

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

ICICI BANK CANADA

Applicant

-and-

2058756 ONTARIO LIMITED

Respondent

THE FOURTH REPORT OF  
A. JOHN PAGE & ASSOCIATES INC.  
AS THE COURT APPOINTED RECEIVER  
OF CERTAIN ASSETS OF 2058756 ONTARIO LIMITED

Dated August 6, 2014

**Introduction**

Pursuant to a motion heard on June 21, 2012, the Honourable Mr. Justice Brown appointed A. John Page & Associates Inc. as receiver and manager ("**the Receiver**") without security of certain of the assets, undertakings and properties of 2058756 Ontario Limited ("**205**") pursuant to Section 243 (1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended ("**the BIA**") and Section 101 of the Courts of Justice Act, R.S.O. 1990, c. 43, as amended. A copy of the order of the Honourable Mr. Justice Brown dated June 21, 2012 is attached as *Exhibit "A"* ("**the Initial Order**").

The mandate covers all the assets of 205 except for the real estate located at 700 Gardiners Road, Kingston, Ontario ("**the Kingston Property**"). The principal asset of 205 apart from the Kingston Property was real property comprising a 513,500 square foot industrial building located at 100 Central Avenue West, Brockville, Ontario

**("the Brockville Property" or "the Property").**

On August 29, 2012 the Receiver made its First Report to the Court (**"the First Report"**).

By order of the Honourable Mr. Justice Campbell dated September 11, 2012 (**"the September 11, 2012 Order"**) the activities of the Receiver set down in the First Report were approved. The fees and expenses of the Receiver and its counsel to July 31, 2012 were also approved as was the Statement of Receipts and Disbursements included in the First Report.

The September 11, 2012 Order also authorized the Receiver to market the Brockville Property and approved the selection of CBRE Limited (**"CBRE"**) as listing broker for the sale of the Brockville Property. The September 11, 2012 also authorized the Receiver to enter into an agreement for the leasing of the Brockville Property with CBRE.

On February 13, 2013 the Receiver made its Supplement to the First Report (**"the Supplement to the First Report"**).

On April 11, 2013 the Receiver made its Second Report to the Court (**"the Second Report"**).

On April 24, 2013 the Receiver made its Supplement to the Second Report (**"the Supplement to the Second Report"**).

By Order of the Honourable Mr. Justice Wilton-Siegel dated April 25, 2013 (**"the April 25, 2013 Order"**) the activities of the Receiver set down in the Second Report

and the Supplement to the Second Report were approved. The fees and expenses of the Receiver and its counsel to March 31, 2013 were also approved as was the Statement of Receipts and Disbursements included in the Second Report.

The April 25, 2013 Order also approved the sale of the Brockville Property to Stonewater Properties Inc. (“**the Purchaser**”) and vested in the Purchaser, on successful closing, all of 205’s right title and interest in the Brockville Property.

On August 8, 2013 the Receiver made its Third Report to the Court (“**the Third Report**”).

By Order of the Honourable Mr. Justice Pattillo dated August 26, 2013 (“**the August 26, 2013 Order**”) the activities of the Receiver set down in the Third Report were approved. The fees and expenses of the Receiver and its counsel to July 31, 2013 were also approved as was the Statement of Receipts and Disbursements included in the Third Report.

The August 26, 2013 Order also authorized an interim distribution to ICICI Bank Canada and established a claims bar date with respect to a potential claim related to an overdrawn bank account with Habib Canadian Bank (“**Habib Bank**”).

### **Notice to Reader**

In preparing this Report and making some of the comments contained in the Report, the Receiver has been provided with unaudited financial and other information from a variety of sources. While the Receiver has no reason to believe that such information not materially correct, readers should note that the Receiver has not formally audited or reviewed such information. In this Report nothing of a material

nature is believed to turn on the information not otherwise audited or reviewed for accuracy.

