

COURT FILE NUMBER 2203 12557
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
APPLICANT ROYAL BANK OF CANADA
RESPONDENTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOON AHMAD also known as FETOON AHMED



DOCUMENT **APPLICATION (BIFURCATION OF SALE AND SEALING)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McMillan LLP
TD Canada Trust Tower
1700, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9

**Attention: Adam Maerov/Kourtney Rylands/
Preet Saini**
Telephone: (403) 531-4700
Fax: (403) 531-4720
File Number: 293571

NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: Wednesday, March 8, 2023
Time: 9:00am
Where: Edmonton Law Courts, via WebEx
Before: The Honourable Justice Mah

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. MNP Ltd., in its capacity as receiver and manager (“**Receiver**”) of Faissal Mouhamad Professional Corporation (“**FMPC**”), Delta Dental Corp. (“**DDC**”), 52 Dental Corporation, 52 Wellness Centre Inc., Michael Dave Management Ltd. (“**MDML**”) and 985842 Alberta Ltd. (“**985842**”) (collectively, the “**Debtors**”) seeks a sale approval and vesting order substantially in the form attached as Schedule “A”, including the following relief:

- a. abridging the time for service of this application (the “**Application**”), if necessary, and declaring that this Application is properly returnable and that further service of this Application is hereby dispensed with;
- b. approving the bifurcation of the transaction set out in the Asset Purchase Agreement dated December 20, 2022 (the “**Delta APA**”) with NDC Group Inc. and V. Tran and T. Sivanantha Professional Corporation (collectively, the “**NDC Group**”), which was approved by this Honourable Court by way of a Sale Approval and Vesting Order pronounced on January 11, 2023 by the Honourable Justice Mah;
- c. approving the corresponding bifurcated agreements being a Real Property Purchase Agreement dated February 28, 2023 (the “**Bifurcated RPA**”) and an Asset Purchase Agreement dated February 28, 2023 (the “**Bifurcated APA**”) and collectively with the Bifurcated RPA, the “**Bifurcated Agreements**”); and
- d. temporarily sealing the Receiver’s Fourth Confidential Report dated February 28, 2023 (the “**Fourth Confidential Report**”) until the sale of the Delta Property (as subsequently defined) closes or until a further Order of this Honourable Court;

2. Such further and other relief as counsel may request and this Honourable Court may deem appropriate.

Grounds for Making this Application:

A. Overview

3. MNP Ltd. previously acted as interim receiver of FMPC, 52 Dental Corporation, and DDC pursuant to an interim receivership order granted on August 23, 2022.

4. On September 16, 2022, MNP Ltd. was appointed as receiver and manager over all of the current and future assets, undertakings, and properties of FMPC, 52 Dental Corporation, DDC, MDML, and 52 Wellness.

5. On September 29, 2022, MNP Ltd. was appointed as receiver and manager over all of the current and future assets, undertakings, and properties of 985842.

6. The Debtors' operations can be summarized as follows:

<u>Corporate entity</u>	<u>Directors/ Officers</u>	<u>Description of Operations</u>
Faissal Mouhamad Professional Corporation o/a Delta Dental Delta Dental Corp.	F. Mouhamad is the sole director and shareholder F. Ahmed is the sole director and shareholder	Operates a dental clinic under the name "Delta Dental" (" Delta Clinic "). Has no independent operations; previously managed Delta Dental on behalf of FMPC; however, no corresponding agreement was in place.
52 Dental Corporation	F. Ahmed is the sole director and shareholder	Operates a dental clinic under the name "52 Dental" (" 52 Clinic ").
52 Wellness Centre Inc.	F. Mouhamad is the sole director and shareholder	Owns a building located at 3505 52nd Street SE, Calgary, Alberta (the " 52 Building "). The 52 Building houses 52 Dental and other commercial tenants.
Michael Dave Management Ltd.	F. Mouhamad is the sole director and shareholder	Owns a building located at 7151 50th Avenue in Red Deer, Alberta (the " Delta Building ") that houses Delta Dental.
985842 Alberta Ltd.	F. Mouhamad is the sole director and shareholder	Owned a commercial unit located in a building at 108, 5205 Power Center Boulevard in Drayton Valley, Alberta (the " DV Unit ").

