

Court File No: CV-23-00698764-00CL

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

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

MOTION RECORD

April 23, 2024

BORDEN LADNER GERVAIS LLP

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Lawyers for MNP Ltd., the Receiver

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

BANK OF MONTREAL

Applicant

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2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

I N D E X

TAB	DOCUMENT
1.	Notice of Motion returnable April 29, 2024
2.	First Report of the Receiver dated April 22, 2024
	Appendix A Appointment Order dated July 21, 2023
	Appendix B Endorsement of Justice Kimmel dated July 21, 2023
	Appendix C Endorsement of Justice Kimmel dated September 29, 2023
	Appendix D Endorsement of Justice Kimmel dated November 6, 2023
	Appendix E Endorsement of Justice Kimmel dated November 23, 2023
	Appendix F Security Opinion of Borden Ladner Gervais LLP
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	Appendix H Receiver's Interim Statement of Receipts and Disbursements
	Appendix I Fee Affidavit of Deborah Hornbostel sworn April 22, 2024
	Appendix J Fee Affidavit of Christine Mason sworn April 22, 2024
3.	Draft Discharge Order

Tab 1

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

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

**NOTICE OF MOTION
(Returnable April 29, 2024)**

MNP Ltd. (“**MNP**”), in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”) of all the assets, undertakings and properties of 2243080 Ontario Inc. (“**224**”) and 2496287 Ontario Inc. (“**249**”, and collectively with 224, the “**Debtors**”), will make a motion to a judge presiding over the Commercial List on April 29, 2024 at 10:30 a.m. or as soon after that time as the motion can be heard by Judicial Video Conference via Zoom, Toronto, Ontario.

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

THIS MOTION IS FOR:

1. An Order substantially in the form attached at Tab 3 of the Motion Record:
 - (a) abridging the time for service of the Notice of Motion and the Motion Record and validating service so that the motion is properly returnable on April 29, 2024 and dispensing with the requirement for any further service thereof;
 - (b) approving the first report of the Receiver dated April 22, 2024 and the appendices thereto (the “**First Report**”) and the activities of the Receiver described therein;

- (c) approving the Receiver's Statement of Receipts and Disbursements as at April 18, 2024;
- (d) approving the fees and disbursements of the Receiver for the period from July 21, 2023 to April 18, 2024 and approving the estimated fees and disbursements of the Receiver up to its date of discharge, as described in the affidavit of Deborah Hornbostel, sworn April 22, 2024 (the "**Hornbostel Affidavit**");
- (e) approving the fees and disbursements of Borden Ladner Gervais LLP ("**BLG**"), legal counsel to the Receiver for the period from July 20, 2023 to March 31, 2024 and approving the estimated fees and disbursements of BLG for services to be provided to the Receiver, up to the date of discharge, as described in the affidavit of Christine Mason, sworn April 22, 2024 (the "**Mason Affidavit**");
- (f) authorizing the Receiver to pay any professional fees or disbursements of the Receiver and BLG, which exceed the estimates set out in the Hornbostel Affidavit and the Mason Affidavit, with either: (i) the consent of 145Guelph Inc.; or (ii) pursuant to a further Order of the Court;
- (g) terminating, discharging and releasing the Receiver's charge (the "**Receiver's Charge**"), as defined in and created by the Order of Madam Justice Kimmel dated July 21, 2023 (the "**Appointment Order**"), upon the Receiver filing a discharge certificate with the Court, substantially in the form attached to the draft Discharge Order as Schedule "A" (the "**Discharge Certificate**");
- (h) relieving the Receiver of any and all financial liabilities relating to the Warren Property (as defined below) and/or 224 and requiring 224 to be responsible for any and all such unpaid liabilities incurred prior to or during the receivership proceedings;
- (i) ruling off and expunging the registration of the Appointment Order on title to the real property described as PT LTS 37 & 38 RCP 84S DUNNET BEING PART 1 ON 53R20501, PART 2 ON 53R15743 & PT 1 ON 53R12570; S/T S111419;

MUNICIPALITY OF MARKSTAY-WARREN, municipally known as 8824 Hwy. 17 E., Warren, Ontario (the “**Warren Property**”), as registered in the Land Registry Office for the Land Titles Division of Sudbury (No. 53) on December 14, 2023 as Instrument No. SD489426 (the “**Registered Order**”), upon the filing of the Discharge Certificate;

- (j) discharging MNP as the Receiver of the Debtors and releasing and discharging MNP from any and all liability MNP now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of MNP while acting in its capacity as Receiver in these proceedings, subject to the filing of the Discharge Certificate with the Court certifying that the Receiver has attended to certain remaining matters, as described in the Receiver’s First Report; and
2. Such other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) BMO had advanced various loan facilities to 224 (collectively, the “**224 Indebtedness**”) which were secured by a general security agreement, a mortgage on certain real property municipally known as 9279 Hwy. 11, Cumberland Beach, Ontario (the “**Cumberland Property**”) in the principal amount of \$2,920,000, and a mortgage on the Warren Property in the amount of \$3,100,000 (the “**Warren Mortgage**”) (collectively, the “**224 Security**”). There is a second mortgage registered on title to the Warren Property in favour of 145Guelph Inc. (“**145**”) as mortgagee (the “**Second Mortgagee**”);
- (b) In accordance with the terms of the Appointment Order, MNP was appointed Receiver by this Court pursuant to the Appointment Order, which came into effect on December 13, 2023, when the Debtors were unable to obtain financing for the Warren Property and repay the remaining indebtedness of 224 to BMO, on or before December 13, 2023;
- (c) On December 14, 2023, the Appointment Order was registered on title to the

Warren Property;

- (d) Pursuant to an assignment agreement dated as of April 2, 2024 (the “**Assignment Agreement**”) between BMO, as assignor, and the Second Mortgagee, as assignee (the “**Assignee**”), BMO assigned the remaining balance of the 224 Indebtedness in the amount of \$659,698.10 and the 224 Security to the Assignee, including the Warren Mortgage;
- (e) Pursuant to the Assignment Agreement, the Assignee assumed the position of BMO as the first mortgagee registered on title to the Warren Property and retains its position as the second mortgagee registered on title to the Warren Property, thereby maintaining the status quo of the secured claims against the Debtors;
- (f) Subsequent to the Assignment, the Receiver has worked with the Assignee to identify various unsecured debts of the Debtor, 224, and to coordinate payment of same, the details of which are set out in the First Report;
- (g) The Assignee has expressed that it is not supportive of the continuation of these receivership proceedings and the incurrence of further costs and expenses in connection therewith;
- (h) Accordingly, it is appropriate for the Receiver, at this juncture, to seek Court approval for the discharge of the Receiver, upon the filing of the Discharge Certificate;
- (i) The Receiver has performed a variety of activities in furtherance of its responsibilities under the Receivership Order, as set out in the First Report;
- (j) In performing the activities outlined in the First Report, the Receiver and the Receiver’s legal counsel, BLG, have provided professional services and incurred fees and disbursements;

- (k) It is appropriate for the Receiver to seek Court approval of the fees and disbursements of the Receiver and the Receiver's legal counsel, BLG, to completion;
- (l) It is appropriate for the Receiver to seek Court approval for the termination of the existing Court-ordered charges and the ruling off and expunging of the Registered Order from title to the Warren Property, upon the filing of the Discharge Certificate;
- (m) The provisions of the *Bankruptcy and Insolvency Act* and the inherent and equitable jurisdiction of this Court;
- (n) Rules 1.04, 2.03, 3.02, and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (o) Section 249 of the *Bankruptcy and Insolvency Act*; and
- (p) Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Receiver's First Report to the Court dated April 22, 2024;
- (b) the Affidavit of Deborah Hornbostel, sworn April 22, 2024;
- (c) the Affidavit of Christine Mason, sworn April 22, 2024; and
- (d) such further and other material as counsel may advise and this Court may permit.

April 23, 2024

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BANK OF MONTREAL

- and -

Court File No: CV-23-00698764-00CL
2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Applicant

Respondents

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

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(Returnable April 29, 2024)

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Lawyers for MNP Ltd., the Receiver

Tab 2

Court File No.: CV-23-00698764-00CL

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

**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**

BETWEEN

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. AND 2496287 ONTARIO INC.

Respondents

**FIRST REPORT OF MNP LTD. AS RECEIVER OF
2243080 ONTARIO INC. AND 2496287 ONTARIO INC.**

APRIL 22, 2024

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- Appendix "B" Endorsement of Justice Kimmel dated July 21, 2023
- Appendix "C" Endorsement of Justice Kimmel dated September 29, 2023
- Appendix "D" Endorsement of Justice Kimmel dated November 6, 2023
- Appendix "E" Endorsement of Justice Kimmel dated November 23, 2023
- Appendix "F" Security Opinion of Borden Ladner Gervais LLP
- Appendix "G" BMO Security Assignment Agreement to 145 Guelph Inc.
- Appendix "H" Receiver's Interim Statement of Receipts and Disbursements
- Appendix "I" Fee Affidavit of Deborah Hornbostel sworn April 22, 2024
- Appendix "J" Fee Affidavit of Christine Mason sworn April 22, 2024

INTRODUCTION

1. The Bank of Montreal (“**BMO**”) made an application to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) that was heard on July 21, 2023 for the appointment of MNP Ltd. (“**MNP**”) as the Receiver of 2243080 Ontario Inc. (“**224**”) and 2496287 Ontario Inc. (“**249**”) (collectively the “**Debtors**”).
2. 224 owned and operated two gas stations with convenience stores on properties owned by 224, one being an Ultramar branded station at 9279 Hwy 11, Cumberland Beach, Ontario (the “**Cumberland Property**”) and the other an Esso branded station at 8824 Hwy 17E, Warren, Ontario (the “**Warren Property**”). 249 owned and operated one Esso branded gas station and convenience store located on property owned by 249 at 2260 Hwy 7E., Pickering ON (the “**Pickering Property**”).
3. Defaults of the loans to the Debtors commenced in January 2022. At the time of the July 21, 2023 hearing, BMO was owed approximately \$6.8 million in total from the Debtors pursuant to secured mortgages and general security agreements. The loans and security of 224 and 249 are cross guaranteed.
4. At the hearing on July 21, 2023, upon being advised by the Debtors that they had conditional offers for the Cumberland Property and Warren Property and a financing commitment for the Pickering Property, the Court granted the receivership order but stayed it until the earlier of September 30, 2023, or a triggering event, which was to be agreed to by the Applicant and the Respondents and incorporated into the receivership order. A copy of the July 21, 2023 Court Order (the “**Appointment Order**”) is attached hereto as **Appendix “A”**. A copy of the Endorsement of Justice Kimmel dated July 21, 2023 is attached hereto as **Appendix “B”**.

5. On September 29, 2023 the Court was advised that sale of the Cumberland Property had been completed but there had been a delay in the closing of one of the other contemplated transactions upon which the Appointment Order was stayed. With the consent of BMO, certain triggering event dates were extended including payment of sale proceeds from the sale of the Pickering Property to BMO by November 14, 2023 and final repayment for the remaining loan balance to November 24, 2023 pursuant to the Endorsement of Justice Kimmel dated November 6, 2023 attached hereto as **Appendix "C"**.
6. On November 23, 2023 the Court was advised that the Pickering Property transaction had been completed and but more time was required to complete a sale of the Warren Property. With the consent of BMO, Justice Kimmel once again extended the final repayment deadline to 5:00 PM on December 13, 2023, failing which the Receivership Order would become effective. A copy of the November 23, 2023 Endorsement of Justice Kimmel is attached hereto as **Appendix "D"**.
7. A sale of the Warren Property did not take place by December 13, 2023 and at 5:00PM that day the Appointment Order became effective.
8. The Application Record, Appointment Order and all other publicly available information in these proceedings, have been posted to the Receiver's website (the "**Receiver's Website**"), which can be found at: <https://mnpdebt.ca/en/corporate/corporate-engagements/2243080-ontario-inc>.

PURPOSE OF THIS REPORT

9. The purpose of this first report of the Receiver (the "**First Report**") is to:
 - (a) report on the Receiver's activities since the date of its appointment on December 13, 2023 (the "**Appointment Date**");

- (b) provide the Court with notice of the assignment of BMO's security to 145Guelph Inc. ("**145Guelph**");
- (c) provide this Court with the evidentiary basis to make an order (the "**Discharge Order**"), *inter alia*:
 - (i) approving the Receiver's Interim Statement of Receipts and Disbursements as at April 18, 2024;
 - (ii) approving the First Report and the actions of the Receiver described herein;
 - (iii) approving the fees and disbursements of the Receiver and the Receiver's counsel, Borden Ladner Gervais LLP ("**BLG**"), including estimated costs for completion;
 - (iv) granting a discharge of the Receiver, conditional upon receipt of all payments owing to the Receiver and to its legal counsel, BLG, with respect to fees and disbursements;
 - (v) certain other ancillary relief, as set out in the Motion Record of the Receiver; and
 - (vi) an order relieving the Receiver of any and all financial liabilities relating to the Warren Property and/or 224 and requiring 224 to be responsible for any and all such unpaid liabilities incurred prior to or during the receivership.

TERMS OF REFERENCE

10. In preparing this Report and making the comments herein, the Receiver has been provided with, and has relied upon:
 - (a) certain unaudited, draft and/or internal financial information, and books

and records of the Debtors;

(b) discussions with Kalyani and Rasakone Kapilan (the “**Kapilans**”), Directors of the Debtors; and

(c) information from other third-party sources (collectively, the “**Information**”).

11. Except as described in this 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 Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.
12. All currency references are in Canadian Dollars unless otherwise specified.

ACTIVITIES OF THE RECEIVER SINCE THE APPOINTMENT DATE

13. Immediately upon its appointment, the Receiver contacted the Kapilans, to request various information with respect to the creditors, operations and assets of the Debtors. The Receiver was advised by the Kapilans that there were no remaining assets owned by 249 and that the only remaining asset in the receivership proceeding was the Warren Property, which had not been operating for many months.
14. The Receiver attended at the Warren Property on December 14, 2023 to inspect and secure the premises. The locks were changed and the Receiver met with Mr. Kapilan and a prospective purchaser onsite that day.
15. The Kapilans advised that there were no wages, vacation pay or termination pay owing to former employees of the Debtors and therefore the Receiver did not administer any Wage Earner Protection Program claims. They also advised that the

only creditors of the Debtors in addition to BMO were Canada Revenue Agency (“**CRA**”), municipal taxes and hydro and propane accounts for 224.

16. The Receiver has performed its statutory obligations under the BIA and taken the appropriate conservatory and protective measures with respect to the Warren Property, including the shut off of the water supply, as there was no working furnace.
17. The Debtors have not provided the financial records of the Debtors and advised the Receiver that all such records were with their external accountant, Public Choice Accounting Services Inc. (“**PCASI**”). The Receiver provided the Court Order to PCASI to demand access to the information but has not been provided with any response. The Receiver understands that CRA is in the process of arranging for an audit of those records at PCASI in order to establish its trust claims against the Debtors.
18. The Receiver arranged for the reinstatement of 224’s insurance policy, which had been cancelled for non-payment prior to the effective date of the receivership, and the addition of the Receiver as loss payee and additional insured on that policy. The Receiver has been paying the premiums on a monthly basis and in accordance with that policy, the Receiver has been attending to the Warren Property twice weekly to inspect it.
19. On January 31, 2024, a neighbour of the Warren Property alerted the Receiver that a team of individuals were disassembling signage and other assets at the Warren Property. The Receiver promptly requested the OPP to attend at the property to investigate. The Receiver learned that Parkland Industries Ltd. (“**Parkland**”) had hired contractors to remove certain assets of 224.

20. Parkland did not notify of its intention to remove or claim these assets in advance to the Receiver. Parkland was provided with a copy of the Appointment Order and requested to provide documentation as to its claim to remove assets and subsequently instructed their contractors to cease any further action that day. To date, Parkland has still not responded and the paritally dismantled assets remain onsite.
21. During the receivership, the Warren Property was broken into twice through the back door. During the first break-in, the OPP apprehended and charged two local perpetrators. The second robbery was reported to the OPP by someone who noticed the back door ajar. The stolen items from the first robbery were recovered. No items of significant value appear to have been taken during either break-in. The Receiver attended to the door repairs promptly after each break-in.
22. On March 1, 2024 the Receiver obtained an updated Phase Two Environmental Assessment from BAE Environmental which did not identity any environmental concerns during that review.
23. The Receiver also obtained an appraisal of the Warren Property and sought listing proposals from realtors for that property. Due to the lack of financial information available to the Receiver and the difficulty in securing the services of a realtor for the Warren Property, the marketing process was delayed.
24. The Receiver received an independent security opinion from BLG attached hereto as **Appendix "F"** with respect to the BMO Security Registrations. Subject to the usual qualifications, assumptions and disclaimers expected with such an opinion, the opinion confirms the validity and enforceability of the BMO Security Registrations. We note that during the security review process, BLG discovered a writ filed against 224 by Workplace Safety and Insurance Board ("**WSIB**") in the

amount of \$4,255.30 that was filed on or about November 1, 2023.