### **Purpose of this Report**

The purpose of this Report is to:

- Provide the court with information on the activities of the Receiver since our Third Report
- Seek approval of the activities of the Receiver and its Statement of Receipts and Disbursements as described in this Report
- Seek approval for a further interim distribution
- Seek approval for the fees and disbursements of the Receiver and its legal counsel to July 31, 2014 as set down in fee affidavits

### **Malik Khalid and the Khalid Entities**

The principal of 205 is/was Mr. Malik Khalid. As well as his interest in 205 Mr. Khalid appears to have (or have had) an interest in and/or be the controlling mind over a number of other real estate and other ventures in Ontario, including Bayside Mall Limited (“**Bayside**”), together with a property management company, Samak Management & Construction Inc. (“**SAMAK**”), and The M.S. Khalid Family Trust (“**The Family Trust**”). Collectively we will describe these various interests as “**the Khalid Entities**”.

A number of key creditors of 205 have guarantees from some of the Khalid Entities

and, because of the way in which the Khalid Entities were structured, some suppliers to the Brockville Property and the Kingston Property appear to be creditors of SAMAK and not of 205.

Because of this intertwined relationship and its impact on the stakeholders with an interest in the assets covered by the receivership ("**the Stakeholders**") we have been monitoring generally developments in the other Khalid Entities with a view to ensuring that our actions as receiver do not unnecessarily have a negative impact on the Stakeholders' interests in the Khalid Entities.

By order of the Honourable Mr. Justice Campbell dated October 10, 2012 ("**the October 10, 2012 Order**") Schwartz Levitsky Feldman Inc. ("**SLF**") was appointed Receiver of the Kingston Property upon the application of BPHL Holdings Inc. , a creditor with security over the Kingston Property.

By order of the Honourable Mr. Justice Wilton-Siegel dated December 5, 2012, A. John Page & Associates Inc. was appointed as Receiver of Bayside upon the application of ICICI Bank Canada ("**the Bank**"). The Bank holds security over both the assets of Bayside and the assets covered by this receivership for the same underlying series of loans. The major asset of Bayside is the mall located at 150 Christina St. N, Sarnia, Ontario ("**the Bayside Mall**"). SAMAK had been the property manager at the Bayside Mall. However, as Receiver of Bayside we did not retain them but, instead engaged Larlyn Property Management Ltd. ("**Larlyn**"). At the same time we terminated SAMAK as property manager of the Brockville Property and engaged Larlyn to replace them.

On March 5, 2013 SAMAK filed an assignment in bankruptcy and Kunjar Sharma &

Associates Inc. was named as Trustee of the Estate of SAMAK.

It is our understanding that the two major income earning assets in the Khalid Entities were the Brockville Property and the Bayside Mall. As noted above, control of both of these assets and their income streams was taken from the Khalid Entities.

### **The Sale of the Brockville Property**

As detailed in the Third Report the Property was sold to the Purchaser and the transaction closed on April 30, 2013.

### **Harmonized Sales Taxes (“HST”)**

As noted in some detail in the Third Report, the status of 205’s HST filings was complicated. At that time, we had filed all the outstanding returns relating to both the Kingston Property and the Brockville Property up to the date of the two receiverships based on the information we had been able to locate. Three large refund returns were being audited by Canada Revenue Agency (“CRA”). CRA had asked us for extensive information and support relating to those refund claims and, in particular the HST input tax credits (“ITCs”) included in the three returns. We were eventually able to find most of the documentation requested. However CRA then exercised the right to effectively disallow a number of large ITCs on the grounds that there was an insolvency and the underlying purchase invoice was never going to be paid. They did this pursuant to HST Policy Statement P-112R by exercising their authority under Section 296(1)(b) of the Excise Tax Act to assess the purchaser (ie 205) for the unpaid HST. Based on these disallowances our small refund claim became a large HST payable.

On June 23, 2014 we received a letter from CRA claiming the amount of \$74,639.61 as a deemed trust priority payment together with unpaid penalties and interest totalling \$10,784.41.

We have performed a cursory review of this claim. Given the complexities of the 205 HST accounting we would need further information from CRA in order to be certain that this claim is correct and represents the total amount of unpaid HST forming a deemed trust priority claim. It seems however to be of the right order of magnitude, given the disallowance noted above of certain unpaid ITCs.