7. As noted above, the key assets in the receivership proceedings included two operating dental clinics being the Delta Clinic and the 52 Clinic and three real properties, which are summarized below:

- a. The 52 Building, which is owned by 52 Wellness, houses the 52 Clinic and three other commercial tenants and is legally described as Plan 9910835, Block 39, Lot 1 excepting thereout all mines and minerals;
- b. The Delta Building, which is owned by MDML, houses the Delta Clinic and is legally described as Plan 2223KS, Block 1, Lot 4A excepting thereout all mines and minerals (the Delta Building and the Delta Clinic will collectively be referred to as the "**Delta Property**"); and
- c. The DV Unit, which was owned by 985842, houses an unrelated dental practice and is legally described as Plan 0721291, Block 102, Lot 14 excepting thereout all mines and minerals. The sale of the DV Unit has now been completed.

B. Bifurcation of the Delta Sale

8. The marketing process for the Delta Property (the “**Delta Process**”) was completed by Tier Three, A Division of Henry Schein (“**Henry Schein**”) in association with CBRE Limited (“**CBRE**”) and is detailed in the Third Report of the Receiver dated January 3, 2023 (the “**Third Report**”).

9. Based on the results of the Delta Process, the Receiver entered into the Delta APA, which provided for the sale of the Delta Clinic and the Delta Building to the NDC Group (the “**Delta Sale**”) as a single transaction. The transaction was approved by the Court pursuant to a Sale Approval and Vesting Order (the “**SAVO**”) granted on January 11, 2023.

10. On February 21, 2023, the NDC Group advised that they were prepared to complete the purchase of the Delta Clinic pursuant to the Delta APA but required a further four-to-eight-week extension of the closing date for the Delta Building to seek alternate financing (the “**Delta Building Extension**”).

11. Since the SAVO was granted, the Delta APA was amended as follows:

- a. On February 10, 2023, by a First Asset Purchase Amending Agreement (the “**First Delta Amendment**”), which provided the following:
 - (i) An extension of the closing date for from February 10, 2023 to February 24, 2023 at the request of NDC Group; and
 - (ii) The payment of additional amounts totaling \$30,000 of which \$15,000 (the “**First Amendment Deposits**”) was applied to the purchase price and \$15,000 represented an increase to the purchase price (the “**First Amendment Prepayments**”). The first Amendment Prepayments were allocated \$10,000 to the Delta Clinic and \$5,000 to the Delta Building.
- b. On February 24, 2023, by a Second Asset Purchase Amending Agreement (the “**Second Delta Amendment**”) which provided the following:
 - (i) A further extension of the closing date for from February 24, 2023 to February 28, 2023 to allow the Receiver and its legal counsel additional time to consider and prepare the Bifurcated Agreements and to settle the Bifurcated Agreements with the NDC Group.

- c. On February 28, 2023, by a Third Asset Purchase Amending Agreement (the “**Third Delta Amendment**”), which provided the following:
 - (i) for the extension of the closing date for the Delta APA from February 28, 2023 to March 9, 2023 at which time, subject to Court approval, the Delta Dental APA will be replaced by the Bifurcated Agreements; and
 - (ii) the payment of additional deposits totaling \$40,000 (the “**Third Amendment Prepayments**”), which will represent an increase to the purchase price.

12. The Receiver is seeking to bifurcate the sale of the Delta Clinic and the Delta Building such that the sale of the Delta Clinic can be closed forthwith as delay will prejudice the estate for the following reasons:

- a. continuing to operate the Delta Clinic in the receivership proceedings will further erode the value of the Delta Clinic; and
- b. further delay will increase the professional fees incurred in the receivership proceedings and extend the risks to the estate of managing an active dental practice.

C. Approval of the Bifurcated RPA and Bifurcated APA

Terms of the Bifurcated Agreements

13. The Bifurcated Agreements were executed by the Receiver and the NDC Group on February 28, 2023 and are unconditional except for the requirement for Court approval.

14. The terms of the Delta APA are set out in paragraph 13 of the Third Report. The key terms of the Bifurcated RPA and the Bifurcated APA are largely consistent with those of the Delta APA with the key terms and other considerations being as follows:

- a. The Bifurcated Agreements include purchase prices for the Delta Clinic and the Delta Building that are consistent with the purchase prices allocated to those assets in the Delta APA but have been increased by the First and Third Amendment Prepayments, which collectively had the effect of increasing the purchase price by \$55,000 of which \$30,000 was allocated to the Delta Clinic and \$25,000 was allocated to the Delta Building.

