### ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

**BETWEEN:** 

### THE TORONTO-DOMINION BANK

**Applicant** 

- and -

### **BRAD DUBY PROFESSIONAL CORPORATION**

Respondent

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

### MOTION RECORD OF THE RECEIVER

Returnable October 13, 2022

June 28, 2022

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## Tab 1

### ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

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### THE TORONTO-DOMINION BANK

**Applicant** 

- and -

### **BRAD DUBY PROFESSIONAL CORPORATION**

Respondent

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

### NOTICE OF MOTION (returnable October 13, 2022 at 10:00 am)

MNP Ltd. ("MNP") in its capacity as Court-appointed receiver (the "Receiver") appointed pursuant to the Order of the Honourable Justice Cavanagh dated February 25, 2021 (the "Appointment Order") of the Property, as defined in the Appointment Order, the Respondent, Brad Duby Professional Corporation ("BDPC") will make a Motion to a Judge.

### **PROPOSED METHOD OF HEARING**: The Motion is to be heard:

by judicial teleconference via Zoom at Toronto, Ontario.

☐ In writing under subrule 37.12.1 (1) because it is on consent;
☐ In writing as an opposed motion under subrule 37.12.1 (4);
☐ In person;
☐ By telephone conference;
☑ By video conference.
Zoom Link to follow
On October 13, 2022 at 10:00 a.m., or as soon after that time as the Motion can be heard

### THE MOTION IS FOR:

### 1. An Order:

- a. Approving the First Report of the Receiver dated June 28, 2022 (the "First Report"), and the activities of the Receiver and its legal counsel, Harrison Pensa LLP ("HP") set out therein;
- Approving the professional fees and disbursements of the Receiver and those of its independent legal counsel, HP, as set out in the First Report;
- c. Seeking the Court's direction with respect the Sliding Fee Structure, as defined in the First Report, and if so directed that the Sliding Fee Structure be approved and binding, *nunc pro tunc*, on all New Counsel (as defined in the First Report) and the active former clients of BDPC (the "Clients") with respect to BDPC's interest in the Client Files (as such term is defined in this First Report);
- d. Expanding the Receiver's authority with respect to the Receiver's right to and the requirement of New Counsel to disclose information with respect to the Client Files, including but not limited to any proposed or finalized settlement or award figures, New Counsel retainer/fee agreements, statement of disposition of the settlement or awarded funds, disbursement invoices and New Counsel's account(s), invoices of unpaid suppliers/deferred accounts and any relevant information reasonably required by the Receiver associated the BDPC's interest in the Client Files (collectively, the "Determinable Information");
- 2. The costs of this motion on a substantial indemnity basis, only if requested by counsel to the Receiver; and,
- Such further and other relief as counsel may request and this honourable court may permit.

### THE GROUNDS FOR THE MOTION ARE:

The Debtor and the Appointment of the Receiver

- The Respondent, BDPC (also operating as Duby & Associates), was a company whose principal was Bradley Robert Alfred Duby ("Mr. Duby"), a lawyer licensed to practice law in Ontario, through which Mr. Duby provided legal services to clients in the area of personal injury law.
- 2. Until August 31, 2018, Mr. Duby had operated in a partnership with another lawyer, but subsequent to that date, began operating as a sole practitioner.
- 3. On January 28, 2021, Mr. Duby unexpectedly died and without a will.
- 4. On February 25, 2021, the Applicant (hereinafter the "Bank") applied for and obtained the Appointing Order, appointing MNP as court-appointed receiver of the Property (as defined in the Appointment Order) of BDPC.
- 5. Concurrent with the Appointing Order, the Law Society of Ontario (the "LSO") obtained a Trusteeship Order, appointing it as Trustee over such property and records relating to BDPC for the purpose of preserving and/or distributing client property, primarily client files and trust funds, and to wind-up the practice (collectively, the "Trusteeship" and the "Trusteeship Order").
- On October 25, 2021, the executor appointed over the deceased estate of Mr. Duby assigned Mr. Duby's estate into bankruptcy.
- 7. The Bank is a secured creditor of BDPC, and BDPC was indebted to the Bank in the sum of approximately \$607,000 as at February 9, 2021 (the "Indebtedness").

### Client Files and New Counsel

- 8. As at the date of Mr. Duby's death, BDPC's records indicated that it had approximately 570 open client files (the "Client Files" and the "Clients").
- 9. Pursuant to its practice as a personal injury law firm, BDPC entered into a number of retainer agreements, which governed the relationship between BDPC and its Clients. Separate retainer agreements were used by BDPC for its Clients' tort and accident benefit claims (collectively, the "Retainer Agreements").
- 10. Pursuant to the terms of the respective Retainer Agreements, BDPC was typically entitled to receive between thirty percent (30%) and thirty-three percent (33%) of

- the monies successfully recovered for the damages/compensation and benefit claim (the "Fees"), plus disbursements (the "Disbursements"), plus applicable Harmonized Sale Tax.
- 11. The primary asset of BDPC, in relation to which the Receiver bears an obligation to maximize recovery, is the recovery of BDPC's interest in the Fees and Disbursements.
- 12. Following Mr. Duby's death, and as referenced above, the LSO took Trusteeship of BDPC and Mr. Duby's related practice pursuant to the Trusteeship Order, including all Client Files.
- 13. On or about May 19, 2021, the LSO sent a notification letter to the Clients to advise them of the Trusteeship and urged them to retain new counsel if their litigation matter was active.
- 14. The Client Files remain with the respective Clients, and the LSO released the Client Files on request by/to the Client, or to new counsel retained by the client (the "New Counsel").
- 15. As at May 17, 2022, the Receiver has been advised by the LSO that approximately 250 Client Files had been transferred to New Counsel.

### Original Fee Arrangement

- 16. In consultation with HP and other stakeholders with expertise in the area of personal injury law and practices, the Receiver advised New Counsel of the Receiver's and BDPC's interest in the Client Files taken over by New Counsel and set out the terms on which the Receiver wished to address the payment due to the Receiver for such interests (the "Original Fee Arrangement").
- 17. Where legitimate claims of malfeasance existed against Mr. Duby/BDPC to the detriment of his former Clients, the Receiver has not pursued any Fees and Disbursements from such Clients or the New Counsel retained, provided that such allegations are satisfactorily supported.
- 18. The principal terms of the Original Fee Arrangement required New Counsel to, *inter alia*, pay the unbilled disbursements incurred by BDPC for the respective

Client File, and also required payment of twenty percent (20%) of the Fees received by New Counsel following the resolution of any Client File (the "**NC Fees**").

- 19. The Original Fee Arrangement complied with the normal practice in personal injury litigation, which requires a Client who changes its legal counsel to pay fees to its former law firm, as dictated by the Retainer Agreement, subject to a possible assessment by an assessment officer pursuant to the *Solicitors Act* (Ontario).
- 20. The fees required under the Original Fee Arrangement was structured not to prejudice the Client and contemplated only a percentage of the fees to be received by New Counsel.
- 21. The Original Fee Arrangement was also consistent with the terms of many of the Retainer Agreements, which entitled BDPC to be compensated for its reasonable charges where the relationship ends before the resolution of the matter and there are monies later recovered by the client associated with same.
- 22. As BDPC did not keep time dockets, which is not atypical for personal injury plaintiff counsel, the Receiver proposed determining the Fees by applying a set percentage of New Counsel's fees. This approach provided a simple and effective method to calculate such fees, while avoiding the time and cost to the administration of BDPC's estate that would be required to subject each Client File to a separate *Solicitor's Act* assessment.

### Sliding Fee Structure

- 23. Following discussions with certain of the New Counsel, and without obligation to do so, the Receiver revisited and revised the Original Fee Arrangement with a view of greater fairness, in particular to Client Files with lesser recoveries, which resulted in the following fee structure:
  - a. twenty percent (20%) on each case where total the NC Fees are forty thousand dollars (\$40,000) or higher;
  - b. fifteen percent (15%) on each case where the NC Fees are less than forty thousand dollars (\$40,000) but are twenty thousand dollars (\$20,000) or higher; and,

c. ten percent (10%) on each case where the NC Fees on such case are under twenty thousand dollars (\$20,000).

(collectively, the "Sliding Fee Structure")

- 24. The Receiver presented the Sliding Fee Structure to New Counsel.
- 25. While the Sliding Fee Structure was accepted by three (3) New Counsel, certain of the New Counsel, in particular, three (3) New Counsel firms representing just under half of the Client Files known to be with New Counsel, opposed same, as summarized in the First Report, primarily on the basis that:
  - a. little or no work had been completed by BDPC, the work completed was poor or the file was not that far advanced, that the entitlement to fees should be limited to the hours incurred by BDPC; and,
  - b. unless the fees being sought by the Receiver are nominal, the appropriate forum to address fees is at an assessment hearing.
- 26. It is the Receiver's position that the Sliding Fee Structure is fair and reasonable, and represents a balanced mechanism to obtain recovery, of the Fees and Disbursements owing to BDPC, while ensuring that former clients of BDPC, and in particular those with smaller settlement amounts, are not financially prejudiced.
- 27. The Sliding Fee Structure also avoids the time and expense of seeking case-by-case Solicitor's Act assessments of each Client File, which will serve to both maximize recovery by the Receiver of the assets of BDPC and avoid additional expenses and delay to the former Clients of BDPC.
- 28. The Receiver has limited resources and it is neither financially efficient nor practical for the Receiver to review each file and negotiate BDPC's interest or deal with assessments on a file-by-file basis.
- 29. In the event that the Court approved the Sliding Fee Structure, and same become binding, the Receiver has arranged for counsel to take any file that New Counsel no longer wish to act on, provided that the Client also agrees.

### Expansion of Powers re Solicitor-Client Privilege

- 30. In its communications with certain New Counsel regarding the payment of Fees and Disbursements, the Receiver has also encountered refusals to communicate details of settlements, or proposed settlements, of Client Files, as well as the New Counsel's legal account or the new retainer agreements (collectively, the "Determinable Information") on the basis of solicitor-client privilege.
- 31. Absent such information, the Receiver will be unable to confirm it receives the appropriate quantum of Fees and Disbursements owing to BDPC, should the sliding fee structure be ordered by this Court.
- 32. The Receiver is seeking that this Court clarify/expand the Receiver's authority with respect to the Receiver's right to and the requirement of the New Counsel to disclose the Determinable Information.
- 33. It is the Receiver's position that the Determinable Information is required in order for the Receiver to carry out its duties with regard to BDPC's estate, as well as its mandate under the Appointment Order.

### Approval of Accounts

- 34. The Appointment Order requires the Receiver and its legal counsel to pass its accounts from time to time.
- 35. The Receiver has properly incurred fees and disbursements as detailed in the First Report.
- 36. The fees incurred by the Receiver for services provided by its legal counsel, HP, are detailed in the First Report.
- 37. The Receiver seeks the approval of the Professional Fees, and payment of same, as defined in the First Report.
- 38. Section 243 of the BIA.
- 39. Sections 100 and 137(2) of the Courts of Justice Act.
- 40. Rules 2, 3, 37, 38, and 60.10 of the Rules of Civil Procedure.

- 41. The grounds as detailed in the First Report.
- 42. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- 1. The Appointment Order;
- 2. The Court Endorsement dated June 20, 2022;
- 3. The First Report of the Receiver and the Appendices thereto; and,
- 4. Such materials as counsel may advise and this Honourable Court may permit.

June 28, 2022

**HARRISON PENSA LLP** 

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Solicitors for the Receiver, MNP Ltd.

To: Service List

BRAD DUBY PROFESSIONAL CORPORATION	Respondent Court File No. CV-21-00657656-00CCL
-and-	
THE TORONTO-DOMINION BANK	Applicant

# SUPERIOR COURT OF JUSTICE COMMERCIAL LIST ONTARIO

Proceeding commenced at Toronto, Ontario

# NOTICE OF MOTION

130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2 HARRISON PENSA LLP Barristers and Solicitors

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Solicitors for the Receiver, MNP Ltd.

## Tab 2

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

BETWEEN:

THE TORONTO-DOMINION BANK

**Applicant** 

- and -

### BRAD DUBY PROFESSIONAL CORPORATION

Respondent

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

FIRST REPORT TO THE COURT SUBMITTED BY MNP LTD., IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF BRAD DUBY PROFESSIONAL CORPORATION June 28, 2022

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### **APPENDICES**

Appendix "A"	Receivership Order dated February 25, 2021
Appendix "B"	Trusteeship Order dated February 25, 2021
Appendix "C"	Redacted examples of Contingency Fee Retainer Agreements: Tort Claims
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Appendix "F"	Harrison Pensa LLP's Security Opinion dated March 4, 2022 on certain security held by The Toronto-Dominion Bank
Appendix "G"	A copy of the Personal Property Security Act (Ontario) registry search (file currency date: June 23, 2022)
Appendix "H"	Redacted example of the Original Fee Arrangement Letter
Appendix "I"	Redacted example of the Revised Fee Arrangement Letter
Appendix "J"	Example of Follow-up Letter to New Counsel
Appendix "K"	Interim Statement of Receipts and Disbursements, as of June 24, 2022
Appendix "L"	Affidavit of Matthew Lem, sworn June 27, 2022
Appendix "M"	Affidavit of Thomas Masterson, sworn June 27 2022

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

BETWEEN:

### THE TORONTO-DOMINION BANK

**Applicant** 

- and -

### BRAD DUBY PROFESSIONAL CORPORATION

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

### FIRST REPORT TO THE COURT SUBMITTED BY MNP LTD., IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF BRAD DUBY PROFESSIONAL CORPORATION

June 28, 2022

### INTRODUCTION AND BACKGROUND

- 1. On January 28, 2021, (the "**Date of Death**") Bradley Robert Alfred Duby ("**Mr. Duby**") unexpectedly died and without a will.
- 2. Mr. Duby was a lawyer, licensed to practice law in the Province of Ontario, and who carried on a professional legal business/practice as a personal injury lawyer (the

"Business"). The Business had up until August 31, 2018<sup>1</sup> (the "Dissolution Date") operated as a partnership between Mr. Duby<sup>2</sup> and Dana Bruce Hanson<sup>3</sup> under the name, Hanson Duby Lawyers ("Hanson Duby"). After the Dissolution Date, Mr. Duby took over the entire practice of Hanson Duby and began operating as a sole practitioner, operating at times as Brad Duby Professional Corporation or under the business style Duby & Associates ("BDPC" or the "Company"). BDPC operated from offices located at 2 Clinton Ave, Toronto, Ontario (the "Premises"), which is owned by a holding company controlled by Mr. Duby.

- 3. Following Mr. Duby's passing, Mr. Duby's widow engaged Nico Paul of the law firm of Paul & Paul ("P&P") to assist and advise her in addressing issues associated with her husband's estate and the wind-up of his law practice, given the lack of a will and no executor.
- 4. On February 9, 2021, following learning of Mr. Duby's untimely death, The Toronto-Dominion Bank ("TD Bank"), the Company's primary secured operating lender, engaged MNP Ltd. ("MNP") to assist it in determining the status of the assets of the Business which were subject to TD Bank's security and held in support of the borrowings by BDPC. MNP, as a consultant to TD Bank, had numerous discussions with P&P and the Law Society of Ontario (the "LSO") in an attempt to gain access to the Premises to evaluate the TD Bank's collateral, review the books and records and to understand the path forward for the wind-up of the Business.

<sup>&</sup>lt;sup>1</sup> As per the Separation Agreement entered into between Dana Bruce Hanson and Bradley Robert Alfred Duby, executed on August 31, 2018.

<sup>&</sup>lt;sup>2</sup> On October 25, 2021 the Executor of the deceased estate of Bradley Robert Alfred Duby assigned Mr. Duby's estate into bankruptcy.

<sup>&</sup>lt;sup>3</sup> On November 18, 2021 the Dana Bruce Hanson filed an assignment in bankruptcy.

- 5. On February 23, 2021, Mr. Paul notified MNP and the LSO, that he would no longer be involved with Mr. Duby's estate and BDPC and that Mr. Duby's widow also did not wish to be part of the process.
- On February 25, 2021, on application made by TD Bank, the Ontario Superior Court of Justice (Commercial List) (the "Court") issued an Order (the "Receivership Order") appointing MNP as court-appointed receiver of the assets, undertakings, and properties (the "Property") of the Company (in this capacity, the "Receiver"). A copy of the Receivership Order is attached hereto as Appendix "A".
- 7. Concurrent with the TD Bank's application, also on February 25, 2021, the LSO sought and obtained, pursuant to s. 49.44 to 49.52 of the *Law Society Act*, as amended, and s. 60 and 61 of the *Trustee Act*, an Order (the "**Trusteeship Order**") appointing it as Trustee over such property and records relating to the Business for the purpose of preserving and/or distributing client property, primarily client files and trust funds, and to wind-up the Business. A copy of the Trusteeship Order is attached hereto as **Appendix "B"**.
- 8. On June 20, 2022, the Honourable Mr. Justice Osborne of this Court made an endorsement setting a timetable for the hearing of the matter and providing "Counsel for all parties are going to work cooperatively towards agreeing on a consent protocol for the sharing of relevant information relating to fees and disbursements while protecting privilege as appropriate". A copy of this June 20, 2022, endorsement is available on CaseLines and at the Receiver's Case Website (www.mnpdebt.ca/braddubypc).

#### PURPOSE OF THIS REPORT

- 9. The purpose of this report of the Receiver (the "**First Report**") is to:
  - (a) update the Court on the activities of the Receiver since the Receivership Order and to provide additional background information about BDPC, its assets and its liabilities;
  - (b) seek directions from the Court in relation to the Sliding Fee Structure (as such term is later defined in this First Report) contemplated to be applied and binding on all New Counsel (as such term is later defined in this First Report) and the active former clients of BDPC (the "Clients") with respect to BDPC's interest in the Client Files (as such term is later defined in this First Report); and
  - (c) seek an Order from the Court:
    - clarifying/expanding the Receiver's authority with respect to the Receiver's right to and the requirement of New Counsel (as such term is later defined) to disclose information with respect to the Client Files (as such term is later defined), including but not limited to any settlement or award figures (proposed and finalized), New Counsel retainer/fee agreements, statement of disposition of the settlement or awarded funds, disbursement invoices and New Counsel's account(s), invoices of unpaid suppliers/deferred accounts and any relevant information reasonably required by the Receiver associated the BDPC's interest in the Client Files (collectively, the "Determinable Information");

- (ii) approving of the Receiver's activities and those of its legal counsel,

  Harrison Pensa LLP ("**HP**") as outlined in this First Report;
- (iii) approving the professional fees and disbursements of the Receiver and those of its independent legal counsel, HP; as set out the affidavits attached hereto; and
- (iv) such other relief as the Court deems just.

#### **TERMS OF REFERENCE**

- 10. In preparing this First Report, and making the comments herein, the Receiver has been provided with, and has relied upon, information (the "Information") contained in or obtained:
  - (a) the materials filed with the Court by TD Bank in connection with these proceedings and particularly, the affidavit of Michelle Benoy (the "Benoy Affidavit"), sworn February 24, 2021;
  - (b) the materials filed with the Court by the LSO in connection with its application to be appointed as Trustee of the Business and particularly, the affidavit of Linh Hoang (the "**Hoang Affidavit**"), sworn February 24, 2021;
  - (c) information obtained from the Company's available books and records;
  - information obtained from the TD Bank, the Bank of Montreal ("BMO"),

    BridgePoint Financial Services Inc. ("BridgePoint"), ARAG Services

    Corporation ("ARAG")<sup>4</sup>, Canada Revenue Agency ("CRA") and other third-party sources;

<sup>&</sup>lt;sup>4</sup> ARAG, formerly DAS Legal Protection Inc., is a provider of ATE (as defined below) legal expense insurance coverage.

- (e) information from the LSO, the Lawyers' Professional Indemnity Company ("LawPRO"), the Clients, and the lawyer and law firms who have now been retained by the Clients (the "New Counsel")<sup>5</sup>; and,
- (f) other publicly available information sources.
- 11. Except as described in this First Report, the Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada Handbook.
- 12. All currency references contained herein are in Canadian Dollars, unless otherwise specified.
- 13. All capitalized terms not otherwise defined herein shall have the meanings as defined in the Receivership Order, unless otherwise specified.

## ASSESSMENT OF PROPERTY AND LIABILITIES

## **Property – Interest in Client Files**

- 14. As stated earlier in this First Report, Mr. Duby was a lawyer and the Business of BDPC was the provision of legal services, more particularly, in the area of personal injury law.
- 15. As is common with personal injury practices, the legal fees to be paid by a client are contingent on the outcome of the litigation and are set out in a contingency fee retainer agreement (the "Tort Retainer Agreement"). It should be noted that the Tort Retainer Agreement used by BDPC did evolve over time as the firm and the governing legislation

<sup>&</sup>lt;sup>5</sup> As detailed below, the Receiver was provided a list from the LSO of all counsel who had provided the LSO authorizations and letters of direction for Clients. The Receiver notes that it has been advised by some these counsel that they were not ultimately retained and therefore do not act for any Clients.

- changed. Accordingly, depending on the year that BDPC or its former practice was retained will impact the form of Tort Retainer Agreement used.
- 16. BDPC also had separate retainer agreements with clients where there was an accident benefit claim (the "AB Retainer Agreement" and together with the Tort Retainer Agreement, hereinafter collectively, the "Retainer Agreements").
- 17. Under the Retainer Agreements, BDPC was typically entitled to receive between thirty percent (30%) and thirty-three percent (33%) of the monies successfully recovered for the damages/compensation claim (the "Fees"), plus disbursements (the "Disbursements"), plus applicable Harmonized Sale Tax ("HST").
- 18. Attached hereto as **Appendix "C"** are redacted examples of the various Tort Retainer Agreements used and that were in place with the Clients, as applicable. Attached hereto as **Appendix "D"** are redacted examples of the various AB Retainer Agreements used and that were in place with the Clients, as applicable.
- 19. In the ordinary course, the Fees are only paid by a client upon the resolution of the matter and out of the proceeds received under the settlement or court awarded payments. For certain files, BDPC arranged for after the event ("ATE") legal expense insurance coverage, which pays the Disbursements in the event that the litigation is unsuccessful or is discontinued.
- 20. At the Date of Death, the records of the BDPC's indicated that it had over five hundred and seventy (570) Clients and files on-going (collectively, the "Client Files").
- 21. The primary asset of the Company is its interest in the Fees and the recovery of the Disbursements associated with the Client Files. The value of the Fees cannot be

- quantified at this time as it is dependent on multiple factors; most notably the successful settlement or court decision on each matter.
- 22. Since the Receiver's appointment, the Receiver has come to learn that there have been a number of allegations of impropriety and negligence claims against Mr. Duby made by clients and others, including the misappropriation of trust funds and the fraudulent settlement of litigation.
- As will be discussed in greater detail below and will be subject to a future advice and direction motion to be brought, there are also entitlement and/or priority issues concerning the Disbursements as it relates to such unpaid amounts (the "Deferred Accounts"). The issues with the Deferred Accounts are twofold: firstly, who incurred the obligation and therefore is liable to the supplier? (BDPC or the New Counsel (as defined below) or the Client), and secondly, what claim does the unpaid supplier have against the proceeds generated on each matter and is that claim in priority to statutory deemed trust and/or secured claims?

## **Property – Other Property**

- 24. In addition to the interest in the Client Files and the Disbursements, the following other assets have been identified and recovered:
  - (a) Cash in bank a total of \$1,156.48 was recovered from two (2) general operating accounts;
  - (b) Miscellaneous refunds refunds from insurance companies and Ceridian totaling \$4,869.94; and
  - (c) Referral fee referral fee of \$665.80 plus HST paid to the Company from another law firm.

- 25. All of BDPC's computers at the Premises were removed and taken by the LSO in connection with their role under the trusteeship and duty to preserve the electronic client files and other relevant documents. The Receiver did retain one (1) computer in order to preserve access to PCLaw, a legal accounting software package, and BDPC's records stored utilizing same (the "PCLaw Records").
- 26. The possession and control of any trust accounts and trust funds held by BDPC at the Date of Death or at the date of the Receivership Order, is under the purview of the LSO and the trusteeship of BDPC. The Receiver has been advised by the LSO that there were no trust funds in any of the trust accounts at the time of the LSO's appointment as Trustee.

#### **Property – Books and Records**

- 27. As stated earlier in this First Report, the LSO took possession of all the paper and electronic files associated with the Client Files and the Receiver took possession of the other available paper books records associated the Business, including the PCLaw Records.
- 28. The available books and records in the possession and control of the Receiver associated with the practice's operations are very limited. There were limited physical records associated with expenses, tax filings and other liabilities, there were no time dockets and the electronic accounting records do not appear to be up to date.

## **Liabilities/Creditors – CRA (Deemed Trust)**

29. Following the appointment of the Receiver, trust examinations in connection with the Company's HST and payroll/source deductions accounts were coordinated with CRA in order to determine the outstanding liabilities due to CRA.

- 30. In relation to the HST audit conducted, due to the limited available books and records, much of the documentation requested by CRA could not be found and is not available for CRA to review. For the reporting periods ending September 30, 2018 to February 25, 2021 CRA denied input tax credits claimed and assessed uncollected HST on taxable supplies, which results in an increase of the HST liability by \$395,901.24. On February 1, 2022, CRA filed a claim for HST with the Receiver for a total amount of \$456,739.40, representing a deemed trust claim of \$406,483.88 and an unsecured claim of \$50,255.52.
- 31. In relation to the payroll/source deductions audit, CRA assessed a liability \$118,616.32. On February 1, 2022, CRA filed a claim with the Receiver for such amount, of which \$99,089.34 was claimed as a deemed trust claim for unremitted employee source deduction withholdings.
- 32. Copies of the claims filed by CRA with respect to the BDPC's HST and payroll/source deductions accounts are attached hereto as **Appendix "E"**.

# **Liabilities/Creditors – Wage Earner Protection Program (Secured)**

- 33. In connection with the Wage Earner Protection Program ("WEPP"), the Receiver, in consultation with the BDPC's former employees, calculated the eligible outstanding wage amounts due to such former employees and made all necessary submissions to Service Canada, the administrator of WEPP, to facilitate the WEPP payments to these former employees.
- 34. As a result of such submissions and payments made under the WEPP, Service Canada has a total claim of \$35,309.75, of which \$10,000.00 is a super priority secured claim pursuant to S. 81.4 of the *Bankruptcy and Insolvency Act* (the "**BIA**")

## **Liabilities/Creditors – TD Bank (Secured)**

- 35. BDPC is indebted to TD Bank in an amount of approximately \$607,000 (as of February 9, 2021) pursuant a letter credit agreement dated April 27, 2020, and as amended by an amending letter dated June 11, 2020 (the "**TD Indebtedness**"). The TD Indebtedness is secured by, amongst other things, a General Security Agreement dated April 29, 2020 (the "**TD GSA**").
- 36. The Receiver has obtained a security opinion from HP which, subject to the standard assumption and qualifications, confirms the validity and enforceability of the TD GSA.

  A copy of the security opinion dated March 4, 2022 is attached hereto as **Appendix "F"**.
- 37. A copy of the *Personal Property Security Act* (Ontario) ("**PPSA**") registry search (file currency date: June 23, 2022) conducted by HP is attached hereto as **Appendix "G"**.

# **Liabilities/Creditors – BridgePoint (Secured)**

- 38. Directly as a borrower and indirectly as a guarantor, BDPC is indebted to BridgePoint in the aggregate amount of approximately \$2,542,000 million (as of October, 2021) (the "BridgePoint Indebtedness") pursuant to various disbursement loan, and other financing and factoring program arrangements. The BridgePoint Indebtedness is secured by various security agreements (the "BridgePoint Security").
- 39. The security held by BridgePoint is subordinate to the security held by TD Bank up to a maximum of \$611,000, together with accrued interest and reasonable costs of enforcement.
- 40. The Receiver has not yet obtained a security opinion with respect to the validity and enforceability of the BridgePoint Security, as it has yet to be determined if there will be any funds available for distribution BridgePoint in the future.

## **Liabilities/Creditors – Other Litigation Lenders (Secured)**

- 41. Easy Legal Finance Inc. ("Easy Legal") provided financing to "Duby & Associates" by way of four (4) credit facility agreements from April and May 2019 to fund four (4) matters where the Company was counsel (with respect to four (4) clients). Easy Legal was granted a General Security Agreement from "Duby & Associates" and made a registration under the PPSA against "Duby & Associates" on April 2, 2019 (file number 749690145). Easy Legal was indebted as of March 25, 2021 in the sum of \$162,875.10 with interest accruing.
- 42. HP has had discussions and correspondence with counsel for Easy Legal and has advised counsel for Easy Legal that as a result of Easy Legal's failure to register its interest under the PPSA as against the legal name of the Company, Easy Legal's security may be unperfected under the PPSA.

## **Liabilities/Creditors – Other Claims**

43. <u>LawPRO and Litigation Commenced</u> – Since the Receiver's appointment, it has been contacted by a number of New Counsel, clients, and counsel acting on behalf of LawPRO in connection allegations against Mr. Duby and BDPC with respect to matters of alleged fraudulent settlements, misappropriation of trust funds, loans fraudulently obtained in the names of clients, negligence, and other acts of malfeasance. As a consequence, actions have been commenced by these parties against Mr. Duby, Mr. Hanson, and BDPC. In addition, some of these clients who have suffered a loss have sought to recover monies from the LSO's Compensation Fund and/or LawPro under insurance coverage, if applicable. As a result, the LSO and/or LawPro may then hold a subrogated claim in connection with any such payouts.

44. Lee & Associates Professional Corporation ("Lee & Assoc.") — The Receiver understands that BDPC became the lawyer of record and represented Annisha Sergeant (the "Plaintiff") in a tort action, replacing Lee & Assoc. as counsel. Lee & Assoc. has advised that it holds a Charging Order dated March 19, 2018 (the "Charging Order") over monies recovered by the Plaintiff in the tort action for fees, costs, charges, and disbursements incurred by Lee & Assoc. totaling approximately \$38,000.00. Lee & Assoc. further advises that Mr. Duby/BDPC did receive settlement funds on behalf of the Plaintiff but did not honor the Charging Order. Lee & Assoc. has asserted a right of priority over the settlement funds received; however as noted earlier, there were no trust funds and only nominal cash held by BDPC at the date of the Receivership Order.

Deferred Accounts – As briefly mentioned earlier, the Deferred Accounts pertain to Disbursements incurred in connection with matters that are, pursuant to an understanding between the supplier of goods and/or services and BDPC, deferred and payable upon the resolution of the matter out of the proceeds received under the settlement, court awarded funds or ATE legal expense insurance policy, if available. The Deferred Accounts relate primarily to service providers that prepared catastrophic impairment assessments, income replacement benefit calculations/income loss reports and other evaluation and expert reports and may also include rehabilitation services. To date, the Receiver has been contacted by ARCG Inc, Great Oak VFA and Q Medical, who have asserted claims of in excess of \$220,000. As noted earlier this First Report, still to be determined in a separate advice and direction motion are the service providers' Deferred Account claims in priority to any matter proceeds in the face of the statutory deemed trust and secured claims.

45. Other Trade Creditors' Claims – As a consequence of the limited books and records available to the Receiver, the Receiver does not have an accurate picture of the number and quantum of the other trade creditors' claims, other than those identified Deferred Accounts or who have reached out to the Receiver.

#### **RECEIVER'S ACTIVITIES**

- 46. In addition to its statutory and routine activities, since its appointment the Receiver's activities have included:
  - (a) taking steps to physically preserve and protect the Property, including:
    - (i) attending and gaining access to the Premises and the change of locks;
    - (ii) met with a potential purchaser for the office furniture and equipment, as well as obtained a desktop appraisal of such items. Ultimately, no offer was received, and the office furniture and equipment were abandoned as the cost to move, store, and sell outweighed the amount that could be realized;
    - (iii) provided access to the Premises to the LSO for the removal of client records (paper and electronic);
    - (iv) engaged BDPC's former information technology consultant to gain remote access to the Company's available electronic records;
    - (v) paid licensing fees in order to retain access to the records stored in "the cloud";
    - (vi) reviewed documents and made inquiries in connection with potential assets ofBDPC, including insurance policies, refunds, and other amounts due;

- (vii) removed the available paper records from the Premises and obtained a copy and/or access to the electronic records from the LSO following its taking possession of same;
- (viii) coordinated and cooperated with the LSO on the exchange of information and the notification of the Clients of this proceeding and the trusteeship; and
- (ix) returned possession and control to of the Premises and the contents to Mr. Duby's widow following the removal of records by the LSO and the Receiver;
- (b) posting information, Court materials and other documents relating to the receivership on the Receiver's Case Website at www.mnpdebt.ca/braddubypc;
- engaging HP as its independent legal counsel and obtaining from HP, among other things, legal opinions in respect of the validity and enforceability of the security held by TD Bank, and with respect to the dealings with various claims against BDPC by former Clients and in working with New Counsel on the Fee Structure;
- (d) arranged for the preparation and issuance of T4s to the former employees of BDPC;
- (e) following it appointment, the Receiver identified the former employees of BDPC who would be eligible for compensation under the WEPP and made all necessary submissions to Service Canada to facilitate the payments to these former employees;
- (f) attending to various CRA departments' requests in connection with audits and/or return filings for BDPC's HST and payroll/source deductions accounts, which is discussed in greater detail later in this First Report;
- (g) filed for the taxation years ending December 31, 2019, December 31, 2020, and
   February 25, 2021 (stub period up to the date of Receivership Order) the form RC342
   Request by an Insolvency Practitioner for a Waiver of the Requirements to File a

T2 Corporation Income Tax Return Under Subsection 220 (2.1) of the *Income Tax Act* (the "**T2 Waivers**") given the limited books and records available. Approval of the T2 Waivers was issued by CRA on April 5, 2022;

- (h) commenced steps to realize on BDPC's interest in the Fees and Disbursements associated with the Client Files, as discussed in greater detail later in this First Report;
- (i) following allegations of misappropriated settlement funds raised by certain of the New Counsel, undertook some preliminary and limited investigations and tracing activities to get a sense of the merits of such allegations;
- engaged in discussions with various stakeholders of BDPC, including the TD Bank,Bridgepoint, ARAG, and clients and their respective legal counsel, as applicable;
- (k) through HP, the Receiver's independent legal counsel, addressed service and lifting of the stay of proceedings matters with counsel and LawPRO associated with litigation commenced against the Company and Mr. Duby by former clients of BDPC in connection with alleged claims of negligence, misappropriation of trust funds and other malfeasance;
- (l) explored with counsel for LawPRO, the necessity of the Receiver assisting LawPRO in compelling disclosures and conducting a forensic review in order to make determination of the applicability of professional liability coverage on certain claims and actions commenced against Mr. Duby and Mr. Hanson. Ultimately it was decided that the Receiver was not required to be involved; however, MNP LLP<sup>6</sup>'s forensics group was engaged by LawPRO to perform such forensic review;

<sup>&</sup>lt;sup>6</sup> MNP LLP is a national chartered professional accountancy and business advisory firms. MNP Ltd. is a wholly owned subsidiary of MNP LLP incorporate for its insolvency practice.

- (m) borrowed \$65,000 through a Receiver Borrowing Certificate in order to pay immediate administrative disbursements and professional fees; and
- (n) preparing this First Report.

#### REALIZATION EFFORTS FOR INTEREST IN CLIENT FILES

#### **Identification of Active Clients Files and Unbilled Disbursements**

- As noted earlier in this First Report, shortly following Mr. Duby's death, P&P was engaged by Mr. Duby's widow to assist her in addressing issues associated with her husband's estate and the wind-up of his law practice. As part of such assistance provided, Mr. Paul sought the expertise of counsel at Howie, Sacks & Henry LLP ("HS&H"), an Ontario-based boutique personal injury law firm, to review the Client Files in order to determine status of same, so that a strategy could be developed to maximize realizations for the Receivership estate and facilitate the orderly wind up of the Business.
- 48. Upon the Receiver's appointment, the Receiver contacted HS&H to obtain a copy of HS&H's listing of the Clients and the summary notes on the Client Files, as well as well as sought HS&H's input on strategies and potential assistance with the realization of the Client Files.
- 49. Concurrently, the Receiver reviewed the available books and records in an effort to assemble a list of the Clients and details of the recoverable Disbursements incurred in relation to the Client Files.

#### **Transfer of Client Files to New Counsel**

50. Under the Trusteeship Order, custody and carriage of the physical and electronic Client files resides with the LSO.

- As with other legal practices under trusteeship, the Client Files belong to the respective clients and are released by the LSO on request by/to the client or counsel now retained by the client as evidenced by a letter of authorization and direction ("A&D") executed by the client.
- 52. The retention by each client of counsel is solely the decision and prerogative of the client.

  Accordingly, the Receiver has principally relied on the LSO to advise of letters of A&D received and the release to the new counsel of the client's files in order pursue its realization efforts.
- On or about May 19, 2021, the LSO sent a notification letter to the Clients to advise them of the trusteeship and urged them to retain new counsel if their litigation matter was active. As part of such communication from LSO, the LSO allowed for the inclusion of a letter from the Receiver (the "LSO Client Letter"), which is described in greater detail below.
- 54. The Receiver notes that of the lawyers who provided A&Ds to the LSO for Clients, some have since advised the Receiver that they were not retained by the Client and accordingly, have no interest in this receivership and have been removed from the Receiver's service list.