We have not made any further enquiries to CRA and we have not investigated whether the above mentioned policy statement is applicable or has been applied correctly. This is in part because of the amounts at stake and in part because we have been informed that the Bank is considering taking steps to bankrupt 205 which, we understand, would have the effect of removing the priority of any CRA HST deemed trust claim. Given the status of the secured claim of the Bank, the HST claim would therefore likely never be paid.

Pending the Bank deciding on what course of action to pursue and given the magnitude of the amounts involved and the fact that CRA could still audit other HST returns, we are proposing continuing to hold back \$200,000 from proposed interim distributions until this matter is resolved. We had previously added CRA (Department of Justice) to the service list so that they would have an opportunity to consider if a larger hold back might be appropriate. They indicated at the time of our earlier interim distribution that they were not objecting to our proposed course of action.

### **Property Tax Appeals and Rebate Applications**

At the date of the Third Report we had outstanding appeals for the 2009-2012 Property Assessment and the 2013 Property Assessment together with an outstanding 2012 Vacancy Rebate Application. We subsequently filed a Vacancy Rebate Application re the stub period from January 1 to April 29, 2013 (the date of the closing of the sale of the Brockville Property).

With the concurrence of the Bank we reached a settlement with the Municipal Property Assessment Corporation regarding the Property Assessment appeals and have received refunds totalling \$478,666 re the 2009-2012 property taxes, \$35,092.99 re the 2013 property taxes and \$21,553 on account of the Vacancy Rebate Applications.

The last of these claims was paid out in early July this year. The payments came without backup documentation. Our initial and cursory review of the amounts paid suggests that a slightly larger amount should have been paid to take into account the refund of interest previously paid on property taxes that have now been refunded. We have contacted the City of Brockville to obtain more information and they have verbally confirmed that they are working on an interest refund calculation.

Once we have the results of that calculation and any resulting refund and once we have an adequate understanding of the actual amounts of the various components of property tax refunds and are comfortable no significant additional amounts might be still payable, we will determine if any tenants have a claim to any portion of these refunds and, if so, whether any such claim has priority over the Bank's security.



### **The Kingston Property and Related Receivership**

We have had only limited dealings with SLF regarding the receivership of the Kingston Property since the Third Report. These dealings have been primarily related to the filing of outstanding HST returns.

### **Nortel Networks Corporation et al. (“Nortel”) Claim**

We understand that the Kingston Property used to be owned by Nortel and as part of its sale in 1995 Nortel gave an indemnity relating to any violation of environmental law by Nortel prior to the sale. As noted in earlier reports the Kingston Property is believed to be contaminated. Nortel is being wound up pursuant to the Companies Creditors Arrangement Act (“CCAA”) and we understand that 205 submitted a large claim in the CCAA proceedings. The issue of whether such a claim is a claim in the CCAA proceedings has been affirmed in a recent high profile court determination. The likely payout under any such claim is currently the subject of another high profile court determination. Some of this claim would presumably flow with the still contaminated land. However some of the claim should pertain to costs already expended by 205 which we have estimated to be of the order of \$200,000. We have been contacted by counsel for the purchaser of the Kingston Property and are discussing the matter with them with a view to seeing if they might be interested in acquiring any claim 205 might have in this regard, given how long a final determination of all the issues in the Nortel CCAA proceedings might take. In general we are monitoring developments in this area to see if further action on our part is warranted to pursue a claim on behalf of 205.

### **Creditors and the BIA**

In accordance with the requirements of the BIA we have been issuing periodic Interim Reports of Receiver to the Superintendent of Bankruptcy, 205 and any interested creditor.

### **The Habib Bank Overdraft**

As noted in the First Report and the Supplement to the First Report, on the date of our appointment as Receiver, June 21, 2012, SAMAK's bank account at Habib Bank and through which they managed the Brockville Property was overdrawn to the extent of \$65,793.33.

The Family Trust issued a Motion Record dated September 10, 2012. The Family Trust moved to authorize and direct the Receiver to reimburse and pay the \$65,793.33 to SAMAK ("**the Family Trust Motion**"). SAMAK is now bankrupt and the Family Trust's status to bring the Family Trust Motion was unclear.