- b. The additional prepayments were requested in order to mitigate the costs associated with the closing delays.
- c. The original deposit due pursuant to the Delta APA represented 10% of the total purchase price (the “**Original Deposit**”), which is separate from the additional deposits and prepayments described above. The Original Deposit was allocated based on the purchase price allocation set out in the Delta APA with the amount being included in the Fourth Confidential Report.
- d. The Original Deposit, the First Amendment Deposits and the First and Third Amendment Prepayments are or will either be held by McMillan or will have been released to the Receiver in accordance with the various agreements. Pursuant to the Bifurcated Agreements, the NDC Group acknowledged that the Original Deposit, the First Amendment Deposits and the First and Third Amendment Prepayments are non-refundable and fully releasable.
- e. The sales are being completed on an “as is, where is” basis with no representations or warranties being made by the Receiver.
- f. The closing date for the Delta Clinic under the Bifurcated APA is March 8, 2023, with the intention being to close the transaction contemplated in the Bifurcated APA immediately following Court approval of the Bifurcated Agreements. The NDC Group has provided the Receiver with a trust statement from their legal counsel as well as a bank statement as of February 28, 2023 indicating that they currently have access to sufficient funds to satisfy the purchase price for the Delta Clinic set out in the Bifurcated APA.
- g. The closing date for the Delta Building under the Bifurcated RPA has been extended to March 24, 2023. The Receiver is advised that the NDC Group may require a further extension of up to four weeks to complete the purchase of the Delta Building
- h. The Receiver has advised the NDC Group that, any such further extension will come with a requirement for an additional non-refundable prepayment in addition to the purchase price, the amount of which will depend on the terms of any further extension and the Receiver’s view of the associated closing risk.

- i. Upon completing the sale of the Delta Clinic, the NDC Group will be required to enter into a short-term lease agreement with the Receiver with respect to the Delta Clinic's use of the Delta Building, pending the completion of the sale of the Delta Building.
- j. The Bifurcated APA contains a covenant by the NDC Group such that they will not take any steps to close or terminate the operation of the Delta Clinic and/or relocate the associated assets until such time as the transaction contemplated in the Bifurcated RPA is closed. The Bifurcated RPA provides for the termination of that agreement if the Purchaser takes any steps to close, or terminate the operation of, or relocate the Delta Clinic and the associated assets (collectively, the "**Relocation Clauses**").
- k. The Receiver will have the option to terminate the sale of the Delta Building, with the consent of the Jovica Group (as subsequently defined) in the event that the NDC Group fails to close the transaction under the Bifurcated APA. The Receiver may also terminate the Bifurcated RPA in the event that the sale of the Delta Building is not completed within 60 days of the execution of the Bifurcated RPA.
- l. The Bifurcated RPA provides that, if the NDC Group receives a commitment letter or similar commitment with respect to securing financing for any portion of, or all, of the purchase price payable under the Bifurcated RPA, the NDC Group will provide the Receiver with a copy of same.
- m. In order to mitigate the risk in the event that the NDC Group fails to close the purchase of the Delta Building, CBRE, which previously marketed the Delta Building, will be conducting a soft remarketing of the Delta Building until such time as the sale of the Delta Building has been completed.
- n. The Receiver has been advised by Henry Schein, which marketed the Delta Property and the 52 Clinic, and NAI Commercial Real Estate Inc. ("**NAI**"), which marketed the 52 Building, both brokered previous sales involving Dr. Viet Tran, one of the principals of the NDC Group, and that the corresponding transactions had closed successfully.

Reasons to Approve Bifurcated Agreements

22. The Receiver submits the following in favour of the bifurcation of the Delta APA:

- a. The NDC Group has paid significant deposits and prepayments in relation to the Delta Property, which have been or will be forfeited in the event that the transactions contemplated by the Bifurcated Agreements cannot be completed.
- b. There is significant risk associated with not completing the sale of the Delta Clinic in the short-term since its value will continue to erode the longer it is in the receivership proceedings.
- c. The professional fees involved in managing the Delta Clinic as an operating business are well in excess of the professional fees associated with holding the Delta Building pending sale.