ASSIGNMENT OF BMO'S SECURITY TO 145GUELPH AND DISCHARGE OF THE RECEIVER

25. On April 5, 2024 the Receiver was advised by counsel for BMO that it had completed an assignment of the BMO security to 145Guelph for full payment of its debt in the amount of \$660,160.15. Copies of the Assignment Agreement, registrations thereof in the Land Registrar and PPSA, and payment confirmation to BMO are attached hereto as **Appendix "G"**.
26. On that same day, counsel for 145Guelph advised the Receiver of its desire to terminate the receivership proceedings and discharge the Receiver. The Receiver confirmed at that time that it would seek a court date to obtain its discharge.

NON BMO CREDITORS

27. On November 10, 2023, a mortgage in the amount of \$350,000 payable to 2431901 Ontario Inc. was registered on title to the Warren Property. It is the Receiver's understanding that this mortgage was granted in order to be able to discharge BMO's security at the closing of the sale of the Pickering Property.
28. The Receiver provided 145Guelph's counsel with the outstanding pre-receivership invoices payable by 224 for propane and hydro and subsequently received confirmation of payment for those invoices by 145Guelph.
29. The Receiver subsequently became aware of the WSIB writ and advised 145Guelph's counsel of that claim. The Receiver has obtained a current statement of account and payment coordinates for that writ and provided it to 145Guelph for payment.

30. The only other non-secured liabilities that the Receiver is aware of with respect to the Debtors are to CRA for unremitted HST and payroll taxes, but to date, the accounts have not yet been audited and no claims has been received. The claims of CRA will remain payable by the Debtors following the Receiver's discharge.
31. The Receiver has remitted interim property tax payments to the municipality which should cover the period to approximately June 30, 2024.
32. Upon approval by the Court for the Receiver to be discharged, the Receiver will arrange to transfer the utility, insurance and property tax accounts back to 224. It will pay any current invoices outstanding. 224 will be responsible for all existing and ongoing liabilities including any non-disclosed liabilities.

RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

33. Attached hereto as **Appendix "H"** is the Receiver's Interim Statement of Receipts and Disbursements as at April 19, 2024 (the "**Interim R&D**"). As set out in the Interim R&D, the Receiver currently holds \$24,863.44. To date, no professional fees have been paid.
34. The Receiver borrowed \$50,000 from BMO pursuant to a Receiver's Certificate to cover expenses such as the appraisal, insurance premiums, property taxes, repairs and maintenance, utility charges and administrative fees. The Receiver's Borrowings were included in the payment amount remitted by 145Guelph to BMO.
35. The remaining funds on hand will be used to pay the final invoices due by the Receiver. 145Guelph has agreed to pay the professional fees of the Receiver and BLG. Any remaining funds in the Receiver's trust account at the completion of the administration will be remitted to 145Guelph.

FEES AND DISBURSEMENTS

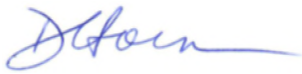
36. Attached hereto as **Appendix “I”** is the Fee Affidavit of Deborah Hornbostel, sworn April 22, 2024 (the **“Hornbostel Affidavit”**), which attaches a copy of the Receiver’s dockets pertaining to the receivership for the period July 21, 2023 to and including April 18, 2024. In total, the Receiver has incurred professional fees in the amount of \$103,195.80 plus applicable HST of \$13,415.45. The Receiver estimates additional fees required to finalize the receivership to be \$10,000, plus applicable HST, as described in the Hornbostel Affidavit.
37. Attached hereto as **Appendix “J”** is the Fee Affidavit of Christine Mason, sworn April 22, 2024, (the **“Mason Affidavit”**) which attaches a copy of the accounts of BLG, which reflects the services provided to the Receiver in the amount of \$36,743.00 plus disbursements of \$702.64 and applicable taxes in the amount of \$4,867.93 for a total of \$42,313.57 for the period July 20, 2023 to and including March 31, 2024, plus estimated additional fees of \$15,000 to completion, excluding disbursements and applicable HST, as described in the Mason Affidavit.
38. The Receiver has reviewed the accounts of BLG and given the Receiver’s involvement in this matter, the Receiver is of the opinion that all the work set out in BLG’s accounts was carried out and was necessary. The hourly rates of the lawyers at BLG who worked on this matter are reasonable in light of the services required and the services were carried out by lawyers with the appropriate levels of experience.

RECOMMENDATION

39. For the reasons discussed in this First Report, the Receiver recommends that the Court grant the requested order as outlined in paragraph 9.

The Receiver respectfully submits to the Court this First Report, dated April 22, 2024.

**MNP Ltd, in its capacity as the
Court-appointed Receiver of
2243080 Ontario Inc. and
2496287 Ontario Inc.,
and not in its personal or corporate capacity**
Per:

A handwritten signature in blue ink, appearing to read "D. Hornbostel", written over a horizontal line.

Deborah Hornbostel CPA, CA, CIRP, LIT, CFE
Senior Vice President

Appendix "A"



Court File No. CV-23-00698764-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

ORDER

THIS Application, brought 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. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2243080 Ontario Inc. ("224") and 2496287 Ontario Inc. ("249") (collectively the "Debtors") acquired for, or used in relation to business carried on by the Debtors, was heard this day at the Courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the affidavits of Visana Wong sworn May 1, 2023 and July 20, 2023 and the affidavits Kalyani Kapilan affirmed July 19, 2023 and 20, 2023, and the exhibits thereto and on hearing the submissions of counsel for the applicant and counsel for the respondents and on reading the consent of MNP Ltd. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application 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, subject to stay provision set out in paragraphs 3 through 8 below, pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP Ltd. 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").

EFFECTIVE DATE OF THIS ORDER AND CONDITIONS TO BE FULFILLED BY DEBTORS

3. THIS COURT ORDERS that this order shall not have immediate effect but shall become effective and in full force on the earliest of any of the following dates (the "**Effective Date**"):

- (a) 12:01 a.m. ET on August 7, 2023 unless by or before 5 p.m. ET on August 4, 2023 224 provides to the lawyers for the applicant a firm and binding agreement for mortgage financing of the property described in this proceeding as the Warren Property in an amount of not less than \$840,000 (the "**Warren Financing**"). For greater certainty, such commitment may include closing conditions that the lender shall at the time of closing (i) obtain a first mortgage over the Warren Property, (ii) receive title insurance (iii) be added as an additional insured under a liability policy, and (iv) confirmation that there are no realty taxes are then owing; but, shall not be conditional in favour of the lender on any other matter, including inspection, delivery of property records, review of financial records of 224, appraisal, environmental reports or any other matter that, if not fulfilled or waived, would entitle the lender not to advance funding.

- (b) The date on which the agreement of purchase and sale of the Pickering Property dated July 10, 2023 between 2686894 Ontario Ltd. as buyer and 249 as seller, in the form appended as Exhibit “B” to the affidavit of Kalyani Kapilan sworn July 19, 2023 (the “Kapilan Affidavit”), in unamended form (the “Pickering Agreement”), becomes null and void as a result of the inability, failure or refusal of either party to the transaction to fulfill any condition of sale or to deliver any waiver of any condition;
- (c) The date on which the agreement of purchase and sale of the Cumberland Property dated June 29, 2023 between Anton Resiah, in trust for a corporation to be incorporated, as buyer, and 224 as seller, in the form appended as Exhibit “E” to the Kapilan Affidavit, in unamended form (the “Cumberland Agreement”), becomes null and void as a result of the inability, failure or refusal of either party to the transaction to fulfill any condition of sale or to deliver any waiver of any condition;
- (d) The date on which the lawyer for 224 and 249, Jack Frymer (“Frymer”), in accordance with his undertaking to the Court and to the applicant, advises the lawyers for the applicant that either the buyer or the seller of the Pickering Property and/or the Cumberland Property, and/or the lender under the Warren Financing, is unable or unwilling, for any reason and whether permitted by law or not, to complete one or more of the transactions set out above;
- (e) The date on which the applicant’s lawyers are advised by Frymer that he is no longer retained by 224 or 249;
- (f) The Effective Date as determined under paragraph 6 below; and
- (g) 12:01 a.m. on October 2, 2023.

4. THIS COURT ORDERS that the effectiveness of this order shall be invoked by the applicant filing with the Court an affidavit of the applicant or of its lawyers confirming that that an Effective Date has been triggered and providing details of the triggering event.

5. THIS COURT ORDERS that, except as provided herein, none of the agreements referenced in paragraph 3 above shall be amended except with the written consent the applicant by its lawyers.

6. THIS COURT ORDERS that if 224 fulfills the requirements of paragraph 3(a) above, and the sales of the Pickering Property and the Cumberland Property close on or before September 27, 2023 but, after application of the total net proceeds of the Pickering Property and the Cumberland Property to the indebtedness of 224 and 249 to the applicant, including all interest and costs in accordance with the loan agreements between the parties and the applicant's security, the amount available to 249 under the Warren Financing is insufficient to repay the remaining indebtedness of 224 and/or 249 to the applicant, the Warren Financing shall be deemed null and void, any agreement for same shall be at an end and the date of the closing of the later of the Pickering Property or the Cumberland Property shall be deemed to be an Effective Date for the purposes of paragraph 3(f) above.

7. THIS COURT ORDERS that nothing herein shall bind or require the applicant to do anything that it would not otherwise be required to do under any agreements between the applicant and the Debtors. For greater certainty, the applicant shall not be required:

- (a) to provide partial discharges of any of its security;
- (b) to accept any funds pursuant to the Warren Financing prior to the completion of the sale of both the Pickering Property and the Cumberland Property pursuant to the Pickering Agreement and the Cumberland Agreement respectively.

8. THIS COURT ORDERS that, if prior to any Effective Date being triggered, the applicant is paid all amounts outstanding to the applicant by 224 and 249, including all interest and costs in accordance with the loan agreements between the parties and the applicant's security, this order shall not come into effect and the application shall be dismissed.

RECEIVER'S POWERS

9. 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 undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) 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;
- (k) 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;
- (l) 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 \$250,000.00, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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;
- (q) 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;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (s) to operate the business of the Debtors, with the benefit of any existing licenses, permits or authorizations that has been extended by any third party to the Debtors; and

- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- (u) 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

10. 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 its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

11. 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 11 or in paragraph 12 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.

12. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

14. 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

15. 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 are 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

16. 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

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

RECEIVER TO HOLD FUNDS

18. 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

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

PIPEDA

20. 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

21. 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

22. 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

23. 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, 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.¹

24. 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.

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

FUNDING OF THE RECEIVERSHIP

26. 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 \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. 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.

¹ Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".

27. 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.

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

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

SERVICE AND NOTICE

30. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/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 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

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

GENERAL

32. 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.

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

34. 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.

35. 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.

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

37. 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.

 Digitally signed by Jessica Kimmel
Date: 2023.07.31 16:03:07 -04'00'

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that MNP Ltd., the receiver (the "Receiver") of the assets, undertakings and properties of 2243080 Ontario Inc. and 2496287 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 _____ of _____, 2023 (the "Order") made in an action having Court file number _____-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the _____ day of MONTH, 20YR.

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

Per: _____

Name:

Title:

BANK OF MONTREAL

2243080 ONTARIO INC. ET AL

Applicant

and

Respondents

Court File No. CV-23-00698764-00CL

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

ORDER

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

Christopher J. Staples (LSUC #31302R)
Tel: 416-218-1147
chris@chaitons.com

Lawyers for the Applicant

Appendix “B”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00698764-00CL DATE: 21 July 2023

NO. ON LIST: 6

TITLE OF PROCEEDING: BANK OF MONTREAL v. 2243080 ONTARIO INC. ET AL.

BEFORE JUSTICE: KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
C. Staples (Mr.)	Bank of Montreal	chris@chaitons.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
J. Rosenstein	2243080 ONTARIO INC. & 2496287 ONTARIO INC.	jrosenstein@rosensteinlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

1. This applicant Bank of Montreal ("BMO") seeks to appoint MNP Ltd. as the receiver ("Receiver") of the present and future property, assets and undertaking of the two corporate respondents, 2243080 Ontario Inc. ("224") and 2496287 Ontario Inc. ("249") (collectively the "Companies") under s. 243(1) of the *Bankruptcy and Insolvency Act* (the "BIA") and s. 101 of the *Courts of Justice Act*.
2. 224 owns and operates two gas stations with convenience stores on properties owned by 224, one being an Ultramar branded station, located at 9279 Hwy. 11, Cumberland Beach, Ontario ("Cumberland") and the other an Esso branded station at 8824 Hwy. 17 E., Warren, Ontario ("Warren"). 224 owns the properties on which the gas stations are operated. The Cumberland gas station has not been operational since the fall of 2022.
3. 249 owns and operates one Esso branded gas station on property owned by 249 at 2260 Hwy. 7 E., Pickering, Ontario ("Pickering"). 249 owns the Pickering property.
4. The Bank has advanced mortgage and operating loans to 224 and 249 secured by mortgages against the properties described above and by general security agreements. These loans are in default. 224 is indebted to the Bank in a total amount of approximately \$4.2 million in principal. 249 is currently indebted to the Bank in a total amount of approximately \$2.35 million (in principal).
5. With interest, the current loan balances total \$4,441,017 for 224 (including \$267,337 in unpaid interest) and \$2,337,880 for 249 (including \$39,666 in unpaid interest), for a total debt owing of approximately \$6.8 million. The respondents have long since ceased making any payments to the Bank or depositing money to their accounts. The loans and security are cross-collateralized. The Bank's security provides for the appointment of a receiver.
6. The bank has been very accommodating since the initial defaults in January 2022, including having agreed to a standstill agreement in September 2022 and a forbearance agreement in December of 2022 that was extended by further agreement in February 2023 until May 1, 2023.
7. After the Companies had still failed to meet the standstill conditions, BMO delivered its demands for payment and BIA Notices of Intention to enforce security in November 2022, but nonetheless agreed to forbear in December 2022 and agreed to extend the forbearance agreement in February of 2023 which extension afforded the Companies until May 1, 2023 to meet the required conditions for repayment of the outstanding debt. The Companies had still not met the agreed upon conditions by May 1, 2023 and this application was commenced.
8. In the context of the first forbearance agreement, the Companies signed consents to the appointment of a receiver and manager.
9. The Bank is unquestionably entitled to the appointment of the Receiver under s. 243 of the BIA and authorities cited in the applicant's factum (see paragraphs 33-40). The contractual rights of the Bank under its general security agreements and mortgages, the persistent defaults, the Bank's prior indulgences, the demands and statutory notices, the fact that two of the properties are operating gas stations and that one is a former gas station (all of which can be expected to have environmental considerations to contend with in the context of any sale or refinancing) and the other factors identified in the record all support this conclusion, and the respondents do not seriously contest it. The only issue by way of opposition that has been raised by the respondents is whether it is just and convenient to do so at this time.
10. Since the application was commenced, and after the first adjournment that was granted at the request of the respondents, the Companies have now come to the court with evidence filed this week about two highly conditional agreements of purchase and sale in respect of the Warren and Cumberland properties and a conditional term sheet for a prospective financing in respect of the Pickering property (from an undisclosed lender).

11. While the Bank says that these agreements are too conditional and too late, there is some chance that the Companies might be able to close them and repay their debts to the Bank. The evidence suggests that the properties may have equity beyond the current indebtedness to the Bank. If the Bank is not underwater yet, then the cost of the Receiver (and there undoubtedly will be a cost) will reduce the remaining equity in the properties for the Companies. It is for this reason that I concluded that the Companies should be given one last chance to repay their indebtedness to the Bank before a receivership order comes into effect, but on very strict terms and conditions and with added safeguards and protections for the Bank in the interim. The Bank has no obligation to agree to a partial discharge of any of its security, so the three proposed transactions will need to be coordinated and all three will have to be successfully completed.
12. Given all the work that has been done, and what remains to be done by the respondents for them to avoid the receivership, I have determined that the appropriate way to proceed is to grant the requested receivership order but to stay or suspend it until the earlier of September 30, 2023 or a trigger date that will be determined by various events that could transpire in the interim that could render it impossible for any of the three currently proposed transactions to be completed (including, without limitation, that a firm financing commitment for the Pickering property will need to be in place by no later than August 4, 2023).
13. I have asked counsel to draft the terms of these triggering events to be incorporated into an order (or endorsement) for my consideration. Various additional safeguards and protections for the Bank were also discussed and are to be incorporated into this revised order (or endorsement), the default of which would also constitute triggering events. The intention is that if the triggering events occur the Bank will be able to act on the signed receivership order without having to come back to court.
14. If the parties are able to reach agreement on the wording of these items to be drafted then they may submit a consent draft order (and/or endorsement) to me for consideration through the commercial list office. If they are unable to come to a final agreement on the terms, they may request a 30-minute case conference before me sometime during the week of July 24, 2023. I approve them being added to the end of my list one day that week if there is no time available in the normally scheduled day.



KIMMEL J.

Appendix “C”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00698764-00CL DATE: 29 September 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: Bank of Montreal v. 2243080 Ontario Inc. et al.