In order to advance the resolution of this matter, the August 26, 2013 Order established a claims bar date of September 9, 2013 ("**the Claims Bar Date**") in respect to the potential claims of The Family Trust, Habib Bank and/or the Trustee in Bankruptcy of SAMAK ("**the Habib Bank Claimants**") failing further notice of which claims, the Receiver was permitted to distribute to the Bank the amounts heldback for such claims.

No written notice of a claim was received from any of the Habib Bank Claimants by the Claims Bar Date and the Family Trust Motion was dismissed and we therefore distributed to the Bank an additional \$70,000 being the amount being held back by

us on account of this potential claim.

### Fees and Expenses of the Receiver and its Legal Counsel

The fees of the Receiver relating to its activities from August 1, 2013 to July 31, 2014 were as follows:

#### A. John Page & Associates Inc.

<b>Month</b>	<b>Hours</b>	<b>Fees</b>	<b>HST</b>	<b>Total</b>
August 2013	28.18	\$8,461.72	\$1,100.02	\$9,561.74
Sept. 2013	13.61	4,026.45	523.44	4,549.89
October 2013	5.42	1,697.94	220.73	1,918.67
Nov. 2013	9.92	3,584.66	466.01	4,050.67
Dec. 2013 – Jan. 2014	10.33	2,795.53	363.42	3,158.95
Feb. – April 2014	9.41	2,588.39	336.49	2,924.88
May – July 2014	23.72	7,525.62	978.33	8,503.95
<b>Total</b>	<b>100.59</b>	<b>\$30,680.31</b>	<b>\$3,988.44</b>	<b>\$34,668.75</b>

The fees and expenses of the Receiver's legal counsel relating to its activities from August 1, 2013 to July 31, 2014 were as follows:

#### Gardiner Roberts LLP

<b>Period Covered</b>	<b>Fees</b>	<b>Disbursements</b>	<b>HST</b>	<b>Total</b>
August 2013	\$4,981.50	\$763.44	\$746.84	\$6,491.78
Sept. 2013	439.50	31.08	61.18	531.76
Dec. 2013	588.00	10.75	77.84	676.59
January 2014	135.00	6.50	18.40	159.90
March 2014	315.00	5.25	41.63	361.88
July 2014	1,535.00	5.25	200.23	1,740.48
<b>Total</b>	<b>\$7,994.00</b>	<b>\$822.27</b>	<b>\$1,146.12</b>	<b>\$9,962.39</b>

## **Legal Counsel**

We continue to use the services of Gardiner Roberts (Jonathan Wigley and Jeff Rosekat) as our independent counsel. Given the dominant position of the Bank, in certain circumstances, for reasons of economy we have had the Bank's counsel, Heath Whiteley, assist us.

## **Banking and the Receiver's Statement of Receipts and Disbursements**

At the commencement of this assignment, we opened up receivership bank accounts at Royal Bank of Canada and at ICICI Bank Canada. Shortly after their appointment as property manager Larlyn opened up a separate account at Royal Bank of Canada ("**the Larlyn Royal Account**") for use in the management of the Property. The Larlyn Royal Account has now been closed. Attached as ***Exhibit "B"*** is a copy of the Receiver's Interim Statement of Receipts and Disbursements from June 21, 2012 to August 6, 2014 combining the three accounts ("**the R&D**"). We are asking the court to approve the R&D.

The fees of the Receiver from August 1, 2013 to July 31, 2014 are included with the Receiver's other disbursements in the R&D and are more fully set out in the invoices attached to the Affidavit of A. John Page that is being filed separately with the Court in support of the application seeking their approval.

The fees and expenses of Gardiner Roberts from August 1, 2013 to July 31, 2014 are also included as a disbursement in the R&D. They are more fully set out in the Affidavit that is also being filed with the Court in support of the application seeking their approval.