## **Establishment of the Fee Structure**

55. In consultation with HP, which firm has a personal injury practice with counsel recognized as experts in personal injury law, and other stakeholders with expertise in the area of personal injury law and practices, the Receiver in an effort to proactively establish a fee and disbursement payment arrangement with known New Counsel, prepared a letter to such New Counsel that advised of the Receiver's and BDPC's interest in the in the

Client Files taken over by the New Counsel and set out the terms on which the Receiver wanted to address the payment due to the Receiver for such interests (the "Original Fee Arrangement Letter"). A redacted example of the Original Fee Arrangement Letter is attached hereto as Appendix "H".

- 56. The principal terms of the Original Fee Arrangement Letter were as follows:
  - (a) requiring the immediate payment of the unbilled disbursements incurred by BDPC leading up to the transfer of each one of the Client Files;
  - (b) requiring the payment to the Receiver of twenty percent (20%) of the legal fees received by the New Counsel, excluding disbursements (the "NC Fees") on the resolution of the litigation as compensation for BDPC's interest in such Client Files taken over by New Counsel (the "Fee Structure"); and
  - (c) setting out the notification and disclosure requirements with respect to the settlement and the fees to be paid to the New Counsel.
- 57. In addition, the Original Fee Arrangement Letter set out the Receiver's position that referral fees and Deferred Accounts were unsecured creditors of BDPC.
- 58. Under normal circumstances, when a client decides to change its legal counsel in personal injury matters, the fees to be paid to the former law firm are dictated by the Retainer Agreement and are subject to a possible assessment by an assessment officer pursuant to the *Solicitors Act* (Ontario). In these situations, the former law firm's fees would be in addition to the fees charged by the newly retained counsel.
- 59. Under many of the Retainer Agreements used by BDPC, BDPC is entitled to be compensated for its reasonable charges where the relationship ends before the resolution of the matter and there are monies later recovered by the client associated with same.

Such provision in these Retainer Agreements states that the factors determining the quantum of the reasonable charges to be paid to BDPC include:

- (a) the time and effort required and spent;
- (b) the usual hourly rates charged by BDPC for non-contingency work;
- (c) the complexity of the case and the responsibility and risk assumed by BDPC in representing the client;
- (d) the difficulty and importance of the case;
- (e) the expertise, experience, degree of skill and competency demonstrated by BDPC in representing the client;
- (f) whether special skills or services were required and provided;
- (g) the amount involved and/value of the claim;
- (h) the results obtained by BDPC; and
- (i) other relevant circumstances.

## (collectively, the "Reasonable Charges")

- 60. Notwithstanding that the formula for the Reasonable Charges includes as one of its factors for consideration the time spent on the case, BDPC did not keep any time dockets that the Receiver is aware of, which is not atypical for plaintiff counsel in personal injury cases.
- As a consequence of the lack of time dockets, the Receiver approached the amount of the entitlement for fees to be paid on a fair and reasonable basis. The Fee Structure employed by the Receiver sought twenty percent (20%) of the NC Fees, and was utilized as it:

- (a) provided a simple and efficient method to calculate the fees to be paid to the Receiver by New Counsel, given the lack of time dockets, as well as being an efficient and cost-effective method to administer the estate's interest for the Receiver and the stakeholders it has an obligation to;
- (b) did not financially prejudice the client as the fees being paid to the Receiver would come out of the fees received by the New Counsel, which are contemplated to be the same or similar to the contingency fee rates applied in the industry (between 30% and 33%);
- associated with the assessment process under the Solicitors Act (Ontario), as well as the impact of delaying the final determination of the net funds to be paid to the client following resolution of the matters;
- (d) created certainty over the fee costs for the New Counsel when in settlement discussions and more importantly for the client in so much as they could then know what they could expect to receive on resolution of their matter; and
- (e) designed so that the percentage rate was to, on balance, provide fair and equitable compensation to the New Counsel, by:
  - (i) being variable so that on smaller compensating matters, the fee was not excessive based on consultation with parties with knowledge and experience in personal injury practices; and
  - taking into consideration the maturity or stage of completion of files,thus allowing the New Counsel to benefit greater on larger and more

mature matters and offsetting efforts and costs on smaller and less mature matters.

- As noted above when the Fee Structure was originally rolled out to the New Counsel, the Receiver sought a fixed percentage of twenty percent (20%) of the NC Fees. Subsequent to the original roll-out and following discussions with certain of the New Counsel, the Receiver revisited and revised the Fee Structure with a view of greater fairness. The revised Fee Structure was changed to a sliding fee scale equal to:
  - (a) twenty percent (20%) on each case where total NC Fees are forty thousand dollars (\$40,000) or higher;
  - (b) fifteen percent (15%) on each case where the NC Fees are less than forty thousand dollars (\$40,000) but are twenty thousand dollars (\$20,000) or higher; and
  - (c) ten percent (10%) on each case where the NC Fees on such case are under twenty thousand dollars (\$20,000)

# (collectively, the "Sliding Fee Structure").

63. The Sliding Fee Structure through its establishment of reasonable fee thresholds provides greater fairness by reducing the level of fees to be paid to the Receiver on smaller client matters and smaller fee value files. For example, if the settlement of a case is for \$1,000,000 and New Counsel's retainer agreement stipulated a contingency fee payable at the rate of thirty-three percent (33%), then the Receiver would be seeking payment for fees for BDPC of \$66,000<sup>7</sup> plus HST and allowing New Counsel to retain \$264,000 plus HST. Alternatively, if the Court award in the case was \$50,000 and New Counsel's

<sup>&</sup>lt;sup>7</sup> \$1,000,000 (Settlement) x 33% (New Counsel's Contingency Fee Rate) x 20% (Sliding Fee Structure)

retainer agreement stipulated a contingency fee payable rate of thirty percent (30%), then the Receiver would be seeking payment for BDPC's entitlement for fees of \$1,500<sup>8</sup> plus HST and allowing New Counsel to retain \$13,500 plus HST.

- 64. In addition, the Sliding Fee Structure proposed is fair and balanced as it could actually result in a windfall for the New Counsel, where the file is mature and most of the litigation work has been completed. Litigation of these claims often takes three (3) to five (5) years to be resolved and with substantial investments in disbursements incurred during this time by the plaintiff lawyer. As an actual example of this potential windfall for New Counsel, an accident and benefit claim and a tort claim were settled on behalf of a Client and paid in November 2021 (within nine (9) months of the date of the Receivership Order) for an aggregate sum of in excess of \$1,500,000 and resulted in fees in excess of \$330,000 for the New Counsel, exclusive of HST, and after the payment the Receiver's twenty percent (20%) of the NC Fees.
- 65. The Receiver revised the Fee Arrangement Letter to reflect the Sliding Fee Structure (the "Revised Fee Arrangement Letter") and presented it to known New Counsel. The Sliding Fee Structure was accepted by a number of New Counsel, as detailed below at paragraph 72. A redacted example of the Revised Fee Arrangement Letter is attached hereto as Appendix "I".
- 66. It should be noted that in relation to matters where there are legitimate claims of malfeasance against Mr. Duby to the detriment of his former clients, the Receiver has not continued to pursue any fees and disbursements from such Clients or the New Counsel retained, provided that such allegations are satisfactorily supported.

<sup>8 \$50,000 (</sup>Settlement) x 30% (New Counsel's Contingency Fee Rate) x 10% (Sliding Fee Structure)

# **Realization Steps Taken and Opposition Issues**

- As noted above, the Original Fee Arrangement Letter and/or the Revised Fee Arrangement Letter was sent to each of the New Counsel, once the LSO advised what New Counsel had been retained and A&Ds had been received. The Receiver additionally sent follow-up emails and correspondence to the New Counsel if there were no or unsatisfactory responses.
- 68. In addition to waiting to be notified by the LSO of when New Counsel had been retained by a client of BDPC, the Receiver approached several personal injury firms with a view of selecting one (1) firm to whom the Receiver could designate to contact those remaining unrepresented Clients to determine if they wished to engage counsel. The motivation and benefit of aligning with a single personal injury firm was to:
  - (a) follow-up and ensure that the Clients have the opportunity to obtain appropriate representation on their matters, if desired; and
  - (b) facilitate the efficient administration of the receivership by:
    - (i) potentially reducing the number of New Counsel that the Receiver would need to seek a fee arrangement with; and
    - (ii) ensuring that all the Clients are contacted in an effort to maximize realizations.
- (c) Following consultation with key stakeholders, the Receiver selected Preszler Injury

  Lawyers ("**Preszler**") and with the consent of the LSO, provided Preszler with the list of the remaining unrepresented Clients.
- 69. The Receiver encountered opposition from certain of the New Counsel in relation to its efforts to reach a fee arrangement with the New Counsel pursuant to the Sliding Fee

Structure. The oppositions as detailed to the Receiver through various correspondence are summarized as follows:

- (a) opposition to the Fee Structure and the Sliding Fee Structure were expressed on the basis that:
  - the application of a percentage fee rate for all files would not be in the best interests for some clients where little or no work was completed by BDPC, or the file was not that far advanced, that the entitlement to fees should be limited to the hours incurred by BDPC. It should be noted that this position was being taken by certain New Counsel on the basis that BDPC's fees and disbursements are being treated separate and apart from those of the New Counsel and are to be paid by the client. For greater clarity, in these files the Receiver understands that the New Counsel's retainer agreement reflected a reduced fee percentage of any settlement or award figure to be paid to the New Counsel, with BDPC's fee claim being paid by the client in addition to the New Counsel fees; and
  - (ii) unless the fees being sought by the Receiver are nominal (as an example less than \$5,000), the appropriate forum to address fees is at an assessment hearing;
- (b) opposition to disclosing to the Receiver details of the settlement or proposed settlement, as well as the New Counsel's legal account or the new retainer agreements on the basis of solicitor-client privilege;

- (c) opposition to paying the BDPC's disbursements upfront, and proposing to pay on resolution of the matter;
- opposition to paying the Deferred Accounts to the Receiver to be held in trust or to alternatively to be held in trust by New Counsel to the extent of the Deferred Accounts pending a determination of entitlement and priority or an agreement on release/distribution of the funds in relation to same.
- On January 31, 2021, correspondence was sent by HP to certain New Counsel, who were identified as having been retained by a substantial number of the Clients and who the Receiver did not receive a satisfactory response to the Original Fee Arrangement Letter and/or the Revised Fee Arrangement Letter, in an attempt to resolve the treatment of BDPC's interest in such Client Files (the "HP Follow-up Letter") The HP Follow-up Letter revisited the Receiver's desire to establish a fee arrangement with New Counsel, and advised that if an arrangement was not reached, the Receiver would arrange for a date before the Court to seek the appropriate relief. Attached hereto as Appendix "J" is a copy of the HP Follow-up Letter.
- 71. In the process of establishing fee arrangements with the New Counsel, the Receiver did resolve the following four (4) matters with New Counsel outside the terms of the Sliding Fee Structure:
  - (a) with Naimark Law Firm ("Naimark") agreed to a lump sum amount of \$5,000 (fee only) plus HST, for one (1) client only on a one-time exception basis and to avoid potential harm to the client's mediation, while reserving all rights on future matters. The Receiver is still awaiting receipt of these fees;

- (b) with Somogyi Law Group ("Somogyi") agreed for one (1) client only to accept \$700 plus HST, instead of ten percent (10%) of the NC Fees (or \$1,137.70 plus HST) under the Sliding Fee Structure given the immaterial difference;
- (c) with HS&H agreed for one (1) client only to accept \$900 plus HST, instead of ten percent (10%) of the NC Fees (or ~ \$1,100 plus HST) under the Sliding Fee Structure given the immaterial difference; and
- (d) with Bergmanis Preya LLP agreed for one (1) client only to a fixed amount of \$5,000 plus HST, which exceed the fifteen percent (15%) of the NC Fees (or \$4,368.75 plus HST) under the Sliding Fee Structure, as this arrangement was made under the Original Fee Agreement Letter which required payment of twenty percent (20%) of NC Fees or \$5,825 plus HST.

## THE FEE STRUCTURE AND DISCLOSURE RELIEF BEING SOUGHT

## **Advice and Direction on the Sliding Fee Structure**

- 72. The Receiver has reached agreements with the following New Counsel, that reflects the Sliding Fee Structure:
  - (a) HS&H;
  - (b) Preszler; and
  - (c) D'Alessio Romero Law Firm.
- 73. The opposition to the Sliding Fee Structure for the reasons noted above in Paragraph 69(a), has principally come from three (3) New Counsel law firms, Naimark, Somogyi, and MK Legal Service Professional Corporation (collectively, the "Opposing Law

- **Firms**"). The Opposing Law Firms currently account for approximately forty-six percent (46%) of the Clients known to have retained new counsel.
- 74. Given the opposition experienced by the Receiver in connection with its attempts to establish a set fee structure, the Receiver has felt it necessary to seeking this Court's advice and direction for the imposition of the Sliding Fee Structure, *nunc pro tunc*, on all New Counsel with respect to BDPC's interest in the Client Files.
  - 75. Notwithstanding that Receiver designed the Sliding Fee Structure with the intent of being, on balance, fair and equitable to New Counsel, the Receiver can appreciate there may be criticisms of this approach. Some of these criticisms identified and voiced to the Receiver about the Slide Fee Structure are that:
    - (a) the percentage fee under the Sliding Fee Structure is not commensurate to the stage of the file and is excessive on some files where the file is relatively new/less mature and/or where little or no work was completed by BDPC prior to New Counsel being retained; and/or
    - (b) a blanket application of percentage fee approach is not appropriate, if it is of a material amount, as the forum for addressing previous counsel's fees is the assessment process; and
    - (c) the imposition of the Sliding Fee Structure would effectively circumvent the assessment process since BDPC's fees would be simply a portion of New Counsel's fees pursuant to the new retainer agreement signed by the client on the file transfer.
- 76. It is the Receiver's belief that the Sliding Fee Structure is a practical approach to address the issue of the Fees to be paid to the Receiver for the following reasons:
  - (a) there are no time dockets available to the Receiver and Mr. Duby, who would be in a position to best refute the status of a case adverse to the estate asserted by New Counsel or the work completed prior to the file's transfer is deceased;

- (b) it is believed to be on balance fair and reasonable as
  - (i) the fees to be paid to the Receiver as a percentage and in absolute dollars is much lower on smaller client matters and smaller fee value files, while on larger client matter, the New Counsel would pay a maximum of only twenty percent (20%) of the total fees charged on the file;
  - (ii) allows the New Counsel to benefit greater on larger and more mature client matters, which is contemplated to offset efforts and costs, if any, on smaller and less mature matters; and
  - (iii) other large and reputable personal injury firms have already agreed to the Slide Fee Structure on Client Files they have been retained on;
- (c) provides a practical, simple, and efficient method to calculate the fees to be paid;
- (d) does not financially prejudice the Clients as the fees being paid come out of the fees to be otherwise be paid to and received by the New Counsel. In essence, the Clients are in no worse of a financial position with respect to the fees paid had Mr. Duby not died and he resolved the litigation, assuming the same outcome;
- (e) avoids the time and financial cost for the New Counsel and the Receiver associated with the assessment process, and would not delay the final determination of the net funds to be paid to the client; and
- (f) creates greater certainty over the fee costs for the New Counsel and for the Clients; and
- (g) it is necessary for the Receiver's efficient realization of BDPC's interest in the Client Files and the administration of the receivership given:
  - (i) the quantum of clients retained by the Opposing Law Firms;

- (ii) the limited resources of the Receiver, and where it is neither financially efficient nor practical for the Receiver to review or alternatively engage a former employee of BDPC or another party to review the Client Files on a file-by-file basis. This is in addition to the Receiver not having the history or experience with the Client Files or access to the client to fully appreciate and understand the file, the previous interactions, and the efforts made to get it to the particular stage in the litigation that may not be evident in the files available to the Receiver. As well, the Receiver cannot simply rely on New Counsel's assessment of litigation or what is fair to be paid, since such would conflict with New Counsel's motivations or those of the client;
- (iii) the funding of the administration of the receivership has and is to be derived from the realization of the Client Files, noting that at the commencement of the receivership, a borrowing under a Receiver Borrowing Certificate was required. As such, the most efficient approach to realize and generate cash from the Client Files is critical; and
- (iv) that currently, there are no funds to allow the repayment of CRA's deemed trust claims or any of the secured creditors, unless an efficient approach is employed to realize on the Client Files.
- 77. Specific to the Disbursements seeking to be recovered by the Receiver as incurred by BDPC on Client Files, the Receiver will continue to address and deal with New Counsel on the amount payable for the Disbursements on a file-by-file basis.
- 78. The Receiver has made arrangements with Preszler, another reputable personal injury firm, to represent a Client<sup>9</sup>, should any New Counsel not wish to maintain carriage of the Client File under the Sliding Fee Structure, should same be approved by this Court.

<sup>&</sup>lt;sup>9</sup> Such transfer of the Client Files will be still subject to the Client executing an A&D in connection with the transfer and a retainer agreement with Preszler.

## Clarification/Expansion of Powers Relief

- 79. Connected with the aforementioned relief and opposition from Naimark and Somogyi to providing the Determinable Information on the basis of solicitor-client privilege, the Receiver is seeking that this Court clarify/expand the Receiver's authority with respect to the Receiver's right to and the requirement of the New Counsel to disclose the Determinable Information.
- 80. As noted in paragraph 8 of this Report, the June 20, 2022 Endorsement, Osbourne J. directed counsel for all parties to work cooperatively towards agreeing on a consent protocol for the sharing of relevant information relating to the fees and disbursements of New Counsel while protecting privilege as appropriate (a "Consent Protocol").
- 81. HP will be endeavouring to seek agreement on a Consent Protocol prior to the hearing date for this Motion. The Receiver intends to file a supplementary report with this Court on these efforts and the results/outcomes.
- 82. Should a mutually agreeable Consent Protocol not be achieved, it is the Receiver's opinion that such clarification/expansion of powers relief should be granted by this Court for the following reasons:
  - (a) it is necessary for the Receiver to discharge its duties and obligations of ensuring it properly receives BDPC's interest in the Client Files;
  - (b) Paragraphs 5 of the Receivership Order provides for the Receiver's entitlement to receive all information of any kind related to the business and the affairs of BDPC;
  - (c) Paragraph 16 of the Receivership Order contemplates the Receiver having the authority to receive confidential client information from the LSO;

- (d) the Determinable Information would not be captured by solicitor-client privilege as it is not communications between any New Counsel and the client for the purpose of legal advice and is instead facts and figures. Should there be any legal advice contained in the information to be provided, it could be simply redacted by the new counsel (e.g. redacting detailed time dockets that form part of new counsel accounts);
- (e) neither the client or New Counsel are prejudiced by providing this information; and
- (f) it is necessary generally for the efficient administration of the receivership.

#### INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

83. Attached hereto as **Appendix "K"** is the Receiver's interim statement of receipts and disbursements as of June 24, 2022 (the "**R&D**"). The R&D reflects the net receipts over disbursements of \$81,290.96, before repayment of its borrowings under the Receiver Borrowing Certificate, as well as outstanding professional fees.

## **PROFESSIONAL FEES**

- 84. Pursuant to Paragraph 20 of the Receivership Order, the Receiver and counsel to the Receiver shall be paid their reasonable professional fees in each case at their standard rates and charges and the Receiver and counsel to the Receiver have been granted 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 as security for payment of the professional fees (the "Receiver's Charge").
- 85. Pursuant to paragraphs 21 and 22 of the Receivership Order, the Receiver and HP shall pass their accounts as referred to this Court and is at liberty, from time to time, to apply reasonable amounts, out of the monies in its hands, against the professional fees, incurred

- at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its professional fees when and as approved by the Court.
- 86. The Receiver has issued four (4) invoices (the "MNP Accounts") covering its fees and disbursements for the period from February 23, 2021 to June 22, 2022 totaling \$181,071.41, exclusive of HST. Attached hereto as Appendix "L" is the Affidavit of Matthew Lem, sworn June 27, 2022 (the "MNP Fee Affidavit"), describing the aforementioned fees and disbursements of the Receiver and attaching the MNP Accounts, noting a weighted average hourly rate of \$382.45 charged by professionals at MNP.
- 87. HP has issued five (5) invoices (the "**HP Accounts**") covering its fees and disbursements for the period from February 24, 2021 2021 to June 22, 2022 totaling \$54,906.82, exclusive of HST. Attached hereto as **Appendix "M"** is the Affidavit of Thomas Masterson, sworn June 27, 2022 (the "**HP Fee Affidavit**") describing the aforementioned fees and disbursements of HP and attaching the HP Accounts, noting a weighted average hourly rate of \$358.96 charged by professionals at HP.
- 88. It is the Receiver's opinion that the fees and disbursements of HP, and the activities described in the dockets in support of the HP Accounts, as set out in the HP Fee Affidavit are reasonable and justified in the circumstances, and accurately reflect the work done on behalf of the Receiver by HP.
- 89. To date, the Receiver and HP have made interim draws totaling \$140,789.91, exclusive of HST. With respect to the time charges incurred by the Receiver and HP in connection with its assistance to counsel for LawPRO, LawPRO funded the sum of \$4,668.00 to cover the payment of such fees and disbursements of the Receiver and HP, exclusive of HST.

90. The Receiver requests that the Court approve the Receiver's and its independent legal counsel's fees and disbursements, as set out in the MNP Fee Affidavit and HP Fee Affidavit, given that they are reasonable and justified in the circumstances.

# **CONCLUSION AND RECOMMENDATIONS**

91. Based on the foregoing, the Receiver respectfully recommends that the Court make an order granting the relief requested in Paragraph 8(c) of this First Report.

All of which is respectfully submitted this 28th day of June, 2022

# MNP LTD.,

in its capacity as Court-appointed Receiver of Brad Duby Professional Corporation and not in its personal or corporate capacities Per:

Matthew Lem, CIRP

Licensed Insolvency Trustee

# APPENDIX "A"

## **ONTARIO**

# SUPERIOR COURT OF JUSTICE

# (COMMERCIAL LIST)

THE HONOURABLE MR	)	THURSDAY, THE $25^{TH}$
	)	
JUSTICE CAVANAGH	)	DAY OF FEBRUARY, 2021

#### THE TORONTO-DOMINION BANK

**Applicant** 

- and -

#### BRAD DUBY PROFESSIONAL CORPORATION

Respondent

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

# **ORDER**

(appointing Receiver)

THIS APPLICATION made by The Toronto-Dominion Bank ("TD Bank"), 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 capacity, the "Receiver") without security, of all of the assets, undertakings and properties of Brad Duby Professional Corporation (the "Debtor") acquired for, or used in relation to a business carried on by the

Debtor, was heard this day by judicial videoconference due to the COVID-19 emergency via Zoom.

**ON READING** the Affidavit of Michelle Benoy sworn February 24, 2021 and the exhibits thereto, including, without limitation, the consent of MNP dated February 24, 2021 to act as the Receiver, and on hearing the submissions of counsel for TD Bank and Counsel, Trustee Services, of the Law Society of Ontario ("**LSO**") and all other parties listed on the Counsel Slip, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Nathan Gates to be filed,

#### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Application Record of TD Bank is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

#### APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP Ltd. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof, excluding for greater certainty, any funds held in trust for any of the Debtor's clients (the "**Property**").

#### **RECEIVER'S POWERS**

- 3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, 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 Debtor;
- (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;
- to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (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 Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction associated with recovery from a successor or substituting lawyer of any outstanding out-of-pocket disbursements incurred or remuneration for services rendered by the Debtor up to January 28, 2021 in connection with or arising from such file or files that are being transferred;
  - (ii) without the approval of this Court in respect of any transaction, excluding such transactions identified in paragraph 3(k)(i) above, not exceeding \$25,000; provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
  - (iii) with the approval of this Court in respect of any transaction, excluding such transactions identified in paragraph 3(k)(i) above, 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* shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to share, transfer and otherwise exchange information related to the Debtor and the Property with the LSO, including but not limited to documents, records and other information with respect to the Debtor's client files, time dockets, disbursements, legal expense, and insurance coverage and policies;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its 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.
- 5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
- 6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto

paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

### NO PROCEEDINGS AGAINST THE RECEIVER

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

### NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### NO INTERFERENCE WITH THE RECEIVER

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

### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the 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

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

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

### PIPEDA AND SHARING OF INFORMATION

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all

material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

- 16. **THIS COURT ORDERS** that LSO shall be permitted, and is hereby authorized, to disclose to the Receiver such Records and/or information relating to the Debtor's client files; provided that the Receiver shall be required to keep information that is confidential and/or privileged contained in the Debtor's client files (the "Confidential Information") as such, subject to paragraph 17 below and shall comply with any and all laws and regulations applicable to the maintenance and transfer of any such Records or files to any successor or substituting lawyer.
- 17. **THIS COURT ORDERS** that LSO and the Receiver shall be permitted, and are hereby authorized, to disclose to and share with legal counsel to each of TD Bank, Easy Legal Finance Inc., and Bridgepoint Financial Services, the Debtor's secured creditors ("Counsel"), such Records and/or information relating to the Debtor's client files, which may include Confidential Information related to the specific files for which the secured creditor has provided funding to the Debtor or its clients; provided that any such disclosure of Confidential Information to Counsel shall be subject to privilege attaching to any solicitor-client communication and shall keep such information confidential and shall comply with statutory provisions prohibiting such disclosure to third parties.

### LIMITATION ON ENVIRONMENTAL LIABILITIES

18. **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

19. **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

- 20. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
- 21. **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.
- 22. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against

its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### FUNDING OF THE RECEIVERSHIP

- 23. **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 \$75,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
- 24. **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.
- 25. **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.
- 26. **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

- 27. **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 <a href="http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/">http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/</a>) 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 with the following URL 'mnpdebt.ca/braddubypc'.
- 28. **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.

### TRANSFER OF CLIENT FILES

29. **THIS COURT ORDERS** that any transfer by the LSO of any client files to a successor or substituting lawyer, shall be done without prejudice to any claim that the Receiver may have with respect to the recovery of any and all outstanding out-of-pocket disbursements, to the extent payable, incurred by the Debtor and all work in process or fees earned by the Debtor in connection with or arising from such file or files which is properly payable by the successor or substituting lawyer to the Debtor.

### LSO TRUSTEESHIP

30. THIS COURT ORDERS AND DIRECTS that the LSO, appointed as Trustee pursuant to the Court Order dated February 25, 2021 in Ontario Superior Court of Justice (Estates List) Court File No. CV-21-00657645-00ES (the "Trusteeship Order"), and the Receiver use best efforts to coordinate each of the SLO's and Receiver's powers and authorizations in dealing with all Property and Persons as set out in each of the Trusteeship Order and this Order, respectively, or as otherwise as provided in this Order, and to resolve any issues that may arise in such dealings and with respect to any conflicts that may arise. In the event that the Receiver and the SLO are unable to resolve any issue that may arise, or require direction on same, then the Receiver may apply to this Court, on reasonable notice to the Trustee, for direction and any Order that may be required.

### **GENERAL**

- 31. **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.
- 32. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
- 33. **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, 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.
- 34. **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.

- 35. **THIS COURT ORDERS** that TD Bank shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of TD Bank's security or, if not so provided by TD Bank'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.
- 36. **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 Peter Cavanagh

### 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 Brad Duby Professional Corporation (the "Debtor") acquired for, o
used in relation to a business carried on by the Debtor, including all proceeds thereo
(collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice
(Commercial List) (the "Court") dated the 25 <sup>th</sup> day of February, 2021 (the "Order") made in an
action having Court file number CV-21-00657656-00CL, has received as such Receiver from the
holder of this certificate (the "Lender") the principal sum of \$, being part of the
total principal sum of \$ which the Receiver is authorized to borrow under and
pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with
interest thereon calculated and compounded [daily][monthly not in advance on the day
of each month] after the date hereof at a notional rate per annum equal to the rate of pe
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 itsel
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 a
the main office of the Lender at Toronto, Ontario.

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

5.

- 2 -

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 February,	2021

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

_	_	-		
Per:				
	Name:			
	Title:			

### **Lindsay Ferguson**

From: Cavanagh, Justice Peter (SCJ) < Peter.Cavanagh@scj-csj.ca>

Sent: Thursday, February 25, 2021 3:03 PM

**To:** Joanne MacMillan; kplunkett@airdberlis.com; Tim Hogan;

meredith.bacal@dentons.com; Nathan Gates; Brandon Jaffe

Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List

**Subject:** Law Society of Ontario and Estate of Bradley Robert Alfred Duby, deceased and et al.

Superior Court of Justice - CV-21-00657645-00ES & RE: THE TORONTO-DOMINION

BANK v. BRAD DUBY PROFESSIONAL CORPORATION - Court File No.

CV-21-00657656-00CL

**Attachments:** CV-21-00657656-00CL Receivership Order - February 25 2021.pdf;

CV-21-00657645-00ES\_Order - Applicant - Law Society of Ontario -25-FEB-2021.pdf;

Updated Counsel Slip - February 25\_ 2021.pdf

[EXTERNAL EMAIL]

### Counsel:

See attached counsel slip

### **Endorsement:**

As a result of the sudden passing on January 28, 2021 of a practicing lawyer, Bradley Duby, there are two matters before me. Mr. Duby practised law through Brad Duby Professional Corporation (the "Debtor"). Mr. Duby had an active practice with many active files. There is no one to take over this practice and Mr. Duby's widow has advised through her former legal counsel that she does not intend at this time to seek appointment as trustee of the estate of Mr. Duby without a will. Mr. Duby's widow has been informed of the proceedings and does not take a position. She did not appear on the proceedings before me today.

The Toronto-Dominion Bank ("TD Bank") is a secured creditor of the Debtor and has a general security agreement. The obligations of the Debtor were guaranteed by Mr. Duby. On February 9, 2021 TD Bank issued a formal written demand for repayment of its loan facilities to the Debtor together with a notice of intention to enforce security pursuant to section 243 (1) of the BIA. At that time, the indebtedness owing to the TD Bank by the Debtor was \$607,580.84. There are two secured creditors who registered notice of their security interests under the PPSA, Bridgepoint and Easy Legal Finance. They are represented on these proceedings today. They do not oppose the requested orders.

TD Bank seeks the appointment of MNP Ltd. as receiver of the assets, undertakings and properties of the Debtor. I am satisfied that there is urgency given the TD Bank's need to secure its collateral and initiate realization efforts as well as to assist the Law Society of Ontario ("Law Society") in securing client files and property. I am satisfied that a court-appointed receiver is necessary for the protection of the Debtor's property, the interests of the secured creditors and other stakeholders. In the circumstances, it is just and convenient that a receiver be appointed.

The Law Society has brought a separate application for an order appointing the Law Society as trustee to take possession of property including client files and practice -related materials of any kind whatsoever that was or should be in the possession of the deceased lawyer Mr. Duby and/or his estate and/or Brad Duby Professional Corporation. The Law Society and TD Bank have been in contact with each other, through counsel, and the proposed order that each seeks reflects that these parties intend to work cooperatively with each other and will seek direction of the court if required. In the circumstances, in order to protect the interests of Mr. Duby's clients, it is imperative that the requested order be made so that steps may be taken to assign the client files to new counsel or return them to clients themselves.

I am satisfied that the orders sought by TD Bank and by the Law Society should be made.

Orders to issue in forms of attached orders signed by me.

Come ?

Cavanagh J.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize and can verify the sender and know the content is safe.

### APPENDIX "B"

### **ONTARIO**

### SUPERIOR COURT OF JUSTICE (Estates List)

THE HONOURABLE MR.	)	Thursday, the 25 <sup>th</sup> day
JUSTICE CAVANAGH	)	of February, 2021
D.E.T.W.E.E.N.		
BETWEEN:		

### LAW SOCIETY OF ONTARIO

**Applicant** 

and

### ESTATE OF BRADLEY ROBERT ALFRED DUBY, DECEASED and BRAD DUBY PROFESSIONAL CORPORATION

Respondent

APPLICATION UNDER the *Law Society Act*, R.S.O. 1990, c. L.8, s. 49.44 to 49.52 as amended, and the *Trustee Act*, R.S.O. 1990, c.T.23, s. 60, and 61

### **ORDER**

**THIS APPLICATION** was heard this day by judicial videoconference due to the COVID-19 emergency via Zoom.

**ON READING** the Notice of Application, the Affidavit of Linh Hoang and on hearing the submissions of counsel for the Applicant:

THIS COURT ORDERS that the Law Society of Ontario (the "Law Society") be appointed
as Trustee without bond, to take possession of all property, including client files, Wills,

corporate records and seals, documents, financial records, electronic data and any electronic devices containing any client information or client data, trust funds, and practice-related materials of any kind whatsoever (collectively referred to as "Property") that was or should be in the possession, power or control of deceased lawyer Bradley Robert Alfred Duby and/or his Estate and/or Brad Duby Professional Corporation (collectively, the "Respondents"), who maintained business premises at 2 Clinton Place, Toronto, Ontario (the "Business Premises"), relating to his professional business as a lawyer (the "Business" defined below), for the purpose of preserving and/or distributing the Property, and/or winding-up the Business, with the exception of those aspects of the Business set out in Paragraph 11 below.

### 2. THIS COURT ORDERS that the Respondents' "Business" is defined as:

- (a) the Respondents' professional business / law practice;
- (b) records related to the business or affairs of the Respondents' clients and former clients;
- estates for which the Respondents, or one of them, is or was executor,administrator or administrator with the will annexed;
- (d) trusts of which the Respondents, or one of them, is or was trustee;
- (e) powers of attorney under which the Respondents, or one of them, is or was the attorney; or
- (f) guardianships under which the Respondents, or one of them, is or was the guardian.
- THIS COURT ORDERS that the Respondents and any bank, trust company, credit union, financial institution, corporation, partnership, sole proprietorship and/or person, in receipt of this Order, deliver to the Law Society, in trust, all Property in their possession as relates

to the Respondents' Business. This includes the balance of all mixed trust accounts, client investment accounts and client Estate accounts, and incorporates, but is not limited to, account no. 1994417, transit number 24502, at the Bank of Montreal branch located at 640 Bloor St W., Toronto, Ontario. All such accounts shall be closed thereafter.

- 4. THIS COURT ORDERS that the Respondents and any bank, trust company, credit union, financial institution, corporation, partnership, sole proprietorship and/or person, provided with any Order made in this proceeding, provide to the Law Society originals or true copies of all requested documents or records, including but not limited to account statements, cancelled cheques and duplicate deposit slips, be they stored in printed, electronic, magnetic or any other form, related to all bank accounts, term deposits, securities or other Property, including safety deposit boxes, that were in the possession, power or control of the Respondents, as same relate to the Business.
- 5. THIS COURT ORDERS that the Law Society may, in its discretion, request the redirection of mail for Bradley Robert Alfred Duby and Brad Duby Professional Corporation at 2 Clinton Place, Toronto, Ontario, M6G 1J9, by Canada Post Corporation to the Law Society of Ontario, Trustee Services Department, 1100-393 University Avenue, Toronto, Ontario M5G 1E6.
- 6. THIS COURT ORDERS that any person, with possession of, knowledge of, information about or access to client files, documents, funds, financial records or other Property which relate to the Business, provide to the Law Society such information or Property upon the Law Society's request.
- 7. **THIS COURT ORDERS** that any person with possession of, knowledge of, information about or access to electronic Property (electronic data or electronic devices) containing

client information, client data or financial records related to the Respondents' Business, including passwords and account information for any electronic devices and cloud/internet communications or storage services, provide to the Law Society such devices or information upon the Law Society's request. For the purposes of this Order, electronic devices include computers, external storage devices, smartphones, or any other device capable of storing electronic Property, whether or not such device belongs to the Respondents, and whether or not such device also contains personal data belonging to the Respondents or any other individual or entity.

