

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

**AYAZ SOMANI IN HIS CAPACITY AS EXECUTOR OF
THE ESTATE OF NASEEM SOMANI**

Respondent

**FOURTH REPORT OF DELOITTE RESTRUCTURING INC.,
IN ITS CAPACITY AS RECEIVER
DATED NOVEMBER 4, 2022**

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APPENDICES

APPENDIX	DESCRIPTION
A	Appointment Order and Endorsement of Justice Pattillo dated December 13, 2019
B	First Report of the Receiver dated January 27, 2020 (without appendices)
C	Administrative Order dated January 31, 2020
D	Claims Procedure Order dated January 31, 2020
E	Second Report of the Receiver dated February 11, 2020 (without appendices)
F	Authorization Order and Endorsement of Justice Hainey dated March 19, 2020
G	Third Report of the Receiver dated May 20, 2020 (without appendices)
H	Approval and Vesting Order dated May 29, 2020
I	Administrative and Distribution Order dated May 29, 2020
J	Endorsement of Justice Koehnen dated May 29, 2020
K	Statement of Receipts and Disbursements for the interim period May 13, 2020 to September 30, 2022 and cumulative period December 13, 2019 to September 30, 2022
L	Affidavit of Stefano Damiani of Deloitte Restructuring Inc. sworn November 1, 2022
M	Affidavit of Tyler McNaughton of Borden Ladner Gervais LLP sworn November 2, 2022

INTRODUCTION

1. An application was made by Royal Bank of Canada (“**RBC**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Deloitte Restructuring Inc. (“**Deloitte**”) as receiver (the “**Receiver**”) of: (i) all of the present and after acquired personal property of the Estate of Naseem Somani (the “**Somani Estate**” or the “**Debtor**”) held at National Bank of Canada and National Bank Financial (together, “**National Bank**”) (the “**National Bank Property**”); and (ii) the real property registered in the name of the Somani Estate known municipally as 106 Angus Glen Boulevard, Markham, Ontario (the “**Real Property**” or “**106 Angus Glen**”, and together with the National Bank Property, the “**Property**”).
2. By Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 13, 2019 (the “**Appointment Order**”) and the Endorsement of Justice Pattillo (the “**December 13 Endorsement**”), Deloitte was appointed as the Receiver of the Property. Copies of the Appointment Order and the December 13 Endorsement are attached hereto as **Appendix “A”**.
3. As described in paragraphs 9 and 10 of the First Report (defined below), the Somani Estate is the testamentary estate of Naseem Ayaz Somani (“**Naseem**”), who was the spouse of Ayaz Madat Somani (“**Ayaz**”). Ayaz is the Estate Trustee and Executor of the will of the Somani Estate. Naseem was a long-serving senior executive of Dynacare, a leading Canadian health and laboratory services company which is a subsidiary of US-based Laboratory Corporation of America Holdings (“**LabCorp**”), until retiring as its Chief Executive Officer in July 2018. Naseem passed away on March 17, 2019 (“**Date of Death**”). Naseem was the owner of 106 Angus Glen and the National Bank Property.
4. Ayaz had retained (i) Howard Manis of Macdonald, Sager, Manis LLP as legal counsel to both the Somani Estate and Ayaz, (ii) Bruce Drake of Bruce Drake Law Office and Hooey Remus LLP as legal counsel on estate legal matters, and (iii) MNP LLP (“**MNP**” or the “**Estate Tax Advisor**”) to provide estate tax services.
5. As described more particularly in paragraph 11 of the First Report (defined below), the Somani Estate is indebted to RBC pursuant to a mortgage on the Real Property and as a guarantor of credit facilities granted by RBC (the “**RBC Indebtedness**”) to AVG (OEAM) Inc. (“**AVG**”), a related entity. Ayaz, together with Karim Suleman (“**Suleman**”), are the sole directors and officers of AVG, a privately-owned Ontario corporation headquartered in Toronto, Ontario. AVG was placed

into receivership pursuant to an Order of the Court dated February 21, 2020 and bankrupted on March 6, 2020 and Ayaz and Suleman were each personally bankrupted also on March 6, 2020, all administered by Trustees other than Deloitte.