BEFORE JUSTICE: KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
STAPLES, CHRISTOPHER	Bank of Montreal	chris@chaitons.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
ROSENSTEIN, JONATHAN	2243080 Ontario Inc.	jrosenstein@rosensteinlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

1. The parties (creditor and debtor) appeared before me on July 21, 2023, at which time a conditional receivership order was made, the terms of which were finalized as between the parties as reflected in an endorsement of July 31, 2023 and order dated July 21, 2023 (the "Order").
2. There has been a delay in the closing of one of the contemplated transactions upon which the order is conditioned.
3. The creditor and the debtor have agreed to terms to extend the time when the order will automatically go into effect as follows:

Conditional on the Debtor paying \$300,000 to BMO on or before October 3, 2023 at 5 pm, which amounts, when paid will immediately be applied to reduce the outstanding debt:

- a) **Paragraph 3(g) of the Order is changed from 12:01 a.m. on October 2, 2023 to 12:01 a.m. on November 10, 2023 and**
 - b) **Paragraph 6 of the Order is amended to reflect that closing of the Pickering property is extended from September 27, 2023 to November 6, 2023 with net proceeds of sale paid to BMO to be an amount of not less than \$4,000,000.**
4. These changes to the court's previous Order are hereby approved, with immediate effect and without the necessity of a further or amended order being taken out.



KIMMEL J.

Appendix “D”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00698764-00CL DATE: 6 November 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: **BANK OF MONTREAL v. 2243080 ONTARIO INC. ET AL.**

BEFORE JUSTICE: **KIMMEL**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Christopher Staples	Bank of Montreal	Chris@chaitons.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Jonathan Rosenstein	2243080 ONTARIO INC. 2496287 ONTARIO INC.	jrosenstein@rosensteinlaw.ca

ENDORSEMENT OF JUSTICE KIMMEL:

1. The parties (creditor and debtors) appeared before me on July 21, 2023, at which time a conditional receivership order was made, the terms of which were finalized as between the parties as reflected in an endorsement of July 31, 2023 and order dated July 21, 2023 (the "Order").
2. There was an initial delay in the closing of one of the contemplated transactions upon which the order is conditioned that resulted in an extension of certain deadlines in the Order. That extension was implemented by an endorsement dated September 29, 2023.

3. There has been a further delay in the closing of one of the contemplated transactions and the parties are seeking a brief further extension of certain deadlines in the Order, as follows:

The Applicant and Respondents have agreed to terms amending the receivership order issued by Justice Kimmel dated July 21, 2023 (the Order) to extend the time upon which the order will automatically go into effect as follows:

- a. **Paragraph 3(g) of the Order is changed from 12:01 a.m. on November 10, 2023 to 12:01 am on November 24, 2023, and**
 - b. **Paragraph 6 of the Order is amended to reflect that closing of the Pickering property is extended from November 6, 2023 to November 10, 2023 with net proceeds of sale in the minimum amount of \$4,150,000 to be paid to BMO no later than November 14, 2023.**
4. These changes to the court's previous Order are hereby approved, with immediate effect and without the necessity of a further or amended order being taken out.

A handwritten signature in cursive script that reads "Kimmel J.".

KIMMEL J.

Appendix “E”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00698764-00CL

DATE: 23 November 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: Bank of Montreal v. 2243080 Ontario Inc. et al.

BEFORE JUSTICE: KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
STAPLES, CHRISTOPHER	Bank of Montreal	chris@chaitons.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
ROSENSTEIN, JONATHAN	2243080 Ontario Inc.	jrosenstein@rosensteinlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

1. The parties (creditor and debtor) appeared before me on July 21, 2023, at which time a conditional receivership order was made, the terms of which were finalized as between the parties as reflected in an endorsement of July 31, 2023 and order dated July 21, 2023 (the “Order”).
2. There was a delay in the closing of one of the contemplated transactions upon which the order is conditioned that led the parties to agree to terms to extend the time when the order would have automatically gone into effect. Those agreed terms were detailed in my September 29, 2023 endorsement. The outside Effective Date was further extended to November 24, 2023, on consent, on terms detailed in my November 6, 2023 endorsement.
3. The parties advise that two of the properties have now sold, but there remains a refinancing transaction for the third property which is once again delayed. The lender has, once again, agreed to delay implementation. In the meantime, the Bank of Montreal debt has now been reduced from almost \$7,000,000 to under \$600,000 as a result of the two sales.
4. In light of these arrangements, the parties are seeking a brief further extension of certain deadlines in the Order, as follows:

The Applicant and Respondents have agreed to terms amending the receivership order issued by Justice Kimmel dated July 21, 2023 (the Order) to extend the time upon which the Order will automatically go into effect as follows:

- a) Paragraphs 3 (a), (b), (c) and (d) are hereby deleted from the Order;
 - b) Paragraph 3 (g) of the Order is changed from 12:01 a.m. on November 24, 2023 to 5 p.m. on December 13, 2023; and
 - c) Paragraph 6 of the Order is amended to read as follows in its entirety: “This Court orders that if the Respondents are unable to obtain financing for the Warren Property and to repay the remaining indebtedness of 224 and/or 249 inclusive of principal, interest, fees, costs and third party liabilities in full to the Applicant on or before December 13, 2023 then December 13, 2023 at 5 pm shall be deemed to be an Effective Date for the purposes of paragraph 3(f) above.”
5. These changes to the court’s previous Order are hereby approved, with immediate effect and without the necessity of a further or amended order being taken out.



KIMMEL J.

Appendix “F”

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada M5H 4E3
T 416.367.6000
F 416.367.6749
blg.com



February 2, 2024

DELIVERED BY EMAIL

**PRIVILEGED AND CONFIDENTIAL
SOLICITOR AND CLIENT COMMUNICATION**

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

Attention: Deborah Hornbostel

Dear Sirs:

Re: Review of security granted by 2243080 Ontario Inc. (“**224**”) and 2496287 Ontario Inc. (“**249**” and together with “**224**”, the “**Debtors**” and each a “**Debtor**”) to Bank of Montreal (the “**Bank**”)

MNP Ltd. has been appointed as receiver, without security, of all the assets, undertakings and properties of the Debtors (in such capacity, the “**Receiver**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* (Ontario).

In connection with your appointment as Receiver, you have asked us to review the Ontario law governed security granted by the Debtors to the Bank in connection with the following (collectively, the “**Loan Documents**”):

- a) Letter of Agreement dated October 1, 2019 between the Bank and 224 as amended and restated by the Letter of Agreement – Amendment & Restatement dated November 10, 2020 between 224 and the Bank;
- b) Operating Loan Agreement dated November 12, 2019 between the Bank and 224;
- c) Promissory Note dated November 12, 2019 in the amount of \$2,050,000 from 224 in favour of the Bank;
- d) Promissory Note dated November 12, 2019 in the amount of \$2,150,000 from 224 in favour of the Bank;
- e) Letter of Agreement dated October 1, 2019 between the Bank and 249;

- f) Operating Loan Agreement dated November 12, 2019 between the Bank and 249;
- g) Promissory Note dated November 12, 2019 in the amount of \$2,425,000 from 249 in favour of the Bank;
- h) Limited Guarantee (\$4,000,000) of 224 dated February 23, 2023 from 249 in favour of the Bank;
and
- i) Limited Guarantee (\$2,000,000) of 249 dated February 23, 2023 from 224 in favour of the Bank.

For the purposes of this opinion, we have reviewed the documents listed in Schedule “A” attached hereto (the “**Security Documents**”) and the search results described in Schedule “C” attached hereto. The Loan Documents and the Security Documents are sometimes collectively referred to as the “**Documents**”.

You have asked us to provide you with an opinion in connection with the Security Documents. Specifically, you have asked us to opine on whether such security is valid, perfected and effective/enforceable against the property, assets and undertaking of the Debtor subject to such security.

We do not act for the Debtors or the Bank in this matter and did not act in the preparation of the Security Documents or the registration of them.

I. SCOPE OF REVIEW

We reviewed the Documents generally to identify any aspect of the Documents or any registrations which did not appear complete and regular on their face or which appeared to raise other problems. In conducting our review we have assumed:

1. with respect to the documents examined by us, the genuineness of all signatures, the legal capacity of individuals signing any documents, the authenticity of all documents submitted to us as originals and the conformity to authentic original documents of all documents submitted to us as certified or photocopied copies;
2. the Bank’s standard form documents are effective to create legal, valid and binding security and other obligations to the Bank in accordance with their terms;
3. that there are no agreements to which the Debtor is a party which might impair the Debtor’s ability to grant security or perform their obligations under the Documents;
4. that the descriptions in the Security Documents of the property and assets intended to be secured thereby are correct and complete;
5. that the indices and records in all filing systems maintained in all public offices where we have searched or inquired or have caused searches or inquiries to be conducted are accurate and current, and all certificates and information issued or provided pursuant thereto are and remain accurate and complete;

6. that all of the Documents have been duly authorized, executed and delivered by all parties to them, and that the authorization, execution and delivery of the Documents by the Debtor and the performance of its obligations thereunder, does not breach any constating documents of the Debtor or any laws to which the Debtor is subject;
7. that the only Canadian jurisdiction where the Debtors carry on business is Ontario.

In addition to the foregoing, our opinion is subject to the qualifications and limitations as set out in Schedule "B" to this letter.

II. OUR OPINION ON THE SECURITY DOCUMENTS

Personal Property Security

1. Each Personal Property Security Document constitutes legal, valid and binding obligations of the Debtor that is a party thereto under the laws of the Province of Ontario, enforceable against such Debtor in accordance with their terms.
2. Each Personal Property Security Document creates, under the laws of the Province of Ontario, a valid security interest in favour of the Bank in the property described in the Personal Property Security Documents and subject to such security interest, which includes all of the present and after-acquired personal property, assets and undertaking of the applicable Debtor (the "**Collateral**"), to secure payment and performance of the obligations described therein as being secured thereby, including, without limitation, the obligations of such Debtor under the Loan Documents.
3. The security interests created by the Personal Property Security Documents in favour of the Bank in the Collateral to which the *Personal Property Security Act* (Ontario) (the "**PPSA**") applies have been perfected by registration under the provisions of the PPSA.

Real Property Security

4. The Charge registered in the Land Titles Office in favour of the Bank upon the Real Property constitutes a good and valid first mortgage and charge upon the Real Property.
5. The GAR registered in the Land Titles Office in favour of the Bank upon the Real Property constitutes a good and valid first assignment of rents and leases.
6. The Charge and the GAR have been duly registered in the Land Titles Office against the Real Property.

The foregoing opinions are subject to our below comments.

III. SPECIFIC COMMENTS

1. Subsequent Charge

Subsequent to the registration of the Charge and the GAR in favour of the Bank, a Charge/Mortgage was registered in the Land Titles Office upon: (i) the Real Property; and (ii) the property

municipally known as 2250 Highway 7 East, Pickering and legally described in PIN 26401-0047(LT) (the “**2250 Property**”) in favour of 2431901 Ontario Inc. on November 1, 2023 as Instrument No. SD487462 (the “**Subsequent Charge**”) pursuant to which the full payment of one Charge shall be considered payment of both Charges and, upon payment, 224 shall be entitled to a discharge of both Charges.

Since the Subsequent Charge has been discharged from the 2250 Property upon payment, the Subsequent Charge should also be discharged from the Real Property in accordance with the terms thereof.

2. Writ of Execution

Our search of writs of execution filed pursuant to the *Execution Act* (Ontario) in the applicable enforcement offices in Ontario on December 14, 2023 disclosed a writ filed against 2243080 Ontario Inc. in the enforcement office of Sudbury on or about November 1, 2023 by Workplace Safety and Insurance Board, as creditor, bearing certificate number 48529756-2110978B in the amount of \$4,255.30 with an interest rate of 12.0%.

3. Real Property Taxes

There is \$1,787.30 in tax arrears in respect of the Real Property as of January 10, 2024. This amount will go up by 1.25% if unpaid as of January 31, 2024.

IV. SEARCHES

We conducted the following searches against the Debtors in Ontario under the following statutes to identify the relative competing claims to the personal property described in the Security Documents:

- (a) *Bankruptcy and Insolvency Act* (Canada);
- (b) Section 427 of the *Bank Act* (Canada);
- (c) *Execution Act* (Ontario);
- (d) *Personal Property Security Act* (Ontario).

The filings and registrations found in respect of searches conducted on items (a) through (d) above are summarized in Schedule “C” to this letter.

Also attached at Schedule “C” to this letter is the Parcel Registry, Planning Act search summary and Property Tax Certificate relating to the Real Property.

In addition, the general prohibition under Section 50 of the *Planning Act* (Ontario) (the “**Act**”) provides that a party may not deal with real property in Ontario (which includes selling, purchasing or mortgaging a property) where it retains abutting lands, unless it falls within an exception to such rule under the provisions of the Act.

We conducted a search on January 22, 2024 for violations of the Act with respect to the Real Property from the date of conversion to Land Titles on November 24, 2003. We have confirmed that 224 does not own the abutting lands to the Real Property.

We would be pleased to discuss with you in more detail any of the matters referred to in this report.

Yours truly,

BORDEN LADNER GERVAIS LLP

Borden Ladner Gervais LLP

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SCHEDULE A

SECURITY DOCUMENTS

- a) Security Agreement dated November 12, 2019 from the 224 in favour of the Bank
- b) Security Agreement dated November 12, 2019 from the 249 in favour of the Bank
- c) Instrument No. SD387127 being a Charge/Mortgage dated November 18, 2019 and registered in the Land Registry Office for the Land Titles Division of Sudbury (No. 53) (the “**Land Titles Office**”) on November 18, 2019 from 224 in favour of the Bank in the principal amount of \$3,100,000.00 (the “**Charge**”) in respect of the real property described in the Charge, municipally known as 8824 Highway 17 East, Warren, Ontario and legally described as PT LTS 37 & 38 RCP 84S DUNNET BEING PART 1 ON 53R20501, PART 2 ON 53R15743 & PT 1 ON 53R12570; S/T S111419; MUNICIPALITY OF MARKSTAY-WARREN being all of PIN 73466-0857 (LT) (the “**Real Property**”)
- d) Instrument No. SD387150 being a Notice of Assignment of Rents-General dated November 12, 2019 and registered in the Land Titles Office on November 18, 2019 from 224 in favour of the Bank relating to the Charge in respect of the Real Property (the “**GAR**”)

Documents (a) and (b) are collectively referred to as the “**Personal Property Security Documents**”)

SCHEDULE B
QUALIFICATIONS

1. **Enforceability:** All opinions which expressly or by necessity relate to the enforceability of the Documents (which, as used in this Schedule and as the context may require, includes validity, legality and binding effect) are subject to:
 - a. applicable bankruptcy, insolvency, winding up, arrangement, liquidation, fraudulent preference and conveyance, reorganization, moratorium and realization laws and other similar laws (including, without limitation and notwithstanding any specific references herein, provisions of the PPSA at the time affecting the rights and remedies of creditors generally; and
 - b. equitable limitations on, and defences against, the availability of remedies and equitable principles of application to particular proceedings at law or in equity and no opinion is expressed regarding the availability of any equitable remedy (including those of specific performance and injunction), which remedies are only available in the discretion of a court of competent jurisdiction.
2. **Description of the Title to Collateral:** No opinion is given as to the title of Collateral, or as to the completeness or accuracy of any description of such Collateral. Accordingly, no opinion is given as to the effectiveness of the Security Documents as security, where effectiveness depends on title or description of the property purported to be charged or assigned, as the case may be.
3. **Priority:** No opinion is given as to the relative priority of the Bank or the security interests created by the Security Documents in relation to other parties that may have a security interest in the Collateral.
4. **PPSA:** The PPSA does not apply to certain types of collateral enumerated in section 4 of the PPSA, and we therefore express no opinion as to whether registration under the PPSA is effective to perfect a security interest in such collateral.
5. **Financial Administration Act:** No opinion is given with respect to any assignment of federal Crown debts which requires compliance with the *Financial Administration Act* (Canada).
6. **Real Property:** We have not confirmed compliance with any registered agreements or instruments to determine whether the granting of a charge in Real Property is permitted, or requires consent or notice or both. We have not sought confirmation of the status of any document or agreement relating to the Real Property.
7. **Searches:** We have only conducted the searches identified in Schedule "C" to this letter against the names noted therein. The scope of our due diligence was limited to the searches and review of registered encumbrances specifically set out in this letter. We have not conducted a full title search or any off-title searches (except for obtaining a tax certificate and a utility certificate relating to the Real Property) or examined any site plan, survey or

other physical evidence of improvements and real property boundaries. We have made no enquiries with respect to the Real Property with respect to any laws, by-laws, regulations or requirements of any federal, provincial, municipal or other authority and in particular, but without limitation, we have made no enquiries with respect to any zoning, building, planning, environmental, health, fire, hydro, gas, conservation authority, or other requirements nor enquired as to the existence of any work orders, notice of compliance or other similar regulatory requirements.