- 8. **THIS COURT ORDERS** that the Law Society be authorized and empowered, if in its opinion it is necessary or desirable for the purposes of preserving and/or distributing the Property, to do any or all of the following, without the necessity of any further Order of the Court:
  - (a) to employ, retain or use the services of such agents, assistants, experts, auditors, advisors, legal counsel and others, as the Law Society may consider necessary or desirable for the purposes of receiving, managing, operating, preserving, safekeeping and protecting any and all Property relating to the Business, or generally exercising its power and performing its duties hereunder;
  - (b) to take such steps as in the opinion of the Law Society are necessary or appropriate to maintain or manage any and all Property relating to the Business, including but not limited to the changing of locks, security codes, and passwords, the removal of signage and the cancellation of advertising in any form of media whatsoever, the cancellation or re-direction of phone, fax, internet, email, digital or physical storage accounts, or other Business-related communications or storage services, the relocation or digitization of Property, the disposition of

Property including the return of or confidential destruction of Crown disclosure, the destruction of aged, illegible, contaminated or duplicate documents in a manner that protects client confidentiality, the taking of physical inventories and the storage and safeguarding of the Property;

- (c) to disburse, distribute, deliver or return to the clients or their lawful representative, trustee, agent or attorney, including the transfer of money to the Law Society's Unclaimed Trust Fund in accordance with the terms of the Law Society Act, any Property of the client that comes into the possession of the Law Society, including money, client files or other Property; and
- (d) to take any steps, enter into any agreements or incur any obligations necessary or incidental to the exercise of the aforesaid powers, including authorizing the urgent, interim law practice wind-up assistance of the law firm, Howie, Sacks & Henry LLP.
- 9. THIS COURT ORDERS that the Law Society may enter into the Business Premises and any other office premises or storage facilities occupied or maintained by the Respondents in relation to the Business during customary daytime business hours to search the premises and to take possession of any Property found therein that is covered by any Order made in this proceeding, and to otherwise execute the terms of any Order made in this proceeding.
- 10. THIS COURT ORDERS that the compensation of the Law Society as trustee and the disbursements and other expenditures properly and reasonably made or incurred by the Law Society, both before and after the date of any Order made in this proceeding, be paid by the Respondents or be provided for out of the funds and/or Property set out above

with approval of the Court to be obtained from time to time by way of report to the Court on the administration of the trusteeship and/or upon discharge of the trusteeship.

- 11. **THIS COURT ORDERS** that the role of the Law Society as trustee and the scope of the trusteeship is restricted to attending to the preservation and distribution of client Property and/or winding-up the Business, as defined above, and that the Law Society is not responsible for billing accounts, collecting accounts receivable, making remittance payments, paying rent, fees, storage accounts, levies, outstanding accounts, employee salaries or any other administrative, operational or managerial function or expense related to the Business, all of which remain the responsibility of the Respondents.
- 12. THIS COURT ORDERS that no proceeding or enforcement process in any Court or Tribunal shall be commenced or continued against the Law Society in relation to the trusteeship herein except with the written consent of the Law Society or with leave of this Court.
- 13. **THIS COURT ORDERS** that the Law Society shall incur no liability as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part.
- 14. **THIS COURT\_ORDERS** that MNP Ltd. as Court-appointed Receiver appointed pursuant to the Court Order dated February 25, 2021 in Ontario Superior Court of Justice (Commercial List) Court File No. CV-21-00657656-00CL (the "**Receiver**") and the Law Society use best efforts to coordinate each of the Trustee's and Receiver's powers and authorizations in dealing with all Property and third parties and otherwise as provided in this Order, and to resolve any issues that may arise in such dealings and with respect to any conflicts that may arise. In the event that the Receiver and the Trustee are unable to

-7-

resolve any issue that may arise, or require direction on same, then the Law Society may apply to this Court, on reasonable notice to the Trustee, for direction and any Order that may be required.

- 15. **THIS COURT ORDERS** that the requirement for the filing of a Factum be dispensed with.
- 16. **THIS COURT ORDERS** service upon the Respondents be dispensed with.
- 17. **THIS COURT ORDERS** that the Law Society shall report to the Court with respect to the administration of the trusteeship within six months of the date of this Order, and may do so by filing written evidence with the Registrar if no relief or costs are sought at that time.
- 18. **THIS COURT ORDERS** that any party affected by this Order may apply to this Court pursuant to section 49.51 of the *Law Society Act* to vary or discharge this Order.

Digitally signed by Peter Cavanagh

## ESTATE OF BRADLEY ROBERT ALFRED DUBY, DECEASED, ET AL. and LAW SOCIETY OF ONTARIO

### ONTARIO

### SUPERIOR COURT OF JUSTICE

(Estates List)

# PROCEEDING COMMENCED AT TORONTO

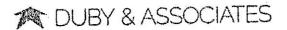
### ORDER

Law Society of Ontario Trustee Services Department 1100-393 University Avenue Toronto, ON M5G 1E6

M. Joanne MacMillan LSO No. 43529J Tel: (416) 947-5241 Fax: (416) 644-4880 jmacmill@lso.ca

Counsel for the Applicant

### APPENDIX "C"



### CONTINGENCY FEE RETAINER AGREEMENT

### Between:

BRAD DUBY PROFESSIONAL CORPORATION, o/a DUBY & ASSOCIATES
2 Clinton Place, Toronto, ON M6G 1J9
P:416 588 9100 F: 416 588 9102

-and-

Hereafter referred to as the "Claimant" or "Claimants"

This agreement explains the services that we will provide to you, how you will be charged for them, and our responsibilities to each other. Please read this agreement carefully. If you have questions, please ask us before signing.

### Contents

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### Legal Services

This agreement confirms that you, (the "Claimant[s]") have retained Duby & Associates on a contingency fee basis to advance a potential Claim (the "Claim") for damages you have sustained as a result of that occurred on:

| O | Column | O | Claim (the "Claim") | O | Claim" or any other person who may be liable (the "Defendant").

This agreement does not cover services for any other matter.

### Who We Represent

In certain circumstances, family members or other individuals may be entitled to compensation in relation to the Claim. We represent only the Claimants who have signed this agreement.

### **Potential Conflicts**

If you have asked us to act for more than one potential Claimant, this is will be a joint retainer. In that case, we will share information between everyone we represent. Any information received from any of you will be shared with the rest.



In the case of a joint retainer, you have advised that there is no conflict of interest between you and that you have no objection to our firm representing all individuals signing this agreement. If a conflict does arise in the future you agree now, that in the event of any conflict arising we will continue to represent . We would then refer any conflicted individuals to an independent lawyer.

### **Expectations**

### What You Can Expect from Us

We will report to you on significant developments throughout. We will take appropriate steps to protect your interests and advance your Claim, which may include any of the following:

- (a) obtain and review relevant documentation;
- (b) conduct other investigations and/or research;
- (c) retain and instruct expert witnesses;
- (d) advise you if the Claim is likely viable;
- (e) make reasonable efforts to settle the case;
- (f) commence a lawsuit;
- (g) conduct examinations of any individual you sue;
- (h) prepare for and attend any court appearances, mediations, or pre-trial settlement conferences; and/or
- (i) prepare for and attend trial.

This agreement does not cover the services for an appeal. If after a trial, either side appeals, you would need to enter into a new agreement to cover the legal services associated the appeal.

### What We Expect from You

We expect that you will reasonably cooperate and communicate with us. We can provide our best advice and guidance only when we have all relevant information. It is vital that you be candid and honest at all times. We must be able to reasonably make contact with you and receive a reply to our communications within 24 hours. In addition, we ensure you that any questions or concerns regarding your Claim will be answered within one business day.

### What Your Claim is Worth

How much money you receive from the Claim is determined by a number of factors that are difficult to determine from the outset. These usually include, the extent of the injury, the final prognosis, and the economic consequences of the harm caused. Once we have the necessary information, we will give you our opinion of the dollar value of the Claim. Our opinion may change as the Claim develops.

### How Long It Will Take

It can take up to several years for a claim to settle or go to trial. The amount of time the claim takes depends on factors such as: the age of the injured person; how soon they recover from their injuries; when we receive information about what the future holds for the injured person and court availability.





### Settlement or Trial

We will try to settle your lawsuit to obtain a favourable settlement for you. If your Claim is settled, it would not have to go to trial. If we cannot settle the case, we will discuss with you the risks and potential benefits of a trial.

### You Decide

Wewill give you our best advice and guidance; however, at all times you have the right to make the final choice regarding all major decisions, including settlement.

### **How Much Will It Cost**

Legal costs are made up of two components: (1) legal fees and (2) out-of-pocket expenses, known as disbursements.

### Legal Fees

You can choose to pay us for our work and expenses on an ongoing basis, based on time spent at fixed hourly rates. Alternatively, you can pay a percentage of the amount recovered, but only if you are successful in recovering compensation. This is known as a contingency fee. You have chosen to retain us on a contingency fee basis.

If you do not receive money for the Claim, you do not pay us for legal fees.

If you receive money for the Claim, you agree to pay us a fee of 33% of the total amount recovered, plus disbursements and HST.

If we successfully settle a lawsuit or we are successful at trial, we will seek a sum of money called "costs" from the Defendant. Any money received from the Defendant for costs are **not** included in the calculation of our fee, and serve to partially offset our charges.

### When the Percentage Fee May Be Different

You may want to proceed to trial even though were commend that you settle. In this case, if the trial judgment turns out to be less than the settlement that we recommended, our percentage fee will be based on the amount of the settlement that we recommended to you, not the amount of the trial judgment. We will notify you in writing if this situation occurs to avoid any confusion.

Charges for legal services vary. You can speak with other lawyers to compare rates and payment arrangements. Duby & Associates shall not recover more in fees than you recover in damages or receive in a settlement.





### **Disbursements**

Disbursements are the expenses we incur on your behalf, which may include: copying; postage; couriers; long distance; document binding; court and government filings; obtaining medical records; transcripts; court reporter services; investigators; expert consultants; demonstrative evidence; focus groups; witness attendance; travel; and research. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of the disbursements expended on your behalf subject to s. 47 of the Legal Aid Services Act, 1998 (applicable if you are in receipt of Legal Aid).

As part of this Contingency Fee Retainer Agreement, we will initially pay all disbursements plus HST. If we are successful in recovering money for the Claim, we will be reimbursed for all legal expenses plus applicable taxes from any recovery. However, if we are not successful, we will not be reimbursed for these expenses.

We are entitled to be reimbursed for any legal expenses as a first charge on any money received for the Claim. This means that we have the legal right to be paid first from any such money.

### Billing

We will provide you with an account in writing setting out the amounts recovered for your Claim, for legal costs, and expenses and showing the amounts charged to you under this agreement and the balance payable to you. You agree that any money from a settlement or judgment, including costs, will be paid directly to us to be held in trust by us subject to the terms of this Agreement. We will deduct our fee, legal expenses, and applicable taxes and provide you the balance.

Interest will accrue on the unpaid balance of any account(s) thirty days after the account has been mailed to you. The rate of interest will be noted on the account we send to you.

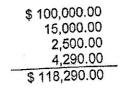
You have the right to ask the Superior Court of Justice to review and approve your lawyer's bill, within 30 days from the date you receive it. After that you must ask the Court for permission, providing an explanation for the delay.

### **Example**

The following example is offered to help explain how you will be charged. It is not a prediction of your legal fees and expenses or what the Claim is worth.

This example assumes a settlement made up of the following amounts paid by the Defendant:

Damages including interest
Costs
Disbursements
HST (on \$33,000)
Total Paid by the Defendant





We would charge thirty-three and one-third percent (33%) of the total damages. The account delivered to our client would be:

Fee (33% of \$100,000)	25*	\$33,000.00
Disbursements paid by the Defendant		2,500.00
HST (on legal fees of \$33,000)		4,290.00
Total Fees and Disbursement Paid by You	10	\$ 39,790.00

In this example, the claimant would receive \$78,500.00 after deduction of our charges.

### Other Things You Need to Know

### Structured Settlement

A structured settlement allows you to receive tax-free payments over a period of time instead of a lump sum. There may be advantages to having all or part of a settlement structured or a legal requirement to accept payments over a period of time.

If periodic payments are part of any settlement or judgment, you will still be responsible for payment of our account at the time of settlement based on the total paid for the Claim including any amounts to fund periodic payments.

### Persons Under a Legal Disability

Legal disability includes being under the age of 18, or mentally incapable.

If any person covered by this agreement is under a legal disability, this agreement and any legal charges must be approved by a judge, either before the agreement is finalized or as part of the approval of any settlement. Any money payable to such persons will be paid into court unless a judge orders otherwise.

### Legal Cost and Disbursement Protection

You acknowledge that legal cost protection has been obtained on your behalf and for your benefit covering up to twenty-five thousand dollars (\$25,000) of legal cost protection and/or disbursements which may be owed by you following a trial of your claim(s). The cost of the protection is five hundred dollars (\$500) plus HST and will be paid out of your claim settlement proceeds or award. No fee shall be paid or owing in the event your claim is unsuccessful, abandoned, discontinued or transferred to new legal representation.

### **Ending the Relationship**

### You End the Relationship

You can end this agreement at any time. If you terminate this agreement before the Claim is concluded, you agree to pay the disbursements that were paid by our firm pertaining to your case as well as our reasonable charges for the work accomplished to that date as explained below.





If you do terminate this Agreement, you agree to sign a court form which tells the court that we no longer act for you,

### We End the Relationship

There are circumstances where we may choose to end this agreement. For example, if we at any time determine that the Claim is unlikely to succeed or is no longer economically viable. In these circumstances, we may then enter into a new, non-contingency based fee agreement on terms to be negotiated at that time.

In the event that we terminate this Agreement and you ultimately received nothing for your Claim, we will not charge you legal fees. If we terminate the Agreement, and you do recovery money for your Claim, you agree to protect or pay our reasonable charges as explained below.

### Reasonable Charges Explained

The factors that will determineour reasonable charges where this agreement ends prior to resolution of the Claim, include the time and effort required and spent by us; the usual hourly rates charged by us for non-contingency work; the complexity of the case and the responsibility and risk we assumed by representing you in the case; the difficulty and importance of your case; the expertise, experience, degree of skill and competency demonstrated by us in representing you; whether special skill or service was required and provided; the amount involved and/or value of the Claim; results obtained by us; and other relevant circumstances.

Our usual hourly rates, which generally increase annually, are:

Senior Lawyer	\$350.00
Junior Lawyer	\$240.00
Law Clerks	\$90.00
Articling Students	\$90.00
Summer Students	\$90.00

### Protecting Our Account Explained

If you terminate this agreement and continue with the Claim, but are unable to pay our account at the time of termination, and we make arrangements to permit our reasonable charges to be paid upon the conclusion of the Claim, you agree that our reasonable charges will be a first charge on any money paid for the Claim. You also agree to sign a document at that time confirming this.

### Your Risks

We will act in your best interests and give you our best legal advice. However, no lawyer can guarantee a successful outcome.

If a lawsuit is filed and the lawsuit or any significant pre-trial hearing is lost, the court may order you to pay a portion of the winning side's legal fees and disbursements/expenses. You are responsible for paying any such costs. Insurance may be available to protect you from some or





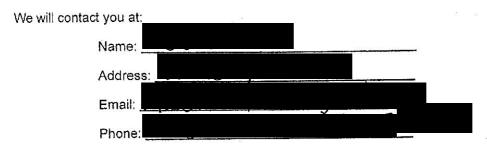
all of a costs award that you may have to pay. We have discussed the availability of this insurance

Understanding these risks, by signing this Agreement, you are expressly authorizing us to file a lawsuit on your behalf, if appropriate.

### **Confidentiality and Privacy**

You authorize the collection and use of personal information in order to fully and properly represent you. From time to time some of your personal information may be disclosed to third parties only we determine is reasonably required to advance the Claim on your behalf.

### Communications



You can contact us at:

Duby & Associates, 2 Clinton Place, Toronto, ON M6G 1J9

P: 416 588 9100 F: 416 588 9102 E: \_\_\_\_@dubyassociates.com

### Email

By initialing this paragraph, you authorize the sending of confidential or private correspondence, documents and other information related to the Claim to you through the Internet (and, particularly, e-mail) in an unencrypted condition and without any guarantee of security or protection from interception by a third party.

Initials





### CONFIRMATION

This Contingency Fee Retainer Agreement contains the complete agreement between us regarding your relationship with us, and our legal fees and expenses. It will not be changed unless we both agree and sign any changes. It will legally bind anyone, such as heirs or legal representatives, who replace either you or us but it does not legally bind other lawyers who might act for you if you decide to end our relationship.

You confirm that you understand that all usual protections and controls on retainers between a lawyer and client, as defined by the Law Society of Ontario and the common law, apply to this agreement.

LAWYER	WITNESS
Date:	
OLIENT ONE	WITNESS
Date: 03/07/2019	WITHESS
Date.	v v
CLIENT TWO	WITNESS
Date:	







### CONTINGENCY FEE RETAINER AGREEMENT.

Between:

Hanson Duby Lawyers 2 Clinton Place, Toronto, ON M6G 1J9 P.416 588 9100 F. 416 588 9102

-and-

Hereafter referred to as the "Claimant" or "Claimants"

This agreement explains the services that we will provide to you, how you will be charged for them, and our responsibilities to each other. Please read this agreement carefully. If you have questions, please ask us before signing.

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### Legal Services

This agreement confirms that you, (the "Claimant[s]") have retained Hanson Duby Lawyers on a contingency fee basis to advance a potential Claim (the "Claim") for damages you have sustained as a result of MVA that occurred on. due to the wrong doing of or any other person who may be liable (the "Defendant").

This agreement does not cover services for any other matter.

### Who We Represent

In certain circumstances, family members or other individuals may be entitled to compensation in relation to the Claim. We represent only the Claimantswho have signed this agreement.

### Potential Conflicts

If you have asked us to act for more than one potential Claimant, this is will be a joint retainer. In that case, we will share information between everyone we represent. Any information received from any of you will be shared with the rest.



1

In the case of a joint retainer, you have advised that there is no conflict of interest between you and that you have no objection to our firm representing all individuals signing this agreement. It a conflict does arise in the futureyou agree now, that in the event of any conflict arising we will continue to represent. We would then refer any conflicted individuals to an independent lawyer.

### Expectations

### What You Can Expect from Us

We will report to you on significant developments throughout. We will take appropriate steps to protect your interests and advance your Claim, which may include any of the following:

- (a) obtain and review relevant documentation:
- (b) conduct other investigations and/or research;
- (c) retain and instruct expert witnesses;
- (d) advise you if the Claim is likely viable;
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- (i) prepare for and attend trial.

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### What We Expect from You

We expect that you will reasonably cooperate and communicate with us. We can provide our best advice and guidance only when we have all relevant information. It is vital that you be candid and honest at all times. We must be able to reasonably make contact with you and receive a reply to our communications within 24 hours. In addition, we ensure you that any questions or concerns regarding your Claim will be answered within one business day.

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How much money you receive from the Claim is determined by a number of factors that are difficult to determine from the outset. These usually include, the extent of the injury, the final prognosis, and the economic consequences of the harm caused. Once we have the necessary information, we will give you our opinion of the dollar value of the Claim. Our opinion may change as the Claim develops.

### How Long It Will Take

It can take up to several years for a claim to settle or go to trial. The amount of time the claim takes depends on factors such as: the age of the injured person; how soon they recover from their injuries; when we receive information about what the future holds for the injured person and court availability.



### Settlement or Trial

We will try to settle your lawsuit to obtain a favourable settlement for you. If your Claim is settled, it would not have to go to trial. If we cannot settle the case, we will discuss with you the risks and potential benefits of a trial.

### You Decide

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### How Much Will It Cost

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### Legal Fees

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If you do not receive money for the Claim, you do not pay us for legal fees.

If you receive money for the Claim, you agree to pay us a fee of 33% of the total amount recovered, plus disbursements and HST.

If we successfully settle a lawsuit or we are successful at trial, we will seek a sum of money called "costs"from the Defendant. Any money received from the Defendant for costs are not included in the calculation of our fee, and serve to partially offset our charges.

### When the Percentage Fee May Be Different

You may want to proceed to trial even though werecommend that you settle. In this case, if the trial judgment turns out to be less than the settlement that we recommended, our percentage fee will be based on the amount of the settlement that we recommended to you, not the amount of the trial judgment. We will notify you in writing if this situation occurs to avoid any confusion.

Charges for legal services vary. You can speak with other lawyers to compare rates and payment arrangements. Hanson Duby Lawyers shall not recover more in fees than you recover in damages or receive in a settlement.



#### Disbursements

Disbursements are the expenses we incur on your behalf, which may include: copying; postage; couriers; long distance; document binding; court and government filings; obtaining medical records; transcripts; court reporter services; investigators; expert consultants; demonstrative evidence; focus groups; witness attendance; travel; and research. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of the disbursements expended on your behalf subject to s. 47 of the Legal Aid Services Act, 1998 (applicable if you are in receipt of Legal Aid).

As part of this Contingency Fee Retainer Agreement, we will initially pay all disbursements plus HST if we are successful in recovering money for the Claim, we will be reimbursed for all legal expenses plus applicable taxes from any recovery. However, if we are not successful, we will not be reimbursed for these expenses

We are entitled to be reimbursed for any legal expenses as a first charge on any money received for the Claim. This means that we have the legal right to be paid first from any such money.

#### Billing

We will provide you with an account in writing setting out the amounts recovered for your Claim, for legal costs, and expenses and showing the amounts charged to you under this agreement and the balance payable to you. You agree that any money from a settlement or judgment, including costs, will be paid directly to us to be held in trust by us subject to the terms of this Agreement. We will deduct our fee, legal expenses, and applicable taxes and provide you the balance.

Interest will accrue on the unpaid balance of any account(s) thirty days after the account has been mailed to you. The rate of interest will be noted on the account we send to you.

You have the right to ask the Superior Court of Justice to review and approve your lawyer's bill, within 30 days from the date you receive it. After that you must ask the Court for permission, providing an explanation for the delay.

#### Example.

The following example is offered to help explain how you will be charged. It is not a prediction of your legal fees and expenses or what the Claim is worth.

This example assumes a settlement made up of the following amounts paid by the Defendant:

Damages including interest		\$ 100,000.00
Costs	•	15,000.00
Disbursements	7	2,500.00
HST (on \$33,000)	10	4,290.00
Total Paid by the Defendant		\$ 118,290.00



We would charge thirty-three and one-third percent (33%) of the total damages. The account delivered to our client would be:

Fee (33% of \$100,000)	\$33,000.00
Disbursements paid by the Defendant	 2,500.00
HST (on legal fees of \$33,000)	4,290.00
Total Fees and Disbursement Paid by You	\$ 39,790.00

In this example, the claimant would receive\$78,500.00 after deduction of our charges.

## Other Things You Need to Know

#### Structured Settlement

A structured settlement allows you to receive tax-free payments over a period of time instead of a lump sum. There may be advantages to having all or part of a settlement structured or a legal requirement to accept payments over a period of time.

If periodic payments are part of any settlement or judgment, you will still be responsible for payment of our account at the time of settlement based on the total paid for the Claim including any amounts to fund periodic payments.

## Persons Under a Legal Disability

Legal disability includes being under the age of 18, or mentally incapable.

Ifany person covered by this agreement is under a legal disability, this agreement and any legal charges must be approved by a judge, either before the agreement is finalized or as part of the approval of any settlement. Any money payable to such persons will be paid into court unless a judge orders otherwise.

#### Legal Cost and Disbursement Protection

You acknowledge that legal cost protection has been obtained on your behalf and for your benefit covering up to twenty-five thousand dollars (\$25,000) of legal cost protection and/or disbursements which may be owed by you following a trial of your claim(s). The cost of the protection is five hundred dollars (\$500) plus HST and will be paid out of your claim settlement proceeds or award. No fee shall be paid or owing in the event your claim is unsuccessful, abandoned, discontinued or transferred to new legal representation.

#### Ending the Relationship

# You End the Relationship

You can end this agreement at any time. If you terminate this agreement before the Claim is concluded, you agree to pay the disbursements that were paid by our firm pertaining to your case as well as our reasonable charges for the work accomplished to thatdate as explained below.



If you do terminate this Agreement, you agree to sign a court form which tells the court that we no longer act for you.

#### We End the Relationship

There are circumstances where we may choose to end this agreement. For example, if we at any time determine that the Claim is unlikely to succeed or is no longer economically viable. In these circumstances, we may then enter into a new, non-contingency based fee agreement on terms to be negotiated at that time.

In the event that we terminate this Agreement and you ultimately received nothing for your Claim, we will not charge you legal fees. If we terminate the Agreement, and you do recovery money for your Claim, you agree to protect or pay our reasonable charges as explained below.

# Reasonable Charges Explained

The factors that will determineour reasonable chargeswhere this agreement ends prior to resolution of the Claim, include the time and effort required and spent by us; the usual hourly rates charged by us for non-contingency work; the complexity of the case and the responsibility and risk we assumed by representing you in the case; the difficulty and importance of your case; the expertise, experience, degree of skill and competency demonstrated by us in representing you; whether special skill or service was required and provided; the amount involved and/or value of the Claim; results obtained by us, and other relevant circumstances.

Our usual hourly rates, which generally increase annually, are:

Senior Lawyer	\$350.00
Junior Lawyer	\$240.00
Law Clerks	\$90.00
Articling Students	\$90.00
Summer Students	\$90.00

# Protecting Our Account Explained

If you terminate this agreement and continue with the Claim, but are unable to pay our account at the time of termination, and we make arrangements to permit our reasonable charges to be paid upon the conclusion of the Claim, you agree that our reasonable charges will be a first charge on any money paid for the Claim. You also agree to sign a document at that time confirming this.

## Your Risks

We will act in your best interestsand give you our best legal advice. However, no lawyer can guarantee a successful outcome.

If a lawsuit is filed and the lawsuit or any significant pre-trial hearing is lost, the court may order you to pay a portion of the winning side's legal fees and disbursements/expenses. You are responsible for paying any such costs. Insurance may be available to protect you from some or



all of a costs award that you may have to pay. We have discussed the availability of this insurance.

Understanding these risks, by signing this Agreement, you are expressly authorizing us to file a tawsuit on your behalf, if appropriate.

# Confidentiality and Privacy

Communications

You authorize the collection and use of personal information in order to fully and properly represent you. From time to time some of your personal information may be disclosed to third parties only we determine is reasonably required to advance the Claim on your behalf.

Was offer a was a state of any or or	
We will conta	ct you at:
	Name:
** **	Address:
	Email:
	Phone:
You can cont	act us at:
	Hanson Duby Lawyers, 2 Clinton Place, Toronto, ON M6G 1J9
	P: 416 588 9100 F: 416588 9102 E:@hansonduby.com
<u>Email</u>	
documents a particularly,	his paragraph, you authorize the sending of confidential or private correspondence, and other information related to the Claim to you through the Internet (and, e-mail) in an unencrypted condition and without any guarantee of security or interception by a third party.



Initials

# CONFIRMATION

This Contingency Fee Retainer Agreement contains the complete agreement between usregardingyour relationship with us, andourlegal fees and expenses. It will not be changed unless weboth agree and sign any changes. It will legally bind anyone, such as heirs or legal representatives, who replace either you or usbut it does not legally bind other lawyers who might act for you if you decide to end our relationship.

You confirm that you understand that all usual protections and controls on retainers between a lawyer and client, as defined by the Law Society of Upper Canada and the common law, apply to this agreement.

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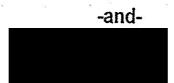


# Contingency Fee Retainer Agreement

# Between:

# HANSON DUBY LAWYERS

2 Clinton Place, Toronto, ON M6G 1J9 Tel.: 416 588 9100 Fax: 416 588 9102



You	have retained	ed Hanson	Duby	Lawyers	to recover	damages	arising	from	MVA	2.	or
				12					100 W		

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer, however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

Disbursements are out-of-pocket expenses incurred by Hanson Duby Lawyers in the prosecution of your claim. Such disbursements are likely to include medical records and reports, police reports, experts' reports, court filing fees and agency fees. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of these disbursements expended on your behalf subject to s. 47 of the Legal Aid Services Act, 1998 (applicable if you are in receipt of Legal Aid), and such entitlement is a first charge on any funds received on settlement.

In Ontario, an injured party who achieves any reasonable degree of success in their lawsuit is also entitled to recover lawyers' costs from the Defendant. These costs contribute to payment of the total legal bill, but do not provide full indemnification.

By signing this agreement, you agree and direct that all funds claimed by Hanson Duby Lawyers for legal fees, costs, taxes and disbursements shall be paid to Hanson Duby Lawyers, in trust, on settlement.

The contingency fee paid by you to Hanson Duby Lawyers is equal to 33% of all amounts recovered on your behalf for your injuries, damages and losses, excluding disbursements, regardless of the source of said recovery.

Please note that HST is payable on lawyers' fees. You will pay HST on the portion of the legal fee paid by

Below is an example of how our fee is calculated:

Damages & costs (net of deductible)

\$16,000

Disbursements (reimbursed by Defendant):

\$1,000

Total settlement

\$17,000

The fee paid by you is 33% of the total damage and interest awarded (after deduction of disbursements):

Fee (Paid by you): 33% of \$16,000:

\$5,280.00

HST:

\$686,40

Therefore, your total recovery will be:

\$10,033.66

Hanson Duby Lawyers shall not recover more in fees than you recover as damages.

It is agreed that if no money is recovered by settlement, no fees shall be charged or billed to you. However, if the costs of the other parties are awarded against you, those costs are solely your responsibility, and not the responsibility of Hanson Duby Lawyers. We will discuss the prospects of success with you at different stages of the litigation.

If, for any reason, you retain new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honor our fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the Rules of Civil

If you mislead us or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services.

If the matter cannot be settled prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Signature:

Hanson Duby Lawyers Per.

115

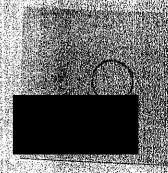
# **Contingency Fee Retainer Agreement**

Between:

# HANSON DUBY LAWYERS

2 Clinton Place, Toronto, ON M6G 1J9 Tel.: 416 588 9100 Fax: 416 588 9102

-and-



You have retained Hanson Duby Lawyers to recover damages arising from whice accident

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

Disbursements are out of-pocket expenses incurred by Hanson Duby Lawyers in the prosecution of your claim. Such disbursements are likely to include medical records and reports, police reports, experts reports, court filing fees and agency fees. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of these disbursements expended on your behalf subject to s. 47 of the Legal Aid Services Act, 1998 (applicable if you are in receipt of Legal Aid), and such entitlement is a first charge on any funds received on settlement.

In Ontario, an injured party who achieves any reasonable degree of success in their lawsuit is also entitled to recover lawyers' costs from the Defendant. These costs contribute to payment of the total legal bill, but do not provide full indemnification.

By signing this agreement, you agree and direct that all funds claimed by Hanson Duby Lawyers for legal, fees, costs, taxes and disbursements shall be paid to Hanson Duby Lawyers, in trust, on settlement.

The contingency fee policity you to Hanson Duby Lawyers is equal to 30% of all amounts, recovered on your behalf for your injuries, damages and losses, excluding disbursements, regardless of the source of said recovery.

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traditation Supertural acceptable **1879 (6** 2005) tena*l* are postos and the **Lagration**  Please note that HST is payable on lawyers' fees. You will pay HST on the portion of the legal fee paid by you.

Below is an example of how our fee is calculated:

Damages (net of deductible): \$10,000 Costs (from Defendant): \$6,000 Sub-total: \$16,000

**Disb**ursements (reimbursed by Defendant): \$1,000

Total settlement: \$17,000

The fee paid by you is 30% of the total damage and interest awarded (after deduction of disbursements):

Fee (Paid by you): 30% of \$16,000: \$4,800 HST: \$624

Therefore, your total recovery will be: \$10,576

Hanson Duby Lawyers shall not recover more in fees than you recover as damages.

It is agreed that if no meney is recovered by settlement, no fees shall be charged or billed to you. However, if the costs of the other parties are awarded against you, those costs are solely your responsibility, and not the responsibility of Hanson Duby Lawyers. We will discuss the prospects of success with you at different stages of the litigation.

If, for any reason, you nate in new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honor our the account for work performed to the time of termination of the retainer. The hourly rates for fees and set out in Tariff A for solicitors' fees under Rule 58.05 of the Rules of Civil Procedure.

If you mislead us or misressessent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or as increased retainer, or to withdraw our services.

If the matter cannot be solded prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a lightent or Order, or services rendered by collection on a Judgment or Order, are separate, and will a laser on hourly rates not covered by this document. We will enter into a separate agreement to continue associated fees.

Dated: 29(6)

Signature:

Dated: Jep 2

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# APPENDIX "D"

# **Contingency Fee Retainer Agreement: Accident Benefits Claims**

Between:

# HANSON DUBY LAWYERS

2 Clinton Place. Toronto, ON M6G 1J9 Tel.: 416 588 9100 Fax: 416 588 9102

-and-

Further to the executed Contingency Fee Retainer, you have retained Hanson Duby Lawyers to to act on your behalf in securing benefits as are available to me under the Statutory Accident Benefits Schedule, as amended, arising from an accident on

You also agree and authorize Hanson Duby Lawyers to receive as payment for legal services the amount of 25% plus H.S.T. and disbursements on any full and final settlement. You acknowledge that this amount will increase to 30% plus H.S.T. and disbursements should an Arbitration be required to achieve a settlement of this matter.

If, for any reason, you retain new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honour our fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the Rules of Civil

Procedure.

Signature:

Hanson Duby Lawyers Brb Duly

# Contingency Fee Retainer Agreement: Accident Benefits Claims

#### Between:

# HANSON DUBY LAWYERS

2 Clinton Place, Toronto, ON M6G 1J9 Tel.: 416 588 9100 Fax: 416 588 9102

-and-



I have retained Hanson Duby Lawyers to act on your behalf in securing benefits as are available to me under the Statutory Accident Benefits Schedule, as amended, arising from a motor vehicle accident on

By signing this retainer, I authorize Hanson Duby Lawyers to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

In consideration of acting on my behalf, I agree to pay you no more than 30% plus H.S.T., and all applicable disbursements, for any lump sum settlements awarded. I understand that I am responsible to pay you fees forthwith after the receipt of the lump sum settlements awarded.

I understand that should there be any disbursements reasonably required to prosecute my claim with the insurance company, I shall be responsible for payment of all disbursements in relation thereto and that you may require that I supply a monetary retainer to cover such expenses.

Notwithstanding the above, I understand that if you deem it advisable to proceed to a Case Conference and/or Hearing before the Licensing Appeals Tribunal ("LAT") for any aspect of my claim, I acknowledge that I agree to pay you 33% plus H.S.T. and disbursements on any lump-sum settlements awarded, whether for a partial settlement or full and final settlement of my accident benefits claim.

If, for any reason, I retain new counsel, my new counsel will pay Hanson Duby Lawyers' disbursements in full, forthwith, and honour the fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the *Rules of Civil Procedure*.

If you mislead Hanson Duby Lawyers or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services. You hereby acknowledge that you are responsible for notifying Hanson Duby Lawyers for a material change in your condition which may affect your claim.

I hereby also acknowledge that you have advised me that I have a period of two (2) years from the date of the motor vehicle accident in which to commence an action in the Superior Court of Justice of Ontario for damages in tort.

Dated: May 7, 18

Dated: May 7, 18

Signature: \_

Hanson Duby Lawyers
Per: Rasha Gwlv.



# Contingency Fee Retainer Agreement: Accident Benefits Claims

#### Between:

# BRAD DUBY PROFESSIONAL CORPORATION, o/a DUBY & ASSOCIATES

2 Clinton Place, Toronto, ON M6G 1J9 Tel.: 416 588 9100 Fax: 416 588 9102

-and-



I have retained Duby & Associates to act on your behalf in securing benefits as are available to me under the Statutory Accident Benefits Schedule, as amended, arising from a motor vehicle accident on

By signing this retainer, I authorize Duby & Associates to take all steps in connection with the proceeding as Duby & Associates may consider necessary and proper, and to employ such agents and retain counsel as Duby & Associates considers advisable.

In consideration of acting on my behalf, I agree to pay you no more than 30% plus H.S.T., and all applicable disbursements, for any lump sum settlements awarded. I understand that I am responsible to pay you fees forthwith after the receipt of the lump sum settlements awarded.

I understand that should there be any disbursements reasonably required to prosecute my claim with the insurance company, I shall be responsible for payment of all disbursements in relation thereto and that you may require that I supply a monetary retainer to cover such expenses.

Notwithstanding the above, I understand that if you deem it advisable to proceed to a Case Conference and/or Hearing before the Licensing Appeals Tribunal ("LAT") for any aspect of my claim, I acknowledge that I agree to pay you 33% plus H.S.T. and disbursements on any lump-sum settlements awarded, whether for a partial settlement or full and final settlement of my accident benefits claim.

If, for any reason, I retain new counsel, my new counsel will pay Duby & Associates disbursements in full, forthwith, and honour the fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the *Rules of Civil Procedure*.

If you mislead Duby & Associates or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services. You hereby acknowledge that you are responsible for notifying Duby & Associates for a material change in your condition which may affect your claim.



I hereby also acknowledge that you have advised me that I have a period of two (2) years from the date

of the motor vehicle accident in which to commer for damages in tort.		
Dated:	Signature:	
Dated: May 10, 2019	Duby & Associates	001

Per:



# **Accident Benefits Claims Direction**

Claimant: _
Date of Motor Vehicle Accident: _
Accident Benefits Insurer:
Claim No.:
I appoint Brad Duby Professional Corporation, o/a Duby & Associates to act on my behalf in securing benefits as are available to me under the Statutory Accident Benefits
Schedule, as amended, involving my accident benefits claim with the above insurer. I
further authorize that a full and complete copy of my accident benefit file to date be
provided to my lawyer upon receipt of this authorization.
I further direct that any and all benefits paid, including any settlement funds, shall be sent directly to Duby & Associates.
I confirm that all previous executed authorizations and retainers are hereby revoked.
Dated at this the day of ,
Witness Claimant

# APPENDIX "E"

Tax Centre Hamilton ON L8R 3P7

February 01, 2022

BRAD DUBY PROFESSIONAL CORPORATION C/O MNP LTD. 300 - 111 RICHMOND ST W TORONTO ON M5H 2G4

Account Number 73996 6091 RT0001

Dear Matthew Lam:

Subject: BRAD DUBY PROFESSIONAL CORPORATION

We understand that you have been appointed receiver or receiver-manager (receiver) for the above GST/HST registrant. Currently, the registrant owes goods and services tax / harmonized sales tax (GST/HST) of \$456,739.40.

