

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Commercial Division)

DIVISION NO. 04 – SAINT-FRANÇOIS
COURT NO. 450-11-000012-215
ESTATE NO. 42-045484 / 42-045485

IN THE MATTER OF THE RECEIVERSHIP OF:

SOCIETE EN COMMANDITE INDUSTRIEL-LEGER &
9058-0150 QUEBEC INC.

Debtor

- And -

MNP LTD.

Receiver

REPORT OF THE RECEIVER SUBMITTED IN CONJUNCTION WITH THE APPLICATION FOR THE ISSUANCE OF AN APPROVAL, VESTING AND ASSIGNMENT ORDER AND OTHER ANCILLARY RELIEF (the “Motion”) (Section 49, 65.13, 243 and 247 of the *Bankruptcy and Insolvency Act* (“BIA”))

MNP Ltd. (“MNP” or the “Receiver”), in its capacity as Receiver to the assets of Société en commandite Industriel-Léger (“SEC”) & 9058-0150 Quebec Inc. (“9058”) (jointly the “Debtors”), hereby reports to the Superior Court of Quebec for the District and the Division of Saint-François (the “Court”) in support of the Motion dated 14 February 2022.

The purpose of the Receiver’s report (the “Report”) is to:

- a. Provide the Court with:
 - i. Background information leading to the appointment of the Receiver;
 - ii. Information on the Debtor’s assets and liabilities;
 - iii. A description of the sale solicitation process and the events preceeding the Motion;
 - iv. A summary of the key elements of the proposed sale transaction (the “Proposed Transaction”) contemplated under the *Agreement of Purchase and Sale* dated September 21, 2021, as the same was amended by that certain *Partial Waiver and Amending Agreement* dated November 12, 2021, that certain *Second Partial Waiver and Amending Agreement* dated December 23, 2021 and that certain *Waiver and Amending Agreement* dated February 4, 2022, (together, the “APS”, included in the

Motion as **Exhibit P-8 – under seal**) between the Receiver and Lotus Equity Partners (the “**Purchaser**”);

- v. A summary of the key elements to grant the Receiver with additional powers to assign the debtors into bankruptcy as per section 49 of the BIA;
- vi. The Receiver’s recommendation as to the Motion.

b. Ask the Court to :

- i. Authorize the Proposed Transaction;
- ii. Authorize the assignment of the existing leases and assumed contracts as defined in the APS and listed as Schedule D to the draft Approval and Vesting Order, **Exhibit P-1A** of the Motion;
- iii. Order that the assets subject to the Proposed Transaction be free and clear of any and all security, hypothecs, charges, and encumbrances or other restrictions
- iv. Keep under seal **Appendices B, C, D, E and F and Exhibits P-8, P-9, P-10 and P-11** of the Motion);
- v. Grant the Receiver with the additional powers to assign the Debtors into bankruptcy pursuant to section 49 of the BIA.

A. RESTRICTIONS AND LIMITATIONS

1. In preparing this Report, the Receiver has relied upon unaudited financial information obtained from the Debtors’ books and records and public records.
2. MNP has not audited, reviewed or attempted to verify the completeness and accuracy of the information in accordance with the recognized principles of the Canadian Institute of Chartered Professional Accountants, and as such MNP is not providing any opinion on the financial information of the Debtors.

B. BACKGROUND INFORMATION

3. SEC is a limited partnership set up for the purpose of owning, managing and operating real estate properties located in Magog and Sherbrooke, Quebec. The real estate portfolio of the Debtors consists of five (5) properties, as describe in Section C of the Report, and referred altogether as the “**Properties**”.
4. 9058 is the general partner of SEC and is owned by Paul Kanwal.
5. Prior to the receivership proceedings, on January 28, 2021, Kanwal Inc. (“**Kanwal**”), a related company to the Debtors, and 9058 filed an Application for an Initial Order under the *Companies’ Creditors Arrangement Act* (CCAA). An initial order was rendered on the following day, granting a stay

of proceedings in respect of 9058 for an initial delay of 10 days, which was extended subsequently until March 19, 2021. No further extension was granted.