6. On January 27, 2020, the Receiver issued its first report to the Court (the “**First Report**”) for the purpose of, among other things, updating the Court on the Receiver’s activities in respect of the National Bank Property and 106 Angus Glen, and seeking orders approving the Receiver’s interim Statement of Receipts and Disbursements for the period December 13, 2019 to January 23, 2020 and relief in respect of outstanding estate and creditor information as described below. A copy of the First Report (without appendices) is attached hereto as **Appendix “B”**.
7. On January 31, 2020, the Court issued an order (the “**Administrative Order**”) requiring Ayaz Somani to provide to the Receiver, within five (5) days of the date of the Administrative Order, a list of all persons whom Ayaz Somani has reason to believe will assert a general creditor claim against the Somani Estate, together with a list of all assets on hand when the executor took office, a list of all debts of the Somani Estate, identifying debts as at August 30, 2019, and all payments, distributions and transfers of property of the Somani Estate and a list of the remaining assets of the Somani Estate. Attached hereto as **Appendix “C”** is a copy of the Administrative Order.
8. Also on January 31, 2020, the Court issued a further order (the “**Claims Procedure Order**”) approving the Receiver’s proposed claims procedure to identify and determine the claims of the creditors of the Somani Estate (the “**Claims Procedure**”), and authorizing and directing the Receiver to implement the Claims Procedure. Attached hereto as **Appendix “D”** is a copy of Claims Procedure Order.
9. On February 11, 2020, the Receiver issued its second report to the Court (the “**Second Report**”) for the purpose of, among other things, updating the Court on the Receiver’s activities in respect of the National Bank Property and 106 Angus Glen, and seeking an order approving the Receiver’s interim Statement of Receipts and Disbursements for the period January 24, 2020 to February 10, 2020 and relief in respect of a bankruptcy of the Estate as described below. A copy of the Second Report (without appendices) is attached hereto as **Appendix “E”**.
10. On March 19, 2020, the Court issued an order (the “**Authorization Order**”): (i) approving the Receiver’s interim Statement of Receipts and Disbursements to February 10, 2020, (ii) authorizing but not obligating the Receiver to file an assignment into bankruptcy on behalf of the Somani Estate, (iii) authorizing Deloitte to act as trustee of the bankrupt Somani Estate, and (iv) authorizing the Receiver to transfer \$30,000 to Deloitte in its capacity as proposed trustee in bankruptcy to fund

the administration of the proposed bankruptcy. Attached hereto as **Appendix “F”** is a copy of Authorization Order.

11. On May 11, 2020, the Receiver filed an assignment into bankruptcy on behalf of the Somani Estate. On May 26, 2020, Harris & Partners Inc. (“**Harris**”) became the substitute trustee of the Somani Estate.
12. On May 20, 2020, the Receiver issued its third report to the Court (the “**Third Report**”) for the purpose of, among other things, seeking orders (i) approving the sale of 106 Angus Glen, (ii) temporarily sealing the confidential supplement to the Third Report (the “**Confidential Third Report**”), (iii) approving a distribution to RBC and authorizing additional distributions to RBC in such amounts as the Receiver deems appropriate in repayment of the RBC Indebtedness, (iv) approving the Receiver’s interim Statement of Receipts and Disbursements, and (v) approving the professional fees of the Receiver and its independent legal counsel. A copy of the Third Report (without appendices) is attached hereto as **Appendix “G”**.
13. On May 29, 2020, the Court issued two orders in these proceedings:
 - (a) The first order (the “**Approval and Vesting Order**”) (i) approved the sale of 106 Angus Glen, and (ii) temporarily sealed the Confidential Third Report; and
 - (b) The second order (the “**Administrative and Distribution Order**”) (i) authorized the Receiver to make an interim distribution payment to RBC in the amount of \$2,000,000 and such further distributions to RBC at the discretion of the Receiver up to the amount owed to RBC by the Debtors, (ii) approved the Receiver’s Statement of Receipts and Disbursements for the interim period February 11, 2020 to May 12, 2020, and (iii) approved the professional fees of the Receiver for the interim period November 12, 2019 to April 30, 2020 and its independent legal counsel for the interim period November 11, 2019 to April 30, 2020.

Attached hereto as **Appendix “H”** and **Appendix “I”** are, respectively, copies of the Approval and Vesting Order and the Administrative and Distribution Order. A copy of the Endorsement of Justice Koehnen dated May 29, 2020 (the “**May 29 Endorsement**”) is attached hereto as **Appendix “J”**.

14. Copies of application materials, court orders and other materials with respect to this matter are available on the Receiver’s website at www.insolvencies.deloitte.ca/en-ca/Somani.