Period outstanding	GST/HST payable	Penalty & interest	Total
2021-02-25	\$ 11,487.53	\$ 246.43	\$ 11,733.96
2020-12-31 2020-09-30	\$ 36,208.37 \$ 25,687.71	\$ 696.00 \$ 910.65	\$ 36,904.37 \$ 26,598.36
2020-06-30 2020-03-31	\$ 48,324.71 \$ 70,589.75	\$ 3,899.49 \$ 6,723.38	\$ 52,224.20 \$ 77,313.13
2019-12-31 2019-09-30	\$ 84,419.22 \$ 75,644.54	\$12,467.95	\$ 96,887.17
2019-06-30	\$ 37,003.21	\$12,541.92 \$ 9,699.84	\$ 88,186.46 \$ 46,703.05
2019-03-31 2018-12-31	\$ 1,209.29 \$ 12,915.25	\$ 295.02 \$ 2,140.57	\$ 1,504.31 \$ 15,055.82
2018-09-30	\$ 2,994.30 =======	\$ 634.27	\$ 3,628.57 =========
TOTAL	\$406,483.88	\$50,255.52	\$456,739.40

Under the Excise Tax Act, \$406,483.88 of the above totals represents property of the Crown held in trust and does not form part of BRAD DUBY PROFESSIONAL CORPORATION's property, business, or estate. This is the case whether or not those funds are kept separate and apart from the registrant's own money or from the estate's assets.

.../2



Canada National Insolvency Office 55 Bay Street North Hamilton ON L8R 3P7

Local:

You must pay the Receiver General for Canada \$406,483.88 out of the realization of any property subject to the trust created by subsection 222(3) of the Act before paying any other creditor. Please send us your payment right away. If this is not possible, please tell us when you will make the payment. Also, please tell us when you will pay the remaining balance of \$50,255.52.

As a receiver, you must collect and remit the registrant's GST/HST for the period you are acting as a receiver. You also must file the registrant's returns for any periods ending while you were acting as receiver. This includes any returns the registrant did not file for a period ending in or immediately before the fiscal year you became receiver.

For more information or clarification, please call us at 416-997-1102.

Yours truly,

K. Figaszewska (1214)

Insolvency Officer

Tax Centre Hamilton ON L8R 3P7

February 01, 2022

BRAD DUBY PROFESSIONAL CORPORATION C/O MNP LTD. 300 - 111 RICHMOND ST W TORONTO ON M5H 2G4

Account Number 73996 6091 RP0001

Dear Matthew Lem:

Subject: BRAD DUBY PROFESSIONAL CORPORATION Account number: 73996 6091 RP0001

We were told that you have been appointed as receiver for the above-named. There is a debt owed to the Canada Revenue Agency for source deductions amounting to \$118,616.32 for income tax and Canada Pension Plan (CPP) contributions, as well as employment insurance (EI) premiums.

Details of the debt are as follows:

Tax deductions: \$97,031.67 CPP: \$4,115.34

EI: \$0.00

Penalties and interest: \$17,469.31 Total: \$118.616.32

Further to the Income Tax Act, the Canada Pension Plan, and the Employment Insurance Act, the following amounts, which are included in the above totals, are trust funds and form no part of the property, business, or estate of BRAD DUBY PROFESSIONAL CORPORATION in receivership.

Federal income tax: \$72,411.84
Provincial income tax: \$24,619.83
CPP employee part: \$2,057.37
EI employee part: \$0.00
Total: \$99,089.34

Payment for the total amount of this trust, namely \$99,089.34, must be made to the Receiver General for Canada out of the realization of any property that is subject to these statutory trusts in priority to all other creditors.

.../2



National Insolvency Office 55 Bay Street North Hamilton ON L8R 3P7 Local: 416-997-1102 Fax: 416-954-6411 Web site: canada.ca/taxes Please let us know when payment of this trust amount and the remaining balance of \$19,526.98 will be made.

This letter also serves as notice that should payment be made for any amount described in subsection 153(1) of the Income Tax Act for periods before or after your appointment, you must withhold tax deductions and remit payments in accordance with that subsection and sections 101 and 108 of the Income Tax Regulations.

Also, see section 5 of the Employment Insurance Act and section 8 of the Canada Pension Plan Regulations.

For more information or clarification, please call me at 416-997-1102.

Yours truly,

K. Figaszewska (1214) Insolvency Officer

# APPENDIX "F"



Timothy C. Hogan Direct Line: (519)-661-6743 thogan@harrisonpensa.com

> Assistant: Cathy Coleiro Direct Line: (519) 850-5568 ccoleiro@harrisonpensa.com

April 4, 2022

Via E-Mail - matthew.lem@mnp.ca

MNP Ltd. Licensed Insolvency Trustees 111 Richmond Street West, Suite 300 Toronto, ON M5H 2G4

Attention: Matthew Lem

Dear Sir:

Re: Brad Duby Professional Corporation (the "Debtor")
Our File No. 186025

This will confirm your instructions for us to review and provide an opinion to MNP Ltd. in its capacity as Court appointed Receiver of the Debtor, regarding the security provided by the Debtor to The Toronto-Dominion Bank. (the "Bank").

In preparing this opinion, we have reviewed the following documentation:

- A Personal Property Security Act ("PPSA") search as against the Debtor current to April 3, 2022;
- 2. A corporate profile of the Debtor;
- 3. Affidavit of Michelle Benoy, sworn February 24, 2021 in Ontario Superior Court of Justice (Commercial List) (the "Court") File No. CV-21-00657656-00CL (the "Application");
- Order of the Court in the Application dated February 25, 2021, appointing MNP Ltd. (the "Receiver") as Receiver of the Debtor's Property, as defined therein (the "Appointment Order");
- Order of the Court in the Application dated February 25, 2021, appointing the Law Society of Ontario ("LSO") as Trustee of the Property of the Debtor and Duby as (defined below) relating to their Business, all as defined therein (the "Trusteeship Order")
- 6. General Security Agreement from the Debtor dated April 29, 2020 (the "GSA");

- 7. Subordination Agreement dated May 11, 2020 as between the Bank, Bridgepoint Financial Services Limited Partnership 1 ("Bridgepoint"), and the Debtor (the "Bridgepoint Subordination Agreement");
- 8. Letter from Easy Legal Finance Inc. ("Easy Legal") to the Bank dated June 12, 2020 (the "Easy Legal Comfort Letter").

# A. <u>Assumptions and Qualifications</u>

The comments and opinions hereafter expressed are subject to the assumptions and qualifications detailed at Schedule "A" to this letter.

# B. The Debtor

The Debtor was incorporated pursuant the laws of Ontario on December 2, 2016, with its registered office located in Toronto, Ontario.

The Debtor operated under business name "Duby & Associates", pursuant to a registration dated May 1, 2020.

Brad Duby ("**Duby**") was the sole officer and director of the Debtor. Duby is deceased as of January 28, 2021. On February 25, 2021, the LSO obtained the Trusteeship Order, appointing the LSO as trustee over all Property (as defined in the Trusteeship Order) of the Debtor and Duby related to the Debtor/Duby's Business (also as defined in the Trusteeship Order).

The Trusteeship Order and the Appointment Order each provide that the LSO and the Receiver shall use best efforts to coordinate their powers and authorizations under each of the Appointment Order and the Trusteeship Order, subject to the direction of the Court if required.

# C. <u>The Personal Property Security</u>

#### The GSA

We have reviewed the GSA. The GSA is enforceable on its face, attachment having occurred pursuant to the provisions of the PPSA on the date of execution by the Debtor and advance of funds by the Bank to the Debtor.

The GSA grants a continuing security interest in all of the Debtor's present and after acquired personal property and undertakings, including without limitation, Intangibles, Accounts and Book Debts, Equipment, Inventory, and Proceeds (all as defined therein).

We have completed a certified PPSA search current to March 1, 2021 as against the Debtor and we note the following registrations:

DATE (FILE NUMBER)	SECURED CREDITOR	COLLATERAL	NOTES
2016/05/31 (717159231)	Bridgepoint Financial Services LP1  The Toronto-	Other	Cests and Disbursements to be reimbursed upon the resolution of the Debtor's clients' legal claims  Original registration made against debtor name "Hanson Duby". Amended 2017/08/17 to add debtor name "Hanson Duby Lawyers"  Renewed 2018/05/02 (2 yrs)  Amended 2018/10/29 to add additional debtor, "Brad Duby Professional Corporation"  Description of collateral amended 2018/10/29 to read:  Proceeds to be received upon the resolution of a claim and/or settlement, where the debtor has an interest in the outcome, including, but not limited to, as counsel or lawyer to the claimant, plaintiff and/or beneficiary.  Renewed 2020/04/14 (2 yrs)  Renewed 2020/04/16 (2 yrs)  Partial postponement of security interest to The Toronto-Dominion Bank (in particular to File Nos. 761849973 and 761849991) registered 2020/06/15
(761849973)	Dominion Bank	Inventory, Equipment,	No Fixed Maturity Date

	(#1482)	Accounts, Other, Motor Vehicle	
2020/05/12 (761849991)	The Toronto- Dominion Bank (#1482)	Accounts, Other	No Fixed Maturity Date
2020/12/09	Her Majesty the Queen in Right of Ontario Represented by the Minister of Finance	Inventory, Equipment, Accounts, Other	Amount: \$3,064  Date of Maturity: December 9, 2025

We have also performed a PPSA search current to February 25, 2021 as against the Debtor under its business name of "Duby & Associates", and we note the following registrations:

DATE (FILE NUMBER)	SECURED CREDITOR	COLLATERAL	NOTES
2019/04/02 (749690145)	Easy Legal Finance Inc.	Other	Maturity Date: April 2, 2024  Proceeds to be received upon the resolution of a legal claim in which the debtor is the representing attorney.
2020/05/12 (761849973)	The Toronto- Dominion Bank (#1482)	Inventory, Equipment, Accounts, Other, Motor Vehicle	No Fixed Maturity Date
2020/05/12 (761849991)	The Toronto- Dominion Bank (#1482)	Accounts, Other	No Fixed Maturity Date

The GSA is perfected by the above noted registration under the PPSA dated May 12, 2020 in favour of the Bank.

We note the registration of the Minister of Finance in the sum of \$3,064. We are not aware of the reason for this registration.

#### Bridgepoint

We note the prior general security registration of Bridgepoint. The Bridgepoint Subordination Agreement postpones and subordinates the Creditor [Bridgepoint] Security to the Bank Security (as defined therein) in all regards, up to a maximum of \$611,000, together with accrued interest and reasonable costs of enforcement. The Bridgepoint Subordination Agreement appears valid on its face, and was registered

under the PPSA on April 16, 2020 by way of an amendment to Bridgepoint's existing registration.

### Easy Legal

We note the prior-in-time general security registration of Easy Legal as against the Debtor's business name of Duby & Associates (the "Easy Legal Registration"). The Easy Legal Registration is against the business name of the Debtor only, and Easy Legal has made no registration as against the corporate name of the Debtor.

Pursuant to the Minister's Order to the PPSA, a registration as against a corporation must reference the "incorporated name of the corporation" to be valid. Further, and in our opinion, this registration would not be saved by s. 46(4) of the PPSA, as the lack of registration against the corporate name of the Debtor is one that is likely to materially mislead any person conducting a PPSA search as against the Debtor.

In our opinion, the Easy Legal Registration is invalid, and Easy Legal does not hold a perfected security interest in the personal property of the Debtor.

In the event that Easy Legal does hold a perfected security interest in the Debtor's personal property, the Easy Legal Comfort Letter states that Easy Legal's security interest in the Debtor's property is limited to certain amounts owing by the Debtor in connection with the four (4) Ontario Superior Court of Justice file numbers attached at Schedule "A" thereto, provided however that the Easy Legal Comfort Letter does not negate Easy Legal's right to seek collection of amounts advanced to the Debtor from the Debtor, or Duby personally, pursuant to any guarantee or indemnity provided to Easy Legal.

### D. Summary

In summary, and subject to the foregoing, we can provide the following opinion subject to the below noted Assumptions and Qualifications:

- 1. The GSA is attached, perfected and enforceable as against the Debtor and creates a valid and registered security interest granted by the Debtor to the Bank.
- 2. We note the prior registration of Bridgepoint. The Bridgepoint Subordination Agreement postpones and subordinates Bridgepoint's security interest in the Debtor's property to that of the Bank in all regards, up to a maximum of \$611,000, together with accrued interest and reasonable costs of enforcement.
- 3. We note the prior-in-time registration of Easy Legal. In our opinion, Easy Legal does not hold a perfected security interest in the Debtor's personal property, as it has failed to properly register its interest under the PPSA. If the registration were found to be valid, the Easy Legal Comfort Letter provides that its security interest is limited to certain amounts owing by the Debtor in connection certain Ontario Superior Court of Justice file numbers attached at Schedule "A" thereto, subject

- to Easy Legal's right to collect such amounts from the Debtor or Duby in his personal capacity;
- 4. The GSA is subject to the charges under the Appointment Order and any statutory deemed trust that may stand in priority, as well as any charges or priorities which may be created by virtue of the Trusteeship Order.

Yours truly,

HARRISON PENSA LLP

Timothy C. Hogan TCH/cc

#### **SCHEDULE "A"**

#### **ASSUMPTIONS**

### A. Authenticity and Accuracy

We have assumed the genuineness of all signatures, the legal capacity at all relevant times of any natural persons signing any documents and the authenticity and completeness of all documents submitted to us as copies thereof. We have also assumed the accuracy and currency of all indices, filing and registration systems maintained at the public offices where we have searched or inquired or have caused searches or inquiries to be conducted, as set forth herein, the reliability of all search results obtained by electronic transmission and the accuracy of the result of any printed or computer search of any office of public record.

# B. Capacity

We have assumed that the Debtor (and where applicable third parties executing guarantees and other agreements) had the requisite capacity to enter into and perform their obligations under each of the documents as set out in the report (the "**Documents**") at the time each of the Documents were executed and delivered.

## C. Security Documents

We have assumed that:

- (a) none of the Documents have been assigned, released, discharged or otherwise impaired, either in whole or in part by the Bank and there are no agreements (other than the Documents) between the Debtor and the Bank that are relevant to the matters discussed in this letter; and
- (b) none of the assets charged by the security agreements are property for which conflicts rules provide that charges or security interests in such property are governed by the laws of a jurisdiction other than the Province of Ontario.

# D. Existence of Debt and Security Matters

We have assumed that:

- (a) value has been given by the Bank to the Debtor and payment and other obligations remain outstanding by the Debtor to the Bank;
- (b) each of the Documents was duly executed and delivered by the Debtor;
- (c) each of the Documents was issued for valuable consideration and that all of the conditions precedent contained in each of the Documents, if any, were satisfied or waived;
- (d) attachment of the security interests constituted by the Documents have occurred within the meaning of the PPSA;
- the Debtor has an interest in the collateral expressed to be subject to each of the Documents;
- (f) insofar as any obligation under any of the Documents is to be performed in any jurisdiction outside the Province of Ontario, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction;
- (g) the Collateral subject to the security agreements does not include consumer goods (as defined in the PPSA); and
- (h) we have relied, without independent verification, upon matters of fact certified by public officials;
- (i) any security assigned was done so with proper and legal notice to the Debtor.

## E. Factual Matters

We have assumed that no fact exists, or has existed, which would entitle the Debtor to assert or obtain a remedy at law or in equity (such as, without limitation, rectification, rescission or release from a contract through frustration) affecting the validity, legality, binding effect or enforceability of any of the Documents.

#### F. Entire Agreement

We have assumed that there is no written or oral agreement or other understanding and there is no trade usage or course of conduct or prior dealing, which would vary the interpretation or application of any term or condition of any of the Documents, and there have been no amendments, restatements, deletions or other modifications to any of the Documents.

#### G. Choice of Laws

We have assumed that the governing law of each of the Documents is the law of the Province of Ontario. Where the Province of Quebec is the governing law no opinion is provided.

#### QUALIFICATIONS

#### A. Title

We express no opinion concerning title to any property that proposes to be subject to any security constituted by the Documents and such title has been assumed to the full extent necessary to express the opinion contained herein.

# B. 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;
- (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;
- (c) the power of a court to grant relief from forfeiture;
- (d) applicable laws regarding the limitation of actions;
- (e) the court's powers to stay proceedings and execution of judgments;

- (f) the court's discretion to decline to hear any action or give effect to an obligation if to do so would be contrary to public policy or if it is not the proper forum to hear such action;
- (g) limitations which may be imposed by law or equity on the effectiveness of terms exculpating a party from a liability or limiting the liability of a party;
- (h) limitations upon the right of a creditor to receive immediate payment of amounts stated to be or which may become payable on demand;
- (i) limitations upon the right of a party to enforce a provision based upon a minor or non-substantive default:
- (j) implied obligations requiring good faith, fair-dealing and reasonableness in performance and enforcement of a contract; and
- (k) any requirement that "interest", as defined in section 347 of the *Criminal Code* (Canada), be paid at an effective annual rate in excess of 60% is not enforceable; and
- (I) the fact that a court may require that a debtor be given a reasonable time to repay following a demand for payment and prior to taking any action to enforce any right of repayment or before exercising any of the rights and remedies expressed to be exercisable in any of the Documents.

We express no opinion as to the enforceability of any provision of the Documents:

- (a) which purports to waive all defences which might be available to, or constitute a discharge of the liability of the grantor thereof;
- (b) to the extent it purports to exculpate the holder thereof, its agents or any receiver, manager or receiver-manager appointed by it from liability in respect of acts or omissions which may be illegal or fraudulent or which may involve wilful misconduct;
- (c) which states that amendments or waivers of or with respect to the Documents that are not in writing will not be effective;
- (d) which requires any person to pay, or to indemnify another person of, the costs and expenses of such other person in connection with judicial proceedings, since those provisions may derogate from a court's

discretion to determine by whom and to what extent those costs should be paid; and

(e) provisions contained in the Documents which purport to sever any provision which is prohibited or unenforceable under applicable law without affecting the enforceability or validity of the remainder of that Document may be enforced only in the discretion of a court.

A receiver or receiver and manager appointed pursuant to the provisions of the Documents may, for certain purposes, be treated by a court as being the agent of the holder thereof and not solely the agent of the grantor thereof, as applicable, and the holder thereof may not be deemed to be acting as the agent and attorney of such grantor in making such appointment, notwithstanding any agreement to the contrary.

The obligations of the parties to the Documents and the enforceability thereof are subject to qualifications which, by law, equity or usage, are incidental thereto by their nature, including, without limitation:

- the parties must have exercised and must continue to exercise good faith in the negotiation, implementation and enforcement of the Documents; and
- (b) the *Currency Act* (Canada) pursuant to which a court in Canada will render judgment only in lawful money of Canada.

#### B. Limitations

We have made no investigation in respect of the requirements prescribed in Part IV of the *Financial Administration Act* (Canada) relating to the assignment of federal Crown debts. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and the assignee and as against the Crown. Consequently, the Documents cannot validly charge federal Crown debts unless that Act is complied with.

## C. Special Property, Security Interests and Registrations

### 1. Special Property

We express no opinion as to whether a security interest may be created in:

(a) property consisting of a receivable, licence, approval, privilege, franchise, permit, lease or agreement (collectively, "Special Property") to the extent that the terms of the Special Property

or any applicable law prohibit its assignment or require, as a condition of its assignability, a consent, approval or other authorization or registration which has not been made or given; or

(b) permits, quotas or licences which are held by or issued to the Debtor.

We express no opinion as to any security interest or hypothec created by the Documents with respect to any property of the grantor thereof that is transformed in such a way that it is not identifiable or traceable or any proceeds of property of such grantor that is not identifiable or traceable.

# 2. Security Interests and Registrations

No searches have been made:

- (a) under the *Patent Act* (Canada), the *Trade-marks Act* (Canada), the *Industrial Designs Act* (Canada), or the *Copyright Act* (Canada),
- (b) under the *Canada Shipping Act, 2001* in respect of any vessel which is registered or recorded under that Act,
- (c) under the Canada Transportation Act or the Railways Act (Ontario) in respect of any rolling stock to which the provisions of either of those Acts may apply.

Where a motor vehicle (as defined in the Regulation under the PPSA), situate in the Province of Ontario, is sold other than in the ordinary course of business by the Debtor, and the motor vehicle is classified as "equipment" of the Debtor, a purchaser may take the motor vehicle free from any security interests created by the Documents in any such motor vehicles unless the Vehicle Identification Numbers of the motor vehicles are set out in the PPSA registrations in favour of THE BANK unless the purchaser knew that the sales constituted a breach of the Documents.

None of the Documents have been registered so as to protect and preserve any security interest, hypothec, mortgage or charge thereof against nor have we searched for any encumbrances created by the Debtor on any ship, or as against any coal, mineral, placer, mining or petroleum and natural gas lease, license or claim, owned or which may be acquired by the Debtor. Accordingly, any hypothecs, security interests and mortgages on such property will be

subject to the rights of third parties who at any time acquire and perfect or render opposable to third parties an interest in those assets.

#### D. Collateral

No opinion is given as to as to the priority of any security interest created by the Documents, as to whether the grantor of any Document has title to or any right in any collateral or property purported to be subject to the Documents, 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 as security, where effectiveness depends on title or description of the property purported to be charged or assigned, as the case may be.

#### E. Searches

We have only searched against the Debtor. We have not conducted any land titles office or other searches with respect to encumbrances against real property or any interests therein or any statutory lien, court registry or other searches.

#### F. 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 therein.

## G. Maintaining Perfection

We express no opinion with respect to maintaining perfection of any security interest created by any of the Security Documents.

#### H. Priority

1. No opinion is expressed as to the rank or priority, or as to the effect of perfection or opposability to third parties on the rank or priority, of any security interest, mortgage or charge created by any of the Documents.

# APPENDIX "G"

## ServiceOntario

### Main Menu New Enquiry

## **Enquiry Result**

File Currency: 23JUN 2022



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Show All Pages

#### Note: All pages have been returned.

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Registering Agent	Registering Agent			
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	BRIDGEPOINT FINANCIAL SERVICES LP1			
	Address	City	Province	Postal Code
	133 RICHMOND STREET WEST, SUITE 201	TORONTO	ON	M5H 2L3

Type of Search	Business Deb	otor									
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Reference Debtor/ Transferor	First Given N	lame			Initial		Surname	9			
	Business De	btor Name	<del></del>								
	HANSON DU	IBY LAWYE	ERS								
Other Change	Other Chang	je									
Reason / Description	Reason / De	scription									
	ADD ADDITIO	ONAL DEB	TOR								
Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	1	
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	Business Debtor Name Ontario Corporation Number										
	HANSON DU	IBY LAWYE	ERS								
	Address						City			Province	Postal Code
	2 CLINTON F	PL,					TORONT	0		ON	M6G 1J
Assignor Name	Assignor Na	me									
Secured Party	Secured par	ty, lien cla	imant, assig	nee							
	-										
	Address						City			Province	Postal Code
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor	· Vehicle led	Amount		Maturity	No Fixe Maturit
Motor Vehicle	Year	Make				Model	l			V.I.N.	
Description											
General Collateral	General Coll	ateral Des	cription								
Description											

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	BRIDGEPOINT FINANCIAL SERVICES LP1			
	Address	City	Province	Postal Code
	201 - 133 RICHMOND STREET W	TORONTO	ON	M5H 2L3

Type of Search	Business Del	btor									
Search Conducted On	BRAD DUBY	PROFESS	SIONAL COF	RP							
File Currency	23JUN 2022										
	File Number	Family	of Families	Page		of Pa	ges				
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Reference Debtor/ Transferor	First Given I	Name			Initial		Surname	9			
	Business De	ebtor Nam	е								
Other Change	Other Chang	ge									
Reason / Description	Reason / De	scription									
Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	)	
	Business De	ebtor Nam	е							Ontario Corporat Number	ion
	HANSON DU	JBY LAWY	ERS								
	Address						City			Province	Postal Code
	2 CLINTON F	PL					TORON	ΓΟ		ON	M6G 1J9
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Assignor Name	Assignor Na	ime									
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	Address						City			Province	
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Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Moto		Amount		Maturity or	No Fixed Maturity Date
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Motor Vehicle Description	Year	Make				Mode	91			V.I.N.	
General Collateral	General Coll	lateral Des	cription								
Description		3									
										1	57

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

Type of Search	Business Del	otor									
Search Conducted On	BRAD DUBY	PROFESS	SIONAL COF	RP							
File Currency	23JUN 2022										
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Reference Debtor/ Transferor	First Given I	Name			Initial		Surname	9			
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Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	)	
	Business De	ebtor Nam	e							Ontario Corporat Number	ion
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Secured Party	Secured par	ty, nen cia	imani, assig	nee							
	Address						City			Province	Postal
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Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Moto Inclu		Amount		Maturity or	No Fixed Maturity Date
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Description											
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

Type of Search	Business Del	otor									
Search Conducted	BRAD DUBY	PROFESS	SIONAL COR	RP							
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Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	)	
	Business De	ebtor Name	9							Ontario Corporat Number	ion
	Address						City			Province	Postal
	Address						City			Province	Code
Assignor Name	Assignor Na	me									
Secured Party	Secured par	ty, lien cla	imant, assig	nee							
	Autologica						0:4-			Province	D4-1
	Address						City			Province	Postal
Collateral	Consumer	Inventory	Equipment	Accounts	Other		Vehicle	Amount		Maturity	No Fixe
Classification	Goods					Includ	led		C	or	Maturi
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	Year	Make				Model	l			V.I.N.	
Motor Vehicle											
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	INCLUDING, BUT NOT LIMITED TO, AS COUNSEL OR LAWY	ER TO THE		
Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	BRIDGEPOINT FINANCIAL SERVICES LIMITED PARTNERSH	IP I		
	Address	City	Province	Postal Code
	201 - 133 RICHMOND STREET WEST	TORONTO	ON	M5H 2L3

Type of Search	Business Del	otor									
Search Conducted On	BRAD DUBY	PROFESS	SIONAL COR	P							
File Currency	23JUN 2022										
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Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	)	
	Business De	ebtor Name	<b>.</b>							Ontario Corporat Number	ion
	Address						City			Province	Postal Code
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Assignor Name	Assignor Na	me									
Secured Party	Secured par	ty, lien cla	imant, assig	nee							
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	Address						City			Province	Code
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Includ	Vehicle led	Amount		Maturity	No Fixe Maturit
Motor Vehicle	Year	Make				Model	ı			V.I.N.	
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General Collateral Description	CLAIMANT, F		AND/OR BE	NEFICIARY.							

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

Type of Search	Business Deb	otor										
Search Conducted On		RAD DUBY PROFESSIONAL CORP										
File Currency	23JUN 2022	ı										
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Reference Debtor/ Transferor	First Given N	lame			Initial		Surname	9				
	Business De		-									
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Reason / Description	Reason / Des	scription										
Debtor/ Transferee	Date of Birth	ı	First Given	Name			Initial		Surname	)		
	Business De	btor Name	9							Ontario Corporati Number	ion	
	Address						City			Province	Postal Code	
Assignor Name	Assignor Na	me										
Secured Party	Secured part	ty, lien cla	imant, assig	nee								
	Address						City			Province	Postal Code	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor		Amount		Maturity or	No Fixe Maturit Date	
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General Collateral Description	General Coll	ateral Des	cription									
Description												
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	BRIDGEPOINT FINANCIAL SERVICES LIMITED PARTNERSHI	PI		
	Address	City	Province	Postal Code
	201 - 133 RICHMOND STREET WEST	TORONTO	ON	M5H 2L3

Business Deb	otor											
23JUN 2022			T									
File Number	Family	of Families	Page		of Pag	ges						
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Business De	btor Name	)										
HANSON DU	BY											
Other Chang	je											
Reason / Des	scription											
Date of Birth	ı	First Given	Name			Initial		Surname	•			
Business De	btor Name	•							Ontario Corporat Number	ion		
Address						City			Province	Postal Code		
Assignor Na	me											
Secured par	ty, lien clai	imant, assig	nee									
Address						City			Province	Postal		
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Consumer Goods	Inventory	Equipment	Accounts	Other			Amount		-	No Fixe Maturit Date		
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	BRIDGEPOINT FINANCIAL SERVICES LIMITED PARTNE	RSHIP I		
	Address	City	Province	Postal Code
	201 - 133 RICHMOND STREET WEST	TORONTO	ON	M5H 2L3

Type of Search	Business Del	otor											
Search Conducted	BRAD DUBY	PROFESS	SIONAL COR	RP.									
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File Currency	23JUN 2022	Eamily.	of	Dogo		of Pages							
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Reference Debtor/	First Given N	Name			Initial		Surname	9					
	Business De	htor Name	2										
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Other Change	Other Chang	je											
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Reason / Description	n Reason / De	scription											
	BRIDGEPOI	NT FINANC	CIAL SERVIC	ES LIMITED PARTI	NERSH	IP 1 HE	REBY						
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	FILE NO. 717	7159231 IN	FAVOUR O	F THE TORONTO-D	OMINI	ON BAI	NK, IN						
Debtor/ Transferee	Date of Birth First Given Name Initial Surname												
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	Business De	ebtor Name	9							Ontario Corporation Number			
	Address City Pr								Province	Postal Code			
Accioner Name	A a a i a m a v N a	ma o											
Assignor Name	Assignor Na	me											
Secured Party	Secured par	ty, lien cla	imant, assig	nee									
	Address						City			Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor	Vehicle led	Amount		Maturity	No Fixe Maturity Date		
Motor Vehicle	Year Make Model V.I.N.												
Description													
General Collateral Description	General Coll	ateral Des	cription										
										1	69		

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	FIJ LAW LLP			
	Address	City	Province	Postal Code
	10-50 WEST PEARCE STREET	RICHMOND HILL	ON	L4B 1C5

Type of Search	Business Del	otor									
Search Conducted On	BRAD DUBY	PROFESS	SIONAL COR	RP							
File Currency	23JUN 2022										
	File Number	Family	of Families	Page		of Pag	jes				
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FORM 2C FINANCI	NG CHANGE	STATEM	ENT / CHA	NGE STATEMENT	Γ						
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Reference Debtor/ Transferor	First Given N	Name			Initial		Surname	)			
	Business De	btor Name	9								
Other Change	Other Chang	16									
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Debtor/ Transferee	Date of Birth	1	First Given	Name			Initial		Surname	)	
	Business Debtor Name							Ontario Corporation Number			
	Address City Pr								Province	Postal Code	
Assignor Name	Assignor Na	me									
Secured Party	Secured par	ty, lien cla	imant, assig	ınee							
	Address					City				Province	Postal Code
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor	Vehicle led	Amount		Maturity	No Fixe Maturit Date
										l	
Motor Vehicle Description	Year	Make				Model				V.I.N.	
General Collateral Description	General Coll	ateral Des	cription								
										1	71

Registering Agent	Registering Agent or Secured Party/ Lien C	laimant		
	Address	City	Province	Postal Code

END OF FAMILY

Type of Search	Business Deb	tor									
Search Conducted On	BRAD DUBY	PROFESSIO	ONAL CORF	)							
File Currency	23JUN 2022										
	File Number	Family	of Families	Page	of Pages	Expiry	Date		Status		
	761849973	2	4	15	18	12MAY	2025				
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File Number	Caution Filing	Page of	Total Pages	Motor Veh Schedule		Registration Number			Registered Under	Registration Period	
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Individual Debtor	Date of Birth		First Given	Name			Initial		Surname		
Business Debtor	Business Del	otor Name							Ontario Cor	poration Numbe	
	BRAD DUBY	PROFESSIO	2549469	•							
	Address						City		Province	Postal Code	
	2 CLINTON P	LACE					TORONT	·O	ON	M6G 1J9	
	12 02						1.0.10111				
Individual Debtor	Date of Birth First Given Name						Initial		Surname		
Business Debtor	Business Del	otor Name							Ontario Cor	poration Numbe	
	DUBY & ASS	OCIATES						2549469	-		
	Address						City		Province	Postal Code	
	2 CLINTON P	LACE					TORONT	·O	ON	M6G 1J9	
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Secured Party	Secured Part			4.400)							
	THE TORON	IO-DOMINIO	JN BANK (#	1482)			0.1		n :	5 (10 )	
	Address		WEST OF IT	T 400			City	N.I.	Province	Postal Code	
	2300 STEELE	S AVENUE	WEST SUIT	E 100			VAUGHA	.N	ON	L4K 5X6	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor \		Amount	Date of Maturity or	No Fixed Maturity Date	
		Х	X	X	X	X				X	
Motor Vehicle	Year	Make				Model			V.I.N.		
Description											
General Collateral Description	General Colla	ateral Desc	ription								
Registering Agent	Registering A	Agent									
	FIJ LAW LLP						0.11		n .	D (10 )	
	Address						City		Province	Postal Code	
	10-50 WEST I	PEARCE \$1	KEET				RICHMO	ND HILL	UN	L4B 1C5	

END OF FAMILY

Type of Search	Business Deb	tor										
Search Conducted On	BRAD DUBY	PROFESSI	ONAL CORF	)								
File Currency	23JUN 2022											
	File Number	Family	of Families	Page	of Pages	Expiry	Expiry Date		Status			
	761849991	3	4	16	18	12MA	/ 2025					
FORM 1C FINANCIN	G STATEMEN	T / CLAIM	FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vel Schedule		Registration Number			Registered Under	Registration Period		
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Individual Debtor	Date of Birth		First Given Name Initial						Surname			
Dusiness Debter	31MAY1973	ntau Nama	BRADLEY				R		DUBY	n a nation Numbra		
Business Debtor	Business Debtor Name Ontario Corporation Number											
	Address						City		Province	Postal Code		
	75 ST. NICHO	LAS STREI	ET, UNIT 604	4		TORONTO	)	ON	M4Y 0A5			
			,									
Individual Debtor	Date of Birth First Given Name						Initial		Surname			
Business Debtor	Business De	otor Name		Ontario Cor	poration Numbe							
	BRAD DUBY	PROFESSI	ONAL CORF	PORATION					2549469			
	Address						City		Province	Postal Code		
	2 CLINTON P	LACE					TORONTO	)	ON	M6G 1J9		
Secured Party	Secured Part	v / Lien Cla	imant									
	THE TORON			1482)								
	Address						City		Province	Postal Code		
	2300 STEELE	S AVENUE	WEST SUIT	ΓΕ 100			VAUGHAN	1	ON	L4K 5X6		
							11110	-	1 - 1 - 1			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Includ	Vehicle ed	Amount	Date of Maturity or	No Fixed Maturity Date		
				X	Χ					X		
Motor Vehicle Description	Year	Make				Model			V.I.N.			
Description												
General Collateral Description	General Colla	ateral Desc	ription									
Registering Agent	Registering A	Agent										
		IJ LAW LLP							Drovins	Dootel OcI-		
	Address						City	ID I III I	Province	Postal Code		
	10-50 WEST	PEARCE S	IKEEI				RICHMON	IN HILL	ON	L4B 1C5		

Business Debtor										
BRAD DUBY F	PROFESSI	ONAL CORF	)							
23JUN 2022										
File Number	Family	of Families	Page	of Pages	Expiry	Date		Status		
761849991	3	4	17	18	12MAY	2025				
STATEMENT	/ CLAIM	FOR LIEN								
				Registration Number			Registered	Registration Period		
riling	002	002	Scriedule		20200	512 1702 1	862 4095	Onder	Period	
Date of Birth		First Given	Name			Initial		Surname		
Business Dek	tor Name							Ontario Cor	poration Numbe	
DUBY & ASSO					2549469					
Address						City		Province	Postal Code	
2 CLINTON PI	LACE					TORONTO	)	ON	M6G 1J9	
Date of Birth		First Given	Name			Initial		Surname	Surname	
Business Dek	Business Debtor Name							Ontario Corporation Numb		
Address	ddress							Province	Postal Code	
Secured Party	y / Lien Cla	imant								
Address						City		Province	Postal Code	
Consumer Goods	Inventory	Equipment	Accounts	Other			Amount	Date of Maturity or	No Fixed Maturity Date	
Year	Make				Model			V.I.N.		
General Colla	teral Desc	ription								
Registering A	gent									
1										
	BRAD DUBY F 23JUN 2022 File Number 761849991 STATEMENT Caution Filing  Date of Birth Business Deb DUBY & ASSO Address 2 CLINTON PI Date of Birth Business Deb Consumer Goods  Year  General Colla	BRAD DUBY PROFESSION 23JUN 2022 File Number Family 761849991 3 STATEMENT / CLAIM Caution Filing 0002  Date of Birth  Business Debtor Name DUBY & ASSOCIATES Address 2 CLINTON PLACE  Date of Birth  Business Debtor Name Address  Secured Party / Lien Claim Address  Consumer Goods  Year Make	BRAD DUBY PROFESSIONAL CORF 23JUN 2022 File Number	BRAD DUBY PROFESSIONAL CORP 23JUN 2022 File Number	BRAD DUBY PROFESSIONAL CORP 23JUN 2022  File Number	BRAD DUBY PROFESSIONAL CORP 23JUN 2022 File Number   Family   Of Families   Page   Of Pages   Expiry Pages   761849991   3   4   17   18   12MA\) STATEMENT / CLAIM FOR LIEN  Caution   Page of Total Pages   Schedule   Regist Pages	BRAD DUBY PROFESSIONAL CORP 23JUN 2022  File Number   Family   of Families   Page   Pages   Pa	BRAD DUBY PROFESSIONAL CORP	BRAD DUBY PROFESSIONAL CORP   23JUN 2022	

END OF FAMILY

Type of Search	Business Deb	Business Debtor											
Search Conducted Or	BRAD DUBY	BRAD DUBY PROFESSIONAL CORP											
File Currency	23JUN 2022												
	File Number	Family	of Families	Page	of Pages	Expiry	/ Date		Status				
	768427506	4	4	18	18	09DE0	2025						
FORM 1C FINANCIN	IG STATEMEN	T/CLAIM	FOR LIEN										
File Number	Caution	Page of	Total	Motor Vel	nicle	Regis	tration Nu	mber	Registered	Registration			
	Filing	3	Pages	Schedule		3.0			Under	Period			
768427506		001	001			20201	209 1351 1	031 9950	P PPSA	05			
Individual Debtor	Date of Birth		First Given	Name			Initial		Surname				
Business Debtor	Business De	btor Name							Ontario Cor	poration Numbe			
	BRAD DUBY	BRAD DUBY PROFESSIONAL CORPORATION											
	Address						City		Province	Postal Code			
	2 CLINTON P	I					TORONT	Ω	ON	M6G 1J9			
	Z OZNATOWI	_					TORORT		OIT	WIGG 100			
Individual Debtor	Date of Birth		First Given	Name			Initial		Surname				
Business Debtor	Business De	btor Name							Ontario Corporation Numbe				
	Address						0:4		Durania	D 4 - 1 O 1 -			
	Address						City		Province	Postal Code			
Secured Party	Secured Part	y / Lien Cla	imant										
	HER MAJEST	Y IN RIGHT	OF ONTAR	IO REPRE	SENTER	BY TH	E MINISTE	R OF FINA	ANCE				
	Address						City		Province	Postal Code			
	3-1400 BLAIR	TOWERS	PLACE				OTTAWA		ON	K1J 9B8			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor	Vehicle led	Amount	Date of Maturity or	No Fixed Maturity Date			
		Χ	X	X	X			3064	09DEC2025				
Motor Vehicle Description	Year	Make				Model			V.I.N.				
General Collateral Description	General Colla	ateral Desc	ription										
Registering Agent	Registering A	Agent											
Negistering Agent			AM & COLL	ECTIONS	BDANCL	1 (EUT)	BN#72006	6001					
	MINISTRY OF	- FINANCE,	AIVI & CULL	ECTIONS	DRANCE	1 (⊏П1)		0091	Drovince	Postal Code			
	Address	TOWERS :	DI AOE (155	(4.07)			City		Province	Postal Code			
	3-1400 BLAIR	TOWERS	-LAUE (1/3/	101)			OTTAWA		ON	K1J 9B8			

LAST PAGE

Note: All pages have been returned.