8. **Choice of Law:** We have made no investigation of the laws of any jurisdiction other than, and our advice is confined to, the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
9. **Additional Real Property Qualifications:** Our opinions are further subject to the following limitations, qualifications and reservations with respect to the Real Property:
 - a. the reservations, limitations, exceptions, provisos and conditions expressed in the original patent or grant from the Crown, as the same may be varied by statute;
 - b. any matters which might be revealed by (a) a review of an up-to-date survey of the Real Property; or (b) an inspection and/or site investigation of the Real Property;
 - c. any liens for unpaid public utility charges;
 - d. any taxes, rates, assessments or governmental or other charges, and any liens for taxes, rates, assessments or governmental or other charges, which may in future be due and payable or added to the tax rolls with respect to the Real Property;
 - e. the priority of any liens or charges under the *Construction Act* (Ontario) not yet filed or registered, for which the registration period has not yet expired or whether written notice has not been given in accordance with applicable law or which relate to obligations not yet due and payable; and the rights of any persons having unperfected liens under the *Construction Act* (Ontario) to the extent of any deficiency in holdbacks required to be retained by the owner of the Real Property under that act;
 - f. unregistered instruments, liens, charges, adverse claims, statutory claims, levies, rights-of-way, watercourses, easements, security interests or other encumbrances of any nature whatsoever now or hereafter claimed under or pursuant to any applicable legislation, statute or regulation by any governmental department, agency or authority or any other entity having powers vested in it by statute and any unregistered interest in the Real Property of which you have actual notice;
 - g. any rights of expropriation, access or user or any other rights conferred, reserved or vested by, under, or in any statutes of Canada or the Province of Ontario;
 - h. All applicable governmental, municipal and provincial restrictions, orders, laws, by-laws and regulations including, without limitation, land use control, zoning and building by-laws and official plans;

- i. any native land claims which may affect the Real Property;
 - j. the exceptions and qualifications under Section 44(1) of the *Land Titles Act* (Ontario), save and except paragraphs 11 and 14 (Sections 50 and 50.1 of the *Planning Act* (Ontario)) therein; and
10. the rights of any person that would, but for the *Land Titles Act* (Ontario), be entitled to the Real Property or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention, if so stated on the parcel register for the Real Property.

SCHEDULE C
SEARCH SUMMARY

SEARCH RESULTS

Search Summary Report

CORPORATE INFORMATION

(Business Corporations Act (Ontario))

The search of the database of Ministry of Public and Business Service Delivery disclosed the following information with respect to the below-noted entities, details of which are subject to the corporation updating the public records:

2243080 ONTARIO INC.

Corporate Name:	2243080 Ontario Inc.
Ontario Corporation Number:	2243080
Date of Incorporation:	May 07, 2010
Predecessor Name (s):	N/A
Governing Jurisdiction:	Canada - Ontario
Status:	Active
Registered Office/Mailing Address:	58 Greyleaf Dr. Stouffville, Ontario, Canada, L4A 1S8
Directors:	Kalyani Kapilan Rasakone Kapilan

2496287 ONTARIO INC.

Corporate Name:	2496287 Ontario Inc.
Ontario Corporation Number:	2496287
Date of Incorporation:	December 15, 2015
Predecessor Name (s):	N/A

Governing Jurisdiction:	Canada - Federal
Status:	Active
Registered Office/Mailing Address:	58 Greyleaf Dr. Stouffville, Ontario, Canada, L4A 1S8
Directors:	Kalyani Kapilan Rasakone Kapilan

BANKRUPTCY AND INSOLVENCY ACT

Official Receiver: A search of the records office of the Superintendent of Bankruptcy for Canada (which encompasses information for all districts and divisions in Canada) disclosed the following:

Name Searched	Currency of Search	Results
2243080 Ontario Inc.	December 14, 2023	Clear
2496287 Ontario Inc.	December 14, 2023	Clear

BANKRUPTCY COURT

A search of the records office of the Ontario Superior Court of Justice – Civil for Toronto disclosed the following:

Name Searched	Currency of Search	Results
2243080 Ontario Inc.	December 14, 2023 (10 year period)	Clear
2496287 Ontario Inc.	December 14, 2023 (10 year period)	Clear

COMPANIES' CREDITORS ARRANGEMENT ACT (CANADA)

The search with the currency dates referenced below of the website of the Office of the Superintendent of Bankruptcy listing all companies that have been granted protection under the *Companies' Creditors Arrangement Act* (CCAA) disclosed the following information:

Name Searched	Date of Search	Results
2243080 Ontario Inc.	December 14, 2023	Clear
2496287 Ontario Inc.	December 14, 2023	Clear

BANK ACT (Ontario)

The search for notices of intention to give security under Section 427 of the *Bank Act* registered in the Province of Ontario as of the dates and times referenced below disclosed the following information:

Name Searched	Date & Time of Confirmation Letter	Results
2243080 Ontario Inc.	2023/12/14 02:30:26 PM PST	No matches found
2496287 Ontario Inc.	2023/12/14 02:31 :49 PM PST	No matches found

EXECUTION ACT (Ontario)

The search conducted of the records kept by all enforcement offices in Ontario for writs of execution filed pursuant to the *Execution Act* (Ontario) as of the dates referenced below disclosed the following information:

Name(s) Searched	Date of Certificate/Search	Sheriff's Office	Results
2243080 Ontario Inc.	December 14, 2023	All Enforcements Offices	Enforcement Office: Sudbury Certificate #: 48529756-2110978B Writ/Execution Number: 23-0000359 Court File No.: 000549814623 Issue Date: November 1, 2023 Effective: November 2, 2023 Expiry: October 31, 2029 <u>Creditor:</u> Workplace Safety and Insurance Board Address: 120 King Street West, Hamilton, Ontario, L8P 4V2 T: 800-268-0929 F: 905-521-4203 Email: Collections_Admin@WSIB.On.Ca <u>Judgment or Costs:</u> Amount: CAD 4,255.30 Start Date: November 1, 2023 Interest Rate: 12.0000% Costs: CAD 6.00 Start Date: November 1, 2023 Interest Rate: 12.0000%

Name(s) Searched	Date of Certificate/Search	Sheriff's Office	Results
2496287 Ontario Inc.	November 20, 2023	All Enforcements Offices	No matches found

PERSONAL PROPERTY SECURITY ACT (Ontario) (“PPSA”)

The searches conducted under the PPSA against the following disclosed the following financing statements and financing change statements made on or before the currency date listed and any financing statements and financing change statements made subsequent thereto would not be disclosed:

Collateral Classification Codes (Ontario Only):

I = inventory; E = equipment; A = accounts; O = other; MV = motor vehicle BD = book debts; CG = consumer goods

Note: The collateral descriptions set out below are brief summaries only of the collateral descriptions contained in the registrations. At all times, please refer to the search results for full descriptions.

2243080 ONTARIO INC.

Currency Date: December 13, 2023

	<u>Secured Party(ies)</u>	<u>File No.</u>	<u>Registration # / Term</u>	<u>Date of Registration</u>	<u>Debtor(s)</u>	<u>Collateral Classification/Description (paraphrased)</u>
1.	Bank of Montreal	757641897	20191115 1236 1862 2410 (6 years)	November 11, 2019	2243080 Ontario Inc.	I, E, A, O, MV General Security Agreement over all present and after acquired personal property.
			20230913 1449 1590 0264	September 13, 2023		Partial Discharge to only discharge PPSA registration No. 20191115 1245 1862 2411, File Reference No. 757642338 as it pertains to the debtor's personal property located at the property municipally known as 9279 Provincial Hwy 11, Severn, Ontario.
			20230913 1450 1590 0265	September 13, 2023		Partial Discharge to only discharge PPSA registration No. 20191115 1236 1862 2410, File Reference

	<u>Secured Party(ies)</u>	<u>File No.</u>	<u>Registration # / Term</u>	<u>Date of Registration</u>	<u>Debtor(s)</u>	<u>Collateral Classification/Description (paraphrased)</u>
						No. 757641897 as it pertains to the debtor's personal property located at the property municipally known as 9279 Provincial Hwy 11, Severn, Ontario.
2.	Bank of Montreal	757642338	20191115 1245 1862 2411 (6 years)	November 11, 2019	2243080 Ontario Inc.	A, O Assignment of Rents registered against 9279 Provincial Hwy 11, Cumberland Beach, Ontario and 8824 Highway 17 East, Warren, Ontario.
			20230913 1535 1590 0282	September 13, 2023		Partial Discharge to only discharge PPSA registration No. 20191115 1245 1862 2411, File Reference No. 757642338 as it pertains to the debtor's personal property located at the property municipally known as 9279 Provincial Hwy 11, Severn, Ontario.

2496287 ONTARIO INC.

Currency Date: December 13, 2023

	<u>Secured Party(ies)</u>	<u>File No.</u>	<u>Registration # / Term</u>	<u>Date of Registration</u>	<u>Debtor(s)</u>	<u>Collateral Classification/Description (paraphrased)</u>
1.	BMW Canada Inc.	789168303	20221209 0826 1532 4217 (6 years)	December 9, 2022	2496287 Ontario Inc. Kalyani Kapilan d.o.b.: 23 Aug 1970	CG, E, O, MV Amount: \$32,730.38 No Fixed Maturity Date

						2018 BMW 340I XDRIVE SEDAN VIN: WBA8B7C53JA586098
2.	Bank of Montreal	757641366	20191115 1219 1862 2395 (6 years)	November 15, 2019	2496287 Ontario Inc.	I, E, A, O, MV General Security Agreement over all present and after acquired personal property.
			20231123 1120 1590 9326	November 23, 2023		Partial Discharge to only discharge PPSA registration No. 20191115 1219 1862 2395, File Reference No. 757641366 as it relates to any rents or personal property located on or in relation to the property known as 2260 Highway 7, Pickering.
3.	Bank of Montreal	757641591	20191115 1226 1862 2409	November 15, 2019	2496287 Ontario Inc.	A, O Assignment of Rents on file.
			20231123 1102 1590 9319	November 23, 2023		DISCHARGE

PARCEL REGISTRY

See enclosed.

PLANNING ACT SEARCHES

We conducted a search on January 22, 2024 for violations of the *Planning Act* (Ontario) with respect to the Real Property from the date of conversion to Land Titles on November 24, 2003. We have confirmed that 2243080 Ontario Inc. does not own the abutting lands to the Real Property.

PROPERTY TAX CERTIFICATE

See enclosed.

PROPERTY DESCRIPTION: PT LTS 37 & 38 RCP 84S DUNNET BEING PART 1 ON 53R20501, PART 2 ON 53R15743 & PT 1 ON 53R12570; S/T S111419;; MUNICIPALITY OF MARKSTAY-WARREN

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN S100657. PLANNING ACT CONSENT AS IN S112768. PLANNING ACT CONSENT IN DOCUMENT SD323729.

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
CONSOLIDATION FROM 73466-0718, 73466-0854

PIN CREATION DATE:
2016/10/05

OWNERS' NAMES
2243080 ONTARIO INC.

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2003/11/24 **						
53R12570	1990/02/21	PLAN REFERENCE				C
S100656	1990/09/07	SURRENDER OF LEASE				C
REMARKS: PARTIAL, S86284						
53R15743	1996/08/14	PLAN REFERENCE				C
SD183308	2010/09/29	TRANSFER	\$700,000	1442810 ONTARIO INC.	2243080 ONTARIO INC.	C
53R20501	2015/08/27	PLAN REFERENCE	\$70			C
SD323729	2016/09/23	TRANSFER	\$15,000	SPAULL, ANNE	2243080 ONTARIO INC.	C
REMARKS: PLANNING ACT STATEMENTS.						
SD323730	2016/09/23	APL CONSOLIDATE		2243080 ONTARIO INC.		C
SD325371	2016/10/20	LR'S ORDER		LAND REGISTRAR, SUDBURY LAND REGISTRY OFFICE		C
REMARKS: AMEND T/N DESCRIPTION						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
 REGISTRY
 OFFICE #53

73466-0857 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SD387127	2019/11/18	CHARGE	\$3,100,000	2243080 ONTARIO INC.	BANK OF MONTREAL	C
SD387150	2019/11/18	NO ASSGN RENT GEN <i>REMARKS: SD387127</i>		2243080 ONTARIO INC.	BANK OF MONTREAL	C
SD487462	2023/11/10	CHARGE	\$350,000	2243080 ONTARIO INC.	2431901 ONTARIO INC.	C
SD489426	2023/12/14	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	MNP LTD.	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

Municipality of Markstay-Warren
P.O. Box 79, 21 Main Street South
Markstay, Ontario P0M 2G0
705-853-4536
www.markstay-warren.ca



Municipality of Markstay-Warren Tax Certificate

(Municipal Act, S.O. 2001, c.25 s.352(1) Municipal Statute Law
Amendment Act, 2006, c.32, Sched A, s.141)

Prepared For:
Borden Ladner Gervais LLP
Bay Adelaide Center, East Tower
22 Adelaide Street West
Toronto, ON, M5H4E3

Date: 2024-01-10
Roll Number: 5208-000001-16600-0000
Owner Name(s): 2243080 ONTARIO INC
Property Location: 8824 HIGHWAY 17 E
Legal Description: RCP84S PT LOT
53R12570 PT P
53R15743 PART
53R20501 PART

Assessments

Class	Amount
CT-Commercial: Taxable: Full	136,000.00
Total:	136,000.00

Outstanding

Year	Taxes Levied	Outstanding Balance	Outstanding Interest	Total Outstanding
2024	0.00	0.00	0.00	0.00
2023	5,801.35	1,787.30	0.00	1,787.30
2022	3,192.28	0.00	0.00	0.00
2021+	--	0.00	0.00	0.00
Total		1,787.30	0.00	1,787.30

I hereby certify that the above statement shows all the tax arrears against the above lands, and proceedings have not been commenced under the Municipal Sales Act, 2001, within the last eighteen months.

Fee: \$62.00 Date: 2024-01-10 CAO/Clerk:

Kim T. Morris

Kim Morris

Notes:

Property is NOT assessed on a municipal drain.
Property is serviced by municipal utilities.

Important: Interest has been calculated to end of the month in which this Certificate is issued. If payment is not made before the end of the month, further interest will be added at the rate of 1.25% per month or fraction thereof. Errors and omissions excepted. Above does not necessarily include payments made in the last two days.

Appendix “G”

ASSIGNMENT AGREEMENT, made as of the 2 day of April, 2024.

B E T W E E N:

BANK OF MONTREAL,
a Canadian Chartered Bank,
having a branch at 100 King Street West, 19th Floor,
Toronto, Ontario M5X 1A1

(hereinafter called the "**Bank**")

OF THE FIRST PART

- and -

145Guelph Inc.

(hereinafter called the "**Assignee**")

OF THE SECOND PART

WHEREAS 2243080 Ontario Inc. ("224") will be indebted to the Bank, as of the 2nd day of April, 2024, in the amount of \$659,698.10 inclusive of principal, interest, fees, costs and borrowing certificate advances (the "Indebtedness"), more particularly described in Schedule "A" hereto;

AND WHEREAS the Bank has been granted and holds the security more particularly described in Schedule "B" hereto (the "Security") as security for repayment of the Indebtedness;

AND WHEREAS the Assignee has paid the Indebtedness and has requested an assignment of the Indebtedness and the Security by reason thereof;

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency whereof is hereby acknowledged), the Bank hereby covenants and agrees with the Assignee as follows:

1. The parties hereto acknowledge and agree that each of the foregoing recitals is true and accurate both in substance and in fact.

2. The Bank does hereby irrevocably assign to the Assignee and the Assignee does hereby irrevocably purchase and assume from the Bank all of its right, title and interest in and to the Indebtedness, the Security, and all related documents or agreements (including all rights to enforce, collect, release and forgive the Indebtedness and Security) without recourse of any kind whatsoever to the Bank.

3. The Bank does hereby also irrevocably assign to the Assignee and the Assignee does hereby irrevocably purchase and assume from the Bank to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Bank against any persons, known or unknown, arising in connection with the Indebtedness or other documents or instruments delivered pursuant thereto or the loan transactions governed thereby to the Assignee without recourse of any kind whatsoever to the Bank.

4. The Bank does hereby make the assignments herein on the basis that there is no representation, warranty or condition, express or implied, with respect to the authorization, execution, delivery, validity, enforceability, existence, priority, collectability, contamination or any other matter whatsoever with respect to the Indebtedness and the Security save and except the Bank's representations set out in Section 5 below.

5. The Bank represents and warrants to the Assignee as of the date hereof that:

- (a) 224 is indebted to the Bank in the amounts set out in the recitals hereto;
- (b) it is the sole legal and beneficial owner of the Indebtedness and the Security;
- (c) the Bank has not encumbered, terminated, discharged, released, waived or assigned all or any part of the Security specifically set out on Schedule "B" hereto or the Indebtedness;

- (d) to the best of the Bank's knowledge and belief, the Security listed in Schedule "B" hereto is all the security granted in favour of the Bank as security for repayment of the Indebtedness; and
- (e) it has full power and authority, and has taken all action necessary, to execute, deliver and perform its obligations under this Agreement.

6. The representations and warranties made by Bank will survive the execution of this Agreement and the assignments contemplated herein.

7. Subject to Section 5 hereof, the Assignee acknowledges and agrees that it is accepting the assignment of the Indebtedness, the Security, and any ancillary claims on an "as is", "where is" basis, without recourse against the Bank in the event of any deficiency therein, including, without limitation, any failure on the part of the Bank to appropriately draft or have executed any documentation in support thereof.

