

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF THE COURT-APPOINTED RECEIVERSHIP
CARLETON CONDOMINIUM CORPORATION NO. 396
OF THE CITY OF OTTAWA, PROVINCE OF ONTARIO

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS

Applicant

and

CARLETON CONDOMINIUM CORPORATION NO. 396, CLAUDE ALAIN BURDET, IN
TRUST, CLAUDE-ALAIN BURDET, 1443957 ONTARIO INC., and ENTREPRISES TED
RUBAC ENTERPRISES INC.

Respondents

THIRD REPORT OF MNP LTD., IN ITS
CAPACITY AS COURT-APPOINTED RECEIVER OF
CARLETON CONDOMINIUM CORPORATION NO. 396

OCTOBER 28, 2022

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INTRODUCTION AND BACKGROUND

1. Carleton Condominium Corporation No. 369 (“**CCC396**”) was a condominium corporation created in 1987 with its registered office address located in Ottawa, Ontario.
2. CCC396 was previously controlled by Claude-Alain Burdet, its sole director. Mr. Burdet represented the interests of several related parties, including Janet Burdet, a family trust, Entreprises Ted Rubac Inc. and 1457563 Ontario Inc. (collectively, the “**Burdet Group**”).
3. CCC396 consisted of 33 individual condominium units which were all located at 112 Nelson Street, Ottawa, Ontario (the “**Real Property**”). The Burdet Group collectively owned 57.2% of the condo units.
4. In 2001, the minority unit holders comprised of several unrelated parties (the “**Minority Group**”), commenced an action against the Burdet Group in Court File No. 09-45430 (the “**Main Action**”) alleging, among other things, that the Burdet Group was using its control for financial gain to the detriment of the Minority Group.
5. The Burdet Group denied these allegations and counterclaimed for common expenses not paid by the Minority Group and for other relief. The Burdet Group was represented by Claude-Alain Burdet as the group’s legal counsel in the litigation described in this report. As of the date of this report, Mr. Burdet is not a practicing lawyer in Ontario.
6. CCC396 commenced a separate action against the Burdet Group and certain unit owners and tenants in 2009 in Court File No. 01-CV-18977 (the “**Second Action**”) in which it sought, among other things, an Order of possession, termination of leases and for judgment in an amount to be determined at trial. The Burdet Group counterclaimed in the Second Action, seeking, among other things, a declaration of oppression against CCC396 and damages.
7. The litigation in the Main Action and the Second Action continued until the summer of 2021, when the Burdet Group’s counterclaim in the Second Action was dismissed by Pronouncement of Justice Roger on July 8, 2021. As of the date of this report, Justice Roger has not issued written reasons or a written endorsement.
8. On April 2, 2002 Justice Lalonde, found that the Burdet Group repeatedly breached an Order concerning its collection of unpaid common expenses and, by Order appointed 125896 Ontario

Inc. c.o.b. as Condominium Management Group (“**CMG**”) to be the interim administrator to take over the management of CCC396 and complete a forensic audit.

9. On April 13, 2012, Justice Kane, in the Main Action, granted a partial summary judgement in favour of CCC396 in the amount of \$109,441.00 against the Burdet Group.
10. On August 31, 2014, Justice Kane, in the Main Action, granted a further judgement in favour of CCC396 in the amount of \$380,970.00 against the Burdet Group and upheld registration of certain liens against most of the units controlled by the Burdet Group.
11. On March 17, 2015, Justice Kane ordered, in the Main Action, the Burdet Group to pay costs in the amount of \$790,915.00 to CCC396 for expenses incurred related to the ongoing litigation. The Burdet Group was to have paid these costs within 30 days.
12. On May 25, 2016, the Court of Appeal, in the Main Action, awarded CCC396 an additional \$27,000.00 in costs when it dismissed the Burdet Group’s appeal in the Second Action.
13. On September 30, 2016, Justice Robert, in the Main Action, dismissed the Burdet Group’s motion to stay the Court of Appeal decision and ordered the Burdet Group to pay CCC396 \$2,000.00 in costs for the unsuccessful motion.
14. On September 30, 2016, Justice Kane, issued his final supplementary reasons, in the Main Action, which include the order terminating the condominium corporation.
15. On February 17, 2017, Justice Kane further ordered CCC396, in the Main Action, to pay common expenses and interest in the amount of \$70,000.00 to the Burdet Group and denied all of the other claims made by the Burdet Group.
16. On August 18, 2017, Justice Gomery awarded costs, in the Main Action, in the amount of \$500.00 to CCC396 related to another motion filed by the Burdet Group which was dismissed by the Court.
17. On February 28, 2018, the Court of Appeal, in the Second Action, fixed the trial costs and appeal costs in the amount of \$183,500.00 in favour of CCC396 to be paid by the Burdet Group.
18. On April 9, 2018, the Ontario Court of Appeal, in the Main Action, ordered the Burdet Group to pay \$16,000.00 to CCC396 when it dismissed the appeal brought by the Burdet Group to set aside a judgment that had been made against it in the Main Action. The judgment had been

appealed unsuccessfully to the Court of Appeal and the Burdet Group sought, unsuccessfully, leave to appeal to the Supreme Court of Canada.

19. The financial performance of CCC396 has been impacted substantially by the ongoing litigation. Without receiving the various cost awards against the Burdet Group, CCC396 could not pay its accounts to the Creditors (as later defined herein).

APPOINTMENT OF RECEIVER

20. By Judgment dated February 2, 2017, among other things, Justice Kane terminated CCC396 as a condominium corporation pursuant to section 128 of the *Condominium Act* and appointed Surgeson Carson Associates Inc. (“**Carson**”) as receiver and manager of CCC396 to carry out the termination, with powers that included marketing and selling all condominium units, real property and assets and to apply to the Court for approval of its full powers and duties as receiver and manager. A copy of this Order is attached at Appendix “1” to the Receiver’s first report dated October 6, 2020 (the “**First Report**”).
21. Under the February 2, 2017 Order, the powers of Carson were subject to the continued interim appointment of CMG as interim administrator of CCC396, which interim administration was to continue until the expiration of the appeal period of the Order and during any period of appeal and stay thereof.
22. The Burdet Group appealed the February 2, 2017 Order to the Ontario Court Appeal, which appeal was unsuccessful. A copy of the Court of Appeal’s Reasons for Decision dated February 28, 2018 are attached at Appendix “2” of the First Report.
23. The Burdet Group sought leave to appeal to the Supreme Court of Canada, which leave was denied on May 2, 2019, as shown on a copy of the Judgement attached at Appendix “3” of the First Report.
24. As a result of Directions for Conservatory Measures issued December 11, 2017, by the Office of the Superintendent of Bankruptcy, Carson was no longer able to act as receiver and manager of CCC396.
25. By Notice of Motion dated November 6, 2018, CCC396 brought a motion scheduled to be heard before Justice Kane on November 15, 2018 for various relief, including an Order substituting MNP Ltd. (“**MNP**”) in place of Carson as the receiver and manager contemplated to replace the interim administrator to carry out the termination of CCC396 as set out in the February 2, 2017

Order and for leave for MNP to apply for an Order setting out the authority and powers of the receiver and manager.

26. By Order of Justice Kane dated May 29, 2019, MNP replaced Carson as receiver and manager (the “**Receiver**”) of CCC396, with leave for MNP to apply for a further Order setting out the authority and powers of the Receiver. A copy of this Order is attached at Appendix “4” of the First Report.
27. The powers, rights, remedies and responsibilities of the Receiver are set out in an Order of Justice Kane dated May 29, 2019, and entered on May 31, 2019 (the “**Receivership Order**”). The Receivership Order sets out the property over which the Receiver was appointed as constituting of all the assets, undertakings and properties of CCC396, including Real Property, unit holders’ interests and all proceeds thereof (the “**Property**”). A copy of the Receivership Order is attached at **Appendix “1”**.
28. The First Report dated October 6, 2020, is attached as **Appendix “2”**.
29. Pursuant to an Order of Justice R. Smith dated November 26, 2020, (the “**Approval and Vesting Order**”) the Receiver was authorized to proceed with the completion of the Sales Transaction (as defined below) for the sale of the Property. Attached at **Appendix “3”** is a copy of the Approval and Vesting Order issued on the that same day.
30. The second report of the Receiver dated October 22, 2021 “**Second Report**” is attached as **Appendix “4”**.
31. Pursuant to the Order of Justice R. Smith dated November 23, 2021, (the “**Distribution Order**”) the Receiver was authorized to satisfy the indebtedness CCC396 had with seven (7) specified creditors as set out in paragraphs 47 through to 57 of the Second Report. Attached as **Appendix “5”** is a copy of the Distribution Order.
32. The prescribed notices and statements of the Receiver pursuant to ss. 245(1) and 246(1) of the BIA were sent to the creditors of CCC396. A copy of this notice is attached at Appendix “4” of the Second Report.

PURPOSE OF THIS REPORT

33. The purpose of this third report of the Receiver to the Court (the “**Third Report**”) is to:

- (a) report on the activities of the Receiver since the Second Report;
- (b) seek the Court's approval of the activities and conduct of the Receiver and that of its legal counsel as described in this Third Report;
- (c) seek the Court's approval and direction in respect of a final distribution for the payment of the following disbursements incurred prior to the appointment of the MNP as Receiver (collectively, the "**Mortgage Creditors**"):
 - (i) Westboro Mortgage Corporation on unit 107 ("**Gabriel Mortgage**") which stood at the amount of \$206,795.58 as of October 28, 2022;
 - (ii) Westboro Mortgage Corporation on unit 204 ("**BBG Mortgage**") which stood at the amount of \$101,401.36 as of October 28, 2022; and
 - (iii) any other payments which may be agreed on or sought by the Receiver at the next hearing date.
- (d) seek the Court's establishment of a timetable for the hearing of any unresolved issues or disputes as to the distributions proposed to be made by the Receiver, including, without limitation, the issue as to whether or not CCC396 is liable to the Minority Group under the February 17, 2017 Cost Order (as defined below); and
- (e) the Court's approval of the Receiver's Interim Statement of Projected Receipts and Disbursements ("**Interim SRD**").

34. All amounts referred to in this Third Report are in Canadian dollars unless otherwise noted.

NOTICE TO READER

35. This Third Report is prepared solely for the purpose of assisting the Court in making a determination as to whether to approve the relief being sought.

36. In preparing this Third Report, the Receiver has relied upon information from third party sources (collectively, the "**Information**"). Certain of the information contained herein may refer to, or be based on, the Information. As the Information has been provided by other parties or obtained from documents filed with this Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook.

RECEIVERSHIP ACTIVITIES FOLLOWING THE APPROVAL ORDERS

37. Since the date of the Second Report, the Receiver has undertaken the following actions in accordance with the Receivership Order and the Approval and Vesting Order:

- (a) made all payments pursuant to the Distribution Order;
- (b) managed investment of the funds held in trust by the Receiver to earn interest;
- (c) sought and reviewed a copy of the Justice Roger cost order;
- (d) prepared for and held an initial meeting with owners to review a proposed distribution schedule where a draft distribution to unit holders was circulated;
- (e) responded to various questions from unit holders' owners on how the Receiver arrived at the amounts due by unit holders;
- (f) received and reviewed correspondence from creditors claiming an entitlement to proceeds in priority to unit owners, including mortgagees and other claimants;
- (g) reviewed an Order of Justice Kane ("**February 2017 Cost Order**") not previously provided to the Receiver;
- (h) consulted with CCC396's lawyer on the status and effect of the February 2017 Cost Order;
- (i) followed up with CC396's Quebec lawyers regarding litigation that was placed in abeyance pending the results of the Receivership;
- (j) retained the Quebec law firm to take all steps required to terminate the Quebec proceedings; and
- (k) continued to receive updates from its legal counsel regarding the status of the various on-going Court proceedings.

THE REAL PROPERTY

38. As approved by the Court on November 26, 2020, the Property was sold on January 25, 2021.

FEBRUARY 2017 COST ORDER

39. On February 17, 2017, Justice Kane issued the February 2017 Costs Order in favour of the Minority Group against the Burdet Group and CCC396. This Order was not provided to the Receiver until May 5, 2022, by way of email from Domicile Developments Inc. Attached at

Appendix “6” is a copy of the February 2017 Cost Order and attached at **Appendix “7”** are the reasons for decision.

40. The February 2017 Cost Order was appealed and heard by the Court of Appeal on February 15, 2018 (“**Court of Appeal Order**”) where the cost award was amended to reflect a split of 80-20 against the Burdet Group (80%) and the Minority Group (20%) of CCC396’s costs fixed at the all-inclusive amount of \$220,000.00. The Court of Appeal Order did not otherwise change the February 2017 Cost Order.
41. Upon the appointment of the Receiver, it requested from the legal counsel for CCC396 and the Minority Owners a copy of all Court Orders it would need to consider in administration of the Receivership and in determining the liabilities and entitlements of CC396.
42. On May 31, 2019, the Receiver was provided by legal counsel for CCC396 a summary of all court orders along with a summary of what it believed were all the cost awards, interest costs to date and suggested allocation.
43. On June 19, 2010, a representative for the Minority Group provided the Receiver with a summary of court orders and allocation to unit holders that matched what was received from the lawyers for CCC396.
44. None of the supporting schedules provided to the Receiver included the February 2017 Cost Order.
45. The Minority Group reviewed the Receiver’s summary of amounts due from unit holders which included all Court Orders provided to the Receiver from the legal representative of CCC396. This summary and Court Orders provided to the Receiver did not include the February 2017 Cost Order.
46. The Receiver did not receive any comments from owners of CCC396 that the calculation of amounts due from unit holders should have included those contained in paragraph (a) of the February 2017 Cost Order in the calculations. This issue was only subsequently raised in May 2022 by the Minority Group.
47. On September 22, 2022, the lawyer for CCC396 and the Minority Group advised the Receiver that it should include the February 2017 Cost Order in the final calculation of amounts due to unit holders.

48. The lawyer for the Minority Group advised that it was the Minority Group's position that the intent of the February 2017 Cost Order was that the \$410,000 of costs payable in favour of the Minority Group was to be against the Burdet Group solely, and not against CCC396 as a defendant. However, the issued and entered February 2017 Cost Order includes CCC396 as a party defendant and, on its face, includes it as jointly and severally liable with the other defendants, who are the Burdet Group for the \$410,000 of costs.
49. The Receiver was not involved in the obtaining of the February 2017 Cost Order and has no direct or personal knowledge of what was intended when it was made. As of the date of this Third Report, it has not heard from the Burdet Group as to what its position is on CCC396 being jointly and severally liable with it under the February 2017 Cost Order.
50. The Receiver has applied the February 2017 Cost Order by treating CCC396 as jointly and severally liable with the Burdet Group for \$410,000 of the cost order (paragraph (a)) allocating 50% of these costs against the Burdet Group (as one entity) and 50% against CCC396 prorated based on each owner's percentage of ownership in CCC396, including the interest of any member of the Burdet Group in CCC396.

TERMINATION OF ONGOING LITIGATION ONTARIO AND QUEBEC

51. On August 31, 2020, Justice Gomery ordered, in the Main Action, the Burdet Group to post security for costs, in the amount of \$836,415.00 within 30 days, failing which its counterclaim could not be listed for trial and CCC396 could move for dismissal of the counterclaim.
52. The Burdet Group did not satisfy the payment requirements of the August 31, 2020, Order.
53. On October 29, 2020, Justice Gomery issued a costs endorsement against the Burdet Group in the amount of \$15,650.71 to be paid within 30 days. This amount was not paid by the Burdet Group.
54. On February 2, 2021, CCC396 filed a motion seeking the dismissal of the Burdet Group's counterclaim in the Second Action.
55. On March 19, 2021, Justice Gomery refused to dismiss the counterclaim and provided CCC396 30 days to file a supplemental affidavit to address an issue pertaining to service of the Court materials raised by the Burdet Group.

56. Due to a notification issue, the lawyers for CCC396 did not receive Justice Gomery's endorsement until June 11, 2021. Justice Gomery agreed to extend the period to file a supplemental affidavit to July 11, 2021.
57. By Order made by pronouncement on July 8, 2021, Mr. Justice Roger validated service on all parties and granted CCC396 motion to dismiss the Burdet Group's and granted costs of \$10,000.00 in favour CCC396.
58. The dismissal of the Burdet Group's counterclaim terminated all the litigation between CCC396, the Minority Owners and the Burdet Group in the Province of Ontario.
59. After the termination of the litigation in the Province of Ontario, it was brought to the Receiver's attention that CCC396 had commenced an action in the Province of Quebec to attempt to seize the Burdet Group's personal assets located in that Province ("**Quebec Action**") in satisfaction of the judgments obtain in Ontario.
60. The Quebec Action was placed on hold on May 19, 2019, while the Receiver completed the sales process to determine if there would be sufficient assets to satisfy the Burdet Group's indebtedness to CCC396 and the Minority Group.
61. On April 21, 2022, the Receiver held an initial meeting with owners to review a proposed distribution to unit owners and other claimants.
62. On May 16, 2022, the Burdet Group indicated to the Receiver that they believed they could seek costs of approximately \$100,000.00 as part of their Quebec Action claim against CCC396.
63. Following this advice from the Burdet Croup, the Receiver immediately contacted the solicitor for CCC396 in the Ontario action who advised the Receiver of the Quebec lawyers who had been retained for the Quebec Action.
64. The Receiver made several attempts to receive a status report on the Quebec Action. On October 7, 2022, the lawyer for the Quebec Action provided a formal response which included an estimate of what the Quebec Civil Code Rules could award the Burdet Group if they were successful. The Quebec lawyers advised that the maximum award is likely not to exceed \$5,000.00 and even this amount was not assured to be granted in favour of the Burdet Group.

65. The Receiver has instructed the Quebec lawyers to proceed with termination of the Quebec Action and to proceed to register a discharge of any registrations made in the land registry in Quebec in support of the Ontario cost awards.
66. The Quebec lawyers have advised there remains a risk that the Burdet Group may attempt to issue or continue any existing claims or counterclaims and is not able to provide any further information until such claims, if any, are received.
67. The Receivership Order stays any action against CCC396 or the Property without the written consent of the Receiver or leave of the Court, with a limited exception for proceedings related to those in Court File No. 09-45430, which should prevent any further or new claims being asserted by the Burdet Group in the Quebec Action. However, until the Quebec Action has been terminated or responded to, the Receiver will be required to retain funds to satisfy the costs of Quebec counsel and to satisfy any cost order that may be granted.
68. The Quebec lawyers have advised the Receiver that, due to a flood, many documents contained in the Quebec Court files were destroyed, making it more difficult and taking more time for the lawyers to determine the present status of all of the litigation between CCC396 and the Burdet Group in Quebec.

MORTGAGE AMOUNTS DUE

69. Westboro Mortgage Corporation registered the Gabriel Mortgage against unit 107 in the amount of \$196,236.25 as of April 21, 2022, plus daily per diem thereafter of \$55.87. A copy of the mortgage discharge statement is attached at **Appendix “8”** which was provided to the Receiver in support of the registered mortgage on title.
70. Westboro Mortgage Corporation registered the BBG Mortgage against unit 204 in the amount of \$96,317.26 as of April 21, 2022, plus daily per diem thereafter of \$26.90. A copy of the mortgage discharge statement is attached at **Appendix “9”** which was provided to the Receiver in support of the registered mortgage on title.
71. The Receiver requested any person interested in units 107 or 204 to confirm whether they consent, object or take no position on the payment of the Gabriel Mortgage or BBG Mortgage as the Receiver seeks the Court’s approval of payment of these mortgages.

72. As of the date of this Third Report, the unit owners of 107 and 204 have indicated that they wish these mortgages to be paid. Dahavaland Capital Corporation, who have a mortgage registered on unit 204 have also indicated that they consent to the payment of all principal and interest on the BBG Mortgage and to 50% of the legal and other costs being claimed by Westboro, pending Dahavaland's review of these fees and costs.
73. As of the date of this Third Report, Domicile, who does not have any registered interest in the proceeds on units 107 and 204, has indicated to the Receiver that it will not provide its consent to the payment of the Gabriel Mortgage or BBG Mortgage.
74. The Westboro mortgages had to be removed from title in order for the Property to be sold. It is the Receiver's view that these mortgages should be paid so that further interest and costs are not incurred to the detriment of the owners of the mortgaged units

AMOUNTS DUE FROM UNIT HOLDERS

75. The Receiver has updated the amount due to CCC396 from unit holders to reflect the further cost awards against the Burdet Group and interest on amounts due to January 31, 2021. A copy of the amended summary of amounts due from unit holders is attached hereto at **Appendix "10"**.
76. The Receiver was in possession of the Burdet's Group 42.8% share from the net sale proceeds from the Property in the amount of \$2,268,821.01. In order to protect the interests of the Minority Group and ensure that the cost awards against the Burdet Group would be satisfied, the Receiver set-off all costs awards against the Burdet Group's entitlements to the net proceeds of sale of the Property, effective February 1, 2021. This was done to ensure there was no risk that the cost awards would not be later collected against the Burdet Group.
77. The projected distribution to unit holders is attached at **Appendix "11"** reflects the above set-off.
78. In addition, Appendix "11" reports amounts due from unit owners of CCC396 for unpaid condominium fees, interest and other charges applied after payment of all cost orders.

ONGOING OPERATIONS

79. The operation of the condominium corporation ceased on closing of the Sales Transaction on January 25, 2021. The services of the property manager were terminated shortly after. Registration of the Approval and Vesting Order on title amended the title to the Property and converted the various PIN's that made up CCC396 into one PIN on title.

PRIORITY AND SECURED CLAIMS

Priority Claims

80. On September 9, 2021, CRA advised the Receiver that CCC396 had been assessed \$78,473.75 for unremitted HST plus penalty and interest. Attached at Appendix “12” of the Second Report is a copy of this letter issued by CRA. This claim has been paid in full and no further amounts are due.
81. Other than the amounts set out in this Third Report, the Receiver is not aware of any other claims which can be asserted against CCC396.