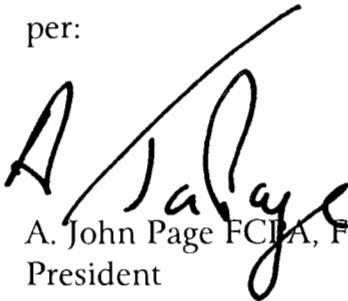
### **Interim Distribution**

As authorized by the August 26, 2013 Order we made a first interim distribution to the Bank of \$700,000. Once the Claims Bar Date had passed without a claim being made we made a further distribution to the Bank of \$70,000.

We are proposing making a further interim distribution of \$500,000 to the Bank and holding back the balance of the funds in our possession pending resolution of the outstanding matters detailed in this report.

All of which is respectfully submitted this 6th day of August, 2014

A. JOHN PAGE & ASSOCIATES INC.  
COURT APPOINTED RECEIVER OF CERTAIN ASSETS OF 2058756 ONTARIO LIMITED  
per:

A handwritten signature in black ink, appearing to read "A. John Page". The signature is written in a cursive style with a long, sweeping underline that extends across the text below.

A. John Page FCI, FCA, CIRP  
President

**Exhibits to the Fourth Report of**

**A. John Page & Associates Inc.**

**as Court Appointed Receiver of Certain Assets of 2058756 Ontario Limited**

**dated August 6, 2014**

Initial Order	A
Statement of Receipts and Disbursements	B

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Exhibit "A"

**Fourth Report of A. John Page & Associates Inc.  
Court Appointed Receiver of Certain Assets  
of 2058756 Ontario Limited  
Dated August 6, 2014**

**Initial Order**

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 21st DAY  
 )  
JUSTICE BROWN ) OF JUNE, 2012

**ICICI BANK CANADA**

Applicant

- and -



**2058756 ONTARIO LIMITED**

Respondent

**ORDER  
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing A. John Page & Associates Inc. as receiver and manager (in such capacities, the "**Receiver**") without security, of certain of the assets, undertakings and properties of 2058756 Ontario Limited (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Lionel Meunier sworn May 31, 2012 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, the Respondent and BPHL Holdings Limited ("**BPHL**"), and on reading the consent of A. John Page & Associates Inc. to act as the Receiver and the consent of the Debtor and BPHL to this Order,



**SERVICE**

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

**APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. John Page & Associates Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor, save and except for the real property known municipally as 700 Gardiners Road, Kingston, Ontario, acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**"). For greater certainty, such proceeds of the Property, shall include all amounts paid and/or payable on or after May 31, 2012 by: (i) Black & Decker Canada Inc.; and/or (ii) Camalor Manufacturing Inc.; to either the Applicant, the Respondent and/or BPHL, or their respective agents, including, without limitation, the following:

- (a) a payment made by Black & Decker Canada Inc. ("**B&D**") by cheque dated June 7, 2012 in the amount of \$263,064.00 and made payable to Samak Management & Construction Inc. ("**Samak**"), for the benefit of the Respondent and on account of the rent for June, 2012 (the "**June B&D Rent**"); and
- (b) a payment made by B&D by cheque for approximately the same amount as in (a) above and made payable to Samak, for the benefit of the Respondent and on account of the rent for July, 2012.

**PAYMENT OF CERTAIN PRE-APPOINTMENT PROFESSIONAL FEES**

3. THIS COURT AUTHORIZES AND DIRECTS the Receiver to pay out of the June B&D Rent payment the fees and expenses of: (i) Heath Whiteley as counsel to the Applicant; and (ii) A John Page & Associates Inc. as reviewer/monitor (in accordance

J.S.

up to a maximum of \$25,000, excluding H.S.T. ✓

towards J.S.

with its agreements with the Applicant and the Respondent dated September 13, 2011 and May 15, 2012, respectively); up to the date of this Order, as approved by the

Applicant and provided for by the terms of the Applicant's security, *subject to the right of BHL to challenge the amount paid in any subsequent assessment of the accounts of this receivership.*

**RECEIVER'S POWERS**

4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor, and nothing herein shall preclude the Receiver from appointing the Debtor as its agent for such purposes;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) with the further approval of the Court, to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the

aggregate consideration for all such transactions does not exceed \$250,000; and

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

5. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request. All Persons shall inform the Receiver if any of the Records might contain information of third parties that were and remain subject to confidentiality obligations and shall provide the Receiver with details of any such confidentiality obligations. The Receiver shall then keep any such information confidential.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer,

software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. 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**

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

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

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

### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or

such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

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

### **EMPLOYEES**

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

### **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such



information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. 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**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner*

*Protection Program Act.* Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

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

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

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

### **FUNDING OF THE RECEIVERSHIP**

21. 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 \$250,000 (or such greater amount as this Court may

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

22. 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.