8. The Assignee hereby undertakes and agrees to file such statements and give such notices as may be required or prudent as a result of this transaction.

9. The Bank agrees to forthwith deliver copies of the evidence of the Indebtedness and the Security in the Bank's possession to the Assignee.

10. The Bank and the Assignee hereby agree and undertake each to the other to execute such further and other documents or assurances and take such other actions requested by the Assignee, acting reasonably, at the cost of the Assignee, as may be necessary to give effect to the assignments provided for herein.

11. This agreement constitutes the entire agreement between the Bank and the Assignee and there are no other terms, conditions, provisos, agreements, warranties, or representations, other than those expressly contained herein in writing.

12. The validity, interpretation and enforcement of this Agreement and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or

otherwise, shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.


13. This agreement shall be binding upon the parties hereto and their respective successors and assigns.

14. This agreement may be executed in counterparts and by facsimile transmission or email in PDF format, and each counterpart when so executed and delivered by facsimile transmission or email in PDF format shall be deemed an original and such counterparts when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this Assignment as of the date hereinbefore set out.

BANK OF MONTREAL

Per:



Name: Visana Wong

Title: Account Manager

I have authority to bind the Bank

145Guelph Inc.

Per:

DocuSigned by:


12DA450158D049A...

Name: Jeyalalitha Vignarajah

Title: President

I have authority to bind the Corporation

SCHEDULE "A"

1. Amended and Restated Letter of Agreement dated November 10, 2020;

**PAYOUT STATEMENT
BANK OF MONTREAL LOANS TO
2243080 ONTARIO INC.
as at April 2, 2024**

Demand Loan Non Revolving Loan No. 3858-6985-014 Principal Interest	\$285,382.69 <u>\$191,641.98</u> \$477,024.67
Canada Emergency Business Account Principal Interest	\$60,000.00 <u>\$622.98</u> \$60,622.98
Bank Paid Legal Fees	\$7,032.35
Contingent CRA Payment Pursuant to the Requirement to Pay Issued in Respect of Outstanding GST/HST for 2496287 Ontario Inc. guaranteed by 2243080 Ontario Inc.	\$53,749.21
Payment Under the Receiver's Charge Loan No. 3858-6968-716 Principal Interest	\$50,000.00 <u>\$1,493.89</u> \$51,493.89
Bank Administration Fee	\$1,000.00
SUBTOTAL	\$650,923.10
Legal Fees (inclusive of HST and disbursements) including discussions with BMO and the Receiver with respect to a possible sale of the Warren property, discussions with the Receiver with respect to marketing and selling the Warren property and conducting an abbreviated sale process,	\$8,775.00

discussions with the solicitor for the Borrower with respect to the options for completing a sale of the Warren property and terminating the receivership, correspondence from and to and telephone discussions with the solicitor and BMO account manager, further discussions with and correspondence from and to the solicitor for the Borrower and BMO, telephone discussion with the Receiver and counsel for the Receiver to continue to further explore the possibility of terminating the receivership in consideration of payment of the BMO debt and receivership charges, telephone discussion with the solicitor for the Borrower to further discuss options for repayment of the BMO debt and termination of the receivership, telephone discussion with Harneet Bajwa, solicitor for the prospective purchaser with respect to the request for a vesting order, correspondence to the Receiver and counsel for the Receiver, correspondence from the Receiver with respect to the possible repayment of the BMO debt, telephone discussion with Bobby Sachdeva to discuss various options for repaying the BMO debt and conveying the Warren property to the second charge, correspondence from the solicitor for the second chargee, correspondence from the second charge and the Receiver and responding, correspondence from and to telephone discussion with the Receiver, drafting a non recourse assignment agreement, various correspondence from and to the solicitors for the Receiver and second charge dealing with the terms and conditions for completing and agreement, correspondence to and from the BMO account manager, reviewing the security to be assigned and further amending the draft assignment agreement, and to all correspondence and discussions.

TOTAL as at April 2, 2024

\$659,698.10

The per diem rate of interest is \$154.02.

SCHEDULE "B"

1. General Security Agreement dated November 12, 2019;
2. Charge/Mortgage of Land in the principal amount of \$3,100,000.00 registered against title to the property municipally known as 8824 Highway 17 East, Warren, ON (the "Warren Property") on November 18, 2019 registered as SD387127;
3. Notice of Assignment of Rents-General registered against title to the Warren Property on November 18, 2019 registered as SD387150; and
4. Joint and several guarantee dated November 12, 2019 signed by Kalyani Kapilan and Rasakone Kapilan limited to the principal amount of \$4,750,000.00.

DATED as of the _____ day of April, 2024

BANK OF MONTREAL

- and -

145Guelph Inc.

ASSIGNMENT AGREEMENT

Appendix “H”

**In The Matter Of The Receiverships Of
2243080 Ontario Inc. and 2496287 Ontario Inc.**

**Interim Statement of Receipts & Disbursements
As At April 19, 2024**

Receipts

Advance From Secured Creditor	\$ 50,000.00
Interest Earned	574.48
Total Receipts	<u>50,574.48</u>

Disbursements

Environmental Report	5,500.01
Appraisal Fee	5,000.00
Property Taxes	4,405.45
Insurance	3,219.82
HST Paid On Disbursements	1,879.03
Travel	1,874.14
Repairs & Maintenance	1,396.98
Lock Changes	1,309.20
Utilities	1,029.11
Filing Fees	75.30
Bank Charges	22.00
	<u>25,711.04</u>

Net Receipts

\$ 24,863.44

Appendix "I"

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

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

BANK OF MONTREAL

Applicant

– and –

2243080 ONTARIO INC. AND 2496287 ONTARIO INC.

Respondents

**AFFIDAVIT OF DEBORAH HORNBOSTEL
(Sworn April 22, 2024)**

I, Deborah Hornbostel, of the City of Toronto, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

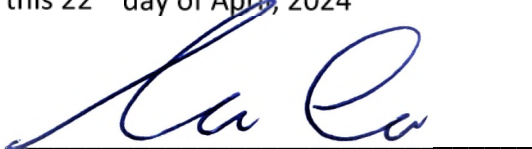
1. I am a Senior Vice President and a Licensed Insolvency Trustee with MNP Ltd. (“**MNP**”) the Court-appointed Receiver (the “**Receiver**”) of 2243080 Ontario Inc. and 2496287 Ontario Inc. (the “**Debtors**”) and as such have knowledge of the matters deposed to herein, except where such knowledge is 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 Debtors by Order of the Court dated July 21, 2023 (the “**Appointment Order**”) which ultimately became effective on December 13, 2023.

3. In connection with the receivership of the Debtors, MNP has expended 166.9 hours of time at its standard hourly rates during the period from July 21, 2023 to and including April 18, 2024, resulting in fees of \$103,741.80 plus applicable HST of \$13,486.43 as provided for in MNP's summary of time charges and related detailed time dockets which provide a fair and accurate description of the services provided, appended hereto as **Exhibit "A"** to this my Affidavit.


4. I verily believe that the hourly rates charged for the services performed are fair and reasonable in the circumstances.

5. The Receiver estimates that additional fees of up to \$10,000 plus applicable HST may be incurred to complete the administration of the receivership prior to the Receiver filing its discharge, if approved by the Court. These additional fees will be incurred with respect to completion of Receiver's discharge motion and related Court materials, finalization and payment of utility and insurance accounts and arranging for account transfers back to 2243080 Ontario Inc., additional site inspections to turnover, dealings with Canada Revenue Agency, reporting requirements under the Bankruptcy & Insolvency Act, and other ancillary matters.

6. This affidavit is sworn in support of a motion to, *inter alia*, approve the costs of administration, and taxation of the Receiver's accounts and for no other or improper purpose.

SWORN before me at the City of)
 Toronto, in the Province of Ontario)
 this 22nd day of April, 2024)
)

Matthew Eric Lem, a Commissioner, etc.,
 Province of Ontario for MNP Ltd. and MNP LLP.
 Expires February 21, 2026



DEBORAH HORNBOSTEL

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF DEBORAH HORNBOSTEL

Sworn before me

This 22nd day of April, 2024



Matthew Eric Lem, a Commissioner, etc.
Province of Ontario for MNP Ltd. and MNP LLP.
Expires February 21, 2026

DETAILED TIME CHARGES

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
21-Jul-2023	Deborah Hornbostel	3.50	Tel call with R. Jaipargas re LCBO issue, review file info from V. Wong (appraisals, insurance coverage, fuel supply agreements), investigate LCBO requirements, prepare door notices and contact sheets, discussion with R. Jaipargas to approve additional wording for court order re permits/licenses, f/u with staff on standby and locksmith, discussion with proposed operator, review email from Chris Staples re non-issuance of Order by J. Kimmel
24-Jul-2023	Deborah Hornbostel	.20	Review J. Kimmel's endorsement
05-Aug-2023	Deborah Hornbostel	.20	Review approved court order and send email to V. Wong for status update on mortgage financing
08-Aug-2023	Deborah Hornbostel	.20	Emails with V. Wong and C. Staples to ascertain status of mortgage financing agreement
08-Sep-2023	Deborah Hornbostel	.20	Review update email from G. Feldman and provide WIP info
26-Sep-2023	Deborah Hornbostel	.30	Update from G. Feldman re receivership commencement for October 2, emails with W. Behno for operating assistance
27-Sep-2023	Deborah Hornbostel	.90	Email exchange with V. Wong re insurance status, review policy confirmations, review emails from J. Frymer and G. Feldman re potential payment and receivership postponement, discussion with R. Jaipargas re proposal, review his email exchange with G. Feldman and respond to G. Feldman, review further emails between G. Feldman and J Frymer
28-Sep-2023	Deborah Hornbostel	.10	Review and respond to email from G. Feldman, update re funding
29-Sep-2023	Deborah Hornbostel	.20	Review emails re approval of extension for repayment and new receivership date, endorsement and receipt of \$300,000
30-Oct-2023	Deborah Hornbostel	.50	Review emails from G. Feldman re delayed closing date and environmental report, review court order terms
31-Oct-2023	Deborah Hornbostel	.20	Review emails from G Feldman
03-Nov-2023	Deborah Hornbostel	.10	Update from Gary Feldmen re extension request, respond
06-Nov-2023	Deborah Hornbostel	.10	Review of new endorsement from J. Kimmel re date changes
11-Nov-2023	Deborah Hornbostel	.20	Review email update from G. Feldman and respond, review R Jaipargas response
23-Nov-2023	Deborah Hornbostel	.10	Update on further extension re Warren, endorsement
11-Dec-2023	Deborah Hornbostel	.40	Update from G. Feldman re expected further delay and shortfall, later email advising of failed financing and therefore likely receivership proceeding, alert to Akhil to prepare for site attendance on 13th
12-Dec-2023	Deborah Hornbostel	2.40	Email to V Wong for info, email to W Behno for assistance, receipt and review thereof, instructions to Akhil to arrange locksmith, work on arranging staff from Sudbury/North Bay to take possession, tc with the Kapilans to discuss current status and issues, email to them to request certain documents, update Gary and Visana re status, update to Akhil re plans
13-Dec-2023	Akhil Kapoor	1.00	1) Finding contact details and calling locksmith to arrange for tomorrow's visit, reviewing Court docs (court order dated July 2023 and endorsement of Nov 2023). Discussion with locksmith and C Leduc re tasks to be completed, confirming Locksmith's availability for tomorrow

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			at 1 pm 2) Discussion re furnace not working, receipt of a quote by Deborah and enquiring with apple management if they can install it at a better price
13-Dec-2023	Deborah Hornbostel	2.40	Review various emails from R. Jaipargas, G Feldman and V. Wong, provide funding request details to V Wong, discussions with Wisam re potential operations, C. Leduc re taking possession and Akhil re locksmith arrangements, tc to Mrs. Kaliani to advise of onsite attendance tomorrow and request update on furnace replacement, update door notice, instructions to Upasana for website postings, instruction memo to Chris Leduc for taking possession, provide his contact info to locksmith
14-Dec-2023	Akhil Kapoor	2.00	1) Discussion with locksmith re their services to be provided at Esso gas station at Warren, ON, keys and locks required, 2) Discussion with C Leduc who would be visiting the site, discussion regarding the work to be done, coordinating his visit with the locksmith, alarm codes and related matters 3) Calls and emails with Propane supplier to advise them about receivership, requesting for continuous supply of propane (to follow up tomorrow) 4) Discussion with Chris Leduc and locksmith after the work is completed to discuss various matters, number of pumps, number of locks and keys, issues related to alcohol and other items found at the premises, locksmith charges and making payment among others (also shared court order and endorsement docs with them) 5) Discussion with Deborah during the day about the above, propane supply, new furnace to be installed and various matters as we commence the receivership
14-Dec-2023	Chris Leduc	7.50	Travelled to Esso in Warren as requested by Deborah in regards to receivership. Prepared documents, many discussions with Deborah and all involved. Spent the day taking note of condition of premises, taking inventory, changing locks, etc. Stayed to show a potential buyer the property
14-Dec-2023	Deborah Hornbostel	3.10	Emails with Chris Leduc, Akhil, Kapilan and locksmith to coordinate taking possession and provide documentation required, review emails from R Jaipargas and G Feldman re 249 receivership applicability, emails with K Kapilan, tc and text with R Kapilan, updates/instructions to Chris and Akhil , review and forward furnace quote to Frank at Applegate for opinion and options, tc from K Kapilan requesting attendance onsite for potential purchaser, arrange, respond to email from Frank re furnace, discussion with Chris re adjacent house and current site status tc from R Kapilan re delayed arrival with purchaser, provide contact info for Chris onsite, update from Akhil re locksmith charges, review various emails from R Jaipargas and G Feldman and update them on potential payout resulting from purchaser
14-Dec-2023	Upasana Nayak	.50	Create website and upload documents: appointment order and endorsement.
15-Dec-2023	Akhil Kapoor	1.30	1) Discussion and call with Moore propane, explaining them about receivership and requesting them to open a new account in receiver's name, updating Deborah about it 2) Discussion with Chris and Deborah re site visit and notes prepared by Chris, concerns shared by him

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			including roof damage, no water, no alarms, inventory and alcohol listing among others 3) Calling 10 plumbers to request site attendance at the gas station but so far unable to find anyone. Have requested Chris to find one too. Also requested Rocco and the locksmith 4) invoice received from locksmith, sharing with Deborah and Upasana
15-Dec-2023	Chris Leduc	1.00	Discussions and emails with Deborah & sorting keys to be shipped
15-Dec-2023	Deborah Hornbostel	2.40	Update from V Wong re funding, investigate status of account opening and respond, sign a/c opening forms, review email from C. Leduc re taking possession, tc with him and Akhil to discuss matters requiring f/u ie alarm, water drainage, inventory, roof repair, tc from Jack Frymer, update from Akhil re propane supply
15-Dec-2023	Upasana Nayak	.20	Prepare bank forms to be submitted to open a trust account. Send request to TD.
18-Dec-2023	Akhil Kapoor	1.50	1) Multiple calls with various plumbers and scheduling an appointment with a plumber for a visit to the premises today, coordinating his visit with Chris, explaining the purpose of the visit and the objective of winterizing the property among others. 2) Multiple discussions with Chris Leduc from Sudbury office regarding his visits today with the plumber and proposed visit on Friday (Dec 22), discussion regarding plumber's visit and tasks to be done, status update after the task was complete, plumber's invoice among others, also discussed about roof top repair and to find a handyman, schedule their service among others.
18-Dec-2023	Chris Leduc	3.50	Travel to and from Warren. Located plumber and allowed on site. Moved all softdrinks to back room to avoid freezing. Inspected property.
18-Dec-2023	Deborah Hornbostel	.90	Email exchange with Akhil re repairs and winterizing, email to Asad Chaudery of Sterling Insurance Brokers to advise of the receivership and request additon of MNP Ltd onto the policy, update from Akhil re plumber attendance today, review response from Andy Singh of Sterling re insurance changes, check on status of bank account opening
19-Dec-2023	Akhil Kapoor	.40	Emails with Deborah and Chris re update on work done by the plumber, their invoice, draining of pipes while keeping the water flow activated on one pipe which is coming from the City (and placing one portable heater there). Also update on roof top guy, weekly visits among others
19-Dec-2023	Deborah Hornbostel	1.40	Review plumbing invoice and updates from Akhil Kapoor and Chris Leduc re plumbing winterization, email to them re security plan status, f/u on bank account opening, email account info to Visana Wong for funding and request rate, prepare Receiver's Certificate and forward it to her, email from V Wong re funds sent, check account, review email response from C Leduc re site inspections
19-Dec-2023	Upasana Nayak	.50	Follow up with TD on bank account set up. Resend bank account set up forms, as requested by TD. Save bank account confirmation. Correspond with TD that only one bank account is required. Post endorsement slips on website.
20-Dec-2023	Akhil Kapoor	.40	1) Discussion with Deborah re propane supplier details and commencing work on s. 245 report and information required for the same. 2) Also discussed about funds to be received from BMO and payment of various expenses

