

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

COLLEGE OF OPTOMETRISTS OF ONTARIO

Applicant

– and –

**SHS OPTICAL LTD., DUNDURN OPTICAL LTD. and
JOHN DOE, all carrying business under the name of
GREAT GLASSES; JOANNE MARIE BERGEZ and
BRUCE BERGEZ**

Respondents

– and –

COLLEGE OF OPTICIANS OF ONTARIO

Intervenor

– and –

THE ATTORNEY GENERAL FOR ONTARIO

Intervenor

**THIRD REPORT TO THE COURT OF THE RECEIVER
(January 31, 2011)**

Table of Contents

INTRODUCTION.....	2
PURPOSE.....	5
TERMS OF REFERENCE	6
STATUS OF THE LOCATIONS.....	7
THE RECEIVER'S ACTIVITIES.....	7
THE MILTON AND PLAINS ROAD STORES	9
THE QUEENSWAY STORE	11
THE LONDON STORE.....	12
THE CAMBRIDGE STORE	13
RETURN OF EYE TESTING AND RELATED EQUIPMENT	15
AGREEMENT AMONG CERTAIN STORE OPERATORS, AG, OPTICIANS AND OPTOMETRISTS.....	17
OUTSTANDING MATTERS IN THE RECEIVERSHIP	20
PROFESSIONAL FEES	21
RELIEF REQUESTED BY THE RECEIVER.....	22

Appendices:

- A. Order of Justice Turnbull, dated July 2, 2010**
- B. First Report to the Court of the Receiver, dated August 13, 2010, without attachments**
- C. Supplemental Report to the First Report to the Court of the Receiver, dated August 19, 2010, without attachments**
- D. Second Report to the Court of the Receiver, dated September 24, 2010, without attachments**
- E. Status of the Store Locations as at January 31, 2011**
- F. Letter from Chaitons' LLP, dated January 7, 2011**
- G. Email from the Cambridge Store Operator, dated January 17, 2011**
- H. Franchise Agreements for certain Stores (*separately filed*)**
- I. Lease Agreements for certain Stores (*separately filed*)**

INTRODUCTION

1. Pursuant to an Order of The Honourable Justice Turnbull dated July 2, 2010 (the "**Appointment Order**"), Deloitte & Touche Inc. was appointed as receiver (the "**Receiver**"), without security, in respect of (i) the assets, undertakings and properties of Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd. ("**SHS**") and Dundurn Optical Ltd. (the "**Debtors**") acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) the assets, undertakings and properties situated at the locations listed on Schedule "A" to the Appointment Order (the "**Locations**") and acquired for or used in relation to the optical business, including all proceeds thereof (collectively, the "**Property**"). A copy of the Appointment Order is included as **Appendix "A"** to this report.
2. The role of the Receiver under the Appointment Order is limited. The Appointment Order provides that, except as expressly directed, the Receiver shall not take possession or control of the Property, shall not manage or operate the businesses and shall not take over the employment of the employees. Rather, the Appointment Order directs the Receiver to take possession of certain equipment, and to investigate on and report to the Court in respect of the businesses and the Property. More specifically, the Receiver was directed to:
 - take possession of the eye testing and related equipment that forms part of the Property (the "**Equipment**"), including but not limited to any Eye Logic System equipment, and store the Equipment pending further order of the Court;
 - review and report to the Court upon the Property and the optical business carried on by the Debtors or carried on at the Locations (the "**Businesses**"); and
 - make copies of any computer disks relating to the Property or the Businesses (the "**Computer Records**") and store the Computer Records pending further order of the Court.

3. The Appointment Order also authorizes the Receiver to review and, if appropriate, consent to any proposed disbursements or dispositions of Property, other than a sale of inventory in the ordinary course of business, to be made by the Debtors or the businesses operated at the Locations.
4. Pursuant to the direction of the Court, the Receiver was required to report on its findings in respect of the Property and the Businesses for a hearing on August 23, 2010. Accordingly, the Receiver filed with this Honourable Court its First Report to the Court of the Receiver, dated August 13, 2010, (the “**First Report**”) and the Receiver filed with this Honourable Court its Supplemental Report to the First Report, dated August 20, 2010 (the “**Supplemental Report**”).¹ Copies of the First Report and the Supplemental Report, without attachments, are attached hereto as **Appendix “B”** and **Appendix “C”**, respectively.
5. On August 23, 2010, this Honourable Court made three orders (collectively referred to as the “**August 23rd Orders**”):
 - the “**Amendment Order**”: approving the First Report and the Supplemental Report and activities of the Receiver to August 12, 2010, approving the fees and disbursements of the Receiver and its counsel, Borden Ladner Gervais LLP (“**BLG**”), to July 31, 2010, and varying paragraph 2 of the Appointment Order to no longer direct the Receiver to make copies of Computer Records, but to provide the Receiver with the authority to do so, if the Receiver considered it appropriate and necessary;
 - the “**Equipment Removal Order**”: directing Eyelogic Systems Inc. (“**ESI**”) and the Great Glasses store operators (the “**Store Operators**”) to, at their own expense, take immediate custody and possession of certain of the assets in the Receiver’s possession, referred to in the Equipment Removal Order as the ESI Equipment and the Detached Equipment; and

¹ The Reports of the Receiver and other documents pertinent to these proceedings, are available on the Receiver’s website at www.deloitte.com/ca/great-glasses.

- the **“Appleby Order”**: varying the Appointment Order by deleting from Schedule “A” to the Appointment Order the premises municipally known as 2180 Itabashi Way in Burlington, Ontario.
6. On September 24, 2010, the Receiver filed with this Honourable Court its Second Report to the Court of the Receiver (the **“Second Report”**), dated as at the same date. A copy of the Second Report, without attachments, is attached hereto as **Appendix “D”**.
7. On October 1, 2010, this Honourable Court made two orders (collectively referred to as the **“October 1st Orders”**), a summary of which is set out below.
- the **“Receiver’s Consent Order”**: approving the Second Report and the activities of the Receiver from August 13 to September 22, 2010; directing the Receiver to consent, on such terms as the Receiver considered appropriate, to the termination by the landlords of the leases held by SHS and/or Bruce Bergez for the stores located at (i) 1250 Steeles Avenue East in Milton, Ontario (the **“Milton Store”**) and (ii) 1025 Plains Road East in Burlington, Ontario (the **“Plains Road Store”**); and providing the Receiver with direction to dispose of the Milton Store equipment in the Receiver’s possession to Studio 1 International in exchange for a credit to be applied against storage fees owed by the Receiver to Studio 1 International in connection with these proceedings; and
 - the **“Dundurn Lease Order”**: directing the operator of the Great Glasses store located at 50 Dundurn Avenue South in Hamilton, Ontario to pay all arrears owing under the lease to the landlord on or before October 15, 2010; ordering that rent at all locations covered by the stay granted under the Appointment Order is to be paid by the occupants on an ongoing basis and all leases are to be maintained in good standing; and deferring to November 26, 2010, the approval of the professional fees of the Receiver and its counsel for the period from August 1, 2010 to September 15, 2010.

8. On November 26, 2010, this Honourable Court directed that the motion for approval of the fees of the Receiver and its counsel for the period from August 1, 2010 to September 15, 2010 be further adjourned to February 4, 2011.

PURPOSE

9. The purpose of this third report of the Receiver (the “**Third Report**”) is to:
- update the Court on the Receiver’s activities from September 23, 2010 to January 31, 2011;
 - report on the status of the receivership proceedings and any outstanding matters;
 - apprise the Court of the ongoing discussions and proposed settlement between the Attorney General of Ontario (the “AG”) and certain Great Glasses Store Operators;
 - seek an Order of this Honourable Court approving the Third Report and the activities of the Receiver from September 23, 2010 to January 31, 2011;
 - seek an Order of this Honourable Court directing the Receiver to destroy any copies of the Computer Records of the Debtors and certain Store Operators that were made by the Receiver;
 - seek the authorization of this Honourable Court to release the pupilometer and lens kit removed by the Receiver from the Great Glasses store located at 95 Saginaw Parkway in Cambridge, Ontario (the “**Cambridge Equipment**” and the “**Cambridge Store**”, respectively) to the College of Opticians of Ontario (the “**Opticians**”) to hold in escrow pending (i) the retention and registration of an optician by the Cambridge Store, or (ii) an agreement to release the Cambridge Equipment on terms satisfactory to the Opticians and the Cambridge Store, and

directing that in the event that the Cambridge Equipment has not been released by February 4, 2013, the Opticians may destroy the Cambridge Equipment;

- seek an Order of this Honourable Court approving the fees and disbursements of the Receiver and those of its counsel, BLG, for the period from September 16, 2010 to January 15, 2011, and approving the estimated fees of the Receiver and BLG for activities to be performed in the administration of the receivership up to the anticipated date of the Receiver's discharge; and
- seek an Order of this Honourable Court terminating these proceedings, discharging Deloitte & Touche Inc. from the powers, duties and obligations attendant to its appointment as Receiver and releasing Deloitte & Touche Inc. from any liability in connection with its appointment as Receiver.

TERMS OF REFERENCE

10. In preparing this Third Report, the Receiver has relied upon records and information provided by a number of parties and/or their counsel, including but not limited to: the Debtors, the Store Operators, former "franchisees", certain financial institutions, certain landlords or their legal counsel, the AG, the Opticians, the College of Optometrists of Ontario (the "**Optometrists**") and ESI. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information contained in this Third Report. The Receiver notes that additional information may be brought to the attention of the Receiver after the date of this report, which information could have an impact on certain of the Receiver's findings set out herein.
11. Capitalized terms not defined in this report are as defined in the Appointment Order. All references to dollars are in Canadian currency unless otherwise noted.

12. The terms 'franchisee' and 'store operator' are used in this report to describe the owners/operators of the businesses operated at the Locations. The use of these terms is for convenience only, and does not reflect the Receiver's opinion on the existence and legitimacy of any franchise arrangements that may or may not exist in respect of these parties. The use of the plural form of 'franchisees' or 'store operators' in this report is intended to refer to more than one store operator, but unless the report expressly provides otherwise, such references are not intended to refer to all of the store operators.
13. The Receiver has sought the advice of BLG for general legal matters that have arisen in respect of the receivership.

STATUS OF THE LOCATIONS

14. Attached as Schedule "A" to the Appointment Order was a listing of the 20 Locations at which the retail business of Great Glasses was conducted. Since the date of the Appointment Order, the number of operating stores has decreased to 13 as at January 31, 2011. A schedule setting out the status of the 20 Locations is attached as **Appendix "E"**.

THE RECEIVER'S ACTIVITIES

15. In preparing its Third Report and in performing its duties as directed under the Appointment Order, the August 23rd Orders and the October 1st Orders, the Receiver has been engaged in a number of activities since September 22, 2010, including but not limited to:
 - reviewing numerous e-mails and letters from Bruce Bergez and responding to same either directly or through BLG;
 - preparing the Receiver's Second Report;

- attending in Court on October 1, 2010 to address any questions of the Court in respect of the Second Report, and attending in Court on November 26, 2010 through counsel to address any questions of the Court and to speak to an adjournment of the motion for approval of the Receiver's fees, originally returnable on October 1, 2010;
- attending various meetings and conference calls with BLG, regarding, among other things, correspondence to be issued to landlords of the Milton Store, the Plains Road Store and the Great Glasses store located at 125 the Queensway in Etobicoke, Ontario (the "**Queensway Store**") and the operators of those stores;
- corresponding directly or through BLG with the property manager and counsel to the landlord of the Milton Store regarding inventory located on-site that appeared to be abandoned by the operator of that store;
- facilitating the removal of eye testing and related equipment in the possession of the Receiver for those Great Glasses stores that obtained the appropriate consents and acknowledgements from the Opticians, the Optometrists and/or the AG to repossess their equipment;
- reviewing correspondence from the landlord of the Cambridge Store and sending correspondence to the store operator of the Cambridge Store to address a request by the landlord to lift the stay, terminate the lease and pursue its rights against the tenant;
- engaging in discussions with the AG and counsel to certain Store Operators regarding the efforts between those parties to resolve certain outstanding issues arising out of these proceedings;
- attending, through counsel, on an emergency conference call with The Honourable Justice Turnbull concerning the pending termination of the lease for the Queensway Store;

- corresponding, through counsel, with counsel to the Workplace Safety and Insurance Board concerning an ongoing disciplinary action between the Workplace Safety and Insurance Board and Joanne Marie Bergez and certain Store Operators;
- preparing the Receiver's Third Report; and
- taking other necessary steps to resolve outstanding matters in the receivership administration.

THE MILTON AND PLAINS ROAD STORES

16. Pursuant to the October 1st Orders, on October 4, 2010, BLG sent correspondence to counsel to the landlords of the Milton Store and the Plains Road Store advising them of the Receiver's consent to the respective landlords terminating the leases for those stores, provided that the landlords not take any further steps to enforce any rights or remedies that might arise under their leases as a result of said termination or for any other reason without the further written consent of the Receiver or leave of the Court.
17. On October 14, 2010, the Milton Store landlord (the "**Milton Store Landlord**") contacted BLG to advise that it had recovered possession of the Milton Store and that the Receiver should make arrangements with First Gulf Corporation ("**First Gulf**"), the property manager of the Milton Store, to pick up the items left at the premises. On October 15, 2010, the Receiver contacted First Gulf to obtain an understanding of the items that remained at the Milton Store and to request a listing of these items. On October 22, 2010, First Gulf provided the Receiver with pictures of the items remaining at the Milton Store, which included frame inventories and office furniture and equipment. The Receiver was previously advised by the Milton Store operator that the approximate cost of the frame inventories left at the Milton Store was \$900.
18. Based on the pictures provided by First Gulf, the office furniture and equipment appeared outdated and in moderate to poor condition. On this basis, the Receiver estimated that the

realizable value, if any, of this office furniture and equipment was minimal. As such, it was quite possible that the costs of realizing on the frame inventories and the office furniture and equipment could exceed realizations therefrom. Furthermore, the Receiver was not authorized by the Appointment Order to take possession of the inventory, office furniture and equipment.

19. On October 22, 2010, BLG sent an e-mail to the Milton Store operator to advise her that the Milton Store Landlord had contacted the Receiver to request that the inventory and other items remaining at the premises be removed. BLG requested that the Milton Store operator advise whether she would attend at the Milton Store to pick up the inventory and other items. Since BLG had not heard back from the Milton Store operator, BLG sent a second e-mail to her on October 26, 2010. On October 29, 2010, BLG contacted the AG, the Opticians and the Optometrists to advise of the following:
 - inventory and other assets remained at the Milton Store;
 - the Milton Store operator had been contacted to request confirmation of her interest in these assets; however, she had not replied to BLG; and
 - if any of the parties wished to claim an interest in the subject assets, they should contact First Gulf directly.
20. On November 3, 2010, counsel to the Milton Store Landlord contacted BLG to advise that its client had not heard from any of the parties regarding their interest in the assets and that the Milton Store Landlord proposed to hold the assets until November 12, 2010, at which time it would dispose of them. This correspondence was forwarded by BLG to the AG and to counsel for the Opticians and the Optometrists.
21. The Receiver has received no further correspondence in respect of the Milton Store.

THE QUEENSWAY STORE

22. On October 8, 2010, counsel to the Queensway Store operator forwarded to BLG a copy of correspondence to the Queensway Store operator dated October 6, 2010 from the property manager, on behalf of the landlord of that store (the **"Queensway Landlord"**). The property manager alleged that rent for the months of September and October 2010 had not been received, made a demand for payment of same and advised that the Queensway Landlord would exercise its rights under the lease if rent was not paid.
23. On October 18, 2010, counsel to the Queensway Landlord, McLean & Kerr LLP (**"McLean Kerr"**), wrote to BLG advising of the breach in the lease and requesting that the Receiver provide its consent to the lifting of the stay of proceedings provided for in the Appointment Order to allow the Queensway Landlord to terminate the Queensway Store lease. Counsel for the AG, the Opticians and the Optometrists were copied on this communication. On October 19, 2010, counsel for the Opticians replied to McLean Kerr advising that the Opticians would seek the same terms as were provided for in the Dundurn Lease Order, namely that if the Queensway Landlord is granted leave to terminate the lease, the written approval of the Opticians would be necessary should the present tenant or operator seek to enter into a new lease for the premises.
24. On October 25, 2010, BLG wrote to McLean Kerr to advise that subject to certain conditions, the Receiver agreed to provide its consent to lift the stay of proceedings for the purpose of allowing the Queensway Landlord to terminate the lease if rent was not paid in full by the close of business on November 1, 2010.
25. On November 1, 2010, BLG advised the Receiver that it had attended on an emergency conference call with The Honourable Justice Turnbull, McLean Kerr and counsel to the operator of the Queensway Store to address the pending termination of the lease for the Queensway Store. BLG further advised that The Honourable Justice Turnbull had made an Endorsement, a summary of which is set out below:

- the stay previously ordered by the Court is not to be lifted with respect to the Queensway Store;
 - the tenant is required to pay by certified cheque the arrears owing in accordance with a specific schedule;
 - if any of the specified payments is not made by the operator of the Queensway Store, the Queensway Landlord does not need to seek leave of the Receiver or the Court to lift the stay and may seek its remedies under the lease and under the relevant legislation; and
 - the Endorsement was made without prejudice to the right of the Queensway Landlord to seek a lifting of the stay of proceedings by motion properly served on the Receiver and counsel for the tenant returnable before the Court on November 26, 2010.
26. The Receiver was advised by counsel to the Queensway Store operator on January 28, 2011 that the lease for that location was terminated in January 2011. The Receiver has written to the Queensway Landlord through counsel to confirm the date of termination, and expects to be in a position to confirm the status of the Queensway Store at the Court hearing on February 4, 2011.

THE LONDON STORE

27. On December 14, 2010, the Receiver was advised that the store operated at 1319 Commissioners Road East, London, Ontario (the “**London Store**”) had been closed. The Receiver wrote to counsel for the London Store operator on January 21, 2011, requesting that the London Store operator provide particulars of the date of closure, the status of the Property that was located in the London Store, and the amount of rent paid and outstanding since the date of the Appointment Order.