Secured Claims

82. The PPSA search results for CCC396 on September 30, 2020, disclosed no registrations against the condominium. A copy of the PPSA search results is attached at Appendix “19” to the First Report.
83. PPSA searches were conducted against the specific unit holders by the purchaser’s legal representative and reviewed by the Receiver’s legal representative. A copy of the PPSA search results of unit holders provided to the Receiver by the purchaser’s legal representative is attached at Appendix “20” of the First Report.
84. There are mortgages registered on title to several of the individual units of CCC396, including those described above. These mortgages have priority over the respective unit owners’ interest in the units. A summary of the charges against units is attached at Appendix “21” of the First Report.

FUNDS AVAILABLE FOR DISTRIBUTION

85. A copy of the Receiver’s Projected Interim Statement is attached at **Appendix “12”**. This interim statement projects that receipts exceed disbursements by \$5,500,000.00 as at the date of this Third Report.

PROFESSIONAL FEES

86. Paragraph 17 of the Receivership Order creates 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, for the fees and disbursements of the Receiver and its legal counsel.

87. Under paragraph 18 of the Appointment Order, the Receiver is entitled to apply reasonable amounts out of the monies in its hands to satisfy its professional fees and disbursements and those of its counsel, and such amounts are to constitute advances against its remuneration and disbursements when and as approved by the Court.

88. The approval of fees and disbursements of the Receiver and that of its legal counsel will be sought in the Receiver's final report to the Court.

COMPLETION OF THE RECEIVERSHIP

89. The Receiver intends to pay the amounts approved by the Court outlined in this Third Report and will subsequently provide the Court with a proposed distribution to unit holders in its final report once the Quebec Action and any disputed distributions are resolved.

SUMMARY AND RECOMMENDATIONS

90. For the reasons outlined above, the Receiver respectfully recommends that this Court grant the Receiver's request for an Order, amongst other things:

- (a) If necessary, abridging the time for and validation of service of the Notice of Motion and Motion Record herein;
- (b) Approving the Receiver's Third Report, and the activities and conduct of the Receiver and of its legal counsel since its appointment, all as recited in this Third Report;
- (c) Approving the Receiver's Interim Statement of Receipts and Disbursements;
- (d) Approving a final distribution for the payment of the following disbursements incurred prior to the appointment of MNP as Receiver (collectively, the "**Mortgage Creditors**"):
 - (i) Westboro Corporation on unit 107 which stood at the amount of \$206,795.68 as of October 28, 2022;
 - (ii) Westboro Mortgage Corporation on unit 204 which stood at the amount of \$101,401.36 as of October 28, 2022; and
 - (iii) any other payments which may be agreed on or sought by the Receiver at the next hearing date.

- (e) Establishing a timetable for the hearing of any unresolved issues or disputes as to the distributions proposed to be made by the Receiver, including, without limitation, the issue as to whether or not CCC396 is liable to the Minority Group under the February 2017 Cost Order.

This Third Report is respectfully submitted to the Honourable Court as of this 28th day of October 2022.

MNP LTD.,

In its capacity as Court-Appointed Receiver of
Carleton Condominium Corporation No. 396
and not in its personal or corporate capacity

Per:



John P. Haralovich, CPA, CA, CIRP, CMA
Senior Vice President

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ONTARIO

SUPERIOR COURT OF JUSTICE

**THE HONOURABLE MR.
JUSTICE KANE**

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**THURSDAY, THE 29th DAY
OF MAY, 2019**

**PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS**

Plaintiffs/Defendants by Counterclaim

AND

**CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON CONDOMINIUM CORPORATION 396,
1443957 ONTARIO INC., and ENTREPRISES TED RUBAC ENTERPRISES INC.**

Defendants/Plaintiffs by Counterclaim

ORDER

THIS MOTION, to set out the powers, rights, remedies and responsibilities of MNP Ltd. as receiver and receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396 (the "**Corporation**") pursuant to the Order of Mr. Justice Kane dated November 15, 2019 (the "**Order**") was heard this day at 161 Elgin Street, Ottawa, ON.

ON HEARING the submissions of counsel for the parties, on having been advised by counsel for MNP Ltd. that the consent of MNP Ltd. to act as receiver and manager of the Corporation is conditional on its powers, duties, remedies and protections being substantially as those contained in this Order,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that the property over which MNP Ltd. is appointed receiver and manager, without security, constitutes all of the Corporation's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, including the lands, units and common elements of the property and premises municipally known as 112 Nelson Street, Ottawa (collectively, the "**Property**"), and more particularly described as:

PT N 1/2 LT 3 & PT LTS 4, 5 & 6 (W/S NELSON ST), PL 43586, PT 2 4R5803,
AS IN SCHEDULE 'A' OF DECLARATION LT535820, AMENDED BY LT539546;
OTTAWA;

ALL OF THE UNITS AND COMMON ELEMENTS COMPRISING OTTAWA
CARLETON CONDOMINIUM PLAN NO. 396, CITY OF OTTAWA, LAND
REGISTRY OFFICE (NO. 4).

PIN Nos. 15396-0001 to 15396-0033, inclusive, Land Registry Office No. 4

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 to implement the Judgment of Justice Kane dated February 2, 2017 (the "**Judgment**") and the Order, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized, but not required, to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of 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 Corporation, 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 Corporation;
- (d) to take steps to terminate the registration of the Corporation as a condominium corporation under the *Condominium Act* in accordance with the Judgment;
- (e) 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 powers and duties conferred by this Order;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Corporation or any part or parts thereof;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to the Corporation and to exercise all remedies of the Corporation in collecting such monies, including, without limitation, to enforce any security held by the Corporation;

- (h) to settle, extend or compromise any indebtedness owing to the Corporation;
- (i) to assemble all Records (as defined below) related to the accounting and business operations of the Corporation and to investigate and review Records for the purposes of assessing all payments to and receipts from Persons (as defined below);
- (j) 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 Corporation, for any purpose pursuant to this Order;
- (k) to undertake environmental or workers' health and safety assessments of the Property and operations of the Corporation;
- (l) 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 Corporation, 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;
- (m) 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, with a view to maximizing the overall net proceeds available for distribution to the unit owners of the Corporation in accordance with section 129 of the *Condominium Act*;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business and in each such case notice under

subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (o) 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;
- (p) 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;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) 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 Corporation, including but not limited to any rezoning of real property owned by the Corporation;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Corporation, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Corporation;
- (t) to terminate and cancel any existing contracts, including any contracts for the sale or purchase of the Property;
- (u) to take any steps reasonably incidental to the exercise of these powers; and

- (v) to, on its own, or through others, in its discretion and without any obligation, exercise any of the powers of the Original Interim Administrator under the Order of The Honourable Justice Paul Kane dated August 3, 2012,

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 Corporation, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Corporation, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel, unit owners and those deriving a legal interest in the units and their common interest through such units 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 Corporation, 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.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **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, which leave may only be sought on not less than fourteen (14) 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.

NO PROCEEDINGS AGAINST THE CORPORATION OR THE PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Corporation 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 Corporation or the Property are hereby stayed and suspended pending further Order of this Court. Nothing in this Order shall stay or affect the Proceedings in Ottawa Court File No. 09-45430, including any corresponding Ontario Court of Appeal or Supreme Court of Canada Court File Numbers (collectively, the “**Exempt Proceedings**”) and this Order shall be without prejudice to the rights of any party to the Exempt Proceedings, all of which Exempt Proceedings shall continue in the ordinary course.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Corporation, 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 nothing in this paragraph shall (i) empower the Receiver or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on, (ii) exempt the Receiver or the Corporation 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

10. **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 Corporation, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all persons having oral or written agreements with the Corporation 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 Corporation 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 Corporation'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 Corporation 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

12. **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

13. **THIS COURT ORDERS** that any employees of the Corporation shall remain the employees of the Corporation until such time as the Receiver, on the Corporation's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, pension or benefit amounts or successor employer liabilities other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction or in respect of any obligations the Receiver may have under sections 81.4(5) or 81.6(3) of the *Bankruptcy and Insolvency Act* or under the *Wage Earner Protection Program Act*.

PIPEDA

14. **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 Corporation, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **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

16. **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. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the *Bankruptcy and Insolvency Act* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and 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 (the "**Receiver's Charge**"). Unless the Court otherwise orders, on such notice as the Court may require, the Receiver's Charge shall not have priority over any security interests, trusts, liens, charges or encumbrances, statutory or otherwise, over any real property or personal property that is solely owned by a unit owner and that was fully valid and enforceable against third parties before November 15, 2018.

18. **THIS COURT ORDERS** 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 Ontario Superior Court of Justice.

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

FUNDING OF THE RECEIVERSHIP

20. **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 \$200,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and any encumbrance described in sections 14.06(7), 81.4(4) and 81.6(2) of the *Bankruptcy and Insolvency Act*.

21. **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.

22. **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.

23. **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.

GENERAL

24. **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.

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

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

27. **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 hereby authorized and empowered to act as a representative of the Corporation in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. **THIS COURT ORDERS** that the Receiver shall have its costs (and those of its legal counsel) of and related to this motion, up to and including entry and service of this Order on a substantial indemnity basis, all of which costs shall be included in and secured by the Receiver's Charge.

29. **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.

O Kane

ENTERED AT OTTAWA	
INSCRIT A OTTAWA	
ON/LE	MAY 31 2019
DOCS	0411
ALL REGISTRY NO. 73-13	

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that MNP Ltd., the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396, appointed by Order of the Ontario Superior Court of Justice (the "**Court**") dated the ___ day of November , 2018 (the "**Order**") made in an action having Court file number 01-CV-18977, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) 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 _____, 2019.

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

Per: _____

Name:

Title:

BETWEEN:

Court File No. 01-CV-18977

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC. et al-and-

CLAUDE ALAIN BURDET IN TRUST, et al

Plaintiff

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Ottawa

ORDER

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Lawyer for MNP Ltd.
percy@percyostrofflaw.ca

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ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF THE COURT-APPOINTED RECEIVERSHIP
CARLETON CONDOMINIUM CORPORATION NO. 396
OF THE CITY OF OTTAWA, PROVINCE OF ONTARIO

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS

Applicant

and

CARLETON CONDOMINIUM CORPORATION NO. 396, CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, 1443957 ONTARIO INC., and ENTREPRISES TED RUBAC
ENTERPRISES INC.

Respondents

FIRST REPORT OF MNP LTD., IN ITS
CAPACITY AS COURT APPOINTED RECEIVER OF
CARLETON CONDOMINIUM CORPORATION NO. 396

OCTOBER 6, 2020

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- 1 Judgement Order dated February 2, 2017
- 2 Court of Appeal Order dated February 28, 2018
- 3 Supreme Court of Canada Order dated May 2, 2019
- 4 Superior Court of Justice Order dated May 29, 2020
- 5 Receivership Order dated May 31, 2019
- 6 Notice of Statement of Receiver
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- 8 Jones Lang LaSalle listing proposal
- 9 Signed listing agreement with Jones Lang LaSalle
- 10 Confidential and Non-Disclosure Agreement
- 11 Confidential Investment Memorandum prepared by Jones Lang LaSalle
- 12 Redacted summary of the marketing process
- 13 Redacted asset purchase agreement
- 14 Amendment to Purchase Agreement dated August 30, 2020
- 15 Notice of Satisfaction of Purchasers' Due Diligence Conditions
- 16 Summary of amounts due by unit holders at September 30, 2019
- 17 Amended summary of amounts due by unit holders at September 30, 2019
- 18 Canada Revenue Agency letter dated November 19, 2019
- 19 PPSA search results for Carleton Condominium Corporation No. 396
- 20 PPSA search results for all other unit holders
- 21 Summary of land title registrations against all units
- 22 Interim statement of receipts and disbursements

Confidential Appendices

- A August 26, 2019 Juteau Johnson Comba Inc., appraisal
- B September 20, 2019 McLean, Simon & Associates (Ottawa) appraisal
- C Unredacted Sales and Marketing summary
- D Unredacted Purchase and Sale Agreement

INTRODUCTION AND BACKGROUND

1. Carleton Condominium Corporation No. 369 (“CCC396”) is a condominium corporation created in 1987 with its registered office address located in Ottawa, Ontario.
2. CCC396 was previously controlled by Claude-Alain Burdet who acted as the sole director for himself and several related parties including Janet Burdet, a family trust, Entreprises Ted Rubac Inc. and 1457563 Ontario Inc. (collectively, the “Burdet Group”).
3. CCC396 consisted of 33 individual units which are all located within 112 Nelson Street, Ottawa, Ontario (the “Real Property”). The Burdet Group collectively owns 57.2% of the condo units.
4. In 2001, the minority unit holders comprising of several unrelated parties, commenced an action against the Burdet Group alleging that the Burdet Group was using its control for financial gain to the detriment of the minority unit holders.
5. The Burdet Group denied the allegations and counterclaimed for common expenses not paid by the minority group and for other relief. Claude-Alain Burdet is an Ontario lawyer. He represented and continues to represent the Burdet Group in the litigation described in this first report.
6. As part of the ongoing litigation the Burdet Group was to cease taking further steps to recover unpaid common expenses against the minority group.
7. On April 2, 2002, Justice Lalonde, held that the Burdet Group repeatedly breached the order of restricting its efforts to collect unpaid common expenses and appointed 125896 Ontario Inc. c.o.b. as Condominium Management Group (“CMG”) to be the interim administrator to take over the management of CCC396 and complete a forensic audit.
8. In 2009, CCC396 commenced an action for unpaid arrears of common expenses allegedly owed by the Burdet Group. The Burdet Group denied any indebtedness and commenced a counterclaim alleging they had been oppressed by CCC396, the minority unit holders and entitled to damages.

9. On April 13, 2012, Justice Kane, granted a partial summary judgement in favour of CCC396 in the amount of \$109,441.00 against the Burdet Group.
10. On August 31, 2014, Justice Kane further granted a judgement order in favour of CCC396 in the amount of \$380,970.00 against the Burdet Group and upheld the registered liens against almost all the units controlled by the Burdet Group.
11. Over a 3-year period, ending in 2016, the minority group action against the Burdet Group was heard at trial.
12. On March 17, 2015, Justice Kane ordered the Burdet Group to pay costs in the amount of \$790,915.00 to CCC396 for expenses incurred related to the ongoing litigation. The Burdet Group was to have paid these costs within 30 days and to date remain unpaid.
13. On May 25, 2016, the Court of Appeal awarded CCC396 an additional \$27,000.00 in costs when it dismissed the Burdet Groups appeal.
14. On September 30, 2016, Justice Robert dismissed the Burdet Group motion to stay the Court of Appeal decision and ordered the Burdet Group to pay CCC396 \$2,000.00 in costs for the unsuccessful motion.
15. On September 30, 2106 Justice Kane, issued his final supplementary reasons holding that the Burdet Group had oppressed the minority group and ordered the condominium corporation terminated.
16. Justice Kane further ordered the minority group to pay common expenses and interest in the amount of \$70,000.00 to the Burdet Group and denied all other claims made by the Burdet Group.
17. On August 18, 2017 Justice Gomery awarded costs in the amount of \$500.00 to CCC396 related to another motion filed by the Burdet Group which was dismissed by the court.
18. On February 28, 2018, the Court of Appeal fixed the trial costs and appeal costs in the amount of \$183,500.00 in favour of CCC396 to be paid by the Burdet Group.
19. On April 9, 2018, the Ontario Court of Appeal ordered the Burdet Group to pay \$16,000.00 to CCC396 when it dismissed the appeal filed by the Burdet Group.

20. The financial performance of the CCC396 has been impacted by the ongoing litigation and in the absence of receiving the various cost awards against the Burdet Group, CCC396 cannot pay its accounts as they become due.

APPOINTMENT OF RECEIVER

21. By Judgment dated February 2, 2017, among other things, Justice Kane terminated CCC396 as a condominium corporation pursuant to section 128 of the Condominium Act and appointed Surgeson Carson Associates Inc. (“Carson”) as receiver and manager of CCC396 to carry out the termination, with powers that included marketing and selling all condominium units, real property and assets and to apply to the Court for approval of its full powers and duties as receiver and manager. A copy of this Order is attached at **Appendix “1”**.
22. Under the February 2, 2017 Order, the powers of Carson were subject to the continued interim appointment of CMG as interim administrator of CCC396, which interim administration was to continue until the expiration of the appeal period of the Order and during any period of appeal and stay thereof.
23. The Burdet Group appealed the February 2, 2017 Order to the Ontario Court Appeal, which appeal was unsuccessful. A copy of the Court of Appeal’s Reasons for Decision dated February 28, 2018 are attached at **Appendix “2”**.
24. The Burdet Group sought leave to appeal to the Supreme Court of Canada, which leave was denied on May 2, 2019, as shown on a copy of the Judgement attached as **Appendix “3”**.
25. As a result of Directions for Conservatory Measures issued December 11, 2017 by the Office of the Superintendent of Bankruptcy, Carson was no longer able to act as receiver and manager of CCC396.
26. By Notice of Motion dated November 6, 2018, CCC396 brought a motion scheduled to be heard before Justice Kane on November 15, 2018 for various relief, including an Order substituting MNP Ltd. (“MNP”) in place of Carson as the receiver and manager to replace the interim administrator to carry out the termination of CCC396 as set out in the February 2, 2017 Order and for leave for MNP to apply for an Order setting out the authority and powers of the receiver and manager;

27. By Order of Justice Kane dated May 29, 2019, MNP replaced Carson as receiver and manager (the “Receiver”) of CCC396, with leave for MNP to apply for an Order setting out the authority and powers of the Receiver. A copy of this Order is attached at Appendix “4”.
28. The powers, rights, remedies and responsibilities of the Receiver are set out in an Order of Justice Kane dated May 29, 2019 and entered on May 31, 2019 (the “Receivership Order”). The Receivership Order sets out the property over which the Receiver was appointed as constituting of all of the assets, undertakings and properties of CCC396, including Real Property and all proceeds thereof (the “Property”). A copy of the Receivership Order is attached at Appendix “5”.

PURPOSE OF THIS REPORT

29. The purpose of this first report of the Receiver to the Court (the “First Report”) is to:
- (a) report on the activities of the Receiver since its appointment under the Receivership Order;
 - (b) seek the Court’s approval of the activities and conduct of the Receiver and that of its legal counsel as described in the First Report;
 - (c) seek the Court’s approval of the Sales Agreement (as defined below) and of the Sales Transaction (as defined below) and an Order for the conveyance of, and the vesting of title in, the Real Property to the purchaser thereof;
 - (d) seek an Order to all persons to provide vacant possession of all units free and clear of all waste and belongings, lands and premises of CCC396 and the Real Property to be sold;
 - (e) seek the Court’s approval to seal certain confidential appendices to the First Report;
 - (f) seek the Court’s approval of the Receiver’s Statement of Receipts and Disbursements; and
 - (g) seek the Court’s approval in respect of payment of City of Ottawa for unpaid municipal taxes for the Real Property.

30. All amounts referred to in the First Report are in Canadian dollars unless otherwise noted.

NOTICE TO READER

31. This First Report is prepared solely for the use of the Court, for the purpose of assisting the Court in making a determination of whether to approve the relief being sought.

32. In preparing this First Report, the Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain of the information contained herein may refer to, or be based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Honourable Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook.

INITIAL RECEIVERSHIP ACTIVITIES

33. Immediately following the granting of the Receivership Order on May 31, 2019 (the “**Receivership Date**”), the Receiver attended at the Real Property to take possession of and secure the Property. The initial activities of the Receiver included:

- (a) notifying the property manager of MNP’s appointment as Receiver;
- (b) obtaining a copy of the property management agreement;
- (c) attending at the Real Property with the property manager;
- (d) directing the property manager to advise tenants of the appointment of the Receiver and to continue to report to the property manager;
- (e) confirming there was insurance coverage for the Real Property;
- (f) providing copy of the Receivership Order to the unit holders of CCC396;
- (g) requesting relevant information from the books and records of CCC396;
- (h) responding to unit holders and creditor inquiries; and

- (i) preparing and issuing the prescribed notices and statements of the Receiver pursuant to ss. 245(1) and 246(1) of the BIA, which were sent to CCC396 creditors. A copy of this notice is attached at **Appendix “6”**.

THE REAL PROPERTY, THE APPRAISALS AND THE LISTING

34. On the Receivership Date, CCC396 was being managed by CMG. Each unit owner has been responsible for management of their individual units. CMG managed the collection of waste, common area utility charges, insurance and general site maintenance.
35. On August 26, 2019, the Receiver obtained an appraisal from Juteau Johnson Comba Inc. (the “**Juteau Appraisal**”). A copy of the Juteau Appraisal is attached as **Confidential Appendix “A”**.
36. On September 20, 2019, the Receiver obtained an appraisal from McLean, Simon and Associates (Ottawa) (the “**McLean Appraisal**”). A copy of Mclean Appraisal is attached at **Confidential Appendix “B”**.
37. The Receiver concluded that no other appraisals were required and that it could rely on the Juteau Appraisal and the McLean Appraisal as they were each completed by reputable and licensed commercial real estate appraisers.
38. The Receiver sought listing proposals from Avison Young (“**Avison**”) and Jones Lang LaSalle (“**JLL**”) to market and sell the Real Property.
39. On October 1, 2019, Avison provided their listing proposal to the Receiver recommending a listing price of \$6,950,000.00. A copy of the Avison listing proposal is attached as **Appendix “7”** (excluding sections 3 and 5 of the report).
40. On September 30, 2019, JLL provided their listing proposal to the Receiver providing a valuation range of \$8.3 million to \$10.6 million based on a price per square foot of \$55.00 to \$70.00. A copy of the JLL listing proposal is attached as **Appendix “8”**.
41. The Receiver retained JLL to sell the Real Property based on their submission that the Real Property could attract a higher value and their intention to target high worth potential purchasers based in Toronto and Montreal.

