

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**ORLANDO IERACI, GIUSEPPE MELECA, FRANK TROIANO, CONCEZIO
BATTAGLINI, CARMELO COMMISSO, FRANCESCO GAGLIANO,
GIUSEPPE GAGLIANO, DAVID MEADOWS, GIUSEPPE COMMISSO, JOHN
KOLOVOS, BORDEN KENT, GABRIEL DIVITTORIO, 747304 ONTARIO
LIMITED, RITA BENNETT, MAGGIORINO TORRESAN, MARCO
BATTAGLINI, DAVE BATTAGLINI, LEO BATTAGLINI, VINCENZO
MINNELLA, DINO MINNELLA, FERRUCCIO AGOSTINO, TONY MINNELLA,
VITO MINNELLA, ROCCO MINNELLA, ANNA M. MINNELLA and JOHN
PETROSINO**

Applicants

- and -

**VINCENZO POLSINELLI, RODOLFO GRANATA, GARA HOLDINGS,
NAJEEB WAHAB, P.O.S.E. INVESTMENTS, 910911 ONTARIO INC., 910912
ONTARIO INC., 910913 ONTARIO INC. and TERRY HOPKINS**

Respondents

THIRD REPORT OF THE RECEIVER AND MANAGER

May 1, 2013

Table of contents

I.	Introduction	1
II.	Purpose of Report.....	2
III.	Receiver’s Activities	2
IV.	Receiver’s Interim Statement of Receipts and Disbursements	3
V.	Claims Procedure and Claims Bar Process	4
VI.	Conclusion and Recommendations	6

Appendices

Initial Order	“A”
Marketing Order	“B”
Approval and Vesting Order	“C”
Receiver’s Interim Statement of Receipts and Disbursements	“D”
Claims Procedure	“E”

I. Introduction

1. By Order of the Honourable Justice Thompson dated April 2, 2012 (the “Initial Order”), Deloitte & Touche Inc. was appointed receiver and manager (the “Receiver”), without security, over all of the current and future assets, undertakings and properties of P.O.S.E. Investments. (“POSE” or the “Company”) pursuant to section 101 of the *Courts of Justice Act*. A copy of the Initial Order is attached hereto as **Appendix “A”**.
2. The Company operated as a partnership of individuals (“Unitholders”) and held real property through 910912 Ontario Inc. and 910913 Ontario Inc. and the partnership commenced in 1990.
3. The real properties held by 910912 Ontario Inc. and 910913 Ontario Inc., in trust for POSE, are located in the Municipality of Meaford (the “Meaford Property”) and in the Town of Georgina (the “Georgina Property”), previously defined in the First Report of the Receiver and Manager, dated May 31, 2012 (the “First Report”), and more particularly described in Schedule “A” and Schedule “B” of the Initial Order and collectively referred to as the “Real Properties”.
4. The Initial Order authorized the Receiver to, among other things, take possession of and exercise control over the Real Properties and any and all proceeds, receipts and disbursements arising out of or from the Real Properties. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Real Properties or any part thereof out of the ordinary course of business.
5. By Order of the Court dated June 28, 2012, the Receiver obtained approval for the plan to market and sell the Real Properties (the “Marketing Order”). A copy of the Marketing Order is attached as **Appendix “B”**.
6. The Court Orders, Receiver’s reports and Unitholder letters have been posted on the Receiver’s website www.deloitte.ca.
7. Unless otherwise provided, all other capitalized terms not otherwise defined in this Third Report are as defined in the First Report, Second Report, Initial Order or the Marketing Order.
8. Pursuant to the Order of the Honourable Mr. Justice Parayeski, dated January 22, 2013, the Receiver obtained an approval and vesting order vesting in the Purchaser the Receiver’s right, title and interest in and to the Georgina Property. The order was subsequently varied on January 25, 2013 (“Approval and Vesting Order”). A copy of the Approval and Vesting Order is attached as **Appendix “C”**.
9. On January 25, 2013, the sale transaction for the Georgina Property was successfully closed.

II. Purpose of Report

10. The purpose of the Receiver's Third Report to Court is to:
- a) report on the results of the operations and Receiver's activities since our Second Report dated January 9, 2013;
 - b) obtain a court order approving a claims procedure ("Claims Procedure") to be conducted by the Receiver;
 - c) obtain approval of the Receiver's Interim Receipts and Disbursements for the period from April 2, 2012 to April 15, 2013; and
 - d) obtain approval of the conduct and activities of the Receiver since our Second Report dated January 9, 2013.

III. Receiver's Activities

Financing

11. As previously reported, the Receiver obtained mortgage financing to fund the receivership administration against the Georgina Property totaling \$80,000. On March 4, 2013 the indebtedness was repaid to BFT Capital Inc., including interest, from sale proceeds of the Georgina Property. As a result there are no outstanding obligations of the Receiver.

Property taxes

12. As the Receiver had previously paid 2012 property taxes, a small balance of \$802.14 was credited to the purchaser for the accrued property taxes for the Georgina Property.
13. On March 13, 2013, the Receiver issued a total payment of \$60,033.52 to pay the tax liability on the Meaford Property, including the installment due on the property up to and including April 29, 2013.

Liability and Unitholder account review

14. Based on our review of the Company's books and records and discussions with certain Unitholders, it appears that there are no liabilities to third parties.
15. Although there appears to be no obligation to the government tax authorities of any nature, the Receiver will facilitate an examination by a representative of Canada Revenue Agency.

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16. In preparation for the claims procedure, we reviewed the Unitholder files, banking and other records and engaged in discussions with certain Unitholders about the records and bookkeeping processes.
 17. One of the Applicants inquired about the timing of cost entitlements of the Applicants pursuant to paragraph 33 of the Initial Order. It is the Receiver's intention to incorporate the verification of these costs in the proposed claims procedure.