28. On January 27, 2011, counsel for the London Store operator responded to the Receiver's request, advising that (i) the London Store was closed on December 8, 2010, (ii) to the operator's knowledge, normal rent payments were made from July 2, 2010 through to November 2010, (iii) to the operator's knowledge, there is no equipment left at the London Store, (iv) equipment and inventory removed from the London Store were transferred to the Great Glasses store operated at 300 King George Road, Brantford, Ontario, and (v) none of the Property from the London Store has been transferred to the Debtors.

THE CAMBRIDGE STORE

29. On January 7, 2011, the Receiver received correspondence from Chaitons LLP ("**Chaitons**"), counsel to the landlord of the Cambridge Store (the "**Cambridge Landlord**"), alleging that:

- the Cambridge Store tenant (the "**Cambridge Store Operator**") was in default of its rental payment obligations under the lease between the Cambridge Landlord and the tenant (the "**Cambridge Lease**"), notwithstanding that the Cambridge Landlord had agreed to numerous payment plans in order to allow the tenant to rectify the default;
- approximately 18 cheques delivered to the Cambridge Landlord by the Cambridge Store Operator had been returned NSF since 2009, including 6 cheques related to the November/December 2010 period; and
- rental arrears as at January 7, 2011 totaled \$18,042.25, including the monthly rental payment due on January 1, 2011 of \$3,913.28.

In its correspondence, Chaitons advised that its client wished to immediately exercise its enforcement options under the lease, including its right to terminate the lease and pursue the Cambridge Store Operator for all amounts payable under the lease, and requested, pursuant to paragraph 8 of the Appointment Order, that the Receiver provide its written

consent to same. A copy of Chaitons' correspondence is attached hereto as **Appendix "F"**.

30. On January 10, 2011, the Receiver wrote to the Cambridge Store Operator and requested that she contact the Receiver before the close of business on January 17, 2011 to confirm or dispel the Cambridge Landlord's allegations and discuss whether she would be able to bring the subject lease into good standing, failing which the Receiver would consent to lift the stay of proceedings and allow the Cambridge Landlord to terminate the Cambridge Lease.
31. On January 17, 2011, the Receiver wrote again to the Cambridge Store Operator advising of its intention to consent to a termination of the lease if the Receiver did not hear from the Cambridge Store Operator by the close of business that day. The Cambridge Store Operator responded by email, advising that she had sent a response in the week prior. The Receiver had not received this response.
32. In her email on January 17, 2011, the Cambridge Store Operator advised that the amount outstanding on the lease was approximately \$14,000, including \$9,000 for repairs to the property. The Cambridge Store Operator further advised that arrangements had been made to repay the arrears to the Cambridge Landlord. These arrangements included depositing a pending GST/HST refund with the Cambridge Landlord, and making payments of \$1,000 on a weekly basis, rather than paying on a monthly basis. The Cambridge Store Operator acknowledged that certain cheques had been returned NSF, but advised that those cheques had been replaced with certified funds within two days, and that future payments were to be made in certified money order funds. A copy of the Cambridge Store Operator's email is attached hereto as **Appendix "G"**.
33. Having reviewed Chaitons' letter and the email of the Cambridge Store Operator, the Receiver wrote to Chaitons after the close of business on January 17, 2011, advising that in light of the circumstances, the Receiver was of the view that it would not be appropriate for it to consent to a termination of the lease at that time.

34. On January 28, 2011 the Receiver was served by Chaitons with a Notice of Motion returnable on February 4, 2011, seeking certain relief, including an order, if necessary, lifting the stay of proceedings under the Appointment Order to permit the Cambridge Landlord to immediately exercise its enforcement options under the lease, including its right to terminate the lease and pursue the operator for all amounts payable under the lease.

RETURN OF EYE TESTING AND RELATED EQUIPMENT

35. On October 1, 2010 the Court directed that the Receiver could return the remaining eye testing and related equipment in the Receiver's possession to the individual Great Glasses store operators, provided that the Opticians, Optometrists and the AG were agreeable.
36. After receiving approvals from the Opticians, the Optometrists and the AG to return the remaining eye testing and related equipment in the Receiver's possession to substantially all of the Great Glasses store operators, the Receiver arranged for the store operators to pick up their equipment on or about November 5, 2010 from Studio 1 International.
37. As at November 5, 2010, the Receiver was advised that an optician had not yet registered to work at the Cambridge Store and as such, the Opticians and the AG did not consent to returning equipment to that store. The Receiver made further inquiries through counsel on January 18, 2011 and was advised by the Opticians that an optician still had not been registered at the Cambridge Store. Currently, the Receiver remains in possession of the Cambridge Equipment, which consists of a pupilometer and autorefractor lens kit. The Cambridge Equipment is being stored at Studio 1 International.
38. Based on limited inquiries made by the Receiver over the course of the receivership, the Cambridge Equipment does not appear to have any significant value. The Receiver anticipates that the cost of selling the Cambridge Equipment is likely to exceed any realizations that could be obtained from such a sale.

39. On January 14, 2011, the Receiver wrote to Studio 1 International to inquire whether it would be interested in acquiring the Cambridge Equipment. Studio 1 International responded on the same day, advising that it had no such interest.
40. On January 25, 2011, counsel to the Receiver wrote to Steinecke Maciura LeBlanc ("SML"), counsel for the Opticians, to devise a method of dealing with the Cambridge Equipment in the event that the Receiver were to seek its discharge on February 4, 2011.
41. On January 27, 2011, SML advised that in order to facilitate the Receiver's discharge, the Opticians would agree to have SML hold the Cambridge Equipment in escrow, to be released to the operator of the Cambridge Store when an optician is retained there, or to be destroyed if the Cambridge Equipment is not released within a period of 2 years.
42. As the Cambridge Store has not yet retained an optician, and as the cost of selling the Cambridge Equipment is likely to exceed the value of any realization therefrom, the Receiver is of the view that transferring the Cambridge Equipment to SML to be held in escrow strikes a balance between the goals of the Appointment Order and the interest of the operator of the Cambridge Store in the Cambridge Equipment.

COMPUTER RECORDS IN THE RECEIVER'S POSSESSION

43. Pursuant to the Appointment Order, the Receiver was directed to make copies of any computer disks relating to the Property or the Businesses. As set out in the First Report, the Receiver attended at 7 stores and the Bergez residence to image computer information. This information was stored by the Receiver on 10 computer disks (the "Computer Disks").
44. The Receiver remains in possession of the Computer Disks and will not require those records upon its discharge as Receiver. The AG has advised the Receiver that it has an interest in taking possession of the Computer Disks at the conclusion of the receivership.

45. In the First Report, the Receiver noted that, based on the Receiver's preliminary review of the Computer Records, the Computer Records likely do not contain any significant financial information. However, they may include personal information about the Bergez family and the customers of the Great Glasses stores, including medical information such as prescriptions for corrective lenses, which may be of a private and sensitive nature. While the Receiver is prepared to turn over possession of the Computer Disks to the AG at the direction of the Court, the Receiver is of the view that it would not otherwise be appropriate to share the information contained on the Computer Disks with any party for use outside of the receivership proceedings, absent the consent of the Debtors and the customers in respect of whom the information is being kept.
46. As it would be impractical to obtain such consent from all of the affected parties, the Receiver recommends that this Honourable Court authorize and direct the destruction of the Computer Disks by the Receiver at the time of its discharge.

AGREEMENT AMONG CERTAIN STORE OPERATORS, AG, OPTICIANS AND OPTOMETRISTS

47. On January 28, 2011, the Receiver was advised by the AG and counsel to certain of the Store Operators that the AG and a number of the Store Operators had come to an agreement which addresses some of the issues facing the parties currently involved in the Great Glasses litigation (the "**Settlement**"). In summary, the terms of the Settlement which are outlined in draft Minutes of Settlement reviewed by the Receiver (the "**Minutes of Settlement**") provide for the Store Operators who are party to the Settlement to: (i) continue operations; (ii) pay to the AG certain monetary compensation; and (iii) continue operations without interference from the Debtors, or the landlords of the Locations, if the Order(s) being sought by those Store Operators are granted.
48. More specifically:
- each Store Operator that is a party to the Settlement agrees to pay the AG \$10,000 payable in 12 approximately-equal monthly installments over the 12-month

period commencing 14 days after the date on which the first Store Operator signs the Minutes of Settlement;

- Each Store Operator is to deliver 12 post-dated cheques to counsel to the AG;
- One Store Operator's lease will expire before the end of the 12 month period, and the payments that this Store Operator is required to make will be reduced to coincide with the remaining term of the lease;
- a 5 day grace period shall apply in respect of any cheques that fail to clear;
- each Store Operator is to consent to a judgment in favour of the AG in the amount of \$10,000. The Consent to Judgement is to be held in escrow by the AG;
- subject to certain exceptions, the obligations of a Store Operator to make payments to the AG shall cease if the Store Operator goes out of business; and
- the Settlement is contingent upon the Store Operators being content that (i) there will be no future business interference by and on behalf of Mr. Bergez, SHS Optical Ltd., Ontario Optical Development Corp. or any other company entity or person directly or indirectly affiliated or associated with Mr. and Mrs. Bergez; (ii) any franchise agreement with Mr. Bergez or any corporation or business on his behalf shall be terminated; and (iii) provided the Store Operator honours the obligations of the tenant under the lease for its Location, the landlord of that Location shall permit the Store Operator to continue to operate a store at that Location for the duration of the lease.

Copies of any franchise agreements and leases which the Receiver has in its possession for the Stores participating in the Settlement are attached to this Third Report in a separate bound volume as **Appendix "H"** and **Appendix "I"**, respectively.

49. The Receiver understands that the Settlement is premised in part on the veracity of information shared by the Store Operators with the AG in certain Supplementary Affidavits. The Receiver has not reviewed the Supplementary Affidavits.

50. In addition to the above, the Receiver understands from the Notice of Motion dated January 28, 2011 prepared by counsel to certain Store Operators (the “**Store Operators Notice of Motion**”), that those Store Operators have also reached an agreement with the Opticians, which provides that the Store Operators shall:
- acknowledge that they are aware of the need to comply with the RHPA, *Health Professions Procedural Code, Opticianry Act, 1991* and its regulations;
 - agree to verification visits from the Opticians; and
 - agree to change the names of their stores from “Great Glasses” to another name as soon as they are in a position to do so.
51. The Receiver further understands from the Store Operators Notice of Motion that the Optometrists will not oppose the order sought by those Store Operators provided those Store Operators undertake to comply with all applicable legislation as discussed in the judgments of The Honourable Justice Harris dated June 24, 2003 and The Honourable Justice Crane dated November 24, 2006;
52. The Receiver has reviewed the Minutes of Settlement and the Store Operators Notice of Motion and observes the following:
- i. as set out in the First Report, the equity in the premises leases may be essentially nil, except that those leases may have value to the Store Operators;
 - ii. as set out in the First Report, only a few franchise arrangements are in writing, and of the written franchise agreements reviewed by the Receiver, many have expired; and
 - iii. the Province of Ontario is, by virtue of the fines in excess of \$17,000,000 levied by the Court against the Debtors, the largest creditor of the Debtors. Based on the information previously reported to the Court by the Receiver, the aforementioned payments by the Store Operators appear to be the only potential realization which the Province is likely to receive from the Businesses.

53. The Receiver is of the view that completion of the Settlement will resolve a number of the issues facing many of the current stakeholders in this litigation and it appears to the Receiver that those stakeholders are in agreement with the Settlement.
54. For the above reasons, the Receiver is supportive of the Settlement.

OUTSTANDING MATTERS IN THE RECEIVERSHIP

55. The Appointment Order (as amended):
- directed the Receiver to take possession of the eye testing and related equipment that forms part of the Property, including but not limited to any Eye Logic System equipment, and store the Equipment pending further order of the Court;
 - directed the Receiver to review and report to the Court upon the Property and the optical business carried on by the Debtors or carried on at the Locations;
 - authorized the Receiver to make copies of any computer disks relating to the Property or the businesses operated at the Locations and store the computer disks pending further order of the Court; and
 - authorized the Receiver to review and, if appropriate, consent to any proposed disbursements or dispositions of Property, other than a sale of inventory in the ordinary course of business, to be made by the Debtors or the businesses operated at the Locations.
56. The activities of the Receiver in furtherance of the Appointment Order are set out in the First Report, the Supplemental Report, the Second Report and this Third Report.
57. Other than the disposition of the Cambridge Equipment and the Computer Disks, the Receiver is of the view that it has completed its mandate as set out in the Appointment Order:
- As detailed in the First Report, Second Report and Third Report, the Receiver has

taken possession of the Equipment and, pursuant to the orders and directions of the Court, has subsequently returned possession of the Equipment to the appropriate parties or has otherwise dealt with the Equipment as directed by the Court;

- The Receiver has investigated and reported to the Court on the Property and the optical businesses carried on by the Debtors or carried on at the Locations in its First Report, Supplemental Report and Second Report; and
- The Receiver is in possession of the Computer Disks and, based on a preliminary review, is of the view that they do not include any significant financial information.

58. Over the course of the Receivership proceedings, the Receiver has not been approached by the Debtors or the businesses operated at the Locations seeking the Receiver's consent to any proposed disbursement or disposition of the Property out of the ordinary course of business, other than an enquiry from Mr. Bergez relating to the disposition of his principal residence (the "**Residence**"). In its reply to Mr. Bergez dated July 27, 2010, the Receiver informed him that the Receiver was not in a position to provide direction to him as to the proper interpretation of the Appointment Order.

59. The Receiver is of the view that it has substantially completed its mandate under the Appointment Order, the August 23rd Orders and the October 1st Orders and is seeking its discharge as Receiver.

PROFESSIONAL FEES

60. The Receiver's fees for services rendered for the period from September 16, 2010 to January 15, 2011 are particularized in the Affidavit of Daniel R. Weisz, sworn on January 28, 2011 and the invoices attached as exhibits thereto. The total amount of the invoices

set out in the affidavit is \$44,341.34, including applicable taxes, and disbursements of \$471.13 made by the Receiver.

61. The fees and disbursements of BLG, the Receiver's independent counsel, for the period from September 16, 2010 to January 15, 2011 are particularized in the affidavit of Roger Jaipargas, sworn on January 28, 2011 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$44,664.19.
62. The Receiver estimates that its fees and disbursements, and the fees and disbursements of BLG, for services rendered from January 15, 2011 through to the date of the Receiver's discharge shall not exceed \$25,000 each.
63. The Receiver has reviewed the invoices of BLG and finds the work performed and charges to be appropriate and reasonable.
64. Copies of the Receiver's and BLG's accounts have been forwarded to the AG.
65. Pursuant to paragraph 16 of the Appointment Order, the fees and disbursements of the Receiver (including payment of goods or services supplied to or to be supplied to the Receiver) are to be paid first out of the Property, and second by Her Majesty the Queen in right of Ontario out of the Consolidated Revenue Fund. As there have been no realizations on the Property, and none appear to be forthcoming, it is unlikely that the Receiver will be able to pay its fees and disbursements out of the Property.
66. The Receiver notes that while there have been no realizations on the Property, it is possible that the AG will experience some recovery in respect of the fines owing to it by the Debtors as a result of (i) the Settlement and (ii) the possible sale of the Residence.

RELIEF REQUESTED BY THE RECEIVER

67. The Receiver respectfully requests that this Honourable Court grant an order, which:
 - approves the actions and activities of the Receiver to January 31, 2011;

- authorizes the Receiver to transfer possession of the Cambridge Equipment to SML, to be held in escrow as outlined in this Third Report;
- authorizes and directs the Receiver to destroy the Computer Disks;
- approves the Receiver's accounts and those of its legal counsel as set out herein;
- discharges Deloitte & Touche Inc. from the powers, duties and obligations attendant to its appointment as Receiver upon the Receiver filing with the Court a certificate certifying that the Computer Disks have been destroyed and the Cambridge Equipment has been transferred into the possession of SML;
- releases Deloitte & Touche Inc. from any liability in connection with its appointment as Receiver; and
- terminates these receivership proceedings.

All of which is respectfully submitted on this 31th day of January, 2011.

DELOITTE & TOUCHE INC.

solely in its capacity as Receiver of
certain assets, undertakings and properties of
SHS Optical Ltd., Dundurn Optical Ltd. and John Doe
all carrying on business under the name of Great Glasses
and not in its personal capacity

Per:



Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice-President

**COLLEGE OF
OPTOMETRISTS
OF ONTARIO**

-and-

**SHS OPTICAL LTD., DUNDURN
OPTICAL LTD. and JOHN DOE, all
carrying on business under the name
of GREAT GLASSES; JOANNE
MARIE BERGEZ and BRUCE
BERGEZ**

-and-

**COLLEGE OF
OPTICIANS
OF ONTARIO**

-and-

**THE ATTORNEY
GENERAL FOR ONTARIO**

Applicant

Intervenor

Intervenor

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT HAMILTON

**RECEIVER'S THIRD REPORT TO
THE COURT**

BORDEN LADNER GERVAIS LLP

Barristers and Solicitors
Scotia Plaza, 40 King Street West
Toronto, Ontario, M5H 3Y4

MICHAEL MACNAUGHTON

Tel.: 416-367-6646
Fax: 416-682-2837
LSUC # 25889U

JAMES SZUMSKI

Tel.: 416-367-6310
Fax: 416-682-2811
LSUC # 56958S

Lawyers for Deloitte & Touche Inc., in its capacity as
Court-appointed Receiver of certain assets,
undertakings and property of SHS Optical Ltd.,
Dundurn Optical Ltd., Joanne Marie Bergez, Bruce
Bergez and the businesses operated at the locations
listed on Schedule "A" to the Appointment Order.