42. As a result, given the favourable terms contained in the listing agreement and that JLL is a reputable, competent and licensed commercial real estate broker, on November 5, 2019, the Receiver selected JLL to list and market the Real Property. A copy of the listing agreement is contained at **Appendix “9”**.
43. JLL created a data room that contained documents a purchaser would want to review prior to submitting an offer to purchase. In order to gain access to the confidential data room, JLL required all parties to complete a Non-Disclosure agreement. A copy of the Confidential and Non-disclosure Agreement is contained at **Appendix “10”**.
44. JLL recommended to the Receiver, which the Receiver accepted, that the Real Property go to market without a listing price in order to better gauge the level of interest from potential purchasers.

MARKETING OF REAL PROPERTY AND RESULTS

45. The Confidential Investment Memorandum (“CIM”) prepared by JLL was approved by the Receiver in late December 2019. A copy of CIM is attached at **Appendix “11”**.
46. The marketing process and the results of the marketing process are detailed in **Confidential Appendix “C”** (excluding all offers and counter offers) and a redacted copy is attached at **Appendix “12”**.
47. Highlights of JLL’s marketing process in respect of the sale of the Real Property are as follows:
 - a) JLL went to market and asked all interested parties to submit offers to purchase on January 14, 2020;
 - b) The initial offering required interested parties to submit offers on March 5, 2020 (the “**Bid Date**”);
 - c) JLL sent a teaser to 3,000 active investors and influencers from their database;
 - d) 24 parties signed the CIM and gained access to the data room;

- e) At the Bid Date, 92028570 Quebec Inc. (“Hillpark”) was the only party that submitted an offer. The Receiver rejected this offer and responded by making a counteroffer;
- f) On March 9, 2020, JLL commenced a re-launch of the marketing at a listing price of \$8,300,000.00 which was 10% to 15% above the general market sentiment, with a goal of engaging as many buyers as possible;
- g) On March 31, 2020, Hillpark provided another offer which the Receiver countered on April 3, 2020;
- h) On April 21, 2020, Hillpark provided a counter to the Receiver’s counteroffer, however the offer was not signed and therefore could not be accepted by the Receiver;
- i) On May 12, 2020, the Receiver posted on Insolvency Insider, a web-based publication of insolvency matters, the opportunity to purchase the Real Property;
- j) On May 25, 2020, Forum Equity Partners (“Forum”) provided a letter of intent to JLL, however Forum wanted to amend the terms and conditions of the asset purchase agreement (“APA”) and indicated that they would provide their formal offer shortly thereafter;
- k) On June 1, 2020, Hillpark submitted their final offer to purchase the Real Property;
- l) On June 3, 2020, Forum provided an amended APA revising various terms and conditions for the Receiver to consider;
- m) JLL and the Receiver worked with both Hillpark and Forum to advance the finalization of the respective proposed APA’s from each party to a final stage;
- n) On June 12, 2020 the final offer from Hillpark was presented to the Receiver. and Forum provided their final offer on June 10, 2020 to the Receiver; and

- o) On June 15, 2020, the Receiver accepted the Forum June 10, 2020 offer as it provided for a shorter timeline for waiving of the purchaser's conditions and provided a slightly better sale price.

THE SALES AGREEMENT AND TRANSACTION

- 48. On June 15, 2020, the Receiver accepted Forum's final offer to purchase ("**Sales Agreement**"), which is attached as **Confidential Appendix "D"** and as **Appendix "13"** (in which the purchaser's identity and the purchase price were redacted). The APA provides for a \$500,000.00 deposit and that the closing (the "**Sales Transaction**") is subject to approval of the Court.
- 49. The APA was amended by email consent on July 29, 2020 to extend the condition period to August 31, 2020.
- 50. The APA was amended by an Amendment of Purchase Agreement made as of August 30, 2020, a copy of which is attached at **Appendix "14"**.
- 51. On August 31, 2020, the Forum group provided an executed Notice of Satisfaction of Purchaser's Due Diligence Conditions a copy of which is attached at **Appendix "15"**.
- 52. The Receiver recommends that the Sales Transaction be approved by this Honourable Court for the following reasons:
 - a) the Real Property was exposed widely to the marketplace for approximately six months in a manner that is common for properties of this nature and was listed for sale with a professional and licensed commercial real estate broker that is well known in the market;
 - b) the Sales Agreement is unconditional, and the purchase price is in line with the average appraised value of the Real Property;
 - c) the purchase price is within a reasonable range of the Juteau Appraisal and the McLean Appraisal, and greater than the other offers received by the Receiver to date;
 - d) the Receiver does not believe that further marketing of the Real Property will result in a superior offer;

e) there are currently no other offers to consider; and

f) the Sales Transaction that is the subject of the Sales Agreement is provident and a favourable outcome for the estate and followed a thorough, impartial and fair sales process that fully tested the market.

AMOUNTS DUE FROM UNIT HOLDERS

53. The Receiver obtained from CMG summaries of condo fees charged and paid by unit holders from December 31, 2012 to determine the amounts due by unit holders.

54. The Receiver included the decisions and cost awards granted by the court for amounts to be paid by unit holders, including ongoing interest.

55. As at September 30, 2019, the Receiver prepared a summary document to reflect the estimated amounts owed by unit holders. A copy of the summary of amounts due from unit holders is attached hereto at **Appendix “16”**.

56. On October 27, 2019, the Receiver delivered to all unit holder’s statements of account detailing the amounts due for unpaid condo fees, cost awards and ongoing interest.

57. The Receiver reviewed the Endorsement on Motion for Security for Costs issued by Justice Gomery on August 31, 2020 which reflected further Court of Appeal Costs that were not included in the material previously provided to the Receiver.

58. The Receiver has updated the amount due for unit holders to reflect the further cost awards against the Burdet Group. A copy of the amended summary of amounts due from unit holders is attached hereto at **Appendix “17”**.

59. As of September 30, 2020, the Receiver has collected \$229,708.79 from specific unit holders to reduce the amounts claimed by the Receiver as outstanding.

ONGOING OPERATIONS

60. The Receiver will continue to operate the condominium corporation with the assistance of CMG until the Sales Transaction is closed.

PRIORITY AND SECURED CLAIMS

Priority Claims

61. The Receiver is not aware of any claims that would rank in priority to the unit holders' respective interests in CCC396.
62. On November 19, 2019, Canada Revenue Agency ("CRA") advised the Receiver that CCC396 had been assessed \$76,305.48 for unremitted HST plus penalty and interest. Attached at **Appendix "18"** is a copy of this letter issued by CRA.
63. CCC396 has not had the funds necessary to satisfy legal and accounting fees, that when paid from the Sales Transaction, the HST portion will reduce the amounts due to CRA by a significant amount and likely generate a refund for the Receiver net of all amounts due to CRA.

Secured Claims

64. The PPSA search results for CCC396 dated September 30, 2020 report that there are no registrations against the condominium. A copy of the PPSA search results is attached hereto at **Appendix "19"**.
65. PPSA searches have been conducted against the specific unit holders by the purchaser's legal representative and reviewed by the Receiver's legal representative. A copy of the PPSA search results of unit holders provided to the Receiver by the purchaser's legal representative is attached hereto at **Appendix "20"**.
66. There are mortgages registered on title to several of the individual units of CCC396. These mortgages, if valid and enforceable, will have priority over the respective unit owners' interest in the units. A summary of the charges against units is attached hereto at **Appendix "21"**.
67. The Receiver will, in subsequent reports, seek the Courts approval for the distribution of the net proceeds of sale to unit holders, including satisfaction of any applicable valid and enforceable writs of seizure and sale, security interest under the PPSA or charges registered on or against a unit or unit owner.
68. The City of Ottawa may have amounts due for unpaid municipal taxes on closing of the Sales Transaction. Upon closing, any amounts due by the unit holders for municipal taxes on their individual units and CCC396 will be paid and deducted from the net proceeds owing to unit holders.

FUNDS AVAILABLE FOR DISTRIBUTION

69. A copy of the Receiver's Interim Statement of Receipts and Disbursements ("Interim Statement") is attached hereto at Appendix "22". It confirms that receipts exceed disbursements by \$109,667.00 to the date of this report.

PROFESSIONAL FEES

70. Pursuant to paragraph 17 of the Receivership Order, the fees and disbursements of the Receiver and its legal counsel 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.

71. Pursuant to paragraph 18 of the Appointment Order, the Receiver is entitled to apply reasonable amounts out of the monies in its hands to satisfy its professional fees and disbursements and those of its counsel, and such amounts are to constitute advances against its remuneration and disbursements when and as approved by the Court.

72. The approval of fees and disbursements of the Receiver and that of its legal counsel will be sought in a further report to the Court.

COMPLETION OF THE RECEIVERSHIP

73. The Receiver will continue to work to close the Sales Transaction and report back to Court upon its completion. In the event the Sales Transaction does not close, the Receiver will resume the liquidation of the Real Property and continue to manage the operations of the rental units.

SUMMARY AND RECOMMENDATIONS

74. In the event the Sales Transaction closes, it will provide a significant reduction of CCC396 indebtedness and provide the potential for an equitable return for the unit holders based on their pro-rata share of the net proceeds.

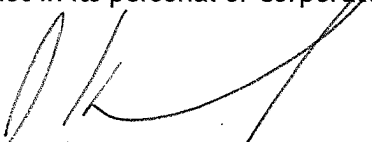
75. For the reasons outlined above, the Receiver respectfully recommends that this Court grant the Receiver's request for an Order, amongst other things:

- (a) If necessary, abridging the time for and validation of service of the Notice of Motion and Motion Record herein;
- (b) Approving the Receiver's First Report, and the activities and conduct of the Receiver and of its legal counsel since its appointment, all as recited in the First Report;
- (c) Approving the Sales Agreement and Sales Transaction, and the conveyance of the Real Property to the purchase and vesting title of the Real Property in the purchaser;
- (d) for vacant possession of the Property and Real Property free and clear of all waste and belongings of unit holders;
- (e) Approving the sealing of the confidential appendices to the First Report pending the closing of the Sales Transaction or further Order of this Court;
- (f) Approving the Receiver's Interim Statement of Receipts and Disbursements; and
- (g) approving a distribution to the City of Ottawa for all outstanding municipal taxes for the Real Property.

This First Report is respectfully submitted to the Honourable Court as of this 6th day of October, 2020.

MNP LTD.,

In Its capacity as Court-Appointed Receiver of
Carleton Condominium Corporation No. 396
and not in its personal or corporate capacity
Per:



John P. Haralovich, CPA, CA, CIRP, CMA
Senior Vice President

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ONTARIO

SUPERIOR COURT OF JUSTICE

**THE HONOURABLE MR.
JUSTICE R. SMITH**

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**THURSDAY, THE 26th DAY
OF NOVEMBER, 2020**

**PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS**

Plaintiffs/Defendants by Counterclaim

-and-

**CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON CONDOMINIUM CORPORATION 396,
1443957 ONTARIO INC., and ENTREPRISES TED RUBAC ENTERPRISES INC.**

Defendants/Plaintiffs by Counterclaim

APPROVAL AND VESTING ORDER

THIS MOTION, made by MNP Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the lands, premises, units and common elements municipally known as 112 Nelson Street, Ottawa, Ontario, including all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396 and the individual units thereof (collectively, the "**Debtor**"), for an order: (i) confirming the termination of Carleton Condominium Corporation No. 396; (ii) approving the sale transaction (the "**Transaction**") contemplated by an offer to purchase between the Receiver and Forum/SLP GP Inc., as general partner for and on behalf of Forum/SLP Limited Partnership (the "**Original Purchaser**"), executed by the Original Purchaser and accepted by the Receiver on July 15, 2020, as amended by email agreement dated July

29, 2020 and amendment of purchase agreement made as of August 30, 2020, as assigned by the Original Purchaser to Forum/SLP GP Inc., as general partner for and on behalf of Forum/SLP 112 Nelson Limited Partnership (the "**Purchaser**") by assignment of purchase agreement dated as of November 17, 2020 (collectively the "**Sale Agreement**") and appended to the First Report of the Receiver dated October 6, 2020 (the "**Report**"); and (iii) vesting in Forum/SLP GP Inc. all of right, title and interest in and to Property (as defined in the Sale Agreement) pursuant to a direction re title from the Purchaser to the Receiver dated as of November 17, 2020 (the "**Purchased Assets**") and described in Schedule B hereto; was heard this day at 161 Elgin Street, Ottawa, Ontario and iii) for various other relief as set out in the Notice of Motion herein.

ON READING the Report and affidavit of Percy Ostroff, sworn November 24, 2020 and on hearing the submissions of counsel for the Receiver and counsel for the Purchaser, and on being advised that no one given notice of this motion objected to the relief being sought,

ON READING the judgment of the Honorable Justice Kane of the Ontario Superior Court of Justice dated February 2, 2017, which provides at paragraph 2 for the termination of Carleton Condominium Corporation No. 396 pursuant to Section 128 of the *Condominium Act, 1998*, S.O. 1998, Chapter 19.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Report is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof. This Court further validates and approves of the service of the Notice of Motion and the Report, on the parties set out in the affidavit of service of Percy Ostroff, sworn November 24, 2020 at the coordinates and by the method set out in the said affidavit.

APPROVAL OF TRANSACTION

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver and the Purchaser may agree to in writing. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser in accordance with the terms and conditions of the Sale Agreement.

VESTING OF PURCHASED ASSETS

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to Purchased Assets shall vest absolutely in Forum/SLP GP Inc., free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, assessments or reassessments, equitable interests, options, rights of others, leases, notices of lease, sub-leases, licenses, restrictions, rights of retention, judgements, debts, liabilities, rights of offer, rights of first refusal or similar restrictions, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Kane dated May 28, 2019; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances

affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

CONFIRMATION OF TERMINATION OF CONDOMINIUM AND DIRECTIONS TO LAND REGISTRAR

4. **THIS COURT HEREBY CONFIRMS** that pursuant to paragraph 2 of the Judgment of the Honourable Justice Kane of the Ontario Superior Court, dated February 2, 2017, in Court file No. 01-CV-18977, a copy of which is attached as E hereto, Carleton Condominium Corporation No. 396 was terminated as a condominium corporation pursuant to Section 128 of the *Condominium Act, 1998*, S.O. 1998, Chapter 19.

5. **THIS COURT ORDERS AND DIRECTS** that upon receipt of this Order for registration, the Land Registrar for the Land Titles Division of Ottawa-Carleton shall do the following:

- (a) amend the name of the registered owner of the units described in the following parcel registers from Entreprise Ted Rubac Enterprises Inc. to Entreprises Ted Rubac Enterprises Inc.:

15396-0001

15396-0002

15396-0003

15396-0005

15396-0006

15396-0007

15396-0008

15396-0009

15396-0010

15396-0011

15396-0012

15396-0013

15396-0014
15396-0015
15396-0016
15396-0017
15396-0018
15396-0020
15396-0021

- (b) amend the name of the registered owner of the units described in the following parcel registers from Entreprises Ted Rubac Enterprises Inc. in Trust to Entreprises Ted Rubac Enterprises Inc.:

15396-0027
15396-0030
15396-0031

- (c) register this Order in the unit index for each unit included in Carleton Condominium Corporation No. 396, and specifically for the following parcel registers:

PIN 15396-0001
PIN 15396-0002
PIN 15396-0003
PIN 15396-0004
PIN 15396-0005
PIN 15396-0006
PIN 15396-0007
PIN 15396-0008
PIN 15396-0009
PIN 15396-0010
PIN 15396-0011
PIN 15396-0012
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PIN 15396-0025
PIN 15396-0026
PIN 15396-0027
PIN 15396-0028
PIN 15396-0029
PIN 15396-0030
PIN 15396-0031
PIN 15396-0032
PIN 15396-0033

- (d) open a new freehold parcel register for the subject real property identified in Schedule B hereto (the “**Real Property**”);
- (e) vest the lands in the name of Forum/SLP GP Inc. as the owner of the new freehold parcel register described in (d) above;
- (f) delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto; and
- (g) for clarity, Schedule D attached hereto sets out the permitted encumbrances and there are no encumbrances to be brought forward to the new freehold parcel register described in (d) above.

CLAIMS AGAINST NET PROCEEDS

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

RECEIVER'S CERTIFICATE

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

VESTING ORDER BINDING

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in Forum/SLP GP Inc. pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at

undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

AID AND ASSISTANCE TO RECEIVER

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

VACANT POSSESSION

10. **THIS COURT ORDERS** that all persons to whom a copy of this Order is presented to, made aware of or served on, provide vacant possession, free and clear of any waste or belongings, of any unit or premises forming part of the Purchased Property that they may have present of former ownership, possession or control of, on the written request of the Receiver or the Purchaser.

RECEIVER'S FIRST REPORT APPROVED

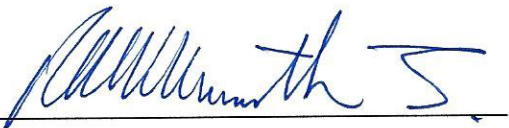
11. **THIS COURT ORDERS** that the First Report of the Receiver, dated October 6, 2020 (the "**First Report**") and the actions and activities of the Receiver and its legal counsel described in the First Report are hereby approved.

APPENDIXES TO BE SEALED

12. **THIS COURT ORDERS** that appendixes A (Appraisal), B (Appraisal) C (Marketing Progress Report) and D (Offer to Purchase/Sale Agreement) in the First Report be sealed and remain confidential until further order of this Court.

DISBURSEMENTS AND FUTHER ORDERS FOR DIRECTION

13. **THIS COURT ORDERS** that, the Receiver be and hereby is authorized, but not required, to make any disbursement from the net proceeds of sale of the Transaction that it sees fit, consistent with its duties and powers and without limitation, section 129 of the *Condominium Act*, all without prior approval of this Court, and that it may apply to this Court from time to time for advice and directions or approvals for any disbursements or distributions it may propose to make or has made. Notwithstanding the foregoing, no distributions shall be made by the Receiver to owners or former unit owner(s) of the Debtor, without a further Order of this Court.



ENTERED AT OTTAWA INSCRIT A OTTAWA
ON/LE NOV 26 2020
DOCUMENT # <u>0411</u>
IN BOOK NO. 73-13
AU REGISTRE NO. 73-13

Schedule A – Form of Receiver’s Certificate

Court File No. 01-CV-18977

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS**

Plaintiffs/Defendants by Counterclaim

-and-

**CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON CONDOMINIUM CORPORATION 396,
1443957 ONTARIO INC., and ENTREPRISES TED RUBAC ENTERPRISES INC.**

Defendants/Plaintiffs by Counterclaim

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to the Judgement of the Honourable Justice Kane of the Ontario Superior Court of Justice (the “**Court**”) dated February 2, 2017, as amended by an Order of Justice Kane dated November 15, 2018 and supplemented by the Order of Justice Kane dated May 29, 2019, MNP Inc. was appointed as the receiver (the “**Receiver**”) of the lands, premises, units and common elements municipally known as 112 Nelson Street, Ottawa, Ontario, including all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396 and the individual units thereof (collectively, the “**Debtor**”);

B. Pursuant to an Order of the Court dated [DATE], the Court approved the an offer to purchase between the Receiver and Forum/SLP GP Inc., as general partner for and on behalf of Forum/SLP Limited Partnership (the "**Original Purchaser**") executed by the Original Purchaser and accepted by the Receiver on July 15, 2020, as amended by email agreement dated July 29, 2020 and amendment of purchase agreement made as of August 30, 2020, as assigned by the Original Purchaser to Forum/SLP GP Inc., as general partner for and on behalf of Forum/SLP 112 Nelson Limited Partnership (the "**Purchaser**") by assignment of purchase agreement dated as of November 17, 2020 (collectively, the "**Sale Agreement**") and provided for the vesting in Forum/SLP GP Inc. of all right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 5(a), (b), (c), (d) and (e) have been satisfied or waived by the Purchaser and sections 10(a), (b), (c) and (d) of the Sale Agreement have been satisfied or waived by the Receiver; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 5(a), (b), (c), (d) and (e) have been satisfied or waived by the Purchaser and sections 10(a), (b), (c) and (d) of the Sale Agreement have been satisfied or waived by the Receiver; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**MNP Inc. in its capacity as Court
Appointed Receiver, without security, of
the undertaking, property and assets of
the Debtor, and not in its personal
capacity**

Per: _____

Name:

Title:

Schedule B – Property

N½ LT 3 & PT LTS 4,5 & 6 (W/S NELSON ST). PL 43586, PT 2 4R5803;
CITY OF OTTAWA

Schedule C – Claims to be deleted and expunged from title to Real Property

PIN Number	Instrument Type	Instrument No.
15396-0001(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0001(LT)	Condominium Declaration	LT535820
15396-0001(LT)	Bylaw	LT537966
15396-0001(LT)	Bylaw	LT537967
15396-0001(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0001(LT)	Bylaw	LT539545
15396-0001(LT)	Condominium Declaration Amendment	LT539546
15396-0001(LT)	Bylaw	LT625017
15396-0001(LT)	Notice of Change of Address	LT908252
15396-0001(LT)	Bylaw	LT1166840
15396-0001(LT)	Bylaw	LT1167394
15396-0001(LT)	Application for Court Order	LT1229032
15396-0001(LT)	Application to Register Judgment	LT1252871
15396-0001(LT)	Condominium Lien	LT1278874
15396-0001(LT)	Condominium Lien	OC457701
15396-0001(LT)	Condominium Lien	OC1311140
15396-0001(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0002(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0002(LT)	Condominium Declaration	LT535820
15396-0002(LT)	Bylaw	LT537966
15396-0002(LT)	Bylaw	LT537967
15396-0002(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0002(LT)	Bylaw	LT539545
15396-0002(LT)	Condominium Declaration Amendment	LT539546
15396-0002(LT)	Bylaw	LT625017
15396-0002(LT)	Notice of Change of Address	LT908252
15396-0002(LT)	Bylaw	LT1166840
15396-0002(LT)	Bylaw	LT1167394