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# APPENDIX "H"





Attention:	
	•

Dear Sirs:

#### RE: BRAD DUBY PROFESSIONAL CORPORATION, IN RECEIVERSHIP

MNP Ltd. is the Court Appointed Receiver (the "**Receiver**") of the Property of Brad Duby Professional Corporation ("**BDPC**") pursuant to the Order of Cavanagh, J. of the Ontario Superior Court of Justice – Commercial List, dated February 25, 2021 (the "**Appointing Order**").

Pursuant to the Appointing Order, the Receiver is empowered and authorized to exercise control over all of the Property (as defined in the Appointing Order) of BDPC. The Property includes all fees and disbursements owing to BDPC for work performed by BDPC or its prior firm. Under the terms of the Appointing Order, the Receiver is further empowered and authorized to collect all monies and accounts owed to BDPC.

Under Court Order dated February 25, 2021, the Law Society of Ontario ("**LSO**") was appointed Trustee of the law practice of BDPC. The LSO will be responsible for the transfer of client files and any questions in this regard should be made to Linh Hoang (<u>LHoang@lso.ca</u>).

On behalf of BDPC and pursuant to the Appointing Order, the Receiver requires that all fees and disbursements owing on BDPC's client files must be paid by the respective client of BDPC and/or the lawyer who has assumed carriage of the client's case in accordance with standard practice and the terms and conditions of the retainer agreement entered into between BDPC and the Client.

You have indicated an intention to be retained by the client or clients listed and attached hereto as **Schedule "A"** (each a "**Client**" and collectively the "**Clients**" as the context may require). A preliminary list of the client disbursements for each Client is attached hereto as **Schedule "B"** (details to be provided) and is subject to possible change should additional disbursements be identified once the Receiver has completed its full review of BDPC's books and records.

Please be advised as follows:

- 1. Payment of disbursements to the Receiver are required now, in accordance with the Retainer Agreement and industry practice in the transfer of personal injury cases;
- Payment of legal fees owing to the Receiver can be deferred to the resolution of a Client's
  case as agreed or assessed in keeping with the usual contingency fee-based practices of
  personal injury lawyers and the expectation of the Client when he/she retained BDPC.
  However, BDPC did not docket their time. We understand this is not uncommon in personal





injury plaintiff law practices. Consequently, the Receiver is left to either assign fees based on the work performed and the stage of litigation, as evidenced by the file contents, or agree to a fixed percentage of the fee to be paid to the Receiver on settlement of the matter as agreed upon now. To avoid an assessment of the account, we are willing to accept an amount equal to twenty percent (20%) of your firm's total fee, excluding disbursements, on each case plus HST to be paid on conclusion of the case. If this is not acceptable, the Receiver will take steps to protect BDPC and the receivership estate's interest, including seeking a charging Order and take what other steps are available to preserve BDPC's entitlement to fees. Should the case resolve before such an Order is obtained, the Receiver would caution you against disposing of funds which may be properly payable to BDPC. The Receiver also notes that the secured lender, The Toronto-Dominion Bank also has a security interest in all disbursements and fees owed to BDPC.

- 3. Referral fees which may be owing by BDPC cannot be paid in priority to the amounts owing to BDPC and the Receiver or serve to reduce the amount due to BDPC and the Receiver. Referral sources are unsecured creditors of BDPC and must seek payment of their accounts in the normal course and can be directed to the Receive to present their claim.
- 4. Deferred accounts for medical reports or other expert reports or fees owing for services rendered which may be owing by BDPC cannot be paid in priority to the amounts owing to BDPC or the Receiver or serve to reduce the amount payable to BDPC. Deferred account holders are unsecured creditors of BDPC and must seek payment of their accounts in the normal course and can be directed to the Receiver to present their claim.
- 5. Any insurance premiums for ATE legal expense insurance coverage that may have been arranged for a Client and would be due on the settlement of the case, cannot be paid in priority to the amounts owing to BDPC and the Receiver or serve to reduce the amount due to BDPC and the Receiver.
- 6. We ask that you provide notice with respect to the file's outcome within thirty (30) days of conclusion to include if the case was settled, abandoned, or lost including a copy of any Order or document filed with the Court that fully disposes of the matter.
- 7. A copy of your account, including a breakdown of the amount recovered, your fees, disbursements and amounts which may be owing shall be provided within fifteen (15) days of your receipt of settlement funds.
- 8. Amounts owing to BDPC and the Receiver shall be paid within thirty (30) days of receipt of settlement funds, absent agreement otherwise.
- 9. In the event that the Client terminates your retainer, you shall advise MNP of same within seven (7) days of receiving notice of the termination, and shall provide MNP with:
  - a. a copy of any Direction to Transfer and Authorization/Termination notice received;
  - b. the Client's last known address, phone number and email address and the name, address, phone number and email address of the new lawyer;



- c. a copy of your account for fees and disbursements that you submit to the new lawyer as a charge/lien on the settlement funds, to be provided within seven (7) days of submitting same to the new lawyer; and
- d. payment of amounts owing to BDPC and the Receiver to be paid within thirty (30) days of receipt of payment of your fees from the new lawyer or any successor.

Payment for the disbursements now owing can be remitted to the Receiver as follows:

MNP Ltd. Receiver of the Brady Duby Professional Corporation 111 Richmond St. West, Suite 300 Toronto, ON M5H 2G4

If you wish to discuss these terms set forth above, the writer can be reached at 416-206-0345.

Should you be agreeable to the terms set forth above, please sign below and return to us by email at <a href="Matthew.Lem@mnp.ca">Matthew.Lem@mnp.ca</a>.

Yours very truly,

### MNP LTD.,

in its capacity as Receiver of Brad Duby Professional Corporation. and not in its personal or corporate capacity Per:

Matthew E. Lem, CIRP, LIT Senior Vice President

I hereby agree to the terms set forth above with respect to the fees and disbursements owing to BDPC for the Clients listed on Schedule "A".

Date:		
	Signature	
	Name:	
	Firm:	



## **SCHEDULE "A"**

## **LIST OF CLIENTS**

1.	
2.	
3.	
4.	

THIS SCHEDULE MAY BE REPLACED OR SUPPLEMENTED AS NECESSARY TO REFLECT ANY ADDITIONAL FORMER CLIENTS OF BRAD DUBY PROFESSIONAL CORPORATION WHO HAVE RETAINED YOUR FIRM IN THE FUTURE

Date:		
	Signature	
	Name:	
	Firm:	



## **SCHEDULE "B"**

### **PRELIMINARY LIST OF CLIENT DISBURSEMENTS**

The above figures are exclusive of HST

THIS SCHEDULE MAY BE REPLACED OR SUPPLEMENTED AS NECESSARY TO REFLECT ANY ADDITIONAL FORMER CLIENTS OF BRAD DUBY PROFESSIONAL CORPORATION WHO HAVE RETAINED YOUR FIRM IN THE FUTURE

Date:		
	Signature	
	Name:	
	Firm:	



# APPENDIX "I"





Attention:		
Dear Sirs:		

## RE: BRAD DUBY PROFESSIONAL CORPORATION, IN RECEIVERSHIP

MNP Ltd. is the Court Appointed Receiver (the "**Receiver**") of the Property of Brad Duby Professional Corporation ("**BDPC**") pursuant to the Order of Cavanagh, J. of the Ontario Superior Court of Justice – Commercial List, dated February 25, 2021 (the "**Appointing Order**").

Pursuant to the Appointing Order, the Receiver is empowered and authorized to exercise control over all of the Property (as defined in the Appointing Order) of BDPC. The Property includes all fees and disbursements owing to BDPC for work performed by BDPC or its prior firm. Under the terms of the Appointing Order, the Receiver is further empowered and authorized to collect all monies and accounts owed to BDPC.

Under Court Order dated February 25, 2021, the Law Society of Ontario ("**LSO**") was appointed Trustee of the law practice of BDPC. The LSO will be responsible for the transfer of client files and any questions in this regard should be made to Linh Hoang (<u>LHoang@lso.ca</u>).

On behalf of BDPC and pursuant to the Appointing Order, the Receiver requires that all fees and disbursements owing on BDPC's client files must be paid by the respective client of BDPC and/or the lawyer who has assumed carriage of the client's case in accordance with standard practice and the terms and conditions of the retainer agreement entered into between BDPC and the Client.

You have indicated an intention to be retained by the client or clients listed and attached hereto as **Schedule "A"** (each a "**Client**" and collectively the "**Clients**" as the context may require). A preliminary list of the client disbursements for each Client is attached hereto as **Schedule "B"** (details to be provided) and is subject to possible change should additional disbursements be identified once the Receiver has completed its full review of BDPC's books and records.

#### Please be advised as follows:

- 1. Payment of disbursements to the Receiver are required now, in accordance with the Retainer Agreement and industry practice in the transfer of personal injury cases;
- Payment of legal fees owing to the Receiver can be deferred to the resolution of a Client's
  case as agreed or assessed in keeping with the usual contingency fee-based practices of
  personal injury lawyers and the expectation of the Client when he/she retained BDPC.
  However, BDPC did not docket their time. We understand this is not uncommon in personal





injury plaintiff law practices. Consequently, the Receiver is left to either assign fees based on the work performed and the stage of litigation, as evidenced by the file contents, or agree to a fixed percentage of the fee to be paid to the Receiver on settlement of the matter as agreed upon now. To avoid an assessment of the account, we are willing to accept an amount equal to twenty percent (20%) on each case where your firm's total fee, excluding disbursements, on such case (the "Fees") are forty thousand dollars (\$40,000) or higher, fifteen percent (15%) on each case where the Fees on such case are less than forty thousand dollars (\$40,000) but are twenty thousand dollars (\$20,000) or higher, and ten percent (10%) on each case where the Fees on such case are under twenty thousand dollars (\$20,000), all plus HST and to be paid on conclusion of the case. If this is not acceptable, the Receiver will take steps to protect BDPC and the receivership estate's interest, including seeking a charging Order and take what other steps are available to preserve BDPC's entitlement to fees. Should the case resolve before such an Order is obtained, the Receiver would caution you against disposing of funds which may be properly payable to BDPC. The Receiver also notes that the secured lender, The Toronto-Dominion Bank also has a security interest in all disbursements and fees owed to BDPC.

- 3. Referral fees which may be owing by BDPC cannot be paid in priority to the amounts owing to BDPC and the Receiver or serve to reduce the amount due to BDPC and the Receiver. Referral sources are unsecured creditors of BDPC and must seek payment of their accounts in the normal course and can be directed to the Receive to present their claim.
- 4. Deferred accounts for medical reports or other expert reports or fees owing for services rendered which may be owing by BDPC cannot be paid in priority to the amounts owing to BDPC or the Receiver or serve to reduce the amount payable to BDPC. Deferred account holders are unsecured creditors of BDPC and must seek payment of their accounts in the normal course and can be directed to the Receiver to present their claim.
- 5. Any insurance premiums for ATE legal expense insurance coverage that may have been arranged for a Client and would be due on the settlement of the case, cannot be paid in priority to the amounts owing to BDPC and the Receiver or serve to reduce the amount due to BDPC and the Receiver.
- 6. We ask that you provide notice with respect to the file's outcome within thirty (30) days of conclusion to include if the case was settled, abandoned, or lost including a copy of any Order or document filed with the Court that fully disposes of the matter.
- 7. A copy of your account, including a breakdown of the amount recovered, your fees, disbursements and amounts which may be owing shall be provided within fifteen (15) days of your receipt of settlement funds.
- 8. Amounts owing to BDPC and the Receiver shall be paid within thirty (30) days of receipt of settlement funds, absent agreement otherwise.
- 9. In the event that the Client terminates your retainer, you shall advise MNP of same within seven (7) days of receiving notice of the termination, and shall provide MNP with:



- a. a copy of any Direction to Transfer and Authorization/Termination notice received;
- b. the Client's last known address, phone number and email address and the name, address, phone number and email address of the new lawyer;
- c. a copy of your account for fees and disbursements that you submit to the new lawyer as a charge/lien on the settlement funds, to be provided within seven (7) days of submitting same to the new lawyer; and
- d. payment of amounts owing to BDPC and the Receiver to be paid within thirty (30) days of receipt of payment of your fees from the new lawyer or any successor.

Payment for the disbursements now owing can be remitted to the Receiver as follows:

MNP Ltd. Receiver of the Brady Duby Professional Corporation 111 Richmond St. West, Suite 300 Toronto, ON M5H 2G4

If you wish to discuss these terms set forth above, the writer can be reached at 416-206-0345.

Should you be agreeable to the terms set forth above, please sign below and return to us by email at Matthew.Lem@mnp.ca.

Yours very truly,

### MNP LTD.,

in its capacity as Receiver of Brad Duby Professional Corporation. and not in its personal or corporate capacity

Per:

Matthew E. Lem, CIRP, LIT Senior Vice President

I hereby agree to the terms set forth above with respect to the fees and disbursements owing to BDPC for the Clients listed on Schedule "A".

Date:		
	Signature	
	Name:	
	Firm:	



## **LIST OF CLIENTS**

1.	
2.	
3.	
4.	
5.	
6.	
7	

THIS SCHEDULE MAY BE REPLACED OR SUPPLEMENTED AS NECESSARY TO REFLECT ANY ADDITIONAL FORMER CLIENTS OF BRAD DUBY PROFESSIONAL CORPORATION WHO HAVE RETAINED YOUR FIRM IN THE FUTURE

Date:		
	Signature	
	Name:	
	Firm:	



### **SCHEDULE "B"**

### **PRELIMINARY LIST OF CLIENT DISBURSEMENTS**

The above figures are exclusive of HST

THIS SCHEDULE MAY BE REPLACED OR SUPPLEMENTED AS NECESSARY TO REFLECT ANY ADDITIONAL FORMER CLIENTS OF BRAD DUBY PROFESSIONAL CORPORATION WHO HAVE RETAINED YOUR FIRM IN THE FUTURE

Date:		
	Signature	
	Name:	
	Firm:	



# APPENDIX "J"



Timothy C. Hogan
Direct Line: (519)-661-6743
thogan@harrisonpensa.com

Assistant: Cathy Coleiro Direct Line: (519) 850-5568

January 31, 2022

### SENT VIA EMAIL - edalessio@dalessioromero.com

Attention:	
Dear Sir,	

RE: BRAD DUBY PROFESSIONAL CORPORATION, IN RECEIVERSHIP

We are counsel to MNP Ltd. As you are aware, MNP Ltd. is the Court Appointed Receiver (the "**Receiver**") of the Property of Brad Duby Professional Corporation ("**BDPC**") pursuant to the Order of Cavanagh, J. of the Ontario Superior Court of Justice – Commercial List dated February 25, 2021 (the "**Appointing Order**").

This follows the Receiver's letter dated May 3, 2021 and various email correspondence, with respect to the Receiver's attempts to resolve and reach terms with your firm regarding BDPC's and the Receiver's interest in the professional fees and disbursements incurred by BDPC on the former BDPC client files transferred to your firm (the "Accounts"). As the Receiver has advised, it has the authority under the Appointing Order to collect the Accounts owing to BDPC in relation to these client files for both tort and accident benefit claims. The Receiver understands that your firm now has carriage of former BDPC client files.

As the Receiver has previously advised, in the absence of an arrangement with your firm on the payment of the monies owed to BDPC and the Receiver on all the Accounts, it will have no alternative but to take steps to seek a Court Order charging each client file in favor of the Receiver to protect BDPC's and the Receiver's interest in same.

We write one last time in an attempt to avoid having to move for such an Order and the associated costs.

We wish to refer you to the recent decision of *Wendy Sokoloff PC and Chorney et al*, and the endorsement of Mr. Justice Chalmers dated November 26, 2021. This endorsement provides that a "sufficient amount" to be held in trust to protect the lawyer's interest is 50% of the fee earned on resolution, with the remainder of the sum held in trust pending resolution of the split between counsel. In the Sokoloff matter, former and

HARRISON PENSA LLP Lawyers new counsel each agreed to accept 25% of the fee, with remaining 50% being held in trust pending resolution.

As has been advised by the Receiver, its position is that the most practicable and efficient manner to resolve this issue is for your firm and the Receiver to conclude on the amended terms previously offered, namely that the Receiver receives an amount equal to twenty percent (20%) on each case where your firm's total fee, excluding disbursements, on such case (the "Fees") are forty thousand dollars (\$40,000) or higher, fifteen percent (15%) on each case where the Fees on such case are less than forty thousand dollars (\$40,000) but are twenty thousand dollars (\$20,000) or higher, and ten percent (10%) on each case where the Fees on such case are under twenty thousand dollars (\$20,000), all plus HST and to be paid on conclusion of the case. These terms are set out in the Receiver's letter of May 3, 2021 (the "Terms"), which we attach hereto

It is the Receiver's position that the Terms are reasonable and avoid further dealings as to the fee split on a file-by-file basis.

Further, with respect to all disbursements, the Terms are clear that all disbursements paid by BDPC are to be reimbursed to the Receiver. With respect to any disbursements that BDPC incurred and remain unpaid, it is the Receiver's position that the sum of money from all settlement funds representing such unpaid disbursements be paid to the Receiver and held by the Receiver until the Receiver determines entitlement to these funds.

We would ask that you review this matter and advise if your firm is agreeable to the Terms and that the attached letter will be returned as executed.

Please note that the Receiver does need to advance this matter and if we have not heard from you on before February 3, 2022 we will arrange for a date on the Commercial List for a hearing on this issue where the Receiver will seek the appropriate relief to protect estate and its interests.

Yours truly,

HARRISON PENSA LLP

Timothy C. Hogan TCH/cc

6619357 1

# APPENDIX "K"

## IN THE MATTER OF THE RECEIVERSHIP OF BRAD DUBY PROFESSIONAL CORPORATION

## INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS As of 24 June 2022

RECEIPTS	
Cash in bank account	\$ 1,156.48
Advance from secured creditor - Borrowing Certificate <sup>1</sup>	65,000.00
Disbursement recoveries	50,642.62
Disbursement subject to potential third party claims <sup>2</sup>	3,500.00
Legal fee collections	93,535.18
Interest income	22.75
Other income	665.80
GST/HST refunds	6,207.23
Miscellaneous refunds	4,869.94
Reimbursement of professional fees - LawPRO <sup>3</sup>	4,668.00
HST collected	17,208.84
Total Receipts	247,476.84
DISBURSEMENTS	
Official Receiver filing fees	71.54
Premises access costs	320.00
IT consulting	1,837.46
Legal fees and disbursements	22,726.02
Receiver's fees and disbursements	118,063.89
Bank charges	5.00
HST paid (ITCs)	18,578.74
HST remitted	4,583.23
Total Disbursements	166,185.88
NET RECEIPTS OVER DISBURSEMENTS	\$ 81,290.96

### Notes:

- <sup>1</sup> Represents the principal amount borrowed under Certificate No. 1, which bears interest at a notional rate per annum of two percent (2.00%) above the prime commercial lending rate of The Toronto-Dominion Bank, compounding monthly.
- <sup>2</sup> Represents known disbursement recoveries that are still subject to a determination as whether such claims by third parties are in priority to statutory deemed trust and/or secured claims.
- <sup>3</sup> Represents the funds received from the Lawyers' Professional Indemnity Company, exclusive of HST, to reimburse the estate for the professional fees of the Receiver and its independent legal counsel, Harrison Pensa LLP, incurred for its direct benefit and not in the ordinary administration of the receivership.

# APPENDIX "L"

Court File No. CV-21-00657656-00CL

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

BETWEEN:

### THE TORONTO-DOMINION BANK

**Applicant** 

- and -

### BRAD DUBY PROFESSIONAL CORPORATION

Respondent

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

### AFFIDAVIT OF MATTHEW LEM

(Sworn June 27<sup>th</sup>, 2022)

I, Matthew Lem, of the Town of Erin, in the County of Wellington, 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 of Brad Duby Professional Corporation (the "Company") 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. On February 25, 2021, on application made by The Toronto-Dominion Bank, the Ontario Superior Court of Justice (Commercial List) issued an Order appointing MNP as court-appointed receiver of the assets, undertakings, and properties of the Company (in this capacity, the "Receiver").

- 3. The Receiver has prepared Statements of Account in connection with its appointment as receiver detailing its services rendered and disbursements incurred for the period February 23, 2021 to June 22, 2022. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a summary of the Statements of Account.
- 4. Attached hereto and marked as Exhibit "B" are copies of the Statements of Account. The weighted average hourly rate in respect of the account is \$382.45.
- 5. The particulars of the professionals who performed the work, the time spent and fees associated with such work are contained in the attached Statement of Account.
- I hereby confirm that the information detailed herein and attached accurately reflects the services provided by the Receiver in this proceeding and the fees and disbursements claimed by it.
- 7. This affidavit is sworn in support of a motion to, *inter alia*, approve the costs of administration, and an interim taxation of the Receiver's accounts and for no other or improper purpose.

**SWORN** before me via videoconference from the City of Richmond Hill, in the Regional Municipality of York, the Town of Erin, in the County of Wellington on this 27<sup>th</sup> day of June, 2022

A Commissioner, etc.

Province of Ontario. for MNP Ltd.

Expires November 2, 2023

MATTHEW LEM

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF MATTHEW LEM

Sworn before me

This 27<sup>th</sup> day of June 2022

Commissioner for taking Afficiavits, etc

## IN THE MATTER OF THE RECEIVERSHIP OF BRAD DUBY PROFESSIONAL CORPORATION, IN RECEIVERSHIP

### SUMMARY OF STATEMENTS OF ACCOUNT - MNP LTD.

	Invoice						T	otal Fees &		
Invoice Date	Number	<b>Invoice Period</b>	Hours	Net Fees <sup>1</sup>	Di	sbursements	Dis	bursements	HST	Total
25 May 2021	9859485	February 23, 2021 to	127.15	\$ 53,575.25	\$	375.00	\$	53,950.25	\$ 7,013.53	\$ 60,963.78
		April 30, 2021								
30 December 2021	10127275	May 1, 2021 to 30	189.50	61,340.64		750.00		62,090.64	8,071.78	70,162.42
		November 22, 2021								
09 February 2022	10179976	October 15, 2021 to	3.40	2,023.00		-		2,023.00	262.99	2,285.99
		November 26, 2021								
		(LawPRO)								
27 June 2022	10480563	December 1, 2021 to	148.50	62,257.52		750.00		63,007.52	8,190.98	71,198.50
		June 22, 2022								
		TOTAL	468.55	\$ 179,196.41	\$	1,875.00	\$	181,071.41	\$ 23,539.28	\$ 204,610.69

Weighted Average Hourly Rate \$ 382.45

### NOTES:

 $<sup>^{\</sup>rm 1}\,$  -  $\,$  reresents total fees, net of rate adjustment allowances and courtesy discounts

Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF MATTHEW LEM

Sworn before me

This 27<sup>th</sup> day of June 2022

Cormissioner for taking Afridavits, etc

## **Invoice**



Invoice Number: 9859485 Client Number: 0859611

Invoice Date: May 25 2021 Invoice Terms: Due Upon Receipt

Brad Duby Professional Corporation 2 Clinton Place Toronto, ON M6G 1J9

### For Professional Services Rendered:

For the period from 23 February 2021 to 30 April 2021, in connection with us acting as Court-appointed Receiver of Brad Duby Professional Corporation (detailed time descriptions attached)

**OUR FEE** in all 64,524.95

LESS: Rate Adjustment Allowance and Courtesy Discount -10,949.70

ADD: DISBURSEMENTS - Firmex data room 375.00

Sub Total : 53,950.25

Harmonized Sales Tax : 7,013.53

**Total (CAD):** 60,963.78

HST Registration Number: 103697215 RT 0001

Invoices are due and payable upon receipt.

## **DETAILED TIME CHARGES**

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
23-Feb-2021	Matthew Lem	2.60	Review of correspondence from N. Paul and LSO. Call with TD and A&B re next steps. Correspondence with LSO. Discussion with N. Paul. Discussion with B. Jaffe. Discussion with B. Jaffe and A. Bafaro. Call with LSO and A&B. Follow-up call with K. Plunkett. Update discussion with J. Howie. Discussion with T. Hogan re retention as independent legal counsel. Prepare input for TD affidavit. Attend to correspondence from K. Plunkett.
24-Feb-2021	Matthew Lem	4.60	Discussion with J. MacMillan at LSO re next steps and draft order. Correspondence with T. Hogan. Update email to K. Plunkett. Update discussion with B. Jaffe. Attend to various correspondence received re court motion. Attend to consent. Attend to review and provide comments on TD's affidavit. Correspondence with N. Paul. Discussion with T. Hogan and K. Plunkett re draft receivership order and LSO order. Review and adjust draft receivership order. Discussion with A. Bafaro re service of documents on B. Duby's spouse.
25-Feb-2021	Matthew Lem	3.90	Discussions with LSO re coordination of taking possession. Discussion with T. Hogan re revisions to the draft order and other matters. Coordinate changing of locks at main office. Attend court hearing. Attend to preparation for taking possession, including preparation of door notice; review of correspondence from LSO. Review of issues orders and endorsement. Discussion with A. Bafaro re attendance. Attendance at main office to change locks, take photographs and review records available. Discussion with R. Naimark.
25-Feb-2021	Trina Burningham	.50	Preparation of Case website. Uploaded documents to website.
26-Feb-2021	Brendan Hinton	.60	Call with M. Lew for background. Call Ceridian payroll. Draft email to request payroll records.
26-Feb-2021	Matthew Lem	1.20	Update discussion with B. Jaffe. Discussion with LSO re next steps. Review of retainer agreements. Discussion with S. Smith of the Judge re DAS ATE insurance policy
01-Mar-2021	Brendan Hinton	2.50	Review emails with M. Lem. Prepare claim schedule. Emails with payroll provider. Draft email for all employee. Respond to individual email queries.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS					
01-Mar-2021	Matthew Lem	3.10	Attend to call from K. Plunkett. Review of correspondence from A. Ruben re Lifeline. Forward same to T. Hogan and K. Plunkett. Coordinate with B. Hinton re employees. Call with Bridgepoint. Discussion with V. Djuric re IT matters at Brad Duby PC. Prepare and send letter to V. Djuric. Prepare and draft letter to BMO. Forward same to LSO for comments.					
01-Mar-2021	Trina Burningham	.50	Post documents to Case website.					
02-Mar-2021	Brendan Hinton	2.10	Review emails with M. Lem. Prepare claim schedule. Emails with payroll provider. Draft email for all employee. Respond to individual email queries.					
02-Mar-2021	Matthew Lem	4.80	Call with V. Djuric re access to files. Review of files. Correspondence with LSO re coordination efforts. Finalize and send letter to BMO. Attend to matter for preparation of notice and list of creditors. Discussions and review of correspondence from A. Bafaro re disbursement and fee agreement. Prepare draft disbursement and fee agreement letter for lawyers re transfer of files. Forward same to T. Hogan. Attend to correspondence.					
02-Mar-2021	Trina Burningham	2.25	Spoke with creditor re: rent payments. Spoke with M. Lem re: rent payments. Called party back re: rent payments. Call with M. Lem re: entering creditors into Ascend. Reviewed PPSA and entered creditors into Ascend.					
03-Mar-2021	Brendan Hinton	1.00	Emails with multiple staff members for update on T4 and ROEs. Email to M. Lem for update and direction.					
03-Mar-2021	Matthew Lem	4.60	· ·					
03-Mar-2021	Trina Burningham	.25	Entered creditors into Ascend.					
04-Mar-2021	Matthew Lem	4.30	Call with LSO, Ellwood, J. Howie, and V. Djuric re coordination of client records and electronic files. Call with N. Paul. Review of PC Law and extract reports.					
04-Mar-2021	Trina Burningham	1.50	Entered creditors into Ascend. Address lookup for corporate entities. Addresses updated in Ascend.					
05-Mar-2021	Brendan Hinton	.20	Emails with employees.					



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
05-Mar-2021	Matthew Lem	5.80	Finalize Notice and Statement of Receiver. Discussion with R. Naimark re transfer of files. Attend premises re meet with LSO re removal of client records, review and collect corporate records - paper and electronic, meet with former employee re removal of personal items, and meet with widow to return possession. Discussion with N. Paul. Review correspondence from J. Howie. Discussion with A. Bafaro re same.
05-Mar-2021	Trina Burningham	.75	Attend to the sending of the notice and statement of the receiver to the creditors and the OSB.
08-Mar-2021	Matthew Lem	2.30	Adjust fee and disbursement agreement. Correspondence with A. Bafaro re same. Attend to correspondence from J. Howie.
08-Mar-2021	Trina Burningham	.25	Faxed notice and statement of receiver to OSB. Received fax confirmation and emailed to M. Lem. Saved copy of confirmation to the directory.
09-Mar-2021	Matthew Lem	4.80	Discussion with A. Bafaro. Attend to gaining access to cloud files following be provided with access by Ellwood. Review HD records re disbursements. Review of correspondence from S. Polak and J. Howie. Various discussion with N. Musclow re S. Polak. Discussion with J. Howie re files. Calls to A. Waxman. Call to S. Polak. Assemble and send fee arrangement letter to S. Polak. Discussion with S. Polak. Prepare and send update email to TD. Email to LSO re accessing cloud files. Discussion with P. Hanke re realizations.
10-Mar-2021	Matthew Lem	3.10	Discussion with A. Waxman re furniture and fee arrangement. Discussion with N. Paul re contact with widow re furniture. Review of correspondence re S. Polack and LSO. Download and review bank statements received from BMO and PC Law ledgers. Review and respond to correspondence from P. Cote. Attend to call from S. Polak. Discussion with L. Hoang of LSO. Discussion with S. Ellwood. Return call to lawyer. Attend to post A&D list to Firmex and communicate same to S. Ellwood.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
11-Mar-2021	Matthew Lem	3.60	Discussion with A. Bafaro and S. Powell at Bridgepoint. Attend to call from J. Leonne. Discussion with N. Musclow. Respond to email from A. Murray of Leone & Murray. Discussion with A. Bafaro re disbursements. Call to S. Omlas re access for sale of furniture. Call to A. Waxman. Update call with S. Polak. Discussion with J. Howie. Provide information to A. Bafaro. Start to review A&D received	
12-Mar-2021	Matthew Lem	2.80	Discussion with J. Jaffe. Discussions with A. Waxmar Call with A. Waxman and J. Howie. Review correspondence from J. Howie. Call to L. Hoang of LS Discussion with N. Musclow re J. Howie email at request. Forward email to N. Musclow. Follow-up c with J. Howie. Correspondence with S. Olmas re acceed to 2 Clinton Pl. Call to T. Hogan. Update discussion with A. Bafaro. Initial review of additional A&D's received from the LSO.	
14-Mar-2021	Matthew Lem	1.00	Attend premises to meet with A. Waxman re interest in furniture. Meet with former employee re return of personal items.	
15-Mar-2021	Matthew Lem	5.30	Review and update schedule of A&D received. Attend to correspondence from A. Waxman. Follow-up with J. Howie re information requested. Review of various correspondence from J. Howie's office. Attend to call from P. Hanke. Attend to prepare and send-out fee arrangement letters. Discussion with A. Bafaro. Follow-up with OSB re certificate of filing. Attend to call from J. Cho, new lawyer re fraudulent settlement. Attend to correspondence from A. Waxman re clients.	
15-Mar-2021	Trina Burningham	.50	Bank account request form drafted and sent to TD for processing. Revised Letter of Direction and emailed to TD for processing;	
16-Mar-2021	Matthew Lem	2.70	Call with CRA re outstanding debts and trust exam. Discussion with P. Hanke re banking activity. Discussion with LSO re A&D's. Review correspondence from Leone Murray. Update tracking schedule for ne A&Ds. Correspondence with LSO. Review of correspondence received.	
17-Mar-2021	Brendan Hinton	.40	Email with M. Lem re: employees. Emails with employee regarding client files.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS		
17-Mar-2021	Matthew Lem	2.30	Update discussion with T. Hogan. Attend to call from A. Bafaro. Call to B. Jaffe re HST deemed trust. Review correspondence received. Review of information received from The Judge re DAS. Update tracking schedule for same, as well as files released by LSO Prepare of letter for Howie Sacks & Henry. Attend cal from J. Preszler. Attend to correspondence from TD.		
18-Mar-2021	Brendan Hinton	1.10	Call with M. Lem and discuss next steps. Complete change of contact form for Ceridian and email. Email M. Lem with contact info for former employee having client files. Call to Ministry of Labour.		
18-Mar-2021	Matthew Lem	.70	Review of email from LawPro investigator. Email to Hogan re same. Discussion with B, Hinton re employed claims and FU with Ceridian. Discussion with T. Hogan re assessment and fraudulent settlement matter Attend to call from C. Madison of Naimark LLP re client disbursements assemble and forward disbursement to C. Madison.		
18-Mar-2021	Trina Burningham	.50	Attend to cheque received.		
18-Mar-2021	Trina Burningham	1.00	Attend to update Case website. Preparation of Affidavit of mailing re receiver's notice.		
19-Mar-2021	Brendan Hinton	1.00	Emails and calls with Ceridian to sort our T4 and ROE preparation issues. Email update to employees.		
19-Mar-2021	Jim Guo	.20	Attend to processing of cheque requisition.		
19-Mar-2021	Matthew Lem	.30	Discussion with J. Preszler. Review of correspondence from LSO re files released. Update tracking schedule		
23-Mar-2021	Matthew Lem	.10	Review of correspondence from CRA		
24-Mar-2021	Brendan Hinton	2.00	Use Ceridian to gather payroll information to prepare ROE's and T4's. Summarize available pay period information. Call with Ceridian to deal with IT issue.		
24-Mar-2021	Matthew Lem	3.20	Update client tracking schedule for new A&D and files released. Review of files re disbursements and identify matters for clients not on PC Law. Call to C. Madison of Naimark LLP. Discussion with A. Bafaro. Attend call from former client re alleged fraudulent settlement. Attend to correspondence from J. Britskey. Review of correspondence received. Forward and new schedules to Preszler. Update and send transfer letter to Howie Sacks & Henry.		