A

Exchequer's Office

Court File No. 05-18863

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.) *FRIDAY*, THE 2ND DAY
)
JUSTICE *TURNBULL*) *JULY* OF , 2010

COLLEGE OF OPTOMETRISTS OF ONTARIO

Applicant

– and –

**SHS OPTICAL LTD., DUNDURN OPTICAL LTD. and
JOHN DOE, all carrying business under the name of
GREAT GLASSES; JOANNE MARIE BERGEZ and
BRUCE BERGEZ**

Respondents

– and –

COLLEGE OF OPTICIANS OF ONTARIO

Intervenor

– and –

THE ATTORNEY GENERAL FOR ONTARIO

Intervenor

ORDER

THIS MOTION made by the Attorney General for the Province of Ontario (the "AGO"), for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, (the "CJA") appointing Deloitte & Touche Inc. ("Deloitte") as receiver (in such capacities, the "Receiver") without security, of certain assets, undertakings and properties of Great Glasses, Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd., Dundurn Optical Ltd. (the

"Debtors") and also certain assets, undertakings and properties situated at the locations listed on Schedule "A" hereto (the "Locations"), acquired for or used in relation to an optical business, was heard this day at 45 Main St. East, Hamilton, Ontario.

ON READING the Motion Record of the Applicant, College of Optometrists of Ontario, the Motion Record of the Intervenor, College of Opticians of Ontario, the Motion Record of the Intervenor, Her Majesty the Queen in right of Ontario as represented by the Attorney General ("HMQ"), the affidavit of Bruce Bergez sworn May 20, 2010, the Reply affidavits of the College of Optometrists of Ontario, and the affidavit of Glenna Thompson sworn May 25, 2010 filed by the College of Optometrists of Ontario, and on hearing the submissions of counsel for the College of Optometrists of Ontario, the College of Opticians of Ontario, HMQ, and on hearing the submissions of Bruce Bergez on his own behalf and on behalf of Joanne Bergez, no one appearing for any other party although duly served as appears from the affidavits of service filed, and on reading the Consent of Deloitte to act as Receiver,

APPOINTMENT

1. THIS COURT ORDERS that pursuant to section 101 of the CJA, Deloitte is hereby appointed Receiver, without security, in respect of (i) the assets, undertakings and properties of the Debtors acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) whether or not the Debtors are the owners thereof or have an interest therein, the assets, undertakings and properties situated at the Locations and acquired for or used in relation to the optical business, including all proceeds thereof, (collectively, the "Property") for the purpose of and to the extent authorized by the balance of this Order. For greater certainty, (i) except as expressly provided for in this Order, the Receiver shall not take possession or control of the Property, and (ii) the Receiver shall not carry on, manage or operate the business of the Debtors, the businesses operated at the Locations or the businesses of other persons in respect of the Property without further order of the Court.

RECEIVER'S POWERS

2. THIS COURT ORDERS that the Receiver is hereby empowered and authorized (and in respect of subparagraphs 2(a), (b) and (c) the Receiver is also directed):

- (a) to take possession (directly or through an agent or agents) of the eye testing and related equipment that forms part of the Property (the "Equipment"), including but not limited to any Eye Logic System equipment, and store the Equipment pending further order of the Court;
- (b) to review and report to the Court upon the Property and the optical business carried on by the Debtors or carried on at the Locations (the "Business") including, without limitation:
 - (i) the activities of the Business and the employees of the Business from the date of this Order;
 - (ii) the nature of the Property and the Business;
 - (iii) the estimated realizable value of the Property;
 - (iv) the Debtors' liabilities in relation to the Business;
 - (v) persons having or claiming an interest in the Business or the Property or claiming against the Debtors and the quantum and nature of those claims;
 - (vi) whether the Business or the Property can be sold (whether en bloc or on a piecemeal basis) and, if so, any recommendations concerning the method or methods of sale;
 - (vii) whether the Debtors are meeting their obligations in the ordinary course of business; and
 - (viii) the potential for recovery of any liabilities owed by the Debtors to the Minister of Finance of Ontario under any prior Order of the Court.

- (c) to make copies of any computer disks relating to the Property or the Business (the "Computer Records") and store the Computer Records pending further order of the Court;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel, security personnel, and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to review and, if appropriate, consent to any proposed disbursement or disposition of Property, other than a sale of inventory in the ordinary course of business, to be made by the Debtors or the businesses operated at the Locations and to take such steps as in the opinion of the Receiver are necessary or appropriate in relation thereto, and to advise any banks or financial institutions where the Debtors or the businesses operated at the Locations have bank accounts (the "Banks") of the Receiver's power to review and, if appropriate, to consent to any proposed disbursement or disposition of Property, other than a sale of inventory in the ordinary course of business, including but not limited to serving a copy of this Order on any such Banks;
- (f) to report to, meet with and discuss with such Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable; and
- (g) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. THIS COURT ORDERS that (i) the Debtors and the owners of the businesses operated at the Locations, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) Joanne Marie Bergez and Bruce Bergez, and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property or Equipment in such Person's possession or control, shall grant immediate and continued access to the Property or Equipment to the Receiver and shall co-operate with and shall provide such information and documents as the Receiver requests relating to the Property, the Equipment or the Business.

4. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors or relating to the business or affairs of the businesses operated at the Locations, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the

information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

6. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver or persons engaged by the Receiver pursuant to this Order except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE EQUIPMENT

7. THIS COURT ORDERS that no Proceeding against or in respect of the Equipment shall be commenced or continued except with leave of this Court and any and all Proceedings currently under way against or in respect of the Equipment are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. THIS COURT ORDERS that all rights and remedies against the Debtors or against the businesses operated at the Locations in relation to the Property, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not (i) exempt the Receiver, the Debtors or the businesses operated at the Locations from compliance with statutory or regulatory provisions relating to health, safety or the environment, (ii) prevent the filing of any registration to preserve or perfect a security interest, or (iii) prevent the registration of a claim for lien.

NO INTERFERENCE

9. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors or the businesses operated at the Locations in respect of the Business or the Property as a consequence of the making of this Order or any action taken pursuant to this Order, without the written consent of the Receiver or leave of this Court.

EMPLOYEES

10. THIS COURT ORDERS that all the employees of the Debtors shall remain the employees of each such Debtor and all the employees of the businesses operated at the Locations shall remain the employees of each such business. The Receiver shall not be liable for any employee-related liabilities or statutory obligations, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, or any successor employer liabilities.

LIMITATION ON ENVIRONMENTAL LIABILITIES

11. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

12. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

RECEIVER'S ACCOUNTS AND CHARGE

13. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and as security for payment of any other obligations incurred by the Receiver in acting in that capacity (including for payment of goods or services supplied to or to be supplied to the Receiver) and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

14. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Ontario Superior Court of Justice.

15. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements (including for payment of goods or services supplied to or to be supplied to the Receiver) when and as approved by this Court.

16. THIS COURT ORDERS that to the extent the Receiver's fees and disbursements (including for payment of goods or services supplied to or to be supplied to the Receiver) are not paid out of the Property, they shall be paid by Her Majesty the Queen in right of Ontario out of the Consolidated Revenue Fund.

FUNDING OF THE RECEIVERSHIP

17. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge.

18. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

19. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

20. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

RECEIVER'S REVIEW OF PROPOSED DISBURSEMENTS OR DISPOSITIONS OF PROPERTY

21. THIS COURT ORDERS that the Debtors and the managers of the businesses operated at the Locations, if not the Debtors, shall provide the Receiver with the details of any proposed disbursement or disposition of Property, other than a sale of inventory in the ordinary course of business, ("Disposition") and shall obtain the written consent of the Receiver before making any

such proposed disbursement or Disposition. The Receiver shall withhold its consent to any proposed disbursement or Disposition which, in the discretion of the Receiver, is a disbursement or Disposition out of the ordinary course of business or which is contrary to any other provision of this Order.

REPORTING

22. THIS COURT ORDERS that the Receiver shall report to the Court forthwith in the event that the Receiver determines that any of the Debtors or any of the businesses operated at the Locations have failed or refused to comply with this Order.

GENERAL

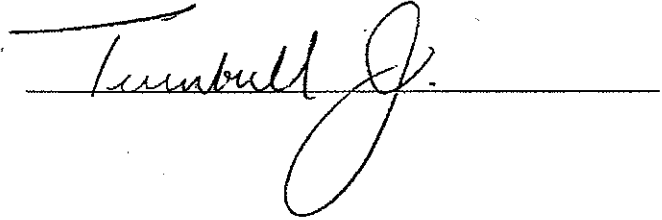
23. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

24. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any or all of the Debtors or the businesses operated at the Locations, if not the Debtors.

25. 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.

26. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

27. THIS COURT ORDERS that any interested party (including the Debtors, the businesses operated at the Locations, if not the Debtors, and the Receiver) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature, likely "Turnbull J.", is written over a horizontal line. The signature is in cursive and extends below the line.

SCHEDULE "A"

- 1. 1025 Plains Road, Burlington, Ontario.**
- 2. 1550 Upper James Street, Hamilton, Ontario.**
- 3. 50 Dundurn Street South, Hamilton, Ontario.**
- 4. 119 Osler Drive, Unit 7, Dundas, Ontario.**
- 5. 1250 Steeles Avenue East, Milton, Ontario.**
- 6. 300 King George Road, Brantford, Ontario.**
- 7. 2180 Itabashi Way, Burlington, Ontario.**
- 8. 220 North Service Road, Oakville, Ontario.**
- 9. 95 Saginaw Parkway, Unit 6, Cambridge, Ontario.**
- 10. 125 Queensway, Etobicoke, Ontario.**
- 11. 132 Front Street East, Toronto, Ontario.**
- 12. 808 York Mills Road, Toronto, Ontario.**
- 13. 26-17 Worthington Avenue, Brampton, Ontario.**
- 14. 393 Danforth Avenue, Toronto, Ontario.**
- 15. 1070 Major Mackenzie Drive East, Richmond Hill, Ontario.**
- 16. 20-9200 Bathurst Street, Thornhill, Ontario.**
- 17. 285 Geneva Street, St. Catharines, Ontario.**
- 18. 565 Woodlawn Road West, Guelph, Ontario.**
- 19. 1865 Lakeshore Road West, Mississauga, Ontario.**
- 20. 1319 Commissionaires Road, London, Ontario.**

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Deloitte & Touche Inc., the receiver (the "Receiver") in respect of (i) the assets, undertakings and properties of Great Glasses, Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd., Dundurn Optical Ltd. acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) whether or not the Debtors are the owners thereof or have an interest therein, the assets, undertakings and properties situated at the locations listed on Schedule "1" hereto and acquired for or used in relation to the optical business, including all proceeds thereof (collectively, the "Property"), appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the • day of •, 2010 (the "Order") made in an action having Court file number 05-18863, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person but subordinate to the Receiver's Charge.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

Deloitte & Touche Inc., solely in its capacity as
Receiver of the Property, and not in its personal
capacity

Per: _____

Name:

Title:

SCHEDULE "1"

to the Receiver's Certificate

- 1. 1025 Plains Road, Burlington, Ontario.**
- 2. 1550 Upper James Street, Hamilton, Ontario.**
- 3. 50 Dundurn Street South, Hamilton, Ontario.**
- 4. 119 Osler Drive, Unit 7, Dundas, Ontario.**
- 5. 1250 Steeles Avenue East, Milton, Ontario.**
- 6. 300 King George Road, Brantford, Ontario.**
- 7. 2180 Itabashi Way, Burlington, Ontario.**
- 8. 220 North Service Road, Oakville, Ontario.**
- 9. 95 Saginaw Parkway, Unit 6, Cambridge, Ontario.**
- 10. 125 Queensway, Etobicoke, Ontario.**
- 11. 132 Front Street East, Toronto, Ontario.**
- 12. 808 York Mills Road, Toronto, Ontario.**
- 13. 26-17 Worthington Avenue, Brampton, Ontario.**
- 14. 393 Danforth Avenue, Toronto, Ontario.**
- 15. 1070 Major Mackenzie Drive East, Richmond Hill, Ontario.**
- 16. 20-9200 Bathurst Street, Thornhill, Ontario.**
- 17. 285 Geneva Street, St. Catharines, Ontario.**
- 18. 565 Woodlawn Road West, Guelph, Ontario.**
- 19. 1865 Lakeshore Road West, Mississauga, Ontario.**
- 20. 1319 Commissionaires Road, London, Ontario.**

**COLLEGE OF
OPTOMETRISTS OF
ONTARIO**

- and -

**SHS OPTICAL LTD.,
DUNDURN OPTICAL
LTD. and JOHN DOE,
all carrying business
under the name of
GREAT GLASSES;
JOANNE MARIE
BERGEZ and
BRUCE BERGEZ**

- and -

**COLLEGE OF
OPTICIANS OF
ONTARIO**

- and -

**THE ATTORNEY GENERAL FOR
ONTARIO**

Applicant

Respondents

Intervenor

Intervenor

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**CONSENT TO ACT AS
RECEIVER**

**ATTORNEY GENERAL FOR
ONTARIO**

**Crown Law Office- Civil
720 Bay Street, 8th Floor
Toronto, ON M5G 2K1**

**Leonard Marsello
LSUC #23795S
Tel: (416) 326-4939**

**William MacLarkey
LSUC #49842P
Tel: (416) 326-4082**

Fax: (416) 326-4181

**Solicitors for the Attorney General for
Ontario**

B

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

COLLEGE OF OPTOMETRISTS OF ONTARIO

Applicant

– and –

**SHS OPTICAL LTD., DUNDURN OPTICAL LTD. and
JOHN DOE, all carrying business under the name of
GREAT GLASSES; JOANNE MARIE BERGEZ and
BRUCE BERGEZ**

Respondents

– and –

COLLEGE OF OPTICIANS OF ONTARIO

Intervenor

– and –

THE ATTORNEY GENERAL FOR ONTARIO

Intervenor

FIRST REPORT TO THE COURT OF THE RECEIVER

BORDEN LADNER GERVAIS LLP
Barristers and Solicitors
Scotia Plaza, 40 King Street West
Toronto, Ontario, M5H 3Y4

MICHAEL MACNAUGHTON
Tel.: 416-367-6646
Fax: 416-682-2837
LSUC # 25889U

JAMES SZUMSKI
Tel.: 416-367-6310
Fax: 416-682-2811
LSUC # 56958S

Lawyers for Deloitte & Touche Inc., in its capacity
as Court-appointed Receiver.

INTRODUCTION

1. Pursuant to an Order of The Honourable Justice Turnbull dated July 2, 2010 (the "**Appointment Order**"), Deloitte & Touche Inc. was appointed as receiver (the "**Receiver**"), without security, in respect of (i) the assets, undertakings and properties of Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd. and Dundurn Optical Ltd. (the "**Debtors**") acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) the assets, undertakings and properties situated at the locations listed on Schedule "A" to the Appointment Order (the "**Locations**") and acquired for or used in relation to the optical business, including all proceeds thereof, (collectively, the "**Property**"). A copy of the Appointment Order is attached hereto as **Appendix "A"**.
2. The Appointment Order was made in the context of litigation between the College of Optometrists of Ontario (the "**Optometrists**") and the Debtors, which began in 2002 when the Optometrists brought an application for an order requiring the Debtors to operate their optical businesses in compliance with the *Regulated Health Professions Act*. On June 24, 2003, the Honourable Justice Harris granted the application and ordered the Debtors to bring their optical business into full compliance with the health care legislative regime of Ontario.
3. On October 25 and 26, 2006, the Optometrists brought a further application for a finding of contempt in respect of the Debtors' non-compliance with the Order of the Honourable Justice Harris. The Honourable Justice Crane granted the application and imposed a fine of \$1,000,000 against the Debtors. The Court also provided a detailed description of actions which the Debtors would be required to undertake in order to cure their contempt.
4. On August 27 to 31, 2007, the Optometrists brought a motion for further orders compelling the Debtors to adhere to the earlier Orders of the Honourable Justice Crane and the Honourable Justice Harris. The Honourable Justice Fedak granted the motion and ordered an additional fine of \$16,000,000 against the Debtors.

5. The Orders of Justice Crane and Justice Fedak were appealed by the Debtors to the Court of Appeal for Ontario. When the Court of Appeal denied the appeals, the Debtors sought leave to further appeal those decisions to the Supreme Court of Canada. Leave was denied.
6. In addition to the foregoing litigation, the College of Opticians of Ontario (the "Opticians") commenced a parallel stream of litigation in November, 2006 against the individual operators of the businesses at the Locations seeking an Order requiring those businesses to comply with the provisions of the *Regulated Health Professions Act*, the *Health Professions Procedural Code* and the Regulations thereunder (the "**John Doe Litigation**").
7. On December 27, 2006, The Honourable Justice Spies ordered, among other things, (i) that the businesses implicated in the John Doe Litigation (the "**John Doe Respondents**") identify themselves, if they intended to continue to defend that litigation, and (ii) that the businesses, employees, agents, independent contractors and other persons carrying on business in association with them comply with the *Regulated Health Professions Act*, the *Health Professions Procedural Code* and the Regulations thereunder until the John Doe Litigation was disposed of. The Receiver understands that the John Doe Litigation is ongoing.
8. On April 29, 2010, the Optometrists brought a further motion seeking orders to compel the Debtors to comply with the previous Orders of the Court, including orders of incarceration of Bruce Bergez and Joanne Marie Bergez. On the same day, the Attorney General of Ontario (the "**Attorney General**") sought and obtained leave to intervene in these proceedings for the purpose of, among other things, seeking the appointment of a receiver in respect of the property of the Debtors and the property of the businesses carried on at the Locations, which were believed to be operating under the name "Great Glasses".