PIN Number	Instrument Type	Instrument No.
15396-0002(LT)	Application for Court Order	LT1229032
15396-0002(LT)	Application to Register Judgment	LT1252871
15396-0002(LT)	Condominium Lien	LT1278875
15396-0002(LT)	Condominium Lien	OC457701
15396-0002(LT)	Condominium Lien	OC1311143
15396-0002(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0003(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0003(LT)	Condominium Declaration	LT535820
15396-0003(LT)	Bylaw	LT537966
15396-0003(LT)	Bylaw	LT537967
15396-0003(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0003(LT)	Bylaw	LT539545
15396-0003(LT)	Condominium Declaration Amendment	LT539546
15396-0003(LT)	Bylaw	LT625017
15396-0003(LT)	Notice of Change of Address	LT908252
15396-0003(LT)	Bylaw	LT1166840
15396-0003(LT)	Bylaw	LT1167394
15396-0003(LT)	Application for Court Order	LT1229032
15396-0003(LT)	Application to Register Judgment	LT1252871
15396-0003(LT)	Condominium Lien	LT1278876
15396-0003(LT)	Condominium Lien	OC457701
15396-0003(LT)	Condominium Lien	OC1311145
15396-0003(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0004(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0004(LT)	Condominium Declaration	LT535820
15396-0004(LT)	Bylaw	LT537966
15396-0004(LT)	Bylaw	LT537967
15396-0004(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0004(LT)	Bylaw	LT539545

PIN Number	Instrument Type	Instrument No.
15396-0004(LT)	Condominium Declaration Amendment	LT539546
15396-0004(LT)	Bylaw	LT625017
15396-0004(LT)	Notice of Change of Address	LT908252
15396-0004(LT)	Bylaw	LT1166840
15396-0004(LT)	Bylaw	LT1167394
15396-0004(LT)	Application for Court Order	LT1229032
15396-0004(LT)	Application to Register Judgment	LT1252871
15396-0004(LT)	Condominium Lien	LT1278877
15396-0004(LT)	Condominium Lien	OC457701
15396-0004(LT)	Condominium Lien	OC1311137
15396-0005(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0005(LT)	Condominium Declaration	LT535820
15396-0005(LT)	Bylaw	LT537966
15396-0005(LT)	Bylaw	LT537967
15396-0005(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0005(LT)	Bylaw	LT539545
15396-0005(LT)	Condominium Declaration Amendment	LT539546
15396-0005(LT)	Bylaw	LT625017
15396-0005(LT)	Notice of Change of Address	LT908252
15396-0005(LT)	Bylaw	LT1166840
15396-0005(LT)	Bylaw	LT1167394
15396-0005(LT)	Application for Court Order	LT1229032
15396-0005(LT)	Application to Register Judgment	LT1252871
15396-0005(LT)	Condominium Lien	LT1278878
15396-0005(LT)	Condominium Lien	OC457701
15396-0005(LT)	Condominium Lien	OC1311147
15396-0005(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0006(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0006(LT)	Condominium Declaration	LT535820
15396-0006(LT)	Bylaw	LT537966

PIN Number	Instrument Type	Instrument No.
15396-0006(LT)	Bylaw	LT537967
15396-0006(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0006(LT)	Bylaw	LT539545
15396-0006(LT)	Condominium Declaration Amendment	LT539546
15396-0006(LT)	Bylaw	LT625017
15396-0006(LT)	Notice of Change of Address	LT908252
15396-0006(LT)	Bylaw	LT1166840
15396-0006(LT)	Bylaw	LT1167394
15396-0006(LT)	Application for Court Order	LT1229032
15396-0006(LT)	Application to Register Judgment	LT1252871
15396-0006(LT)	Condominium Lien	LT1278879
15396-0006(LT)	Condominium Lien	OC457701
15396-0006(LT)	Condominium Lien	OC1311148
15396-0006(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0007(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0007(LT)	Condominium Declaration	LT535820
15396-0007(LT)	Bylaw	LT537966
15396-0007(LT)	Bylaw	LT537967
15396-0007(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0007(LT)	Bylaw	LT539545
15396-0007(LT)	Condominium Declaration Amendment	LT539546
15396-0007(LT)	Bylaw	LT625017
15396-0007(LT)	Notice of Change of Address	LT908252
15396-0007(LT)	Bylaw	LT1166840
15396-0007(LT)	Bylaw	LT1167394
15396-0007(LT)	Application for Court Order	LT1229032
15396-0007(LT)	Application to Register Judgment	LT1252871
15396-0007(LT)	Condominium Lien	LT1278880
15396-0007(LT)	Condominium Lien	OC457701
15396-0007(LT)	Condominium Lien	OC1311149

PIN Number	Instrument Type	Instrument No.
15396-0007(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0008(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0008(LT)	Condominium Declaration	LT535820
15396-0008(LT)	Bylaw	LT537966
15396-0008(LT)	Bylaw	LT537967
15396-0008(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0008(LT)	Bylaw	LT539545
15396-0008(LT)	Condominium Declaration Amendment	LT539546
15396-0008(LT)	Bylaw	LT625017
15396-0008(LT)	Notice of Change of Address	LT908252
15396-0008(LT)	Bylaw	LT1166840
15396-0008(LT)	Bylaw	LT1167394
15396-0008(LT)	Application for Court Order	LT1229032
15396-0008(LT)	Application to Register Judgment	LT1252871
15396-0008(LT)	Condominium Lien	LT1278881
15396-0008(LT)	Condominium Lien	OC457701
15396-0008(LT)	Condominium Lien	OC1311151
15396-0008(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0009(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0009(LT)	Condominium Declaration	LT535820
15396-0009(LT)	Bylaw	LT537966
15396-0009(LT)	Bylaw	LT537967
15396-0009(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0009(LT)	Bylaw	LT539545
15396-0009(LT)	Condominium Declaration Amendment	LT539546
15396-0009(LT)	Bylaw	LT625017
15396-0009(LT)	Notice of Change of Address	LT908252
15396-0009(LT)	Bylaw	LT1166840
15396-0009(LT)	Bylaw	LT1167394

PIN Number	Instrument Type	Instrument No.
15396-0009(LT)	Application for Court Order	LT1229032
15396-0009(LT)	Application to Register Judgment	LT1252871
15396-0009(LT)	Condominium Lien	LT1278882
15396-0009(LT)	Condominium Lien	OC457701
15396-0009(LT)	Condominium Lien	OC1311153
15396-0009(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0010(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0010(LT)	Condominium Declaration	LT535820
15396-0010(LT)	Bylaw	LT537966
15396-0010(LT)	Bylaw	LT537967
15396-0010(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0010(LT)	Bylaw	LT539545
15396-0010(LT)	Condominium Declaration Amendment	LT539546
15396-0010(LT)	Bylaw	LT625017
15396-0010(LT)	Notice of Change of Address	LT908252
15396-0010(LT)	Bylaw	LT1166840
15396-0010(LT)	Bylaw	LT1167394
15396-0010(LT)	Application for Court Order	LT1229032
15396-0010(LT)	Application to Register Judgment	LT1252871
15396-0010(LT)	Condominium Lien	LT1278883
15396-0010(LT)	Condominium Lien	OC457701
15396-0010(LT)	Condominium Lien	OC1311154
15396-0010(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0011(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0011(LT)	Condominium Declaration	LT535820
15396-0011(LT)	Bylaw	LT537966
15396-0011(LT)	Bylaw	LT537967
15396-0011(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0011(LT)	Bylaw	LT539545

PIN Number	Instrument Type	Instrument No.
15396-0011(LT)	Condominium Declaration Amendment	LT539546
15396-0011(LT)	Bylaw	LT625017
15396-0011(LT)	Notice of Change of Address	LT908252
15396-0011(LT)	Bylaw	LT1166840
15396-0011(LT)	Bylaw	LT1167394
15396-0011(LT)	Application for Court Order	LT1229032
15396-0011(LT)	Application to Register Judgment	LT1252871
15396-0011(LT)	Condominium Lien	LT1278884
15396-0011(LT)	Condominium Lien	OC1311136
15396-0011(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0012(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0012(LT)	Condominium Declaration	LT535820
15396-0012(LT)	Bylaw	LT537966
15396-0012(LT)	Bylaw	LT537967
15396-0012(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0012(LT)	Bylaw	LT539545
15396-0012(LT)	Condominium Declaration Amendment	LT539546
15396-0012(LT)	Bylaw	LT625017
15396-0012(LT)	Notice of Change of Address	LT908252
15396-0012(LT)	Bylaw	LT1166840
15396-0012(LT)	Bylaw	LT1167394
15396-0012(LT)	Application for Court Order	LT1229032
15396-0012(LT)	Application to Register Judgment	LT1252871
15396-0012(LT)	Condominium Lien	LT1278885
15396-0012(LT)	Condominium Lien	OC1311133
15396-0012(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0013(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0013(LT)	Condominium Declaration	LT535820
15396-0013(LT)	Bylaw	LT537966

PIN Number	Instrument Type	Instrument No.
15396-0013(LT)	Bylaw	LT537967
15396-0013(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0013(LT)	Bylaw	LT539545
15396-0013(LT)	Condominium Declaration Amendment	LT539546
15396-0013(LT)	Bylaw	LT625017
15396-0013(LT)	Notice of Change of Address	LT908252
15396-0013(LT)	Bylaw	LT1166840
15396-0013(LT)	Bylaw	LT1167394
15396-0013(LT)	Application for Court Order	LT1229032
15396-0013(LT)	Application to Register Judgment	LT1252871
15396-0013(LT)	Condominium Lien	LT1278886
15396-0013(LT)	Condominium Lien	OC457701
15396-0013(LT)	Condominium Lien	OC1311155
15396-0013(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0014(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0014(LT)	Condominium Declaration	LT535820
15396-0014(LT)	Bylaw	LT537966
15396-0014(LT)	Bylaw	LT537967
15396-0014(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0014(LT)	Bylaw	LT539545
15396-0014(LT)	Condominium Declaration Amendment	LT539546
15396-0014(LT)	Bylaw	LT625017
15396-0014(LT)	Notice of Change of Address	LT908252
15396-0014(LT)	Bylaw	LT1166840
15396-0014(LT)	Bylaw	LT1167394
15396-0014(LT)	Application for Court Order	LT1229032
15396-0014(LT)	Application to Register Judgment	LT1252871
15396-0014(LT)	Condominium Lien	LT1278887
15396-0014(LT)	Condominium Lien	OC457701
15396-0014(LT)	Condominium Lien	OC1311156

PIN Number	Instrument Type	Instrument No.
15396-0014(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0015(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0015(LT)	Condominium Declaration	LT535820
15396-0015(LT)	Bylaw	LT537966
15396-0015(LT)	Bylaw	LT537967
15396-0015(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0015(LT)	Bylaw	LT539545
15396-0015(LT)	Condominium Declaration Amendment	LT539546
15396-0015(LT)	Bylaw	LT625017
15396-0015(LT)	Notice of Change of Address	LT908252
15396-0015(LT)	Bylaw	LT1166840
15396-0015(LT)	Bylaw	LT1167394
15396-0015(LT)	Application for Court Order	LT1229032
15396-0015(LT)	Application to Register Judgment	LT1252871
15396-0015(LT)	Condominium Lien	LT1278888
15396-0015(LT)	Condominium Lien	OC457701
15396-0015(LT)	Condominium Lien	OC1311157
15396-0015(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0016(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0016(LT)	Condominium Declaration	LT535820
15396-0016(LT)	Bylaw	LT537966
15396-0016(LT)	Bylaw	LT537967
15396-0016(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0016(LT)	Bylaw	LT539545
15396-0016(LT)	Condominium Declaration Amendment	LT539546
15396-0016(LT)	Bylaw	LT625017
15396-0016(LT)	Notice of Change of Address	LT908252
15396-0016(LT)	Bylaw	LT1166840
15396-0016(LT)	Bylaw	LT1167394

PIN Number	Instrument Type	Instrument No.
15396-0016(LT)	Application for Court Order	LT1229032
15396-0016(LT)	Application to Register Judgment	LT1252871
15396-0016(LT)	Condominium Lien	LT1278889
15396-0016(LT)	Condominium Lien	OC457701
15396-0016(LT)	Condominium Lien	OC1311158
15396-0016(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0017(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0017(LT)	Condominium Declaration	LT535820
15396-0017(LT)	Bylaw	LT537966
15396-0017(LT)	Bylaw	LT537967
15396-0017(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0017(LT)	Bylaw	LT539545
15396-0017(LT)	Condominium Declaration Amendment	LT539546
15396-0017(LT)	Bylaw	LT625017
15396-0017(LT)	Notice of Change of Address	LT908252
15396-0017(LT)	Bylaw	LT1166840
15396-0017(LT)	Bylaw	LT1167394
15396-0017(LT)	Application for Court Order	LT1229032
15396-0017(LT)	Application to Register Judgment	LT1252871
15396-0017(LT)	Condominium Lien	LT1278890
15396-0017(LT)	Condominium Lien	OC457701
15396-0017(LT)	Condominium Lien	OC1311159
15396-0017(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0018(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0018(LT)	Condominium Declaration	LT535820
15396-0018(LT)	Bylaw	LT537966
15396-0018(LT)	Bylaw	LT537967
15396-0018(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0018(LT)	Bylaw	LT539545

PIN Number	Instrument Type	Instrument No.
15396-0018(LT)	Condominium Declaration Amendment	LT539546
15396-0018(LT)	Bylaw	LT625017
15396-0018(LT)	Notice of Change of Address	LT908252
15396-0018(LT)	Bylaw	LT1166840
15396-0018(LT)	Bylaw	LT1167394
15396-0018(LT)	Application for Court Order	LT1229032
15396-0018(LT)	Application to Register Judgment	LT1252871
15396-0018(LT)	Condominium Lien	OC457701
15396-0018(LT)	Condominium Lien	OC1311160
15396-0018(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0019(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0019(LT)	Condominium Declaration	LT535820
15396-0019(LT)	Bylaw	LT537966
15396-0019(LT)	Bylaw	LT537967
15396-0019(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0019(LT)	Bylaw	LT539545
15396-0019(LT)	Condominium Declaration Amendment	LT539546
15396-0019(LT)	Bylaw	LT625017
15396-0019(LT)	Notice of Change of Address	LT908252
15396-0019(LT)	Bylaw	LT1166840
15396-0019(LT)	Bylaw	LT1167394
15396-0019(LT)	Condominium Lien	LT1175328
15396-0019(LT)	Notice of Condominium Lien	LT1363617
15396-0019(LT)	Notice of Condominium Lien	LT1390735
15396-0020(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0020(LT)	Condominium Declaration	LT535820
15396-0020(LT)	Bylaw	LT537966
15396-0020(LT)	Bylaw	LT537967
15396-0020(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0020(LT)	Bylaw	LT539545

PIN Number	Instrument Type	Instrument No.
15396-0020(LT)	Condominium Declaration Amendment	LT539546
15396-0020(LT)	Bylaw	LT625017
15396-0020(LT)	Notice of Change of Address	LT908252
15396-0020(LT)	Bylaw	LT1166840
15396-0020(LT)	Bylaw	LT1167394
15396-0020(LT)	Condominium Lien	OC836621
15396-0020(LT)	Condominium Lien	OC1311139
15396-0020(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0021(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0021(LT)	Condominium Declaration	LT535820
15396-0021(LT)	Bylaw	LT537966
15396-0021(LT)	Bylaw	LT537967
15396-0021(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0021(LT)	Bylaw	LT539545
15396-0021(LT)	Condominium Declaration Amendment	LT539546
15396-0021(LT)	Bylaw	LT625017
15396-0021(LT)	Charge	LT787172
15396-0021(LT)	Notice of Assignment of Rents	LT787173
15396-0021(LT)	Notice of Change of Address	LT908252
15396-0021(LT)	Bylaw	LT1166840
15396-0021(LT)	Bylaw	LT1167394
15396-0021(LT)	Charge	LT1376123
15396-0021(LT)	Condominium Lien	OC836620
15396-0021(LT)	Condominium Lien	OC1311138
15396-0021(LT)	Execution Number 07-0001426 and Execution Number 07-0002142 as in Transfer	OC1373486
15396-0022(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0022(LT)	Condominium Declaration	LT535820
15396-0022(LT)	Bylaw	LT537966
15396-0022(LT)	Bylaw	LT537967

PIN Number	Instrument Type	Instrument No.
15396-0022(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0022(LT)	Bylaw	LT539545
15396-0022(LT)	Condominium Declaration Amendment	LT539546
15396-0022(LT)	Charge	LT539592
15396-0022(LT)	Bylaw	LT625017
15396-0022(LT)	Charge	LT866056
15396-0022(LT)	Notice of Change of Address	LT908252
15396-0022(LT)	Condominium Lien	LT1114482
15396-0022(LT)	Bylaw	LT1166840
15396-0022(LT)	Bylaw	LT1167394
15396-0022(LT)	Condominium Lien	LT1175330
15396-0022(LT)	Notice of Condominium Lien	LT1363618
15396-0022(LT)	Notice of Condominium Lien	LT1390736
15396-0023(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0023(LT)	Condominium Declaration	LT535820
15396-0023(LT)	Bylaw	LT537966
15396-0023(LT)	Bylaw	LT537967
15396-0023(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0023(LT)	Bylaw	LT539545
15396-0023(LT)	Condominium Declaration Amendment	LT539546
15396-0023(LT)	Bylaw	LT625017
15396-0023(LT)	Notice of Change of Address	LT908252
15396-0023(LT)	Bylaw	LT1166840
15396-0023(LT)	Bylaw	LT1167394
15396-0023(LT)	Charge	OC604318
15396-0024(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0024(LT)	Condominium Declaration	LT535820
15396-0024(LT)	Bylaw	LT537966
15396-0024(LT)	Bylaw	LT537967
15396-0024(LT)	Notice of Insurance Trust Agreement	LT537968

PIN Number	Instrument Type	Instrument No.
15396-0024(LT)	Bylaw	LT539545
15396-0024(LT)	Condominium Declaration Amendment	LT539546
15396-0024(LT)	Bylaw	LT625017
15396-0024(LT)	Notice of Change of Address	LT908252
15396-0024(LT)	Bylaw	LT1166840
15396-0024(LT)	Bylaw	LT1167394
15396-0024(LT)	Charge	OC1316404
15396-0025(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0025(LT)	Condominium Declaration	LT535820
15396-0025(LT)	Bylaw	LT537966
15396-0025(LT)	Bylaw	LT537967
15396-0025(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0025(LT)	Bylaw	LT539545
15396-0025(LT)	Condominium Declaration Amendment	LT539546
15396-0025(LT)	Bylaw	LT625017
15396-0025(LT)	Notice of Change of Address	LT908252
15396-0025(LT)	Bylaw	LT1166840
15396-0025(LT)	Bylaw	LT1167394
15396-0025(LT)	Condominium Lien	LT1175333
15396-0025(LT)	Notice of Condominium Lien	LT1363621
15396-0025(LT)	Condominium Lien	LT1408238
15396-0026(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0026(LT)	Condominium Declaration	LT535820
15396-0026(LT)	Bylaw	LT537966
15396-0026(LT)	Bylaw	LT537967
15396-0026(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0026(LT)	Bylaw	LT539545
15396-0026(LT)	Condominium Declaration Amendment	LT539546
15396-0026(LT)	Bylaw	LT625017
15396-0026(LT)	Notice of Change of Address	LT908252

PIN Number	Instrument Type	Instrument No.
15396-0026(LT)	Bylaw	LT1166840
15396-0026(LT)	Bylaw	LT1167394
15396-0026(LT)	Condominium Lien	LT1175334
15396-0026(LT)	Notice of Condominium Lien	LT1363621
15396-0026(LT)	Condominium Lien	LT1408238
15396-0027(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0027(LT)	Condominium Declaration	LT535820
15396-0027(LT)	Bylaw	LT537966
15396-0027(LT)	Bylaw	LT537967
15396-0027(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0027(LT)	Bylaw	LT539545
15396-0027(LT)	Condominium Declaration Amendment	LT539546
15396-0027(LT)	Bylaw	LT625017
15396-0027(LT)	Notice of Change of Address	LT908252
15396-0027(LT)	Bylaw	LT1166840
15396-0027(LT)	Bylaw	LT1167394
15396-0027(LT)	Condominium Lien	OC836623
15396-0027(LT)	Condominium Lien	OC1311131
15396-0028(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0028(LT)	Condominium Declaration	LT535820
15396-0028(LT)	Bylaw	LT537966
15396-0028(LT)	Bylaw	LT537967
15396-0028(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0028(LT)	Bylaw	LT539545
15396-0028(LT)	Condominium Declaration Amendment	LT539546
15396-0028(LT)	Bylaw	LT625017
15396-0028(LT)	Notice of Change of Address	LT908252
15396-0028(LT)	Bylaw	LT1166840
15396-0028(LT)	Bylaw	LT1167394
15396-0028(LT)	Charge	OC1311901

PIN Number	Instrument Type	Instrument No.
15396-0028(LT)	Transfer of Charge	OC1791803
15396-0029(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0029(LT)	Condominium Declaration	LT535820
15396-0029(LT)	Bylaw	LT537966
15396-0029(LT)	Bylaw	LT537967
15396-0029(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0029(LT)	Bylaw	LT539545
15396-0029(LT)	Condominium Declaration Amendment	LT539546
15396-0029(LT)	Bylaw	LT625017
15396-0029(LT)	Notice of Change of Address	LT908252
15396-0029(LT)	Bylaw	LT1166840
15396-0029(LT)	Bylaw	LT1167394
15396-0029(LT)	Condominium Lien	LT1175336
15396-0029(LT)	Notice of Condominium Lien	LT1363622
15396-0029(LT)	Condominium Lien	LT1390739
15396-0030(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0030(LT)	Condominium Declaration	LT535820
15396-0030(LT)	Bylaw	LT537966
15396-0030(LT)	Bylaw	LT537967
15396-0030(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0030(LT)	Bylaw	LT539545
15396-0030(LT)	Condominium Declaration Amendment	LT539546
15396-0030(LT)	Bylaw	LT625017
15396-0030(LT)	Notice of Change of Address	LT908252
15396-0030(LT)	Bylaw	LT1166840
15396-0030(LT)	Bylaw	LT1167394
15396-0030(LT)	Condominium Lien	OC836624
15396-0030(LT)	Condominium Lien	OC1311125
15396-0031(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0031(LT)	Condominium Declaration	LT535820

PIN Number	Instrument Type	Instrument No.
15396-0031(LT)	Bylaw	LT537966
15396-0031(LT)	Bylaw	LT537967
15396-0031(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0031(LT)	Bylaw	LT539545
15396-0031(LT)	Condominium Declaration Amendment	LT539546
15396-0031(LT)	Bylaw	LT625017
15396-0031(LT)	Notice of Change of Address	LT908252
15396-0031(LT)	Bylaw	LT1166840
15396-0031(LT)	Bylaw	LT1167394
15396-0031(LT)	Condominium Lien	OC836622
15396-0031(LT)	Condominium Lien	OC1311113
15396-0032(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0032(LT)	Condominium Declaration	LT535820
15396-0032(LT)	Bylaw	LT537966
15396-0032(LT)	Bylaw	LT537967
15396-0032(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0032(LT)	Bylaw	LT539545
15396-0032(LT)	Condominium Declaration Amendment	LT539546
15396-0032(LT)	Bylaw	LT625017
15396-0032(LT)	Notice of Change of Address	LT908252
15396-0032(LT)	Bylaw	LT1166840
15396-0032(LT)	Bylaw	LT1167394
15396-0032(LT)	Charge	OC1353106
15396-0032(LT)	Notice of Security Interest	OC1481606
15396-0032(LT)	Transfer of Charge	OC1791803
15396-0032(LT)	Charge	OC1873265
15396-0033(LT)	Notice of Condominium Maintenance Agreement	LT530487
15396-0033(LT)	Condominium Declaration	LT535820
15396-0033(LT)	Bylaw	LT537966
15396-0033(LT)	Bylaw	LT537967

PIN Number	Instrument Type	Instrument No.
15396-0033(LT)	Notice of Insurance Trust Agreement	LT537968
15396-0033(LT)	Bylaw	LT539545
15396-0033(LT)	Condominium Declaration Amendment	LT539546
15396-0033(LT)	Bylaw	LT625017
15396-0033(LT)	Notice of Change of Address	LT908252
15396-0033(LT)	Bylaw	LT1166840
15396-0033(LT)	Bylaw	LT1167394

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands provided they are complied with and do not materially adversely affect the ordinary use and operation of the Property.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines) hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any minor defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with authorities or private or public utilities affecting the Lands.

7. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto provided same do not individually or in the aggregate, materially affect the use, enjoyment or value of the Property or any part thereof.

8. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act* (Ontario), save and except Section 44(1)(11).

9. The rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention.

**Schedule E – Copy of Judgment of the Honourable Justice Kane of
the Ontario Superior Court, dated February 2, 2017, in Court file No.
01-CV-18977**

See attached.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
MR. JUSTICE KANE

)
)
)

TUESDAY, THE 2nd
DAY OF FEBRUARY, 2017

BETWEEN:

(Court Seal)

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC., 1436984 ONTARIO LTD.,
AMIRA GABRIEL, 1496055 ONTARIO INC., 117490 CANADA LTD., the ESTATE OF
SHEILA EBERTS, 2201894 ONTARIO INC., BBG EQUITY MANAGEMENT
CORPORATION and POWELL GRIFFITHS

Plaintiffs

and

CLAUDE ALAIN BURDET, IN TRUST, CLAUDE-ALAIN BURDET, ENTREPRISES TED
RUBAC INC., CARLETON CONDOMINIUM CORPORATION NO. 396 and 1443957
ONTARIO INC.

Defendants

JUDGMENT

THIS ACTION was heard on September 8, 10 -12, 15 – 19, 2014; January 26 – 29,
February 2-6, March 2 – 5, May 4 – 8, 11 – 14, 2015 (with Written Argument: June 8, July 8 and
14, 2015) without a jury at the court house, 161 Elgin Street, Ottawa, Ontario, K2P 2K1, in the
presence of the lawyers for all parties.

The Reasons and Supplementary Reasons for Decision are dated August 8 and September
30, 2016, respectively (the “Decision”).

ON READING THE PLEADINGS AND HEARING THE EVIDENCE and submissions of the lawyers for the parties,

1. THIS COURT DECLARES that Claude-Alain Burdet has oppressed the Plaintiffs who are the Minority unit owners.

2. THIS COURT ORDERS that Carleton Condominium Corporation 396 ("CCC 396") is terminated as a condominium corporation (the "Termination") pursuant to section 128 of the Condominium Act, 1998, S.O. 1998, c.19.

3. THIS COURT ORDERS that Surgeson Carson Associates Inc. is appointed as receiver and manager of CCC 396 to carry out the Termination subject to paragraph 4 herein with powers which shall include but are not limited to the following:
 - a) To market and sell all condominium units in CCC 396 as part of the Termination;

 - b) To market and sell any real property, personal property and assets of CCC 396 as part of the Termination;

 - c) To register a copy of this judgment on title as to CCC 396 and all units therein;

 - d) To use the assets of CCC 396, including the above proceeds of to pay all claims for the payment of money against CCC 396, with the remainder of the assets and proceeds of disposition, if any, to be distributed amongst the unit owners in proportion to their proportionate share of the common elements of the corporation as stated in the Declaration of CCC 396; and

 - e) To manage the affairs of CCC 396 until the Termination;

 - f) To apply and obtain Court approval for its full powers and duties as receiver and manager.

4. THIS COURT ORDERS that the April 2, 2002 interim appointment of CMG as interim Administrator of CCC 396 will continue, with the powers of duties specified in the decision of this Court dated April 3, 2012, until the expiration of the appeal period of the Decision and this judgment and during any period of such appeal and stay thereof, namely until the rendering of any appeal decision. CMG's appointment as interim Administrator of CCC 396 otherwise is terminated as of the date hereof.

5. THIS COURT ORDERS that CCC 396 shall have judgment including interest thereon to August 8, 2016, against the Plaintiffs in the amounts as follows:

Plaintiff	Unit Number	(Owing to Dec. 31st 2014)	Judgment As of August 8, 2016
P. Dewan (April 1, 2002 - 9,539.00 double credit)	101-A	43,719.27	52,958.49
P. Dewan	101-A	25,519.06	31,987.01
Domicile Developments Inc.	101-D	44,801.41	54,269.31
1436984 Ont. Inc	102	43,508.82	52,703.57
Amira Gabriel	103	60,576.61	68,454.40
1496055 Ont. Inc.	104	29,000.59	35,129.30
1496055 Ont. Inc.	105	28,756.68	34,833.85
Amira Gabriel	107	55,567.63	67,310.78
2201894 Ont. Inc.	201	32,301.01	39,127.20
BBG Equity Management	204	43,248.69	52,388.46
Powell Griffiths	205	43,251.61	52,392.00

together with interest thereon at the post-judgment interest rate of 2.0% per annum from August 8, 2016 until payment.

6. THIS COURT ORDERS that ETRE shall have judgment against CCC 396 on promissory note 6 in the amount of \$20,000, together with interest at a rate of 7% per annum from October 1, 2002 until December 31, 2003, and thereafter at the pre-judgment rate of interest provided under the Courts of Justice Act to August 8, 2016.

7. THIS COURT ORDERS that ETRE shall have judgment against CCC 396 on promissory note 7 in the amount of \$30,000, together with interest at a rate of 7% per annum from October 1, 2002 until December 31, 2004, and thereafter at the pre-judgment rate of interest provided under the Courts Justice Act to August 8, 2016.

8. THIS COURT ORDERS that Claude-Alain Burdet shall have judgment against CCC 396 for his 2001 time, in the amount of \$20,000, together with pre-judgment interest under the Courts of Justice Act from January 1, 2002 to August 8, 2016.

9. THIS COURT ORDERS that Claude-Alain Burdet is personally liable as a Defendant for all amounts ordered against the party named as "Claude-Alain Burdet, in Trust".

10. THIS COURT ORDERS that the balance of the claim and counterclaim are dismissed.

11. THIS COURT ORDERS that the costs of this proceeding are reserved pending written submissions by those parties claiming costs.

THIS JUDGMENT BEARS INTEREST at the rate of 2.00 per cent per year commencing on August 8, 2016.

DATED this 2nd day of February, 2017


Mr. Justice Paul Kane

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC. et al

Plaintiff

Court File No. 01-CV-18977

-and-

CLAUDE ALAIN BURDET IN TRUST, et al

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Ottawa

ORDER

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Lawyer for MNP Ltd.,
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4. THIS COURT ORDERS that the April 2, 2002 interim appointment of CMG as interim Administrator of CCC 396 will continue, with the powers of duties specified in the decision of this Court dated April 3, 2012, until the expiration of the appeal period of the Decision and this judgment and during any period of such appeal and stay thereof, namely until the rendering of any appeal decision. CMG's appointment as interim Administrator of CCC 396 otherwise is terminated as of the date hereof.

5. THIS COURT ORDERS that CCC 396 shall have judgment including interest thereon to August 8, 2016, against the Plaintiffs in the amounts as follows:

Plaintiff	Unit Number	(Owing to Dec. 31st 2014)	Judgment As of August 8, 2016
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P. Dewan	101-A	25,519.06	31,987.01
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1496055 Ont. Inc.	105	28,756.68	34,833.85
Amira Gabriel	107	55,567.63	67,310.78
2201894 Ont. Inc.	201	32,301.01	39,127.20
BBG Equity Management	204	43,248.69	52,388.46
Powell Griffiths	205	43,251.61	52,392.00

together with interest thereon at the post-judgment interest rate of 2.0% per annum from August 8, 2016 until payment.

6. THIS COURT ORDERS that ETRE shall have judgment against CCC 396 on promissory note 6 in the amount of \$20,000, together with interest at a rate of 7% per annum from October 1, 2002 until December 31, 2003, and thereafter at the pre-judgment rate of interest provided under the Courts of Justice Act to August 8, 2016.

7. THIS COURT ORDERS that ETRE shall have judgment against CCC 396 on promissory note 7 in the amount of \$30,000, together with interest at a rate of 7% per annum from October 1, 2002 until December 31, 2004, and thereafter at the pre-judgment rate of interest provided under the Courts Justice Act to August 8, 2016.

8. THIS COURT ORDERS that Claude-Alain Burdet shall have judgment against CCC 396 for his 2001 time, in the amount of \$20,000, together with pre-judgment interest under the Courts of Justice Act from January 1, 2002 to August 8, 2016.

9. THIS COURT ORDERS that Claude-Alain Burdet is personally liable as a Defendant for all amounts ordered against the party named as "Claude-Alain Burdet, in Trust".

10. THIS COURT ORDERS that the balance of the claim and counterclaim are dismissed.

11. THIS COURT ORDERS that the costs of this proceeding are reserved pending written submissions by those parties claiming costs.

THIS JUDGMENT BEARS INTEREST at the rate of 2.00 per cent per year commencing on August 8, 2016.

DATED this 2nd day of February, 2017


Mr. Justice Paul Kane

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC. et al

Plaintiff

Court File No. 01-CV-18977

-and-

CLAUDE ALAIN BURDET IN TRUST, et al

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Ottawa

ORDER

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receiver of CCC 396
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4

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF THE COURT-APPOINTED RECEIVERSHIP
CARLETON CONDOMINIUM CORPORATION NO. 396
OF THE CITY OF OTTAWA, PROVINCE OF ONTARIO

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS

Applicant

and

CARLETON CONDOMINIUM CORPORATION NO. 396, CLAUDE ALAIN BURDET, IN
TRUST, CLAUDE-ALAIN BURDET, 1443957 ONTARIO INC., and ENTREPRISES TED
RUBAC ENTERPRISES INC.

Respondents

SECOND REPORT OF MNP LTD., IN ITS
CAPACITY AS COURT-APPOINTED RECEIVER OF
CARLETON CONDOMINIUM CORPORATION NO. 396

OCTOBER 22, 2021

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- 1** Receivership Order dated May 31, 2019
- 2** First Report of the Receiver dated October 6, 2020
- 3** Approval and Vesting Order dated November 26, 2020
- 4** Notice of Statement of Receiver
- 5** Summary and invoices for amounts due to Nelligan O'Brien Payne LLP
- 6** Summary and invoices for amounts due to Low Murchison Radnoff LLP
- 7** Summary and invoice for amounts due to 125896 Ontario Inc. (CMG)
- 8** Summary and support for amounts due to Domicile Development Inc.
- 9** Summary and invoices for amounts due to Marcil Lavallee
- 10** Summary and invoices for amounts due to Letellier Gosselin Duclos
- 11** Summary of amounts due by unit holders on September 30, 2021
- 12** Canada Revenue Agency letter dated September 9, 2021
- 13** Interim statement of receipts and disbursements

INTRODUCTION AND BACKGROUND

1. Carleton Condominium Corporation No. 369 (“**CCC396**”) was a condominium corporation created in 1987 with its registered office address located in Ottawa, Ontario.
2. CCC396 was previously controlled by Claude-Alain Burdet, its sole director. Mr. Burdet represented the interests of several related parties, including Janet Burdet, a family trust, Entreprises Ted Rubac Inc. and 1457563 Ontario Inc. (collectively, the “**Burdet Group**”).
3. CCC396 consisted of 33 individual condo units which were all located at 112 Nelson Street, Ottawa, Ontario (the “**Real Property**”). The Burdet Group collectively owns 57.2% of the condo units.
4. In 2001, the minority unit holders comprised of several unrelated parties, commenced an action against the Burdet Group in Court File No. 09-45430 (the “**Main Action**”) alleging, among other things, that the Burdet Group was using its control for financial gain to the detriment of the minority unit holders.
5. The Burdet Group denied these allegations and counterclaimed for common expenses not paid by the minority group and for other relief. The Burdet Group was represented by Claude-Alain Burdet as the group’s legal counsel in the litigation described in this report. As of the date of this report, Mr. Burdet is not a practicing lawyer.
6. CCC396 commenced a separate action against the Burdet Group and certain unit owners and tenants in 2009 in Court File No. 01-CV-18977 (the “**Second Action**”) in which it sought, among other things, an Order of possession, termination of leases and for judgment in an amount to be determined at trial. The Burdet Group counterclaimed in the Second Action, seeking, among other things, a declaration of oppression against CCC396 and damages.
7. The litigation in the Main Action and the Second Action continued until the summer of 2021, when the Burdet Group’s counterclaim in the Second Action was dismissed by Pronouncement of Justice Roger on July 8, 2021. As of the date of this report, Justice Roger has not issued written reasons or a written endorsement.
8. On April 2, 2002, Justice Lalonde, found that the Burdet Group repeatedly breached an Order restricting its collection of unpaid common expenses and, by Order appointed 125896 Ontario

Inc. c.o.b. as Condominium Management Group (“**CMG**”) to be the interim administrator to take over the management of CCC396 and complete a forensic audit.

9. On April 13, 2012, Justice Kane, in the Main Action, granted a partial summary judgement in favour of CCC396 in the amount of \$109,441.00 against the Burdet Group.
10. On August 31, 2014, Justice Kane granted in the Main Action, a further judgement in favour of CCC396 in the amount of \$380,970.00 against the Burdet Group and upheld registration of certain liens against most of the units controlled by the Burdet Group.
11. On March 17, 2015, Justice Kane ordered, in the Main Action, the Burdet Group to pay costs in the amount of \$790,915.00 to CCC396 for expenses incurred related to the ongoing litigation. The Burdet Group was to have paid these costs within 30 days. As of the date of this report, these costs remain unpaid.
12. On May 25, 2016, the Court of Appeal, in the Main Action, awarded CCC396 an additional \$27,000.00 in costs when it dismissed the Burdet Group’s appeal in the Second Action.
13. On September 30, 2016, Justice Robert, in the Main Action, dismissed the Burdet Group’s motion to stay the Court of Appeal decision and ordered the Burdet Group to pay CCC396 \$2,000.00 in costs for the unsuccessful motion.
14. On September 30, 2016, Justice Kane, issued his final supplementary reasons, in the Main Action, which include the order terminating the condominium corporation.
15. On February 17, 2017, Justice Kane further ordered CCC396, in the Main Action, to pay common expenses and interest in the amount of \$70,000.00 to the Burdet Group and denied all of the other claims made by the Burdet Group.
16. On August 18, 2017, Justice Gomery awarded costs, in the Main Action, in the amount of \$500.00 to CCC396 related to another motion filed by the Burdet Group which was dismissed by the Court.
17. On February 28, 2018, the Court of Appeal, in the Second Action, fixed the trial costs and appeal costs in the amount of \$183,500.00 in favour of CCC396 to be paid by the Burdet Group.
18. On April 9, 2018, the Ontario Court of Appeal, in the Main Action, ordered the Burdet Group to pay \$16,000.00 to CCC396 when it dismissed the brought by the Burdet Group to set aside a

judgment that had been made against it in the Main Action. The judgment had been appealed unsuccessfully to the Court of Appeal and the Burdet Group was seeking leave to appeal to the Supreme Court of Canada.

19. The financial performance of CCC396 has been impacted substantially by the ongoing litigation and in the absence of receiving the various cost awards against the Burdet Group, CCC396 could not pay its accounts to the Creditors (as later defined herein).

APPOINTMENT OF RECEIVER

20. By Judgment dated February 2, 2017, among other things, Justice Kane terminated CCC396 as a condominium corporation pursuant to section 128 of the *Condominium Act* and appointed Surgeson Carson Associates Inc. (“**Carson**”) as receiver and manager of CCC396 to carry out the termination, with powers that included marketing and selling all condominium units, real property and assets and to apply to the Court for approval of its full powers and duties as receiver and manager. A copy of this Order is attached at Appendix “1” to the Receiver’s first report dated October 6, 2020 (the “**First Report**”).
21. Under the February 2, 2017 Order, the powers of Carson were subject to the continued interim appointment of CMG as interim administrator of CCC396, which interim administration was to continue until the expiration of the appeal period of the Order and during any period of appeal and stay thereof.
22. The Burdet Group appealed the February 2, 2017 Order to the Ontario Court Appeal, which appeal was unsuccessful. A copy of the Court of Appeal’s Reasons for Decision dated February 28, 2018 are attached at Appendix “2” of the First Report.
23. The Burdet Group sought leave to appeal to the Supreme Court of Canada, which leave was denied on May 2, 2019, as shown on a copy of the Judgement attached at Appendix “3” of the First Report.
24. As a result of Directions for Conservatory Measures issued December 11, 2017 by the Office of the Superintendent of Bankruptcy, Carson was no longer able to act as receiver and manager of CCC396.
25. By Notice of Motion dated November 6, 2018, CCC396 brought a motion scheduled to be heard before Justice Kane on November 15, 2018 for various relief, including an Order substituting MNP Ltd. (“**MNP**”) in place of Carson as the receiver and manager contemplated to replace the

interim administrator to carry out the termination of CCC396 as set out in the February 2, 2017 Order and for leave for MNP to apply for an Order setting out the authority and powers of the receiver and manager.

26. By Order of Justice Kane dated May 29, 2019, MNP replaced Carson as receiver and manager (the “**Receiver**”) of CCC396, with leave for MNP to apply for a further Order setting out the authority and powers of the Receiver. A copy of this Order is attached at Appendix “4” of the First Report.
27. The powers, rights, remedies and responsibilities of the Receiver are set out in an Order of Justice Kane dated May 29, 2019 and entered on May 31, 2019 (the “**Receivership Order**”). The Receivership Order sets out the property over which the Receiver was appointed as constituting of all the assets, undertakings and properties of CCC396, including Real Property, unit holders’ interests and all proceeds thereof (the “**Property**”). A copy of the Receivership Order is attached at **Appendix “1”**.
28. The First Report is attached as **Appendix “2”**.
29. Pursuant to the Order of the Justice R. Smith dated November 26, 2020, (the “**Approval and Vesting Order**”) the Receiver was authorized to proceed with the completion of the Sales Transaction (as defined below) for the sale of the Real Property. Attached as **Appendix “3”** is a copy of the Approval and Vesting Order issued on the that same day.
30. The prescribed notices and statements of the Receiver pursuant to ss. 245(1) and 246(1) of the BIA were sent to the creditors of CCC396. A copy of this notice is attached at **Appendix “4”**.

PURPOSE OF THIS REPORT

31. The purpose of this second report of the Receiver to the Court (the “**Second Report**”) is to:
 - (a) report on the activities of the Receiver since the First Report;
 - (b) seek the Court’s approval of the activities and conduct of the Receiver and that of its legal counsel as described in this Second Report;
 - (c) seek the Court’s approval to unseal confidential appendices included in the First Report which were sealed under the Approval and Vesting Order;

- (d) seek the Court's approval and direction in respect of a final distribution for the payment of the following disbursements incurred prior to the appointment of the Receiver/MNP (collectively, the "**Creditors**"):
 - (i) Canada Revenue Agency (HST) (the "**CRA**") in the amount \$78,473.75;
 - (ii) Nelligan O'Brien Payne LLP ("**Nelligan**") in the amount of \$474,897.92;
 - (iii) Low Murchison Radnoff LLP ("**LMR**") in the amount of \$340,313.61;
 - (iv) CMG in the amount of \$87,801.00;
 - (v) Domicile Development Inc. ("**Domicile**") in the amount of \$109,905.91;
 - (vi) Marcil Lavallee ("**Lavallee**") in the amount of \$143,723.01; and
 - (vii) Letellier Gosselin Duclos ("**LGD**") in the amount of \$62,685.80.
- (e) seek the Court's approval of the Receiver's Interim Statement of Receipts and Disbursements ("**Interim SRD**").

