

COURT FILE NUMBER	2003 04652
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
PLAINTIFF	THE TORONTO DOMINION BANK
DEFENDANTS	A.B.C. AFTERSCHOOL LTD., ANN'S DAY CARE LTD., ROBERT JOSEPH LAVOY, ANN LAVOY, AND COREY ROBERT LAVOY
DOCUMENT	FIRST REPORT TO THE COURT OF MNP LTD. IN ITS CAPACITY AS RECEIVER OF A.B.C. AFTERSCHOOL LTD. DATED OCTOBER 9, 2020
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Duncan Craig LLP 2800 Scotia Place 10060 Jasper Ave Edmonton, AB T5J 2V9 Attention: Ryan Quinlan Telephone: (780) 441-4336 Facsimile: (780) 428-9683 Solicitors for the Receiver, MNP Ltd.

Introduction and Purpose of the Report

1. MNP Ltd. was appointed Receiver of A.B.C. Afterschool Ltd. ("**ABC**" or the "**Company**") pursuant to an order dated May 14th, 2020 (the "**Receivership Order**") of the Honourable Justice J.S. Little of the Court of Queen's Bench of Alberta (the "**Court**").
2. ABC primarily owns two commercial real estate properties located in Fort Saskatchewan, Alberta. Ann's Daycare Ltd. ("**Ann's Daycare**"), a company owned by related parties, previously operated day care services from both commercial spaces.
3. In accordance with a March 10, 2020 Alberta Corporate Registry Search, the principal Shareholders and Directors of ABC are Ann Lavoy, Robert Lavoy and Corey Lavoy (each holding 33.3% of the voting shares).
4. This is the Receiver's First Report to Court (the "**First Report**") and its purpose is to advise the Court with respect to the following:
 - the activities of the Receiver since being appointed;
 - marketing efforts and proposed sale of real property;
 - priority creditors;
 - Interim Statement of Receipts and Disbursements; and,
 - a summary of Professional Fees incurred to September 30, 2020.
5. In preparing the First Report and making comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information of the Company, the

Company's books and records, and information from other third-party sources (collectively, the "**Information**"). 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 or other standards established by the Chartered Professional Accountants of Canada.

6. Materials with respect to this proceeding can be found on the Receiver's website at <https://mnpdebt.ca/en/corporate/corporate-engagements/abc-afterschool-ltd>

Activities of the Receiver

7. Upon the filing of the Receivership Order, the Receiver visited and took possession of the two parcels of real property located at 9811 – 101 Street (the "**101 Street Property**") and 9818 – 102 Street (the "**102 Street Property**") both of which are located in Fort Saskatchewan, Alberta (collectively referred to as the "Properties").
8. Corey Lavoy, a defendant in the within action and director and shareholder of the Company, met the Receiver at the premises and provided access and assistance to the Receiver in its possession taking activities.
9. During the process of taking possession of the Properties, the Receiver:
 - collected relevant books and records of the Company, where available;
 - attended with a locksmith and changed locks to the Properties;
 - set up new utility accounts for each of the Properties;
 - notified the alarm services company;
 - contacted financial institutions to secure control of bank accounts maintained by the Company; and,
 - confirmed that the Company's insurance policy provided for adequate insurance coverage and arranged to continue coverage.
10. On May 25, 2020, the Receiver issued the Notice and Statement of Receiver pursuant to Sections 245 and 246 of the *Bankruptcy and Insolvency Act* to the known creditors of the Company which is required to be filed within 10 days of the Receiver's appointment. Attached to this First Report as **Schedule A** is a copy of the Notice and Statement. The Receiver was late in issuing its Notice and Statement by one (1) day. The Receiver respectfully asks this honorable court to approve the late filing of the Notice and Statement.
11. Ann's Daycare had ceased operations due to the COVID-19 pandemic prior to the Receiver's appointment. Both Properties still housed the daycare equipment owned by Ann's Daycare, as well as a number of personal items owned by two of the directors and shareholders, Robert Lavoy and Ann Lavoy. Upon changing the locks, the Receiver elected to provide Corey Lavoy, also a shareholder and director, and son to Robert Lavoy and Ann Lavoy with keys to have continued access to the Properties so that he may remove the daycare equipment and personal items at his leisure.
12. Over the course of the following three months, Corey Lavoy had unfettered access to the Properties to remove the items owned by the related parties. On August 11, 2020 the Receiver notified Corey Lavoy that an offer to purchase was pending and that the Properties needed to be cleared out as a condition of sale and, as such, he would be required to have all items removed by August 21, 2020.
13. Corey Lavoy sought and was provided with an extension on a final move out date to August 31, 2020 following which the Receiver changed the locks to each of the Properties again on September 1, 2020.