9. On July 2, 2010, the Court made findings of civil and criminal contempt against the Debtors and concluded that "...the only way to prevent further breaches of court orders and to protect the public from the potential harm for which the *RHPA* has been enacted, is to install a receiver of certain assets, undertakings and properties of Great Glasses." The Appointment Order was issued on the same date.¹
10. The role of the Receiver under the Appointment Order is limited. The Appointment Order provides that, except as expressly directed, the Receiver shall not take possession or control of the Property, shall not manage or operate the businesses and shall not take over the employment of the employees. Rather, the Appointment Order directs the Receiver to take possession of certain equipment, and to investigate and report to the Court in respect of the businesses and the Property. More specifically, the Receiver was directed to:
 - a) take possession of the eye testing and related equipment that forms part of the Property (the "**Equipment**"), including but not limited to any Eye Logic System equipment, and store the Equipment pending further order of the Court;
 - b) review and report to the Court upon the Property and the optical business carried on by the Debtors or carried on at the Locations (the "**Businesses**"); and
 - c) make copies of any computer disks relating to the Property or the Businesses (the "**Computer Records**") and store the Computer Records pending further order of the Court.
11. The Appointment Order also authorizes the Receiver to review and, if appropriate, consent to any proposed disbursements or dispositions of Property, other than a sale of inventory in the ordinary course of business, to be made by the Debtors or the businesses operated at the Locations.

¹ A more complete review of the litigation, Orders and contempt proceedings is set out in the reasons of Justice Turnbull, dated July 2, 2010. These Reasons and other documents pertinent to these proceedings, are available on the Receiver's website at www.deloitte.com/ca/great-glasses.

12. Pursuant to the direction of the Court, the Receiver is required to report back on its findings in respect of the Property and the Businesses for a hearing on August 23, 2010.

PURPOSE

13. The purpose of this first report of the Receiver (the "**First Report**") is to:
 - a) provide the Court with a summary of the Receiver's activities since the making of the Appointment Order, to August 12, 2010;
 - b) inform the Court of the results of the Receiver's review to August 12, 2010 of the Property and the Businesses carried on by the Debtors or carried on at the Locations;
 - c) support the Receiver's motion to vary Paragraph 2 of the Appointment Order so that it no longer directs the Receiver to make copies of the Computer Records, but merely authorizes the Receiver to do so if appropriate or necessary;
 - d) seek the Court's approval of the First Report and of the Receiver's activities to August 12, 2010; and
 - e) seek the Court's approval of the fees and disbursements of the Receiver and those of its counsel, Borden Ladner Gervais LLP ("**BLG**"), up to July 31, 2010.

TERMS OF REFERENCE

14. In preparing this First Report, the Receiver has relied upon records and information provided by a number of parties and/or their counsel, including but not limited to: the Debtors, the parties carrying on business at the Locations, former "franchisees", certain financial institutions, the Attorney General, the Opticians, the Optometrists, Eyeologic Systems Inc. ("**ESI**"), the Workplace Safety and Insurance Board ("**WSIB**") and certain parties with registrations against the Debtors in the Personal Property Registry of Ontario. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or

completeness of such information and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information contained in this First Report. The Receiver notes that additional information may be brought to the attention of the Receiver after the date of this report, which information could have an impact on certain of the Receiver's findings set out herein.

15. Capitalized terms not defined in this report are as defined in the Appointment Order. All references to dollars are in Canadian currency unless otherwise noted.
16. For purposes of this report, the terms 'franchisee' and 'store operator' are used to describe the owners/operators of the businesses operated at the Locations. The use of these terms is for convenience only, and does not reflect the Receiver's opinion on the existence and legitimacy of any franchise arrangements that may or may not exist in respect of these parties. The use of the plural form of 'franchisees' or 'store operators' in this report is intended to refer to more than one store operator, but unless the report expressly provides otherwise, such references are not intended to refer to all of the store operators.
17. The Receiver has sought the advice of independent counsel for general legal matters that have arisen in respect of the receivership.

RECEIVER'S ACTIVITIES

18. In preparing this First Report and in performing its duties as directed under the Appointment Order, the Receiver has engaged in a number of activities since July 2, 2010 (the "**Appointment Date**"), including but not limited to:
 - a) Identifying and taking possession of the eye testing and related equipment at 18 Locations;
 - b) Copying the Computer Records at seven of the Locations, as well as the Computer Records of Bruce Bergez;

- c) Corresponding with Bruce Bergez and with certain financial institutions to advise of the Receiver's authority to review and consent to any proposed disbursements of the Debtors and to suggest a protocol for reviewing and consenting to such proposed disbursements;
 - d) Arranging for appraisals of certain of the Property through agents;
 - e) Conducting searches of public registries, including the Personal Property Security Registry, the Land Titles Office Registry and the Business Names Registry, and reviewing the results thereof;
 - f) Meeting, interviewing and/or corresponding with the store operators, ESI, the Opticians, the Optometrists, the Attorney General, former store operators, financial institutions, and the legal advisors of many of the foregoing;
 - g) Collecting and reviewing contracts, leases and other documentary evidence provided by the store operators, ESI, the Optometrists and other parties engaged in dealings with the Debtors or the businesses operated at the Locations; and
 - h) Calling meetings between various parties to obtain information and exchange views.
19. A more complete account of certain activities of the Receiver through to August 12, 2010, is included in **Appendix "B"**.
20. Based on information obtained by the Receiver in its initial meeting with Bruce Bergez and initial attendances at the Locations, the Receiver became concerned that there may be independent businesses operating at some or all of the Locations pursuant to written or unwritten franchise arrangements. In order to address these concerns, the Receiver began interviewing the store operators on July 8, 2010 with a view to determining the nature of the businesses operated at the Locations and their relationship with the Debtors.

21. Shortly after these interviews began, the Receiver was advised on July 8, 2010 that many of the store operators had retained independent legal counsel. The Receiver deferred its arrangements to interview the remaining store operators and instead convened meetings with counsel to the various stakeholders to discuss, among other things, the positions of the store operators and the information to be provided to the Receiver to support the store operators' positions.
22. Ultimately, the stakeholders agreed that the Receiver would provide questionnaires to the store operators, with input from the Opticians, Optometrists and Attorney General, setting out the information the Receiver would require about each Location. The store operators were asked to provide the requested information in affidavit form.
23. As of the date of this Report, the Receiver has reviewed affidavits from operators of 15 stores, as well as an unsworn completed questionnaire from the operator of another store. The Receiver has not received information from one store, as the Receiver was recently advised that the counsel who was expected to represent the operator of the Milton Location had not been formally retained. The affidavits have not been filed in the public record, but have been relied upon by the Receiver in preparing this First Report. Included as Appendix "C" are copies of the affidavits of the store operators received by the Receiver, including Exhibit A of each affidavit. The Receiver has not included the other schedules and exhibits of each affidavit as that information does not appear to be relevant to the matters in issue and appears to contain information which may be confidential or personal.

ORGANIZATION OF THE BUSINESS

Overview

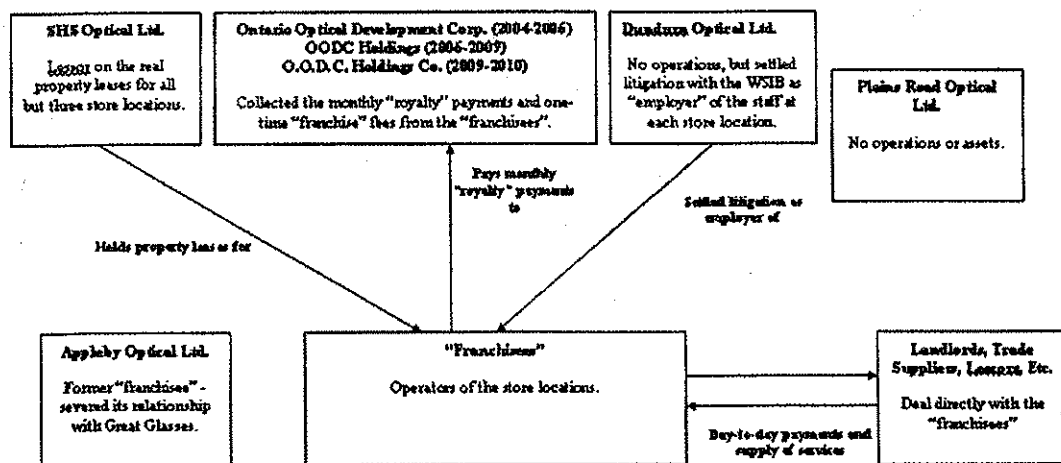
24. As of the Appointment Date, there were 17 retail optical stores operating under the business style of "Great Glasses" with locations in cities extending from London, Ontario to Toronto, Ontario. For the most part, it appears that each of these stores was operated as

a separate business by their owners/operators from a location leased from one of the Debtors, using the name "Great Glasses".

25. Each of the 17 active retail stores is accounted for on Schedule "A" of the Appointment Order. Two of the remaining stores were closed as at the Appointment Date. The final store appears to have operated under the name of "Great Glasses" at one time, but severed its relationship with the Debtors as of November 2, 2009, and now operates independently under the name "Appleby Optical".
26. In 2002, three companies were incorporated to form part of the Great Glasses enterprise. Those companies, which still exist as at the date of this report are:
 - a) Dundurn Optical Ltd., which appears to carry on no operations;
 - b) SHS Optical Ltd., which appears to carry on no operations except that it is the lessee on the real property leases for all but three of the Locations (the remaining three locations are leased by Bruce Bergez or a corporation to be named by Bruce Bergez); and
 - c) Plains Road Optical Ltd., which appears to carry on no operations.
27. The individual stores operating under the name "Great Glasses" are comprised of sole proprietorships and small corporations. The Receiver understands the first of these franchise stores began to conduct business under the style of "Great Glasses" in 2004, while others have started to carry on business under that name as recently as December, 2009. Each store is largely responsible for its own supplier arrangements and pays its own rent and disbursements directly to suppliers, lessors and landlords.
28. The individual store operators keep any profits produced by their stores, but are required to make monthly "royalty" payments and, in most cases, were required to pay a one-time "franchise fee" to entities designated by Bruce Bergez. The first such entity was a corporation called Ontario Optical Development Corp., which, among other things, began

collecting fees and royalties from store operators in 2004. After the Optometrists obtained access to the bank statements of Ontario Optical Development Corp. in 2006, that company ceased to be used. A second entity, OODC Holdings, a sole proprietorship, appears to have taken over its function in 2006. In 2009, a third entity, O.O.D.C. Holdings Co., a sole proprietorship, took over the function of collecting fees and royalties from the store operators. As will be discussed later in this report, the royalties and franchise fees paid to these entities provided Bruce Bergez with a financial return from the "Great Glasses" operation.

29. By way of summary, as at the date of this Report, the Receiver perceives the following relationship between the Debtors, the store operators and the other entities noted above:



A larger version of this diagram, copies of Corporate Profile and Business Name searches for many of the above mentioned entities, and a summary thereof are included in Appendix "D". A more detailed description of each major entity follows in the sections below.

Dundurn Optical Ltd.

30. Dundurn Optical Ltd. was incorporated in February, 2002 and appears to have been largely inactive since its incorporation. Its sole director is Joanne Marie Bergez, the spouse of Bruce Bergez, and its only known asset is a balance of \$368.41 in its bank account. It does not appear to receive or disburse money with any regularity.
31. The Receiver is advised that in September, 2006 the WSIB commenced proceedings against a number of Great Glasses entities and related parties, including Joanne Marie Bergez, Dundurn Optical Ltd., and certain of the store operators. The proceedings were in respect of allegations that, *inter alia*, the defendants had failed to register with the WSIB, to report payroll to the WSIB and to remit premiums to the WSIB. The Receiver is advised that a settlement agreement was reached, pursuant to which Dundurn Optical Ltd. would plead guilty to the charge of failing to register and agree to a fine of \$20,000 plus a 25% victim surcharge. In exchange, the other charges against Dundurn Optical Ltd. would be dropped.
32. Dundurn Optical Ltd. was sentenced as described above by Order of Justice of the Peace Casey on April 28, 2010. The Receiver is advised that, to date, the fine has not been paid.
33. The Receiver has been in contact with counsel for the WSIB and is advised that the proceedings against Mrs. Bergez and certain of the store operators are ongoing.

SHS Optical Ltd.

34. SHS Optical Ltd. was incorporated in February 2002 and does not appear to have carried on any operations since its incorporation, except as the named lessee on real property leases for the Locations.² The sole director of SHS Optical Ltd. is Joanne Marie Bergez

² Leases for 14 of the Locations presently operating as "Great Glasses" are in the name of SHS Optical Ltd. as lessee. Leases for 3 store locations are in the name of Bruce Bergez (or on behalf of a corporation to be named by Bruce Bergez) as lessee.

and with the exception of the leases, the Receiver is not aware of any other assets of this company.

35. There has been some limited activity in the SHS Optical Ltd. bank account in the past two years, consisting primarily of a deposit of \$25,184.25 in December 2009, and the subsequent issuance of a certified cheque in the amount of \$25,000.00. The Receiver is advised that these transactions relate to a tenant-inducement offered by the landlord for the London, Ontario location and that the landlord paid the tenant inducement of \$25,184.25 to SHS Optical Ltd., which in turn paid out \$25,000 to the store operator for that Location. Receipt of such a payment was acknowledged by the store operator for that Location. As at June 30, 2010, the SHS Optical Ltd. account had an overdraft of \$9.60.
36. SHS Optical Ltd. was dissolved on November 17, 2008.

The "Franchisees"

37. Based on the information available to the Receiver it appears that, with one possible exception, the businesses operated at the Locations are run primarily for the account of the individual store operators. Fifteen of the seventeen active stores are sole proprietorships, while the remaining two locations are operated by corporations. A summary of the store operators and their relationship with the Debtors is included as **Appendix "E"** to this First Report.
38. From the information provided to the Receiver to date, it appears that each of the store operators maintains a separate bank account in its own name and/or the name "Great Glasses". The Receiver has not completed a detailed review of each of the stores' records, but based on the Receiver's review of information and documents provided by the operators to date, including bank statements, cancelled cheques and supplier invoices, it appears that each store made all of its receipts and disbursements through its own bank account. For example, utilities, inventory purchases, monthly rent and other day-to-day expenses all appear to be paid through the individual store bank account.

39. Staffing at the stores is the responsibility of the individual store operators. It appears that in all but one of the stores, staff may not be treated as employees but as self-employed contractors. Store staff is paid on a bi-monthly basis and for those individuals not treated as employees, no source deductions are deducted from their pay cheques. Consequently, no payroll remittances are made by the store operators for those individuals.
40. Many of the store operators do not prepare financial statements.
41. Each store operator's relationship with the Debtors is through a documented or unwritten franchise arrangement with Ontario Optical Development Corp., OODC Holdings and/or O.O.D.C. Holdings Co. The Receiver has been provided with five signed franchise agreements (the "Franchise Agreements") which appear to be the only written franchise agreements presently in existence. Salient information from the Franchise Agreements is summarized below:

Date of Franchise Agreement	Franchisor Name	Franchisee Name	Location	Status
October 1, 2004	Ontario Optical Development Corp.	Scott Arsenault	2180 Itabashi Way, Burlington, ON	Sub-franchised to Tracey Watson, who later rescinded the Sub-franchise arrangement and took possession of the assets of the store
November 17, 2004	Ontario Optical Development Corp.	Karen Easlick	220 North Service Road, Oakville, ON	Operating
October 1, 2005	Ontario Optical Development Corp.	William Duncan	300 King George Road, Brantford, ON	Operating
March 5, 2005	Ontario Optical Development Corp.	Anna and Vincent Mifsud	26-17 Worthington Avenue, Brampton, ON	Operating
August 15, 2005	Ontario Optical Development Corp.	Originally Fran Osborne (now Jessica Camara)	125 The Queensway, Etobicoke, ON	Operating

42. Based on the Receiver's review of the Franchise Agreements, each of the above store operators was required to pay a one-time franchise fee of \$10,000 or \$15,000 to Ontario Optical Development Corp., and a monthly royalty of 10% of gross sales. The Receiver is advised by the store operators that the monthly royalties required of each store operator varied from time to time based on the direction of Bruce Bergez, and appear to have been fixed most recently at \$4,000 per month.
43. Franchise arrangements for the other store locations appear to have been based on unwritten agreements on similar terms to those described above. One-time franchise fees for the other locations have ranged from \$0 to \$145,000 and the quantum of royalty payments have also been variable.
44. Other than the initial franchise fees and the monthly royalty fees, the Receiver has not seen any documentation that suggests funds from the stores were paid to parties related to the Debtors. As noted previously, payments for day-to-day store operating expenses appear to have been made by each individual store operator through the store account, although certain arrangements with the lessors, suppliers or service providers are in the name of "Great Glasses", Bruce Bergez, or SHS Optical Ltd.
45. The information and documentation provided to the Receiver suggests that each store was operated for the account of each individual store operator. Nonetheless, the Receiver notes that Bruce Bergez appears to have had substantial influence or control over how certain aspects of the stores were operated. According to information obtained from various store operators, Bruce Bergez held regular meetings with the store operators during which he provided direction in respect of such matters as: marketing strategies, business organization, the manner in which staff and opticians should be hired (or not hired), the manner in which store results should be recorded and reported for tax purposes and the order in which suppliers should be paid.
46. For example, the store operators were occasionally directed by Bruce Bergez to make or withhold payments to particular suppliers or service providers. In one instance, store

operators were requested not to pay trade suppliers in a given month to conserve cash-flow. Store operators were further directed to participate in a marketing strategy prepared by The Errington Group, and to prioritize payment for those services above most other operating expenses.

47. As another example, some store operators advised the Receiver that Bruce Bergez gave direction on the filing of tax returns and in certain cases completed and filed tax returns on their behalf.
48. Information obtained from some store operators indicates that they felt they could not act against the direction of Bruce Bergez for fear that he would change the locks on the premises where they carried on business through his control of the premises leases, which were in his own name or the name of SHS Optical Ltd. The Receiver notes that the store operators did not appear to have formal sub-tenancy agreements with SHS Optical Ltd. or Bruce Bergez. The Receiver was advised that in at least one instance, a store operator was locked out of his store after having a disagreement with Bruce Bergez and lost his investment in the business.
49. During the course of its investigation the Receiver was advised by counsel to the Opticians and Optometrists of certain affidavits signed by store operators in the John Doe Litigation between the Opticians and the store operators. Those affidavits contain statements by some store operators that they were not or did not consider themselves to be independent business operators. This issue is addressed by the relevant store operators in their affidavits and the annexed questionnaires attached as Appendix "C" to this Report.

