

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 12th
JUSTICE STEELE) DAY OF JULY, 2024

B E T W E E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

**1557113 ONTARIO INC., 1870431 ONTARIO INC., 2500994 ONTARIO LTD. AND
2544924 ONTARIO INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, RSO 1990, c. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of the Respondents, including 1870431 Ontario Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, and all proceeds thereof, for an order approving the transaction (the “**Transaction**”) contemplated in the agreement of purchase and sale between the Receiver and 1000918856 Ontario Inc. (the “**Purchaser**”) dated June 19, 2024 (the “**Sale Agreement**”), and appended to the Second Report of the Receiver dated July 3, 2024 (the “**First Report**”), for the sale of the lands and premises described in Schedule A hereto (the

“**Property**”), and vesting the Debtor’s right, title and interest in the Property in and to the Purchaser, was heard this day by judicial video conference.

ON READING the Second Report of the Receiver dated July 3, 2024 (the “**Second Report**”) and on hearing the submissions of counsel for the Receiver, counsel for Tandia Financial Credit Union Limited, in-house counsel for McDougall Energy Inc., no one appearing for any other person on the service list, although served as appears from the affidavit of service of Janet Nairne, sworn July 3, 2024, filed,

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

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement 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 the completion of the Transaction and for the conveyance of the Property to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule B hereto (the “**Receiver’s Certificate**”), all right, title and interest of the Debtor in and to the Property, shall vest absolutely in the Purchaser free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated November 17, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedules D hereto) and,

for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon the registration in Land Registry Office for the Land Titles Division of Frontenac (No. 13) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, subject to paragraph 7 hereof, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. THIS COURT ORDERS that immediately following completion of the Transaction the Receiver shall distribute the net sale proceeds to the Applicant.

8. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of any of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference,

assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

9. 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.

SCHEDULE A

PIN: 36177-0213 (LT)

PT LT 16 RANGE B BARRIE AS IN FR774761; NORTH FRONTENAC

SCHEDULE B
Form of Receiver's Certificate

Court File No. CV-23-00707172-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

**1557113 ONTARIO INC., 1870431 ONTARIO INC., 2500994 ONTARIO LTD. AND
2544924 ONTARIO INC.**

Respondents

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Osborne of the Ontario Superior Court of Justice (the "**Court**") dated November 17, 2023, BDO Canada Limited was appointed as receiver and manager, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act* (the "**Receiver**"), without security, of the assets, undertakings and properties of the Respondents 1870431 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including lands and premises in Cloyne, municipally known as 14265 Hwy 41 (the "**Property**") and all proceeds thereof.

B. Pursuant to an Order of the Court dated July 12, 2024, the Court approved the transaction (the "**Transaction**") contemplated in the agreement of purchase and sale between the Receiver and 1000918856 Ontario Inc. (the "**Purchaser**") dated June 19, 2024 (the "**Sale Agreement**"), for the sale of the Property and an Order vesting the Debtor's right, title and interest in the

Property in and to the Purchaser, which vesting is to be effective with respect to the Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Property; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____, 2024.

BDO Canada Limited

in its capacity as Court-appointed receiver of the asset, property and undertakings of 1870431 Ontario Inc. and not in its personal or corporate capacity

Per: _____

Name:

Title:

SCHEDULE C

REGISTRATIONS TO BE DELETED FROM PIN 36177-0213 (LT)

1. Instrument No. FC338601 registered 2021/11/12 – Charge from 1870431 ONTARIO INC. to TANDIA FINANCIAL CREDIT UNION LIMITED
2. Instrument No. FC338602 registered 2021/11/12 - NO ASSGN RENT GEN from 1870431 ONTARIO INC. to TANDIA FINANCIAL CREDIT UNION LIMITED
3. Instrument No. FC355524 registered 2022/07/20 - CHARGE from 1870431 ONTARIO INC. to SHELL CANADA LIMITED
4. Instrument No. FC361513 registered 2022/10/26 - CHARGE from 1870431 ONTARIO INC. to SINGH, AJIT, KAUR, GURDEV, and 2643692 ONTARIO INC.

SCHEDULE D

REGISTRATIONS TO BE PERMITTED ON PIN 36177-0213 (LT)

1. Instrument No. FC159732 registered 2013/05/31 – Transfer from 2200298 ONTARIO INC. to 1870431 ONTARIO INC.
2. Instrument No. 13R20843 registered 2014/03/13 – Plan Reference

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

-and- **1557113 ONTARIO INC. et al.**

Respondents

Court File No. CV-23-00707172-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER

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