14. Despite the firm date, Corey Lavoy was granted access to the 101 Street Property by the Receiver a final time on September 23, 2020 at which time he signed a Surrender and Release Agreement in respect of the remaining items located at the 101 Street Property, a copy of which is attached as **Schedule B**.
15. On September 30, 2020, the Receiver hired a third-party waste disposal company to remove and dispose of the remainder of the refuse at the 101 Street Property.
16. Corey Lavoy has since asked the Receiver for permission to remove additional items, specifically the appliances (fridge, stove, dishwasher), from the 102 Property on the basis that it was personal property not owned by ABC. The Receiver communicated its position that the appliances were property of ABC in the absence of evidence provided to the contrary. As such, the Receiver declined to allow Corey Lavoy to remove the appliances agreed to review its position further should evidence of ownership be produced for review. As of the date of the First Report, Corey Lavoy has not produced evidence that any other party other than ABC owns the appliances located at 102 Street Property.

Marketing and Sale of Real Property

17. On May 21, 2020 the Receiver contacted an appraisal services firm, Harrison Bowker Valuation Group, and obtained a quote for an appraisal on both a Forced Sale Value ("FSV") and Market Value ("MV") basis for each of the 101 Street Property and the 102 Street Property (the "Harrison Bowker Appraisal"). The Harrison Bowker Appraisal was commissioned and received on June 23, 2020. Specific details with respect to the appraised values arising from the Harrison Bowker Appraisal are described in the Confidential Addendum to the Receiver's First Report (the "**Confidential Addendum**").
18. The Receiver circulated a request for listing proposals to three commercial realtors in Edmonton, Alberta to list each of the 101 Street Property and the 102 Street Property for sale. For reference, the real property is legally described as follows:
 - SE ½ of Lots 2, Lots 3-5, and N ½ Lot 6, Block 3, Plan 0, excepting thereout all mines and minerals (101 Street Property); and,
 - Lot 25A, Block 3, Plan 1322470, excepting thereout all mines and minerals (102 Street Property).
19. On expiry of the proposal process, three listing proposals were presented to the Receiver from each of NAI Commercial Real Estate, CBRE Group and Avison Young & MacMillan Group. A summary of the listing proposals is attached to the Confidential Addendum as Schedule B. The items outlined in the listing proposal included recommendations on the proposed list price for each property, estimated selling prices and timelines, and proposed commission rates.
20. The Receiver entered into a listing agreement on June 29, 2020 with NAI Commercial Real Estate ("**NAI**"). A copy of the listing agreement with NAI is attached to the Confidential Addendum as Schedule C.
21. The Realtor advertised the Properties for sale through each of Realtor.ca, CoStar, LoopNet, Spacelist, NAI Edmonton and NAI Global websites and all known commercial realtors in the Edmonton, Fort Saskatchewan and surrounding areas. Signage was installed at each property and marketing brochures with virtual tour capabilities were made available to all prospective purchasers.
22. The Realtor advised that of the parties who had reviewed the advertisements as of September 28, 2020, it had received a total of 6 inquiries and requests for further information in respect of the 101

Street Property, which resulted in two physical viewings (outside of the virtual tours that prospective purchasers were able to access).