23. The Receiver further submits that it has made commercially reasonable efforts to obtain the highest realizations for the Delta Clinic and the Delta Building and has not acted improvidently, the Bifurcated Agreements represent the highest and best price received, the sale process by which the offers as it pertains the Bifurcated Agreements were obtained was one characterized by efficacy and integrity, and there was no unfairness in the working out of the sale process.

D. Temporary Sealing of the Fourth Confidential Report

24. The Fourth Confidential Report contains commercially sensitive information, being the purchase prices, prepayment amounts and deposit amounts for the Delta Clinic and the Delta Building contained in copies of the following:

- a. An unredacted copy of the Delta APA;
- b. an unredacted copy of the Bifurcated RPA; and
- c. an unredacted copy of the Bifurcated APA (collectively, the “**Confidential Information**”).

25. The relief for temporary sealing is necessary and appropriate with respect to the Fourth Confidential Report as:

- a. disclosure of the Confidential Information would be detrimental to any subsequent marketing efforts that may be required should either component of the Delta Sale (as defined in the Sixth Report) not be completed;

- b. if the requested sealing order is not granted, creditor recoveries may be reduced should a subsequent marketing process be required;
- c. reasonable alternative measures will not prevent the risk; and
- d. the benefits of the sealing order to the process and all stakeholders outweigh the deleterious effects on the rights and interests of the public in accessing this information at this time.

Material of evidence to be relied on:

- 26. Sixth Report of the Receiver dated February 28, 2023.
- 27. Fourth Confidential Report of the Receiver dated February 28, 2023.
- 28. Third Report of the Receiver dated January 3, 2023.
- 29. Second Confidential Report of the Receiver dated January 3, 2023.
- 30. Sale Approval and Vesting Order pronounced on January 11, 2022 by the Honourable Justice Mah.
- 31. Receivership Order pronounced on September 16, 2022 by the Honourable Justice Mah.
- 32. Receivership Order pronounced on September 29, 2022 by the Honourable Justice Mah.
- 33. The pleadings, affidavits, other materials and prior Receiver's Reports filed by the Receiver and Interim Receiver in these proceedings.
- 34. The inherent jurisdiction of this Honourable Court.
- 35. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

Applicable Rules:

- 36. Rules 6.47, 6.9, 11.27 and 13.5 of the Alberta Rules of Court; and
- 37. Such further material as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

- 38. *Bankruptcy and Insolvency Act*, RSC 1985 c. B-3, as amended;

39. *Judicature Act*, R.S.A. 2000, c. J-2, as amended;
40. This Court's equitable and inherent jurisdiction; and
41. Such further authority as counsel may advise and this Honourable Court may permit.

How the application is proposed to be heard or considered:

42. Commercial Chambers before Justice Mah by WebEx.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule “A”

Form of Order for Bifurcation of Delta Sale and Temporary Sealing

(see attached)

COURT FILE NUMBER 2203 12557
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF ROYAL BANK OF CANADA

Clerk's Stamp

DEFENDANT FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED

DOCUMENT **APPROVAL AND VESTING ORDER
(Sale by Receiver)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

McMillan LLP
TD Canada Trust Tower
#1700, 421-7th Avenue SW
Calgary, Alberta T2P 4K9

**Attention: Adam Maerov/Kourtney Rylands/
Preet Saini**

Telephone: 403.531.4700
Fax: 403.531.4720
File No.: 293571

DATE ON WHICH ORDER WAS PRONOUNCED: March 8, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Mah

UPON THE APPLICATION by MNP Ltd. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Faissal Mouhamad Professional Corporation, Delta Dental Corporation and Michael Dave Management Ltd. (collectively, the "**Debtors**") for an order approving the sale transactions (the "**Transactions**") contemplated by a Real Property Purchase Agreement (the "**Real Property Sale Agreement**") and an Asset Purchase Agreement (the "**Personal Property Sale Agreement**", and together with the Real Property Purchase Agreement, the "**Sale**

Agreements”), each dated February 28, 2023 between the Receiver and NDC Group Inc. and V. Tran and T. Sivanantha Professional Corporation (collectively, the **“Purchasers”**) or their nominee and appended to the Sixth Report of the Receiver dated February 28, 2023 (the **“Report”**) and vesting in the Purchasers (or their nominee) the right, title and interest, if any, of the Debtors and Dr. Faissal Mouhamad in and to the assets described in the Real Property Sale Agreement (the **“Real Property”**) and the Personal Property Sale Agreement (the **“Personal Property”**, and, together with the Real Property, the **“Purchased Assets”**);