15. This fourth report of the Receiver (the “**Report**”) is filed in connection with the Receiver’s motion for an administration order (the “**Administration Order**”) and an order discharging the Receiver (the “**Discharge Order**”), which orders would include the Court, among other things:
- (a) approving this Report and the activities of the Receiver as described in this Report;
 - (b) authorizing payments to Canada Revenue Agency (“**CRA**”) and the Ontario Ministry of Finance (the “**Ministry**”) in the amounts set out in this Report;
 - (c) approving the Receiver’s Interim Statement of Receipts and Disbursements for the period May 13, 2020 to September 30, 2022 (the “**R&D**”);
 - (d) approving the professional fees and disbursements of the Receiver and its independent legal counsel, Borden Ladner Gervais LLP (“**BLG**”), including estimates to completion of the administration of the receivership; and
 - (e) upon the issuance by the Receiver of a certificate confirming that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver (the “**Receiver’s Discharge Certificate**”), discharging Deloitte as the Receiver and releasing and discharging Deloitte and its affiliates, partners, employees, agents and advisors from any and all liability that such persons now or may hereafter have by reason of, or in any way of arising out of, the acts or omissions of the Receiver while acting in its capacity as Receiver in these proceedings.

TERMS OF REFERENCE

16. In preparing this Report, the Receiver has been provided with, and has relied upon unaudited, draft and/or internal financial information, certain books and records, discussions with Ayaz, Estate Legal Counsel and Estate Tax Advisor, together with information from representatives of National Bank (collectively, the “**Information**”) and Realtors (as defined in the First Report). Except as described in this Report:
- (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants Canada Handbook, and,

accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information; and

- (b) the Receiver has prepared this Report in its capacity as a Court-appointed Receiver to support the Court's approval of the Receiver's activities and other relief being sought. Parties using the Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.

17. Unless otherwise stated, all dollar amounts contained in the Report are expressed in Canadian dollars.
18. Unless otherwise provided, all other capitalized terms not otherwise defined in this Report are as defined in the Appointment Order, the First Report, the Second Report, or the Third Report.

CLOSING OF THE REAL PROPERTY SALE TRANSACTION

19. As set out in paragraphs 19 to 22 of the Third Report, the Receiver had bound continued insurance coverage through Roughly Insurance Brokers Ltd. ("**Roughly Insurance**"), retained Richmond Advisory Services as property manager (the "**Property Manager**"), and executed an exclusive listing agreement with Century 21 Leading Edge Realty Inc. o/a The Tar Team ("**Tar**").
20. The Receiver entered into an agreement of purchase and sale for 106 Angus Glen in March 2020, and obtained the Approval and Vesting Order in May 2020.
21. The purchaser delivered the closing proceeds to the Receiver and the sale transaction for 106 Angus Glen was successfully completed on July 3, 2020. Subsequently, the Receiver terminated the insurance coverage and collected the corresponding refund, arranged for the settlement of final utility and maintenance costs with the Property Manager, and remitted the realtor commission to Tar.

CONCLUSION OF THE CLAIMS PROCEDURE

22. Paragraphs 38 to 43 of the Third Report summarized the Receiver's activities in respect of the Claims Procedure. RBC was the only creditor which had filed a proof of claim by the Claims Bar Date of March 31, 2020. The Receiver is of the view that the Claims Procedure has concluded, and that the Receiver has discharged its duties and obligations under the Claims Procedure Order.

23. In May 2020, the Receiver filed an assignment into bankruptcy on behalf of the Somani Estate and Harris became the substitute trustee of the Somani Estate.
24. Subsequent to the Claims Bar Date, CRA and the Ministry submitted proofs of claim to the Receiver, which followed the filing of updated tax returns, as described later in this Report. The Claims Procedure Order, authorized the Receiver to waive strict compliance with the requirements of the Claims Procedure Order, including the time in which any forms under the Claims Procedure Order are submitted to the Receiver.

DISTRIBUTIONS TO RBC

25. As described in paragraphs 45 to 47 of the Third Report, the Receiver obtained an independent legal opinion confirming the validity and enforceability of RBC's security, subject to the standard assumptions and qualifications.
26. The Administrative and Distribution Order authorized the Receiver to make an interim distribution payment to RBC in the amount of \$2,000,000 and such further distributions to RBC at the discretion of the Receiver up to the amount owed to RBC by the Debtor. Paragraph 52 of the Third Report set out a total indebtedness to RBC in the amount of \$8,034,954.
27. The Receiver has made four interim distributions to RBC totaling \$6,050,000 as at the date of this Report. The Receiver will issue further distributions to RBC following the settlement of the professional costs and estate administrative costs prior to its completion of the receivership administration.