23. On August 4, 2020 an offer to purchase the 101 Street Property was presented to the Receiver. After detailed discussions with the Realtor and a counteroffer process with the prospective buyer, the Receiver accepted an offer to purchase from Greg Richardson and/or Nominee, subject to the Court Approval, on August 7, 2020 (the "**Revised Richardson Offer**"). The details on the offer received and the specific terms of the Revised Richardson Offer are described in the Confidential Addendum.
24. To date, there have been two showings but no offers to purchase received on the 102 Street Property.
25. In addition to the reasons set out in the Confidential Addendum, the Receiver recommends acceptance of the Revised Richardson Offer for the following reasons (amongst others):
 - The 101 Street Property was exposed to the open market through an experienced, professional commercial realtor;
 - The sale process run was lengthy, fair and transparent to all potential purchasers;
 - TD bank, the senior secured lender, supports the sale;
 - This is the only offer made on the 101 Street Property to date;
 - The Receiver engaged in a counteroffer process more particularly detailed the Confidential Addendum to ensure that the highest price possible was obtained from the purchaser;
 - All conditions on the Revised Richardson Offer, subject to Court approval, have been satisfied.
 - the purchase price is in line with the appraised values supported by the Harrison Bowker Appraisal, and are otherwise fair and reasonable;
 - the purchaser is arm's length to the Company and its related parties;
 - the Receiver is of the opinion that closing the Revised Richardson Offer is in the best interests of the parties;
 - the Receiver is of the opinion that further marketing of the 101 Street Property will not result in a better offer being received for them, especially since there is uncertainty in the real estate market due to the economic conditions in Alberta and the COVID-19 pandemic; and
 - closing the Revised Richardson Offer will eliminate go-forward holding costs, such as further property taxes and insurance.

Priority Creditors

Canada Revenue Agency ("CRA")

26. To date, CRA has not filed claims in respect of the Company. While the Receiver is not aware of any CRA debt, it is following up with CRA to request that claims be filed should there be debt outstanding for GST in relation to the Company. As the Company operated as a real estate holding company, there is no known employees (and therefore no expected payroll arrears).

Property Taxes

27. As of the date of the Receiver's appointment, a combined sum of \$97,258.41 was owing to the City of Fort Saskatchewan in relation to outstanding property taxes for the 101 Street Property and the 102 Street Property. The Receiver borrowed monies by way of a Receiver's Certificate from The Toronto Dominion Bank ("TD Bank") to pay the outstanding property taxes in order to avoid any further penalties or interest accruing on the property tax debts.

TD Bank

28. TD Bank has registered a security interest as against ABC as follows:
- a. General Security Agreement ("GSA") dated May 8, 2013 encompassing all present and after acquired real and personal property of ABC. The security registrations were made at the Personal Property Registry ("PPR") on May 17, 2013 and May 28, 2013;
 - b. Mortgage dated May 8, 2013 the 101 Street Property; and,
 - c. Mortgage dated May 8, 2013 against the 102 Street Property;
29. In accordance with the March 11, 2020 Affidavit of Katriana Morrison of TD Bank, the total approximate balance outstanding to TD Bank from ABC (not including costs and interest accrued) was \$2,163,194.69 as of February 11, 2019.
30. The Receiver's counsel has reviewed the documents relevant to TD Bank's security and determined its security to be valid and enforceable thereby giving it a first position secured charge over the Properties.
31. The Receiver is not aware of any other priority creditors at this time.

Interim Statement of Receipts and Disbursements

32. Attached as **Schedule C** is a copy of the Receiver's Interim Statement of Receipts and Disbursements dated October 1, 2020. The Receiver is currently holding a sum of \$10,740.64 in its trust account.
33. The Receiver has borrowed a total sum of \$128,000 from TD Bank to cover operating costs and pay out the balance of the property taxes discussed above. The Receiver is seeking approval from this honorable Court to repay the Receiver's borrowings (including any accrued interest therefrom) from the sales proceeds ahead of any other claims.

