

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) WEDNESDAY, THE 6TH
JUSTICE OSBORNE) DAY OF JULY, 2022
)

B E T W E E N:

PS HOLDINGS 1 LLC, PS HOLDINGS 2 LLC and PS HOLDINGS 3 LLC

Applicants

-AND-

2738283 ONTARIO INC., 2738284 ONTARIO INC. and 2738285 ONTARIO INC.

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF 2738283 ONTARIO INC., 2738284
ONTARIO INC. and 2738285 ONTARIO INC.**

**AND IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as
amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C.
1985, c. B-3, as amended**

DISTRIBUTION ORDER

THIS MOTION, made by MNP Ltd., in its capacity as the Court-appointed receiver of the Respondents (in such capacity, the “**Receiver**”) in these proceedings (the “**Receivership Proceeding**”) for an order, among other things: (i) authorizing an interim distribution to certain parties, as described below; (ii) appointing Megan Keenberg, C.S., Q. Arb., Q. Med, as Claims Officer pursuant to the Claims Process Order granted March 10, 2022 (the “**Claims Process Order**”); (iii) approving the Receiver’s Interim Statement of Receipts and Disbursements; (iv) approving the Second Report of the Receiver dated June 24, 2022 (the “**Second Report**”) and the

activities of the Receiver described therein; and (v) approving the fees of the Receiver and its counsel, was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Second Report and the Appendices thereto, the Fee Affidavit of Deborah Hornbostel sworn June 22, 2022 (the “**Hornbostel Affidavit**”), the Fee Affidavit of Robert Thornton sworn June 22, 2022 (the “**Thornton Affidavit**”) and such further materials as counsel may advise, and on hearing submissions from counsel to the Receiver and counsel to those parties listed on the counsel list for today’s hearing, and no one else appearing for any other interested person, although duly served as evidenced by the Affidavit of Service of Maria Magni sworn June 27, 2022, filed.

SERVICE

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 used herein that are otherwise not defined shall have the meaning ascribed to them in the Second Report.

DISTRIBUTIONS

3. **THIS COURT ORDERS** that the Receiver is authorized and directed to make the following distributions from the receipts held by the Receiver in the Receivership Proceeding:
 - (a) to Maria Louise Larsen, the amount of \$2,547,412.63, in satisfaction in full of her secured claim against the Respondents;
 - (b) to those Claimants identified at paragraph 30 of the Second Report, in the amounts described therein, in the total aggregate amount of \$554,971.57, plus applicable interest;
 - (c) to those Claimants in respect of any Disputed Claim that subsequently becomes a Proven Claim, in accordance with the terms of the Claims Process Order, up to the amount of such Proven Claim;

(d) to 7 Generations Development Group Ltd., the amount of the Excess Funds described in paragraph 46 of the Second Report in the aggregate amount of \$2,663,844.65 (which is subject to, among other things, the Disputed Claims Reserve in the amount of \$3,305,741 and Professional Fee Reserve in the amount of \$950,000) in respect of its equity interest in the Real Property, along with any funds in the Disputed Claims Reserve and Professional Fee Reserve that subsequently become available for distribution, in the Receiver's sole discretion.

4. **THIS COURT ORDERS** that, notwithstanding:

(e) the pendency of these proceedings;

(f) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Respondents and any bankruptcy order issued pursuant to any such applications; and

(g) any assignment in bankruptcy made in respect of any of the Respondents;

the distributions set out in paragraph 3 of this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Respondents and shall not be void or voidable by creditors of the Respondents, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

APPOINTMENT OF CLAIMS OFFICER

5. **THIS COURT ORDERS** that Megan Keenberg, C.S., Q. Arb., Q. Med, is appointed as Claims Officer pursuant to the Claims Process Order and shall be entitled to the rights and authorizations set out in the Claims Process Order.

APPROVAL OF ACTIVITIES AND FEES OF THE RECEIVER

6. **THIS COURT ORDERS** that the Second Report and the activities, decisions and conduct of the Receiver as set out in the Second Report are hereby authorized and approved; provided,

however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

7. **THIS COURT ORDERS** that the Receiver's statement of interim receipts and disbursements for the period November 9, 2021 to June 22, 2022, as set out in the Second Report and attached as Appendix "L" to the Second Report, is hereby approved.

8. **THIS COURT ORDERS** that the professional fees of the Receiver for the period between February 23, 2022 to June 17, 2022, in the amount of \$144,724, plus Harmonized Sales Tax ("HST") of \$18,816.46 as further set out in the Second Report and the Hornbostel Affidavit attached as Appendix "J" to the Second Report, are hereby approved.

9. **THIS COURT ORDERS** that the professional fees of Thornton Grout Finnigan LLP, counsel to the Receiver, for the period between March 1, 2022 to June 17, 2022, in the amount of \$100,622.50, plus disbursements of \$36,118.71 and HST of \$17,733.73, for a total of \$154,474.94, as further set out in the Second Report and the Thornton Affidavit attached as Appendix "K" to the Second Report, are hereby approved.

GENERAL

10. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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 and its agents 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.

**IN THE MATTER OF THE RECEIVERSHIP OF 2738283 ONTARIO INC., 2738284 ONTARIO INC. and 2738285 ONTARIO INC.
AND IN THE MATTER OF AN 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*, RSO 1990, c C.43, as amended**

**PS HOLDINGS 1 LLC, PS HOLDINGS 2 LLC
and PS HOLDINGS 3 LLC**

and **2738283 ONTARIO INC., 2738284 ONTARIO INC.
and 2738285 ONTARIO INC.**

Applicants

Respondents

Court File No.: CV-21-00670723-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

DISTRIBUTION ORDER

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