

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

THE HONOURABLE MR. ) WEDNESDAY, THE 10<sup>th</sup> DAY  
JUSTICE PENNY ) OF NOVEMBER, 2021

BETWEEN:

**BANK OF MONTREAL**

Applicant

- and -

**1254044 ONTARIO LIMITED, 2431264 ONTARIO INC., 2189788 ONTARIO INC.,  
1552838 ONTARIO INC., 1786675 ONTARIO LIMITED, 2034039 ONTARIO INC.,  
2660556 ONTARIO LIMITED, 2541899 ONTARIO LIMITED  
and 2542372 ONTARIO INC.**

Respondents

APPLICATION UNDER Section 243 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

**APPROVAL OF ACTIVITIES, DISTRIBUTION AND DISCHARGE ORDER**

THIS MOTION, made by MNP Ltd., in its capacity as Court-appointed receiver (the “**Receiver**”) of the assets, undertakings and properties of 1254044 Ontario Limited, 2431264 Ontario Inc., 2189788 Ontario Inc., 1552838 Ontario Inc., 1786675 Ontario Limited, 2034039 Ontario Inc., 2660556 Ontario Limited, 2541899 Ontario Limited, and 2542372 Ontario Inc. for an order,

- (a) to the extent necessary, abridging or waiving the time for service and filing of the Notice of Motion and all materials filed in support thereof, validating the method of service, and dispensing with further service so that this motion is properly returnable on November 10, 2021;
- (b) approving the Fifth and Final Report to the Court of the Receiver dated October 22, 2021 (the “**Fifth Report**”) and the activities and actions of the Receiver described therein;
- (c) sealing the confidential supplement (the “**Confidential Supplement**”) to the Fifth Report;
- (d) approving the R&D, as defined in the Fifth Report;
- (e) approving the professional fees of the Receiver and its legal counsel (the “**Professional Fees**”);
- (f) subject to the repayment by the Receiver of the amounts secured under the Receiver’s Borrowings Charge (as defined in the Appointment Order) and the payment of the Professional Fees and other residual costs and expenses incurred in the administration of the receivership estate, approving the distributions to Bank of Montreal (“**BMO**”) and Canadian Imperial Bank of Commerce (“**CIBC**”) in respect of their secured claims of all remaining funds in the receivership estate, but not to exceed the amount of their secured claims, as set out in Section 7.0 of the Fifth Report;

- (g) subject to the Receiver completing its administration of the receivership estate as described in the Fifth Report and filing a certificate of completion with the court, discharging MNP as Receiver of the assets, undertakings and properties of the Debtors and releasing MNP from any and all liability, save and except for any gross negligence or wilful misconduct on the Receiver's part.
- (h) such further and other relief as counsel may advise and this Honourable Court may deem just.

was heard this day via judicial videoconference due to the Covid-19 pandemic .

ON READING the Fifth Report and on hearing the submissions of counsel for the Receiver and such other counsel that were present as listed on the participant information sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for and method of service of the Notice of Motion and the Motion Record are hereby abridged and validated, as necessary, and hereby dispenses with further service thereof so that this motion is properly returnable today;
2. THIS COURT ORDERS that the Fifth Report and the activities and actions of the Receiver described therein are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

3. THIS COURT ORDERS that the R&D, as defined in the Fifth Report, be and the same is hereby approved;

4. THIS COURT ORDERS that the Professional Fees of the Receiver and its legal counsel, Miller Thomson LLP, as described in the fee affidavits of Rob Smith sworn October 19, 2021 and Sherry Kettle sworn October 26, 2021, including the Estimated Fees Accrual as defined in the Fifth Report, be and the same are hereby approved.

5. THIS COURT ORDERS that the Confidential Supplement to the Fifth Report shall be sealed until the earlier of a) the completion of the Transaction (as defined in the Fifth Report), and b) further order of this Court;

6. THIS COURT ORDERS that subject to the repayment by the Receiver of the amounts secured under the Receiver's Borrowings Charge (as defined in the Appointment Order) and the payment of the Professional Fees and other residual costs and expenses incurred in the administration of the receivership estate, the Receiver is authorized to distribute to BMO and CIBC in respect of their secured claims all remaining funds in the receivership estates, but not to exceed the amount of their secured claims, as set out in Section 7.0 of the Fifth Report;

7. THIS COURT ORDERS that upon the Receiver filing a certificate certifying that it has completed the administration of the receivership estate, including the Outstanding Matters (as defined in the Fifth Report) the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Respondent provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the

administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of MNP Ltd. in its capacity as Receiver.

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

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

10. THIS COURT ORDERS that, notwithstanding Rule 59.05, this order is effective from the date that it is made, and is enforceable without any need for entry and filing. In

accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

A handwritten signature in blue ink, appearing to read "R. J.", is written above a horizontal line.

*Justice, Ontario Superior Court of Justice*

BANK OF MONTREAL

and

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Court File No. CV-19-00629058-00CL

Applicant

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**APPROVAL OF ACTIVITIES, DISTRIBUTION AND  
DISCHARGE ORDER**

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properties of 1254044 Ontario Limited, 2431264  
Ontario Inc., 2189788 Ontario Inc., 1552838  
Ontario Inc., 1786675 Ontario Limited, 2034039  
Ontario Inc., 2660556 Ontario Limited, 2541899  
Ontario Limited, and 2542372 Ontario Inc.