UPDATE ON ESTATE TAX MATTERS AND PROPOSED PAYMENTS

28. Paragraphs 35 to 37 of the Third Report described delays encountered by the Estate Tax Advisor in the compilation of information from the Executor which caused delays in certain tax filings. The Receiver has worked with MNP and the Trustee to facilitate the completion of the remaining tax reporting, as summarized below.

Canada Revenue Agency

29. The Receiver maintained regular communication with CRA in respect of requisite tax reporting, the status of tax assessments and clearance matters.

30. A summary of tax returns which were filed following the date of the Third Report are as follows:
- (a) T1 personal income tax return for the period January 1, 2019 to the Date of Death;
 - (b) T3 estate tax returns for the periods March 18, 2019 to March 17, 2020, and March 18, 2020 to March 17, 2021;
 - (c) Rights or Things Return; and
 - (d) T1 adjustment requests with respect to the 2017 and 2018 T1 returns which were filed prior to the date of the Appointment Order.
31. Following CRA's issuance of Notices of Assessment in respect of the above tax filings, the Receiver worked with MNP and the Trustee to prepare and file a Clearance Certificate request package. CRA has completed its review of this information with no adjustments to the balance owing.
32. CRA filed two proofs of claim with the Receiver totaling \$31,617 before applicable charges (the "**CRA Amount**").
33. CRA has advised the Receiver that a Clearance Certificate will be issued upon the payment of the CRA Amount.

Ontario Ministry of Finance

34. The Executor filed an Estate Information Return ("**EIR**") dated December 5, 2019 with the Ministry, a copy of which was appended to the Second Report. The Receiver reviewed the EIR and identified omitted information. Consequently, the Receiver worked with MNP and the Trustee to prepare and file an amended EIR (the "**Amended EIR**"), together with supporting documentation.
35. The Ministry has assessed the Amended EIR and filed a proof of claim in the amount of \$60,435 before applicable charges (the "**Ministry Amount**", and together with the CRA Amount of \$31,617, total \$92,052, the "**Combined Tax Amount**"). The Ministry has advised the Receiver that a Comfort Letter will be issued upon the payment of the Ministry Amount.

Proposed Payments of the CRA Amount and Ministry Amount

36. Final tax returns have been filed and assessed by CRA and the Ministry.

37. The Receiver has reviewed the proofs of claim filed by CRA and the Ministry which set out a Combined Tax Amount totaling \$92,052, before applicable charges.
38. CRA and the Ministry have each advised the Receiver that a Clearance Letter or Comfort Letter will be issued upon payment of the CRA Amount and Ministry Amount, respectively.
39. The Receiver proposes to make the payment of the Combined Tax Amount in order to conclude the remaining activities of the receivership administration.
40. The proposed payment of the Combined Tax Amount, is appropriate, as RBC took the security that it holds in the Somani Estate, subject to the unsecured debts that existed as at August 30, 2019.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

41. Attached as **Appendix “K”** is a cumulative Statement of Receipts and Disbursements for the period December 13, 2019 to September 30, 2022, together with interim activity for the period May 13, 2020 to September 30, 2022.
42. As at September 30, 2022, the closing cash balance was \$892,682. The Receiver intends to settle remaining estate liabilities and issue a final distribution to RBC prior to filing its Receiver’s Discharge Certificate (as defined below).

PROFESSIONAL FEES

43. The Receiver, and its legal counsel, BLG, have maintained detailed records of their professional time and costs since the issuance of the Appointment Order. Pursuant to paragraphs 16 and 17 of the Appointment Order, the Receiver and its legal counsel were directed to pass their accounts from time to time before this Honourable Court and were granted a Receiver’s Charge over the Property.
44. The fees of the Receiver during the period May 1, 2020 to September 13, 2022 amount to \$142,527.50, and together with other expenses and disbursements of \$4,275.83, and Harmonized Sales Tax (“**HST**”) in the amount of \$19,084.43, total \$165,887.76. The time spent by the Receiver is more particularly described in the Affidavit of Stefano Damiani of Deloitte, sworn November 1, 2022 (the “**Damiani Affidavit**”) in support hereof and is attached hereto as **Appendix “L”**.
45. The legal fees incurred by BLG during the period May 1, 2020 to October 31, 2022 amount to \$45,692.95, and together with disbursements of \$210.94 and HST of \$5,965.86, total \$51,869.75. The time spent by BLG personnel is more particularly described in the Affidavit of Tyler

McNaughton of BLG, sworn November 2, 2022 (the “**McNaughton Affidavit**”) in support hereof and attached hereto as **Appendix “M”**.