Appleby Optical Ltd.

50. In the course of conducting its investigation of the Businesses and Property, the Receiver was approached by counsel to 1773219 Ontario Incorporated and its owner/director, Ms. Tracey Watson, who now operates the business at one of the Locations (Location 7), who advised of the position of 1773219 Ontario Incorporated that Location 7 should not have

been included on Schedule "A" to the Appointment Order. Ms. Watson advised that she was at one time a franchisee of Great Glasses but that she has since severed her relationship with Great Glasses and is now operating independently under the name "Appleby Optical".

51. The Receiver met with Ms. Watson and her counsel and reviewed the documentation provided in support of her position, including correspondence between Ms. Watson and Bruce Bergez, leases and rental agreements in the name of 1773219 Ontario Incorporated signed by Ms. Watson, and a Notice of Rescission with effect from November 2, 2009 "rescinding the Sub-Franchise Agreement between Scott Arsenault and Tracey Watson dated August 18, 2008." Ms. Watson also provided the Receiver with copies of the resumes of three opticians who were hired by her business before the Appointment Date.
52. Based on the foregoing, the Receiver is of the view that Store 7 is not owned or operated under the style of "Great Glasses" and is not controlled by Bruce Bergez or any of the Debtors.

Ontario Optical Development Corp./OODC Holdings/O.O.D.C. Holdings Co.

53. Ontario Optical Development Corp. appears to have been formed to act as a franchisor for the "Great Glasses" businesses, and is listed as the franchisor in the Franchise Agreements which the Receiver has reviewed. Ontario Optical Development Corp. was incorporated in 2002 and its sole director was Mr. Leo Bertuzzi, the brother of Joanne Marie Bergez.
54. Based on information provided to the Receiver, it appears that Ontario Optical Development Corp. occasionally paid for the "start up" costs of individual store locations, but it also collected the one-time franchise fee and the monthly royalty payments which were made to it primarily by cheque from the store operators. The Receiver is advised that Ontario Optical Development Corp. continued to be used for this purpose until 2006, at which time counsel to the Optometrists obtained its bank account records from Mr.

Bertuzzi and the company ceased to be used. The Receiver notes that Ontario Optical Development Corp.'s charter was cancelled in 2008.

55. OODC Holdings, appears to have taken over the function of Ontario Optical Development Corp. in August, 2006, and store operators began writing cheques and making account transfers for their monthly royalty payments and one time franchise fees to OODC Holdings; however this entity does not appear to have entered into any written franchise agreements. OODC Holdings is a sole proprietorship and is registered in the name of Mr. Kevin Brittain, a former store operator.
56. According to information provided by Mr. Brittain, Bruce Bergez held the debit card for the bank account of OODC Holdings and requested that Mr. Brittain provide him with signed blank cheques. Later, Bruce Bergez also began signing cheques on the OODC Holdings account of his own accord, although he did not have signing authority on the account. Mr. Brittain did not instruct Royal Bank of Canada to stop payment on such cheques. Mr. Brittain advised the Receiver that on receipt of monthly statements for this account, he turned the envelope containing the statements over to Mr. Bergez. He advised the Receiver that, except on a few occasions, he delivered the envelopes to Mr. Bergez unopened at Mr. Bergez's insistence.
57. Mr. Brittain advises that in 2008 he and Bruce Bergez had a falling out, which resulted in Mr. Brittain being locked out of the stores he had operated. Mr. Brittain filed an assignment in bankruptcy on June 17, 2009 and the approximately \$20,000 of funds remaining in the OODC Holdings account at that time were claimed by and paid to his trustee in bankruptcy.
58. Based on copies of the bank statements for OODC Holdings, it appears that during the period from August 9, 2006 to June 30, 2009, OODC Holdings received an aggregate of \$3,456,992.22 in deposits. After June 17, 2009, there was no significant further activity in the account. Due to the cost, the Receiver has not at this time obtained copies of the cancelled cheques for this account and therefore is not in a position to comment on the

disbursements made from this account, other than for certain debit transactions which appear to be primarily for personal expenses. Based on the available information it appears that Mr. Bergez had control over the account and the money in it, though this has not been verified through a review of the cancelled cheques.

59. On June 22, 2009, O.O.D.C. Holdings Co. was established. O.O.D.C. Holdings Co. appears to have taken over the function of OODC Holdings. Royalty cheques and franchise fees were deposited to the bank account of O.O.D.C. Holdings Co.; however this entity does not appear to have entered into any written franchise agreements. O.O.D.C. Holdings Co. is a sole proprietorship, registered in the name of Mr. William Duncan, a store operator.
60. According to information provided by Mr. Duncan, he was requested by Bruce Bergez to open an account in the name of O.O.D.C. Holdings Co. and acceded for fear of being locked out of his store. Although Mr. Duncan was the sole signing authority on this account, it appears that Bruce Bergez controlled the account and the payments made through it.
61. Copies of the online bank statements and cancelled cheques for the O.O.D.C. Holdings Co. bank account to June 18, 2010 were provided to the Receiver by Mr. Bergez, and statements for the period ending July 7, 2010 for the account were also provided separately by Mr. Duncan. Based on the Receiver's review of the O.O.D.C. Holdings Co. account for the period June 22, 2009 to July 7, 2010, the Receiver notes that all but a few cheques drawn on this account were signed by Mr. Bergez. Several cheques were signed by Mrs. Bergez and one cheque appears to be signed "Bill D". Many disbursements from this account, some of which were effected by debit card payments, appear to have been for various expenses, including automobile lease payments, gas, groceries, mortgage payments and school fees.
62. Over the period from May 21, 2009 to June 18, 2010, the bank records of O.O.D.C. Holdings Co. show that it received an aggregate of \$656,314.47 in deposits. The bank

account was closed on July 7, 2010. Mr. Duncan paid \$4,000.00 to the bank to cover the overdraft in the account at that time.

63. Over the four years in which franchise fees and royalty payments were collected by OODC Holdings and O.O.D.C. Holdings Co., an aggregate of approximately \$4,113,000 was deposited into the bank accounts of these entities.³ As of the date of this report, there are no funds in the accounts of OODC Holdings and O.O.D.C. Holdings Co. referred to in this report. The Receiver is also not aware of any funds in the account of Ontario Optical Development Corp., though it does not have all of the bank statements for that account at this time. A summary of the aggregate funds paid into and debited from the accounts of each of OODC Holdings and O.O.D.C Holdings Co. for the period August 9, 2006 to June 18, 2010 is set out below:

<u>Holding Entity</u>	<u>Period</u>	<u>Deposits</u>	<u>Debits</u>
OODC Holdings	Aug 9, 2006 to Dec 29, 2006	\$993,396.84	\$946,839.40
OODC Holdings	Dec 30, 2006 to Dec 28, 2007	\$1,154,578.53	\$1,191,508.18
OODC Holdings	Dec 29, 2007 to Dec 30, 2008	\$979,514.43	\$984,963.88
OODC Holdings	Dec 31, 2008 to Jun 30, 2009	\$329,502.42	\$334,200.76
O.O.D.C. Holdings Co.	May 21, 2009 to Jun 18, 2010	\$656,314.47	\$654,164.77
TOTAL	Aug 9, 2006 to Jun 18, 2010	\$4,113,306.69	\$4,111,676.99

³ At the time of this First Report, the Receiver has not determined whether all of the payments made into the accounts of OODC Holdings and O.O.D.C. Holdings Co. were for one-time franchise fees and royalty payments, or whether all the franchise fees and royalty payments were deposited into those accounts. The Receiver notes that some store operators have provided information which suggests that the entities may have been used to provide liquidity for new store operators and hence received payments from store operators other than monthly royalties and franchise fees.

REPORT ON THE PROPERTY AND BUSINESS UNDER PARAGRAPH 2 OF THE APPOINTMENT ORDER

Activities of the Businesses and the Employees of the Businesses (Since July 2, 2010)

64. Pursuant to the Appointment Order, the Receiver arranged for the removal of the eye testing and related equipment from 18 Locations commencing on July 5, 2010, as set out more fully in Appendix "B". Since that date, the 17 active store locations and 1773219 Ontario Incorporated have continued to carry on business. The Receiver is advised that, except for the Milton Location for which the Receiver does not have information at this time, all store operators have ceased making their royalty payments, although they continue to pay their operating expenses in the ordinary course.
65. At a meeting held on July 15, 2010 with the Opticians, the Optometrists, the Attorney General and counsel to the majority of the store operators, the Receiver was advised that many of the store operators wished to bring their businesses into compliance with the *Opticianry Act* and related legislation. Subsequently, many of the store operators have placed advertisements and liaised with the Opticians regarding the store operators attempts to hire opticians for their stores. According to information received from the Opticians, as of August 5, 2010, four store operators have successfully hired opticians. The Opticians advise that there may be other store operators who have successfully hired opticians but whose opticians have not yet registered their employment within the 30 day period prescribed by the Opticians.

Nature of the Property and the Businesses

66. The major assets which comprise the Property used in the Businesses appear to consist predominantly of: real property leases for the Locations held by SHS Optical Ltd. and Bruce Bergez, rental agreements for the ESI eye testing equipment, other equipment related to the manufacture of eye glasses, eye glass frames and related inventory, store racks and cabinetry, accounts receivable and a limited amount of funds in corporate accounts.

67. In respect of the ESI eye testing equipment, the Receiver has been provided by counsel to ESI with copies of rental agreements for each piece of ESI equipment used at the Locations. The Receiver understands that the individual store operators are responsible for the monthly rental payments for this equipment, and that they deal directly with ESI in respect of their technical support and maintenance requirements. Many of the rental agreements are for fixed terms which have expired, but it appears that the rental arrangements have been mutually continued by ESI and the store operators. A chart summarizing the details of the rental agreements in respect of the ESI equipment is included as **Appendix "F"**.
68. The Receiver was contacted shortly after the commencement of the receivership by counsel to ESI, who advised that ESI would be seeking the return of its equipment in the near future. The Receiver is not aware of any further steps having been taken by ESI in that regard to date.

Liabilities of the Debtors and Estimated Realizable Value of the Property

Overview

69. As described more fully in the sections which follow, based on the information provided to the Receiver by its agents and various stakeholders to date, the Receiver estimates the gross realizable value of the Property of the Debtors, before accounting for any charges or encumbrances, to be approximately \$560,000. A chart setting out the value of the major assets and liabilities of each of the Debtors, other than the costs and fines imposed by the Orders in the Great Glasses litigation, is included as **Appendix "G"**.
70. Given the information provided by the franchisees to the Receiver that the businesses operated at the Locations are operating as individual businesses, the Receiver does not intend to file an assessment of the assets and liabilities of the Locations with the Court at this time. Should the Court so desire, the Receiver can prepare a supplementary report

with an estimate of the assets and liabilities of the store operators which would be based on further inquiries and the information it has collected to date.

SHS Optical Ltd.

71. SHS Optical Ltd. does not carry on any operations that the Receiver is aware of, except that SHS Optical Ltd. is the lessee on the real property leases for the 14 active Great Glasses store Locations. The Receiver is not aware of the existence of any other assets of SHS Optical Ltd. Based on the Receiver's review of the bank statements for SHS Optical Ltd.,⁴ there has been minimal activity in the corporate bank accounts since September 2008. As at June 30, 2010, the bank account had an overdraft of \$9.60.
72. The Receiver engaged Oberfeld Snowcap Inc. ("Snowcap"), an independent leasing consultant, to provide the Receiver with an estimate of the value of the seventeen leases for the active Locations held in the name of SHS Optical Ltd. and Bruce Bergez. Snowcap advises that (i) the values of the leases do not represent any significant value based on the existing rents, and (ii) the use clauses in the leases also restrict any possible purchaser from operating anything but an eye glass store. There is also a lack of exclusivity in many cases which further limits the value of the leases to an assignee.
73. The Receiver notes that Canada Revenue Agency ("CRA") has issued assessments against SHS Optical Ltd. in the amount of approximately \$920,000 which could negatively impact the realizable value of any property held by it.

Dundurn Optical Ltd.

74. Dundurn Optical Ltd. does not carry on any operations that the Receiver is aware of. According to bank statements received from Bank of Montreal up to May 31, 2010, there were no transactions in the corporate account, other than bank charges, subsequent to

⁴ Provided by Mr. Bergez for the period up to May 2008 and by Bank of Montreal for the period from March 1, 2008 to June 30, 2010.

January 1, 2008. As at May 31, 2010, the corporate account had a balance of \$368.41. The Receiver is not aware of the existence of any other assets of Dundurn Optical Ltd.

75. As described previously, Dundurn Optical Ltd. pleaded guilty to certain offences under the *Workplace Safety and Insurance Act* on April 28, 2010, and was sentenced by Justice of the Peace Casey to a fine of \$20,000 plus a 25% victim surcharge. The Receiver is advised that to date, the fine has not been paid.
76. The Receiver notes that CRA has issued assessments against Dundurn Optical Ltd. in the amount of approximately \$1,048,000 which could negatively impact the realizable value of any property held by it.

Plains Road Optical Ltd.

77. Plains Road Optical Ltd. appears to have been inactive since it was first incorporated. As this entity is not included as one of the Debtors, the Receiver has not reviewed its assets and liabilities, if any.

Ontario Optical Development Corp./OODC Holdings/O.O.D.C. Holdings Co.

78. Based on the information available to the Receiver, it appears that these entities were established for, among other things, the purpose of collecting the one-time franchise fees and monthly royalty payments made by the store operators. Neither OODC Holdings nor O.O.D.C. Holdings Co. have any funds remaining in the accounts referred to in this report as of the date hereof. The Receiver is also not aware of any funds in the accounts of Ontario Optical Development Corp., although the Receiver does not have all of the bank statements for that entity at this time. The Receiver notes that the funds of OODC Holdings were claimed in the course of the bankruptcy of Mr. Brittain and that the account of O.O.D.C. Holdings Co. was closed on July 7, 2010 following repayment of an overdraft of \$4,000.

Bruce Bergez and Joanne Marie Bergez

79. Statements of Net Worth for Mr. and Mrs. Bergez were provided to the Receiver by Mr. Bergez on July 21, 2010.⁵
80. According to the Statement of Net Worth of Bruce Bergez, he has no assets but has liabilities totalling \$18,166,344. The liabilities consist primarily of assessments levied against him by CRA for GST and personal income tax, debts outstanding to suppliers, unpaid legal fees, the Court imposed fine against the Debtors in respect of the Great Glasses litigation and any costs awarded in the Great Glasses litigation.
81. According to the Statement of Net Worth of Joanne Marie Bergez her principal asset is the Bergez residence at 286 York Rd., Dundas, Ontario, for which she is the sole registered owner, with a value of \$500,000. There is a mortgage of \$34,917.12 against the property based on information received from the mortgagee.⁶ Joanne Marie Bergez is also shown as the owner of two cars having a value of \$60,000, against which there are auto loans of approximately \$75,000 in the name of Nomis Corporation, which were registered in the Personal Property Security Registry on May 25, 2010, and registered against title to the Bergez residence on July 13, 2010.
82. In respect of the assets of Mr. and Mrs. Bergez, the Receiver notes that it received correspondence from Mr. Bergez on July 25, 2010, stating that "as of today Joanne and I are impecunious."
83. The Receiver has reviewed copies of the 2008 income tax return of Bruce Bergez that Bruce Bergez provided to the Receiver to see if the return identified any other assets that may be owned by Bruce Bergez. No evidence of assets was noted on the return since no income or deductions were reported on the return. Mr. Bergez advised that his return for

⁵ The Statements are unsworn. The Receiver requested sworn statements on July 28, 2010, and was advised by Bruce Bergez that due to financial constraints they could not pay to have the Statements sworn.

⁶ As at August 6, 2010.

2009 has to date not been filed. Mr. Bergez further advised that income tax returns for Joanne Marie Bergez have not been filed since 2005 as a result of an oversight.

Persons Claiming an Interest in the Businesses or Property

84. At the Receiver's request, BLG conducted initial searches of the Personal Property Security Registry of Ontario in respect of the Debtors with file currency of April 28, 2010. BLG wrote to all of the registrants in the Personal Property Security Registry with registrations prior to April 28, 2010, except the Ministry of Revenue, on July 15, 2010 requesting the particulars of each registrant's relationship with the applicable Debtor and copies of any agreements or other documentation relevant to that relationship. As of the date of this report, the Receiver is advised that three registrants have responded and provided copies of lease agreements:

- (i) IndCom Leasing Inc. provided a lease agreement with Linda Silberberg o/a Great Glasses, for certain eye lab equipment at a monthly rent of \$601.92;
- (ii) VW Credit Canada, Inc. provided two lease agreements with Great Glasses, one signed by Natali Silberberg on behalf of Great Glasses for a motor vehicle with a monthly payment of \$594.74 and one signed by Linda Silberberg on behalf of Great Glasses for a motor vehicle with a monthly rent of \$396.49; and
- (iii) Leasebank Credit Corporation provided a lease agreement with William W. Duncan o/a Great Glasses, for certain eye lab equipment at a monthly payment of \$479.96.

85. BLG also conducted a search at the Land Registry Office in respect of the Bergez residence at 286 York Rd., Dundas, Ontario, with file currency of August 3, 2010. Those searches revealed two parties with registrations on title: The Effort Trust Company, in

respect of a mortgage on the residence, and Nomis Corporation, in respect of a Notice of Security Interest registered on title to the residence.

86. BLG conducted further searches of the Personal Property Security Registry in respect of "Great Glasses", Dundurn Optical Ltd., SHS Optical Ltd., Ontario Optical Development Corp., OODC Holdings, O.O.D.C. Holdings Co., Bruce Bergez and Joanne Marie Bergez, with file currency of August 4, 2010.
87. Based on all of the foregoing, BLG advises that there are 10 different registrants with registrations against the Debtors and related entities in the Personal Property Security Registry and the Land Registry Office. A table summarizing the registrations against the above noted Debtors and related entities is attached as **Appendix "H"**.