Proposed Interim Distributions

34. The Receiver is recommending the following interim distributions:
- \$128,000 (plus interest, if applicable) payable to TD Bank with respect to the repayment of the Receiver's borrowings;
 - Commission payable to the Realtor in the sum described in the Confidential Addendum; and,
 - An interim distribution in the sum of \$505,000 payable to TD Bank, pursuant to their mortgage in respect of the 101 Street Property.
35. As is more particularly set out in the Confidential Addendum, after accounting for the above distributions, there will remain sufficient sales proceeds that would be retained in the Receivership estate, which the Receiver estimates will be sufficient to fund the balance of the Receiver's activities, including the sale of the 102 Street Property (and associated holding costs), payment of accrued and future professional fees of the Receiver and its counsel.
36. As a result, the Receiver is of the opinion that it is safe to make such interim distributions.

Professional Fees

37. The fees and disbursements of the Receiver (inclusive of GST) total \$44,0269.90 as of September 28, 2020. In the Receiver's opinion, the time and disbursements incurred by the Receiver in the

course of its duties are fair and reasonable in the circumstances. A summary of the Receiver's fees and disbursements is attached as **Schedule D**.

38. The fees and disbursements of the Receiver's counsel total \$4,369.05 (inclusive of GST) as of August 30, 2020. A summary of the fees and disbursements of the Receiver's counsel is attached as **Schedule E**. The Receiver has reviewed the fees and disbursements of its legal counsel and is of the opinion that it is fair and reasonable in the circumstances. Subject to matters of solicitor and client privilege, the accounts of the Receiver's counsel can be made available should an interested party request to review them.
39. The Receiver is providing the above information in respect of the fees for the benefit of the Court and stakeholders. It is not seeking to pass any accounts at this time.

Conclusion

40. The Receiver respectfully requests that the Court grant the following orders:
- a) Deeming service of notice of this Application and all materials in support to be good and sufficient and abridging the time for service to the time actually given;
 - b) Approving the late filing of the Notice and Statement of Receiver as noted in paragraph 10;
 - c) Approving the activities of the Receiver and the sales process as described in the First Report;
 - d) Acceptance of the Revised Richardson Offer as described in the Confidential Addendum;
 - e) Temporarily sealing the Confidential Addendum attached to this First Report; and

Approving the interim distributions referenced in paragraph 35 of the First Report.

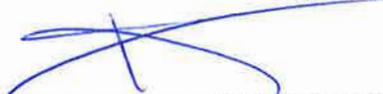
All of which is respectfully submitted this 9th day of October 2020.

MNP Ltd.

In its capacity as Receiver-Manager of

A.B.C. Afterschool Ltd.

And not in its personal capacity


Karen Aylward, CIRP, Licensed Insolvency Trustee
Vice President

SCHEDULE "A"

NOTICE AND STATEMENT OF THE RECEIVER
(Subsection 245(1) and 246(1) of the Bankruptcy and Insolvency Act)

IN THE MATTER OF THE RECEIVERSHIP OF

A.B.C. AFTERSCHOOL LTD.

THE RECEIVER GIVES NOTICE AND DECLARES THAT:

1. On May 14, 2020 the undersigned, MNP Ltd., became the Receiver in respect of the assets and undertakings of A.B.C. Afterschool Ltd. ("ABC" or the "Company") the insolvent corporation that is described below:

Property	Amount
Real Property ⁽¹⁾	\$1.00
Total (approximation)	\$1.00

(1) The value of the real property has not yet been ascertained.

2. The undersigned became a Receiver in respect of the property described above by way of a Court of Queen's Bench of Alberta Order dated May 14, 2020.
3. The undersigned took possession and control of the property described above on May 14, 2020.
4. The following information relates to the Receivership:
 - a. Address of insolvent: 9811-101 Street and 9818-102 Street Fort Saskatchewan, AB
 - b. Principal Line of Business: Real Property Holdings
 - c. Location of business: 9811-101 Street and 9818-102 Street Fort Saskatchewan, AB
 - d. Estimated amounts owed by the Company to each creditor who holds a security interest in the property described above:

Toronto Dominion Bank	\$2,163,194.00
Canada Revenue Agency ⁽¹⁾	\$1.00
City of Fort Saskatchewan ⁽¹⁾	\$1.00
Total (Approximation)	\$2,163,196.00

(1) Where values are recorded as \$1.00 the current balance owing (if any) is not yet known.

