



COURT FILE NUMBER 1901-10871

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF THE BANK OF MONTREAL

DEFENDANTS UWAMS SUPPORTIVE LIVING LTD., MAXWELL  
UWAGA AND CAROL UWAGA

DOCUMENT **APPLICATION BY DELOITTE RESTRUCTURING  
INC., COURT-APPOINTED RECEIVER AND  
MANAGER – DISCHARGE**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF PARTY  
FILING THIS DOCUMENT Dentons Canada LLP  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
Attn: Derek Pontin  
Ph. (403) 268-6301 Fx. (403) 268-3100  
File No.: 131048-101

**NOTICE TO RESPONDENTS:** Service List attached as **Schedule "A"**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	June 7, 2021
Time	3:00 p.m.
Where	Calgary Courts Centre, 601 5 St SW, Calgary, Alberta T2P 5P7 VIA WEB-EX, see <b><u>Schedule "B"</u></b>
Before Whom	The Honourable Justice C.M. Jones

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. The Applicant, Deloitte Restructuring Inc. ("**Deloitte**"), in its capacity as court-appointed receiver and manager ("**Receiver**") of the assets, properties, and undertakings of Uwams Supportive Living Ltd. (the "**Debtor**"), respectfully seeks and Order substantially in the form attached hereto as **Schedule "C"**:

- (i) abridging the time for service of this application and deeming service good and sufficient;
  - (ii) approving the Receiver's statement of receipts and disbursements, activities, fees and accounts, and those of its legal counsel;
  - (iii) approving the proposed Assignment Agreement relating to assignment of a possible claim of the Debtor, which the Receiver is not in a position to monetize;
  - (iv) approving the Receiver's proposed distribution to Bank of Montreal on account of its secured claim;
  - (v) releasing the Receiver from all claims, excepting claims arising from fraud, gross negligence or willful misconduct;
  - (vi) discharging the Receiver as receiver and manager of the Debtor, subject only to performance of its final duties; and
- (b) such further and other relief, advice, and directions as counsel may advise and this Honourable Court deems just and appropriate.

**Grounds for making this application:**

**Interim Receivership and Receivership Proceedings**

2. On October 11, 2019, pursuant to an application made by the Bank of Montreal ("**BMO**") in respect of the Debtor, Deloitte was appointed as Interim Receiver of the Debtor by virtue of an order of the Court of Queen's Bench of Alberta (the "**Interim Receivership Order**").
3. On January 23, 2020, pursuant to a consent order (the "**Receivership Order**") Deloitte was appointed as Receiver of the assets, undertakings, and properties of the Debtor.
4. The Receiver's activities are set out in the Receiver's Reports, including its Second Report dated May 31, 2021. Capitalized terms used herein, and not otherwise defined, have the meaning ascribed in the Second Report.
5. The receivership is essentially complete. The Receiver has described its receipts and disbursements, activities and professional fees and legal fees incurred. The Receiver seeks ratification and approval of its actions, including as detailed in the Receiver's Reports.

**Proposed Assignment**

6. The Receiver has been asked by the Uwagas to convey the rights in a potential claim of the Debtor to the Uwagas for further pursuit. The claim would be raised by or on behalf of the Debtor against Alberta Health Services ("**AHS**") (hereafter, the "**Claim**").
7. The Receiver has reviewed the viability of the Receiver pursuing the Claim and determined it is in the best interest of the estate that the rights to the Claim be assigned and pursued by the Uwagas. The Claim is speculative and litigation to pursue the same would be lengthy and expensive. A positive result would not be assured and the estate is not in sufficient funds to warrant the expenditure.

8. The has proposed an Assignment Agreement in the form attached to its Second Report and believes the terms thereof to be commercially reasonable.
9. The Uwagas are positioned to pursue and monetize the Claim and have an existing interest in the Claim as current or former directors, creditors and shareholders of UWAMS.
10. The proposed Assignment Agreement includes a shareback percentage of net proceeds to the estate, should the Claim be successful, which will be distributed by the Receiver to creditors on a priority basis, subject to the Receiver's Charge.
11. The Receiver relies upon the Second Report and this Application as notice to the parties that are affected by the proposed Assignment.