Meaford Tenants

18. The Receiver is in process of calculating the amount of rent owing from each tenant for the first half of 2013 and will contact the tenants in order to obtain the current rent owed on the property. The Receiver collected rent up to December 31, 2012. As there is no reference to the frequency of the rent payments, it is the plan to invoice the tenants semi-annually.

Meaford Property – Marketing Process

19. As previously reported, the Receiver reduced the listing price for the Meaford Property to \$975,000 from \$1,275,000 in January 2013.
20. Due to the heavy winter conditions continuing through early spring, the property has not been accessible since late 2012, therefore limiting the marketing efforts.
21. The Receiver received an informal offer from a farmer for 100 acres of the 198 acre parcel for a fraction of the current listing price, and consequently it was rejected by the Receiver upon consultation with the agent. In addition, the sale of this parcel materially impairs the marketability of the value of the remaining parcels. The Receiver is continuing to market the Meaford Property through its agent.

IV. Receiver's Interim Statement of Receipts and Disbursements

22. Attached as **Appendix "D"** is a copy of the Receiver's Interim Statement of Receipts and Disbursements for the period April 2, 2012 to April 15, 2013, showing an excess of receipts over disbursements of \$296,541.
23. As a result of the sale of the Georgina Property, legal fees in the amount of \$48,101 and Receiver's fees in the amount of \$80,635 have been paid on an interim basis pursuant to paragraph 23 of the Initial Order.

24. As a result of the sale of the Georgina Property, there are funds available to be distributed to Creditors and Unitholders.

V. Claims Procedure and Claims Bar Process

25. As previously described in the reports already filed with this Court we deferred conducting a claims procedure until the receivership estate had funds and it is our view that it is an appropriate time to commence the process in light of the following factors:

- a) high number of Unitholders (approximately 150 parties);
- b) length of time since Unitholders' investment (i.e. 1990);
- c) incomplete and inconsistent books and records, which may complicate the verification process;
and
- d) the Receiver is now in receipt of funds from the sale of Georgina Property.

26. The purpose of the Claims Procedure is to:

- a) Solicit proofs of claim for the various claims, including Unitholders' equity and other claims and outline the manner in which such proofs of claim will be evaluated;
- b) Provide appropriate notice in the public domain so that any interested party who has a claim has an opportunity to participate in the process;
- c) Establish a date that claims must be filed by or otherwise be forever barred against the Company;
and
- d) Outline a process to resolve any disputes that may arise in respect of Proofs of Claim filed.

27. Attached hereto as **Appendix "E"** is an outline of the claims procedure (Collectively "Claims Procedure"). The following is a summary of the Claims Procedure:

- a) On or before June 30, 2013, the Receiver will send by ordinary mail to each known Unitholder identified by the Receiver through its review of the books and records of POSE and government tax authorities, a proof of claim form together with a copy of the Claims Procedure;
- b) On or before June 30, 2013, the Receiver shall cause an advertisement of the Notice to Creditors and Unitholders substantially in the form attached as Schedule "A" to the Claims Procedure to be placed in The Globe and Mail (National Edition) and the local newspaper in Aurora, Ontario (the most common address of the Unitholders);

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- c) The Receiver shall post a copy of the Claims Procedure and Proof of Claim package on its website;
 - d) Any Claim not filed with the Receiver by 5:00 p.m. on September 30, 2013 shall be extinguished and forever barred against the Company;
 - e) The Receiver shall review all Proofs of Claim received prior to the Claims Bar Date and to the extent that the Receiver determines that a Claim should be revised or rejected, the Receiver will send to that Creditor or Unitholder, no later than October 31, 2013, a Notice of Revision or Disallowance, substantially in the form attached as Schedule "B" to the Claims Procedure.
 - f) Where the Receiver does not send a Notice of Revision or Disallowance to a Creditor or Unitholder who has submitted a Proof of Claim by 11:59 p.m. October 31, 2013, the Receiver and Company shall be deemed to have accepted such Creditor's or Unitholder's Claim in the amount set out in the Proof of Claim; and
 - g) Any, Creditor or Unitholder who intends to dispute a Notice of Revision or Disallowance shall, by no later than 5:00 p.m. on the day that is 10 days after the delivery of the Notice of Revision or Disallowance, serve a Notice of Motion on the Receiver seeking to appeal the Receiver's determination. Where a Creditor or Unitholder does not serve a Notice of Motion by the date required the value of such Creditor's or Unitholder's Claim shall be deemed to be as set out in the Notice of Revision or Disallowance.

VI. Conclusion and Recommendations

28. The Receiver respectfully requests that this Court grant an Order which provides for the following:

- a) approval of the Claims Procedure;
- b) approval of the Receiver's Interim Statement of Receipts and Disbursements for the period April 2, 2012 to April 12, 2013; and
- c) approval of the conduct and activities of the Receiver since the Second Report dated January 9, 2013.

All of the foregoing is respectfully submitted to this Court as of this 1st day of May, 2013.

Deloitte & Touche Inc.

In its capacity as Court-appointed Receiver
and Manager of P.O.S.E. Investments
and not in its personal capacity



Per:

Robert Biehler, CPA, CA•CIRP
Senior Vice-President

APPENDIX “A” – INITIAL ORDER

APPENDIX “B” – MARKETING ORDER

Appendix “C” – Approval and Vesting Order

**APPENDIX “D” – RECEIVER’S INTERIM STATEMENT OF
RECEIPTS AND DISBURSEMENTS**

APPENDIX “E” – CLAIMS PROCEDURE
