

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
[COMMERCIAL LIST]**

B E T W E E N:

VERSABANK

Applicant

and

KEELE MEDICAL PROPERTIES LTD.

Respondent

**SECOND REPORT TO THE COURT SUBMITTED BY MNP LTD.,
IN ITS CAPACITY AS RECEIVER OF
KEELE MEDICAL PROPERTIES LTD.**

January 19, 2021

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1.1 Introduction

1.1.1 Keele Medical Properties Ltd. (“**Keele**” or the “**Company**”) was the owner of real property and premises municipally known as 2701 and 2737 Keele Street, Toronto, Ontario (the “**Property**”).

1.1.2 The Property is comprised of 31 commercial condominium units on the ground floor of a 10-story condominium building, 3 basement storage units, 5 roof-top antenna condominium units, 9 signage condominium units and 80 covered parking stalls located in a multi-story parkade at the base of a neighbouring residential condominium building. Historically, the commercial condominium units have generally been rented to medical practitioners.

1.1.3 Bhaktraj (Raj) Singh (“**Singh**”) is the sole registered director of Keele.

1.1.4 Versabank, formerly Pacific & Western Bank of Canada, was the senior secured lender to the Keele. Versabank was owed approximately \$6.5 million by Keele. The indebtedness to Versabank was secured by the following:

- mortgage over the Property;
- assignment of rents;
- general security agreement;
- assignment of insurance proceeds;
- guarantee and postponement of claim executed by Singh, limited to the sum of \$3.0 million plus interest and costs;
- postponement and subordination of shareholders/creditors loans; and
- postponement and priorities agreement executed by Keele Medical Trustee Corporation and Olympia Trust Company.

All of documents granting the above security interests/postponements are dated December 8, 2014.

1.1.5 Keele granted a second charge on the Property to Keele Medical Trustee Corporation (“**Trustee Corp**”). Grant Thornton Limited (“**Grant Thornton**”) was appointed trustee of Trustee Corp and other companies known as the “Tier 1 Trustee Corporations”, by way of Order of this Court dated October 27, 2016. Trustee Corp is owed approximately \$4.1 million plus accruing interest and costs of enforcement.

1.1.6 Keele granted a third charge on the Property to Westmount-Keele Limited (“**Westmount**”), the former owner of the Property. Westmount is owed approximately \$1.2 million plus accruing costs and interest.

1.1.7 On May 29, 2015 the Toronto Standard Condominium Corporation No. 1786 (“**TSCC 1786**”) registered liens over certain condominium units for unpaid condo fees, a special assessment related to construction of the parkade, plus accruing interest (the “**Condo Liens**”). Keele challenged the

Condo Liens and, pursuant to the decision of Justice Chiappetta dated March 2, 2017, such challenge was dismissed, and the Condo Liens were held to be valid. Costs were subsequently awarded against Keele. TSCC 1786 is owed approximately \$1.9 million as at June 30, 2020.

- 1.1.8** Galrich Restoration Inc. (“**Galrich**”) registered a construction lien against certain condominium units on May 20, 2015. Galrich is owed approximately \$1.7 million.
- 1.1.9** Keele had been trying to sell the Property since January 2018. There was a potential sale that did not materialize in October 2018.
- 1.1.10** On January 29, 2019, TSCC 1786 issued a Notice of Sale under Charger or Certificate of Lien under the *Land Titles Act* (“**TSCC’s Notice of Sale**”) seeking payment of \$848,967 (the registered amount of the Condo Liens at that time) on or before March 22, 2019.
- 1.1.11** Both Versabank and Grant Thornton had issued demand letters and Notices of Intention to Enforce Security prior to TSCC 1786’s Notice of Sale.
- 1.1.12** On March 19, 2019, on a motion brought by Versabank, the Honourable Justice Hainey of the Ontario Superior Court of Justice [Commercial List] issued an Order (the “**Appointment Order**”) appointing MNP Ltd. as receiver (the “**Receiver**”) of Keele. A copy of the Appointment Order is attached as **Appendix A**. The Appointment Order is substantially in the form of the Model Receivership Order.
- 1.1.13** The Receiver has filed one previous report to the Court in this matter dated July 7, 2020 (the “**First Report**”) that included a confidential supplement, filed in connection with the Receiver’s motion for approval of the sale of the Property and certain other relief, including approval of the First Report and a distribution to Versabank. A copy of the First Report without appendices is attached as **Appendix B**. Copies of the Approval & Vesting Order and Ancillary and Distribution Order approving the First Report and distribution to Versabank, each issued by Justice Koehnen on July 17, 2020 (the “**July 17 Orders**”), are attached as **Appendix C** and **Appendix D**, respectively.

1.2 Purpose of the Receiver’s Second Report

- 1.2.1** This constitutes the Receiver’s second and final report to the Court (the “**Final Report**”) in this matter and is filed to:
 - i. Provide an overview of the Receiver’s activities since the First Report and seek approval of those activities;
 - ii. Recommend and request the issuance of an Order:
 - a) approving the Final Report, along with the activities of the Receiver detailed therein;
 - b) approving of the Receiver’s Statement of Receipts and Disbursements for the period March 19, 2019 to January 19, 2021;
 - c) approving the fees and expenses of the Receiver and its legal counsel, including the fees and disbursements to be incurred to completion of these proceedings; and
 - d) effective upon the filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the receivership of Keele have been completed to the satisfaction of the Receiver, discharging MNP Ltd. as receiver.