46. As set out in the Damiani Affidavit and the McNaughton Affidavit (collectively, the “**Fee Affidavits**”), the Receiver estimates fees of the Receiver and its counsel to the conclusion of the administration to be in the amounts of \$35,000 each, plus disbursements and HST (together, the “**Estimated Fees**”), respectively. The Estimated Fees for the fees of the Receiver and its counsel are in addition to the fees outlined in this report.
47. The Receiver is of the view that the fees and disbursements set out in the Fee Affidavits, including the Estimated Fees (collectively, the “**Professional Fees**”) are reasonable in the circumstances of this case. Accordingly, the form of Administration Order sought by the Receiver approves the Professional Fees.

BOOKS AND RECORDS

48. The Receiver is not in possession of physical books and records of the Debtor.
49. The Receiver maintained its own records relating to the administration of the receivership proceeding and will retain such records in accordance with statutory requirements.

REMAINING ACTIVITIES AND DISCHARGE OF THE RECEIVER

50. The tasks to be undertaken by the Receiver prior to the conclusion of these proceedings as are as follows:
 - (a) Payment of the Combined Tax Amount, receipt of a Clearance Letter and Comfort Letter from CRA and the Ministry, respectively, and any corresponding communications and supplemental tax advice which may become necessary;
 - (b) Settlement of estate liabilities such as professional fees;
 - (c) Issuance of further distributions to RBC of estate proceeds and residual funds;
 - (d) Preparation and filing the Receiver’s statutory interim and final reports to the Superintendent of Bankruptcy pursuant to subsections 246(2) and 246(3) of the BIA;
 - (e) Stakeholder communications, as required; and
 - (f) Final reconciliation of the Receiver’s bank accounts once all distributions and expenses have cleared, and subsequent closure of the receivership trust account.

51. Other than the remaining matters to be completed as addressed in this Report, the Receiver has completed its administration of the estate in accordance with the terms of the Appointment Order and the various other orders rendered by the Court in the course of these proceedings. Accordingly, the Receiver recommends that it be discharged upon the issuance of a discharge certificate (the “**Receiver’s Discharge Certificate**”) in the form appended to the form of Discharge Order being sought by the Receiver.

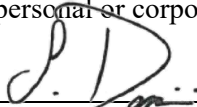
RECEIVER’S RECOMMENDATIONS

52. For the reasons set out above, the Receiver recommends that the Court make Orders:
- (a) approving this Report and the activities of the Receiver as described in this Report;
 - (b) authorizing payments to CRA and the Ministry in the amounts set out in this Report;
 - (c) approving the Receiver’s R&D for the period May 13, 2020 to September 30, 2022;
 - (d) approving the professional fees and disbursements of the Receiver and BLG, plus the estimates to completion of the administration of the receivership; and
 - (e) upon the issuance by the Receiver of the Receiver’s Discharge Certificate, discharging Deloitte as the Receiver and releasing and discharging Deloitte and its affiliates, partners, employees, agents and advisors from any and all liability that such persons now or may hereafter have by reason of, or in any way of arising out of, the acts or omissions of the Receiver while acting in its capacity as Receiver in these proceedings.

All of which is respectfully submitted at Toronto, Ontario this 4th day of November, 2022.

DELOITTE RESTRUCTURING INC.,
solely in its capacity as the
Court-appointed receiver of
certain assets and property of the
Estate of Naseem Somani,
and not in its personal or corporate capacity

Per:



Stefano Damiani, CPA, CA, CIRP, LIT
Senior Vice-President

ROYAL BANK OF CANADA

-and- AYAZ SOMANI IN HIS CAPACITY AS EXECUTOR OF THE ESTATE OF NASEEM SOMANI

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**FOURTH REPORT OF THE RECEIVER, DELOITTE
RESTRUCTURING INC.**

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