Whether the Businesses or Property can be Sold

88. From the information collected by the Receiver to date, the major business assets of the Debtors appear to consist of essentially three assets: the real property leases for the Locations for which the Debtors are tenant, the potential franchise rights in favour of Ontario Optical Development Corp., OODC Holdings and O.O.D.C. Holdings Co., and the trade name "Great Glasses". Each of these assets is likely to be problematic to sell, and the Receiver is of the view that a sale of all or part of the Businesses or Property is not feasible at this time for the reasons set out below.
89. First, SHS Optical Ltd. and Bruce Bergez are the holders of seventeen leases in respect of the Locations presently in operation. As noted above, the Receiver has obtained an independent appraisal of the equity in those leases which has indicated their value to be essentially nil. However, notwithstanding the appraisal, the leases may be of value to the store operators, who do not appear to have any written basis for occupying the Locations where their stores are situated.

90. Second, Ontario Optical Development Corp., OODC Holdings and O.O.D.C. Holdings Co. (and by extension the Debtors) may be the holders of certain formal or informal franchise rights in relation to the businesses operated at the Locations. The Receiver notes that few of these arrangements are in writing and that of the written franchise agreements that the Receiver has reviewed, many have expired. As a result, it is not clear that a potential purchaser would be able to enforce any of the franchise arrangements against the store operators, which makes this asset speculative and difficult to sell.
91. Third, a search of the Canadian Trade-Mark Database reveals that the "Great Glasses" name is not registered as a trade-mark. Accordingly, it is not clear whether the name can be sold, and whether there is any value in the name even if it can be sold given the recent publicity which the Great Glasses litigation has engendered. Many store operators have expressed to the Receiver concerns about this publicity in the context of difficulties experienced in hiring opticians to work at their stores.
92. Finally, given the information provided to the Receiver by the store operators to support their positions that the businesses operated at the Locations are independent businesses, it may not be appropriate to attempt to sell the Property owned by those businesses in the context of these proceedings. Accordingly, the Receiver does not express a view on whether those assets could be sold at this time.

Are the Debtors Meeting their Obligations in the Ordinary Course of Business

93. As noted above, Bruce Bergez and Joanne Marie Bergez appear to have most recently been paying living expenses out of the bank account of O.O.D.C. Holdings Co. The Receiver is advised that the store operators have ceased making payments to that entity. The Receiver does not know whether or not Mr. or Mrs. Bergez have the cash flow required to meet their obligations in the ordinary course. As described earlier in this First Report, the Receiver is in receipt of correspondence from Mr. Bergez, dated July 25, 2010, in which he states that he and Mrs. Bergez are impecunious.

94. As at June 30, 2010, the bank balance of SHS Optical Ltd. was in an overdraft position. SHS Optical Ltd. appears to be inactive. It also appears that SHS Optical Ltd.'s sole obligations, namely its liabilities under the premises leases, are being discharged by the respective franchisees.
95. As at May 31, 2010, the balance in the Dundurn Optical Ltd. bank account was \$368.41. The Receiver understands that Dundurn Optical Ltd. is inactive and never conducted any operations. The Receiver is not aware of any obligations in the ordinary course of business Dundurn Optical Ltd. is responsible to pay.

Potential for Recovery of any Liabilities owed to the Minister of Finance for Ontario in Respect of any Court Orders

96. The fine presently owing by, and enforceable against, the Debtors is approximately \$17,000,000. As set out in the summary in Appendix "G", which does not include the assets of the businesses operated at the Locations, the Receiver is of the view that a gross amount of approximately \$560,000 may be available to creditors, including the Minister of Finance for Ontario in respect of amounts owing under Court Orders. This amount is calculated as follows:
- (i) \$0 from SHS Optical Ltd. in respect of the value of the real property leases held in its name;
 - (ii) \$368.41 from Dundurn Optical Ltd. consisting of the funds in its corporate bank account;
 - (iii) \$0 from Bruce Bergez based on his Statement of Net Worth provided to the Receiver; and
 - (iv) \$560,000 from Joanne Marie Bergez consisting of the value of the property at 286 York Road, Dundas, Ontario and the value of her two automobiles.⁷

⁷Based on the valuations contained in Mrs. Bergez's Statement of Net Worth.

97. The Receiver notes that it has not undertaken a claims process for the purpose of identifying the nature and amounts of other claims against the Debtors. Consequently, the Receiver is unable to say whether other parties might assert a priority over the claims of the Minister of Finance for Ontario, or whether there are other creditors of the Debtors which would be entitled to their pro rata share of the Debtors' assets.

THE EQUIPMENT

98. Pursuant to paragraph 2(a) of the Appointment Order, the Receiver was directed to take possession of the eye testing and related equipment that forms part of the Property (the "**Equipment**"), including but not limited to any Eye Logic System equipment, and to store the Equipment pending further order of the Court.
99. As described in greater detail in Appendix "B", the Receiver has taken possession of the Equipment through an agent and has arranged for storage and insurance at a monthly cost of approximately \$2,600. The equipment in the possession of the Receiver consists of:
- a) 18 units of ESI eye testing equipment;
 - b) chairs that were attached to the ESI eye testing equipment; and
 - c) autorefractors, which can be used for eye testing independently of the other Equipment.
100. On July 9, 2010, the Receiver was provided with copies of Rental Agreements for the ESI eye testing equipment executed by ESI (or "Eyelogic Inc.") and "Great Glasses". With two exceptions, the Rental Agreements are signed by Bruce Bergez in his capacity as "C.F.O.", "Optician" or "Owner". The exceptions consist of one Rental Agreement signed by Mr. Brittain, a store operator, and one Rental Agreement in respect of the "Appleby Optical" store which, as noted above, has severed its relationship with the Debtors. Notwithstanding the names on the Rental Agreements, it appears to the Receiver

that the monthly rent payments under the Rental Agreements have been paid by the individual store operators.

101. The Receiver notes that many of the rental agreements are for fixed terms which have now expired. However, based on the information available to the Receiver it appears that the term of the Rental agreements have been mutually extended by ESI and the store operators.
102. Counsel to the Receiver was contacted by counsel to ESI on July 9, 2010, indicating that ESI may be seeking the return of the ESI equipment in the near future, however the Receiver is not aware of any steps being taken in that regard to date. Failing a motion by ESI for the return of the ESI equipment, the Receiver will consider what steps to take in relation thereto.

RELIEF REQUESTED BY THE RECEIVER

Copies of the Computer Records

103. Commencing on July 5, 2010, the Receiver began attending at the Locations to make copies of the Computer Records as directed by the Appointment Order. Because of the volume of the information on the computers, the computer imaging of the information took between 4 to 6 hours per store.
104. By July 9, 2010 the Receiver had attended at 7 stores to image computer information. Based on the time required to download the information at each Location, the Receiver estimated that the cost of copying all of the information at the 17 Locations would be significant. As a result, the Receiver deferred imaging the remaining computers while it reviewed the information it had obtained to that date, to determine the nature of the information stored on the computers at each Location and to assess whether copying the remaining Computer Records merited incurring the additional professional costs of doing so.

105. Based on the information reviewed, it appears from the file descriptions and formats on the Computer Records that the store computers contain the following types of information:

- Customer information;
- Staff contact details;
- Daily totals (sales);
- Invoices for the sale of inventory;
- Prescription tables;
- Lens ordering information;
- Various reference tables for frame brands, frame costs, frame styles, frame suppliers, frame types, lens-coatings, lens-material, etc.
- Customer payment details, including whether their prescription was created by the Eyelogic machine.

From the information reviewed to date, the Receiver did not find any significant financial information on the servers, such as balance sheets, income statements, cash flows, income tax and other statutory returns.

106. Based on the foregoing, the Receiver wrote to the Opticians, Optometrists and Attorney General through counsel, advising that it proposed to defer copying the computer records at the remaining Locations and focus its attention on meeting with the store operators.

107. The Receiver does not currently believe that there would be further value in copying the Computer Records at the remaining Locations. As a result, the Receiver is seeking an order to vary Paragraph 2 of the Appointment Order so that it does not direct the Receiver to make copies of the Computer Records, but merely provides the Receiver with the authority to do so, if the Receiver considers it appropriate and necessary.

Approval of Fees and Activities

108. The Receiver's fees for services rendered for the period ending July 31, 2010 are particularized in the Affidavit of Daniel R. Weisz, sworn August 13, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$218,489.94 including applicable taxes and third party disbursements of \$11,965.23 made by the Receiver.
109. The fees and disbursements of BLG, the Receiver's independent counsel, for the period ending July 31, 2010 are particularized in the Affidavit of Roger Jaipargas, sworn August 13, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$59,849.99.
110. The Receiver has reviewed the invoices of BLG and finds the work performed and charges to be appropriate and reasonable.
111. Copies of the Receiver's and BLG's accounts have been forwarded to the Attorney General.
112. The Receiver is herein seeking the Court's approval of its activities up to the date of this report and its fees as set out above.

Summary of Relief Requested by the Receiver

113. The Receiver respectfully requests that the Court grant its motion for an order:
 - approving the First Report and the activities of the Receiver described therein, including any work performed before and in anticipation of the issuance of the Appointment Order;
 - amending paragraph 2 of the Appointment Order so that it no longer directs the Receiver to make copies of the Computer Records but merely authorizes the Receiver to do so if appropriate or necessary; and

- approving the fees and disbursements of the Receiver and its counsel, BLG, for the period to July 31, 2010.

All of which is respectfully submitted to this Honourable Court.

DATED this 13th day of August, 2010.

DELOITTE & TOUCHE INC.

solely in its capacity as Receiver of
certain assets, undertakings and properties of
SHS Optical Ltd., Dundurn Optical Ltd. and John Doe
all carrying on business under the name of Great Glasses
and not in its personal capacity



Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice President

C

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

COLLEGE OF OPTOMETRISTS OF ONTARIO

Applicant

– and –

**SHS OPTICAL LTD., DUNDURN OPTICAL LTD. and
JOHN DOE, all carrying business under the name of
GREAT GLASSES; JOANNE MARIE BERGEZ and
BRUCE BERGEZ**

Respondents

– and –

COLLEGE OF OPTICIANS OF ONTARIO

Intervenor

– and –

THE ATTORNEY GENERAL FOR ONTARIO

Intervenor

**SUPPLEMENTAL REPORT TO THE
FIRST REPORT TO THE COURT OF THE RECEIVER
(August 19, 2010)**

INTRODUCTION

1. Pursuant to an Order of The Honourable Justice Turnbull dated July 2, 2010 (the **"Appointment Order"**), Deloitte & Touche Inc. was appointed as receiver (the **"Receiver"**), without security, in respect of (i) the assets, undertakings and properties of Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd. and Dundurn Optical Ltd. (the **"Debtors"**) acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) the assets, undertakings and properties situated at the locations listed on Schedule "A" to the Appointment Order (the **"Locations"**) and acquired for or used in relation to the optical business, including all proceeds thereof, (collectively, the **"Property"**).
2. On August 13, 2010, the Receiver circulated its First Report to the Court (the **"First Report"**) in connection with a hearing on August 23, 2010. The purpose of the First Report was to:
 - a) provide the Court with a summary of the Receiver's activities from the making of the Appointment Order, to August 12, 2010;
 - b) inform the Court of the results of the Receiver's review to August 12, 2010 of the Property and the Businesses carried on by the Debtors or carried on at the Locations;
 - c) support the Receiver's motion to vary Paragraph 2 of the Appointment Order so that it no longer directs the Receiver to make copies of the Computer Records, but merely authorizes the Receiver to do so if appropriate or necessary;
 - d) seek the Court's approval of the First Report and of the Receiver's activities to August 12, 2010; and
 - e) seek the Court's approval of the fees and disbursements of the Receiver and those of its counsel, Borden Ladner Gervais LLP, up to July 31, 2010.
3. In the First Report, the Receiver reported that as at August 13, 2010, it had not obtained copies of the cancelled cheques for the account of OODC Holdings due to the cost of

obtaining that information from the bank. Subsequent to serving the First Report, on August 16, 2010, the Receiver received correspondence from Bruce Bergez advising that he had discovered 23 sealed envelopes containing a sampling of bank statements and cancelled cheques from that account. The Receiver subsequently attended at the Bergez residence on August 16, 2010, to collect the envelopes.

PURPOSE

4. The purpose of this Supplemental Report to the First Report (the “**Supplemental Report**”) is to:
 - a) update the Court on the Receiver’s preliminary review of the OODC Holdings bank statements and cancelled cheques provided by Bruce Bergez on August 16, 2010; and
 - b) advise the Court of certain other correspondence received from Bruce Bergez on August 16, 2010.

TERMS OF REFERENCE

5. In preparing this Supplemental Report, the Receiver has relied upon records and information provided by a number of parties and/or their counsel, including but not limited to current and former store operators and Bruce Bergez. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information contained in this Supplemental Report. The Receiver notes that additional information may be brought to the attention of the Receiver after the date of this report, which information could have an impact on certain of the Receiver’s findings set out herein.
6. Capitalized terms not defined in this report are as defined in the First Report. All references to dollars are in Canadian currency unless otherwise noted.
7. As in the First Report, the terms ‘franchisee’ and ‘store operator’ are used in this report to describe the owners/operators of the businesses operated at the Locations. The use of

these terms is for convenience only, and does not reflect the Receiver's opinion on the existence and legitimacy of any franchise arrangements that may or may not exist in respect of these parties. The use of the plural form of 'franchisees' or 'store operators' in this report is intended to refer to more than one store operator, but unless the report expressly provides otherwise, such references are not intended to refer to all of the store operators.

8. The Receiver has sought the advice of independent counsel for general legal matters that have arisen in respect of the receivership.

THE OODC HOLDINGS ACCOUNT

9. In paragraph 58 of the First Report, the Receiver reported that it had reviewed the bank statements of OODC Holdings, but had not obtained copies of the cancelled cheques due to the cost of obtaining those copies from the bank.
10. On, August 16, 2010, the Receiver received an e-mail from Bruce Bergez in which he indicated that "in sorting through some boxes on the weekend I came across 23 sealed envelopes representing a sampling of the bank statements and cancelled cheques for the account OODC Holdings, also known as the Kevin Brittain account." The Receiver attended at the Bergez residence that afternoon to obtain the documents.
11. The Receiver has conducted a preliminary review of the bank statements and cancelled cheques obtained from Bruce Bergez for the OODC Holdings account, which are for the period from August 9, 2006 to September 30, 2008. In total, the Receiver estimates that it reviewed approximately 700 cheques. Based on the Receiver's review of the bank statements and cancelled cheques, the Receiver notes the following:

- a) cheques bearing the payor names of OODC Holdings and FOO Holdings were drawn on the OODC Holdings account. The Receiver is advised by Mr. Brittain

that the cheques bearing the name FOO Holdings were ordered from a third party printer by Bruce Bergez;¹

- b) substantially all of the cheques reviewed by the Receiver appear to be signed by Bruce Bergez, Joanne Marie Bergez or Kevin Brittain. The Receiver notes that it reviewed 5 cheques for which the signatory may not have been one of those persons, however, as a result of the number of cheques to review and the limited time available, the Receiver has not investigated the circumstances surrounding those cheques;
- c) transfers from and cheques drawn on the OODC Holdings account appear to be payments for both business and personal expenses, and are generally consistent with the payments the Receiver observed being made from the account of the apparent successor entity, O.O.D.C. Holdings Co., as described at paragraph 61 of the First Report; and
- d) based on the bank statements provided by Bruce Bergez for the period from August 9, 2006 to September 30, 2008, the credits/deposits to the OODC Holdings account totaled \$2,907,125 and debits/withdrawals from the OODC Holdings account totaled \$2,886,911.

SALE OF THE BERGEZ RESIDENCE

12. By e-mail dated August 16, 2010, Bruce Bergez advised the Receiver that, as a result of the circumstances arising from the Order and the impecunious situation which the Bergez's now face, the Bergez's have listed for sale their home at 286 York Road, Dundas, Ontario (the "Residence"). Mr. Bergez provided the Receiver with a copy of the Multiple Listing Service (MLS) listing agreement for the Residence, which grants the listing agent, HomeLife Macro Realty Inc., Brokerage, the exclusive and irrevocable right to act as the listing agent for the period August 17, 2010 to October 30, 2010.

¹ The Receiver conducted Business Name and Corporate Profile Searches on "FOO Holdings" which did not return a direct match. A company named "Foo Holdings Inc." existed from 1992 to 2006, but does not appear to be related to the Debtors or the businesses operated at the Locations.

13. The listing price for the Residence is \$749,900. The Receiver notes that, based on a treasurer's certificate dated August 6, 2010, there do not appear to be any realty tax arrears or local improvement assessments outstanding on the Residence. There are, however, four Writs of Execution registered against Joanne Marie Bergez, the registered owner of the Residence, in favour of the Optometrists and the Attorney General in an aggregate amount of approximately \$17,230,000.²

QUESTIONS AND COMMENTS ON THE FIRST REPORT

14. After serving the First Report on August 13, 2010, the Receiver received certain comments from Bruce Bergez by way of email dated August 16, 2010. The Receiver responded to the comments of Bruce Bergez on August 17, 2010, by way of reply email, directing Mr. Bergez to the passages in the First Report which address his concerns and providing further clarification in respect of the activities of the Receiver during the week of August 9, 2010. Copies of the email of Bruce Bergez, dated August 16, 2010, and the email of the Receiver, dated August 17, 2010, are included as **Appendix "A"** to this report.

DATED this 19th day of August, 2010.

DELOITTE & TOUCHE INC.

solely in its capacity as Receiver of
certain assets, undertakings and properties of
SHS Optical Ltd., Dundurn Optical Ltd. and John Doe
all carrying on business under the name of Great Glasses
and not in its personal capacity



Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice President

² Based on an execution certificate obtained by the Receiver, dated August 3, 2010.

