt and review of the Endorsement of Justice Osborne; E-mail correspondence to the service list with Endorsement of Justice Osborne.
- Mar 25, 24 Revising factum; Telephone call with B Walia as third mortgagee.
- Mar 25, 24 Meeting with A Shakespeare, I Richardson, J Henechowicz; Telephone call with J Henechowicz.
- Mar 26, 24 Serving factum on service list; E-mail correspondence to N Citi regarding serving factum personally.
- Mar 27, 24 Receipt and review of e-mail correspondence from N Citi regarding personal service of factum on third mortgagees.
- Mar 28, 24 Telephone call with Balwinder Singh; E-mail correspondence with Justice Osborne; E-mail correspondence to service list with zoom details; Receipt and review of affidavits of service from N Citi; Uploading materials to caselines.
- Mar 29, 24 Review and comment on draft order;
- To all matters of a general nature not more particularly referred to herein;

TOTAL PROFESSIONAL FEES

HST at 13.00%

\$9,813.50

1,275.76

DISBURSEMENTS:

Subject to HST:

Service of Documents Taxable	\$566.00	\$566.00
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TOTAL DISBURSEMENTS

HST at 13.00%

\$566.00

73.58

GRAND TOTAL

\$11,728.84

CHAITONS LLP



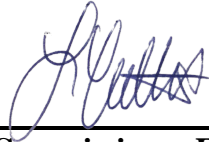
per:

Harvey Chaiton

LAWYERS' SUMMARY:

Lawyers and legal assistants involved	Hourly Rate	Hours Billed	Total Billed
HARVEY G. CHAITON	\$895.00	2.30	\$2,058.50
VERONICA CESARIO	\$300.00	0.10	\$30.00
LAURA CULLETON	\$375.00	20.60	\$7,725.00
Total:		23.00	\$9,813.50

**THIS IS EXHIBIT "B" TO
THE AFFIDAVIT OF VERONICA CESARIO
SWORN BEFORE ME THIS 19TH
DAY OF JUNE, 2024**



A Commissioner Etc.

INVOICE NUMBER: 297715

May 9, 2024

MNP LTD.
1 ADELAIDE ST. EAST
SUITE 1900
TORONTO, ON M5C 2V9

Re: 1000179473 ONTARIO INC. AND 2724393 ONTARIO INC.
Our file: 005715-83731

FOR PROFESSIONAL SERVICES RENDERED on this matter up to and including April 30, 2024:

PROFESSIONAL FEES

SUBJECT TO HST	\$6,234.50	
SUB-TOTAL		\$6,234.50

DISBURSEMENTS

NON TAXABLE	\$125.70	
SUBJECT TO HST	\$545.30	
SUB-TOTAL		\$671.00
HST at 13.00%		\$881.37

GRAND TOTAL

\$7,786.87

Amount payable on the current invoice	\$7,786.87
Plus outstanding invoices on this matter	\$0.00
Amount Due	<u>\$7,786.87</u>
Trust Balance	\$356.00

PROFESSIONAL FEES:

- Apr 1, 24 Review draft order;
- Apr 1, 24 Drafting and preparing Confidential Appendix Brief for Justice Osborne; Revising draft order; Preparing blackline to model order; E-mail to service list with draft order and redlined order; Drafting affidavit of service of factum; Preparing for hearing tomorrow.
- Apr 2, 24 Receipt and review of order and signed endorsement;
- Apr 2, 24 Preparing for hearing for sale approval and vesting order; Drafting participant information form; Receipt and review of endorsement and signed order; E-mail correspondence to J Henechowicz; E-mail correspondence to H Chaiton; E-mail correspondence to service list with Endorsement and Order of Justice Osborne; E-mail correspondence with K Gordon regarding Endorsement and Order.
- Apr 10, 24 Receipt and review of letter of requisitions from TSC Law; E-mail correspondence to H Chaiton regarding same.
- Apr 11, 24 Receipt and review of letter of requisitions from TSC Law;
- Apr 15, 24 E-mail correspondence to K Hughes regarding sale transaction between MNP and purchaser of gas station and convenience store; E-mail correspondence to C Singh and K Hughes attaching requisition letter from purchaser's counsel.
- Apr 15, 24 To reviewing Asset purchase Agreement; To preparing closing documents; To reviewing requisition letter and response to requisitions; To e-mail correspondence with purchaser's counsel; To reviewing statement of adjustments; To e-mail correspondence with J. Henechowicz;
- Apr 15, 24 To e-mail communications with K. Hughes; to preparation of the closing folder agenda; to preparation of the statement of adjustments, flow of funds, application for vesting order and solicitor's undertaking and response to letter of requisitions; to completing writ of execution search; to completing assessment review appeals board search; to e-mail to S. Natt requesting for copy of the tax certificate and parcel PIN abstract;