32. All amounts referred to in this Second Report are in Canadian dollars unless otherwise noted.

NOTICE TO READER

33. This Second Report is prepared solely for the purpose of assisting the Court in making a determination of whether to approve the relief being sought.

34. In preparing this Second Report, the Receiver has relied upon information from third party sources (collectively, the "**Information**"). Certain of the information contained herein may refer to, or be based on, the Information. As the Information has been provided by other parties or obtained from documents filed with this Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook.

RECEIVERSHIP ACTIVITIES FOLLOWING THE APPROVAL ORDERS

35. Since the date of the First Report, the Receiver has undertaken the following actions in accordance with the Receivership Order and the Approval and Vesting Order:

- (a) completed the Sales Transaction (as defined below) for the sale of the Real Property in accordance with the Approval and Vesting Order;
- (b) arranged for the transfer of keys and providing vacant possession;
- (c) paid the outstanding City of Ottawa municipal tax invoices for all units for a total payment of \$144,423.42;
- (d) arranged for the termination of utilities in respect of the Real Property;
- (e) arranged for the termination of the insurance in respect of the Real Property and the return of the excess premiums;
- (f) terminated the role of CMG as property manager;
- (g) completed the year-end financial statements up to and including December 31, 2020;
- (h) filed of all HST returns as prescribed;
- (i) directed our legal representative to remit payment to the execution creditor Toitures Raymond et Associes in the amount of \$32,212.60;
- (j) continued to receive updates from legal counsel regarding the status of the various on-going Court proceedings;
- (k) compiled of supporting documents for the final payments to be made for expenses of CCC396 and the Court Ordered property manager; and
- (l) requested relevant information from CMG regarding the books and records of CCC396;

THE REAL PROPERTY

36. As of May 31, 2019, CCC396 was being managed by CMG. Each unit owner was responsible for management of their individual units. CMG managed the collection of waste, common area utility charges, insurance, and general site maintenance. This management function was terminated in January 2021.

THE SALES AGREEMENT AND TRANSACTION

37. On June 15, 2020, the Receiver accepted the final offer to purchase (“**Sales Agreement**”), which is attached as Confidential Appendix “D” to the First Report. The Sale Agreement was unconditional, provided a deposit of \$500,000.00 and was binding (the “**Sales Transaction**”) subject to approval of the Court.

38. On January 25, 2021, the Sales Transaction closed pursuant to the Sales Agreement and the Approval and Vesting Order.

TERMINATION OF ONGOING LITIGATION

39. On August 31, 2020, Justice Gomery ordered, in the Main Action, the Burdet Group to post security for costs, in the amount of \$836,415.00 within 30 days, failing which its counterclaim could not be listed for trial and CCC396 could move for dismissal of the counterclaim.
40. The Burdet Group did not satisfy the payment requirements of the August 31, 2020 Order.
41. On October 29, 2020, Justice Gomery issued a costs endorsement against the Burdet Group in the amount of \$15,650.71 to be paid within 30 days. This amount was not paid by the Burdet Group.
42. On February 2, 2021, CCC396 filed a motion seeking the dismissal of the Burdet Group's counterclaim in the Second Action.
43. On March 19, 2021, Justice Gomery refused to dismiss the counterclaim and provided CCC396 30 days to file a supplemental affidavit to address an issue pertaining to service of the Court materials raised by the Burdet Group.
44. Due to a notification issue, the lawyers for CCC396 did not receive Justice Gomery's endorsement until June 11, 2021. Justice Gomery agreed to extend the period to file a supplemental affidavit to July 11, 2021.
45. By Order made by pronouncement on July 8, 2021, Mr. Justice Roger validated service on all parties and granted CCC396 motion to dismiss the Burdet Group's and granted costs of \$10,000.00 in favour CCC396.
46. The dismissal of the Burdet Group's counterclaim terminates all the litigation between CCC396, the minority owners and the Burdet Group. The Receiver is not aware of any other outstanding legal matter that could impact any further distributions to the Creditors of CCC396.

AMOUNTS DUE TO THE CREDITORS

47. The amounts claimed by Nelligan for services rendered during the period of litigation up to the appointment of the Receiver amounts to \$474,897.92(without interest). This related to five (5) ongoing matters. A summary of Nelligan's outstanding invoices and invoices are attached hereto at **Appendix "5"**.

48. CCC396 and the property manager retained Nelligan to implement the initial Court Order of Justice Kane, review the mechanics for the termination of the CCC396 as a condominium corporation, dealing with the appeals filed by the Burdet Group to the Court of Appeal and Supreme Court of Canada and consideration on how to enforce the various judgements against the Burdet Group on behalf of CCC396.
49. In summary, Nelligan appeared at the Divisional Court Level two (2) times, appeared at the Court of Appeal two (2) times and the Supreme Court of Canada on one (1) occasion.
50. The amounts claimed by LMR for services rendered during the period of litigation to the appointment of the Receiver amounts to \$340,313.61 (without interest). This related to five (5) ongoing matters. A summary of LMR's outstanding invoices and invoices are attached hereto at **Appendix "6"**.
51. The Receiver requested LMR to provide a detailed invoice for the period February 1, 2015 through to May 28, 2019 which amounts to \$210,584.81, inclusive of taxes, as legal representative for CMG as Court Appointed property manager and the interests of CCC396.
52. In summary, LMR appeared at the Divisional Court Level three (3) times, appeared at the Court of Appeal three (3) times and the Supreme Court of Canada on two (2) occasions.
53. The amounts claimed by CMG for services rendered in its role as Court Appointed property manager to the appointment of the Receiver amounts to \$87,801.00 (without interest). CMG has reported a total of 621.6 hours expended to assistance regarding year-end financial statements, attending the various Court proceedings to the appointment of the Receiver and dealing with other matters not covered by its standard monthly management fee. CMG's invoice and time summary are attached hereto at **Appendix "7"**.
54. The amounts claimed by Domicile for services authorized by the Court Appointed property manager (without a formal engagement letter or contract) total \$109,905.91 (without interest). Domicile represented the interests of CCC396 in the rezoning of the Real Property which included payments made towards the application fee, professional planners, architects, engineers and surveyors in order to meet the City of Ottawa requirements to rezone the Real Property. The invoice and supporting documents are attached hereto at **Appendix "8"**.
55. The amounts claimed by Lavallee for services authorized by the Court Appointed property manager amounts to \$143,723.01 (without interest). Lavallee was retained to review and

comment on financial information provided by the Burdet Group, produce various reports as an expert witness and act as financial advisor to CMG and Nelligan. Lavallee's outstanding invoices are attached hereto at **Appendix "9"**.

56. The amounts claimed by LDG (legal representative for Quebec matters) for services authorized by the Court Appointed property manager amounts and on behalf of LMR amount to \$62,685.80 (without interest). LDG was retained to assist LMR in the Court of Appeal matter and various matters related to the Burdet Group assets located in the Province of Quebec. LDG's outstanding invoices are attached hereto at **Appendix "10"**.

57. In summary LMR, Nelligan, Domicile and CMG supporting materials have been presented without interest. The supporting materials for Lavallee and LDG show the claim, interest claimed is reported on their individual summary page.

AMOUNTS DUE FROM UNIT HOLDERS

58. The Receiver has updated the amount due CCC396 from unit holders to reflect the further cost awards against the Burdet Group and interest on amounts due to January 31, 2021 (interest calculated to December 31, 2020). A copy of the amended summary of amounts due from unit holders is attached hereto at **Appendix "11"**.

59. As of September 30, 2021, the Receiver has collected \$235,308.79 from specific unit holders to reduce the amounts claimed by the Receiver as outstanding.

ONGOING OPERATIONS

60. The operation of the condo corporation ceased on closing of the Sales Transaction on January 25, 2021. The services of the property manager were terminated shortly after. Registration of the Approval and Vesting Order on title amended the title to the Real Property and converted the various PIN's that made up CCC396 into one PIN on title.

PRIORITY AND SECURED CLAIMS

Priority Claims

61. On September 9, 2021, CRA advised the Receiver that CCC396 had been assessed \$78,473.75 for unremitted HST plus penalty and interest. Attached at **Appendix "12"** is a copy of this letter issued by CRA.

62. Other than the amounts set out in this Second Report, the Receiver is not aware of any other claims which can be asserted against CCC396.

Secured Claims

63. The PPSA search results for CCC396 on September 30, 2020 disclosed no registrations against the condominium. A copy of the PPSA search results is attached at Appendix "19" to the First Report.

64. PPSA searches were conducted against the specific unit holders by the purchaser's legal representative and reviewed by the Receiver's legal representative. A copy of the PPSA search results of unit holders provided to the Receiver by the purchaser's legal representative is attached at Appendix "20" of the First Report.

65. There are mortgages registered on title to several of the individual units of CCC396. These mortgages, if valid and enforceable, will have priority over the respective unit owners' interest in the units. A summary of the charges against units is attached at Appendix "21" of the First Report.

66. The Receiver will, in its next report, seek the Court's approval for the distribution of the net proceeds of sale to unit holders, including satisfaction of any applicable valid and enforceable writs of seizure and sale, security interest under the PPSA or charges registered on or against a unit or unit owner.

FUNDS AVAILABLE FOR DISTRIBUTION

67. A copy of the Receiver's Interim Statement is attached hereto at **Appendix "13"**. It confirms that receipts exceed disbursements by \$7,074,970.71 to the date of this Second Report.

PROFESSIONAL FEES

68. Paragraph 17 of the Receivership Order creates 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, for the fees and disbursements of the Receiver and its legal counsel.

69. Under paragraph 18 of the Appointment Order, the Receiver is entitled to apply reasonable amounts out of the monies in its hands to satisfy its professional fees and disbursements and those

of its counsel, and such amounts are to constitute advances against its remuneration and disbursements when and as approved by the Court.

70. The approval of fees and disbursements of the Receiver and that of its legal counsel will be sought in the Receiver's final report to the Court.

COMPLETION OF THE RECEIVERSHIP

71. The Receiver intends to pay the amounts approved by the Court outlined in this Second Report and will subsequently provide the Court with a proposed distribution to unit holders in its final report.

SUMMARY AND RECOMMENDATIONS

72. For the reasons outlined above, the Receiver respectfully recommends that this Court grant the Receiver's request for an Order, amongst other things:

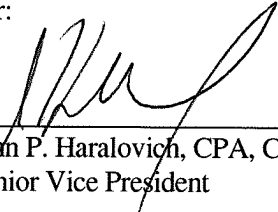
- (a) If necessary, abridging the time for and validation of service of the Notice of Motion and Motion Record herein;
- (b) Approving the Receiver's Second Report, and the activities and conduct of the Receiver and of its legal counsel since its appointment, all as recited in this Second Report;
- (c) Approving the Receiver's Interim Statement of Receipts and Disbursements;
- (d) Seeking the Court's approval to unseal confidential appendices included in the First Report as sealed by the Approval and Vesting Order;
- (e) Seeking the Court's approval and direction in respect of a final distribution for the payment of the following disbursements incurred prior to the appointment of the Receiver/MNP:
 - (i) Canada Revenue Agency (HST) (the "CRA") in the amount \$78,473.75;
 - (ii) Nelligan O'Brien Payne LLP in the amount of \$474,897.92;
 - (iii) Low Murchison Radnoff LLP in the amount of \$340,313.61;
 - (iv) 125896 Ontario Inc. c.o.b. as Condominium Management Group services in the amount of \$87,801.00;

- (v) Domicile Development Inc. in the amount of \$109,905.91;
- (vi) Marcil Lavallee in the amount of \$143,723.00; and
- (vii) Letellier Gosselin Duclos in the amount of \$62,685.80.

This Second Report is respectfully submitted to the Honourable Court as of this 22nd day of October, 2021.

MNP LTD.,

In Its capacity as Court-Appointed Receiver of
Carleton Condominium Corporation No. 396
and not in its personal or corporate capacity
Per:



John P. Haralovich, CPA, CA, CIRP, CMA
Senior Vice President

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ONTARIO

SUPERIOR COURT OF JUSTICE

**THE HONOURABLE MR.
JUSTICE R. SMITH**

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**TUESDAY, THE 23rd DAY
OF NOVEMBER, 2021**

**PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS**

Plaintiffs/Defendants by Counterclaim

-and-

**CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON CONDOMINIUM CORPORATION 396,
1443957 ONTARIO INC., and ENTREPRISES TED RUBAC ENTERPRISES INC.**

Defendants/Plaintiffs by Counterclaim

ORDER

THIS MOTION, made by MNP Ltd. in its capacity as Court-appointed receiver (the "**Receiver**") of the lands, premises, units and common elements municipally known as 112 Nelson Street, Ottawa, Ontario, including all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396 and the individual units thereof ("**CCC 396**") for an order: (i) approving the Second Report of the Receiver dated October 22, 2021 (the "**Second Report**"); (ii) approving the activities and conduct of the Receiver and its counsel as set out in the Second Report; (iii) unsealing certain confidential appendices (Appendices A, B, C and D) to the First Report of the Receiver dated October 6, 2020, which were sealed under Order of the Court dated November 26, 2020; (iv) approving the Receiver's Interim Statement of Receipts and Disbursements attached as Appendix 13 to the Second Report; and (v) approving final payments to creditors of CCC 396 as set out in Schedule "A" to the Notice of Motion; was heard virtually this day at 161 Elgin Street, Ottawa, Ontario.

ON READING the Motion Record of the Receiver dated November 8, 2021, the Motion Record of Marcil Lavalee, dated November 16, 2021, the Second Report, and on hearing the submissions of counsel for the Receiver and counsel for Marcil Lavallee, and on being advised that no one opposed the relief being sought,

1. **THIS COURT ORDERS AND DECLARES** that the time for service of the Motion Record is hereby validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Second Report and the activities and conduct of the Receiver and its counsel described therein are hereby approved.


3. **THIS COURT HEREBY ORDERS AND DECLARES** that the Receiver's Interim Statement of Receipts and Disbursements attached as Appendix 13 to the Second Report, is hereby approved.

4. **THIS COURT ORDERS AND APPROVES** the Receiver making the following final payments to creditors of CCC 396:

1. Canada Revenue Agency (HST) in the amount \$78,473.75;
2. Nelligan O'Brien Payne LLP in the amount of \$474,897.92;
3. Low Murchison Radnoff LLP in the amount of \$340,313.61;
4. 125896 Ontario Inc. c.o.b. as Condominium Management Group in the amount of \$87,801.00;
5. Domicile Development Inc. in the amount of \$109,905.91;
6. Marcil Lavallée in the amount of \$143,723.01; and
7. Letellier Gosselin Duclos in the amount of \$62,685.80.

5. **THIS COURT ORDERS** that Appendices A (Appraisal), B (Appraisal), C (Marketing Progress Report) and D (Offer to Purchase/Sale Agreement) to the First Report of the Receiver dated October 6, 2020 which were sealed under an Approval and Vesting Order of this Court dated November 26, 2020 until further Order of this Court, be unsealed.

6. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of its date and is enforceable without any need for entry and filing.


Justice R. Smith

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC. et. al.

-and-

**CLAUDE ALAIN BURDET IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON
CONDOMINIUM CORPORATION 396 et. al.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

ORDER

Ostroff Law
201 Plymouth Street
Ottawa ON K1S 3E4

T. 613-230-0483
F. 613-230-7403
percy@percyostrofflaw.ca

Percy Ostroff (28845B)
Lawyer for MNP Ltd. in its capacity
as Receiver of CCC 396,
The Moving Party

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ONTARIO SUPERIOR COURT OF JUSTICE

THE HONOURABLE)
)
MR. JUSTICE KANE)

THURSDAY THE 2nd DAY
OF FEBRUARY 2017

BETWEEN:

PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the Estate of SHEILA ÉBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION, and POWELL
GRIFFITHS

Plaintiffs

- and -

CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, ENTREPRISES TED RUBAC INC.
CARLETON CONDOMINIUM CORPORATION No 396. and
1443957 ONTARIO INC.

Defendants

COSTS ORDER

ON READING THE SUBMISSIONS ON COSTS of the lawyers for the parties,

1. THIS COURT ORDERS that the Plaintiffs are entitled to costs on a scale of partial indemnity in the amount of \$410,000, including disbursements and tax, against the Defendants who are jointly and severally liable, including Mr. Burdet, personally.

2. THIS COURT ORDERS that Carleton Condominium Corporation No. 396 is entitled to costs on a scale of substantial indemnity in the amount of \$220,000, including disbursements and tax, against the Plaintiffs, who are liable for that award to the extent of their proportionate share of common elements and expenses as stated in the Declaration.
3. THIS COURT ORDERS that the Defendants are not entitled to costs.

THIS ORDER BEARS INTEREST at the rate of 2% per year commencing on 02 February 2017.

DATED this 12 day of June 2017

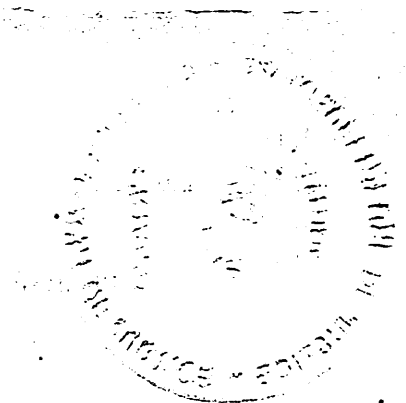


Mr. Justice Paul Kane

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ON/LE	JUN 12 2017
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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5708 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637



PROFESSOR [Name]
[Address]
[City, State, Zip]

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CITATION: *Dewan v. Burdet*, 2017 ONSC 836
COURT FILE NO.: 01-CV-18977
DATE: 2017/02/02

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
PATRICK DEWAN, DOMICILE)
DEVELOPMENTS INC., 1436984) *Kenneth Radnoff, Q.C. and Jonathan*
ONTARIO LTD., AMIRA GABRIEL,) *Collings, for the Plaintiffs,, Defendants by*
1496055 ONTARIO INC., 117490) *Counterclaim*
CANADA LTD., The Estate of SHEILA)
EBERTS, 2201894 ONTARIO INC., BBG)
EQUITY MANAGEMENT)
CORPORATION, and POWELL)
GRIFFITHS)
)
Plaintiffs and Defendants by Counterclaim)
)
– and –)
)
Carleton Condominium Corporation 396,)
)
Defendant) *Gary Boyd, Counsel for CCC 396*
)
CLAUDE ALAIN BURDET, IN TRUST,)
CLAUDE-ALAIN BURDET, and) *Claude-Alain Burdet, Counsel for all other*
ENTERPRISES TED RUBAC INC., and) *Defendants and Plaintiffs By Counterclaim*
1443957 ONTARIO INC.)
)
Defendants and Plaintiffs by Counterclaim)
)
)
)
) **TRIAL DATES:** September 8, 10 – 12, 15 –
) 19, 2014; January 26 – 29, February 2 – 6,
) March 2 – 5, May 4 – 8, 11 – 14, 2015
) Written Argument: June 8, July 8 and 14,
) 2015

COST DECISIONS

KANE J.

Costs Claimed

Plaintiffs/Defendants by Counterclaim

[1] The Plaintiffs, Defendants by Counterclaim, (the “Plaintiffs”) seek costs:

- (a) on a scale of full indemnity, or alternatively partial indemnity;
- (b) substantial indemnity.

[2] The Plaintiffs seeks costs against the Defendants, Plaintiffs by Counterclaim, other than CCC 396 (the “Defendants”) from January 27, 2009 to present.

[3] The amounts of costs claimed by the Plaintiffs, including tax and disbursements which include the fees of Marcil Lavellee, are as follows:

<u>Scale</u>	<u>Fees (pre-tax)</u>	<u>Disbursements (tax in)</u>	<u>Total (tax in)</u>
Full	\$605,672	\$129,442	\$735,114
Substantial	\$545,104	\$129,442	\$674,546
Partial	\$363,403	\$129,442	\$492,845

[4] The time claimed commences on January 27, 2009, corresponding with the originating 2001 application being converted into an action by the issuance of a Statement of Claim, to July of 2015. The hours claimed involve:

- (a) 471.4 hours by one senior lawyer called to the bar 50 years ago, who docketed 702.80 hours at hourly rates between \$350 to \$500, resulting in fees of \$344,207;
- (b) 684.35 hours by junior trial counsel from 2009 to date who was called to the bar 7 years ago, with hourly rates between \$200 and \$250, resulting in total fees of \$160,088;
- (c) 24.25 hours in 2012 and 2013 by a third lawyer called 37 years ago, who’s hourly rates were between \$350 to \$375, resulting in total fees of \$23,264;
- (d) 8.65 hours in 2009 and 2010 by a fourth lawyer who was called 29 years ago who’s hourly rates was \$250, resulting in total fees of \$2,162;
- (e) 4 hours by a fifth lawyer during 2013 who was called 9 years ago who’s hourly rate was \$250, resulting in total fees of \$100;

- (f) 6.3 hours by a sixth lawyer during 2014 and 2015 called 1 year ago, who's hourly rate was \$190, resulting in total fees of \$1,197;
- (g) 1.7 hours during 2012 to 2015 by a law clerk, who's hourly rate was \$150 resulting in total fees of \$255; and
- (h) 36.3 hours during 2012 to 2015 by law students with an hourly rate of \$130 resulting in total fees of \$4,719.

