

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 21st DAY
)
JUSTICE WILTON-SIEGEL) OF FEBRUARY, 2013



ICICI BANK CANADA

Applicant

- and -

BAYSIDE MALL LIMITED

Respondent

ORDER

THIS MOTION, made by the court-appointed Receiver, A. John Page & Associates Inc., for an Order approving the activities of the Receiver to date (as detailed in the First Report of the Receiver and the Supplement thereto) and the fees and expenses of the Receiver and its counsel, and such further and other relief as to this Honourable Court may seem just, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the First Report of the Receiver dated January 28, 2013 (the "**First Report**"), the Supplement to the First Report of the Receiver dated February 12, 2013 (the "**Supplement to the First Report**"), and the affidavits of A. John Page sworn January 22 and February 6, 2013 (the "**Receiver's Fee Affidavits**"), Heath Whiteley sworn February 19, 2013 (the "**Whiteley Fee Affidavit**") and Jonathan Wigley sworn January 23, 2013 (the "**Wigley Fee Affidavit**") and on hearing the submissions of the lawyer(s) present on the motion, all parties per the

service list on the notice of motion having been served as appears from the affidavit of Heath Whiteley sworn February 19, 2013.

1. THIS COURT ORDERS that the activities of the Receiver to date as set out in the First Report and the Supplement to the First Report are hereby approved.
2. THIS COURT ORDERS that the receipts and disbursements of the Receiver as set forth in the Statement of Receipts and Disbursements contained in the Supplement to the First Report be and the same are hereby approved.
3. THIS COURT ORDERS AND DIRECTS SAMAK Management & Construction Inc. ("**SAMAK**") to remit such funds in its possession or control up to a maximum of \$155,850.93, being the amount of rent collected from tenants of the respondent, Bayside Mall Limited by SAMAK for the month of December, 2012 to either Feige Nawrocki LLP or Wildeboer Dellelce LLP to be held in trust pending further order of this court, and without prejudice to the rights of: (i) the Receiver; and (ii) SAMAK, creditors of SAMAK or any trustee in bankruptcy of SAMAK.
4. THIS COURT ORDERS that the fees of the Receiver for the period ending January 31, 2013 in the amount of \$89,750.15 plus applicable GST/HST as set forth in the Receiver's Fee Affidavit are hereby approved and allowed.
5. THIS COURT ORDERS that the fees of the Receiver's counsel for the period ending January 31, 2013 in the amount of \$16,400.00 plus applicable GST/HST as set forth in the Whiteley Fee Affidavit are hereby approved and allowed.
6. THIS COURT ORDERS that the fees of the Receiver's independent counsel for the period ending December 31, 2012 in the amount of \$1,894.00 plus applicable GST/HST as set forth in the Wigley Fee Affidavit are hereby approved and allowed.

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



FEB 21 2013

W. Heath Whiteley