6. On March 26, 2021, MNP Ltd. was appointed as Receiver to the assets of the Debtors pursuant to section 243 of the BIA, by an order (the “**Receivership Order**”) rendered by the Honorable Justice Gaétan Dumas, of the Superior Court of Quebec for the District and the Division of Saint-François.
7. Subsequent to the nomination of the Receiver, the sole director of 9058, Paul Kanwal, resigned his position.
8. Upon taking possession of the Debtors’ assets, the Receiver was provided only partial information related to the books and records of the Debtors, in electronic format saved on a USB memory stick. Furthermore, there were no employees available to consult as all employees worked for the affiliate company of SEC and 9058, Kanwal.
9. The Receiver was never granted access to the Debtors’ computers on the basis that they also serviced the books and records of Kanwal, and its related entities.

C. ASSETS

10. The Debtor’s assets include the following properties :

#	Property address	Market Value as at April 29, 2020 (in CAD \$) – Note 1
1	4220-4248 rue de la Garlock, Sherbrooke (the “ Garlock Lot 1 395 055 Property ”)	1,215,000
2.1	4221-4249 rue de la Garlock, Sherbrooke	1,165,000
2.2	4253-4283 rue de la Garlock, Sherbrooke (#2.1 and 2.2 together the “ Garlock Lot 1 395 054 Property ”)	1,165,000
3	4310-4364 Boul. Industriel, Sherbrooke (the “ Industrial Sherbrooke Property ”)	2,625,000
4	1426-1428 Boul. Industriel, Magog (the “ Industrial Magog Property ”)	\$2,555,000
		\$8,725,000

Note 1 - The values are from a commissioned appraisals report of the immovables as at April 29, 2020, included herewith as **Appendix A**.

11. On March 29, 2021, by virtue of the Receivership Order, the Receiver took possession of the Properties. The Receiver visited all locations to secure the assets and advised all tenants of the Receivership Order; directing them to henceforth pay the rent due directly to the Receiver.

12. The Properties were adequately insured through Kanwal until October 1, 2021 prior to the appointment of the Receiver. The Receiver subscribed to a new insurance policy starting October 1, 2021.
13. To the knowledge of the Receiver, the only other assets of the Debtors are:
- a. an advance receivable in the amount of \$22,652.92 from the administrator, Paul Kanwal;
 - b. an amount claimed by the Receiver from Paul Kanwal for SEC's rental revenues personally collected by him from October 2012 to February 2021. The amount claimed as at January 31, 2022 is \$26,484.83 (including interest).
14. These assets do not form part of the Proposed Transaction.

D. LIABILITIES

15. As at March 26, 2021, the known creditors of the Debtors were as follow:

Creditors	(in CAD \$)	Notes
Secured Creditors		
Consolidated Capital G.P. (" Consolidated Capital ")	\$1,300,000	1
9286-2929 Québec Inc (" 9286 ")	4,300,000	1
FWCU Capital Inc. (" FWCU ")	12,446,167	1
Ville de Sherbrooke	98,514	2
Ville de Magog	51,868	2
Commission Scolaire de la Région-de-Sherbrooke	10,591	2
Commission Scolaire des Sommets	2,321	2
	\$18,209,461	
Unsecured Creditors		
	\$83,439	

Note 1 – Interest payable on secured creditors' debt has not been considered. The claims will be reviewed at the time of the distribution by the Receiver subject to the Court's approval. Consolidated Capital has a first ranking hypothec on the Industrial Magog Property. 9286 has a hypothec ranking after Consolidated Capital on the Industrial Magog Property and a first ranking hypothec on the other Properties. FWCU has a hypothec ranking after Consolidated Capital and 9286 on all of the Properties.

Note 2 – The arrears in property taxes have increased since the Order was granted. The property taxes will be settled at the closing of the sale of the Properties.