23. 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.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. THIS COURT ORDERS that the Receiver be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or notice by courier, personal delivery or electronic transmission shall be

deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

26. THIS COURT ORDERS that the Plaintiff, the Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Receiver may post a copy of any or all such materials on its website at [www.ajohnpage.com](http://www.ajohnpage.com).

### **GENERAL**

27. 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.

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

29. 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.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. 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.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:



A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be a name followed by a surname.



A small, stylized handwritten mark or signature, possibly a date or initials, written in black ink.

JUN 21 2012

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that A. John Page & Associates Inc., the receiver (the "**Receiver**") of certain of the assets, undertakings and properties of 2058756 Ontario Limited (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, 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, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify 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 Toronto, 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 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 \_\_\_\_\_, 20\_\_.

A. John Page & Associates Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**BETWEEN:**

**ICICI BANK CANADA**  
Applicant

- AND -

**2058756 ONTARIO LIMITED**  
Respondent

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
  
(PROCEEDING COMMENCED AT TORONTO)

**ORDER**  
(June 21, 2012)

**Heath P.L. Whiteley**  
(L.S.U.C. No. 38528P)

Tel: (905) 773-7700

Fax: (905) 773-7666

Email: [heath@whiteleylitigation.com](mailto:heath@whiteleylitigation.com)

310 Stouffville Road  
Richmond Hill, Ontario  
L4E 3P4

Lawyer for the Applicant



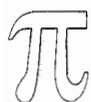


Exhibit "B"

**Fourth Report of A. John Page & Associates Inc.  
Court Appointed Receiver of Certain Assets  
of 2058756 Ontario Limited  
Dated August 6, 2014**

**Statement of Receipts and Disbursements**

## 2058756 Ontario Limited - Statement of Receipts and Disbursements:6

21/06/2012 through 06/08/2014 (Cash Basis)

07/08/2014

Page 1

Category Description	21/06/2012- 06/08/2014
<b>INCOME</b>	
Other Income	197.52
Property Tax Refund	535,311.82
Receivables	295,475.47
Rent	1,085,067.59
Sale of Real Estate	2,000,000.00
Utility Recharge	167,314.12
<b>TOTAL INCOME</b>	<b>4,083,366.52</b>
<b>EXPENSES</b>	
Advance to Samak	5,000.00
Cleaning	1,801.29
Consultant Fees	19,000.54
HST Control	6,744.55
HST Input	1,515.05
Insurance	63,867.36
Landscaping	8,070.00
Larlyn Property Management	
Cleaning	3,266.15
Management Fee	16,101.60
Other	6,197.03
Repairs	3,707.84
<b>TOTAL Larlyn Property Management</b>	<b>29,272.62</b>
Legal Fees	114,945.06
Miscellaneous	3,707.68
OSB Fees	70.00
Payment to Secured Creditor	770,000.00
Pre-Appointment Fees	125,000.00
Pre-Receivership Suppliers	14,965.41
Property Taxes	1,156,393.06
Real Estate Commission	75,000.00
Receiver's Fees	376,598.23
Repairs and Maintenance	8,624.58
Samak Management Fees	22,704.16
Samak Payroll	29,750.00
Snow Ploughing	24,499.98
Utilities	
Gas	111,107.35
Hydro	314,186.14
Water	47,595.51
<b>TOTAL Utilities</b>	<b>472,889.00</b>
<b>TOTAL EXPENSES</b>	<b>3,330,418.57</b>
<b>OVERALL TOTAL</b>	<b>752,947.95</b>