D

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

COLLEGE OF OPTOMETRISTS OF ONTARIO

Applicant

– and –

**SHS OPTICAL LTD., DUNDURN OPTICAL LTD. and
JOHN DOE, all carrying business under the name of
GREAT GLASSES; JOANNE MARIE BERGEZ and
BRUCE BERGEZ**

Respondents

– and –

COLLEGE OF OPTICIANS OF ONTARIO

Intervenor

– and –

THE ATTORNEY GENERAL FOR ONTARIO

Intervenor

SECOND REPORT TO THE COURT OF THE RECEIVER

September 24, 2010

INTRODUCTION

1. Pursuant to an Order of The Honourable Justice Turnbull dated July 2, 2010 (the "**Appointment Order**"), Deloitte & Touche Inc. was appointed as receiver (the "**Receiver**"), without security, in respect of (i) the assets, undertakings and properties of Bruce Bergez, Joanne Marie Bergez, SHS Optical Ltd. and Dundurn Optical Ltd. (the "**Debtors**") acquired for or used in relation to the optical business, including all proceeds thereof, and (ii) the assets, undertakings and properties situated at the locations listed on Schedule "A" to the Appointment Order (the "**Locations**") and acquired for or used in relation to the optical business, including all proceeds thereof (collectively, the "**Property**"). A copy of the Appointment Order is included as **Appendix A** to this report.
2. The role of the Receiver under the Appointment Order is limited. The Appointment Order provides that, except as expressly directed, the Receiver shall not take possession or control of the Property, shall not manage or operate the businesses and shall not take over the employment of the employees. Rather, the Appointment Order directs the Receiver to take possession of certain equipment, and to investigate on and report to the Court in respect of the businesses and the Property. More specifically, the Receiver was directed to:
 - a) take possession of the eye testing and related equipment that forms part of the Property (the "**Equipment**"), including but not limited to any Eye Logic System equipment, and store the Equipment pending further order of the Court;
 - b) review and report to the Court upon the Property and the optical business carried on by the Debtors or carried on at the Locations (the "**Businesses**"); and
 - c) make copies of any computer disks relating to the Property or the Businesses (the "**Computer Records**") and store the Computer Records pending further order of the Court.

3. The Appointment Order also authorizes the Receiver to review and, if appropriate, consent to any proposed disbursements or dispositions of Property, other than a sale of inventory in the ordinary course of business, to be made by the Debtors or the businesses operated at the Locations.
4. Pursuant to the direction of the Court, the Receiver was required to report on its findings in respect of the Property and the Businesses for a hearing on August 23, 2010. Accordingly, the Receiver filed with this Honourable Court its First Report to the Court of the Receiver, dated August 13, 2010, (the "**First Report**") and the Receiver filed with this Honourable Court its Supplemental Report to the First Report, dated August 20, 2010 (the "**Supplemental Report**").¹
5. On August 23, 2010, this Honourable Court made three orders (collectively referred to as the "**August 23rd Orders**")¹:
 - a) the "**Amendment Order**": approving the activities of the Receiver to August 12, 2010, approving the fees and disbursements of the Receiver and its counsel, Borden Ladner Gervais LLP ("**BLG**"), to July 31, 2010, and varying paragraph 2 of the Appointment Order to no longer direct the Receiver to make copies of Computer Records, but to provide the Receiver with the authority to do so, if the Receiver considers it appropriate and necessary;
 - b) the "**Equipment Removal Order**": directing Eyelogic Systems Inc. ("**ESI**") and the Great Glasses store operators (the "**Store Operators**") to, at their own expense, take immediate custody and possession of certain of the assets in the Receiver's possession, referred to in the Equipment Removal Order as the ESI Equipment ("**ESI Equipment**") and the Detached Equipment ("**Detached Equipment**"); and

¹ The First Report, Supplemental Report and other documents pertinent to these proceedings, are available on the Receiver's website at www.deloitte.com/ca/great-glasses.

- c) the "Appleby Order": varying the Appointment Order by deleting from Schedule "A" to the Appointment Order the premises municipally known as 2180 Itabashi Way in Burlington, Ontario.

PURPOSE

- 6. The purpose of this second report of the Receiver (the "Second Report") is to:
 - a) update the Court on the Receiver's activities from August 13, 2010 to September 22, 2010;
 - b) report on the closure of the Great Glasses stores located at 1250 Steeles Avenue East in Milton, Ontario (the "Milton Store") and at 1025 Plains Road East, in Burlington, Ontario (the "Plains Road Store");
 - c) report on the removal of the ESI Equipment and Detached Equipment, pursuant to the Equipment Removal Order, and to report on the assets currently remaining in the Receiver's possession;
 - d) report on the Receiver's involvement in this Honourable Court's request on August 23, 2010 that Bruce Bergez characterize the disbursements made from the accounts of Ontario Optical Development Corporation, OODC Holdings and O.O.D.C. Holdings Co. (collectively referred to as the "OODC Entities");
 - e) report on expressions of interest received by the Receiver for certain assets of the Debtors;
 - f) report on the Receiver's correspondence with Bruce Bergez from August 23, 2010 to September 22, 2010;
 - g) report on the status of the receivership proceedings and the principal matters which remain outstanding;

- h) seek an Order of this Honourable Court approving the Second Report and the Receiver's activities from August 13, 2010 to September 22, 2010;
- i) seek an Order of this Honourable Court approving the fees and disbursements of the Receiver and those of its counsel, BLG, up to September 15, 2010;
- j) seek the advice and direction of this Honourable Court as to whether the Receiver should consent to the termination of the leases for the Milton Store and the Plains Road Store, which have been left unoccupied; and
- k) seek the advice and direction of this Honourable Court on whether the Receiver may consent to the disposition of certain equipment abandoned by one of the Store Operators in exchange for a credit against outstanding storage charges.

TERMS OF REFERENCE

- 7. In preparing this Second Report, the Receiver has relied upon records and information provided by a number of parties and/or their counsel, including but not limited to: the Debtors, the Store Operators, former "franchisees", certain financial institutions, certain landlords of the Locations, the Attorney General, the College of Opticians of Ontario (the "Opticians"), the College of Optometrists of Ontario (the "Optometrists") and ESI. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information contained in this Second Report. The Receiver notes that additional information may be brought to the attention of the Receiver after the date of this report, which information could have an impact on certain of the Receiver's findings set out herein.
- 8. Capitalized terms not defined in this report are as defined in the Appointment Order. All references to dollars are in Canadian currency unless otherwise noted.
- 9. The terms 'franchisee' and 'store operator' are used in this report to describe the owners/operators of the businesses operated at the Locations. The use of these terms is

for convenience only, and does not reflect the Receiver's opinion on the existence and legitimacy of any franchise arrangements that may or may not exist in respect of these parties. The use of the plural form of 'franchisees' or 'store operators' in this report is intended to refer to more than one store operator, but unless the report expressly provides otherwise, such references are not intended to refer to all of the store operators.

10. The Receiver has sought the advice of BLG for general legal matters that have arisen in respect of the receivership.

THE RECEIVER'S ACTIVITIES

11. In preparing its Second Report and in performing its duties as directed under the Appointment Order and the August 23rd Orders, the Receiver has been engaged in a number of activities since August 13, 2010, including but not limited to:
 - a) Preparing the Supplemental Report;
 - b) Corresponding with Canada Revenue Agency ("CRA") regarding Ontario Optical Development Corporation and the Debtors, and directing the CRA's attention to particular provisions in the Appointment Order;
 - c) Attending in Court on August 23, 2010 to address any questions of the Court in respect of the First Report and Supplemental Report;
 - d) Corresponding with the landlords of the premises occupied by the Store Operators to advise them of the Appointment Order. In the case of the Milton Store and the Plains Road Store the Receiver also took steps to confirm that the stores operating at those locations had closed and discussed with the landlords for those stores, through counsel, the status of the leases;
 - e) Corresponding with ESI and the Store Operators regarding the removal of the ESI Equipment and the Detached Equipment from the Storage Facility pursuant to the Equipment Removal Order and supervising the removal of those assets;

- f) Providing Bruce Bergez with banking documentation in the Receiver's possession in respect of the OODC Entities pursuant to his request;
- g) Exchanging correspondence with Bruce Bergez regarding various other matters relating to the administration of the receivership; and
- h) Engaging in various discussions and correspondence with parties in connection with the receivership.

STORE CLOSURES AND LEASES

Milton Store Closure

- 12. By e-mail dated August 25, 2010, Bruce Bergez informed the Receiver that the Milton Store (Store #5 on Schedule "A" to the Appointment Order") had been closed. On the same day, the Receiver communicated by e-mail with the Milton Store representative, Ms. Ashley Haughen, to confirm the closure of the store and to ascertain the whereabouts of the inventory, equipment and any other assets located therein.
- 13. On August 26, 2010, the Receiver attended at the Milton Store during operating hours to confirm the closure of the location and noted that a sign had been posted on the front door stating that the Milton Great Glasses store had been temporarily closed and outstanding orders had been sent to the Oakville store.
- 14. Ms. Haughen responded to the Receiver's e-mail on August 26, 2010 and informed the Receiver that (i) the Milton Store was closed as sales levels were insufficient to continue paying for fixed and other costs, (ii) an optician could not be retained and that she did not want to continue operating the store without one, (iii) all store employees had resigned, (iv) what was left of the frame inventories had been left at the store, (v) she had taken all the equipment with her, (vi) only half the monthly rent had been paid for July 2010 and no rent payment had been made for August 2010, and (vii) her intention was to keep the equipment in her possession until October 1, 2010, when a "decision is made", and that at that time, depending on the decision, she would hand the equipment to the Receiver or

sell it. Ms. Haughen also requested for tax purposes the return of certain documentation pertaining to the Milton Store in the possession of the Receiver.

15. On August 27, 2010 and again on September 8, 2010 BLG wrote to Ms. Haughen to advise her that since the Milton Store had been closed, any disbursement or disposition of Property would be considered out of the ordinary course of business by the Receiver and would be subject to paragraph 21 of the Appointment Order. In its letter of September 8, 2010, BLG requested that Ms. Haughen provide her personal contact information, as only her e-mail address was known, as well as a detailed list of the equipment from the Milton Store, a description of the remaining inventory at the Milton Store and its estimated cost value, and a list of the inventory and equipment that she had given, sold or otherwise transferred to the Debtors since July 2, 2010.
16. On August 30, 2010, the Receiver also wrote to Ms. Haughen requesting that she provide a delivery address for the return of the Milton Store documentation.
17. On September 9, 2010, Ms. Haughen responded to BLG's letters and provided her contact details and an inventory of the equipment in her possession, which she indicated is currently located at her residence. She advised that the approximate cost value of the inventory left at the Milton Store was \$900. She also advised she had not given, sold or transferred any inventory or equipment to the Debtors since July 2, 2010 and asked the Receiver to deliver the Milton Store records in its possession to the Great Glasses store located at 50 Dundurn Street in Hamilton, Ontario (store #3 on Schedule "A" to the Appointment Order).
18. On September 1, 2010, the Receiver received a copy of a letter from the Milton Store landlord (the "**Milton Landlord**") addressed to SHS Optical Ltd. o/a Great Glasses and to Bruce Bergez. The letter advised of an alleged default under the lease dated May 31, 2005, as between First Milton Shopping Centres Limited, SHS Optical Ltd. and Bruce Bergez (the "**Lease**") and advised that if SHS Optical Ltd. did not remedy the alleged default under the Lease by September 13, 2010, it was the Milton Landlord's intention to proceed with any remedies it may have under the Lease.

19. On September 8, 2010, BLG wrote to the Milton Landlord, bringing to its attention the receivership proceedings and the Appointment Order and noting that pursuant to paragraph 8 of the Appointment Order, the exercise of all rights and remedies against the Debtors or the businesses operated at the Locations in relation to the Property is stayed and suspended except with the written consent of the Receiver or leave of the Court. BLG's letter further advised that the Receiver was of the view that it should not consent to the exercise of any remedies under the Lease, absent further direction of the Court.
20. On September 15, 2010, BLG was contacted by counsel to the Milton Landlord requesting certain information in connection with the October 1, 2010 hearing. That information was provided by BLG on September 22, 2010.

Plains Road Store Closure

21. By e-mail dated September 12, 2010, Bruce Bergez informed the Receiver that the Plains Road Store (Store #1 on Schedule "A" to the Appointment Order) had also been closed. On September 13, 2010, BLG wrote to Aird & Berlis LLP ("Aird & Berlis"), counsel to the Plains Road Store operator, Ms. Carla Arsenault, in order to confirm the store closure and to obtain information in connection therewith. BLG received a reply from Aird & Berlis advising that effective September 3, 2010, its retainer for the Plains Road Store had been terminated. As a result, BLG wrote to Ms. Arsenault directly, requesting information similar to that requested of Ms. Haughen.
22. Ms. Arsenault responded to BLG's correspondence on September 13, 2010 and informed the Receiver that (i) the Plains Road Store was closed as she was unable to financially sustain its existence, (ii) the equipment and inventory of the store were in her possession pending further instructions of the Receiver or the Court, and (iii) rent had not been paid since July 2, 2010.
23. On September 13, 2010, BLG wrote to Ms. Arsenault to advise her that since the Plains Road Store had been closed, any disbursement or disposition of Property would be considered out of the ordinary course of business by the Receiver and would be subject to paragraph 21 of the Appointment Order. In its letter, BLG requested that Ms. Arsenault provide her personal contact information, including address and phone number, as well as

a detailed list of the equipment from the Plains Road Store, a description of the remaining inventory at the Plains Road Store and its estimated cost value and a list of the inventory and equipment that she had given, sold or otherwise transferred to the Debtors since July 2, 2010.

24. On September 14, 2010, Ms. Arsenault responded to BLG's letter and provided her contact details and a description of the inventory and equipment in her possession. She also advised she had not given any assets from the Plains Road Store to the Debtors or to anyone else.
25. On September 16, 2010, in light of the recent store closures, BLG wrote to the landlords for the fourteen active businesses at the addresses indicated on the leases, the landlord for the Plains Road Store and counsel to the landlord of the Milton Store, advising them of the Appointment Order and noting the stay provisions thereof. Subsequently, BLG was contacted by the property manager for the Plains Road Store by email dated September 20, 2010, confirming the closure of the store and demanding payment of rent arrears in the amount of \$19,290.77.

Request for Advice and Direction Regarding the Leases

26. As noted in the Receiver's First Report, the Receiver had previously engaged Oberfeld Snowcap Inc. ("Snowcap"), an independent leasing consultant, to provide the Receiver with an estimate of the value of the leases held in the name of SHS Optical Ltd. and Bruce Bergez. Snowcap advised that (i) the values of the leases were not significant, based on the existing rents, and (ii) the use clauses in the leases restricted any possible purchaser from operating anything but an eye glass store. There is also a lack of exclusivity in many cases which further limits the value of the leases to an assignee.
27. Based on the information received from Snowcap, the Receiver concluded that the value of the leases was essentially nil, except that the leases might have some value to the Store Operators, who do not appear to have any written basis for occupying the Locations where their stores are situated.

28. In the case of stores which have closed business, including the Milton Store and the Plains Road Store, it appears unlikely that the Store Operators will be interested in acquiring the leases for their premises. Furthermore, although the Receiver has obtained some unsolicited expressions of interest from parties who may be interested in acquiring the Milton Store, the Receiver has concluded, as outlined in greater detail later in this Report, that it would not be appropriate to pursue such a sale in light of the cost and the low probability of successfully closing such a transaction. Accordingly, it is the Receiver's view that the value of the leases for the Milton Store and the Plains Road Store are negligible.
29. If there is no intention that the Receiver should conduct a sale process in respect of some or all of the Property, the Receiver is of the view that it would be appropriate to consent to the termination of the leases for the closed stores by their respective landlords. The Receiver seeks the advice and direction of this Honourable Court as to whether it should consent to the termination of the leases for the closed premises at this time.

EQUIPMENT REMOVAL

30. Subsequent to the date of the Equipment Removal Order, the Receiver engaged in discussions with the Storage Facility to work out arrangements for the removal of the ESI Equipment and the Detached Equipment. On August 25, 2010, the Receiver wrote to ESI and the Store Operators requesting that they make arrangements to remove their respective equipment on September 3, 2010.
31. On September 3, 2010, the Receiver attended at the Storage Facility to observe the removal of the subject assets and to respond to any questions put to the Receiver. ESI and all but one Store Operator made satisfactory arrangements to remove their equipment from the Storage Facility. The Store Operator of the Location at 2180 Itabashi Way in Burlington, Ontario, which location was removed from the Appointment Order pursuant to the Appleby Order, subsequently abandoned the Detached Equipment for that location in the Storage Facility. The Storage Facility has since corresponded with the Receiver to

confirm its acceptance of that abandoned equipment and that the Receiver has no further obligations to the Storage Facility in respect of that equipment.

32. The Receiver continues to be in possession of the Detached Equipment from the Milton Store, which is now closed. In addition, the Receiver is in possession of certain other eye testing and related equipment, such as autolensometers and pupilometers, obtained from some of the Locations.
33. Based on discussions relating to the removal of the Detached Equipment, the Receiver understands that the Detached Equipment from the Milton Store may be worth up to \$3,000. However, the Receiver is of the view that the cost of soliciting interest in and effecting a sale of the Detached Equipment could exceed \$3,000, and that it would not be commercially reasonable to pursue such a sale. Accordingly, the Receiver has negotiated a disposition of the Detached Equipment from the Milton Store to the Storage Facility in return for a \$500 credit to be applied against storage fees payable to the Storage Facility.
34. The Receiver is seeking the advice and direction of this Honourable Court as to whether it may consent to the proposed disposition of the Detached Equipment to the Storage Facility as described above.