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS		
25-Mar-2021	Matthew Lem	.40	Discussion withe M. Benoy re transaction activity. Review of correspondence from LSO re client files transferred. Respond to LSO re settlement cheque inquiry. Correspondence with Preszler law.		
26-Mar-2021	Matthew Lem	.60	Attend to correspondence from J. Preszler re cheques for disbursements. Review of correspondence form LSO re files released and update tracker		
29-Mar-2021	Matthew Lem	.20	Review of correspondence received. Review and approve requisition. Update tracker for files released.		
29-Mar-2021	Trina Burningham	.25	Attend to cheques received.		
30-Mar-2021	Brendan Hinton	.10	Email employee.		
30-Mar-2021	Patricia Ball	.20	Attend to process cheque requisition.		
31-Mar-2021	Brendan Hinton	.50	Email with M. Lem re: employees. Emails with employee regarding. Call with M. Lem.		
31-Mar-2021	Jim Guo	.20	Attend to process cheque requisition.		
31-Mar-2021	Matthew Lem	2.10	Discussion with B. Hinton re Ceridian. Review Ceridian reports. Update tracker for additional A&D and disbursement amounts.		
01-Apr-2021	Matthew Lem	1.40	Call to A. Waxman. Prepare and send fee and disbursement letters. Attend to calls.		
05-Apr-2021	Matthew Lem	3.80	Email to A. Waxman. Discussion with LSO re lawyer information. Attend to correspondence. Prepare and send fee and disbursement letters and update schedules.		
06-Apr-2021	Matthew Lem	1.00	Attend to correspondence re disbursements. prepare and send out. attend to call from CRA re HST audit. update discussion with M. Benoy of TD. attend to correspondence from lawyers re disbursements. return call to F. Gow.		
07-Apr-2021	Matthew Lem	1.40	Correspondence from/with lawyers re files transfers. update discussion with A. Bafaro. update tracking schedule for information from the LSO. attend call from lawyer who has charging order. update tracker for new A&Ds		
08-Apr-2021	Matthew Lem	.30	Call to J. MacMillan at LSO. review of letter from lawyer re fee arrangement.		
09-Apr-2021	Matthew Lem	.10	Discussion with B. Jaffe.		



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS			
12-Apr-2021	Matthew Lem	3.40	Review of parcel registry and other documents received from B. Jaffe. call to IA re life insurance. send email to IA re same. review bank statements. discussion with M. Benoy of TD re transaction details and IA life insurance. email to M. Benoy re transaction details. review of CRA account and HST audit information request. review of correspondence received. review of information received from TD re December transactions. Review files re same.			
13-Apr-2021	Matthew Lem	2.10	Attend to correspondence from T. Hogan. assemble disbursement details. attend to correspondence from S. Bascur of D'Alessio Romero re fee arrangement and disbursements. update discussion with T. Hoga attend to disbursements to A. Waxman. review arrespond to letter from Himelfarb Proszanski re ARCO			
14-Apr-2021	Brendan Hinton	.50	Emails with multiple employees.			
15-Apr-2021	Matthew Lem	.20	Discussion with J. MacMillan of LSO re notice to clien going out, protocol for future contact with clients, the compensation fund and alleged misappropriation esettlement funds			
16-Apr-2021	Matthew Lem	1.50	Update tracker from information from LSO. review of correspondence received			
19-Apr-2021	Matthew Lem	.10	Review of correspondence from LSO. email to T. Hogan re same.			
20-Apr-2021	Brendan Hinton	.30	Emails with Toronto re: planning for WEPP and claim administration.			
20-Apr-2021	Matthew Lem	2.70	Call to former employee re T4s and ROEs. discussion with S. Bascur re files and fee arrangement. discussion with A, Waxman re files. call to J. Howie. attend to correspondence received. discussion with A. Bafaro.			
21-Apr-2021	Brendan Hinton	.30	Emails with employees re: WEPP and claim administration.			
21-Apr-2021	Matthew Lem	2.90	Attend to correspondence from HSH. prepare amended fee agreement for D'Alessio Romero. prepare disbursement list for same client transfers. call with IA and resend email. discussion with B. Jaffe. attend call from N. Paul. discussion with J. Preszler. attend call from lawyer for S. Omlas.			



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
22-Apr-2021	Brendan Hinton	3.20	Follow up with Ceridian and compile missing information to satisfy request. Draft unique and comprehensive forms for employee packages needed in absence of reliable payroll records. Draft comprehensive email to all employees addressing claims and WEPP. Amend schedules. Ongoing discussions with Ceridian.
22-Apr-2021	Matthew Lem	.20	Discussion with K. Plunkett re LSO information request. update discussion with M. Benoy of TD.
22-Apr-2021	Trina Burningham	.25	Entered cheque received into Ascend. And update file.
23-Apr-2021	Matthew Lem	1.20	Discussion with J. Howie re various issues and fee arrangement. discussion with M. Al Borno re accounting and operations issue prior to B. Duby's. call with A. Bafaro.
26-Apr-2021	Brendan Hinton	2.00	Deal with employee calls and emails. Respond to multiple queries regarding employee package. Amend schedules to show step by step instructions.
26-Apr-2021	Matthew Lem	.70	Assemble, scan and upload bank statements to Firmex for LSO. review of correspondence from LSO. call from lawyer to schedule meeting.
27-Apr-2021	Brendan Hinton	.50	Review employee claim and expenses. Revise values because of errors. Amend employee schedules, POC schedule A and affidavit for employee. Draft comprehensive email to employee with assumptions. Calls with employees.
27-Apr-2021	Matthew Lem	.20	Discussion with E. D'Alessio re taking over files.
28-Apr-2021	Brendan Hinton	1.00	Review employee claim and expenses. Revise values because of errors. Amend employee schedules, POC schedule A and affidavit for employee. Draft comprehensive email to employee with assumptions. Calls with employees.
28-Apr-2021	Matthew Lem	.70	Discussion with I. Bergel re fee and disbursement issues. document tracker re same.
28-Apr-2021	Patricia Ball	.10	March Bank reconciliation.
29-Apr-2021	Brendan Hinton	1.00	Review employee claim and expenses. Revise values because of errors. Amend employee schedules, POC schedule A and affidavit for employee. Draft comprehensive email to employee with assumptions. Calls with employees.
30-Apr-2021	Brendan Hinton	.50	Calls with Ceridian and employees.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
30-Apr-2021	Matthew Lem	2.60	Attend to additional access for LSO to bank statements. Attend to update tracker for A&Ds. discussion with former employee and A. Bafaro re files issues. preparation of update for TD. prepare R&D.
30-Apr-2021	Trina Burningham	.25	Attend to cheque received.

## **SUMMARY OF TIME CHARGES**

Professional	Average Hourly Rate	Hours	Amount
Matthew Lem, Partner and Senior Vice President	\$ 565.00	96.90	\$54,748.50
Brendan Hinton, Senior Manager and Vice President	\$ 405.00	20.80	\$ 8,424.00
Patricia Ball, Senior Estate Administrator	\$ 172.00	.30	\$ 51.60
Trina Burningham, Estate Administrator	\$ 143.00	8.75	\$ 1,251.25
Jim Guo, Estate Administrator	\$ 124.00	.40	\$ 49.60
TOTAL		127.15	\$64,524.95



## Invoice



Invoice Number: 10127275 Client Number: 0859611

Invoice Date : Dec 30 2021 Invoice Terms : Due Upon Receipt

Brad Duby Professional Corporation 2 Clinton Place Toronto, ON M6G 1J9

### For Professional Services Rendered:

For the period from 1 May 2021 to 30 November 2021, in connection with us acting as Court-Appointed Receiver of Brad Duby Professional Corporation (detailed time descriptions attached)

**OUR FEE** in all 76,675.80

LESS: Rate Allowance Adjustment and Courtesy Discount -15,335.16

ADD: DISBURSEMENTS (Firmex Data Room - May to November 2021) 750.00

Sub Total: 62,090.64

Harmonized Sales Tax : 8,071.78

**Total (CAD):** 70,162.42

HST Registration Number: 103697215 RT 0001

Invoices are due and payable upon receipt.

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

Licensed Insolvency Trustees
111 RICHMOND STREET WEST, SUITE 300;
TORONTO ON; M5H 2G4
P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

## **DETAILED TIME CHARGES**

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
03-May-2021	Brendan Hinton	1.00	Deal with employee claims and emails. Revise claims. Follow-up with Ceridian on status of T4s and ROEs.
03-May-2021	Matthew Lem	5.70	Attend to call from CRA. Call to LSO. Call from CRA trust examiner. Review correspondence from lawyer. Preparation of update to TD.
04-May-2021	Brendan Hinton	1.70	Update Service Canada with WEPP submissions. Prepare Notice for employees. Deal with employee questions. Amend employee schedule, POC schedule A and affidavit for employee. Draft email to employee with WEPP notice and instructions.
04-May-2021	Matthew Lem	1.10	Update and send fee arrangement letter to HSH, together with disbursement details. Update tracker for LSO file releases. Review of correspondence from J. Preszler. Update file.
05-May-2021	Brendan Hinton	1.70	Call with Ceridian in AM. Sort through reports. Prepare letter authorizing and re-directing credit. Deal with employee questions. Amend employee schedule, POC schedule A and affidavit for employee. Submit WEPP for one employee. Draft email to employee with WEPP notice and instructions. Draft email to each employee enclosing T4 and ROE.
05-May-2021	Matthew Lem	1.40	Discussion with B. Volfovksy of CPA Solutions re information required. Prepare and send letter. Set up Firmex re same. Review of information uploaded by LSO.
06-May-2021	Brendan Hinton	.50	Finalize employee claim and WEPP submissions. Call with Service Canada. Answer multiple queries from employee.
06-May-2021	Matthew Lem	.40	Call to CRA auditor re extension for information request. Update discussion with T. Hogan. Return call to creditor. Call to LSO.
07-May-2021	Matthew Lem	.10	Correspondence with the LSO
10-May-2021	Brendan Hinton	.30	Multiple emails dealing with employee and WEPP claims and employee documents.
10-May-2021	Matthew Lem	3.20	Follow-up with D'Alessio Romero and HSH on fee agreement. Call with J. Macmillan of LSO re file transfer, our directing of files and update. Retrieve information requested by D. Wilson. Review of



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			correspondence received and discussion with D. Wilson re same. Prepare draft letter to former clients re proposed counsel.
11-May-2021	Brendan Hinton	.10	Emails with employee re: WEPP claim.
11-May-2021	Matthew Lem	2.90	Discussion with A. Bafaro. Review of correspondence. Attend to correspondence from D. Wilson. Discussion with J. Preszler. Call to B. Kalsi. Assemble client list. Prepare email to Preszler and D'Alessio Romero re file arrangement. Follow-up discussion with A. Bafaro re LSO letter.
12-May-2021	Matthew Lem	.70	Review and respond to correspondence from D' Allesio Romero. Review of files re ATE insurance certificates. Respond to correspondence from J. Preszler.
13-May-2021	Matthew Lem	1.80	Update discussion with T. Hogan. Call with A. Bafaro or Bridgepoint re firm selection consideration updated discussion with M. Benoy. Review of proposal received. Review and adjust letter for LSO notice re A. Bafaro comments. Review of correspondence from Lerners.
14-May-2021	Matthew Lem	1.80	Discussions and review of correspondence from D'Alessio Romero. Review of proposals. Correspondence and discussion with J. Preszler of Preszler Law. Attend to forward client contact information re Beard Winter correspondence. Review of correspondence from Ceridian. Correspondence with B. Hinton re same.
17-May-2021	Brendan Hinton	.30	Emails with employees. Email update to Toronto.
17-May-2021	Matthew Lem	1.90	Call from CRA trust examiner. Email to D'Alessio Romero. Set-up Preszler in Firmex. Load information for Preszler. Send letter to LSO. Attend to creditor call. Review of correspondence. Upload information on A&Ds received.
18-May-2021	Matthew Lem	2.40	Review correspondence from LSO and others. Call to the LSO. Review and adjust communication to go with LSO notice. Forward same to LSO. Review additional correspondence from LSO re same. Attend to correspondence from J. Preszler. Call to R. Betts of Beard Winter re client without counsel. Call to client and arrange call with Preszler. Discussion with former employee re client. Further adjustments to the Receiver's letter to be sent out by LSO.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
18-May-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.
19-May-2021	Brendan Hinton	.20	Calls and emails with employee.
19-May-2021	Matthew Lem	.90	Correspondence with LSO. Call to J. Preszler. Follow- up with D'Alessio Romero re fee arrangement. Update client tracker. Send disbursements to Preszler Law.
20-May-2021	Matthew Lem	.40	Follow-up call to and discussion with J. Preszler. Attend correspondence from Beard Winter. Attend to call from Regan Desjardins re trust account. Follow-up J. Howie of HSH.
21-May-2021	Matthew Lem	3.60	Attend to update report. Preparation of schedule of estimated net realization and update R&D. Update client tracker.
25-May-2021	Brendan Hinton	.20	Emails from employee. Review claim and draft response to outline deficiencies.
26-May-2021	Brendan Hinton	.30	Emails with employee. WEPP submission. Update claim summary.
26-May-2021	Matthew Lem	.10	Update discussion with M. Benoy.
27-May-2021	Matthew Lem	.30	Attend to correspondence. From E. D'Alessio. Attend to call from former employee.
30-May-2021	Matthew Lem	.10	Attend to correspondence from E. D'Alessio re agreement.
31-May-2021	Jim Guo	.20	Attend to cheque processing and postings
31-May-2021	Matthew Lem	.20	Discussion with A, Bafaro of Bridgepoint. Review of correspondence from E. D'Alessio.
01-Jun-2021	Matthew Lem	.50	Attend to call from CRA re HST compliance issues. Prepare Receiver's Borrowing Certificate.
02-Jun-2021	Matthew Lem	.40	Attend to correspondence from Rogers. Update discussion with T. Hogan.
03-Jun-2021	Matthew Lem	.20	Attend to issuance of Receiver Certificate
09-Jun-2021	Matthew Lem	.30	Attend to call and correspondence from Diamond & Diamond. Forward A&D to LSO.
11-Jun-2021	Matthew Lem	.10	Attend to correspondence from Preszler.
13-Jun-2021	Matthew Lem	.60	Discussion with L. Chiussi. Prepare and forward disbursement list to Naimark.
16-Jun-2021	Fatemah Khalfan	.40	Attend to deposit.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
16-Jun-2021	Matthew Lem	.10	Attend to receipt of funding from Receiver's borrowing certificate.
18-Jun-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.
22-Jun-2021	Matthew Lem	.10	Attend to call from CRA re HST Audit.
24-Jun-2021	Matthew Lem	.50	Attend to call from Naimark Law. Assemble and forward disbursements. Attend to correspondence from D'Alessio Romero
29-Jun-2021	Matthew Lem	.50	Attend to correspondence and discussion with C. Madison of Naimark Law.
30-Jun-2021	Matthew Lem	.50	Review settlement funds received. Correspondence with Naimark Law.
06-Jul-2021	Matthew Lem	.50	Attend to call from mcisaac Gow law firm. Attend to correspondence from Bergel Magence. Assemble and forward disbursements.
12-Jul-2021	Fatemah Khalfan	.40	Attend to cheque processing and postings.
12-Jul-2021	Matthew Lem	1.30	Discussion and various correspondence with Bergmanis Preyra re settling fee arrangement. Review of file re disbursements.
13-Jul-2021	Matthew Lem	.40	Update Preszler letter. Assemble disbursements
14-Jul-2021	Matthew Lem	.50	Update client tracker for A&Ds.
15-Jul-2021	Matthew Lem	1.50	Preparation and send of letters to firms re files transferred.
16-Jul-2021	Matthew Lem	1.30	Correspondence and review of information received from Lerners re dispute of fees. Review of accounting records re settlement monies associated with same.
19-Jul-2021	Matthew Lem	.10	Attend to call from lawyer.
20-Jul-2021	Matthew Lem	4.10	Preparation and send of letters to firms re files transferred. Discussion with Siganporia Law re files. Email to LSO re file.
21-Jul-2021	Chahna Nathwani	2.00	Call-in with Matthew regards to client disbursement details. Assemble client disbursements.
21-Jul-2021	Matthew Lem	1.10	Finalize and send letter to HS&H. Attend to correspondence from J. Howie. Forward disbursements to F. Siganporia. Discussion with C. Nathwani re disbursements schedules.
22-Jul-2021	Chahna Nathwani	2.50	Assemble client file disbursement details.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
22-Jul-2021	Matthew Lem	.10	Update discussion with T. Hogan re correspondence on Order being sought by Sokoloff.
26-Jul-2021	Chahna Nathwani	3.00	Assemble client file disbursement details and updating client tracking schedule.
26-Jul-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.
27-Jul-2021	Chahna Nathwani	4.00	Assemble client file disbursement details and updating client tracking schedule.
27-Jul-2021	Fatemah Khalfan	.50	Reviewed email, with attachments, from M. Lem about cheques that were being mailed to us.
27-Jul-2021	Fatemah Khalfan	.70	Attend to cheque received.
27-Jul-2021	Matthew Lem	.20	Attend to correspondence from Bergmanis Preyra. Attend to correspondence from HS&H.
29-Jul-2021	Chahna Nathwani	1.10	Assemble client file disbursement details.
29-Jul-2021	Fatemah Khalfan	.50	Attend to deposit.
29-Jul-2021	Matthew Lem	1.70	Discussion with B. Moscato of HS&H. Update client tracker from new A&Ds from LSO. Call to Great Oaks in response to correspondence. Review of correspondence from Lee & Associates. Forward same to Harrison Pensa. Review and send disbursements to Naimark re file. Review WEPP notice received.
30-Jul-2021	Chahna Nathwani	.40	Assemble client file disbursement details and updating client tracking schedule.
30-Jul-2021	Matthew Lem	1.00	Attend to correspondence from S. Smith of DAS. Assemble and forward information requested. Review of correspondence from T. Hogan re Lee & Assoc.'s Charging Order.
31-Jul-2021	Matthew Lem	2.90	Review of records. Attend to follow-up letter to Naimark. Review of disbursement information assembled.
01-Aug-2021	Matthew Lem	.20	Attend to correspondence from Bell Temple. Email to Harrison Pensa re same.
02-Aug-2021	Matthew Lem	.10	Send email to Sokoloff re client file.
03-Aug-2021	Matthew Lem	1.30	Review of correspondence from LSO re Diamond and Diamond. Review DAS re same. Email to The Judge re client transfer review of A&D delivered to office. Forward same to LSO. Call to R. Hathaway re same. Update client tracker. Attend to email from Diamond & Diamond on settlement. Discussion with R.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS			
			Hathaway re A&D. Email to R Hathaway re LSO contact.			
04-Aug-2021	Fatemah Khalfan	.70	Attend to cheque received.			
04-Aug-2021	Matthew Lem	1.00	Review of correspondence received from Bergmanis Preyra. Preparation of disbursement collection tracker. Review and attend to correspondence from Diamond & Diamond.			
06-Aug-2021	Chahna Nathwani	.10	Attend to cheque processing and postings.			
06-Aug-2021	Matthew Lem	.10	Correspondence and discussion with A, Bafaro.			
09-Aug-2021	Matthew Lem	2.10	Attend to correspondence from LSO re DAS and fill released. Review of correspondence from D'Aless Romero. Email to ARAG re DAS. Update tracker. Em to T. Hogan re next steps on collections. Finalize a send letter to Naimark. Review correspondence from Great Oaks. Email to T. Hogan re same. Review an update file.			
10-Aug-2021	Chahna Nathwani	1.10	Assemble client file disbursement details.			
10-Aug-2021	Matthew Lem	1.10	Review and respond to correspondence from Naimark. Discussion with T. Hogan re MK Law a Naimark. Call to ARAG Services. Attend correspondence from creditor.			
11-Aug-2021	Chahna Nathwani	1.00	Assemble client file disbursement details.			
11-Aug-2021	Matthew Lem	2.00	Review of correspondence from R. Naimark. Forward same to Harrison Pensa. Discussion with I. Braid of ARAG Services. Attend to various correspondence from Diamond & Diamond re disbursements. Call with E. Goldberg of Diamond and Diamond re same Discussion with T. Hogan and A. Rady of Harriso Pensa re next steps for Naimark and MK Law and other file matters. Follow-up emails re same.			
12-Aug-2021	Chahna Nathwani	1.00	Attend to analysis of DAS policy lists provided.			
12-Aug-2021	Fatemah Khalfan	.40	Emails exchanged with law clerk at Bergel Magence about cheques we were expecting.			
12-Aug-2021	Matthew Lem	2.40	Review of correspondence from T. Hogan. Respondence to correspondence from Lerners. Discussion with B. Lee of CRA re HST audit. Review of correspondence from LSO and ARAG re file transfer with ATE policies. Review of lists associated with same. Discussion with I. Braid of ARAG re same. Coordinate extraction of information on retainers as requested by			



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS			
			Harrison Pensa. Review of analysis prepared on ATE open list. Email to I. Braid re same. Review and file HST returns for RT0001 and RT0002. Attend to correspondence from I. Braid of ARAG.			
13-Aug-2021	Chahna Nathwani	4.60	Assemble retainer agreements requested by HP and prepare schedule of same.			
13-Aug-2021	Fatemah Khalfan	1.00	Attend to deposit. Emails exchanged with Bergel Magence to inquire about receipt of cheques.			
13-Aug-2021	Matthew Lem	2.10	Call to I. Braid of ARAG re previous correspondence Attend assemble and upload documents to CRA re HST audit. Discussion with B. Lee of CRA re HST audit Assemble retainer agreements and discussion with C Nathwani re continuation of collection of agreements			
16-Aug-2021	Chahna Nathwani	5.30	Assemble client file disbursement details and updating client tracking schedule.			
16-Aug-2021	Matthew Lem	.10	Update discussion with B. Benoy of TD.			
17-Aug-2021	Fatemah Khalfan	.40	Attend to deposit.			
17-Aug-2021	Matthew Lem	.70	Attend to call from Jeffrey Shinehof Personal Injury re claim against estate. Review of correspondence. Update tracker for information from LSO. Review of retainer agreements collected. Discussion with former employee re same. Call to LSO re same. Update email to T. Hogan. Email to T. Hogan re LawPro.			
18-Aug-2021	Chahna Nathwani	1.90	Updating client tracking schedule. Update schedule of retainer agreements			
18-Aug-2021	Fatemah Khalfan	1.00	Discussion with M. Lem re disbursements. Attend to deposit.			
18-Aug-2021	Matthew Lem	1.30				
19-Aug-2021	Chahna Nathwani	.10	Attend to cheque processing and postings.			
19-Aug-2021	Matthew Lem	1.90	Review of correspondence from Preszler and update tracker. Email to J. Preszler. Attend to review files and access. Prepare email to LSO re access to files and assistance with review of retainers. Call to LSO re TD statement request. Update discussion with J. Preszler.			



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
20-Aug-2021	Chahna Nathwani	.50	Assemble client file disbursement details.	
20-Aug-2021	Matthew Lem	2.60	Review PC Law re HST audit and o/s returns. Rep client re letter from CRA. Discussion with B. Lee of CRA re same. Prepare schedule of HST for pre-receivership period for O/S returns.	
21-Aug-2021	Matthew Lem	1.30	File pre-receivership HST returns. Prepare letter and assemble supporting documentation for submission to HST auditor.	
23-Aug-2021	Chahna Nathwani	.70	Assemble client file disbursement details.	
23-Aug-2021	Matthew Lem	.10	Attend to call from LSO re TD account information requested and previously provided.	
24-Aug-2021	Chahna Nathwani	2.20	Assemble client file disbursement details and updating client tracking schedule.	
24-Aug-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.	
25-Aug-2021	Chahna Nathwani	1.30	Assemble client file disbursement details and updatin client tracking schedule	
26-Aug-2021	Chahna Nathwani	1.20	Assemble client file disbursement details and updating client tracking schedule	
26-Aug-2021	Fatemah Khalfan	.40	Received notice of a stop payment on a cheque deposited. Discussion with M. Lem re same.	
26-Aug-2021	Matthew Lem	.20	Attend to call from T. Hogan re retainer information requested. Discussion with C. Nathwani re returned Aviva cheque. Follow-up email to L. Hoang of the LSO. Follow-up with ARAG re list of policies	
30-Aug-2021	Chahna Nathwani	1.30	Assemble client file disbursement details.	
03-Sep-2021	Chahna Nathwani	1.10	Assemble client file disbursement details.	
03-Sep-2021	Matthew Lem	.60	Follow-up email to T. Hogan. Review of correspondence. Review, assemble and forward information on disbursements owed by Preszler.	
07-Sep-2021	Chahna Nathwani	1.10	Assemble client file disbursement details.	
07-Sep-2021	Fatemah Khalfan	1.60	Phone calls and emails to Aviva Insurance about cheque that they put a stop payment on. Email exchanged with Bergel Magence about HS component that was missing on some disbursements Calculated amounts. Sent to M. Lem for review.	
07-Sep-2021	Matthew Lem	.50	Attend o correspondence from T. Hogan and review file.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
08-Sep-2021	Chahna Nathwani	2.00	Assemble client file disbursement details.
08-Sep-2021	Fatemah Khalfan	1.10	Attend to deposit. Revised HST calculations. Email to Bergel Magence re HST component that was missing on some disbursements.
08-Sep-2021	Matthew Lem	.70	Review of HST amounts on disbursements to be sent to Bergel Magence. Email to F. Khalfan re same. Review of correspondence from IA Financial. Update file. Review of CRA Rep Client and HST NOA. Review correspondence re receipts from LSO and CRA. Call to B. Lee of CRA re HST audit. Discussion with A. Bafaro.
09-Sep-2021	Fatemah Khalfan	1.50	2nd request sent to Aviva. Discussion with M. Lem re receipts posting. Attend to deposit.
09-Sep-2021	Matthew Lem	.40	Review and adjust receipt voucher re HST refund received. Review of correspondence from A, Bafaro. Attend to correspondence from K. Plunkett.
13-Sep-2021	Fatemah Khalfan	.30	Received email from Aviva in response to my email re stop payment issued by them on their cheque.
13-Sep-2021	Matthew Lem	1.10	Call from C. Kelso re 2 Clinton. Call to Bridgepoint re same. Update tracker for new A&D received from LSO. Attend to correspondence from T. Hogan re LawPro. Attend to correspondence from LSO.
14-Sep-2021	Matthew Lem	.10	Attend to correspondence from B, Jaffe. Coordinate preparation of S. 246(2) report.
15-Sep-2021	Fatemah Khalfan	1.00	Prepared s.245-246 report and R&D. Sent to M. Lem. Call with M. Lem about being unable to reconcile the R&D. Message to C. Nathwani about a couple of deposits.
15-Sep-2021	Matthew Lem	.50	Review of retainer agreement information received from LSO. Update tracker.
16-Sep-2021	Fatemah Khalfan	.50	Update interim statements of receipts and disbursements for interim report.
16-Sep-2021	Matthew Lem	1.10	Review correspondence from T. Hogan re lawpro. Discussion with T. Hogan re same. Attend to calls from B. Lee of CRA re audit. Email to ARCG in response to Bergmanis Preyra email. Email to T. Hogan re retainer agreements. Load agreement to Firmex.
16-Sep-2021	Patricia Ball	.10	Attend to monthly bank reconciliation
17-Sep-2021	Fatemah Khalfan	.30	Email received from Aviva re cheque that they had issued a stop on.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
17-Sep-2021	Matthew Lem	.10	Attend to correspondence from ARCG. Copy T. Hogan re same.
20-Sep-2021	Matthew Lem	.40	Call with Bell Temple, together with T. Hogan re LawPro involvement and the request for documents.
23-Sep-2021	Chahna Nathwani	1.00	Assemble client file disbursement details.
29-Sep-2021	Chahna Nathwani	1.00	Assemble client file disbursement details. Attend to deposit.
29-Sep-2021	Fatemah Khalfan	.20	Attend to cheque received.
30-Sep-2021	Chahna Nathwani	.80	Discussion with M. Lem. Attend to email review and summarize incoming mails and dividing into categories
30-Sep-2021	Matthew Lem	.50	Review of and attend to correspondence received. Discussion with C. Nathwani re same. Email to T. Hogan re trustee request. Discussion with Canada Life re client claim. Attend to correspondence from T. Hogan re Lerners action started.
01-Oct-2021	Chahna Nathwani	5.50	Attend to email review and summarize incoming mails.
04-Oct-2021	Chahna Nathwani	.30	Attend to deposit. Update email summary schedule.
08-Oct-2021	Matthew Lem	.20	Attend to correspondence from T. Antoniou and T. Hogan re call. Attend to correspondence from J. Preszler re settlement. Update to TD.
12-Oct-2021	Chahna Nathwani	3.60	Attend to email review and summarize incoming mails.
12-Oct-2021	Matthew Lem	.10	Follow-up with J. Preszler re P. Leung settlement. Review correspondence re disbursement monies received from Preszler.
13-Oct-2021	Chahna Nathwani	.80	Reviewing bills, Receipt requisition for M. Lem and HST requisition prepared.
14-Oct-2021	Chahna Nathwani	.30	Meeting with M. Lem re HST on disbursements.
14-Oct-2021	Matthew Lem	.30	Discussion with J. Preszler. Update to TD. Discussion with C. Nathwani re disbursements and HST on same.
15-Oct-2021	Matthew Lem	.70	Call with T. Hogan re file matter. Call with A. Bafaro re same and arranging a call.
18-Oct-2021	Chahna Nathwani	4.00	Assemble client file disbursement details
19-Oct-2021	Chahna Nathwani	2.80	Assemble client file disbursement details.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
19-Oct-2021	Fatemah Khalfan	.60	Received email from Aviva in response to my email I had sent them. Sent response back. Received reply about cheque issued. Forwarded to M. Lem.	
20-Oct-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.	
21-Oct-2021	Chahna Nathwani	.30	Attend to cheque processing and postings.	
24-Oct-2021	Matthew Lem	1.00	Attend to HST filing. Download and HST audit information request.	
25-Oct-2021	Chahna Nathwani	.20	Attend to cheque received.	
26-Oct-2021	Chahna Nathwani	4.90	Assemble client file disbursement details. Calculation of HST on disbursements, downloaded invoices and prepare summary.	
26-Oct-2021	Fatemah Khalfan	.40	Email sent to M. Lem and C. Nathwani with explanation about cheque received from Aviva.	
26-Oct-2021	Matthew Lem	.30	Correspondence with J. Preszler.	
27-Oct-2021	Chahna Nathwani	1.00	Attend to cheque received.	
27-Oct-2021	Matthew Lem	.80	Attend to issue related Q Medical disbursement. Em to T. Hogan re same. Review of correspondence fro T. Hogan re the bankruptcy of the late B. Duby. Upda file. Discussion with S. Title re same.	
27-Oct-2021	Sheldon Title	.30	Review of emails related to client disbursement an call with Lem on same.	
28-Oct-2021	Chahna Nathwani	1.60	Assemble client file disbursement details. Attend to deposit.	
29-Oct-2021	Chahna Nathwani	1.20	Assemble client file disbursement details.	
29-Oct-2021	Matthew Lem	.50	Discussion with T. Hogan and A. Rady re Q Medical.	
01-Nov-2021	Matthew Lem	.20	Update discussion with P. Hanke. Attend to Preszler funds received.	
03-Nov-2021	Chahna Nathwani	3.40	Assemble client file disbursement details.	
04-Nov-2021	Chahna Nathwani	.50	Assemble client file disbursement details and updating client tracking schedule.	
05-Nov-2021	Matthew Lem	1.10	Review and adjust draft email to counsel re disbursement issue. Review file re other Q Medical invoices.	
09-Nov-2021	Matthew Lem	1.30	Discussion with T. Hogan re Q Medical issue. Review of revisions to draft email to counsel to TD and Bridgepoint re same, update discussion with M. Benoy of TD. Discussion with J. Preszler re settlement and Q	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS			
			Medical. Prepare draft letter to Preszler Law re same. Forward to T. Hogan for comment.			
10-Nov-2021	Chahna Nathwani	1.20	Preparation of draft S.246 Report.			
10-Nov-2021	Matthew Lem	1.00	Finalize and send letter to Preszler law re Q Medical invoice. Attend to email from Somogyi Law re disbursements. Discussion with C. Abreu of Somogyi Law re same.			
11-Nov-2021	Chahna Nathwani	.90	Preparation of interim statement of receipts and disbursements.			
12-Nov-2021	Matthew Lem	.60	Follow-up with J. Preszler re settlement on P. Leung Review draft 246(2) report. Attend to call from th Region of Peel. Discussion with J. Porter of Pallet Vall re Estate of Nancy Carrigan - advised to speak to LSC			
15-Nov-2021	Matthew Lem	1.20	Attend to CRA audit request.			
16-Nov-2021	Matthew Lem	1.10	Call with HP, A&B and JP. Review file, assemble and forward documents to A&B and JP re disbursement issue.			
17-Nov-2021	Matthew Lem	.50	Attend to call from CRA re HST audit and claim to be filed.			
17-Nov-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.			
21-Nov-2021	Matthew Lem	.20	Respond to Region of Peel's request.			
22-Nov-2021	Matthew Lem	.50	Call with HP and A&B re disbursement issue and fee recoveries.			
25-Nov-2021	Chahna Nathwani	.30	Attend to deposit.			
25-Nov-2021	Matthew Lem	.40	Insolvency search on D. Hanson and forward same to T. Hogan. Attend to call from Aaron Waxman & Associates re fee arrangement. Review email from ARCG's lawyers. Forward same to T. Hogan. Follow-up with J. Preszler re Leung settlement.			
26-Nov-2021	Chahna Nathwani	2.10	Discussion with M. Lem. Update interim statement of receipts and disbursements. Assemble client file disbursement details.			
26-Nov-2021	Matthew Lem	1.40	Review of receipts from Preszler. Review of account for funds available for payment of borrowings. Attend to emails from ARCG and review accounts discussion with T. Hogan.			
29-Nov-2021	Matthew Lem	.10	Attend to call from B. Moscato of HSH.			
30-Nov-2021	Chahna Nathwani	.90	Attend to cheque processing and postings.			



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
30-Nov-2021	Matthew Lem	.40	Call with T. Hogan and B. Jaffe re disbursement issue. Discussion with T. Hogan re ARCG letter.

# **SUMMARY OF TIME CHARGES**

	Δı	verage		
Professional		rly Rate	Hours	Amount
Sheldon Title, Partner and Senior Vice President	\$	670.00	.30	\$ 201.00
Matthew Lem, Partner and Senior Vice President	\$	583.06	90.00	\$52,475.00
Brendan Hinton, Senior Manager and Vice President	\$	405.00	6.30	\$ 2,551.50
Fatemah Khalfan, Estate Administrator	\$	231.00	13.90	\$ 3,210.90
Chanha Nathwani, Estate Administrator	\$	231.60	78.10	\$ 18,087.60
Patricia Ball, Senior Estate Administrator	\$	178.57	.70	\$ 125.00
Jim Guo, Estate Administrator	\$	124.00	.20	\$ 24.80
TOTAL		_	189.50	\$76,675.80



# Invoice



Invoice Number: 10179976 Client Number: 0859611

Invoice Date: Feb 9 2022 Invoice Terms: Due Upon Receipt

Lawyers' Professional Indemnity Company c/o Antoniou Law 2525 Old Bronte Road, Suite 545, PO Box 10 Oakville, ON L6M 4J2

### For Professional Services Rendered:

For the period from 15 October 2021 to 12 November 2021, in connection with the Receiver of Brad Duby Professional Corporation assistance to LawPro and its counsel (detailed time descriptions attached)

OUR FEE in all		2,023.00
	Sub Total :	2,023.00
	Harmonized Sales Tax :	262.99
	Total (CAD) :	2,285.99

HST Registration Number: 103697215 RT 0001

Invoices are due and payable upon receipt.

# **DETAILED TIME CHARGES**

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
15-Oct-2021	Matthew Lem	.50	Call with A. Antoniou of Antoniou Law, together with T. Hogan of Harrison Pensa re: LawPro investigation.
18-Oct-2021	Matthew Lem	.30	Review correspondence from Antoniou Law. Review correspondence to and from Harrison Pensa and Aird & Berlis re: same. Email to R. Fowlie.
19-Oct-2021	Matthew Lem	.20	Discussion with T. Hogan re: forensic engagement and his discussion with K. Plunkett of Aird & Berlis.
21-Oct-2021	Matthew Lem	.20	Review of correspondence with Antoniou Law. Attend to call from B. Jaffe of Jaffe & Peritz re: same.
25-Oct-2021	Matthew Lem	.30	Correspondence with T. Hogan re: engagement. Review of correspondence from Antoniou Law.
01-Nov-2021	Matthew Lem	.30	Discussion with T. Antoniou. Discussion with T. Hogan re: engagement.
08-Nov-2021	Matthew Lem	.60	Emails to T. Hogan and review another order for forensics investigation. Discussion with T. Hogan.
09-Nov-2021	Matthew Lem	.30	Call with Antoniou Law and Harrison Pensa re: next steps and draft order. Discussion with T. Hogan
10-Nov-2021	Matthew Lem	.30	Attend to correspondence from Antoniou Law re: banking and Hanson Duby records. Discussion with T. Hogan re: engagement.
12-Nov-2021	Matthew Lem	.40	Discussions with T. Antoniou re: LSO and next steps. Call with T. Hogan re: same. Review information received from Antoniou Law.