**Distribution and Discharge of the Receiver**

12. Bank of Montreal has proven its secured claim to the satisfaction of the Receiver. The Receiver is prepared to distribute funds on account of that secured obligation. Funds available are less than sufficient to pay the secured claim and will accordingly result in a shortfall.
13. Following distribution, subject only to possible future distributions as a result of the shareback, the Receiver has completed its duties in the administration of this estate.
14. It is the Receiver's respectful view that its fees and the fees of its legal counsel are appropriate and reasonable, and should be approved.
15. The Receiver seeks the standard releases set out in the template discharge order, appropriate for the discharge of the Court's officer after its detailed reporting and notice to all affected parties.
16. The Receiver proposes to file a Discharge Certificate confirming completion of its final duties, at which time the Receiver's discharge would be effective.
17. In connection with its discharge, the Receiver seeks an order directing that the Receiver shall continue to hold any physical books and records of the Debtor for a period of 30 days for any entitled party to claim possession, and thereafter shall be entitled to destroy any of the Debtor's books and records remaining in the Receiver's possession.
18. Apart from the foregoing, and dealing with necessary administrative matters, the Receiver is not aware of any further steps that must be taken in completing the administration of this estate.
19. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or evidence to be relied on:**

20. First Report filed March 17, 2021.
21. Supplement to the First Report filed March 26, 2021.
22. Confidential Supplement filed April 6, 2021.
23. Second Report filed May 31, 2021.

24. First Report of the Interim Receiver filed October 31, 2019.
25. Second Report of the Interim Receiver filed December 3, 2019.
26. Third Report of the Interim Receiver filed January 17, 2020.
27. Affidavit of Service, to be filed.
28. The pleadings and proceedings in the within action.
29. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

**Applicable Rules:**

30. *Alberta Rules of Court*, Alta Reg 124/2010.
31. Such further and other Rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

32. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.
33. *Judicature Act*, RSA 2000 c J-2.
34. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

35. None.

**How the application is proposed to be heard or considered:**

36. Via WEB-EX.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A" to the Application – Service List

COURT FILE NUMBER	1901-10871
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	THE BANK OF MONTREAL
DEFENDANTS	UWAMS SUPPORTIVE LIVING LTD., MAXWELL UWAGA and CAROL UWAGA

### SERVICE LIST

#### Email Service List

Counsel/Party	Telephone	Fax	
Cassels Brock & Blackwell LLP Suite 1250, 440 2 Avenue SW Calgary, AB T2P 5E9  Attn: Jeffrey Oliver  Email: JOliver@casselsbrock.com	403-351-2920	403-648-1151	Counsel to Bank of Montreal
The Bank of Montreal 6th Floor, 350 — 7 Avenue SW Calgary, AB T2P 3N9  Attn: Trevor Bauer  Email: Trevor.Bauer@bmo.com	403-503-5914	403-503-7020	Lender
McMillan LLP TD Canada Trust Tower, Suite 1700 421 7 Avenue SW Calgary, AB T2P 4K9  Attn: Adam Maerov  Email: adam.maerov@mcmillan.ca	403-531-4700	403-531-4720	Counsel to UWAMS Supportive Living Ltd.
YYC Lawyers  Attn: Ugo Ukpabi  Email: ugo@yyclawyers.ca			Counsel to Maxwell and Carol Uwaga
Maxwell Uwag 54 Evergreen Terrace SW Calgary, AB T2Y 2V9  Email: usl@shaw.ca			Defendant