AND UPON HAVING READ the Receivership Order dated September 16, 2022 (the **“Receivership Order”**), the Sale Approval and Vesting Order dated January 11, 2023 (the **“January 11 SAVO”**) Third Report of the Receiver dated January 3, 2023 (the **“Third Report”**), the Second Confidential Report of the Receiver dated January 3, 2023, the Sixth Report, the Fourth Confidential Report of the Receiver dated February 28, 2023 and the Affidavit of Service; **AND UPON HEARING** the submissions of counsel for the Receiver, and any other interested parties appearing at the application;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

JANUARY 11 SAVO

2. The terms of this Order shall supersede those of the January 11 SAVO.

APPROVAL OF TRANSACTION

3. The Transactions are hereby approved and execution of the Sale Agreements by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transactions and conveyance of the Purchased Assets to the Purchasers (or their nominee).

VESTING OF PROPERTY

4. Upon delivery of:
 - (a) a Receiver’s certificate to the Purchasers (or their nominee) substantially in the form set out in **Schedule “A”** hereto (the **“Receiver’s Personal Property Closing Certificate”**), all of the right, title and interest, if any, of any Debtors and/or Dr. Faissal Mouhamad in and to the Personal

Property listed in **Schedule “C”** hereto shall vest absolutely in the name of the Purchasers (or their nominee), and

(b) a Receiver’s certificate to the Purchasers (or their nominee) substantially in the form set out in **Schedule “B”** hereto (the **“Receiver’s Real Property Closing Certificate”**) all of the right, title and interest, if any, of any Debtors and/or Dr. Faissal Mouhamad in and to the Real Property listed in **Schedule “D”** hereto shall vest absolutely in the name of the Purchasers (or their nominee),

in each case free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, **“Claims”**) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders’ Lien Act* (Alberta); and
- (d) those Claims listed in **Schedule “E”** hereto (all of which are collectively referred to as the **“Encumbrances”**, which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule “F”** (collectively, **“Permitted Encumbrances”**))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

5. Upon delivery of the Receiver’s Personal Property Closing Certificate, and upon filing of a copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, **“Governmental Authorities”**) are hereby authorized, requested and directed to accept delivery of such Receiver’s Personal Property Closing Certificate and copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchasers or their nominee clear title to the Personal Property subject only to Permitted Encumbrances. Without limiting the foregoing, the Registrar of the Alberta Personal Property Registry (the **“PPR Registrar”**) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate

or interest of any Debtors or Dr. Faissal Mouhamad in any of the Personal Property which are of a kind prescribed by applicable regulations as serial-number goods.

6. Upon delivery of the Receiver's Real Property Closing Certificate, and upon filing of a copy of this Order, together with any applicable registration fees, all Governmental Authorities are hereby authorized, requested and directed to accept delivery of such Receiver's Real Property Closing Certificate and copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchasers or their nominee clear title to the Real Property subject only to Permitted Encumbrances. Without limiting the foregoing:

(a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:

(i) cancel existing Certificates of Title No. 162 262 370 for those lands and premises municipally described as 7151-50 Ave, Red Deer, Alberta T4N 4E4 and legally described as:

PLAN 2223KS
BLOCK 1
LOT 4A
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Lands**")

(ii) issue a new Certificate of Title for the Lands in the name of one of the Purchasers (or their nominee), namely, NDC Group Inc.;

(iii) transfer to the New Certificate of Title the existing instruments listed in Schedule "F", to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "F"; and

(iv) discharge and expunge the Encumbrances listed in Schedule "E" to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Real Property Sale Agreement against the existing Certificate of Title to the Lands.

7. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreements. Presentment of this Order and the Receiver's Personal Property

Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Personal Property of any Claims including Encumbrances but excluding Permitted Encumbrances. Presentment of this Order and the Receiver's Real Property Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and Real transfers of title or interest and cancel and discharge registrations against any of the Real Property of any Claims including Encumbrances but excluding Permitted Encumbrances.

8. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreements.
9. Upon delivery of the Receiver's Real Property Closing Certificate together with a copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity.
10. For the purposes of determining the nature and priority of Claims, or the legal or beneficial ownership of any Purchased Assets, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) (the "**Proceeds**") shall stand in the place and stead of the Purchased Assets from and after delivery of, in the case of the Personal Property, the Receiver's Personal Property Closing Certificate, and, in the case of the Real Property, the Receiver's Real Property Closing Certificate, and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against, or ownership of, the Purchased Assets, and such Claims and interests may be asserted against the Proceeds with the same priority and to the same extent 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. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of Proceeds without further order of this Court, provided however the Receiver may apply any part of such Proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order. Nothing in this Order is intended to or shall constitute a determination as to the legal or beneficial ownership of any of the Purchased Assets or the validity or priority of any Claim or Encumbrance in or on any of the Purchased Assets.

All of the provisions of this Order are without prejudice to the right of any creditor that has or wishes to assert an interest in the Purchased Assets to assert such interest against the Proceeds.

11. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchasers (or their nominee) shall not, by completion of either or both of the Transactions, have liability of any kind whatsoever in respect of any Claims against the Debtors.
12. Upon completion of the Transactions, the Debtors, Dr. Faissal Mouhamad and all persons who claim by, through or under any Debtor or Dr. Faissal Mouhamad in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchasers (or their nominee).
13. The Purchasers (or their nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for their own use and benefit without any interference of or by any Debtor or Dr. Faissal Mouhamad or any person claiming by, through or against any Debtor or Dr. Faissal Mouhamad.
14. Immediately upon closing of the Transactions, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
15. The Receiver is directed to file with the Court a copy of the Receiver's Personal Property Closing Certificate and the Receiver's Real Property Closing Certificate forthwith after delivery thereof to the Purchasers (or their nominee).
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchasers (or their nominee) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchasers (or their nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtors was entitled.

TEMPORARY SEALING

17. Division 4 of Part 6 of the Alberta Rules of Court does not apply to this application.
18. The Fourth Confidential Report shall, until the filing of all of the Receiver's Closing Certificates substantially in the forms appended to this Order as Schedule "A" and Schedule "B" or upon further order from this Honourable Court, be sealed and kept confidential, to be shown only to a Justice of the Court of King's Bench of Alberta, and accordingly, shall be filed with the Clerk of the Court who shall keep the Confidential Report in a sealed envelope, which shall be clearly marked "SEALED PURSUANT TO THE ORDER OF THE HONOURABLE JUSTICE MAH DATED March 8, 2023."

MISCELLANEOUS MATTERS

19. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**"), in respect of any Debtor or Dr. Faissal Mouhamad, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of any Debtor or Dr. Faissal Mouhamad; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchasers (or their nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any Debtor or Dr. Faissal Mouhamad and shall not be void or voidable by creditors of any Debtor or Dr. Faissal Mouhamad nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA 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.

20. The Receiver, the Purchasers (or their nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transactions.
21. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.

22. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchasers or the Purchasers' solicitors; and
 - (b) Posting a copy of this Order on the Receiver's website at:
<https://mnpdebt.ca/en/corporate/corporate-engagements/fmpc>

and service on any other person is hereby dispensed with.

23. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of Alberta

Schedule "A"

Form of Receiver's Personal Property Closing Certificate

COURT FILE NUMBER 2203 12557

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED



DOCUMENT **RECEIVER'S PERSONAL PROPERTY CLOSING CERTIFICATE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **McMillan LLP**
TD Canada Trust Tower
#1700, 421-7th Avenue SW
Calgary, Alberta T2P 4K9

**Attention: Adam Maerov/Kourtney Rylands/
Preet Saini**

Telephone: 403.531.4700
Fax: 403.531.4720
File No.: 293571

RECITALS

- A. Pursuant to an Order of the Honourable Justice D.R. Mah of the Court of King's Bench of Alberta, Judicial District of Edmonton, Alberta (the "**Court**") dated September 16, 2022, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of Faissal

Mouhamad Professional Corporation, Delta Dental Corporation and Michael Dave Management Corporation (collectively, the “**Debtors**”).