E. SALE SOLICITATION PROCESS

16. According to section 12.3(l) of the Receivership Order, the Receiver was authorized to carry out a solicitation process for the sale of the Properties. The Receiver will comment on the process leading to the Proposed Transaction and give her opinion on the reasonableness of the selling conditions.
17. Prior to instituting a formal sale solicitation process, the Receiver received multiple unsolicited offers for the purchase of the Properties, or some of the Properties. None of the offers were retained as they were not firm offers, the amounts offered were deemed to be insufficient and not in the best interest of the secured creditors.
18. In April 2021, the Receiver instituted a formal process to mandate a real estate broker in order to market the Properties. Four (4) firms were selected to propose a solicitation process, two (2) local firms and two (2) international firms. The Receiver reviewed the various proposals and ultimately retained the services of CBRE Limited (“**CBRE**”) as the exclusive real-estate broker for the sale of the Properties. Copy of the brokerage agreement is communicated herewith as **Appendix B – under Seal**).
19. Consolidated Capital, 9286 and FWCU, (together the “**Secured Creditors**”) were informed of the mandate that was awarded by the Receiver to CBRE and received a copy of same.
20. In preparation of the solicitation process, the Receiver hired external firms to prepare building condition assessment reports, phase I environmental reports, as well as new certificates of location for each of the Properties.
21. CBRE officially launched the solicitation process on May 26, 2021. A confidential information memorandum (“**CIM**” – communicated herewith as **Appendix C – under Seal**) was completed, and a Data Room was opened. During the course of the solicitation process:
 - a. A flyer was sent to over 1200 potential purchasers;
 - b. Of those, forty-two (42) executed a non-disclosure agreement (“**NDA**”) and were given access to the Data Room;
 - c. Fourteen (14) bids were received in the first round of bids that ended on August 5, 2021. A summary of the first round of bids is communicated herewith as **Appendix D – under Seal**;
 - d. A second round of bids was held with a deadline set for August 8, 2021;
 - e. Ultimately, a bid from the Purchaser was selected by the Receiver after discussions with the Secured Creditors. The letter of intent is communicated herewith as **Appendix E –**

under Seal. The bid was initially made by a sister company of the Purchaser on behalf of a new entity to be formed.

22. After negotiations, the Receiver and the Purchaser signed the APS on September 21, 2021 (**Exhibit P-8 – under Seal** of the Motion). A due diligence period of forty-five (45) days was provided for the Purchaser to complete its review of the Properties and waive all conditions under the APS.
23. During the due diligence period, the Purchaser requested a price reduction based on additional operating and capital expenditures necessary to maintain and operate the Properties. The Receiver and The Purchaser then negotiated same. As detailed in the table presented as **Appendix F – under Seal**, the revised Offer was considered to be the most advantageous offer in the circumstances.
24. The due diligence period was extended a number of times for the following reasons:
 - a. The requirement to undertake a Phase II environmental evaluation and report for the Industrial Magog Property and the Garlock Lot 1 395 054 Property, as recommended in the Phase I environmental report;
 - b. The completion of the Phase III environmental remediation work for the Garlock Lot 1 395 054 Property, as recommended in the Phase II environmental report;
 - c. Delays in obtaining a clean estoppel certificate from the sole tenant located in the Industrial Magog Property;
 - d. Delays in obtaining a confirmation of proper insurance coverage from the sole tenant of the Industrial Magog Property due to electrical wiring and sprinkler issues; and
 - e. Problems from the Purchaser in obtaining proper insurance coverage for the Industrial Sherbrooke Property due to the condition of the roof. According to the Purchaser, their insurer nor any other insurer would issue full insurance coverage due to the poor condition of the roof. The Receiver communicated with its own insurer to inquire about transferring the current coverage to the Purchaser. Since a transfer of insurance coverage was not possible, it was agreed that the Receiver would undertake to repair the roof at the full and sole cost of the Purchaser prior to closing.
25. In connection with these extensions and in order to resolve these issues, the Receiver and the Purchaser signed a *Partial Waiver and Amending Agreement* dated November 12, 2021, a *Second Partial Waiver and Amending Agreement* dated December 23, 2021, and a final *Waiver and Amending Agreement* dated February 4, 2022.
26. The Receiver communicated frequently with the Secured Creditors during the sale solicitation process and the due diligence period.

F. THE PROPOSED TRANSACTION

27. The principal terms and conditions of the Proposed Transaction contemplated under the APS, as presented in the Motion, are described below.
 - a. The Purchaser will purchase the Properties, free and clear of any and all security, hypothecs, charges, liens and encumbrances or other restrictions;
 - b. The Proposed Transaction will be made on an “as is, where is” basis without any warranties, expressed or implied, legal or conventional;
 - c. The Receiver shall assign and transfer to the Purchaser all the rights, titles and interests of the Receiver and/or the Debtors in and to the existing leases and the service contracts that the Purchaser has elected to assume, listed as Schedule D to the draft Approval and Vesting Order, **Exhibit P-1A** of the Motion;