<p>Carol Uwaga 54 Evergreen Terrace SW Calgary, AB T2Y 2V9</p> <p>Email: usl@shaw.ca</p>			Defendant
<p>Deloitte Restructuring Inc. 700, 850 — 2<sup>nd</sup> Street SW Calgary, AB T2P OR8</p> <p>Attn: Ryan Adlington/Naomi McGregor</p> <p>Email: radlington@deloitte.ca naomcgregor@deloitte.ca</p>	403-261-1700	403-264-2871	Court-Appointed Receiver
<p>Dentons Canada LLP 850 - 2nd Street SW 15th Floor, Bankers Court Calgary, Alberta T2P OR8</p> <p>Attn: Derek Pontin</p> <p>Email: derek.pontin@dentons.com</p>	403-268-6301	403-268-3100	Counsel to the Court-Appointed Receiver
<p>HMC Lawyers 1000, 903 - 8 Avenue SW Calgary, Alberta T2P 0P7</p> <p>Attn: Erin Viala</p> <p>Email: eviala@hmclawyers.com</p>	403-261-3333	403-269-9304	Counsel to Closer to Home Community Services Society
<p>Metro Ford Sales Ltd. 1111 9 Avenue SW Calgary, AB T2P 2K9</p> <p>Attn: Kristen Coupal</p> <p>Email: k.coupal@metroford.ca</p>	403-263-4530	403-233-8195	Secured Creditor
<p>Alberta Health Services 10301 Southport Lane SW Calgary, AB T2W 1S7</p> <p>Attn: Jill Curtis</p> <p>Email: jill.curtis@ahs.ca</p>	403-830-9545	403-943-0907	

The City of Calgary 800 Macleod Trail South Calgary, AB T2P 2M5  Attn: Credit & Collections  Email: CreditandCollections@calgary.ca	403-268-2507	403-268-2311	Encumbrancer
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**Virtual Courtroom 60** has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.

**4. Note: Recording or rebroadcasting of the video is prohibited.**

**5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the “Cisco Webex Meetings” App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

Schedule "C" to the Application – Discharge Order

COURT FILE NUMBER 1901-10871

Clerk's Stamp

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF BANK OF MONTREAL

DEFENDANTS UWAMS SUPPORTIVE LIVING LTD., MAXWELL UWAGA AND  
CAROL UWAGA

DOCUMENT **ORDER FOR DISCHARGE OF RECEIVER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY  
FILING THIS DOCUMENT DENTONS CANADA LLP  
1500, 850 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 0R8  
Attention: Derek Pontin  
Phone: (403) 268-6301  
Email: derek.pontin@dentons.com

**DATE ON WHICH ORDER WAS PRONOUNCED:** June 7, 2021

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary, Alberta

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Justice C.M. Jones

UPON THE APPLICATION of Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver and manager and formerly interim receiver (together, the **"Receiver"**), of the undertakings, property, and assets of UWAMS Supportive Living Inc. (the **"Debtor"**), for an order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities, and discharge of the Receiver; AND UPON reading the Receiver's First Report filed March 17, 2021, Supplement to the First Report filed March 26, 2021, Confidential Supplement filed April 6, 2021, and Second Report filed May 31, 2021 (the **"Second Report"**, together with the foregoing the **"Receiver's Reports"**); AND UPON reading the First Report of the Interim Receiver filed October 31, 2019, the Second Report of the Interim Receiver filed December 3, 2019 and the Third Report of the Interim Receiver filed January 17, 2020 (together, the **"Interim Receiver's Reports"**); AND UPON reading the Affidavit of \_\_\_\_\_ sworn \_\_\_\_\_, 2021 in respect of service of this Application; AND UPON hearing counsel for the Receiver and such other parties as may participate in the within application; AND UPON being satisfied that it is appropriate to do so;

IT IS HEREBY ORDERED AND DECLARED THAT:

## **SERVICE**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

## **APPROVAL OF ACTIVITIES AND ACCOUNTS**

2. The Receiver's Statement of Receipts and Disbursements as set out in the Second Report is hereby ratified and approved.
3. The Receiver's accounts for fees and disbursements, as set out in the Receiver's Reports, are hereby approved without the necessity of a formal passing of its accounts.
4. The accounts of the Receiver's legal counsel, Dentons Canada LLP, for their fees and disbursements, as set out in the Receiver's Reports are hereby approved without the necessity of a formal assessment of their accounts.
5. The Receiver's activities as set out in the Receiver's Reports, including its activities in its capacity as Court-appointed interim receiver and as receiver and manager of the Debtor, as set out in the Receiver's Reports filed herein, are commercially reasonable and are hereby ratified and approved.