Total combined hours - 1,233.75

Total combined actual fees - \$605,672.

Carleton Condominium Corporation ("CCC 396")

[5] CCC 396 seeks costs solely against the Plaintiffs, on a scale of full indemnity pursuant to s. 85(1) of the *Condominium Act*, 1998, S.O. 1998, c. 19 (the "Act"), or alternatively on a substantial indemnity scale. The hourly time claimed commences February 8, 2013 following the addition of CCC 396 as defendant in December, 2012.

[6] The costs claimed are:

<u>Scale</u>	<u>Fees (tax in)</u>	<u>Disbursements (tax in)</u>	<u>Total (tax in)</u>
Full	\$246,848	\$2,331	\$251,465
Substantial	\$222,145	\$2,331	\$224,477

[7] The time claimed consists of:

- (a) 471.4 hours by one senior lawyer called in 1981. His hourly rate was \$425 until May 2014 and \$450 thereafter;
- (b) 11.4 hours by a junior lawyer called in 2014, who's hourly rate was \$190;
- (c) 48.2 hours by a law clerk with an hourly rate of \$110 until June 2014 and \$130 thereafter.

Total combined hours – 531

[8] The Defendants agree any costs awarded to the CCC 396 should be against the Plaintiffs only. The Plaintiffs did not by reply dispute that position.

Defendant(s)/Plaintiff(s) by Counterclaim

[9] The claim for costs by the Defendants is somewhat obscure.

[10] The written cost submissions indicates that “the Defendant” claims costs without specifying whether that refers to Mr. Burdet personally, himself in trust or all of the Defendants. With that lack of clarity and unless otherwise specified, I will use the above defined term Defendants, as it affords certainty that whoever among them is claiming costs is included.

[11] The Defendants’ cost submissions do not identify which of the three scales of indemnity are claimed. The Defendants instead seek “compliance costs”, pursuant to s. 134 of the Act.

[12] S. 134 authorizes a condominium corporation, a unit owner, a mortgagee, etc., to bring an application for an order enforcing compliance with any provision of the Act, including the costs incurred by the applicant in obtaining the compliance order. The Defendants did not bring a s. 134 compliance application. Their defence and counterclaim cite sections of the Act but no s. 134. Included as relief in the counterclaim however was a request for an order that the Plaintiffs pay their condominium arrears.

[13] The Defendants in their cost submission state their claim for costs as follows:

7. The defendant claims full compliance costs as against the Minority, as it was the Defence who persevered and obtained a finding of arrears going back to 2001. Such costs should be reimbursed to CCC396. Furthermore the reports of the Majority which eventually forced the plaintiffs’ admission, are compliance costs payable to the defendant, pursuant to s. 134 and the counterclaim which brought about the compliance finding against the Minority.

7. (d) Minority arrears are substantially responsible for extending both the 09 trial and the 01 trial.

7. (f) Compliance costs under s. 134 of the (Act) ought to be ordered as against the Minority (the Plaintiffs) in the same manner as they were against the other units, namely in the order of 750K\$, plus compliance costs trial representations in both trials, by the Majority owner, and costs of CCC396 in this trial, if any. The defendant claims here compliance costs against the Minority, in an amount of at least $750K\$/2=375K\%$ plus its costs of enforcing compliance in this trial, for a total of over 500K\$.

11. Compliance costs to the defendant in the amount of one half of the full indemnity cost (\$1,719,453 legal fees of C.A. Burdet, + \$98,124 time charges of L.A. Burdet,

listed as legal fees + \$239,247 HST + \$49,802 of disbursements), totalling \$1,053,313.

[14] The time charges of C.-A. Burdet commence in December 1998, more than two years prior to the November 2001 commencement of this proceeding and seven years before his 2006 call to the bar.

[15] The hours recorded by C.-A. Burdet include:

- (a) his time instructing counsel in a 1998 proceeding brought by the late Ms. Eberts in which the Court of Appeal in 2000 awarded Mr. Burdet costs of the appeal and before Kealey J. in that proceeding;
- (b) to instruct counsel and his time as counsel in the CCC 396 Action. That proceeding commenced in 2009 which determined liability against the Majority unit owners. The majority were ordered to pay costs of \$790,914 therein;
- (c) as counsel in this proceeding; and
- (d) attending to instruct counsel or as counsel on appeal of numerous interim and final decisions in these three proceedings, many of which resulted in cost awards.

[16] Time in other proceedings or on appeals in this proceeding are not relevant to this cost award.

[17] The totals hours claimed are:

- (a) C.-A. Burdet – 5,143.3 hours (December 1998 to September, 2016); and
- (b) L. A. Burdet as law clerk – 754.8 hours (March 2, 2008 to September 25, 2016).

Total hours - 5,898.1

[18] The hourly rates claimed for:

- (a) C.-A. Burdet from December 1998 until he became a lawyer in 2006 is \$250;
- (b) C.-A. Burdet from 2006 to present, increases from \$300 up to \$400;

(c) L.A. Burdet is \$130.

[19] The Defendants claim:

- (a) Pursuant to s. 134 of the Act, “costs should be ordered in the order of \$750,000, plus compliance costs trial preparation in both trials (in this proceeding and the CCC 396 Action) and costs of CCC 396 in this trial, if any”;
- (b) “Compliance costs against the Minority, in an amount of at least \$750,000, divided by 2 = \$375,000, plus its costs of enforcing compliance in this trial, for a total of over \$500,000.”

[20] Defence counsel indicates fees, disbursements and taxes per scale of costs are:

- (a) \$2,106,626 – full indemnity;
- (b) \$1,901,240 – substantial indemnity; and
- (c) \$1,285,082 - partial indemnity.

Factors Pursuant to Rule 57 and 1.04(1.1)

1- Success Including Relief Claimed and Relief Recovered

Plaintiffs, Defendants By Counterclaim

[21] The Plaintiffs were successful in their claims against the Defendants, including:

- (a) Their oppression claim against Mr. Burdet as President, a Director of CCC 396 and the owner until mid-trial in the CCC 396 Action of the majority of units in CCC 396, as well as against the Burdet Board members generally;
- (b) Obtaining an order terminating CCC 396 under the Act;
- (c) Obtaining the appointment of a receiver and manager of CCC 396 to carry out the termination of the condominium;
- (d) Continuation of CMG as interim administrator of CCC 396 pending an appeal of the trial decision. It appears all parties have appealed the trial decision.

[22] The Plaintiffs were notably successful in their claims against the Defendants which, subject to the other factors under R. 57, would entitle them to costs.

Defendants, Plaintiffs By Counterclaims

[23] The Defendants' submission that they introduced and successfully persevered in recovery of the liability owed by the Plaintiff unit owners to CCC 396 to and during this trial is not a fully accurate statement of what occurred or their level of success.

[24] Calculation of the Plaintiffs' principle common expense arrears and interests thereon was established on the evidence of Mr. Brazeau who was not called as a Plaintiffs' witness. The evidence of the Defendants as to those common expense arrears was not accepted.

[25] The Plaintiffs at the commencement of trial acknowledged their liability to CCC 396 for condominium fee arrears which combined totalled \$57,465 of principle as of December 31, 2001, plus 12 % annual interest compounded monthly as provided in the governing documents of CCC 396. Their combined principle totals increased to \$99,030 by December 31, 2014 according to exhibit 76.

[26] Determination of this liability issue occurred with the court's initiative and the consent of the Plaintiffs and CCC 396. The combined principle amount of common expense arrears and interest as calculated by Mr. Brazeau in exhibit 76 totalled \$406,532 to December 31, 2014. \$300,000 of that is compound interest on a principle indebtedness of some \$99,000.

[27] Those arrears of principle and interest were consented to and unopposed by the Plaintiffs and CCC 396 in this trial. The Defendants' involvement brought this issue to trial commencement, plus one additional \$9K principle increase, with interest, against one of the Plaintiff units as a result of the trial.

[28] The defence and counter claim of the Defendants presented in excess of 35 claims for relief and grounds for damages.

[29] The Defendants were unsuccessful:

- (a) in establishing liability against the Plaintiffs for penalties imposed by the Burdet Board members led by Mr. Burdet;

- (b) in defence of the Plaintiffs' claim of oppression and termination of CCC 396 under the Act and the appointment of a receiver and manager to carry out such termination;
- (c) in their oppression claim against the Plaintiffs;
- (d) in their liability claim against the Plaintiffs for the actions and omissions of CMG before and after April 2, 2002 as court appointed interim administrator;
- (e) in their claim as to the alleged invalidity of this proceeding and the CCC 396 Action;
- (f) in their claim for the cost to re-construct the ramp to the 18 basement units;
- (g) in their claim to restore the financial position of CCC 396 to its status in 2002;
- (h) in their claim that the Plaintiffs were liable for the post 2002 costs of CMG and M-L services to the condominium;
- (i) regarding Mr. Burdet in Trust 's \$375,000 claim for "costs thrown away";
- (j) in ETRE's claim for loss of business service income;
- (k) as to their claim of \$530,526 for loss of condominium rights;
- (l) as to their damage claim for the loss of parking spaces;
- (m) in their cost claim related to the Eberts Application, the ramp construction and litigation with the City of Ottawa; and
- (n) in their claim for a court imposed buy-sell agreement with fixed compensation to the Defendant unit owners.

[30] The Defendants had some success as the court determined the quantum of the Plaintiffs' liability for unpaid common expenses and interest owed to CCC 396. The Plaintiffs as stated however acknowledged those common expense arrears and interest liability at the commencement of trial. The Plaintiffs' quantification thereof through Mr. Brazeau was accepted

and not as represented by the Defendants. This lengthy trial largely related to other issues, not the determination of this common expense arrears award against the Plaintiffs.

[31] The Defendants were partially successful in the court's reduced determination of liability owed by CCC 396, not by the Plaintiffs, to ETRE and Mr. Burdet as follows:

- (a) Awarding \$50,000 of the \$141,000 of promissory note liability claimed owing by CCC 396 to ETRE and;
- (b) Awarding \$20,000 of the \$125,300 of Mr. Burdet's time charges claimed against CCC 396 as billed by ETRE.

[32] Subject to the above limited success, the Defendants in defending, and as Plaintiffs by Counterclaim, were otherwise unsuccessful in the multitude of claims they presented.

[33] That limited success is relevant but is small compared to the level of success of the Plaintiffs.

Defendant CCC 396

[34] CCC 396's claim for costs on a scale of full indemnity pursuant to s. 85(1) of the Act, or alternatively on the scale of substantial indemnity, against the Plaintiffs must be considered within the context of its position as a Defendant and the positions it took during this trial.

[35] In its 2 page written argument at the end of trial; CCC 396 sought:

- (a) Judgment for the common expenses owed by the Plaintiffs to CCC 396, consisting of the principle listed in their exhibit 11 introduced at the start of trial and compound interest thereon as contained in exhibit 76;
- (b) Its reasonable complete indemnity costs against the Plaintiffs pursuant to s. 85(1) of the Act; and

[36] CCC 396 then stated that it "takes no position on the issues between the minority and majority groups of unit owners."

[37] CCC 396 in its written argument took no position as to the requested termination of itself as a condominium corporation.

[38] Regardless of its above written argument, this trial involved issues impacting CCC 396 far exceeding the recovery of liability for common expense arrears owed by the Plaintiffs.

[39] Pursuant to the decision and reasons of the court dated December 12, 2012, several parties were added. ETRE and CCC 396 were added as Defendants. As stated in that decision, the added Plaintiffs and Defendants were joined as to their interests regarding:

(a) Voting rights within CCC 396; and

(b) The appropriateness of payments to and/or liability owing to ETRE in the amount of some \$496,000.

[40] The issue as to the \$496,000 liability regarding ETRE included Mr. Burdet's unpaid time charges charged to the condominium by ETRE.

[41] The parties incorporated the December 12, 2012 decision and reasons into an order dated December 17, 2012.

[42] The court amplified upon its above December 12, 2012 decision and reasons in its endorsement dated June 25, 2014, namely prior to the commencement of the trial on September 8, 2014.

[43] On September 10, 2014, the court ruled upon the Plaintiffs September 8, 2014 motion at the commencement of trial to amend their Statement of Claim to seek termination of CCC 396 pursuant to s. 128 of the Act. The reasons of the court on that motion refer to the nature and breadth of the issues to be determined in the trial, as referred to in its December 12, 2012 decision and the order dated December 17, 2012.

[44] The amended pleadings upon which the trial proceeded include the following allegations:

Statement Of Claim As Amended

[45] The Plaintiffs alleged:

(a) The oppression alleged included Mr. Burdet, in Trust, causing CCC 396 to pay expenses personal expenses to such Trust and to ETRE;

- (b) Improper charges to CCC 396 include time charges of Mr. Burdet billed to the condominium through ETRE;
- (c) The Trust caused CCC 396 to pay ETRE \$199,686 and to establish a payable to ETRE in the amount of \$296,887, for a total of \$496,573;
- (d) The expenses and charges under Mr. Burdet's administration of CCC 396 are unverifiable;
- (e) Service contracts awarded from CCC 396 to ETRE and substantial fees charged by ETRE for the time of by Mr. Burdet were prohibited;
- (f) ETRE is required to pay CCC 396 \$159,873 for the unsubstantiated charges paid to it and that the \$296,887 promissory notes to ETRE from the condominium were not valid : paras 22(d), 30, 33, 34(c)37 and 38.

Statement Of Defence As Amended

[46] In defence of the above claim, the Defendants alleged:

- (a) The Plaintiffs failed to pay common expenses to CCC 396 which combined exceeds \$500,000. The Plaintiffs failure to pay such expenses necessitate the condominium to obtain bridge financing from ETRE as reflected in the promissory notes from the condominium to ETRE which evidence that outstanding liability;
- (b) The Plaintiffs' oppression claim in essence seeks reimbursement of \$159,873 paid to ETRE and cancellation of the promissory debt payable of \$296,887;
- (c) The accounting records of the Plaintiffs acknowledge that \$64,000 is owed the Defendants; and
- (d) CCC 396 owes the Defendants a large debt which will be quantified before trial: paragraphs 47, 48, 51, 53, 56, 58 and 81 .5, .14, .15 and .17.

Defendants' Counterclaim

[47] The Defendants therein:

- (a) Repeat and rely upon the allegations in their Statement of Defence;
- (b) Claim against the Plaintiffs' \$250,000 in specific damages for expenditures and payments to the detriment of CCC 396;
- (c) Claim \$50,000 damages for mismanagement and manipulating common expense arrears;
- (d) Seek an order settling the arrears owed to CCC 396 by the Plaintiffs and compelling payment thereof;
- (e) Claim damages against the Plaintiffs for using monies of CCC 396 to enrich themselves at the expense of the Plaintiffs; and
- (f) Claim damages for the Plaintiffs allocation of common expenses to the detriment of the Defendants: paragraphs 83(g) (i) and (l), 84 and 94(b) and (j) (ii).

[48] CCC 396 did not in the trial cross-examine the four current and past unit owners called by the Plaintiffs. CCC 396 did not cross-examine those owners as to any arrears of common expenses for their units. CCC 396 throughout the trial agreed to the Plaintiffs' quantification of their liability to the condominium.

[49] The Plaintiffs called Mr. Davidson, the interim administrator of CCC 396. CCC 396 did not cross-examine this witness as to arrears of common expenses, the penalties claimed or the liability claimed owing to ETRE and Mr. Burdet.

[50] CCC 396 did not cross-examine Mr. Brazeau as to his calculation of the principle and interest liability owed the condominium by the Plaintiffs.

[51] Counsel for CCC 396 however conducted lengthy cross-examination of Ms. Strauss and L.A. Burdet called by the Defendants on matters including:

- (a) the condominium's promissory note liability to ETRE;

- (b) the validity of numerous service charges by ETRE to the condominium;
- (c) the validity of fees charged to the condominium by the Burdet Directors;
- (d) ETRE's markup or profit margin on service billings to CCC 396 and Mr. Burdet and Ms. Strauss' knowledge thereof;
- (e) The time charges of Mr. Burdet charged through ETRE;
- (f) Translation and accounting charges by ETRE to CCC 396, including who performed such services;
- (g) Who controlled ETRE and the relationship of Mr. Burdet and Ms. Strauss to that corporation;
- (h) Who were the trustee and beneficiaries of the Trust and whether it continued to exist;
- (i) Who were the Directors of Printell;
- (j) Bids prepared by or received by ETRE as to services to CCC 396;
- (k) Third party invoices of service providers engaged by ETRE to perform work at CCC 396; and
- (l) The failure of the Burdets to declare an interest and abstain from voting as condominium Directors on contracts with ETRE.

[52] CCC 396 through cross-examination actively challenged the validity of indebtedness claimed owing to ETRE and Mr. Burdet by CCC 396.

[53] The issues at trial impacting CCC 396 included whether it should be terminated and the alleged oppressive conduct by its officers and directors. CCC 396's involvement through cross-examination of the condominium officers and directors called by the Defendants extended far beyond determination of common expense liability owed by the Plaintiffs.

[54] CCC 396's claim for costs against the Plaintiffs has to be considered within the above context.

[55] CCC 396 within that context is not entitled to full indemnity costs pursuant to s. 85(1). It's involvement during the trial in successfully challenging the much larger quantum of indebtedness claimed under the promissory notes to ETRE and the time charges of Mr. Burdet would normally entitle it to a lower level of costs, subject to the other factors on a cost award.

2- Proportionality As To Importance And Complexity Of The Issues

[56] The totality of the claims by all parties, the nature of the claims including oppression and termination, were substantial and complex. The issue of termination involved multiple competing unit owners whose combined unit ownership interests in the core of the city are of considerable value.

[57] The evidence was that these parties since 2001 in this proceeding had appeared in court some 37 times prior to this 7 week trial.

[58] The cross claims of oppression were fact driven. Those claims were more complex given the numerous events over the many years in issue.

[59] The Plaintiffs appropriately excluded a claim for costs between the 2001 issuance of their application and their 2009 filing of their statement of claim.

[60] The Defendants inappropriately increased the complexity of this proceeding by including numerous unmeritorious counterclaims and unsuccessfully attempting to re-litigate prior orders and decisions in this and companion proceedings, several of which had been ruled upon by appellant courts against the position of the Defendants argued in this trial.

3- Conduct Of Any Party That Tended To Shorten Or To Lengthen The Proceeding Unnecessarily

[61] The proceeding between 2001 and 2009 was lengthened by the Plaintiffs decision to not convert their application into an action as ordered on consent by Granger J. in 2001. This court however determined that the Defendants, as late as 2006, agreed to proceeding by application.

[62] The trial was lengthened by the Defendants inclusion of numerous claims and collateral attacks of prior orders and decisions, which increased the length of cross-examination and argument.

4- Whether Any Step Was Improper, Vexatious Or Unnecessary Or Taken Through Negligence, Mistake Or Excessive Caution

[63] The findings under points 3 and 4 above evidence mistaken and unnecessary positions taken by the Defendants.

[64] Compared to the Defendants, the Plaintiffs conduct in the trial was more focused.

5- A Party's Denial Of Or Refusal To Admit Anything That Should Have Been Admitted

[65] The Defendants costs submissions state that their prior request to the Plaintiffs to admit their common expense arrears was not responded to until the commencement of trial. This is not disputed by the Plaintiffs.

[66] The Defendants should not have used this trial to collaterally attack prior orders and decisions in this and companion proceedings.

6- Experience Of The Law For Party Entitled To The Costs Including Year Of Call, Rates Charged And Hours Expended

[67] Given their year of call and the complexity of this proceeding, the court accepts the hourly rates claimed.

[68] The use of younger lawyers, students at law and clerks with lower hourly rates is appropriate.

[69] The total hours, claimed by counsel for the parties are:

(a) Plaintiffs - 1,471.45;

(b) CCC 396 – 538.5; and

(c) Defendants - 5,898.1.

[70] Time of counsel claimed by the Plaintiffs and the Defendants includes material time dockets for preparation and attendance before appellate courts in this and other proceedings and should not have been included. That appellate work often resulted in cost awards. Claiming that time again, if now awarded, would result in either double recovery of costs or an award

contrary to the appellant cost award, for the same work. The time claimed by the Plaintiffs and Defendants accordingly must be reduced.

[71] Time dockets submitted by the Plaintiffs inappropriately includes:

- (a) Time for engaging and instructing Toronto counsel on appellant hearings;
- (b) Complaints and hearings before the Law Society; and
- (c) Communication and attendance with the previous counsel of CCC 396 concerning the CCC 396 Action and the appeal of that decision.

[72] Plaintiffs' disbursements claimed include \$11,655 paid to a Toronto law firm which acted as agent regarding appellant work. These charges are not properly part of this cost award.

[73] The Plaintiffs costs include fees of two lawyers to translate presumably French documents for unilingual English lawyers in that firm. That is an overhead cost and is not an appropriate charge to opposing parties. Translation costs were available at a lower hourly fee, as evidenced by such a translation firm disbursement claimed. The legal fees for this totals 6.7 hours, \$1,297, and is not recoverable.

[74] Time and charges totalling 73.45 hours and \$25,462 of the two lawyers from the Plaintiffs law firm in addition to trial counsel, for work done in 2012 and 2013 does not appear duplicitous.

[75] The disparity in the much higher time docketed by counsel for the Defendants and inclusion of time related to other proceedings undermines the reasonableness of the Defendants cost claim.

[76] The time docketed by counsel for the Defendants:

- (a) commences in 1998; and
- (b) includes 1,227 of hours docketed by Mr. Burdet from 1998 to November of 2005, prior to him becoming a lawyer.

[77] The Defendants' \$49,802 of disbursement includes:

- (a) \$9,000 for airfare to Toronto on 12 occasions between 2000 and 2012 for hearings before the Ontario Court of Appeal, which granted frequent cost awards;
- (b) \$13,154 for four experts; two of whom the Defendants did not call as witnesses in this trial and one who attended to testify but was not qualified as an expert and did not testify.