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
20-Dec-2023	Deborah Hornbostel	2.40	Emails to C. Leduc, email to Kalyani Kapilan to f/u on previous email request for info, confirm receipt of funds to V Wong, deposit and payment instructions to U. Nayak, commence drafting NOR, email update to V. Wong re water draining and holiday plans for the property pending potential redemption, review application record and financial statements, email to Kapilans re 249 assets and liabilities, email to V Wong for updated liability info, email from K Kapilan re insurance certificate
20-Dec-2023	Upasana Nayak	.30	Check bank account for wire received from BMO. Set up account information in ascend.
21-Dec-2023	Akhil Kapoor	.20	1) Discussion with propane supplier to confirm new accounts and to request them to advise us about o/s amounts 2) Discussion with Bell re advising them about receivership on the call, noting their email address, discussing alarm services and advising Upasana to email them. Also updating Deborah and Chris about it
21-Dec-2023	Deborah Hornbostel	2.40	Receipt and review of various emails from Kalyani providing requested information, respond and request another copy of the Phase 2 report, instructions to Upasana re Hydro One account, voice mail from Rasakone re Alarm Force, emails from Chris Leduc and Akhil, email to Akhil to provide Alarm Force contact info for arrangements, update from Upasana re Hydro One issues, update from Akhil re Alarm Force,tc to V Wong for BMO debt amounts, email from her, finalize NOR and send along with Court Order and endorsement to OSB
21-Dec-2023	Upasana Nayak	1.00	call hydro one and email them regarding the receivership. email to hydro one regarding account name: personal vs business name, save utilities provider information received. Update Deborah about progress with HyrdoOne. email bellcanada about receivership and chris visiting location
22-Dec-2023	Akhil Kapoor	.20	Confirming certain creditors outstanding balance and follow up with Chris to go this evening for the weekly visit and roof top repair update
22-Dec-2023	Chris Leduc	1.80	Site inspection
27-Dec-2023	Akhil Kapoor	.30	Discussion with Chris and Deborah re alarm codes to be set and next visits to be planned to ensure repairs are also done (to continue tomorrow) 2) emails from Chris about the current status of the premises during his visit today and next steps
27-Dec-2023	Chris Leduc	2.50	Site inspection and upload photos, emails to Deborah and Akhil regarding same.
27-Dec-2023	Deborah Hornbostel	.90	Review and approve disbursements for locksmith and plumber, download and review all site photos from C. Leduc and provide instructions re alarm, visits and repairs
27-Dec-2023	Upasana Nayak	.70	Set up file in ascend and bank account information. Record deposited advance from BMO and wire fee. Prepare requisitions and payment to reimburse Chris Leduc and Akhil Kapoor for plumbing and locksmith expenses.
28-Dec-2023	Deborah Hornbostel	.10	Notification re keys delivery, provide instructions
29-Dec-2023	Deborah Hornbostel	.20	Receipt of filing confirmation from OSB, update NOR and request mailing to creditors

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
29-Dec-2023	Upasana Nayak	.30	Follow up with Hydro One about account set up. Email Warren municipality to inform them of the receivership and set up accounts for water bill and property tax.
02-Jan-2024	Akhil Kapoor	.30	1) Advising Yujun to connect with Alarm company, explaining the background of the file to enable her to understand and take it forward from here
02-Jan-2024	Chris Leduc	2.20	Travel and inspect property in Warren
02-Jan-2024	yujun liu	.90	Prepare the notice of receivership and mail them to debtor and creditors
02-Jan-2024	yujun liu	.10	called for alarm activation service
03-Jan-2024	Akhil Kapoor	.20	Discussion with Yujun re her call with Bell Alarm and their notification that the agreement has been cancelled and we would need to enter into a new agreement with them.
03-Jan-2024	yujun liu	.70	contact Alarm Force regarding the alarm service activation
05-Jan-2024	Chris Leduc	2.20	Travel and inspect property in Warren
08-Jan-2024	Akhil Kapoor	.40	1)Discussion with Chris re weekly visits made in the last 2 weeks and the plan for this week, status of heater, roof top repair and agreeing to find out roof top repair guy as soon as possible. 2)Discussion with Deborah about status of the file, weekly visits, roof top repairs, sharing interested party details among others.
08-Jan-2024	Chris Leduc	2.20	Trip to Warren and inspection
08-Jan-2024	Deborah Hornbostel	.50	Review and respond to email from Magda Garcia of Sterling Insurance Brokers re insurance policy issues
09-Jan-2024	Akhil Kapoor	.10	Email with Upasana re statement received from Moore Propane and advising her to contact them to let them know about receivership and not to charge on o/s balance.
09-Jan-2024	Deborah Hornbostel	.40	Review and approve disbursement to OSB, tc to Asad Chaudery of Sterling Insurance, follow up email to him to confirm steps taken onsite to date
09-Jan-2024	Upasana Nayak	.20	Prepare cheque requisition for OR fee.
13-Jan-2024	Chris Leduc	2.20	Trip to Warren and inspection
15-Jan-2024	Upasana Nayak	.20	Email Moore Propane to inform that we received the statement of account, and requesting to stop accruing interest.
16-Jan-2024	Akhil Kapoor	.10	Discussion with Deborah re weekly visits by Chris to be replaced as they are quite expensive, status of sale as committed by the owner prior to receivership and other matters
16-Jan-2024	Deborah Hornbostel	1.80	Update call with A Kapoor re site status, tc from Thomas Leslie re interest in acquiring the Warren property, tcs to Mr and Mrs. Kapilan, discussion with her re pending APS scheduled to close Jan 22'24, email to R Jaipargas to advise of APS situation, similar email updates to V Wong and G Feldman
17-Jan-2024	Chris Leduc	.20	Conversations around office to find assistance with site visits during busy season
17-Jan-2024	Chris Leduc	2.20	Trip to Warren and inspection
17-Jan-2024	Deborah Hornbostel	1.10	Emails with R Jaipargas, verify registration of Receiver on title, voice mails to J Frymer, update D Conroy re situation, vm to K Figaszewska at

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			CRA, email to Kapilans for APS and CRA info, email from K. Figaswekska, tc with W Reuger of CRA to discuss trust claims,
18-Jan-2024	Akhil Kapoor	.20	Discussions and emails regarding snow build up at the gas station and that needs to be ploughed out to enable weekly site visits.
18-Jan-2024	Chris Leduc	.20	Emails with Deborah re snow removal for Warren gas station
18-Jan-2024	Deborah Hornbostel	1.50	Tel call with R Jaipargas, forward email to him re notice to Kapilans and discuss go forward issues, email from Chris Leduc re snow onsite, respond, review email from R Jaipargas to J Frymer, further email exchange with C Leduc re snow clearance, tc from J Frymer
19-Jan-2024	Deborah Hornbostel	.70	Emails to G Feldman and V Wong to update them, review responses and confirm, email update to R Jaipargas re conversation with J Frymer yesterday, further emails with all and tc with G Feldman
21-Jan-2024	Deborah Hornbostel	.20	Respond to email from R Jaipargas, review email from J Henechowicz re realtor recommendation
22-Jan-2024	Deborah Hornbostel	.60	Email to J Frymer with court order to request info, tc with Babit Julka, f/u email to him
24-Jan-2024	Chahna Nathwani	.40	Brief call with Bhaumik P. Hydro one regards to issued invoice and checking the invoicing duration and account set up request, updated Deborah with additional information
24-Jan-2024	Deborah Hornbostel	.20	Review email from Mrs. Kapilani re Hydro One, forward to C Nathwani for f/u, review update on invoicing
24-Jan-2024	Upasana Nayak	.10	Review email from Deborah regarding hydro one account and send previous correspondence with Hydro One to Chahna.
25-Jan-2024	Chris Leduc	2.20	Trip to Warren and inspection
25-Jan-2024	Deborah Hornbostel	1.10	Review email from James Dionne of TSSA Fuel inspection, tc attempt and email to him, receipt and review of TSSA site inspection report of Jan 25'24, review financial information sent by J Frymer, email to Kalyani to request further detailed information, email to Asad Chaudhery at Sterling brokers re o/s insurance matters
26-Jan-2024	Akhil Kapoor	.30	Email with TSSA re their report on the gas station and related matters, also discussed with Deborah re certain matters incl. a sale process
26-Jan-2024	Deborah Hornbostel	1.10	Tc from J Dionne of TSSA, complete TSSA application and email same to J. Hooper along with Court Order and instructions for updating, search for appraiser
27-Jan-2024	Daryl Heinsohn	2.20	Travel to/from Warren; site inspection; e-mail to Chris wrt results of findings
30-Jan-2024	Deborah Hornbostel	1.20	Review Parkland Fuel Supply Agreement, prepare letter and fax along with Court order, tc to obtain email address for legal dept, email same to Parkland, tc to Andy at Sterling Insurance to confirm status of policy additions for Receiver, email to him to confirm and to request complete policy and banking changes again
31-Jan-2024	Deborah Hornbostel	2.70	Tel call from T. Leslie re assets being dismantled, tcs with C Leduc, OPP, Kim of Elliott, M. Napoleone of Parkland, email to him the Court Order, email from A Haskewich of Parkland legal, respond, email to R Jones re appraisal quote, review response, tc from Kalyani re new APS forthcoming and discussion re Parkland assets and removal, review email from Andy Singh re insurance policy and premiums, respond

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01-Feb-2024	Chahna Nathwani	.20	Created PAP and Void cheque for insurance account set up, fwd docs to D. Hornbostel
01-Feb-2024	Chahna Nathwani	.10	CRA POC reviewed and fwd to D. Hornbostel, Copy saved in directory folder
01-Feb-2024	Deborah Hornbostel	.50	Review and respond to email from A Singh re insurance coverage and arrears
02-Feb-2024	Akhil Kapoor	.20	1) Call with Public works re potential leaks and updating Chris about it 2) Discussion with Chahna regarding of TSSA invoice of \$416 dated Jan 26 2024
02-Feb-2024	Chris Leduc	3.00	Site inspection and moved materials that were left behind from illegal tear down, and also cleaned and removed all garbages, windshield washing stations, and gas spill stations.
02-Feb-2024	Deborah Hornbostel	1.30	Tel call with Chris Leduc re today's site visit and Parkland issues, email to J Frymer for confirmation of forthcoming APS, review photos from today's site visit and C Leduc's report, review security opinion of BLG, email to municipality of Markstay-Warren to provide Order and request property tax invoice
04-Feb-2024	Deborah Hornbostel	.20	Review of new hydro invoices, forward to team for payment and instructions re residential service invoice
05-Feb-2024	Akhil Kapoor	.20	Discussion with Deborah regarding Moore Propane's invoice to MNP and to advise Moore Propane to keep the invoice in Debtor's name
05-Feb-2024	Chahna Nathwani	.30	Prepared receipt vouchers for rent cheques, fwd to D. Hornbostel for approval
05-Feb-2024	Deborah Hornbostel	1.80	Further instructions to Y Liu re Hydro billings, review and approve payment, update on Hydro account correction re house, tc from J Frymer re potential offer, review and summarize CRA claims received today, vm to W Rueger to confirm accuracy of RP trust claim of nil, receipt of Moore Propane statement in the name of the Receiver, instructions to A Kapoor to get that corrected, review of other CRA correspondence re returned RC payment, filing RT 1 codes, tc with Kamila of CRA, notes to CRA memo, prepare estimated payout position, tc from Kalyani to review offer and estimated cash requirement
05-Feb-2024	Upasana Nayak	.10	Inform Y. Liu of invoices received and follow up required.
05-Feb-2024	yujun liu	1.00	prepare for the cheque request for the electricity service, record the transaction in ascend. contacted the enbrige to cancel the amount that should not be associate with us.
06-Feb-2024	Chris Leduc	2.50	Site inspection and cleanup of exploded soft drinks. Moved more soft drinks to back room in heat
06-Feb-2024	Deborah Hornbostel	1.30	Voicemail exchange with J Frymer, receipt and review of financing commitment of purchaser from Kalyani, tc with J Frymer, email to R Jaipargas re potential offer and court approval plan, review and approve mileage expenses, sign cheque
06-Feb-2024	Guy Venne	.50	Receiving instructions from Chris.
06-Feb-2024	Upasana Nayak	.20	Prepare cheque requisition.
07-Feb-2024	Deborah Hornbostel	1.70	Discussions with S Title and R Jaipargas re potential handling of APS via debtor and obtaining court approval, locate local appraiser, tc and email with Eric Tworo of Appraisals North to discuss the property, email to

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			Jack Frymer to advise of inability to proceed with contemplated offer and proceedings, review and respond to J Frymer's email response
08-Feb-2024	Deborah Hornbostel	.70	Review email from J Frymer, tc with P Chan re appraisal, emails with Colliers and Avison Young re potential realtors, tcs to Sudbury appraisers (Bell and Boreo)
09-Feb-2024	Daryl Heinsohn	2.20	Travel to/from Warren; site inspection; e-mail reporting to Chris wrt same
09-Feb-2024	Deborah Hornbostel	1.10	Follow up email to P Hebert of Boreal Appraisals, email to L White of CBRE for local realtor referral, email to K Kapilan to f/u on sales data, email to T Bristow of colliers re potential agents, review his response and related historical info, provide property tax info to P Herbet as requested, review and respond to email and texts from K Kapilan re terminating the receivership, forward J Frymer emails to R Jaipargas and request that he call J Frymer, tc from R Jaipargas to update me on that call
11-Feb-2024	Daryl Heinsohn	3.00	Back/forth texts w/Guy wrt break-in; d/w Deborah Hornbostel wrt status of matters/next steps; d/w Constable wrt logistics; coordinate obtaining contractor to repair damages door; attend to Warren site and assess damages/supervise contractor/discussions w/onsite Constable/telephone call with Deborah; attend to Sudbury OPP detachment (sign affidavit/review stolen contents/discussions with Constables); return recovered contents to Sudbury office; e-mail 'reporting' to Deborah (cc Chris)
11-Feb-2024	Deborah Hornbostel	2.20	Tel calls from OPP Constable Mike Bradley and Seargant Andre Shinay, calls with Guy Venne and Daryl Heinsohn of Sudbury office, review initial possession photos, forward to Daryl, authorize agent to fingerprint site, arrange for Daryl to execute Affidavit of Property ownership and retrieving of property, instructions to him re door repair, updates from Daryl, send wine photos to him, review resport and photos from Daryl at end of day, message to G Venne to cancel tomorrow's site inspection
11-Feb-2024	Guy Venne	.60	Break and enter and OPP.
12-Feb-2024	Deborah Hornbostel	.70	Tc from Wendy Reuger of CRA re accounts and info required from debtor, draft email to Kalyani re issues with BMO payout, info required for marketing and financial reporting and for CRA
13-Feb-2024	Deborah Hornbostel	1.40	Send email to K Kapilan, review response, review emails from K Avison and T Bristow re potential listing agents and respond, call with C Tammi of Mallett Goring in Sudbury, source and provide pertinent info to him for listing proposal, emails with R Purdy of Colliers for potential appraiser, email exchange with S Van Houtte of Colliers
14-Feb-2024	Daryl Heinsohn	.20	Forward contractor invoice to OPP constable for restitution/Deborah for payment
14-Feb-2024	Deborah Hornbostel	2.80	Calls with Colliers realtors re potential listing, tc with Colliers appraiser re potential appraisal, receipt and review of door repair invoice and email submission to OPP, plus D Heinsohn millieage claims, fwd to U Nayak for payment thereof, f/u email to Parkland legal dept for response to Jan 30 correspondence, review response, review fin statements from J Frymer, tc and email to Ravi Nadarajah of Public Choice Accounting to

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			request detailed records, vm to B Emms of BAE Environmental, tc with him re quote for updated Phase 2, review of 2018 Phase 2 re monitoring wells, email to him to advise of wells status
15-Feb-2024	Deborah Hornbostel	.80	Tel call with W Ruger of CRA re audit and records update, tc with P Huebert of Boreal Appraisers, email to S Van Houtte to request engagement letter, email from B Emms, tc from D Williams and T Bristow of Colliers declining listing proposal, review and approve disbursements, email from S Van Houtte re appraisal LOE, respond by email
15-Feb-2024	Guy Venne	2.50	Site inspection and reporting.
15-Feb-2024	Upasana Nayak	.50	Prepare cheque requisitions.
16-Feb-2024	Deborah Hornbostel	.60	Review email from B Emms of BAE re ability for tests and revised quote and respond to engage him, email to C Leduc to arrange related site visit, review email from G Feldman re J Frymer call, confirm status of current activities ad plans re appraisal, listing and environmental report,
20-Feb-2024	Deborah Hornbostel	1.20	Review email and invoice from B Emms of BAE Environmental, respond, send e-transfer for retainer and update re inside access status, review LOE from Colliers for appraisal, email to S Van Houtte re retainer clause, resolve, amend LOE, execute and issue, email exchange with C Leduc re site attendance, update B Emms re attendance and reduced retainer amount, amend payment requisition from U Nayak for posting
20-Feb-2024	Upasana Nayak	.80	Prepare, amend and finalize cheque requisitions.
21-Feb-2024	Chris Leduc	3.00	Site inspection in Warren and met with individual for environmental assessment. Also cleaned up inside mess from break in
22-Feb-2024	Deborah Hornbostel	.30	Tel call from the OPP to update on the arrests and discuss damages
23-Feb-2024	Chahna Nathwani	.30	chq req for tssa invoices for 2 loaction, processed chqs for signign, printed and mailed
23-Feb-2024	Deborah Hornbostel	.20	Review correspondence re RP1 credit balance, review and approve disbursement to TSSA
26-Feb-2024	Deborah Hornbostel	.20	Follow up email to Chris Tammi of Mallet Goring re status of listing proposal
27-Feb-2024	Akhil Kapoor	.10	Call with a prospective purchaser and asking them to email us their details; discussion with D. Hornbostel to find a security company for weekly visits to the station
28-Feb-2024	Deborah Hornbostel	.70	Review new email from J Frymer, emails with R Jaipargas and G Feldman, email from B Emms re water testing results, e-transfer partial payment to BAE
29-Feb-2024	Chahna Nathwani	.10	Updating banking records with e-transfer payment
29-Feb-2024	Deborah Hornbostel	.30	Tel call with R Jairpargas and G Feldman re J Frymer email
01-Mar-2024	Lisa Visconti	.10	BANK REC
04-Mar-2024	Deborah Hornbostel	.40	Review and approve disbursement, receipt and review of new Phase 2 report
04-Mar-2024	yujun liu	.30	prepare for the cheque requeistion- Utility service from Hydro One, record the entry in ascend.
06-Mar-2024	Deborah Hornbostel	.20	Review emails from G Feldman and R Jaipargas re potential stalking horse bid