The list of other creditors of the Company and the amount owed to each creditor and the total amount due by the Company is as follows:

- Please see attached Exhibit 'A'
- e. The Receiver continues to investigate the options available to maximize realization on the property described above which will likely result in the listing of the real property for sale.
 - f. Contact person for the Receiver:

Karen Aylward, CIRP, LIT
MNP Ltd.
Suite 1300, 10235 - 101 Street
Edmonton, AB T5J 3G1
Phone: (780) 455-1155
Fax: (780) 409-5415

Email: karen.aylward@mp.ca

- g. Further information with respect to the Receivership proceedings will be posted to the Receiver's website (www.mnpdebt.ca/en/corporate) under the "Corporate Engagements" heading as it becomes available. Should creditors not have access to the internet, copies of other materials can be requested by contacting the Receiver's office at 780.455.1155.
- h. Please take notice that the Receiver is providing this document to all known creditors for **informational purposes only**. As a creditor, you are **not required to submit paperwork supporting the amounts owing to you at this time**. If a claims process is undertaken in the future, you will be contacted.

Dated at Edmonton, Alberta on May 25, 2020.

MNP Ltd.

In its capacity as Receiver of
A.B.C Afterschool Ltd.
and not in its personal or corporate capacity

Per:  Karen Aylward, CIRP, LIT
Vice President

SCHEDULE "B"

SURRENDER AND RELEASE AGREEMENT

WHEREAS MNP Ltd. (the "Receiver") was appointed as the Receiver and Manager of A.B.C. Afterschool Ltd. (the "Company") by way of a Consent Receivership Order dated May 14, 2020 by the Court of Queen's Bench of Alberta (the "Receivership Order");

AND WHEREAS the Company is the registered owner of real property municipally described as 9811 – 101 Street Fort Saskatchewan, Alberta ~~and 9818 – 102 Street, Fort Saskatchewan, Alberta~~ (the "Real Property");

AND WHEREAS Ann's Day Care Ltd. ("Ann's") and Corey Lavoy ("Corey") have had their respective property located on and within the Real Property before and after the Receivership Order (collectively the "Non-Company Property");

AND WHEREAS the Receiver has requested that Ann's and Corey remove the Non-Company Property from the Real Property;

AND WHEREAS Ann's and Corey have removed all of the Non-Company Property from the Real Property that they wish to remove;

AND WHEREAS there is still some Non-Company Property located on or within the Real Property (collectively the "Unremoved Items");

AND WHEREAS Ann's, Corey and the Receiver have agreed to resolve and settle any potential claims and rights in respect of the Unremoved Items;

IT IS HEREBY AGREED BETWEEN ANN'S, COREY AND THE RECEIVER THAT:

- 1) Ann's and Corey do for each of themselves and collectively surrender and confirm that neither has any further right, title (legal or beneficial), interest or claim in or to the Unremoved Items, or to any future sale proceeds of the Unremoved Items, if any.
- 2) Ann's and Corey do for each of themselves and collectively further acknowledge, agree and confirm that the Receiver may deal with and dispose of the Unremoved Items as it sees fit and in its sole and unfettered discretion.
- 3) Ann's and Corey agree that any acknowledgments, representations, conditions and warranties given herein shall survive the execution of this Agreement and shall continue in full force and effect.
- 4) This Agreement shall be governed by the laws of the Province of Alberta.
- 5) This Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective heirs, executors and successors.
- 6) The parties each acknowledges having obtained their own independent legal advice with respect to the terms of this Agreement prior to its execution. The parties each represents and warrants that each of them:
 - a) fully understands the terms of this Agreement;
 - b) has been afforded the opportunity to review and discuss this Agreement with legal counsel; and
 - c) has entered into this Agreement and any documents contemplated by it freely and without threat, duress or other coercion by the other party or any other person.
- 7) This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and may not be amended or modified except by written consent executed by all parties. No provision

of this Agreement shall be deemed waived by any course of conduct unless such waiver is in writing and signed by all parties, specifically stating that it is intended to modify this Agreement.