28. The Proposed Transaction is subject to the granting of the Approval and Vesting Order by the Court with the following provision :
 - a. Authorizing the Receiver to transfer to the Purchaser all of the rights, titles and interests of the Debtor in and to the Properties with the terms, conditions and provisions of the Offer;
 - b. Ordering that the Properties shall be sold by the Receiver and purchased by the Purchaser free and clear of any and all hypothecs, prior claims, security interests, deemed trusts, charges, liens, rights or other restrictions;
 - c. In respect of which provisional execution has been ordered notwithstanding appeal therefrom;

29. As set forth in the APS, the closing of the sale of each property will be on a staggered basis and occur as follows:
 - a. Garlock Lot 1 395 055 Property: thirty (30) days after the issuance of the *Approval and Vesting Order* by the Court.
 - b. Garlock Lot 1 395 054 Property: thirty (30) days after the later of:
 - i. the issuance of the *Approval and Vesting Order* by the Court; or
 - ii. the Purchaser’s receipt of the environmental land remediation report confirming that the environmental soil remediation work has been completed.
 - c. Industrial Sherbrooke Property: pursuant to the issuance of the *Approval and Vesting Order* by the Court, the Receiver will repair the roof as mentioned in paragraph 24.e. of

the Report. The closing will occur thirty (30) days after the Purchaser is deemed satisfied with the roof repairs.

- d. Industrial Magog Property: concurrently with the closing of the Industrial, Sherbrooke Property.

30. A deposit of \$500,000 is held by the Receiver in Trust to be applied on closing as a reduction of the purchase price.

31. The Proposed Transaction is sufficient to cover the secured debts of Consolidated Capital and 9286, subject to their respective hypothecs, but insufficient to pay the totality of the secured debt of FWCU. FWCU supports the Proposed Transaction.

G. ADDITIONAL POWERS GIVEN TO RECEIVER

32. The Receiver is seeking authorization from the Court to be granted additional powers to assign the Debtors into bankruptcy for the following reasons:

- a. The powers of the Receiver as defined in the Receivership Order rendered on March 26, 2021 did not provide the Receiver with the capacity to sign the required documentation to assign the Debtors into bankruptcy as per the section 49 of the BIA;
- b. The sole administrator, Paul Kanwal, resigned shortly after the appointment of the Receiver;
- c. The Receiver will be unable to distribute the proceeds from the Proposed Transaction before obtaining clearance certificates from both governments. Due to the limited information in the books and records, the Receiver is not in a position to produce the necessary documents in order to obtain said certificates;
- d. To crystallize the debts of the Debtors and allow for an orderly claim process;
- e. To allow the Trustee to investigate the affairs of the Debtors as per sections 95 to 101 of the BIA;
- f. To allow the Receiver to initially appoint MNP Ltd as Trustee to the bankruptcy of the Debtors, subject to the confirmation of the creditors.

H. CONCLUSION AND RECOMMENDATION

33. For the following reasons, the Receiver is of the opinion that the Proposed Transaction is the best that can be obtained in the circumstances:
- a. The Proposed Transaction is reasonable and fair and is substantially higher than the market value estimated in April 2020 by an appraisal firm (**Appendix A**);
 - b. The Offer is the most advantageous offer received during the solicitation process conducted by CBRE and the Receiver (**Appendix F – Under Seal**). The solicitation process was robust and marketed the Properties appropriately;
 - c. The Receiver does not believe a higher value could be obtained through an alternative sale process;
 - d. The Secured Creditors support the Proposed Transaction; and
 - e. The Proposed Transaction protects the tenants' rights to keep their respective leases "en vigueur" for the duration of the respective terms.
34. Taking into consideration the foregoing, the Receiver is of the opinion that the Proposed Transaction with the Purchaser is reasonable in the circumstances and recommends that the Court authorize the Proposed Transaction in accordance with the terms of the APS and to grant the Receiver the power to assign the Debtors into bankruptcy as it will be in the best interest of the creditors.
35. The Approval and Vesting Order sought by the Receiver does not ask the Court to authorize a distribution of the net proceeds of the sale. It is anticipated that an application to do so will be made at a later date, after the closing of the Transaction.

Respectfully submitted,

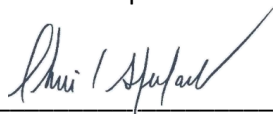
Dated at Montreal, this 14th day of February 2022.

MNP LTD.,

In its capacity as Receiver to the assets of:

Société en commandite Industriel-Léger & 9058-0150 Quebec Inc.

and not in its personal or corporate capacity



Sheri L. Aberback, CIRP, LIT, CFE
Senior Vice-President