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08-Mar-2024	Deborah Hornbostel	.20	Review emails from G Feldman and R Jaipargas, and then from B Sachdeva and respond to arrange meeting
11-Mar-2024	Deborah Hornbostel	1.10	Email to R Jaipargas re mtg with B Sachdeva, meet with B Sachdeva, f/u email to Mr Nadarajah of Public Choise Accounting re turnover of records, email from S Van Houtte, provide him with property related information for the appraisal
12-Mar-2024	Deborah Hornbostel	.60	Review messages from K Kapalani, tc to her, voicemail to W Rueger of CRA for update on deemed trust review, review and respond to email from B Sachdeva and then emails from R Jaipargas
13-Mar-2024	Chris Leduc	2.00	Site inspection and clean up
13-Mar-2024	Deborah Hornbostel	.50	Tel call from W Rueger of CRA, review emails from K Kaplan and V Wong
14-Mar-2024	Deborah Hornbostel	.90	Tel call with R Jaipargas re B Sachdeva's client's proposal, tc from new potential purchaser, update email from R Jaipargas, review bank balance and trust account, review payout statement from V Wong and provide payout info to K Kapilan
15-Mar-2024	Chris Leduc	2.40	Site inspection, heavy traffic due to accident
19-Mar-2024	Deborah Hornbostel	1.10	Email to B Sachdeva for update, email exchanges with R Jaipargas, review response from B Sachdeva, commence review of liabilities, email to appraiser for update, call with S Van Houtte re appraisal status, vm to G Feldman
20-Mar-2024	Deborah Hornbostel	.70	Emails with G Feldman and R Jaipargas re B Sachdeva's email, vm to Municipality of Markstay Warren, return call from potential purchaser, update from R Jaipargas, approve draft response to B Sachdeva
21-Mar-2024	Deborah Hornbostel	.40	Emails with G Feldman and R Jaipargas, tc with R Jaipargas re B Sachdeva plans for discharging receiver and paying BMO
22-Mar-2024	Deborah Hornbostel	2.80	Review emails from counsels re assignment of BMO's security and wrap up plans, receipt and review of appraisal, query to appraiser, fwd to R Jaipargas, tc with T. Raymond of the municipality to review property tax and water account status, query to R Jaipargas re payments to be made now, email new Moore Propane stmt to A Kapoor for f/u out of MNP name
25-Mar-2024	Akhil Kapoor	.30	Email Moore Propane to discuss the statement of accounts and notice of inspection received from them with MNP's name on it, telephone call with them
25-Mar-2024	Deborah Hornbostel	1.60	Report drafting, email to G Feldman for court notice of receivership
26-Mar-2024	Chris Leduc	2.20	Site inspection and communication with Deborah afterwards for status update
26-Mar-2024	Deborah Hornbostel	.60	Review email replies from G Feldman and R Jaipargas, review reporting emial from C Leduc and provide update and instructions re site, email to S Von Houtte to finalize appraisal, receipt of invoice from Colliers, review and fwd for processing, receipt of final appraisal
26-Mar-2024	Lisa Visconti	.20	BANK REC
28-Mar-2024	Deborah Hornbostel	.50	Respond to emails from B Sachdeva re creditors and CRA, tc from him re CRA liabilities
01-Apr-2024	Chris Leduc	.20	Conversation with Deborah re second break-in

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01-Apr-2024	Deborah Hornbostel	1.40	Tel calls with Constable Munroe of OPP Nippissing re another break in, messages and call with Chris Leduc, arrangements with Mg Messer Contracting to make repair arrangements, review and respond to email from A Mensour of La coup ice, update call with Michael Messer re site issues, update from C Le Duc re next attendance
02-Apr-2024	Deborah Hornbostel	.60	Review and respond to emails from A Mensour re freezer, email to K Kaplilan for verification, update from G Feldman re BMO assignment of security, update to him and V Wong re break-ins, review and approve disbursement to Colliers,
03-Apr-2024	Chahna Nathwani	.30	Prepared payment requisition for Colliers International, processed chq for signing, printed and mailed
03-Apr-2024	Deborah Hornbostel	.30	Review email from K Kapilan re freezer, email to A Mansour and C Leduc re release of freezer
05-Apr-2024	Deborah Hornbostel	.50	Emails from B Sachdeva and G Feldman re assignment of BMO security, email exchange with V Wong, email to R Jaipargas to request court date, arrange meeting for Monday, respond to email from K Kapilan
08-Apr-2024	Deborah Hornbostel	.80	Meeting with R Jaipargas and B Sachdeva, further emails from R Jaipargas re court date ad B Sachdeva re property taxes and other creditor invoices, locate and provide/requisition payment
09-Apr-2024	Deborah Hornbostel	.10	Review and approve property tax payment requisition, confirmation re court date
09-Apr-2024	Evani Patel	.30	Cheque Requisition for Property Tax Payment
10-Apr-2024	Chris Leduc	2.00	Site inspection
10-Apr-2024	Deborah Hornbostel	.20	Review invoice re repair of back door and padlocks and rwd for payment, confirm receipt of invoice, email from B Sachdeva confirming payment of hydro and propane bills
10-Apr-2024	Evani Patel	.30	Cheque Requisition for Mgmesser Constructions
11-Apr-2024	Deborah Hornbostel	.20	Update from C Leduc re freezer return, advise of forthcoming discharge motion court date, sign cheques
12-Apr-2024	Chris Leduc	2.00	Site inspection and clean up
15-Apr-2024	Deborah Hornbostel	1.50	Report drafting
16-Apr-2024	Chris Leduc	2.50	Site inspection and clean-up from second break-in
16-Apr-2024	Deborah Hornbostel	3.90	Review BMO security opinion, email to R Jaipargas re WSIB wrti, provide related info to B Sachdeva, review response from Harneet Bajwa, email details to E Patel to contact WSIB, report drafting
17-Apr-2024	Deborah Hornbostel	.50	Email to D Leduc to request outstanding expenses and final site inspection, return calls to R. Seabrooke and B Julka re potential purchasers
18-Apr-2024	Jerry Henechowicz	.70	Second Partner review of draft court report
18-Apr-2024	Deborah Hornbostel	1.30	Review report comments from J Henechowicz, implement changes and forward updated version to R Jaipargas, review correspondence from Hydro One, fwd to E Patel for investigation, review her response, locate previous dealings on the issue and provide further instructions to E Patel for Hydro One correction request, email with C Leduc, review messages from K Kapilan re WSIB and respond
18-Apr-2024	Evani Patel	.40	Hydro One Account Reconciliation for all outstanding charges

SUMMARY OF TIME CHARGES

Professional	Average Hourly Rate (CAD \$)	Hours	Fees (CAD \$)
Deborah Hornbostel; Senior Vice-President	780.00	82.00	\$ 63,960.00
Jerry Henechowicz; Senior Vice-President	780.00	.70	546.00
Chris Leduc; Senior Manager	460.00	51.70	23,782.00
Akhil Kapoor; Manager	495.00	9.70	4,801.50
Chahna Nathwani; Estate Administrator	264.00	1.70	448.80
Daryl Heinsohn; Partner	645.00	7.60	4,902.00
Evani Patel; Consultant	362.00	1.00	362.00
Guy Venne; Partner	645.00	3.60	2,322.00
Upasana Nayak; Estate Administrator	264.00	5.60	1,478.40
Yujun Liu; Consultant	362.00	3.00	1,086.00
Lisa Visconti; Administrative Assistant	177.00	0.30	53.10
Receiver's fee to April 18, 2024; exclusive of HST		166.90	\$ 103,741.80
Add: HST (13%)			13,486.43
Receiver's fee to April 18, 2024; Inclusive of HST			\$ 117,228.23

Appendix “J”

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

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

APPLICATION UNDER Section 211 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3,
and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**AFFIDAVIT OF CHRISTINE MASON
(Sworn April 22, 2024)**

I, **CHRISTINE MASON**, of the City of Toronto, in the Province of Ontario, **MAKE
OATH AND SAY:**

1. I am a partner at the law firm of Borden Ladner Gervais LLP (“**BLG**”), lawyers for MNP Ltd. (“**MNP**”), in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”) of all the assets, undertakings and properties of 2243080 Ontario Inc. and 2496287 Ontario Inc. (collectively, the “**Debtors**”), and as such have knowledge of the matters hereinafter deposed to.

2. This affidavit is made in support of a motion for, among other things, the approval of the fees and disbursements of BLG for the period from July 1, 2023 to March 31, 2024 (the “**Fee Period**”). Attached hereto and marked as **Exhibit “A”** is a summary of the hourly rate and time expended by the professionals at BLG during the Fee Period.

3. Attached hereto and marked as **Exhibit "B"** is a true copy of the account issued by BLG for the Fee Period, in the total amount of \$42,313.57. The account attached as Exhibit B provides a fair and accurate description of the activities undertaken by BLG.

4. BLG requests that the Court approve its account for the Fee Period for fees in the amount of \$36,743.00, disbursements of \$702.64 and taxes of \$4,867.93, for services rendered and recorded.

5. BLG estimates that it will incur no more than \$15,000.00 in additional fees, excluding disbursements and applicable taxes ("**BLG's estimate to completion**"), for services to be provided to the Receiver through to the date of the Receiver's discharge. BLG requests that the Court approve BLG's estimate to completion for the period from April 1, 2024 through to the date of the Receiver's discharge.

SWORN BEFORE ME over video conference)
this 22nd day of April 2024, in accordance with)
Ontario Regulation 431/20. The affiant was)
located in Toronto, in the Province of Ontario,)
while the commissioner, Mariela Adriana)
Gasparini, was located in Vaughan, in the)
Province of Ontario.)



Commissioner for Taking Affidavits


Law Society of Ontario Licence No.: P14458



CHRISTINE MASON

EXHIBIT A

This is the Exhibit marked "A" referred to
in the Affidavit of Christine Mason,
sworn before me this 22nd day of April 2024.

A handwritten signature in blue ink, appearing to read "Christine Mason", is written over a horizontal line.

A Commissioner for Taking Affidavits

LSO Licence No.: P14458

EXHIBIT "A"

**Summary of Fees and Disbursements of Borden Ladner Gervais LLP
for the period from July 1, 2023 to March 31, 2024**

Name of Professional	Total Hours Billed	Avg. Hourly Rate (\$/Hr) (2023-2024)	Total Amount Billed
G. Di Girolamo	1.40	\$445.00	\$623.00
G.S. Huff	1.80	\$515.00	\$927.00
K. Hughes	3.00	\$425.00	\$1,275.00
R. Jaipargas	11.90	\$1,119.71	\$13,324.50
C. Mason	11.50	\$948.70	\$10,910.00
N.G. Pasquino	0.50	\$895.00	\$447.50
H.S. Silverman	0.30	\$1,295.00	\$388.50
K. Sweet	3.50	\$420.00	\$1,470.00
G. Wang	2.60	\$390.00	\$1,014.00
X. Yan	7.40	\$859.93	\$6,363.50
Total Hours/Average Rate/Total Fees	43.90	\$731.33	\$36,743.00
Total Disbursements			\$702.64
Total Fees and Disbursements excluding Tax			\$37,445.64
Taxes (GST/HST)			\$4,867.93
Total Fees and Disbursements including Tax			\$42,313.57

EXHIBIT B

This is the Exhibit marked "B" referred to
in the Affidavit of Christine Mason,
sworn before me this 22nd day of April 2024.



A Commissioner for Taking Affidavits

LSO Licence No.: P14458



Borden Ladner Gervais LLP
Lawyers | Patent & Trade-mark Agents
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blg.com

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

April 4, 2024

Attention: Deborah Hornbostel

Invoice # 698371744

Page 1

Re: 2243080 Ontario Inc.

File No: 295145/000033

PROFESSIONAL SERVICES rendered to March 31, 2024 in connection with the above matter as described in the attached.

Fees	\$ 36,743.00
Disbursements and Other Charges	702.64
HST on Fees and Taxable Disbursements and Other Charges	4,867.93
Total this Invoice	<u>\$ 42,313.57</u>

THIS IS OUR ACCOUNT - E. & O.E.

BORDEN LADNER GERVAIS LLP

Borden Ladner Gervais LLP

For: Roger Jaipargas

MNP Ltd
Re: 2243080 Ontario Inc.

April 4, 2024
Invoice # 698371744
File No: 295145/000033
Page 2

PROFESSIONAL SERVICES RENDERED to March 31, 2024

Jul 20, 2023	R. Jaipargas	0.20	Various emails to and from D. Hornbostel in connection with the proposed receivership of 2243080 Ontario Inc. and issues of insurance coverage and LCBO authorization matters.
Jul 21, 2023	R. Jaipargas	0.80	Call with D. Hornbostel re: issue of LCBO license and permits and approach to take re: same; email to C. Staples re: language for the appointment order for the Receiver re: the LCBO authorization; emails to and from C. Staples re: outcome of the court hearing.
Jul 21, 2023	N.G. Pasquino	0.50	Consult R. Jaipargas re: AGCO / LCBO arrangements in the context of a receivership.
Jul 24, 2023	R. Jaipargas	0.20	Review Endorsement of Justice Kimmel re: outcome of hearing of the receivership application; email to C. Staples re: same.
Sep 26, 2023	R. Jaipargas	0.10	Email to and from E. Feldman re: status of sale of property and date for receivership order.
Sep 27, 2023	R. Jaipargas	0.60	Numerous emails to and from G. Feldman, J. Frymar and D. Hornbostel re: agreement to move the date for the appointment of the receiver and approach to take re: same; telephone attendance with D. Hornbostel re: same; email to and from G. Feldman re: final email on terms of adjournment of appointment date.
Sep 28, 2023	R. Jaipargas	0.10	Emails from and to G. Feldman re: proposal to push out date for receivership order to take affect.
Sep 29, 2023	R. Jaipargas	0.20	Emails from and to G. Feldman and D. Hornbostel re: endorsement to be made by Justice Kimmel to push out the date for the appointment order; review endorsement re: same.
Oct 31, 2023	R. Jaipargas	0.20	Emails from and to D. Hornbostel and G. Feldman re: amendment to the APS and date for repayment to BMO before the Appointment Order springs into effect.
Nov 1, 2023	R. Jaipargas	0.10	Email from G. Feldman re: timing of closing of Pickering transaction.

April 4, 2024

Invoice # 698371744

File No: 295145/000033

Page 3

MNP Ltd
Re: 2243080 Ontario Inc.

Nov 6, 2023	R. Jaipargas	0.10	Review endorsement of Justice Kimmel re: extension of time for the receivership order to take affect; emails to and from G. Feldman re: same.
Dec 11, 2023	R. Jaipargas	0.10	Email from and to G. Feldman re: status of payment of BMO in connection with possible receivership proceedings.
Dec 12, 2023	R. Jaipargas	0.20	Emails to and from D. Hornbostel and G. Feldman re: orders springing into affect for the appointment of a receiver and next steps on same.
Dec 13, 2023	R. Jaipargas	0.40	Various emails to and from G. Feldman and D. Hornbostel re: Receiver's certificate and funding of same and issue of order to be registered as against the Warren property.
Dec 14, 2023	G. Di Girolamo	1.20	Re 2243080 Ontario Inc. et al - conducted corporate information searches; ordered PPSA searches from Ministry of Government and Consumer Services, Companies and Personal Property Security Branch; conducted s427 Bank Act searches; conducted bankruptcy and insolvency searches with the Office of the Superintendent of Bankruptcy; conducted sheriff's execution search.
Dec 14, 2023	G.S. Huff	1.80	Receive instructions from X. Yan. Review correspondence, Court Order, Charge and Property Parcel Register. Draft E-Reg Application to Register Court Order. Revise as per X. Yan. Attend to registration of same.
Dec 14, 2023	R. Jaipargas	0.90	Emails to and from G. Feldman and D. Hornbostel re: registering order on title for Warren property; emails to and from X. Yan re: same; telephone attendance with X. Yan re: same; email from X. Yan re: registration of order on title; email to D. Hornbostel re: same; call with C. Mason re: security opinion required in respect of BMO security; email to and from G. Feldman and D. Hornbostel re: scope of BMO security; email from Chaitons re: BMO security.
Dec 14, 2023	C. Mason	0.50	Discussing security review with R Jaipargas; reviewing Application Record; ordering searches.