- Apr 16, 24 Receipt and review of flow of funds and tax certificate; E-mail correspondence with C Singh.
- Apr 16, 24 To preparing closing documents; To e-mail correspondence with J. Henechowicz; To e-mail correspondence with purchaser's counsel; To review of application for vesting order;
- Apr 16, 24 To messaging the application for vesting order to purchaser's solicitor office; to updating flow of funds with commission invoice amount; to e-mail to S. Natt enclosing the statement of adjustments;
- Apr 17, 24 E-mail correspondence with C Singh; Reviewing and signing statement of law.
- Apr 17, 24 To attending to closing matters; To reviewing wire requisitions; To e-mail correspondence with purchaser's counsel; To e-mail correspondence with J. Henechowicz;
- Apr 17, 24 To e-mail communications with K. Hughes and L. Culleton with regards to the tax arrears and flow of funds; to e-mail to J. Henechowicz enclosing flow of funds for review; to e-mail to S. Natt enclosing signed sale closing documents; to e-mail to accounting notifying of incoming funds; to preparation of wire requisitions for net sale proceeds to client and payment of commission fees and trust cheque requisition for tax arrears; to preparation of cover letter and change of ownership letters; to completing HST registry search; to verbally confirming accounting information for client and real estate office; to obtaining signatures and to submission to accounting for processing;
- Apr 26, 24 Receipt and review of e-mail correspondence from C Singh;
- To all matters of a general nature not more particularly referred to herein;

TOTAL PROFESSIONAL FEES**\$6,234.50**

HST at 13.00%

810.49

DISBURSEMENTS:**Subject to HST:**

Service of Documents Taxable	\$446.70	
Real Estate Transaction Levy Taxable	\$65.00	
Teraview Charges Taxable	\$7.00	
Courier and Taxi Charges Taxable	\$26.30	
Photocopying Charges Taxable	\$0.30	
		\$545.30

Non-Taxable:

Teraview Charges Non-taxable	\$25.70	
Bank Service Charges Non-taxable	\$100.00	
		\$125.70

TOTAL DISBURSEMENTS

HST at 13.00%

\$671.00

70.89

GRAND TOTAL

\$7,786.87**CHAITONS LLP**

per:

Harvey Chaiton

LAWYERS' SUMMARY:

Lawyers and legal assistants involved	Hourly Rate	Hours Billed	Total Billed
HARVEY G. CHAITON	\$895.00	0.60	\$537.00
LAURA CULLETON	\$375.00	6.80	\$2,550.00
KATHRYN HUGHES	\$475.00	4.60	\$2,185.00
CAMELIA SINGH	\$275.00	3.50	\$962.50
Total:		15.50	\$6,234.50

**THIS IS EXHIBIT "C" TO
THE AFFIDAVIT OF VERONICA CESARIO
SWORN BEFORE ME THIS 19TH
DAY OF JUNE, 2024**



A Commissioner Etc.

SUMMARY

Lawyer	Year of Call	Hours Billed	Hourly Rate	Amount Billed
Harvey Chaiton	1982	2.90	\$895	\$2,595.50
Kathryn Hughes	2016	4.60	\$475	\$2,185.00
Laura Culleton	2021	27.40	\$375	\$10,275.00
Veronica Cesario	2023	0.10	\$300	\$30.00
Camelia Singh	Law Clerk	3.50	\$275	\$962.50
Total Hours and Amounts Billed		38.50		\$16,048.00
Average Hourly Rate			\$417	
Total Costs				\$1,237.00
Total Taxes (HST)				\$2,230.71
TOTAL				\$19,515.71

CANADIAN WESTERN BANK
Applicant

- and -

1000179473 ONTARIO INC. ET AL.

Respondents

Court File No. CV-23-00702801-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at TORONTO

AFFIDAVIT OF VERONICA CESARIO

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

Harvey Chaiton (21592F)
Tel: (416) 218-1129
Email: harvey@chaitons.com

Laura Culleton (82428R)
Tel: (416)-218-1128
Email: laurac@chaitons.com

Lawyers for MNP Ltd., Court-appointed
Receiver

CANADIAN WESTERN BANK

- and -

1000179473 ONTARIO INC. et al.

Applicant

Respondents

Court File No. CV-23-00702801-00CL

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

Proceedings commenced at TORONTO

**MOTION RECORD
(returnable June 24, 2024)**

CHAITONS LLP

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

Harvey Chaiton (LSO #21592F)

Tel: (416) 218-1129

Email: harvey@chaitons.com

Laura Culleton (LSO #82428R)

Tel: (416) 218-1128

Email: laurac@chaitons.com

**Lawyers for the Court-appointed
Receiver, MNP Ltd.**