7- Written Offers Of Settlement

[78] No such offers were submitted.

8- Level Of Costs To Be Awarded

[79] The appropriate level of costs should be on a scale of partial indemnity. The exception to that is CCC 396 given the absence of opposition to its claim for a higher scale of costs.

[80] For the reasons previously stated, including the broader issues and the role it performed during this trial, CCC 396 is not entitled to full indemnity costs pursuant to s. 85(1) of the Act.

[81] While CCC 396 could not act independent of its directors, its officers or the court appointed interim administrator; CCC 396 to its disadvantage took no action to determine the validity of and recover the Plaintiffs' arrears of common expenses and interest since 2002, until being added as a defendant at the initiative of another party. Given that fact, I would normally not award costs to CCC 396 at a scale in excess of partial indemnity. The Plaintiffs and the Defendants however do not oppose substantial indemnity costs to CCC 396, which accordingly is the appropriate scale.

[82] As to the higher cost scale claimed by the Plaintiffs against the Defendants; the court has no knowledge what transpired in correspondence or between counsel outside of the court room, including the alleged personal attacks by Defendants' counsel relied on by the Plaintiffs for an increased scale of costs.

[83] Attempts by a party to re-litigate issues previously determined by the court and for breaching a fiduciary duty have been grounds for a higher scale of costs: *Bank of Montreal v. Jean-Luc Cardinal et al.*, [2016] ONSC 5211, para 30 and *Buccilli v. Pillitteri*, [2013] O.J. No. 1083 (SCJ), paras 3 to 5.

[84] The historical actions of the Defendants as officers and directors of CCC 396, empowered by their ownership of the majority of unit votes, were oppressive and lasted over 4 years between 1998 and 2002. That conduct considered in isolation would likely warrant substantial indemnity costs. The larger context however must include consideration of the Plaintiffs' refusal, until commencement of trial, to acknowledge their failure for fourteen years and to pay their common expense indebtedness clearly due despite the clear intention of s. 85(4) of the Act which prohibits withholding payment because of a unit owner's complaints against the condominium, as expressed in the decisions of its officers and directors.

[85] The Plaintiffs' refusal to acknowledge their default and liability until the start of trial, the determination of indebtedness owing by CCC 396 to ETRE and Mr. Burdet and the limited success of the Defendants, leads me to conclude that any cost award to the Plaintiffs should be limited to a scale of partial indemnity.

9- Amounts Of Costs That An Unsuccessful Party Could Reasonably Expect To Pay In Relation To This Proceeding

[86] An unsuccessful party in this proceeding, given the number and complexity of the issues argued and the length of this trial should have expected to be liable for a substantial cost award.

Conclusion

[87] Given their superior level of success, the Plaintiffs are entitled to costs on a scale of partial indemnity in the amount of \$410,000, including disbursements and tax, against the Defendants who are jointly and severally, including Mr. Burdet personally. This reflects a reduction for appellate work and in relation to the CCC 396 Action.

[88] Given its recovery of judgment on consent of the Plaintiffs for common expense arrears and interest and its successful challenge to the much greater portion of the indebtedness claimed by ETRE and Mr. Burdet, CCC 396 is entitled to costs on a scale of substantial indemnity in the amount of \$220,000, including disbursements and tax.

[89] That cost award to CCC 396 is against the Plaintiffs, which is not disputed by the Plaintiffs or the Defendants. The Plaintiffs are liable for that award to the extent of their proportionate share of common elements and expenses as stated in the Declaration.

[90] Given the outcome of this trial was largely in favor of the Plaintiffs, the Plaintiffs' acknowledgment of common expense and interest liability to CCC 396 at the commencement of trial and the Defendants, comparatively, small level of success the Defendants are not entitled to costs.

A handwritten signature in cursive script, appearing to read "J. Kane", is written above a horizontal line.

Kane, J.

Released: 2017/02/02

CITATION: *Dewan v. Burdet*, 2017 ONSC 836
COURT FILE NO.: 01-CV-18977
DATE: 2017/02/XX

BETWEEN

PATRICK DEWAN, DOMICILE DEVELOPMENTS
INC., 1436984 ONTARIO LTD., AMIRA GABRIEL,
1496055 ONTARIO INC., 117490 CANADA LTD.,
The Estate of SHEILA EBERTS, 2201894 ONTARIO
INC., BBG EQUITY MANAGEMENT
CORPORATION, and POWELL GRIFFITHS

Plaintiffs/Defendants by Counterclaim

– and –

Carleton Condominium Corporation

Defendant

CLAUDE ALAIN BURDET, IN TRUST, CLAUDE-
ALAIN BURDET, and ENTERPRISES TED RUBAC
INC., CARLETON CONDOMINIUM
CORPORATION No. 396, and 1443957 ONTARIO
INC.

Defendants/Plaintiffs by Counterclaim

TRIAL DATES: September 8, 10 – 12, 15 – 19, 2014;
January 26 – 29, February 2 – 6, March 2 – 5, May 4 –
8, 11 – 14, 2015 Written Argument: June 8, July 8 and
14, 2015

KANE, J.

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To: Chaitons LLP
Fax: via email
Attn: Ben Frydenberg
From: Ken Beaudoin

Gabriel, Amira
 20 Bayside Private
 Ottawa, ON K1V9R3

Security Details

Address: 107-112 Nelson Street
 Ottawa, ON K1N7R5
Legal Description: Carleton Condominium Corp Plan 396, Level 1, Unit 10,
 City of Ottawa

Loan Details

Mortgage Id: 279
Principal Amount: \$156,000.00
Amortization: 99,999
Prime Plus:
Nominal Rate: 10.500%
Minimum Rate:
Compound Frequency: Monthly
Payment Frequency: Monthly
Term: 12
First Payment: \$1,404.63
Maturity Date: 01-Mar-2021
Mortgage Payment: \$1,404.63

Payout Details

Principal Balance as of 1-Jun-2020	\$160,529.08
Interest Outstanding as of 21-Apr-2022	\$27,689.01
Penalty (3 Months interest)	\$4,213.89
Discharge fee	\$500.00
<i>Other Fees/Charges</i>	
Law Admin Fee	\$500.00
NSF Fees Assessed	\$1,200.00
Late Fees Assessed	\$4,300.00
Property Taxes Balance	\$(2,695.73)
Total due 21-Apr-2022	\$196,236.25
Per Diem thereafter	\$55.87

This statement has been prepared for litigation purposes.

Prepared by : Ken Beaudoin - April 6th, 2022

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To: Chaitons LLP
Fax: via email
Attn: Ben Frydenberg
From: Ken Beaudoin

Gabriel, John
 (BBG Equity Management Corporation)
 112 Nelson Street Unit 204
 Ottawa, ON K1N 7R5

Security Details

Address: 204-112 Nelson Street
 Ottawa, ON K1N 7R5
Legal Description: CCC Plan 396, Level 2, Unit 4

Loan Details

Mortgage Id: 340
Principal Amount: \$176,000.00
Amortization: 36
Prime Plus:
Nominal Rate: 10.240%
Minimum Rate:
Compound Frequency: Monthly
Payment Frequency: Monthly
Term: 12
First Payment: \$2,348.85
Maturity Date: 20-Apr-2021
Mortgage Payment: \$2,348.85

Payout Details

Principal Balance as of 20-Jun-2020	\$69,065.67
Interest Outstanding as of 21-Apr-2022	\$19,079.22
Penalty (3 Months interest)	\$1,783.21
Discharge fee	\$500.00
<i>Other Fees/Charges</i>	
Inspection Fee	\$350.00
Law Admin Fee	\$500.00
NSF Fees Assessed	\$1,800.00
Late Fees Assessed	\$4,100.00
Insurance Lapse	\$1,000.00
Property Taxes Balance	\$(1,860.84)
Total due 21-Apr-2022	\$96,317.26
Per Diem thereafter	\$26.90

This statement has been prepared for litigation purposes.

Prepared by : Ken Beaudoin - April 6th, 2022

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In the Matter of the Court Appointed Receiver of
 Carleton Condominium 396
 Summary of amounts due as of January 31, 2021

	Unit Ref.	Court Order 09-45430	Aug 8 2016 Court Order 01-CV-18977	2012 Condo Fees Due	2013 Condo Fees Due	2014 Condo Fees Due	2015 Condo Fees Due	2016 Condo Fees Due	2017 Condo Fees Due	2018 Condo Fees Due	2019 Condo Fees Due	2020 Condo Fees Due	2021 Condo Fees Due	Condo and Interest Due
Claude A. Burdet		4,652.72	-	-	-	-	-	-	-	-	-	-	-	4,652.72
1443957 Ontario Inc.		-	-	-	-	-	-	-	-	-	-	-	-	-
Entreprise Ted Rubac Enterprises		5,742.75	-	-	-	-	-	-	-	-	-	-	-	5,742.75
Newad Enterprises Ltd.	101-A	-	43,719.27	-	-	-	-	12,130.58	7,696.94	5,038.76	2,044.43	71,257.31	1,401.17	114,938.44
Newad Enterprises Ltd.	101-A	-	25,519.06	-	-	-	-	27,793.37	1,076.10	1,097.80	1,119.97	56,606.30	-	-
1457563 Ontario Corp.	101-B	25,433.98	-	1,898.11	18,548.74	19,156.53	22,151.28	29,014.61	35,021.96	39,463.63	44,468.61	50,108.32	1,602.16	286,867.93
1457563 Ontario Corp.	101-C	25,433.97	-	1,898.12	18,548.74	19,156.52	21,600.69	29,014.61	35,021.97	39,463.63	44,468.60	50,108.32	1,602.16	286,317.33
Domicile Developments Inc.	101-D	-	44,801.41	-	-	-	-	4,830.60	1,001.79	1,022.01	1,042.63	48,733.67	-	3,964.77
1436984 Ontario Inc.	102	-	43,508.82	-	-	-	-	12,339.35	1,127.26	1,149.99	18,860.11	10,137.15	1,273.27	27,854.89
Amira Gabriel	103	-	60,576.61	-	-	-	-	32,853.54	10,728.72	10,945.26	6,129.41	14,411.28	1,529.58	137,174.40
1496055 Ontario Inc.	104	-	29,000.59	-	-	-	-	6,363.49	713.73	728.14	31,157.29	7,110.85	1,462.19	0.00
1496055 Ontario Inc.	105	-	28,756.68	-	-	-	-	6,309.98	707.80	722.06	46,081.72	1,353.83	1,353.83	9,585.20
Janest S. Burdet	106	112,467.08	-	6,681.53	26,522.43	31,792.92	38,679.03	49,848.06	60,293.23	69,278.62	79,740.96	92,957.36	1,058.45	569,319.67
Amira Gabriel	107	-	55,567.63	-	-	-	-	31,409.21	10,646.09	10,860.97	6,050.10	14,078.58	1,484.11	130,096.69
2201894 Ontario Inc.	201	-	32,301.01	-	-	-	-	7,087.69	795.06	811.05	827.46	3,245.12	-	45,067.39
Janet S. Burdet	202	-	-	-	12,724.32	11,251.56	11,251.56	13,201.42	6,587.40	6,587.40	654.90	17,142.60	1,428.55	53,170.31
Claude Burdet	203	-	-	-	12,724.32	11,251.56	11,251.56	15,178.92	17,142.60	17,142.60	17,142.60	17,142.60	1,428.55	120,405.31
BBG Equity Management	204	-	43,248.69	-	-	-	-	9,489.90	1,064.49	1,085.97	13,456.38	20,955.52	2,028.62	91,329.57
Powell Griffiths	205	-	43,251.61	-	-	-	-	6,477.62	874.50	892.16	51,994.52	7,505.79	1,830.81	8,837.97
Claude Burdet in Trust	A1 - Group	115,339.83	-	6,981.00	55,559.44	57,970.74	65,322.89	85,967.49	102,838.96	116,092.88	130,816.39	113,268.99	1,409.13	851,567.74
Claude Burdet in Trust	A2	-	-	-	-	-	-	-	-	-	-	16,909.56	1,409.13	18,318.69
Claude Burdet in Trust	A3	-	-	-	-	-	-	-	-	-	-	17,228.64	1,435.72	18,664.36
Claude Burdet in Trust	A4	-	-	-	-	-	-	-	-	-	-	-	-	-
Claude Burdet in Trust	A5	-	-	-	-	-	-	-	-	-	-	-	-	-
		289,070.33	450,251.38	17,458.76	144,627.99	150,579.83	170,257.01	355,049.28	280,163.80	309,208.13	194,470.14	382,378.19	21,190.89	2,764,705.73

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Carleton Condominium No. 396
Summary of amounts due to unit holders

57.2210%

Owner	Burdet	Dewan	Domicile	Brandt	A. Gabriel	Sheppard	Cudney	BGG mgmt	Griffiths	Total	Projected
UNIT	Various	101A	101D	102	103/107	104/105	201	204	205		
%	42.7790%	5.2700%	6.2850%	4.7890%	11.3350%	10.6500%	4.3760%	7.6300%	6.8860%		
Funds Held by the Receiver after closing of sales transaction	\$ 2,352,845.00	\$ 289,850.00	\$ 345,675.00	\$ 263,395.00	\$ 623,425.00	\$ 585,750.00	\$ 240,680.00	\$ 419,650.00	\$ 378,730.00	\$ 5,500,000.00	
Other closing costs not yet allocated to owners											
City of Ottawa taxes paid	- 130,452.84	- 266.51	- 294.27	- 190.63	- 1,699.56	- 421.97	- 91.52	- 264.66	- 13,815.95	- 147,314.87	
Property taxes paid allocated to owners	63,019.83	7,763.49	9,258.74	7,054.91	16,698.14	15,689.03	6,446.50	11,240.12	10,144.10	147,314.87	
Legal retainer Letellier Gosselin Duclos	-	5,000.00	-	3,000.00	-	14,585.00	5,000.00	5,000.00	6,198.00	38,783.00	
Retainer allocated to owners	- 16,590.98	- 2,043.86	- 2,437.51	- 1,857.32	- 4,396.05	- 4,130.39	- 1,697.14	- 2,959.14	- 2,670.60	- 38,783.00	
Balance before allocation of cost awards at January 31, 2021	2,268,821.01	300,303.12	352,201.96	271,401.96	634,027.53	611,471.67	250,520.87	432,666.32	378,585.55	5,500,000.00	
Cost award - Court of Appeal	02-Feb-17	- 176,000.00	- 4,052.36	- 4,832.84	- 3,682.49	- 8,716.03	- 8,189.30	- 3,364.92	- 5,867.08	- 5,294.98	- 220,000.00
Interest	-	- 18,493.89	- 425.82	- 507.83	- 386.95	- 915.87	- 860.52	- 353.58	- 616.51	- 556.39	- 23,117.36
Cost award applied		104,003.18	12,812.29	15,279.93	11,642.89	27,557.35	25,892.00	10,638.82	18,549.85	16,741.06	243,117.36
		- 90,490.71	- 8,334.11	- 9,939.26	- 7,573.45	- 17,925.45	- 16,842.18	- 6,920.31	- 12,066.27	- 10,889.69	-
Cost award - Court of Appeal 50% CCC396	02-Feb-17	- 87,696.95	- 10,803.50	- 12,884.25	- 9,817.45	- 23,236.75	- 21,832.50	- 8,970.80	- 15,641.50	- 14,116.30	- 205,000.00
Interest	-	- 9,215.10	- 1,135.22	- 1,353.86	- 1,031.61	- 2,441.69	- 2,294.14	- 942.64	- 1,643.59	- 1,483.33	- 21,541.18
Cost award - Court of Appeal 50% Burdet Group		205,000.00									205,000.00
Interest	-	- 21,541.18	-	-	-	-	-	-	-	-	- 21,541.18
Cost award - Court of Appeal	16-Feb-18	- 25,000.00	-	-	-	-	-	-	-	-	- 25,000.00
Interest	-	- 2,603.26	-	-	-	-	-	-	-	-	- 2,603.26
Cost award applied		44,270.69	52,797.21	40,230.05	95,219.79	89,465.44	36,760.63	64,095.90	57,845.92	480,685.62	
		- 351,056.49	- 32,331.97	- 38,559.10	- 29,380.99	- 69,541.35	- 65,338.80	- 26,847.19	- 46,810.80	- 42,246.29	-
Cost award 09-CV-4530	17-Mar-15	- 790,915.00	-	-	-	-	-	-	-	-	- 790,915.00
Interest	-	- 117,234.20	-	-	-	-	-	-	-	-	- 117,234.20
Cost award - Court of Appeal	25-May-16	- 27,000.00	-	-	-	-	-	-	-	-	- 27,000.00
Interest	-	- 3,923.89	-	-	-	-	-	-	-	-	- 3,923.89
Cost award - Justice Robert J.	30-Sep-16	- 2,000.00	-	-	-	-	-	-	-	-	- 2,000.00
Interest	-	- 275.45	-	-	-	-	-	-	-	-	- 275.45
Cost award - Justice Gomery	18-Aug-17	- 500.00	-	-	-	-	-	-	-	-	- 500.00
Interest	-	- 58.54	-	-	-	-	-	-	-	-	- 58.54
Cost award - Court of Appeal	15-Feb-18	- 7,500.00	- 690.74	- 823.78	- 627.70	- 1,485.69	- 1,395.90	- 573.57	- 1,000.07	- 902.55	- 15,000.00
Interest	-	- 801.68	- 73.83	- 88.05	- 67.10	- 158.81	- 149.21	- 61.31	- 106.90	- 96.47	- 1,603.36
Cost award - Ontario Court of Appeal	09-Apr-18	- 16,000.00	-	-	-	-	-	-	-	-	- 16,000.00
Interest	-	- 1,622.03	-	-	-	-	-	-	-	-	- 1,622.03
Cost award - 09-45430	29-Oct-20	-	-	-	-	-	-	-	-	-	-
Interest	-	-	-	-	-	-	-	-	-	-	-
Cost award - Justice Roger	08-Jul-21	-	-	-	-	-	-	-	-	-	-
Interest	-	-	-	-	-	-	-	-	-	-	-
Cost award - 01-CV-18977	Aug 8 2016	50,000.00									50,000.00
Cost award - 01-CV-18977	08-Aug-16	20,000.00									20,000.00
Interest on Burdet (\$70,000) Cv-18977		65,699.84									65,699.84
		- 832,130.95	- 764.57	- 911.83	- 694.80	- 1,644.50	- 1,545.11	- 634.88	- 1,106.97	- 999.02	- 840,432.63
Allocation of cost awards		359,528.68	44,290.80	52,821.19	40,248.32	95,263.04	89,506.08	36,777.33	64,125.01	57,872.19	840,432.63
		- 472,602.28	- 43,526.23	- 51,909.36	- 39,553.52	- 93,618.54	- 87,960.97	- 36,142.45	- 63,018.04	- 56,873.17	-
Net amount due to unit holders as of February 1, 2021		1,354,671.52	384,495.42	452,609.67	347,909.92	815,112.87	781,613.62	320,430.83	554,561.44	488,594.70	5,500,000.00
Collection of unpaid condo fees on February 2, 2021											
Deduct amounts due to 396	-	- 2,215,026.81	- 114,938.44	- 3,964.77	- 27,854.89	- 267,271.09	- 9,585.20	- 45,067.39	- 91,329.57	- 8,837.97	- 2,764,705.73
Amounts due, applied to owners		1,182,713.46	145,699.99	173,761.76	132,401.76	313,379.39	294,441.16	120,983.52	210,947.05	190,377.64	2,764,705.73
		- 1,032,313.35	- 30,761.55	- 169,796.99	- 104,546.87	- 46,108.30	- 304,026.36	- 75,916.13	- 119,617.48	- 181,539.67	-
Net amount available to unit holders February 2, 2021		322,358.18	415,256.98	622,406.65	452,456.79	861,221.17	1,085,639.98	396,346.97	674,178.91	670,134.37	5,500,000.00
Secured and other claims against unit holders											
Westboro Mortgage Corporation (Chaitons)									96,317.26		96,317.26
Dahavaland Capital Corporation			20,000.00						577,861.65		577,861.65
Westboro Mortgage Corporation (Chaitons)						196,236.25					196,236.25
Gibson LLP						3,000.00					3,000.00
Jonathan Collings						3,000.00					3,000.00
			20,000.00		202,236.25				674,178.91		856,415.16
Net to owners		\$ 322,358.18	\$ 415,256.98	\$ 642,406.65	\$ 452,456.79	\$ 658,984.92	\$ 1,085,639.98	\$ 396,346.97	\$ 0.00	\$ 670,134.37	\$ 4,643,584.84

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**MNP LTD., RECEIVER RE:
CARLETON CONDOMINIUM CORPORATION NO.396**

**INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD MAY 31, 2019 TO OCTOBER 22, 2022**

Receipts:

Sale of Property	\$ 7,600,000
Collection of arrears from unit holders	235,309
Funds transferred from property manager	10,806
Insurance refund	2,574
HST refunds	45,093
Interest	41,540
	<u>7,935,322</u>

Disbursements:

Filing fee	70
License fee	275
Change of locks	215
Utilities	4,898
Property manager fees	9,063
Repairs and maintenance	2,621
Appraisal fees	6,457
Payment to external accountant - year end audits	31,950
Property taxes	147,315
Real estate commissions	190,000
Payment to execution creditor	32,213
Deemed trust claim HST	78,474
Legal fees - litigation	61,969
Legal fees - real estate closing	11,543
Legal fees - receivers representative	97,086
Projected costs to complete the administration	258,465
Payments approved by the Court - Distribution Order	1,219,327
Receiver fees and expenses	204,470
HST paid	78,911
	<u>2,435,322</u>

Projected Excess of Receipts over Disbursements **\$ 5,500,000**