## **ASSIGNMENT OF CLAIM**

6. The Assignment Agreement dated \_\_\_\_, 2021 and entered into by the Receiver is commercially reasonable and approved. The Receiver is authorized to take such steps and execute such additional documents (if any) as the Receiver may deem necessary to give full and better effect to the Assignment Agreement.

## **DISTRIBUTION**

7. The Receiver is authorized and directed to distribute remaining funds in the estate, in the approximate amount of \$\_\_\_\_, to Bank of Montreal on account of its secured claim against the Debtor.
8. In the event funds are paid to the Receiver under the Assignment Agreement, including after the Receiver's discharge hereunder, the Receiver is authorized and directed to distribute such funds to creditors of the receivership estate in accordance with respective priorities, such funds being Property within the meaning of the Consent Receivership Order and therein subject to the Receiver's Charge. In the event proceeds are insufficient to repay all debts in full, the Receiver shall remit available monies firstly to secured claims in accordance with legal priorities and thereafter to unsecured claims on a pro-rated basis.

## **RELEASE AND STAY**

9. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation,

any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.

10. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on notice to the Receiver, and upon such terms as this Court may direct.

#### **DISCHARGE OF RECEIVER**

11. Upon the Receiver filing with the Clerk of the Court a Receiver's Discharge Certificate, in the form attached hereto as Schedule "A", confirming that all matters set out in paragraphs 6 and 7 of this Order have been completed, the Receiver shall be and is hereby discharged as Receiver of the Debtor, provided however, that notwithstanding its discharge herein:
  - (a) the Receiver shall remain Receiver for the performance of any distributions that may occur under paragraph 8 hereof;
  - (b) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein;
  - (c) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver, and the Receiver's Charge for the purposes of paragraph 8 hereof; and
  - (d) the Receiver may apply to the Court for further advice and direction in connection with the completion of its final duties hereunder.

#### **MISCELLANEOUS**

12. The Receiver is authorized and directed to hold for 30 days and make available for pick up by any of the Defendants any and all original physical books, records, and/or hard drives of the Debtor currently in the possession of the Receiver, its solicitors, or agents. Any physical books, records, and/or hard drives may thereafter, if still in the Receiver's possession, be destroyed.
13. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
14. Service of this Order on any party not attending this application is hereby dispensed with.

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Justice of the Court of Queen's Bench of Alberta

**Schedule "A"**

**Form of Receiver's Completion Certificate**

COURT FILE NUMBER	1901-10871	<div>Clerk's Stamp</div>
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
PLAINTIFF	BANK OF MONTREAL	
DEFENDANTS	UWAMS SUPPORTIVE LIVING LTD., MAXWELL UWAGA AND CAROL UWAGA	
DOCUMENT	<b>RECEIVER'S DISCHARGE CERTIFICATE</b>	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DENTONS CANADA LLP 1500, 850 – 2 <sup>nd</sup> Street SW Calgary, Alberta T2P 0R8 Attention: Derek Pontin Phone: (403) 268-6301 Email: derek.pontin@dentons.com	

**RECITALS**

- A. By way of Order of the Court of Queen's Bench of Alberta dated January 23, 2020, Deloitte Restructuring Inc. was appointed as the receiver and manager (the "**Receiver**") of the undertakings, property and assets of UWAMS Supportive Living Ltd. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated \_\_\_\_\_, 2021 (the "**Discharge Order**"), the Court ordered that the Receiver would be discharged as Receiver of the Debtors upon the filing by the Receiver of a Receiver's Discharge Certificate confirming that all matters set out in paragraphs 6 and 7 of the Discharge Order have been completed.

**THE RECEIVER HEREBY CERTIFIES** the following:

1. All matters set out in paragraphs 6 and 7 of the Discharge Order have been completed.
2. This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

**DELOITTE RESTRUCTURING INC. in  
its capacity as Receiver of UWAMS  
Supportive Living Ltd., and not in its  
personal capacity.**

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

**Name:**

**Title**