April 4, 2024

Invoice # 698371744

File No: 295145/000033

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MNP Ltd
Re: 2243080 Ontario Inc.

Dec 14, 2023	X. Yan	0.50	Reviewed court order and discussed with G Huff re registration; reviewed draft e-reg application and provided comments; attended to registration of same
Dec 18, 2023	G. Di Girolamo	0.20	Re 2243080 Ontario Inc. et al - received and reviewed PPSA search results.
Dec 19, 2023	K. Sweet	3.50	Reviewing search results and preparing search summary
Jan 4, 2024	C. Mason	1.00	Reviewing search summary and loan documents in application record.
Jan 5, 2024	X. Yan	1.20	Reviewed updated PIN; reviewed mortgage docs and considered same; reviewed search summaries and considered same; considered required searches
Jan 7, 2024	X. Yan	0.30	reviewed loan and mortgage docs and considered same
Jan 8, 2024	C. Mason	1.00	Reviewing loan/security documents; drafting security review letter.
Jan 8, 2024	X. Yan	0.80	Reviewed charge on title and provided initial comment on deficiencies; reviewed loan and RE docs and provided comments;
Jan 11, 2024	X. Yan	0.40	Reviewed tax and water certificates, considered same and emails re same
Jan 14, 2024	X. Yan	0.20	Attended to real properties searches
Jan 16, 2024	R. Jaipargas	0.20	Emails from and to D. Hornbostel re: possible sale of property and APS entered into by the debtor and position of receiver re: same and call required to discuss same.
Jan 17, 2024	R. Jaipargas	0.10	Email from and to D. Hornbostel re: status of security review and call to discuss next steps on matter.
Jan 18, 2024	R. Jaipargas	0.60	Conference call with D. Hornbostel re: status of receivership and potential transaction negotiated by debtor re: same and implications arising from same and next steps ; emails to and from J. Frymar re: concerns of the receiver re: proposed transaction and a request for any agreement of purchase and sale entered into re: same; emails to and from D. Hornbostel re: same.
Jan 18, 2024	C. Mason	4.00	Reviewing loan and security documents; drafting security review opinion.
Jan 18, 2024	X. Yan	0.80	Reviewed real estate title instruments and security and considered same

April 4, 2024

Invoice # 698371744

File No: 295145/000033

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MNP Ltd
Re: 2243080 Ontario Inc.

Jan 19, 2024	R. Jaipargas	0.10	Email from and to D. Hornbostel re: proposed transaction negotiated by the debtor with a third party.
Jan 19, 2024	G. Wang	0.10	Telephone call with X. Yan re security review memo.
Jan 19, 2024	X. Yan	0.30	Discussed with Grace Wang re required review and outstanding matters;
Jan 21, 2024	C. Mason	2.50	Drafting security review report.
Jan 21, 2024	X. Yan	0.50	Reviewed draft security review memo and considered same; reviewed search summary
Jan 22, 2024	K. Hughes	3.00	Conducted an adjoining land search. Complex search due to consolidation of property and related reviews of prior stipulated Planning Act consents. Preparation of search memo. Conducted Teraview search to obtain historical title materials and current adjoining land parcels.
Jan 22, 2024	G. Wang	0.20	Discuss with X. Yan re security review; emails with K. Hughes re Planning Act review.
Jan 22, 2024	X. Yan	0.50	Reviewed and discussed with Grace W re required amendment to security review memo
Jan 23, 2024	R. Jaipargas	0.20	Emails to and from D. Hornbostel re: next steps on marketing and sale of property and process issues re: same.
Jan 24, 2024	C. Mason	0.20	Attending to security review.
Jan 24, 2024	G. Wang	1.50	Review title and off-title search results; amend security review memo and search summary.
Jan 24, 2024	X. Yan	1.10	Reviewed draft revised memo, considered same and provided comments; reviewed planning act searches and considered same
Jan 25, 2024	C. Mason	1.00	Reviewing amendments to security review opinion re real estate security; revising security review.
Jan 25, 2024	H.S. Silverman	0.30	Discussion/emails with C. Mason regarding security review.
Jan 25, 2024	G. Wang	0.80	Amend security review memo and search summary
Jan 25, 2024	X. Yan	0.80	reviewed and provided comments on revised security review memo
Jan 31, 2024	R. Jaipargas	0.10	Telephone attendance with C. Mason re: comments on the security review letter and approach to take re: same.

April 4, 2024

Invoice # 698371744

File No: 295145/000033

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MNP Ltd
Re: 2243080 Ontario Inc.

Jan 31, 2024	C. Mason	0.30	Discussing security review with R Jaipargas.
Feb 2, 2024	C. Mason	1.00	Finalizing and circulating security review.
Feb 6, 2024	R. Jaipargas	0.10	Email from and to D. Hornbostel re: efforts by J. Frymar to sell the property.
Feb 7, 2024	R. Jaipargas	0.70	Conference call with D. Hornbostel re: possible transaction negotiated by J. Frymer to sell the property and issues arising from same and next steps re: pending receivership proceedings and approach to take re: same.
Feb 9, 2024	R. Jaipargas	0.40	Emails from and to D. Hornbostel re: inquiry from J. Frymer re: payment of amounts owing and discharge of receiver; call with J. Frymer re: same; call with D. Hornbostel re: same.
Feb 28, 2024	R. Jaipargas	0.30	Email to and from J. Frymer re: payment to BMO and discharge of the receiver; email to and from G. Feldman and D. Hornbostel re: same.
Feb 29, 2024	R. Jaipargas	0.40	Conference call with D. Hornbostel and G. Feldman re: email from J. Frymer and next steps on same.
Mar 6, 2024	R. Jaipargas	0.10	Email from G. Feldman re: next steps on marketing of the sale of the property.
Mar 11, 2024	R. Jaipargas	0.10	Email from and to D. Hornbostel re: a possible assignment of the BMO debt and security to the second mortgagee.
Mar 12, 2024	R. Jaipargas	0.40	Emails to and from B. Sachedeva and D. Hornbostel re: possible payment to BMO and structuring of discharge of receiver.
Mar 14, 2024	R. Jaipargas	0.70	Conference call with D. Hornbostel re: potential repayment of BMO debt by the second mortgagee and structuring options re: same; conference call with B. Sachedeva re: same; emails to D. Hornbostel re: same.
Mar 19, 2024	R. Jaipargas	0.10	Email from and to D. Hornbostel re: possible repayment of the BMO debt by the second mortgagee.
Mar 20, 2024	R. Jaipargas	1.30	Emails to and from B. Sachedeva, D. Hornbostel and D. Feldman re: proposal for second mortgagee to pay out BMO and draft email to B. Sachedeva re: same; email to MNP and Chaitons re: same.

April 4, 2024

Invoice # 698371744

File No: 295145/000033

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MNP Ltd
Re: 2243080 Ontario Inc.

Mar 21, 2024	R. Jaipargas	1.20	Emails from and to G. Feldman, D. Hornbostel and B. Sachedeva re: terms of assignment of BMO debt and motion to discharge the Receiver; calls with each of G. Feldman and D. Hornbostel re: same; further emails to and from B. Sachedeva re: same.
Mar 22, 2024	R. Jaipargas	0.20	Emails from and to G. Feldman and B. Sachedava re: possible assignment of BMO debt and security to the second mortgagee and next steps re: same.
Mar 25, 2024	R. Jaipargas	0.30	Emails from and to D. Hornbostel re: appraisal for property; review same and issue of timing for payment of property taxes by the Receiver.
Mar 31, 2024	R. Jaipargas	0.10	Emails from and to B. Sachedeva and D. Hornbostel re: assignment of BMO debt and status of other claims.

TO OUR FEES

\$ 36,743.00

FEE SUMMARY

<u>Timekeeper</u>	<u>Hours</u>	<u>Avg. Rate/Hr.</u>	<u>Amount</u>
G. Di Girolamo	1.40	\$ 445.00	\$ 623.00
G.S. Huff	1.80	515.00	927.00
K. Hughes	3.00	425.00	1,275.00
R. Jaipargas	11.90	1,119.71	13,324.50
C. Mason	11.50	948.70	10,910.00
N.G. Pasquino	0.50	895.00	447.50
H.S. Silverman	0.30	1,295.00	388.50
K. Sweet	3.50	420.00	1,470.00
G. Wang	2.60	390.00	1,014.00
X. Yan	7.40	859.93	6,363.50
	<u>43.90</u>		<u>\$ 36,743.00</u>



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22 Adelaide Street West
Toronto, ON, Canada M5H 4E3
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blg.com

April 4, 2024

Invoice # 698371744

File No: 295145/000033

Page 8

MNP Ltd
Re: 2243080 Ontario Inc.

DISBURSEMENTS AND OTHER CHARGES:

<u>Taxable</u>	G=GST; Q=QST; H=HST; P=PST	
Bank Act Search & CSRS (Disbs)	\$16.00	H
Bank Act Search & CSRS (Fees)	12.00	H
Ecore Searches (Fees)	73.90	H
Other Searches	152.80	H
Tax Certificates & Searches	100.99	H
Teraview Search Fees	346.95	H
	<hr/>	
Total Taxable Disbursements and Other Charges	702.64	
	<hr/>	
Total Disbursements and Other Charges		702.64
		<hr/>
Total Fees and Disbursements and Other Charges		37,445.64
		<hr/>
HST on Fees and Taxable Disbursements and Other Charges		4,867.93
		<hr/>
TOTAL THIS INVOICE		<u>\$ 42,313.57</u>



Borden Ladner Gervais LLP
Lawyers | Patent & Trade-mark Agents
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MNP Ltd
1 Adelaide Street East Suite 1900
Toronto, ON M5C 2V9

April 4, 2024
Invoice # 698371744
RJ/RJ

Re: 2243080 Ontario Inc.

File No: 295145/000033

REMITTANCE COPY

Fees	\$ 36,743.00
Disbursements and Other Charges	702.64
HST on Fees and Taxable Disbursements and Other Charges	4,867.93
	<hr/>
Total this Invoice	<u>\$ 42,313.57</u>

PLEASE REFER TO PAYMENT OPTIONS PAGE FOR REMITTANCE INFORMATION.

BANK OF MONTREAL

-and- 2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Applicant

Respondents

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

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF CHRISTINE MASON

BORDEN LADNER GERVAIS LLP

Bay Adelaide Centre, East Tower

22 Adelaide St W

Toronto, Ontario M5H 4E3

Tel: 416-367-6000

Fax: 416-367-6749

Roger Jaipargas – LSO No.: 43275C

Tel: (416) 367-6266

Email: rjaipargas@blg.com

Lawyers for MNP Ltd., the Receiver

**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**

BETWEEN

BANK OF MONTREAL

**2243080 ONTARIO INC. AND 2496287
ONTARIO INC.**

-and-

Applicant

Respondents

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

PROCEEDING COMMENCED AT TORONTO

**FIRST REPORT OF MNP LTD. AS RECEIVER OF
2243080 ONTARIO INC. AND 2496287 ONTARIO
INC.**

April 22, 2024

BORDEN LADNER GERVAIS LLP

Bay Adelaide Centre, East Tower

22 Adelaide St W

Toronto, Ontario M5H 4E3

Tel: 416-367-6000

Fax: 416-367-6749

Roger Jaipargas – LSO No. 43275C

Tel: (416) 367-6266

Email: rjaipargas@blg.com

Lawyers for MNP Ltd., as Receiver of 2243080
Ontario Inc. and 2496287 Ontario Inc.

Tab 3

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

THE HONOURABLE) MONDAY, THE 29th DAY
)
MADAM JUSTICE CONWAY) OF APRIL, 2024

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

DISCHARGE ORDER

THIS MOTION, made by MNP Ltd. (“MNP”) in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2243080 Ontario Inc. and 2496287 Ontario Inc. (the "**Debtors**"), was heard this day by Zoom video conference.

ON READING the first report of the Receiver dated April 22, 2024 (the “**First Report**”), the affidavit of the Deborah Hornbostel sworn April 22, 2024 (the “**Hornbostel Affidavit**”), the affidavit of Christine Mason sworn April 22, 2024 (the “**Mason Affidavit**”), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, and on reading the affidavit of service of Mariela Adriana Gasparini sworn April 23, 2024, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein, shall have the meanings ascribed thereto in the First Report.
3. **THIS COURT ORDERS** that the First Report and the activities of the Receiver as set-out in the First Report be and 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 such approval.
4. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements as at April 18, 2024, be and is hereby approved.
5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period from July 21, 2023 to April 18, 2024, including the estimated fees and disbursements of the Receiver up to its date of discharge, as described in the Hornbostel Affidavit, be and are hereby approved.
6. **THIS COURT ORDERS** that the fees and disbursements of Borden Ladner Gervais LLP ("**BLG**"), legal counsel to the Receiver, for the period from July 20, 2023 to March 31, 2024, including the estimated fees and disbursements of BLG for services to be provided to the Receiver, up to the date of discharge of the Receiver, as described in the Mason Affidavit, be and are hereby approved.
7. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to pay any of its fees and disbursements, including any fees and disbursements of the Receiver and BLG, which exceed the estimates set-out in the Hornbostel Affidavit and the Mason Affidavit, with either: (i) the consent of 145Guelph Inc. ("**145**"), or (ii) pursuant to a further Order of the Court.
8. **THIS COURT ORDERS** that the Receiver's charge (the "**Receiver's Charge**"), as defined in and created by the Order of Madam Justice Kimmel dated July 21, 2023 (the "**Appointment Order**"), be and is hereby fully and finally terminated, discharged and

extinguished, upon the Receiver filing a discharge certificate with the Court, substantially in the form attached hereto as Schedule “A” (the “**Discharge Certificate**”).

9. **THIS COURT ORDERS** that the Appointment Order registered on title to the real property described as PT LTS 37 & 38 RCP 84S DUNNET BEING PART 1 ON 53R20501, PART 2 ON 53R15743 & PT 1 ON 53R12570; S/T S111419; MUNICIPALITY OF MARKSTAY-WARREN, municipally known as 8824 Hwy. 17 E., Warren, Ontario (the “**Warren Property**”), as registered in the Land Registry Office for the Land Titles Division of Sudbury (No. 53) on December 14, 2023 as Instrument No. SD489426 (the “**Registered Order**”), shall be expunged and ruled off, upon the filing of the Discharge Certificate.

10. **THIS COURT ORDERS** that the Receiver is relieved of any and all financial liabilities relating to the Warren Property and/or 224 and requiring 224 to be responsible for any and all such unpaid liabilities incurred prior to or during the receivership proceedings.

11. **THIS COURT ORDERS** that upon the Receiver’s filing of the Discharge Certificate with the Court certifying that it has completed the Remaining Duties, as defined and described in the First Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of MNP in its capacity as Receiver.

12. **THIS COURT ORDERS AND DECLARES** that MNP is hereby released and discharged from any and all liability that MNP now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of MNP while acting in its capacity as Receiver herein. Without limiting the generality of the foregoing, MNP 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.

SCHEDULE “A”: FORM OF RECEIVER’S DISCHARGE CERTIFICATE

Court File No: CV-23-00698764-00CL

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

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

Respondents

RECEIVER’S DISCHARGE CERTIFICATE

- A. Pursuant to an Order of Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated July 21, 2023, MNP Ltd. was appointed receiver (the “**Receiver**”) of all the assets, undertakings and property of 2243080 Ontario Inc. and 2496287 Ontario Inc. (the “**Debtors**”) pursuant to 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.
- B. Pursuant to an Order of the Court dated April 29, 2024 (the “**Discharge Order**”) the Court ordered, *inter alia*, that the Receiver be discharged, effective upon the filing by the Receiver of a certificate certifying the matters set out herein.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER HEREBY CERTIFIES the following:

1. The Receiver is satisfied, in its discretion, that it has completed its remaining duties, as set out in the Receiver's First Report to the Court dated April 22, 2024.
2. This Certificate was delivered by the Receiver at _____ (*time*) on _____ (*date*).

MNP Ltd., in its capacity as court-appointed receiver of assets, undertakings and property of 2243080 Ontario Inc. and 2496287 Ontario Inc.

Per: _____

Name:

Title:

BANK OF MONTREAL

2243080 ONTARIO INC. and 2496287 ONTARIO INC.

- and -

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

RECEIVER'S DISCHARGE CERTIFICATE

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DISCHARGE ORDER

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- and -

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Applicant

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**ONTARIO
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PROCEEDINGS COMMENCED AT TORONTO

**MOTION RECORD
(Returnable April 19, 2024)**

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