# **SUMMARY OF TIME CHARGES**

Duefossional	Average Hourly		Amanust
Professional  Matthew Lem, Partner and Senior Vice President	<b>Rate</b> \$ 595.00	Hours 3.40	\$ 2,023.00
TOTAL	\$ 353.00	3.40	\$ 2,023.00 \$ 2,023.00



# Invoice



Invoice Number: 10480563 Client Number: 0859611

Invoice Date : Jun 27 2022 Invoice Terms : Due Upon Receipt

Brad Duby Professional Corporation 2 Clinton Place Toronto, ON M6G 1J9

### For Professional Services Rendered:

For the period from 1 December 2021 to 22 June 2022, in connection with us acting as Court-Appointed Receiver of Brad Duby Professional Corporation (detailed time descriptions attached)

**OUR FEE** in all 77,821.90

LESS: Rate Adjustment Allowance and Courtesy Discount -15,564.38

ADD: DISBURSEMENTS (Firmex Data Room - January to June 2022) 750.00

Sub Total : 63,007.52

Harmonized Sales Tax: 8,190.98

**Total (CAD):** 71,198.50

HST Registration Number: 103697215 RT 0001

Invoices are due and payable upon receipt.

# **DETAILED TIME CHARGES**

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
02-Dec-2021	Matthew Lem	.50	Attend to email from M. Hazan. Update discussion with J. Preszler.	
10-Dec-2021	Matthew Lem	.80	Attend to various correspondence received.	
13-Dec-2021	Matthew Lem	1.20	Update client tracking. Discussion wit A. Bafaro of Bridgepoint re disbursements issue and other files matters. Update discussion with T. Hogan. Review of correspondence re A. Song. Review A. Song client file and contact details.	
14-Dec-2021	Patricia Ball	.10	Attend to monthly bank reconciliation.	
15-Dec-2021	Matthew Lem	.60	Attend to call from Naimark Law re client disbursement and fees. Review file disbursements for same.	
17-Dec-2021	Matthew Lem	.90	Attend to correspondence from A. Bafaro. Review of correspondence from T. Hogan. Review of Chorney/Sokoloff case	
19-Dec-2021	Matthew Lem	.20	Assemble documents for trustee	
20-Dec-2021	Matthew Lem	3.80	Attend to Audit request on RT0002 account.	
30-Dec-2021	Matthew Lem	2.60	Update R&D and prepare calculation of HST for PE 2021-12-31. Discussion with K. Ruprai re HST on disbursements for law firms. Review policy statement re same. Review of disbursements for additional HST due from Preszler.	
31-Dec-2021	Chahna Nathwani	.60	Attend to cheque processing and postings. Attend to HST return filing for Oct to Dec 2021 with CRA requisition prepared for the HST payment.	
04-Jan-2022	Fatemah Khalfan	.30	Prepared cheque requisition for CRA HST payment. Attend to cheque processing.	
04-Jan-2022	Matthew Lem	1.10	Attend to call from B. Lee of CRA re Audit finalization. Review My Business Accounts re same. Attend to HST filing for PE 2021-12-31. Review of correspondence from Somogyi Law.	
05-Jan-2022	Fatemah Khalfan	.40	Attend to cheque processing.	
06-Jan-2022	Matthew Lem	.60	Attend to correspondence from Naimark re disbursement details. Attend to correspondence from A. Somogyi. Attend to correspondence received from Preszler re HST on disbursements.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
07-Jan-2022	Matthew Lem	3.20	Discussion with A. Somogyi re settling fees and disbursements. Email to A. Somogyi re same. Attend to correspondence with M. Hazan of Aaron Waxman and Assoc. re fee arrangement and disbursements. Attend to correspondence from T. Hogan. Discussion with M. Hazan re client and statement of claim to be issued. Update R&D and analysis of collections and lawyers.
10-Jan-2022	Fatemah Khalfan	.40	Attend to deposit. Attend to mail received.
12-Jan-2022	Matthew Lem	.90	Call with T. Hogan and A. Rady re strategy on fee arrangements with opposing law firms. Forward copies of correspondence send to same law firms. Review and adjust draft Harrison Pensa letter to law firms.
14-Jan-2022	Matthew Lem	1.30	Attend to call from R. Naimark. Discussion with T. Hogan re same. Discussion with A. Bafaro. Email to A. Bafaro re same. Update R&D. Prepare invoice for Somogyi Law
17-Jan-2022	Chahna Nathwani	.50	Discussion with M. Lem regards to Sec 246(2) report, revised the report.
19-Jan-2022	Matthew Lem	.20	Follow-up email to R. Naimark.
19-Jan-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.
20-Jan-2022	Matthew Lem	.60	Review of letter received from Naimark Law re client. Call with T. Hogan and A. Rady re same. Review of correspondence.
21-Jan-2022	Chahna Nathwani	.50	Discussion with M. Lem regards to S. 246(2) report, revised report and e-filed with OSB.
21-Jan-2022	Matthew Lem	1.20	Review and adjust letter for Naimark law drafted by Harrison Pensa. Discussions with T. Hogan re same. Discussion with C. Nathwani re finalize interim report. Review of funds received from Somogyi Law.
24-Jan-2022	Fatemah Khalfan	.20	Attend to cheques received.
24-Jan-2022	Matthew Lem	.20	Attend to email from Naimark law re request for disbursement details. Attend to update client transferred list re additional information received from the LSO.
25-Jan-2022	Fatemah Khalfan	.60	Attend to payment processing.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
25-Jan-2022	Matthew Lem	1.20	Discussion with T. Hogan re letters to firms. Prepare follow-up Harrison Pensa letters. Send same to T. Hogan	
26-Jan-2022	Matthew Lem	.60	Review letter from R. Naimark. Call with T. Hogan re same. Review draft Harrison Pensa email response to Naimark Law. Review file re disbursements and other documents. Review comments from A. Rady and T. Hogan re same and approach on fees.	
27-Jan-2022	Fatemah Khalfan	.50	Attended to deposit. Attend to accounting postings.	
27-Jan-2022	Matthew Lem	.90	Attend to inquiry from J. Beckett for Flaherty McCarthy. Review of funds and correspondence received from Somogyi Law.	
28-Jan-2022	Matthew Lem	.40	Review of various correspondence from T. Hogan re response to Naimark Law	
31-Jan-2022	Matthew Lem	.10	Review of correspondence	
31-Jan-2022	Matthew Lem	.60	Review correspondence from Harrison Pensa re letters MK Legal, D'Alessio Romero and Leone Murray. Update file. Attend to correspondence form Naimark's office re disbursements. Summarize and send.	
01-Feb-2022	Chahna Nathwani	.50	Report 246(2) for the period 01-08-2021 to 31-01-2022. Prepare updated statement of receipts and disbursements. Assemble client file disbursement details.	
01-Feb-2022	Matthew Lem	.80	Review and update file. Review of correspondence from D'Alessio Romero. Email to T. Hogan re same. Review correspondence from Naimark Law re Prasad. Discussion with T, Hogan re same. Attend to email from Preszler law re client.	
02-Feb-2022	Chahna Nathwani	1.80	Assemble client file disbursement details.	
02-Feb-2022	Matthew Lem	1.10	Assemble and send disbursements re D'Alessio Romero clients. Correspondence with Baigel Corp re CRA notice. Assemble disbursement for Preszler Law.	
03-Feb-2022	Chahna Nathwani	2.50	Assemble client file disbursement details.	
03-Feb-2022	Fatemah Khalfan	.30	Attend to cheque received .	
04-Feb-2022	Chahna Nathwani	1.50	Assemble client file disbursement details.	
04-Feb-2022	Matthew Lem	.30	Review and adjust deposit posting re Hazan client. Attend to email from Naimark law re client.	
07-Feb-2022	Chahna Nathwani	2.50	Assemble client file disbursement details.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
07-Feb-2022	Matthew Lem	.10	Review correspondence from A. Bafaro	
08-Feb-2022	Chahna Nathwani	.90	Preparation of Disbursement's HST calculation - D'Alessio disbursements.	
08-Feb-2022	Matthew Lem	.30	Call with T. Hogan.	
09-Feb-2022	Matthew Lem	.30	Call to T. Cook. Update discussion with A. Bafaro.	
10-Feb-2022	Matthew Lem	.20	Discussion with A. Bafaro. Attend to disbursement details request from Somogyi Law.	
11-Feb-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.	
14-Feb-2022	Matthew Lem	1.20	Review of correspondence from Naimark re client. Review file re same. Email to T. Hogan re same. Review email from A. Somogyi re client.	
15-Feb-2022	Matthew Lem	2.20	Review of HST arrears. Email to B. Jaffe and Bridgepoint re same. Attend to review and assemble of disbursement re Naimark client. Forward same to T. Hogan.	
16-Feb-2022	Matthew Lem	1.50	Discussions with S. Sharaf of CRA re audit letters received for other companies. Email to S. Sharaf re same. Discussion with S. Sharaf of CRA re same and audit. Discussion with T. Hogan re files matters and next steps. Review email sent by Harrison Pensa to Naimark re Prasad. Update file. Call with A. Bafaro re proposed advice and direction motion. Update discussion with T. Hogan re same.	
17-Feb-2022	Matthew Lem	.60	.60 Review of case. Forward same to Harrison Pens Update file and client list. Forward information Bridgepoint re clients, ATE and creditors in connecti with assistance on pursing on realizations a contemplated motion.	
18-Feb-2022	Matthew Lem	.40	Review of correspondence from Somogyi Law re client. Discussion with T. Hogan re same and review/adjust response email . Review of response from Somogyi Law.	
23-Feb-2022	Chahna Nathwani	1.90	Assemble client file disbursement details.	
24-Feb-2022	Matthew Lem	.50	Discussion with T. Hogan re next steps in court motion, ARCG and follow-up with firms. Call to B. Jaffe. Call to A. Bafaro. Attend to correspondence from Naimark Law.	
25-Feb-2022	Fatemah Khalfan	.30	Emails exchanged with M. Lem on payment of HST owing	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
25-Feb-2022	Matthew Lem	3.20	Prepare outline for report and forward same to T. Hogan. Review and adjust Harrison Pensa email to Somogyi Law. Attend to various correspondence. Discussions with T. Hogan re various file matters and responses. Attend to call from CRA. Review My Business Account
28-Feb-2022	Matthew Lem	.30	Attend to correspondence from Naimark Law and Bridgepoint. Discussion with T. Hogan.
01-Mar-2022	Matthew Lem	.80	Review of correspondence. Call with MK Legal and Harrison Pensa. Follow-up call with T. Hogan.
03-Mar-2022	Fatemah Khalfan	.20	Attend to receipt of funds from LawPro.
03-Mar-2022	Matthew Lem	1.00	Discussion with T. Hogan re email from E. Peritz. Prepare response to same.
04-Mar-2022	Fatemah Khalfan	.20	Attend to cheque received.
04-Mar-2022	Matthew Lem	.90	Review Interim reports and R&D.
07-Mar-2022	Fatemah Khalfan	.20	Attend to cheque processing.
07-Mar-2022	Matthew Lem	1.00	Attend call with Himelfarb Prozanski and Harrison Pensa. Discussion with T. Hogan re same. Review email response to E. Peritz. Discussion with CRA re source deductions claim. Follow-up on claim. Pull statement for advising secured creditors on source deductions liability.
08-Mar-2022	Fatemah Khalfan	.20	Attend to sending payment to Harrison Pensa.
08-Mar-2022	Matthew Lem	.30	Review fax from CRA. Email with CRA re same. Email to E. Peritz re deemed trust claim.
10-Mar-2022	Chahna Nathwani	.90	Assemble client file disbursement details. Calculation of HST on disbursements, downloaded invoices and prepare summary.
10-Mar-2022	Matthew Lem	3.80	Preparation of draft report to court. Review and adjust proposed follow-up email to counsel for ARCG.
11-Mar-2022	Matthew Lem	3.80	Review file re call with Naimark Law. Preparation of report to Court.
13-Mar-2022	Matthew Lem	.50	Preparation of report to Court.
14-Mar-2022	Matthew Lem	2.90	Review email from MK Legal. Preparation of report to court.
15-Mar-2022	Matthew Lem	1.70	Preparation of report to court. Discussion with n. Litwack re cheque received and other.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
15-Mar-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.	
22-Mar-2022	Chahna Nathwani	.30	Reviewed and sent notices to M. Lem.	
22-Mar-2022	Matthew Lem	.20	Preparation of RC342s.	
23-Mar-2022	Matthew Lem	.20	Review of correspondence from Naimark. Email to T. Hogan re same.	
24-Mar-2022	Fatemah Khalfan	.30	Discussion with M. Lem on filling out the RC342 forms. Discussion on cheque received from Economical Insurance.	
24-Mar-2022	Matthew Lem	.30	Attend to responding letter to Spriggs Brokers.	
25-Mar-2022	Fatemah Khalfan	.20	Attend to letter to Spriggs and mailed out with cheque.	
25-Mar-2022	Fatemah Khalfan	.40	Prepare the RC342 forms x 2 and try to submit.	
25-Mar-2022	Matthew Lem	.10	Forward Spriggs Broker letter to N. Litwack at Baig Corp.	
25-Mar-2022	Matthew Lem	3.70	Preparation of report to Court.	
27-Mar-2022	Matthew Lem	1.00	Preparation of report to court.	
28-Mar-2022	Matthew Lem	2.80	Discussion with CRA re RC342. Email same to CRA. Preparation of report to court.	
29-Mar-2022	Matthew Lem	5.60	Preparation of report to Court.	
30-Mar-2022	Matthew Lem	4.20	Preparation of report to Court.	
31-Mar-2022	Fatemah Khalfan	.10	Discussion with M. Lem on cheque received from Preszler.	
31-Mar-2022	Matthew Lem	3.40	Finalize draft of first report to Court. Send to Harrison Pensa for comments.	
01-Apr-2022	Matthew Lem	.10	Review correspondence from T. Hogan.	
04-Apr-2022	Chahna Nathwani	.60	Prepared the HST return.	
04-Apr-2022	Fatemah Khalfan	.30	Attend to cheque received	
04-Apr-2022	Matthew Lem	1.00	Discussion with T. Hogan. Review opinion letter form Harrison Pensa. Review of correspondence. Review correspondence from Preszler. Review HST.	
05-Apr-2022	Fatemah Khalfan	.30	Email received back from Preszler re: email I had sent them about cheque we received.	
06-Apr-2022	Fatemah Khalfan	.20	Attend to cheque received.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS			
06-Apr-2022	Matthew Lem	4.90	Review Harrison Pensa comments on report. Call wit T. Hogan re same. Review additional comments from T. Hogan and adjust report.			
07-Apr-2022	Matthew Lem	.10	Review of correspondence from and call to Desjardin General Insurance.			
08-Apr-2022	Fatemah Khalfan	.20	Attend to deposit.			
08-Apr-2022	Matthew Lem	.10	Call to M. Agbay of Desjardin General Insurance.			
11-Apr-2022	Matthew Lem	4.60	Review and adjust report to court forward report to S. Title for review.			
12-Apr-2022	Chahna Nathwani	.20	Attend to cheque received.			
12-Apr-2022	Matthew Lem	2.60	Review 2nd partner review comments. Update report. Correspondence with T. Hogan re same.			
12-Apr-2022	Sheldon Title	1.30	Review/comment on first report and provide comments to M. Lem			
13-Apr-2022	Chahna Nathwani	.40	Attend to deposit. Attend to mail received.			
13-Apr-2022	Matthew Lem	2.30	Review updated report with T. Hogan and other files matters. Update report. Attend to correspondence.			
14-Apr-2022	Matthew Lem	1.60	Update draft report. Review documents received form Bridgepoint. Forwards same to T. Hogan.			
17-Apr-2022	Matthew Lem	.80	Finalize draft first report to court. Forward to Harrison Pensa.			
18-Apr-2022	Chahna Nathwani	.10	Call with M. Lem re HST filing.			
18-Apr-2022	Matthew Lem	2.90	Assemble appendices. Update R&D. HST reconciliation.			
19-Apr-2022	Chahna Nathwani	.30	HST filing for quarter Jan-March 2022.			
19-Apr-2022	Matthew Lem	.90	Review files re Naimark's position on file.			
21-Apr-2022	Matthew Lem	1.90	Adjust and finalize draft of first report to court Forward same to Harrison Pensa. Attend to calls and various correspondence with M. Sidu of Chorneys redisbursements information and the contemplated motion on fees. Attend to correspondence from Preszler Law re file.			
22-Apr-2022	Chahna Nathwani	.10	Review Service Canada WEPP claim statement and update file.			
26-Apr-2022	Matthew Lem	.60	Review and provide comments on draft notice of motion.			



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
29-Apr-2022	Matthew Lem	.40	Discussion with T. Hogan re report and other file matters. Review correspondence from K. Plunkett re report. Attend to correspondence from P. Giuliano of Naimark Law re resolution on disbursements on a file.	
29-Apr-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.	
02-May-2022	Chahna Nathwani	.30	Attend to cheque received.	
02-May-2022	Matthew Lem	.10	Review correspondence. Call to Preszler Law.	
03-May-2022	Chahna Nathwani	.80	Call with Preszler law firm in regard to received cheque. Discussion with M. Lem on this matter. Attend to letter to Preszler re request for reissuance of correct payment.	
04-May-2022	Chahna Nathwani	.30	Attend to Govt of Canada HST refund cheque received.	
05-May-2022	Chahna Nathwani	.60	Prepared tracker for received/pending disbursements from all law firms and sent it to M. Lem	
05-May-2022	Matthew Lem	.10	Calls and correspondence with J. Preszler re arrange update call.	
06-May-2022	Chahna Nathwani	.50	Attend to deposit. Assemble client file disbursemen details for Gosai Law firm a. Follow-up with Accountant of Preszler law firm re issuing new cheque	
06-May-2022	Matthew Lem	.30	Correspondence with D'Alessio Romero re disbursements. Discussion with staff re return of Pitney Bowes machine.	
09-May-2022	Chahna Nathwani	.40	Follow-up with Preszler's Accountant re reissuing cheque of Tort claim fee, Call with M. Lem re Gosai's disbursement, Calculated and prepared final Disbursement.	
09-May-2022	Matthew Lem	.30	Follow-up with J. Preszler re list. Discussion with D'Alessio Romero re disbursements and settlement of fees. Discussion and correspondence with C. Nathwar re same.	
13-May-2022	Chahna Nathwani	.10	Follow-up call with Preszler's Accountant reissuing cheque.	
13-May-2022	Matthew Lem	.10	Review of correspondence and funds received from Naimark Law.	
16-May-2022	Matthew Lem	.20	Attend to correspondence from Naimark Law re disbursements on Olsen file. Discussion with staff re return of Pitney Bowes machine and credits.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS	
17-May-2022	Matthew Lem	1.10	Attend to call from CRA. Attend to correspondence from T. Hogan. Discussion with M. Mainprize re settlement payment. Review correspondence from D'Alessio Romero re settlement payment. Follow-up with J. Preszler re list. Initial revie of list.	
18-May-2022	Chahna Nathwani	3.50	Call to D'Alessio Romero LLP in regard to received cheques. Attend to cheques received. Assemble client file disbursement details. Calculation of HST on disbursements, downloaded invoices and prepare summary.	
19-May-2022	Chahna Nathwani	.50	Review of file and fee arrangement letters sent.	
24-May-2022	Matthew Lem	.80	Update report. Discussion with T. Hogan.	
24-May-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.	
25-May-2022	Matthew Lem	5.80	Email to J. Preszler re follow-up on potential settlement. Discussion with T. Hogan and K. Plunkett re court and report. Update and adjust report.	
26-May-2022	Matthew Lem	.50	Attend to correspondence from T. Hogan re comments on adjusted the report. Update report.	
27-May-2022	Chahna Nathwani	1.20	Discussion with M. Lem re disbursements and HST component calculation. Attend to cheque received. Attend to deposit.	
27-May-2022	Matthew Lem	.50	Review file issues with C. Nathwani. Attend to correspondence from Naimark.	
30-May-2022	Matthew Lem	.10	Review correspondence from T. Hogan re service list.	
31-May-2022	Chahna Nathwani	.10	Email sent to M. Lem on HST disbursement.	
03-Jun-2022	Matthew Lem	.10	Review of various correspondence from Harrison Pensa.	
06-Jun-2022	Matthew Lem	3.30	Review and adjust draft notice of motion and service list. Update report. Update client list. Review service list. Attend to correspondence from N. Litwack of Baigel Corp	
07-Jun-2022	Matthew Lem	.40	Attend to assembling list of New Counsel for Service List and forward same to Harrison Pensa. Review of correspondence from Harrison Pensa re draft notice of Motion.	
09-Jun-2022	Matthew Lem	.10	Review of various correspondence from Harrison Pensa.	



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
10-Jun-2022	Matthew Lem	.30	Review correspondence from Harrison Pensa and Lerners re request for lifting of stay. Call with T. Hogan of Harrison Pensa.
15-Jun-2022	Matthew Lem	.10	Review of various correspondence from T. Hogan of Harrison Pensa.
16-Jun-2022	Matthew Lem	.20	Call with T. Hogan.
17-Jun-2022	Patricia Ball	.10	Attend to monthly bank reconciliation.
20-Jun-2022	Fatemah Khalfan	.30	Update case website.
20-Jun-2022	Matthew Lem	1.70	Pre-case conference call with T. Hogan. Case conference. Debrief call with T. Hogan and K. Plunkett. Correspondence with J. Preszler. Attend to correspondence from Wakelin & Assoc re settlement funds. Review files and records re same. Discussion with T. Hogan re parties in attendance at case conference.
22-Jun-2022	Matthew Lem	.20	Review and respond to Harrison Pensa re service list. Review of correspondence received.

# **SUMMARY OF TIME CHARGES**

		verage		
Professional	Ho	urly Rate	Hours	Amount
Sheldon Title, Partner and Senior Vice President	\$	685.00	1.30	\$ 890.50
Matthew Lem, Partner and Senior Vice President	\$	600.00	116.00	\$ 69,600.00
Fatemah Khalfan, Estate Administrator	\$	236.69	6.10	\$ 1,443.80
Chanha Nathwani, Estate Administrator	\$	236.00	24.40	\$ 5,758.40
Patricia Ball, Senior Estate Administrator	\$	184.57	.70	\$ 129.20
				\$ -
TOTAL			148.50	\$77,821.90



BRAD DUBY PROFESSIONAL CORPORATION	Respondent Court File No. CV-21-00657656-00CCL
-and-	
THE TORONTO-DOMINION BANK	Applicant

# SUPERIOR COURT OF JUSTICE COMMERCIAL LIST ONTARIO

# Proceeding commenced at Toronto, Ontario

# **AFFIDAVIT OF MATTHEW LEM**

130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2 HARRISON PENSA LLP Barristers and Solicitors

# Timothy C. Hogan (LSO #36553S) Robert Danter (LSO #69806O)

Fax: (519) 667-3362 Tel: (519) 679-9660

Email: thogan@harrisonpensa.com

rdanter@harrisonpensa.com

Solicitors for the Receiver, MNP Ltd.

# **APPENDIX "M"**

# ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

**BETWEEN:** 

THE TORONTO-DOMINION BANK

**Applicant** 

- and -

## BRAD DUBY PROFESSIONAL CORPORATION

Respondent

# AFFIDAVIT OF THOMAS MASTERSON (Sworn June 27, 2022)

# I, **THOMAS MASTERSON**, of the City of London, in the Province of Ontario, **MAKE OATH AND SAY:**

- 1. I am a solicitor qualified to practice law in the Province of Ontario and I am a lawyer with Harrison Pensa <sup>LLP</sup>, who acts as counsel for MNP Ltd., in its capacity as Court-Appointed Receiver of the Respondent, Brad Duby Professional Corporation, in the within proceeding, and as such I have knowledge of the matters to which I hereinafter depose except for those matters based expressly upon information and belief.
- 2. Attached hereto and marked as **Exhibit "A"** is a summary of the time incurred by professionals at Harrison Pensa <sup>LLP</sup>, the hourly rate and fees associated with such and disbursements for the period of February 24, 2021 to May 6, 2021.
- Attached hereto and marked as Exhibit "B" are particulars of time spent by professionals at Harrison Pensa LLP in connection with this matter for the period of February 24, 2021 to May 6, 2021 and an account statement detailing the services provided dated May 11, 2021.

- 4. Attached hereto and marked as **Exhibit "C"** is a summary of the time incurred by professionals at Harrison Pensa <sup>LLP</sup>, the hourly rate and fees associated with such and disbursements for the period of May 12, 2021 to November 22, 2021.
- Attached hereto and marked as Exhibit "D" are particulars of time spent by professionals at Harrison Pensa <sup>LLP</sup> in connection with this matter for the period of May 12, 2021 to November 22, 2021 and an account statement detailing the services provided dated November 23, 2021.
- 6. Attached hereto and marked as **Exhibit "E"** is a summary of the time incurred by professionals at Harrison Pensa <sup>LLP</sup>, the hourly rate and fees associated with such and disbursements for the period of October 7, 2021 to November 11, 2021.
- 7. Attached hereto and marked as **Exhibit** "**F**" are particulars of time spent by professionals at Harrison Pensa <sup>LLP</sup> in connection with this matter for the period of October 7, 2021 to November 11, 2021 and an account statement detailing the services provided dated November 23, 2021.
- 8. Attached hereto and marked as **Exhibit "G"** is a summary of the time incurred by professionals at Harrison Pensa <sup>LLP</sup>, the hourly rate and fees associated with such and disbursements for the period of November 25, 2021 to February 3, 2022.
- Attached hereto and marked as Exhibit "H" are particulars of time spent by professionals at Harrison Pensa <sup>LLP</sup> in connection with this matter for the period of November 25, 2021 to February 3, 2022 and an account statement detailing the services provided dated February 9, 2022.
- 10. Attached hereto and marked as **Exhibit "I"** is a summary of the time incurred by professionals at Harrison Pensa <sup>LLP</sup>, the hourly rate and fees associated with such and disbursements for the period of February 7, 2022 to June 22, 2022.
- 11. Attached hereto and marked as **Exhibit "J"** are particulars of time spent by professionals at Harrison Pensa <sup>LLP</sup> in connection with this matter for the period of February 7, 2022 to June 22, 2022 and an account statement detailing the services provided dated June 24, 2022.

- 12. The hourly billing rates set out in the Exhibits are comparable to the hourly rates charged by Harrison Pensa <sup>LLP</sup> for services rendered in relation to similar proceedings.
- 13. The fees and disbursements of Harrison Pensa <sup>LLP</sup> in this matter to June 22, 2022 are as follows:
  - a. Total Billed Fees and Disbursements from February 24, 2021 to May 6, 2021 \$10,535.68;
  - b. Total Billed Fees and Disbursements from May 12, 2021 to November 22, 2021 \$12,151.46;
  - c. Total Billed Fees and Disbursements from October 7, 2021 to November 11, 2021 \$2,988.85
  - d. Total Billed Fees and Disbursements from November 25, 2021 to February 3, 2022 \$10,884.84;
  - e. Total Billed Fees and Disbursements from February 7, 2022 to June 22, 2022 \$25,477.39
  - f. Total \$62,038.22.
- 14. The weighted average hourly rate charged by professionals at Harrison Pensa <sup>LLP</sup> is \$358.96.
- 15. I make this Affidavit in support of among other things, approval of fees and disbursements of the counsel for the Receiver.

SWORN BEFORE ME at the City
of London, in the Province of
Ontario this 27 <sup>th</sup> day
of June, 2022.

A Commissioner, etc.

THOMAS MASTERSON

# ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

BETWEEN:

THE TORONTO-DOMINION BANK

**Applicant** 

- and -

BRAD DUBY PROFESSIONAL CORPORATION

Respondent

**EXHIBITS** 

TABS "A" TO "J" ARE THE EXHIBITS TO THE AFFIDAVIT OF THOMAS MASTERSON SWORN THIS 27TH DAY OF JUNE, 2022

A Commissioner for taking Affidavits

# **EXHIBIT A**

# (From February 24, 2021 to May 6, 2021)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Steven J. Atkinson	1994	0.50	\$495.00	\$247.50
	Timothy C. Hogan	1995	14.60	\$450.00	\$6,570.00
Associates	Robert Danter	2016	7.40	\$275.00	\$2,035.00
Clerks	Lindsay Ferguson		0.80	\$100.00	\$80.00
	Jana Streith		0.20	\$175.00	\$35.00
TOTAL FEES					\$8,967.50
HST ON FEES					\$1,165.78
TOTAL TAXABLE DISBURSEMENTS					\$326.02
TOTAL NON – TAXABLE DISBURSEMENTS					\$34.00
HST DISBURSEMENTS					\$42.38
TOTAL FEES, DISBURSEMENTS AND HST					\$10,535.68

# **EXHIBIT B**



Telephone: (519) 679 9660 Facsimile: (519) 667 3362

MNP Ltd. 1002-148 Fullarton Street London, ON N6A 5P3 May 11, 2021 Invoice #: 213816 Account #: 213816-186025

File #: 186025/Timothy C. Hogan RE: Brad Duby Professional Corp.

# TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
24-Feb-21	Amend affidavit	.40	\$180.00	TCH
24-Feb-21	Various e-mail with client and Bank	.40	\$180.00	TCH
24-Feb-21	Review LSO order	.20	\$90.00	TCH
24-Feb-21	Review notice and consent	.40	\$180.00	TCH
24-Feb-21	Review LSO Order, call to LSO counsel, e-mail to LSO counsel	.40	\$180.00	TCH
24-Feb-21	To e-mail correspondence with counsel;	.10	\$10.00	LFE
24-Feb-21	Call with LSO counsel	.20	\$90.00	TCH
24-Feb-21	Review appointment order, call with Bank counsel and client	.40	\$180.00	TCH
25-Feb-21	Call with counsel	.50	\$225.00	TCH
25-Feb-21	Amend orders, e-mail counsel, call with client	1.00	\$450.00	TCH
25-Feb-21	Attend court	.40	\$180.00	TCH
25-Feb-21	Call with client	.20	\$90.00	TCH
26-Feb-21	Call with client	.20	\$90.00	TCH
26-Feb-21	Review TD, LSO motion records	1.00	\$275.00	RDA
26-Feb-21	Organize/review security documents	.50	\$137.50	RDA
26-Feb-21	Draft report (TD)	1.50	\$412.50	RDA
1-Mar-21	E-mail with Easyline counsel and e-mail from Easyline counsel	.40	\$180.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
1-Mar-21	E-mail from Lifeline counsel and review claim, call with client	.60	\$270.00	TCH
1-Mar-21	Call with client	.20	\$90.00	TCH
I-Mar-21	Report re PPSA, Minister's Order	.80	\$220.00	RDA
2-Mar-21	Revise report (TD)	1.40	\$385.00	RDA
2-Mar-21	Call from client	.20	\$90.00	TCH
2-Mar-21	To draft letter to counsel;	.70	\$70.00	LFE
2-Mar-21	E-mail to Lifeline counsel	.20	\$90.00	TCH
2-Mar-21	Call with client, review retainers	.40	\$180.00	TCH
2-Mar-21	Review security/loan documents (Easy Legal)	.80	\$220.00	RDA
2-Mar-21	Draft report (easy legal)	.40	\$110.00	RDA
2-Mar-21	Review Easy legal documents, terms and conditions	1.00	\$275.00	RDA
2-Mar-21	To obtaining PPSA reports	.20	\$35.00	JST
3-Mar-21	Review retainers and revise draft letter, and report to client	1.50	\$675.00	TCH
3-Mar-21	E-mail from counsel and to client	.40	\$180.00	TCH
3-Mar-21	E-mail to Lifeline counsel	.20	\$90.00	TCH
3-Mar-21	Call with EasyLine counsel	.30	\$135.00	TCH
3-Mar-21	Meeting with TCH re retainer issues and transfer of file from B DPC;	.50	\$247.50	SJA
9-Mar-21	Review receiver's e-mail with counsel, e-mail to receiver	.40	\$180.00	ТСН
11-Mar-21	Review file list and e-mail to client	.20	\$90.00	TCH
17-Mar-21	Call with client	.40	\$180.00	TCH
18-Mar-21	E-mail from client, call to client, e-mail to counsel, e-mail to assessment officer	.60	\$270.00	TCH
18-Mar-21	Review issue of set-of in unauthorized settlements	.30	\$135.00	ТСН
21-Mar-21	E-mail to assessment officer and e-mail to Lawpro counsel	.40	\$180.00	ТСН
22-Mar-21	E-mail with counsel to Law Pro and assessment officer	.40	\$180.00	TCH
26-Mar-21	E-mails with Easy Legal lawyer	.40	\$180.00	TCH
13-Apr-21	E-mail from Lawpro counsel and to client	.40	\$180.00	тсн
13-Apr-21	E-mail to client	.20	\$90.00	TCH
13-Apr-21	Call with client	.40	\$180.00	TCH
14-Apr-21	E-mails from receiver and e-mail to lawpro counsel	.40	\$180.00	TCH
20-Apr-21	E-mails with client re LSO and review Order	.40	\$180.00	TCH

DATE	DESCRIPTION			HOURS	AMOUNT	LAWYER
5-May-21	E-mail with lawpro counse Clerk Order	el and suggested ar	nendments to	.40	\$180.00	ТСН
6-May-21	Call with client			.20	\$90.00	тсн
Total I Plus G Plus H <b>Total</b>	ST:		\$ 	8,967.50 0.00 1,165.78	<u>\$</u>	10,133.28
FEE SUMMA	RY:					
LAWYER Steven J. Atkin Timothy C. Ho Danter Rob Lindsay Fergus Jana Streith	gan	HOURS .50 14.60 7.40 .80 .20	RAT \$495.0 \$450.0 \$275.0 \$100.0 \$175.0	00 00 00 00		AMOUNT \$247.50 \$6,570.00 \$2,035.00 \$80.00 \$35.00
NON-TAXAB	LE DISBURSEMENTS					
Government Fi Total 1	ling Fees Non-Taxable Disbursements:			\$34.00 34.00		
TAXABLE DI	SBURSEMENTS					
Cyberbahn - Co Cyberbahn - Ba Cyberbahn - PF Insolvency Sea Total ' Plus C Plus H	ank Act/Bankruptcy PSA rch Taxable Disbursements: GST:	()	\$	13.46 13.46 95.26 171.84 32.00 326.02 0.00 42.38	<u>\$</u>	402.40
TOTAL DUE	& OWING				<u>\$</u>	10,535.68

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HARRISQN PENSA LLP

Timothy C. Hogan

E. & O.E.

Harrison Pensa LLP is a registered payee with most Canadian banks. Payment can be made online through your bank's website or mobile app.

GST / HST REGISTRATION NO: R867630543
Interest of 0.5% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT Cheque, Mastercard and VISA also accepted.

# **EXHIBIT C**

# (From May 12, 2021 to November 22, 2021)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	19.40	\$450.00	\$8,730.00
	Andy Rady	2013	3.90	\$325.00	\$1,267.50
Associates	Jason DiFruscia	2021	1.90	\$175.00	\$332.50
Clerks	Lindsay Ferguson		0.90	\$100.00	\$90.00
Students	Lauren Frijia		2.30	\$145.00	\$333.50
TOTAL FEES					\$10,753.50
HST ON FEES					\$1,397.96
TOTAL TAXABLE DISBURSEMENTS					\$0.00
TOTAL NON – TAXABLE DISBURSEMENTS					\$0.00
HST DISBURSEMENTS					\$0.00
TOTAL FEES, DISBURSEMENTS AND HST					\$12,151.46

# EXHIBIT D



Telephone: (519) 679 9660 Facsimile: (519) 667 3362

MNP Ltd. 1002-148 Fullarton Street London, ON N6A 5P3 November 23, 2021 Invoice #: 219505 Account #: 219505-186025

File #: 186025/Timothy C. Hogan RE: Brad Duby Professional Corp.

## TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
12-May-21	E-mail with law pro counsel	.20	\$90.00	TCH
13-May-21	Call with client	.20	\$90.00	TCH
14-May-21	Draft e-mail to counsel	.20	\$90.00	TCH
14-May-21	Amend letter to client	.30	\$135.00	TCH
14-May-21	E-mails with counsel	.40	\$180.00	TCH
14-May-21	Review Ren motion	.40	\$180.00	TCH
18-May-21	E-mails with client re law pro claims	.40	\$180.00	ТСН
29-May-21	E-mail to client and to counsel	.40	\$180.00	ТСН
2-Jun-21	E-mail to counsel, call with client	.40	\$180.00	TCH
6-Jun-21	E-mails with counsel and client on Easy Legal	.40	\$180.00	TCH
10-Jun-21	E-mail from counsel re Xue claim	.40	\$180.00	TCH
25-Jun-21	E-mail to counsel on Ren motion	.20	\$90.00	TCH
14-Jul-21	E-mail to Lerners	.20	\$90.00	TCH
15-Jul-21	E-mail to Lerners re Ren claim	.20	\$90.00	TCH
15-Jul-21	Singh claim, review claim e-mail to counsel	.40	\$180.00	TCH
16-Jul-21	Review motions in Sriskandaraya and the Walgampha, e-mail to counsel	.60	\$270.00	тсн
17-Jul-21	E-mail from counsel re lift stay	.20	\$90.00	TCH
18-Jul-21	Review lift stay order and e-mail to counsel	.20	\$90.00	тсн
21-Jul-21	Review Order, e-mail to counsel	.40	\$180.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
22-Jul-21	Call with client and e-mail from counsel re lift stay and review order	.40	\$180.00	TCH
23-Jul-21	To review correspondence; to correspond with opposing counsel re receivers consent	.80	\$140.00	JDI
26-Jul-21	E-mails to counsel on lift stay motions	.40	\$180.00	TCH
26-Jul-21	To emails with opposing counsel	.20	\$35.00	JDI
30-Jul-21	E-mail from Receiver and correspondence with counsel re Sergeant	.40	\$180.00	TCH
2-Aug-21	E-mail with client	.20	\$90.00	TCH
6-Aug-21	E-mail with client	.20	\$90.00	TCH
6-Aug-21	E-mail to Sokoloff	.20	\$90.00	TCH
10-Aug-21	Review MK Legal correspondence and charging order issue and e-mail from client	.40	\$180.00	TCH
10-Aug-21	Review Great Oak VFA referral fees	.20	\$90.00	TCH
10-Aug-21	Call with client, review various e-mails/letters, review charging order issue	.60	\$270.00	TCH
10-Aug-21	To review emails/correspondence between receiver and Naimark and MK Legal;	.50	\$162.50	AHR
11-Aug-21	E-mails with Sokolof	.40	\$180.00	TCH
11-Aug-21	Call with client on retainer issues	.70	\$315.00	TCH
11-Aug-21	To research/review case law re: requirement to pay disbursements on file transfer; to email to TCH; to teleconference w/ TCH and Matthew Lem;	.90	\$292.50	AHR
12-Aug-21	E-mail to Sokolof re Singh	.20	\$90.00	TCH
12-Aug-21	E-mail to Lerners re Ren	.20	\$90.00	TCH
17-Aug-21	E-mail with client	.20	\$90.00	TCH
18-Aug-21	E-mail from plaintiff counsel and review Lawpro issue	.40	\$180.00	TCH
18-Aug-21	E-mail to client	.20	\$90.00	TCH
20-Aug-21	Review of email/drafting summary of claims	.40	\$58.00	lfr
23-Aug-21	Plaintiff Summary Chart	1.80	\$261.00	lfr
24-Aug-21	Review of claims summary	.10	\$14.50	lfr
26-Aug-21	Call to client	.20	\$90.00	TCH
3-Sep-21	Review order and e-mails	.40	\$180.00	тсн
3-Sep-21	Call with Lawpro counsel;	.20	\$90.00	ТСН
3-Sep-21	E-mail to Lawpro counsel, e-mail to client	.40	\$180.00	TCH
3-Sep-21	E-mail to client	.20	\$90.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
3-Sep-21	To review court orders; to correspond with counsel re motion	.30	\$52.50	JDI
8-Sep-21	To review motion record; to correspond with counsel	.20	\$35.00	JDI
9-Sep-21	To emails with opposing counsel re motion	.10	\$17.50	JDI
13-Sep-21	Amend claims chart, e-mails from and to client, draft e-mail to LawPro	.60	\$270.00	TCH
13-Sep-21	E-mail to LawPro	.20	\$90.00	тсн
13-Sep-21	E-mail to counsel for Singh	.20	\$90.00	TCH
16-Sep-21	Call with client	.20	\$90.00	TCH
17-Sep-21	To draft service list; To e-mail correspondence with Applicant; To phone call with Applicant; To phone call with counsel;	.90	\$90.00	LFE
20-Sep-21	Call with LawPro counsel	.30	\$135.00	TCH
24-Sep-21	To review excel chart and MNP Portal documents from Matthew Lem; to emails with TCH	.30	\$97.50	AHR
30-Sep-21	E-mails with client	.20	\$90.00	TCH
30-Sep-21	E-mail from Royas litigation counsel and e-mail to client	.40	\$180.00	ТСН
1-Oct-21	To emails with opposing counsel re involvement in litigation	.30	\$52.50	JDI
19-Oct-21	Call with TD counsel	.20	\$90.00	TCH
27-Oct-21	To email from Matthew Lem and to review account invoice issue; to e-memo to TCH	.40	\$130.00	AHR
28-Oct-21	E-mail from client and review Preszler settlement/disbursement issue	.40	\$180.00	TCH
29-Oct-21	To review issues re: Q Medical invoice and Preszler law disbursements; to review retainers; to teleconference w/ TCM and Matthew Lem re: disbursement issues; to review Duby SABS retainer samples re: disbursement provisions and client responsibilities to pay	.90	\$292.50	AHR
29-Oct-21	Call with client	.50	\$225.00	тсн
4-Nov-21	Review disbursement issue and draft e-mail to counsel	.50	\$225.00	ТСН
9-Nov-21	Review unpaid disbursement issue, call with client, amend memo	1.00	\$450.00	TCH
10-Nov-21	Review letter to Preszler, e-mail to client	.20	\$90.00	TCH
11-Nov-21	E-mail to counsel re Britskey	.20	\$90.00	TCH
11-Nov-21	E-mail to counsel	.20	\$90.00	TCH
12-Nov-21	E-mail from and call to receiver	.40	\$180.00	TCH
15-Nov-21	Call with counsel	.40	\$180.00	TCH

DATE	DESCRIPTION			HOURS	AMOUNT	LAWYER
22-Nov-21	Call with Bank counsel an	d Receiver		.50	\$225.00	TCH
22-Nov-21	To review emails/productions to TD counsel; to videoconference with Matthew Lem, TCH, and TD counsel;			.90	\$292.50	AHR
Total For	ST:		\$	10,753.50 0.00		
Plus HS <b>Total F</b>	ST: Tees (INCL TAX)			1,397.96	<u>\$</u>	12,151.46
FEE SUMMAR	<u>RY:</u>					
LAWYER		HOURS		TE		AMOUNT
Timothy C Hog	an	19 <i>4</i> 0	\$450	3 (14)		<b>ዩ</b> ጸ 730 በበ

LAWYER	HOURS	RATE	AMOUNT
Timothy C. Hogan	19.40	\$450.00	\$8,730.00
Andy Rady	3.90	\$325.00	\$1,267.50
Jason DiFruscia	1.90	\$175.00	\$332.50
Lindsay Ferguson	.90	\$100.00	\$90.00
Lauren Frijia	2.30	\$145.00	\$333.50

TOTAL DUE & OWING <u>\$ 12,151.46</u>

## THIS IS OUR ACCOUNT HEREIN

HARRISON PENSA

Per:

Timothy C. Hogar

E. & O.E.

Harrison Pensa LLP is a registered payce with most Canadian banks. Payment can be made online through your bank's website or mobile app.

GST / HST REGISTRATION NO: R867630543

Interest of 0.5% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT Cheque, Mastercard and VISA also accepted.

Please make cheque payable to: HARRISON PENSA LLP, 450 Talbot Street, P.O. Box 3237, London ON N6A 4K3

## **EXHIBIT E**

## (From October 7, 2021 to November 11, 2021)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	4.30	\$450.00	\$1,935.00
Associates	Thomas Masterson	2019	3.50	\$200.00	\$700.00
Clerks	Lindsay Ferguson		0.10	\$100.00	\$10.00
TOTAL FEES					\$2,645.00
HST ON FEES					\$343.85
TOTAL TAXABLE DISBURSEMENTS					\$0.00
TOTAL NON – TAXABLE DISBURSEMENTS					\$0.00
HST DISBURSEMENTS					\$0.00
TOTAL FEES, DISBURSEMENTS AND HST					\$2,988.85

## **EXHIBIT F**



Telephone: (519) 679 9660 Facsimile: (519) 667 3362

MNP Ltd. 1002-148 Fullarton Street London, ON N6A 5P3 November 23, 2021 Invoice #: 219545 Account #: 219545-186025

File #: 186025/Timothy C. Hogan

RE: Investigator Review

## TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
7-Oct-21	E-mail to Law Pro counsel	.20	\$90.00	TCH
15-Oct-21	Call with LawPro counsel	.50	\$225.00	TCH
15-Oct-21	Call with client	.20	\$90.00	ТСН
18-Oct-21	E-mails with counsel	.20	\$90.00	TCH
18-Oct-21	E-mails with LawPro counsel	.20	\$90.00	TCH
18-Oct-21	E-mail with client	.20	\$90.00	тсн
19-Oct-21	E-mail to Law Pro counsel and call with client	.40	\$180.00	ТСН
25-Oct-21	Call with client, e-mail to LawPro counsel	.40	\$180.00	ТСН
1-Nov-21	Review/revise engagement letter, e-mail to client	.50	\$225.00	TCH
1-Nov-21	To call with client;	.20	\$90.00	TCH
1-Nov-21	To review engagement;	.20	\$90.00	ТСН
8-Nov-21	Review investigative order terms and call with client	.60	\$270.00	TCH
8-Nov-21	To research Orders and powers re: Investigative Receiver's	1.00	\$200.00	THM
9-Nov-21	Review orders and e-mail to counsel	.20	\$90.00	TCH
9-Nov-21	Conference call	.50	\$100.00	THM
9-Nov-21	To draft Order	2.00	\$400.00	THM
10-Nov-21	Call with client, amend engagement letter	.30	\$135.00	TCH
11-Nov-21	To e-mail correspondence with counsel;	.10	\$10.00	LFE

 Total Fees:
 \$ 2,645.00

 Plus GST:
 0.00

 Plus HST:
 343.85

Total Fees (INCL TAX) \$ 2,988.85

## **FEE SUMMARY:**

LAWYER	HOURS	RATE	AMOUNT
Timothy C. Hogan	4.30	\$450.00	\$1,935.00
Thomas Masterson	3.50	\$200.00	\$700.00
Lindsay Ferguson	.10	\$100.00	\$10.00

TOTAL DUE & OWING <u>\$ 2,988.85</u>

## THIS IS OUR ACCOUNT HEREIN

HARRISON PENSA

Per:

Timothy C. Hogan

E. & O.E.

Harrison Pensa LLP is a registered payee with most Canadian banks. Payment can be made online through your bank's website or mobile app.

GST / HST REGISTRATION NO: R867630543
Interest of 0.5% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT Cheque, Mastercard and VISA also accepted.

Please make cheque payable to: HARRISON PENSA LLP, 450 Talbot Street, P.O. Box 3237, London ON N6A 4K3

EXHIBIT G (From November 25, 2021 to February 3, 2022)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	13.80	\$495.00	\$6,831.00
	Andy Rady	2013	4.70	\$350.00	\$1,645.00
Associates	Jason DiFruscia	2021	4.50	\$200.00	\$900.00
Clerks	Lindsay Ferguson		0.90	\$140.00	\$126.00
Students	Lauren Frijia		0.70	\$100.00	\$70.00
TOTAL FEES					\$9,572.00
HST ON FEES					\$1,244.36
TOTAL TAXABLE DISBURSEMENTS					\$60.60
TOTAL NON – TAXABLE DISBURSEMENTS					\$0.00
HST DISBURSEMENTS					\$7.88
TOTAL FEES, DISBURSEMENTS AND HST					\$10,884.84

## **EXHIBIT H**



Telephone: (519) 679 9660 Facsimile: (519) 667 3362

MNP Ltd. 1002-148 Fullarton Street London, ON N6A 5P3 February 9, 2022 Invoice #: 221694 Account #: 221694-186025

File #: 186025/Timothy C. Hogan RE: Brad Duby Professional Corp.

## TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
25-Nov-21	Letter from counsel to ARCG, e-mail to counsel	.40	\$198.00	TCH
26-Nov-21	Review ARCG letter and e-mails and call with client	.40	\$198.00	TCH
30-Nov-21	Call with LawPro re Singh	.20	\$99.00	TCH
30-Nov-21	Call with client and counsel to Bridgepoint	.40	\$198.00	TCH
10-Dec-21	E-mails from client re VIGNESWARAN	.20	\$99.00	TCH
10-Dec-21	E-mails from client on Song matter and e-mail to counsel	.20	\$99.00	TCH
10-Dec-21	E-mail to court on Song matter	.20	\$99.00	TCH
10-Dec-21	To review Statement of Claim	.10	\$20.00	JDI
13-Dec-21	Call and e-mail with counsel, court and client re Song matter	.40	\$198.00	TCH
13-Dec-21	Call with client	.20	\$99.00	TCH
13-Dec-21	To emails and phone calls with court and other parties re case conference	.40	\$80.00	JDI
15-Dec-21	To emails with counsel re walgampaha	.20	\$40.00	JDI
15-Dec-21	To emails with opposing counsel re case conference	.10	\$20.00	JDI
16-Dec-21	To attend case conference re Song v Aviva	.50	\$100.00	JDI
17-Dec-21	To emails with court re order re song v aviva; to emails with counsel re removal from service list	.20	\$40.00	JDI
17-Dec-21	E-mail to client	.20	\$99.00	TCH
24-Dec-21	Review Sokoloff case, e-mail to client	.50	\$247.50	TCH
6-Jan-22	E-mail from counsel	.20	\$99.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
6-Jan-22	To review motion record; to review file to confirm stay was lifted; to emails with parties re stay lifted	.50	\$100.00	JDI
7-Jan-22	E-mails with counsel and receiver re: Sylvia Albee	.20	\$99.00	тсн
10-Jan-22	E-mail to counsel	.20	\$99.00	ТСН
10-Jan-22	E-mail with client	.20	\$99.00	TCH
10-Jan-22	Call with client	.50	\$247.50	TCH
10-Jan-22	E-mail to counsel on Bedard matter and stay	.30	\$148.50	TCH
10-Jan-22	To Search for Motion Materials for Sokoloff v Chorney decision	.50	\$50.00	lfr
11-Jan-22	To search for motion materials; to correspond with Tim	.20	\$20.00	lfr
11-Jan-22	E-mail to counsel on Chang re account	.30	\$148.50	TCH
11-Jan-22	Call with TD counsel	.20	\$99.00	TCH
12-Jan-22	Call with client	.40	\$198.00	TCH
12-Jan-22	To review Sokoloff decision; to virtual m/w TCH and Matthew Lem; to instr. to student re: case law search; to review case law; to e-memo to TCH re: Grillo decision; to review TCH draft letter and email to TCH re: same	1.00	\$350.00	AHR
12-Jan-22	Review letters to counsel and draft e-mail, review Sokoloff decision	.60	\$297.00	TCH
12-Jan-22	To phone call with counsel re lifting the stay; to emails with counsel re lifting stay	.70	\$140.00	JDI
13-Jan-22	To edit service list; To review stay of proceedings;	.90	\$126.00	LFE
13-Jan-22	To emails with counsel re lifting stay; to review service list	.30	\$60.00	JDI
14-Jan-22	Call with Bank counsel	.40	\$198.00	TCH
14-Jan-22	Call with client	.20	\$99.00	TCH
14-Jan-22	Review revise letter to counsel on Charging Order and e- mail to client	.40	\$198.00	ТСН
16-Jan-22	E-mail from client	.20	\$99.00	TCH
17-Jan-22	E-mail with Chang counsel and e-mail to client	.40	\$198.00	тсн
18-Jan-22	To phone call with counsel re motion to lift stay	.20	\$40.00	JDI
19-Jan-22	To phone call with counsel re lifting stay; to review motion materials for motion to lift stay	.60	\$120.00	JDI
20-Jan-22	Letter and e-mail from LawPro counsel, and response re service of claim	.40	\$198.00	ТСН
20-Jan-22	Call with client	.80	\$396.00	ТСН
20-Jan-22	Letter from Naimark	.20	\$99.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
20-Jan-22	To emails with Matthew Lem; to review letter from Naimark re: proposal for fees on Presad file; to videoconference with TCH and Matthew Lem re: Naimark issues; to draft letter to Naimar re: fees payable to BDPC on Prasad file	2.50	\$875.00	AHR
20-Jan-22	To receipt and review of emails from counsel re lifting stay	.10	\$20.00	JDI
21-Jan-22	Re: Naimark - call with client, e-mail with client	.40	\$198.00	ТСН
21-Jan-22	Revise letter to Naimark, e-mail to client	.60	\$297.00	тсн
25-Jan-22	Call with client	.20	\$99.00	TCH
26-Jan-22	Letter from Naimark, call with client, draft response e- mail to Naimark	.60	\$297.00	тсн
26-Jan-22	To review correspondence from Naimark law re: Prasad matter; to consult w/ TCH re: response to Naimark; to review BDPC case diary re: Prasad file and to email to TCH and Matthew Lem with thoughts on appropriate quantum meruit fee; to emails from/to Matthew Lem re: further thoughts on proposed fee account to Naimark	.80	\$280.00	AHR
26-Jan-22	E-mails with client	.20	\$99.00	TCH
26-Jan-22	E-mail to Naimark	.20	\$99.00	TCH
27-Jan-22	To review new motions to lift stay and confirm BDPC is not a party	.40	\$80.00	JDI
28-Jan-22	To correspondence from Naimark re: Sarita Prasad matter; to emails to/from TCH and Matthrew Lem re: response/thoughts to Nairmark's email and response to same	.30	\$105.00	AHR
28-Jan-22	Review letters to counsel, e-mail from Naimark, call with client	.60	\$297.00	ТСН
28-Jan-22	Draft e-mail to Naimark and e-mails with client	.40	\$198.00	TCH
28-Jan-22	To emails with counsel re consent to motion	.20	\$40.00	JDI
1-Feb-22	To correspondence from Naimark; to correspondence from D'Alessio Romero	.10	\$35.00	AHR
1-Feb-22	E-mails with Naimark, and call to client	.40	\$198.00	ТСН
1-Feb-22	E-mail from D'Alleso and call with client	.20	\$99.00	TCH
2-Feb-22	E-mails with Leone, calls nd e-mails with counsel	.40	\$198.00	TCH
3-Feb-22	E-mail to counsel	.20	\$99.00	TCH

Total Fees:		\$	9,572.00		
Plus GST:			0.00		
Plus HST:			1,244.36		
Total Fees (INCL TAX)				<u>\$</u>	10,816.36
FEE SUMMARY:					
LAWYER	HOURS	RAT	re		AMOUNT
Timothy C. Hogan	13.80	\$495.0	00		\$6,831.00
Andy Rady	4.70	\$350.0	00		\$1,645.00
Jason DiFruscia	4.50	\$200.0	00		\$900.00
Lindsay Ferguson	.90	\$140.0	00		\$126.00
Lauren Frijia	.70	\$100.0	00		\$70.00
TAXABLE DISBURSEMENTS					
Westlaw			60.60		
Total Taxable Disbursemen	ts:	\$	60.60		
Plus GST:			0.00		
Plus HST:			7.88		
Total Disbursements (INC	CL TAX)			\$	68.48

THIS IS OUR ACCOUNT HEREIN

**TOTAL DUE & OWING** 

Timothy C. Hogan

E. & O.E.

Harrison Pensa LLP is a registered payee with most Canadian banks. Payment can be made online through your bank's website or mobile app.

GST / HST REGISTRATION NO: R867630543

Interest of 0.5% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT Cheque, Mastercard and VISA also accepted.

Please make cheque payable to: HARRISON PENSA LLP, 450 Talbot Street, P.O. Box 3237, London ON N6A 4K3 10,884.84

## **EXHIBIT I**

## (From February 7, 2022 to June 22, 2022)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	28.30	\$495.00	\$14,008.50
	Andy Rady	2013	0.10	\$350.00	\$35.00
Associates	Robert Danter	2016	9.30	\$320.00	\$2,976.00
	Jason DiFruscia	2021	20.90	\$200.00	\$4,180.00
Clerks	Jana Streith		0.20	\$195.00	\$39.00
	Lindsay Ferguson		8.10	\$140.00	\$1,134.00
TOTAL FEES					\$22,372.50
HST ON FEES					\$2,908.43
TOTAL TAXABLE DISBURSEMENTS					\$159.70
TOTAL NON – TAXABLE DISBURSEMENTS					\$16.00
HST DISBURSEMENTS					\$20.76
TOTAL FEES, DISBURSEMENTS AND HST					\$25,477.39

## **EXHIBIT J**



130 Dufferin Avenue, Suite 1101 P.O. Box 3237 London, ON N6A 4K3

Telephone: (519) 679 9660

Facsimile: (519) 667 3362

MNP Ltd. 1002-148 Fullarton Street London, ON N6A 5P3

June 24, 2022 Invoice #: 225550 Account #: 225550-186025

File #: 186025/Timothy C. Hogan RE: Brad Duby Professional Corp.

## TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
7-Feb-22	To emails with counsel re consent to lift stay	.20	\$40.00	JDI
8-Feb-22	Call with James Leone	.40	\$198.00	TCH
8-Feb-22	To receive and review email from Matthew Lem to James Leone and Aaron Murray	.10	\$35.00	AHR
11-Feb-22	E-mail with LawPro counsel on Lim matter	.20	\$99.00	TCH
11-Feb-22	Review Lai matter	.20	\$99.00	ТСН
11-Feb-22	To review motion materials; to review correspondence re lifting stay; to emails with counsel re motion for subservice and lifting the stay	.60	\$120.00	JDI
13-Feb-22	E-mail to counsel for Lin, and e-mails with client	.40	\$198.00	TCH
14-Feb-22	E-mail form counsel	.20	\$99.00	TCH
16-Feb-22	E-mails from and call with client	.40	\$198.00	TCH
16-Feb-22	E-mail to Naimark	.20	\$99.00	TCH
16-Feb-22	Call with client	.20	\$99.00	тсн
18-Feb-22	Call with counsel with Bridgepoint	.20	\$99.00	TCH
18-Feb-22	E-mail with Sogomyi, call with client	.40	\$198.00	TCH
21-Feb-22	Review UL Lawyers v. Nutul decision, e-mail from Somogyi and e-mail to client	.40	\$198.00	ТСН
22-Feb-22	To emails with counsel re motion to lift stay; to draft correspondence to counsel re notice of stay	.60	\$120.00	JDI
24-Feb-22	E-mail to Naimark	.20	\$99.00	TCH
24-Feb-22	Call with client	.40	\$198.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
25-Feb-22	Draft e-mail to Ghany counsel on settlement	.30	\$148.50	TCH
25-Feb-22	Various e-mails from Plaintiff's counsel on negligence actions and stay issues	.50	\$247.50	ТСН
25-Feb-22	Letters from LawPro on Britskey, Lai, Lee and Singh and e-mail to client	.40	\$198.00	TCH
25-Feb-22	E-mail to client re MK Legal	.20	\$99.00	TCH
25-Feb-22	Call with client	.20	\$99.00	TCH
28-Feb-22	E-mail to Law Pro counsel re advising on policy limits	.20	\$99.00	TCH
28-Feb-22	To review and organize all claims against BDPC	1.50	\$300.00	JDI
1-Mar-22	To organize all claims against BDPC; to draft claims summary chart; to correspondence with lawpro	.90	\$180.00	JDI
1-Mar-22	Call with MK legal	.50	\$247.50	TCH
1-Mar-22	E-mails with LSO counsel	.20	\$99.00	TCH
1-Mar-22	E-mail from MK Legal	.20	\$99.00	TCH
2-Mar-22	Review/revise report outline	.40	\$198.00	TCH
2-Mar-22	Call with Bridgepoint counsel	.80	\$396.00	TCH
2-Mar-22	Call with LSO counsel on Vigneswaran	.20	\$99.00	TCH
3-Mar-22	E-mails with counsel for Singh	.40	\$198.00	TCH
3-Mar-22	Call with client	.20	\$99.00	TCH
3-Mar-22	To review motion confirmation; to review file for motion materials; to emails with counsel re motion materials	.30	\$60.00	JDI
4-Mar-22	To review correspondence between counsel; to emails with opposing counsel re lift stay motion	.40	\$80.00	JDI
7-Mar-22	Call with ARCG counsel, e-mail to counsel for Bridgepoint	1.00	\$495.00	TCH
7-Mar-22	Call with receiveer;	.20	\$99.00	ТСН
7-Mar-22	E-mail to ARCG counsel	.30	\$148.50	TCH
8-Mar-22	To emails to opposing counsel re acceptance of service	.10	\$20.00	JDI
10-Mar-22	E-mail to ARCG counsel	.20	\$99.00	TCH
14-Mar-22	To review statement of claim; to correspondence with lawpro	.30	\$60.00	JDI
17-Mar-22	To review opinion letters; to review trustees ability to perform duties of director	1.10	\$220.00	JDI
21-Mar-22	E-mail to client re bankruptcy of Brad Duby estate	.20	\$99.00	ТСН
1-Apr-22	E-mail with client	.20	\$99.00	TCH
1-Apr-22	To receipt and review of motion materials; to emails with counsel re motion to lift stay	.40	\$80.00	JDI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
4-Apr-22	To obtaining PPSA reports	.20	\$39.00	JST
4-Apr-22	Finalize opinion, amend report, call to client	1.00	\$495.00	TCH
5-Apr-22	Review/revise draft report, e-mail to client	1.50	\$742.50	TCH
6-Apr-22	Call with client	1.20	\$594.00	TCH
6-Apr-22	Review revise report	.50	\$247.50	TCH
13-Apr-22	Call with client	.50	\$247.50	TCH
13-Apr-22	E-mail from client, letter from counsel on Farooqi	.40	\$198.00	TCH
13-Apr-22	Review communications	.60	\$192.00	RDA
13-Apr-22	To receipt and review of correspondence; to emails to counsel re receiver's role; to draft ledger of claims against BDPC	.70	\$140.00	JDI
14-Apr-22	Review report, appendix materials, communications	2.00	\$640.00	RDA
14-Apr-22	Call with client	.20	\$99.00	TCH
18-Apr-22	Call with client, review report, to notice of motion	.50	\$247.50	TCH
19-Apr-22	E-mail to client	.20	\$99.00	TCH
21-Apr-22	Call with client	.20	\$99.00	TCH
21-Apr-22	Draft motion	3.50	\$1,120.00	RDA
22-Apr-22	Draft motion	2.70	\$864.00	RDA
22-Apr-22	Revise motion	.50	\$160.00	RDA
22-Apr-22	E-mail to counsel	.20	\$99.00	TCH
26-Apr-22	Review/revise motion record and service list, e-mail to client	.80	\$396.00	ТСН
26-Apr-22	To draft service list	1.00	\$200.00	JDI
27-Apr-22	To revise service list; to research sliding scale fee structure	1.50	\$300.00	JDI
27-Apr-22	Review amended motion and service list	.40	\$198.00	TCH
28-Apr-22	To review assessment of costs under the solicitors act	1.50	\$300.00	JDI
29-Apr-22	Call with client	.20	\$99.00	TCH
2-May-22	To receipt and review of motion materials re Bailey Bedard; to emails to counsel re motion record	.60	\$120.00	JDI
4-May-22	To receipt and review of Pacheco materials	.20	\$40.00	JDI
5-May-22	To review Deep Singh draft order; to review Bedard draft motion materials	.50	\$100.00	JDI
5-May-22	To research assessment of solicitors fees	.50	\$100.00	JDI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
6-May-22	To review motion materials for Bedard matter; to emails with counsel re revisions to motion materials for Bedard matter	.40	\$80.00	JDI
6-May-22	To review assessments of solicitor's fees; to draft memo re assessment of solicitor's fees	1.00	\$200.00	JDI
9-May-22	To draft fee affidavit; to receipt and review of Bedard materials; to emails with Bedard counsel re lifting stay	1.30	\$260.00	JDI
11-May-22	To receipt and review of draft order re lifting the stay in Singh matter; to emails with plaintiff counsel re draft order	.60	\$120.00	JDI
12-May-22	Call with client	.20	\$99.00	TCH
16-May-22	E-mail with counsel	.20	\$99.00	TCH
17-May-22	Call with counsel	.20	\$99.00	TCH
17-May-22	To emails with plaintiff counsel re bedard motion to lift stay	.20	\$40.00	JDI
17-May-22	To phone call with plaintiff counsel re bedard motion to lift stay	.20	\$40.00	JDI
19-May-22	To receipt and review of statement of claim re Pacheco; to correspondence with plaintiff counsel re stay of proceedings and service	.40	\$80.00	JDI
24-May-22	To receipt and review of plaintiff counsel correspondence re Pacheco matter	.20	\$40.00	JDI
24-May-22	Call with client, e-mail to TD counsel	.20	\$99.00	TCH
25-May-22	E-mails with client	.20	\$99.00	TCH
25-May-22	Call with Receiver and counsel to TD Bank	.50	\$247.50	TCH
26-May-22	Review amended report, e-mail to client	.40	\$198.00	TCH
26-May-22	To revise service list	.20	\$40.00	JDI
27-May-22	To revise service list	1.00	\$200.00	JDI
27-May-22	Amend notice of motion, service list and e-mail to client	.60	\$297.00	TCH
29-May-22	Amend service list	.20	\$99.00	TCH
30-May-22	E-mail to client	.20	\$99.00	TCH
2-Jun-22	E-mails with counsel on Lifelong motion	.40	\$198.00	TCH
2-Jun-22	Call with Bridgepoint counsel, e-mails with Bridgepoint counsel, e-mail to TD counsel/client	.50	\$247.50	TCH
2-Jun-22	To receipt and review of lifeline litigation loans correspondence and endorsement	.20	\$40.00	JDI
6-Jun-22	To receipt and review of correspondence re lifeline litigation loans	.20	\$40.00	JDI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
7-Jun-22	To receipt and review of correspondence from counsel re lifeline litigation loans; to receipt and review of correspondence from counsel re Anushan Royas; to emails with counsel re lifting stay and terms for Anushan Royas	.60	\$120.00	JDI
7-Jun-22	E-mails from client, review amended notice of motion, e- mails to client, calls with client, e-mail to counsel	1.00	\$495.00	ТСН
8-Jun-22	To emails with counsel;	.20	\$99.00	TCH
8-Jun-22	To draft commercial list request form; To e-mail correspondence with court; To update file re hearing;	1.00	\$140.00	LFE
8-Jun-22	Email with court;	.20	\$99.00	TCH
9-Jun-22	E-mail with Bridgepoint counsel	.20	\$99.00	TCH
9-Jun-22	To e-mail correspondence with counsel; To e-mail correspondence from court;	.10	\$14.00	LFE
9-Jun-22	To emails with counsel for Anushan Royans re lift stay terms	.20	\$40.00	JDI
10-Jun-22	To e-mail correspondence with court; To e-mail correspondence with counsel;	.30	\$42.00	LFE
10-Jun-22	Call with client, e-mails with counsel	.40	\$198.00	TCH
13-Jun-22	E-mail with counsel	.20	\$99.00	TCH
13-Jun-22	To e-mail correspondence with counsel;	.10	\$14.00	LFE
13-Jun-22	To receipt and review of Pacheco claim; to emails with LawPro re Pacheco claim	.40	\$80.00	JDI
15-Jun-22	To edit motion materials; To upload materials to CaseLines;	.20	\$28.00	LFE
15-Jun-22	E-mail to counsel	.20	\$99.00	TCH
16-Jun-22	Call with client	.20	\$99.00	TCH
16-Jun-22	To prepare CaseLines; To e-mail correspondence with counsel;	.70	\$98.00	LFE
17-Jun-22	To update CaseLines; To draft Timetable;	.60	\$84.00	LFE
17-Jun-22	To receipt and review of motion materials re Bailey Bedard; to emails with plaintiff counsel to consent to lift stay motion	.50	\$100.00	JDI
17-Jun-22	Review timetable, e-mail from counsel	.20	\$99.00	TCH
20-Jun-22	Prepare for hearing, call with client	.70	\$346.50	TCH
20-Jun-22	Speak to motion/scheduling conference	.60	\$297.00	TCH
20-Jun-22	Call with client	.20	\$99.00	TCH
20-Jun-22	E-mail to Court	.20	\$99.00	TCH
20-Jun-22	Call from Bridgepoint counsel	.20	\$99.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
20-Jun-22	E-mails with Court	.40	\$198.00	ТСН
20-Jun-22	Call with client	.20	\$99.00	TCH
20-Jun-22	Draft counsel slip	.20	\$99.00	TCH
20-Jun-22	Review endorsement	.20	\$99.00	TCH
20-Jun-22	To emails with counsel for bailey bedard re lift stay motion	.40	\$80.00	JDI
20-Jun-22	To e-mail correspondence with counsel; To update CaseLines; To draft Counsel Slip;	1.10	\$154.00	LFE
21-Jun-22	To edit Service List; To organize materials; To e-ma correspondence with Receiver;	il 2.00	\$280.00	LFE
21-Jun-22	Amend service list, e-mail to client	.40	\$198.00	TCH
22-Jun-22	To edit Service List; To e-mail correspondence with counsel; To fax counsel; To draft covering letter to counsel;	2.00	\$280.00	LFE
Total I Plus G Plus H Total	ST:	\$ 22,372.50 0.00 2,908.43	<u>\$</u>	25,280.93
FEE SUMMA	<u>RY:</u>			
LAWYER Timothy C. Hog Andy Rady Jason DiFruscia Danter Rob Lindsay Fergus Jana Streith	.10 20.90 9.30	RATE \$495.00 \$350.00 \$200.00 \$320.00 \$140.00 \$195.00		AMOUNT \$14,008.50 \$35.00 \$4,180.00 \$2,976.00 \$1,134.00 \$39.00
NON-TAXAB	LE DISBURSEMENTS			
Government Fil Total I	ling Fees Non-Taxable Disbursements:	\$16.00 16.00		
TAXABLE DI	<u>SBURSEMENTS</u>			
Cyberbahn - PP	SA	39.55		
Westlaw	Fauskla Diakomana (	120.15		
Total Plus G	Γaxable Disbursements: ST:	\$ 159.70 0.00		
Plus H		20.76		
Total	Disbursements (INCL TAX)		<u>\$</u>	196.46

TOTAL DUE & OWING \$ 25,477.39

THIS IS OUR ACCOUNT HEREIN

HARRISON PENSA

Per:

Timothy C. Hogan

E. & O.E.

Harrison Pensa LLP is a registered payee with most Canadian banks. Payment can be made online through your bank's website or mobile app.

GST / HST REGISTRATION NO: R867630543
Interest of 0.5% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT Cheque, Mastercard and VISA also accepted.

Please make cheque payable to: HARRISON PENSA LLP, 130 Dufferin Ave., Suite 1101, P.O. Box 3237, London ON N6A 4K3

BRAD DUBY PROFESSIONAL CORPORATION	Respondent Court File No. CV-21-00657656-00CCL
-and-	
THE TORONTO-DOMINION BANK	Applicant

## SUPERIOR COURT OF JUSTICE COMMERCIAL LIST ONTARIO

Proceeding commenced at Toronto, Ontario

# **AFFIDAVIT OF THOMAS MASTERSON**

130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2 HARRISON PENSA LLP Barristers and Solicitors

## Timothy C. Hogan (LSO #36553S) Robert Danter (LSO #69806O)

Fax: (519) 667-3362 Tel: (519) 679-9660

Email: thogan@harrisonpensa.com

rdanter@harrisonpensa.com

Solicitors for the Receiver, MNP Ltd.

BRAD DUBY PROFESSIONAL CORPORATION	Respondent Court File No. CV-21-00657656-00CCL
-and-	
THE TORONTO-DOMINION BANK	Applicant

## SUPERIOR COURT OF JUSTICE COMMERCIAL LIST ONTARIO

## Proceeding commenced at Toronto, Ontario

## FIRST REPORT OF THE RECEIVER

130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2 HARRISON PENSA LLP Barristers and Solicitors

## Timothy C. Hogan (LSO #36553S) Robert Danter (LSO #69806O)

Tel: (519) 679-9660

Fax: (519) 667-3362

rdanter@harrisonpensa.com Email: thogan@harrisonpensa.com

Solicitors for the Receiver, MNP Ltd.

-and-

BRAD DUBY PROFESSIONAL CORPORATION

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Court File No. CV-21-00657656-00CCL

Proceeding commenced at Toronto, Ontario

## MOTION RECORD

## HARRISON PENSA LLP

Barristers and Solicitors 130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2

Timothy C. Hogan (LSO #36553S) Robert Danter (LSO #69806O)

Tel: (519) 679-9660 Fax: (519) 667-3362

Email: <a href="mailto:thogan@harrisonpensa.com">thogan@harrisonpensa.com</a> rdanter@harrisonpensa.com

Solicitors for the Receiver, MNP Ltd.