2.0 Receiver's Activities

2.1 Property Sale and Distributions

2.1.1 As outlined in the First Report and approved in the July 17 Orders, since the last court hearing the Receiver:

- i. completed the sale of the Property, leases, chattels and accounts of Keele to Humber River Medical Centre Inc.;
- ii. distributed \$1,000,000 of the net proceeds to TSCC 1786 pursuant to the terms of the settlement reached with them as described in the First Report and approved in the July 17 Orders; and,
- iii. distributed \$6,564,434 of the net proceeds to Versabank in full and final satisfaction of its indebtedness from Keele.

2.2 Canada Revenue Agency

2.2.1 The Receiver has filed all HST returns due and has complied with and audit request regarding same from Canada Revenue Agency, which process was delayed (likely due to COVID-19 interruptions) and was concluded on or about December 18, 2020.

2.3 Website

2.3.1 The Receiver has posted all public Court material and receivership notices on its website at mnpdebt.ca.

3.0

Statement of Receipts and Disbursements

- 3.1.1** **Appendix E**, attached, is a summary of the Receiver's Statement of Receipts and Disbursements ("R&D") for the period March 19, 2019 to January 19, 2021.
- 3.1.2** The Receiver generated receipts of approximately \$8.86 million, primarily from:
- Sale of the Real Property;
 - Rental income;
 - Cash in the Company's bank account at the date of receivership; and,
 - Settlement with TSCC 1786 pursuant to the terms of the Settlement & Release Agreement described in the First Report and approved in the July 17 Orders.
- 3.1.3** The Receiver has made disbursements (excluding distributions to secured creditors) of approximately \$1.24 million, primarily for condo fees, property taxes, property management, repairs & maintenance and professional fees.
- 3.1.4** The Receiver has paid secured creditor distributions of \$1.0 million to TSCC 1786 and approximately \$6.56 million to Versabank as approved in the July 17 Order.
- 3.1.5** The Receiver has net receipts remaining in the receivership estate account of \$52,172.
- 3.1.6** The Receiver has submitted HST returns claiming a refund of net HST paid totalling \$27,073.
- 3.1.7** The R&D includes an estimate of remaining receipts and disbursements to complete the administration of the receivership, including payment of final professional fees, as discussed in Section 4.0 of this report, and collection of the final HST refund. There will be no funds available for distribution to any of the remaining secured creditors in this receivership.

4.0 Receiver and its Counsel's Accounts

- 4.1.1** As required in the Initial Order, the Receiver is seeking the approval of its accounts and the accounts of its legal counsel for the receivership period to date.
- 4.1.2** Since the initial approval of its fees, the Receiver has submitted one invoice in the amount of \$20,485.10, before HST, for the period June 20, 2020 to January 18, 2021. The invoice includes an accrual to finalize the administration of this estate (attendance in Court for approval of the Final Report, preparation and mailing of the final HST return and preparation and mailing of the Final Receiver's Notice). The invoice, together with the Receiver's affidavit of verification of fees, is attached as **Appendix F**.
- 4.1.3** Since the initial approval of counsel's fees, the Receiver's legal counsel, Loopstra Nixon LLP ("**Loopstra**") has submitted the following invoices for the period to June 1 to November 30, 2020:
- June 30, 2020 - \$17,597.60
 - December 7, 2020 - \$63,923.23 (not yet paid, included in estimate of remaining receipts and disbursements on R&D).

The above amounts, totalling \$81,520.83, are inclusive of disbursements and before HST. Loopstra will incur further fees and disbursements to finalize the administration of this estate (preparation and service of material for the motion to approve the Final Report and attendance in Court for approval of the Final Report) but these will be no more than \$5,000.00 inclusive of all disbursements. The invoices, together with Loopstra's affidavit of verification of fees, are attached as **Appendix G**.

- 4.1.4** There are insufficient funds in the estate to pay the invoices of the Receiver and its counsel in full. The invoices will be adjusted as necessary once final legal fees are known and HST refunds collected.

5.0 Discharge of Receiver

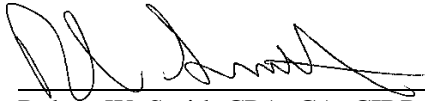
5.1 Discharge of Receiver

The Receiver is of the view that it has realized upon all the assets of Keele, and subject to this Court's approval, will proceed to pay the final professional fees. Accordingly, with no further duties to complete as Receiver we request to be discharged as Receiver by this Court subject to completion of the final steps related to the HST recovery.

6.1.1 We submit this Final Report to the Court and respectfully request that the Court make an order or orders as requested in paragraph 1.2.1 above.

6.1 All of which is respectfully submitted this 19th day of January 2021.

**MNP Ltd. in its capacity as Receiver of
Keele Medical Properties Ltd.
and not in its personal capacity**



Per: _____
Robert W. Smith CPA, CA, CIRP, LIT
Senior Vice President