CHARACTERIZATION OF DISBURSEMENTS FROM THE ACCOUNTS OF THE OODC ENTITIES

35. By e-mail dated August 24, 2010, Bruce Bergez requested a meeting with the Receiver to review and characterize the disbursements from the OODC Entities, pursuant to the direction of the Honourable Justice Turnbull.
36. On August 26, 2010, the Receiver responded to Mr. Bergez that the Receiver's understanding of the Court's direction was that it was to provide all banking documentation in its possession pertaining to the OODC Entities to Mr. Bergez. The Receiver further advised Mr. Bergez of the Receiver's view that, for reasons expressed at the hearing, namely the costs that would be incurred, the Receiver's participation in the

review and categorization of the payments/debits would not be appropriate at that time, however, the Receiver would be pleased to meet with Mr. Bergez after he completed his analysis and categorization of the information to discuss the results of that analysis.

37. The Receiver contacted the account signatories for each of Ontario Optical Development Corporation, OODC Holdings and O.O.D.C. Holdings Co. to obtain their consent to the release of the banking documentation in the Receiver's possession to Mr. Bergez. After receipt of consents from each of the account signatories, on August 30, 2010, the Receiver provided Mr. Bergez with copies of the documentation in its possession at that time.
38. On September 7, 2010, the Receiver received from Bank of Montreal bank statements for Ontario Optical Development Corporation for the months of January 2006 to November 2006 and January 2007 to January 2009. On that same day, the Receiver corresponded with Bruce Bergez to advise him of the receipt of this information and ask whether he required copies of that documentation for his review and characterization of the disbursements from that account. Mr. Bergez enquired as to whether copies of the cancelled cheques were attached to the bank statements, to which the Receiver replied that they were not.
39. On September 23, 2010, the Receiver received from Bruce Bergez a schedule summarizing on a monthly basis, from August 9, 2006 to July 20, 2010, receipts and disbursements from the OODC Entities' accounts referred to in the First Report (the "**Disbursements Schedule**"). At the August 23 hearing, the Receiver was not directed by this Honourable Court to review the information to be compiled by Bruce Bergez. Accordingly, the Receiver does not intend to review in detail the Disbursements Schedule provided, however, it will review the Disbursements Schedule on a preliminary basis and provide comments to Bruce Bergez. The Receiver anticipates that Bruce Bergez will file the Disbursements Schedule with this Honourable Court prior to the hearing on October 1, 2010.

EXPRESSIONS OF INTEREST IN "GREAT GLASSES"

40. The powers afforded to the Receiver in the Appointment Order do not include offering for sale the assets of the Debtors.
41. The Receiver has received varying degrees of unsolicited expressions of interest from four parties, who are not parties to these proceedings, for the leases, franchise agreements and/or any other assets of Great Glasses that may be for sale. The Receiver has had informal discussions with these parties, two of which have confirmed their interest in writing. One of the interested parties is only interested in the lease for one of the unoccupied stores.
42. In the First Report the Receiver advised that the sale of any available assets of the Great Glasses chain may be problematic and that realizations, if any, are likely to be minimal:

"88. From the information collected by the Receiver to date, the major business assets of the Debtors appear to consist of essentially three assets: the real property leases for the Locations for which the Debtors are tenant, the potential franchise rights in favour of Ontario Optical Development Corp., OODC Holdings and O.O.D.C. Holdings Co., and the trade name "Great Glasses". Each of these assets is likely to be problematic to sell, and the Receiver is of the view that a sale of all or part of the Businesses or Property is not feasible at this time for the reasons set out below.

89. First, SHS Optical Ltd. and Bruce Bergez are the holders of seventeen leases in respect of the Locations presently in operation. As noted above, the Receiver has obtained an independent appraisal of the equity in those leases which has indicated their value to be essentially nil. However, notwithstanding the appraisal, the leases may be of value to the store operators, who do not appear to have any written basis for occupying the Locations where their stores are situated.

90. Second, Ontario Optical Development Corp., OODC Holdings and O.O.D.C. Holdings Co. (and by extension the Debtors) may be the holders of certain formal or informal franchise rights in relation to the businesses operated at the Locations. The Receiver notes that few of these arrangements are in writing and that of the written franchise agreements that the Receiver has reviewed, many have expired. As a result, it is not clear that a potential purchaser would be able to enforce any of the franchise arrangements against the store operators, which makes this asset speculative and difficult to sell.

91. Third, a search of the Canadian Trade-Mark Database reveals that the "Great Glasses" name is not registered as a trade-mark. Accordingly, it is not clear whether the name can be sold, and whether there is any value in the name even if it can be sold given the recent publicity which the Great Glasses litigation has engendered. Many store operators have expressed to the Receiver concerns about this publicity in the context of difficulties experienced in hiring opticians to work at their stores.

92. Finally, given the information provided to the Receiver by the store operators to support their positions that the businesses operated at the Locations are independent businesses, it may not be appropriate to attempt to sell the Property owned by those businesses in the context of these proceedings. Accordingly, the Receiver does not express a view on whether those assets could be sold at this time."

The Receiver has not changed its views in this regard.

43. The Receiver estimates that the professional fees and disbursements that would be incurred to conduct a sales process would range between \$25,000 and \$50,000. While the Receiver cannot definitively say, absent a sales process, that a purchaser would not come forward to make an offer for the Debtors' assets relating to the optical business, there is a very distinct possibility, for the reasons outlined above, that the costs that would be incurred to conduct a sales process would negate any potential return.
44. The Receiver further understands that discussions are taking place between the Attorney General, certain Store Operators, the Optometrists and the Opticians to attempt to resolve the outstanding issues between those parties. The Receiver expects that if those conversations are successful, the parties may request that one or more leases be transferred from SHS Optical Ltd. and/or Bruce Bergez to the Store Operators. As such, sale of the leases to a third party may not be appropriate at this time.
45. Based on the foregoing, the Receiver does not intend to recommend to this Honourable Court that a sale process be conducted by the Receiver.

DISCUSSIONS/CORRESPONDENCE WITH BRUCE BERGEZ

46. Since August 23, 2010, the Receiver has received correspondence from Bruce Bergez relating to a number of matters including (i) the Debtors' possible intention to file assignments in bankruptcy; (ii) the categorization of disbursements made by the OODC Entities; (iii) issues Mr. Bergez identified as being "unresolved" for which he requested the assistance/direction of the Receiver; (iv) the positions taken by CRA in regards to its assessments of certain of the Debtors; (v) the closure of the Milton Store and the Plains Road Store; (vi) the cessation of payments of royalties by the Store Operators; (vii)

correspondence Mr. Bergez received from certain landlords; (viii) the litigation between Mrs. Bergez and Workplace Safety and Insurance Board; and (ix) a statement of claim served on Joanne Marie Bergez by Royal Bank of Canada.

47. The Receiver has responded to this correspondence and, where the Receiver has deemed it appropriate or necessary to preserve the Property, it has taken steps to advise third parties of the Appointment Order.
48. The correspondence of Mr. Bergez concerning "unresolved issues" was copied to this Honourable Court. The response of the Receiver was not copied to this Honourable Court, but is included as Appendix B to this report.
49. While the Receiver has not provided details of the other correspondence mentioned above in this report, the Receiver will provide such details if this Honourable Court so requests.

STATUS OF THE RECEIVERSHIP PROCEEDINGS

50. Pursuant to the Appointment Order, the Receiver was directed to:
 - a) take possession of the Equipment and store it pending further order of the Court;
 - b) review and report to the Court upon the Property and the Businesses; and
 - c) make copies of the Computer Records where appropriate or necessary.
51. The Receiver notes that as of September 22, 2010 it has made substantial progress towards the completion of these three directions:
 - a) pursuant to the Equipment Removal Order, much of the Equipment has been returned to ESI and the Store Operators. The Receiver remains in possession of the equipment from the Milton Store, for which it has outlined in this Second Report a method of disposition, and certain residual eye testing equipment belonging to the Store Operators. As noted above, the Receiver considers it

unlikely that any significant proceeds can be realized from the sale of the equipment remaining in its possession;

- b) in its First Report and Supplemental Report, the Receiver reported on the Property and the Business as per paragraph 2(b) of the Appointment Order. With the possible exception of commenting on the characterization by Bruce Bergez of the disbursements of the OODC Entities, the Receiver does not believe it would be appropriate to incur the cost of further investigating or elaborating on any particular aspect of the Property or Businesses; and
- c) Pursuant to the Amendment Order, the Receiver is only required to copy the Computer Records to the extent appropriate or necessary. As reported in the First Report, the Receiver does not consider it necessary or appropriate to copy any further Computer Records, based on its review of the types of information stored on the Computer Records it has collected to date.

52. As a result of the foregoing, and subject to making arrangements for outstanding matters, including those identified above, the Receiver is of the view that it may be appropriate for it to apply to this Honourable Court for its discharge in the near future.

RELIEF REQUESTED BY THE RECEIVER

Approval of Fees and Activities

53. The Receiver's fees for services rendered for the period from August 1, 2010 to September 15, 2010 are particularized in the Affidavit of Daniel R. Weisz, sworn September 24, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$127,614.66 including applicable taxes and disbursements of \$18,442.00 made by the Receiver.
54. The fees and disbursements of BLG, the Receiver's independent counsel, for the period from August 1, 2010 to September 15, 2010 are particularized in the Affidavit of Roger

Jaipargas, sworn September 24, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$93,771.14.

55. The Receiver has reviewed the invoices of BLG and finds the work performed and charges to be appropriate and reasonable.
56. Copies of the Receiver's and BLG's accounts up to September 15, 2010 have been forwarded to the Attorney General.
57. The Receiver is herein seeking the Court's approval of its activities up to September 22, 2010 and the fees and disbursements as set out above.

Advice and Direction of the Court

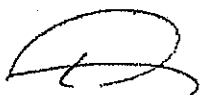
58. The Receiver seeks the advice and direction of this Honourable Court in respect of whether the Receiver should consent to the termination of the leases for the Milton Store and the Plains Road Store, which stores have closed. Based on the Receiver's view that the premises leases have no value except possibly to the Store Operators, and based on the Receiver's conclusion that it does not intend to recommend a sale process in respect of the Property, the Receiver recommends that it be directed to consent to the termination of the leases for the stores which have closed.
59. The Receiver also seeks the advice and direction of this Honourable Court in respect of whether it may consent to the proposed disposition of the Detached Equipment from the Milton Store to the Storage Facility in exchange for a \$500 credit to be applied against outstanding storage fees. Based on the Receiver's conclusion that it would not be cost beneficial to recommend a sale process in respect of the Detached Equipment from the Milton Store, and because the Store Operator for the Milton Store appears to have otherwise abandoned that equipment, the Receiver recommends that it be directed to consent to the proposed disposition.

All of which is respectfully submitted to this Honourable Court.

DATED this 24th day of September, 2010.

DELOITTE & TOUCHE INC.

solely in its capacity as Receiver of
certain assets, undertakings and properties of
SHS Optical Ltd., Dundurn Optical Ltd. and John Doe
all carrying on business under the name of Great Glasses
and not in its personal capacity



Daniel R. Weisz, CA•CIRP, CIRP

Senior Vice President

E

In the Matter of the Court-appointed Receivership of
Great Glasses, et al.
Status of Store Locations included in Schedule "A" to the Appointment Order

#	Locations per Appointment Order	Operating Locations	Other/Comments
1.	1025 Plains Rd., Burlington, ON		Store closed mid-September 2010
2.	1550 Upper James Street, Hamilton, ON	X	
3.	50 Dundurn Street South, Hamilton, ON	X	
4.	119 Osler Drive, Unit 7, Dundas, ON	X	
5.	1250 Steeles Avenue East, Milton, ON		Store closed late August 2010
6.	300 King George Road, Brantford, ON	X	
7.	2180 Itabashi Way, Burlington, ON		Store removed from Appointment Order on Aug 23, 2010
8.	220 North Service Road, Oakville, ON	X	
9.	95 Saginaw Pkwy, Unit 6, Cambridge, ON	X	Subject to a motion to lift the stay and terminate the lease.
10.	125 The Queensway, Etobicoke, ON		Receiver was advised the lease was terminated in January, 2011.
11.	132 Front Street East, Toronto, ON		Store closed prior to commencement of receivership
12.	808 York Mills Road, Toronto, ON	X	
13.	26-17 Worthington Ave., Brampton, ON	X	
14.	393 Danforth Avenue, Toronto, ON	X	
15.	1070 Major Mackenzie Dr., Richmond Hill, ON		Store closed prior to commencement of receivership
16.	20-9200 Bathurst St., Thornhill, ON	X	
17.	285 Geneva St., St. Catharines, ON	X	
18.	565 Woodlawn Rd. West, Guelph, ON	X	
19.	1865 Lakeshore Rd. West, Mississauga, ON	X	
20.	1319 Commissioners Rd., London, ON		Store closed mid-December 2010

F



REPLY TO: GEORGE BENCHETRIT
FILE NO: 37889
DIRECT: 416.218.1141
FAX: 416.218.1841
E-MAIL: george@chaitons.com

January 7, 2011

VIA EMAIL AND COURIER
jszumski@blg.com

James Szumski
Borden Ladner Gervais
Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3Y4

Dear Mr. Szumski,

Re: Lease agreement dated June 21, 2005 (the "Lease") between Salgreen Realty Limited (the "Landlord") and S.H.S. Optical Ltd., Operating as Great Glasses (the "Tenant"); leased premises at Saginaw Square, 95 Saginaw Pkwy., in Cambridge, Ontario ("Saginaw Square")

I represent the Landlord.

The Tenant is in default of its rental payment obligations with respect to the Lease. The Landlord has provided numerous indulgences to the Tenant. Among other things, the Landlord has entered into numerous payment plans with the Tenant on a without prejudice basis in order to give the Tenant the opportunity to put itself in good standing, but the Tenant has repeatedly reneged on its commitments. Without limiting the generality of the foregoing, approximately 18 of the cheques delivered by the Tenant since 2009 have been returned NSF. At least 6 of those cheques relate to the period between November and December 2010. The Tenant failed to make its monthly payment of \$3913.28 due for January 2011. Total arrears owed by the Tenant as of today's date are approximately \$18,042.25, not including legal costs and fees.

The Landlord wishes to immediately exercise its enforcement options under the Lease, including its right to terminate the Lease and pursue the Tenant for all amounts payable under the Lease.

Please provide us as soon as possible with the written consent of the Receiver, pursuant to section 8 of the Order of Justice Turnbull dated July 2, 2010, to permit the Landlord to exercise any and all of its rights and remedies against the Tenant under the Lease.



I would appreciate receiving your response on or before Monday, January 10, 2011.

Yours truly,
CHAITONS LLP

A handwritten signature in black ink, consisting of stylized initials "GB" followed by a horizontal line.

George Benchetrit
PARTNER
GB/ac

cc: Arif Dhanani
Deloitte

John Longo
Aird Berlis

G

Szumski, James

Subject: RE: In the Matter of the Court-appointed Receivership of Great Glasses, et al.

From: Monica Cassan [mailto:monicacassan@msn.com]

Sent: Monday, January 17, 2011 12:12 PM

To: Dhanani, Arif (CA - Toronto)

Subject: RE: In the Matter of the Court-appointed Receivership of Great Glasses, et al.

Mr. Dhanani;

Firstly, please reply and let me know that you have received this email. I sent the same one last week in response to your letter and now see that you may have not received it.

In regards to the landlord's allegations; there are outstanding funds. The amount is 14k approximately (according to the letter I received from him) and includes 9k for repairs to the property which are apparently not covered under regular lease fees/CAM fees. I have made arrangements to repay this amount to the landlord shortly. I am in the process of filing for a GST/HST refund which (by estimations of the accountant) will cover the amount owing. I have arranged to have the funds direct deposited into the Landlord's account and he will then advise if there is any difference to be paid or refunded. In the meantime, we have agreed that rent is to be paid as 1000\$ weekly, instead of 3900\$ monthly. This actually puts me ahead slightly at the end of each month as there are (usually) 5 payments to be made. Yes, some of the chqs written have been returned. However, I have replaced those chqs within 2 days with certified funds. I have spoken to Donna (at the landlord office) and have advised her that all payments will now be made in certified money order funds which will be couriered to the office weekly.

While I understand the landlord's frustration with returned chqs, I am making best efforts to pay the amounts agreed upon and to replace any NSF items as quickly as possible. I understand that he is becoming impatient, however, he neglected to speak directly to me regarding any concerns with our agreed upon arrangement. Instead I received notice from you that he is not satisfied with an arrangement that was made in good faith on both parts.

I do not wish to argue the point further, but would appreciate any concerns on his part to be directed to me before others in the future. Please advise if there is further information you require. I will be available at the store today until 5pm. 519-620-0128 and tonight after 5 I can be reached on my cell # 519-865-7953.

You can also reply to this email, but any time-sensitive questions should be called in as we get busy in the afternoons and I may not be able to check my emails again before 4pm.

Thank you for your time and patience,
Please advise asap when this email has been received.

Monica Cassan
Great Glasses Cambridge

From: adhanani@deloitte.ca

To: monicacassan@msn.com

CC: jlongo@airdberlis.com; JSzumski@blg.com; DWeisz@deloitte.ca

Subject: In the Matter of the Court-appointed Receivership of Great Glasses, et al.

Date: Mon, 17 Jan 2011 16:18:09 +0000

Dear Ms. Cassan,

31/01/2011

Please see our attached correspondence to you of last week. We still have not heard from you regarding your store or the allegations of the landlord in respect of your rent arrears. If we don't hear from you by the end of business today (5:00 pm Toronto time), the Receiver intends to consent to a termination of the lease for the Cambridge store and will allow the landlord to take steps to take possession of the premises.

Yours truly,

Deloitte & Touche Inc.

in its capacity as Court-appointed Receiver of
Great Glasses, et al.
and not in its personal capacity

Arif Dhanani, CA•CIRP

Senior Manager
Financial Advisory
Deloitte & Touche LLP

Direct: (416) 601-6446

Main: (416) 601-6150

Fax: (416) 601-6690

adhanani@deloitte.ca

www.deloitte.ca

Deloitte
181 Bay Street
Brookfield Place, Suite 1400
Toronto, ON M5J 2V1
Canada

31/01/2011