- 8) The facts as set out in the recitals to this Agreement are accurate and are hereby form an integral part of this Agreement.
- 9) This Agreement may be executed in as many counterparts as may be necessary, no one of which needs to be executed by all signatories. Each counterpart, including a facsimile or an electronic copy of this Agreement shall be deemed to be an original and shall have the same force and effect as an original. All counterparts together shall constitute one and the same instrument notwithstanding the date of execution.

DATED this 23 day of September, 2020 at Edmonton, in the Province of Alberta.

MNP Ltd., in its capacity as the Court-appointed Receiver and Manager of A.B.C. Afterschool Ltd. and not in its personal capacity, by its authorized agent:

Per:



Witness

Name: MAHA SHAH
Title:

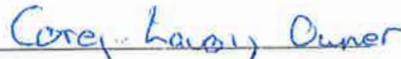
DATED this 23 day of September, 2020 at Edmonton, in the Province of Alberta.

Ann's Day Care Ltd., by its authorized agent:

Per:



Witness



Name: Corey Lavey
Title: Owner



Witness



Corey Lavey

SCHEDULE "C"

A.B.C Afterschool Ltd.
Interim Statement of Receipts and Disbursements
For the period May 14, 2020 to October 1, 2020

	<u>May 14, 2020 to October 1, 2020</u>
RECEIPTS:	
Borrowing under Receiver's Certificates	128,000.00
TOTAL RECEIPTS:	<u>128,000.00</u>
DISBURSEMENTS:	
Filing fees paid to Official Receiver	70.00
Legal Fees	4,161.00
GST paid on disbursements exclusive of fees	362.16
GST on Legal Fees	208.05
Change of Locks	486.55
Utilities	5,314.85
Insurance	1,539.06
Inspectors' Expenses	1,539.06
Operating Expenses	3,405.22
Appraisal Fees	2,915.00
Property Taxes	97,258.41
TOTAL DISBURSEMENTS:	<u>117,259.36</u>
Excess of Receipts over Disbursements	<u>10,740.64</u>

SCHEDULE "D"

ABC Afterschool Ltd.

FEE SUMMARY

Carolina Bautista	0.10	33.80
Eric Sirrs	1.40	863.00
Karen Aylward	36.20	16,532.00
Maha Shah	72.80	14,918.30
Rebecca Namiiro	0.10	18.10
Reina Ainsworth	36.30	6,561.50
Sandra Landry	0.20	110.00
	147.10	39,036.70

Total Hours	147.10	
TOTAL FEES		39,036.70

DISBURSEMENT SUMMARY

Travel	980.08
Misc. Disbursements	1,913.60
	2,893.68

TOTAL DISBURSEMENTS		2,893.68
TOTAL FEES AND DISBURSEMENTS		41,930.38
Less Interim Billings		-
NET FEES AND DISBURSEMENTS		41,930.38

SCHEDULE "E"

The Toronto Dominion Bank v. A.B.C. Afterschool Ltd. et al.
Court of Queen's Bench of Alberta Action Number: 2003 04652
A.B.C. Afterschool Ltd. in Receivership

Receiver's legal fees incurred to date (Duncan Craig LLP)

No.	Invoice Number	Invoice Date	Amount
1.	238018	April 29, 2020	\$1,412.25
2.	238654	May 26, 2020	\$714.00
3.	240285	July 28, 2020	\$2,032.80
4.	240945	August 28, 2020	\$210.00
5.	241866	September 24, 2020	\$588.00
Total:			\$4,957.05