- B. Pursuant to an Order of the Court dated March 8, 2023 granted by the Honourable Justice D.R. Mah, the Court approved an Asset Purchase Agreement dated February 28, 2023 (the “**Personal Property Sale Agreement**”) between the Receiver and NDC Group Inc. and V. Tran and T. Sivanantha Professional Corporation (collectively, the “**Purchasers**”) and/or their nominee and provided for the vesting in the Purchasers of the right, title and interest, if any, of the Debtors and/or Dr. Faissal Mouhamad in and to the Personal Property, which vesting is to be effective with respect to the Personal Property upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Personal Property; (ii) that the conditions to Closing as set out in Article **[5]** of the Personal Property Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the sale of the Personal Property has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Personal Property Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchasers (or their nominee) has paid and the Receiver has received the Purchase Price for the Personal Property payable on the Closing Date pursuant to the Personal Property Sale Agreement;
2. The conditions to Closing as set out in Article **[5]** of the Personal Property Sale Agreement have been satisfied or waived by the Receiver and the Purchasers (or their nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, _____ 2023.

MNP Ltd., in its capacity as Receiver of the undertakings, property and assets of Faissal Mouhamad Professional Corporation, Delta Dental Corporation and Michael Dave Management Corporation, and not in its personal capacity.

Per; _____
Name:
Title:

Schedule "B"

Form of Receiver's Real Property Closing Certificate

COURT FILE NUMBER 2203 12557

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED



DOCUMENT **RECEIVER'S REAL PROPERTY**
CLOSING CERTIFICATE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **McMillan LLP**
TD Canada Trust Tower
#1700, 421-7th Avenue SW
Calgary, Alberta T2P 4K9

**Attention: Adam Maerov/Kourtney Rylands/
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- B. Pursuant to an Order of the Court dated March 8, 2023 granted by the Honourable Justice D.R. Mah, the Court approved an Real Property Purchase Agreement dated February 28, 2023 (the “**Real Property Sale Agreement**”) between the Receiver and NDC Group Inc. and V. Tran and T. Sivanantha Professional Corporation (collectively, the “**Purchasers**”) and/or their nominee and provided for the vesting in the Purchasers of the right, title and interest, if any, of the Debtors and/or Dr. Faissal Mouhamad in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Real Property; (ii) that the conditions to Closing as set out in Article **[5]** of the Real Property Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the sale of the Real Property has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Real Property Sale Agreement.

THE RECEIVER CERTIFIES the following:

5. The Purchasers (or their nominee) have paid and the Receiver has received the Purchase Price for the Real Property payable on the Closing Date pursuant to the Real Property Sale Agreement;
6. The conditions to Closing as set out in Article **[5]** of the Real Property Sale Agreement have been satisfied or waived by the Receiver and the Purchasers (or their nominee); and
7. The Transaction has been completed to the satisfaction of the Receiver.
8. This Certificate was delivered by the Receiver at _____ on _____, _____ 2023.

MNP Ltd., in its capacity as Receiver of the undertakings, property and assets of Faissal Mouhamad Professional Corporation, Delta Dental Corporation and Michael Dave Management Corporation, and not in its personal capacity.

Per; _____
Name:
Title:

SCHEDULE "C"

PERSONAL PROPERTY

Personal Property:

1. Clinical equipment
2. The Debtors' interest in any software, including Dentrix practice management software
3. Instruments and materials used for the provision of dental services
4. Leasehold improvements and cabinetry
5. Books and Records
6. Goodwill

SCHEDULE "D"
REAL PROPERTY

PLAN 2223KS
BLOCK 1
LOT 4A
EXCEPTING THEREOUT ALL MINES AND MINERALS

SCHEDULE "E"
CLAIMS

None.

SCHEDULE "F"

PERMITTED ENCUMBRANCES

1. Minor title defects or irregularities that do not, in the aggregate, materially impair the servicing, development, construction, operating, occupation, use, management, marketability or value of the Property.
2. Any subsisting reservations, limitations, provisos, conditions or executions, including royalties, contained in the original grant of the Property from the Crown.
3. Any reservations, exceptions, limitations, provisos and conditions to title contained in Section 61 of the *Land Titles Act* (Alberta) and reservations or exceptions of mines and minerals.
4. Those specific instruments more particularly set out below.

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
2976ML	11/12/1961	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF RED DEER
1100RK	21/03/1969	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF RED DEER
952 262 999	02/10/1995	RESTRICTIVE COVENANT