

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

2293035 ONTARIO LIMITED

Applicant

and

HEALTHSCREEN SOLUTIONS INCORPORATED

Respondent

**MOTION RECORD OF THE RECEIVER
(DISCHARGE MOTION)**

November 19, 2013

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INDEX

	Pages
1. Notice of Motion	1 - 7
2. Second Report of the Receiver, Deloitte & Touche Inc., dated November 15, 2013	8 - 29
(a) Appointment Order	30 - 46
(b) Approval and Vesting Order (2293035 Ontario Limited)	47 - 54
(c) Approval and Vesting Order (Physiomed Group Inc.)	55 - 62
(d) Approval of Activities and Fees Order	63 - 65
(e) Summary of Payments made by WEPPA	66
(f) Redacted Summary	67
(g) Letter from Davis Moldaver to Gardiner Roberts dated November 1, 2011	68 - 71
(h) Information Package and Terms and Conditions for Invitation for Proposals to Purchase	72 - 87
(i) Confidentiality Agreement	88 - 92
(j) Proof of Claim	93 - 95
(k) Amended Proof of Claim	96 - 99
(l) Statement of Account	100
(m) Additional Statements of Account	101 - 102
(n) Receiver's Statement of Receipts and Disbursements	103
(o) Affidavit of Catherine Hristow sworn November 15, 2013	104 - 140
(p) Affidavit of Jonathan Wigley sworn November 15, 2013	141 - 166

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

2293035 ONTARIO LIMITED

Applicant

and

HEALTHSCREEN SOLUTIONS INCORPORATED

Respondent

**NOTICE OF MOTION
Discharge Motion**

DELOITTE RESTRUCTURING INC. (the "Receiver"), in its capacity as the Court-appointed Receiver of Healthscreen Solutions Incorporated, will make a motion before a Judge presiding over the Commercial List on December 5, 2013 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

(a) an Order

- a. approving the activities of the Receiver as set out in the Receiver's Second Report dated November 15, 2013 (the "Second Report");

- b. approving the distribution by the Receiver of funds to deemed trust claimants on a *pro rata* basis as set out in the Second Report;
 - c. that the remaining CallerMD trust funds, described in the Second Report, be paid into Court to the credit of this proceeding;
 - d. unsealing Exhibits "G" and "H" to the First Report of the Receiver;
 - e. approving the Receiver's Statement of Receipts and Disbursements for the period of September 2, 2011 through to November 15, 2011;
 - f. approving the fees and disbursements of the Receiver and its counsel for the period of September 23, 2011 to the date of the hearing; and
 - g. discharging the Receiver; and
- (b) such further and other relief as counsel may request and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. On September 2, 2011, Deloitte & Touche Inc. was appointed as Receiver (the "Receiver") of all of the assets, undertakings, and properties (the "Property") of Healthscreen Solutions Incorporated ("Healthscreen" or the "Company") pursuant both to section 243 of the *Bankruptcy and Insolvency Act* RSC 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c.c.43, as amended. Deloitte & Touche Inc. changed its name to Deloitte Restructuring Inc. on July 1, 2013.
2. The Appointment Order also approved a sale process for the sale of Healthscreen's assets. The sale process contemplated bid being received by September 23, 2013.
3. On October 11, 2011, the Court approved an agreement of purchase and sale dated September 23, 2011 entered into between the Receiver and 2293035 Ontario Limited. An

approval and vesting order was granted by the Court, and a separate order was issued on this date approving the Receiver's activities as set out in the Receiver's First Report.

Receiver's Activities

4. Among other activities described in further detail in the Second Report, the Receiver has completed the transaction approved by the Court, dealt with ADP regarding T4s for pre- and post-receivership periods, had extensive dealings with the CRA and the Ministry of Finance regarding deemed trust claims and related audits, and has worked to ensure that trust funds held by Healthscreen were properly paid out to the beneficiaries.
5. The Receiver has now completed the mandate for which it was appointed, and has determined the relevant liabilities and costs. The Receiver has reviewed the relevant security and has determined the priority of the respective secured creditors, although for the reasons set out below, this is a moot point as there are insufficient funds available to distribute to the secured creditors.

Deemed Trust Claims

6. Deemed trust claims against Healthscreen's remaining assets total \$372,697.73, which amount relates to Canada Revenue Agency claims, Ontario Ministry of Revenue claims, and employee vacation pay. The specific amounts of the claims are:

CRA – Source Deductions	\$3,790.86
CRA – GST and HST	\$178,449.89
MOR (lien claim) – Healthscreen	\$105,297.43
MOR – Healthscreen	\$32,326.30
MOR – 1589681 Ontario Limited	\$11,596.80
Vacation Pay	\$41,236.45

7. The Receiver currently has on hand the amount of \$374,367.88, of which \$1,294.77 are trust funds. The Receiver's final account amounts to \$33,423.14, and the Receiver's counsel's final account, including an estimate of fees through to the hearing of the discharge motion, is \$9,944, inclusive of HST. This leaves \$329,705.97 in funds available for distribution.
8. There are insufficient funds available for distribution to pay all of the deemed trust claims. The Receiver proposes to distribute the funds available for distribution on a *pro rata* basis as amongst the deemed trust claims. This will effect a recovery on these claims of approximately 88 percent.

Trust Funds

9. As noted in the First Report, part of Healthscreen's business involved the collection of funds for services rendered by physicians which were not covered by provincial health insurance. Healthscreen charged a 15% management fee on amounts collected, but other than that, the funds constituted trust funds held for the doctors.
10. As of the date of the Second Report, the Receiver remains in possession of \$1,294.77 in trust funds which remain unclaimed. The Receiver has twice issued cheques for these amounts and has sent them to physicians, but the cheques have not been cashed and are now stale dated.
11. The Receiver would like an Order that these funds be paid into Court to the credit of this proceeding. Once the funds are paid into Court, the Receiver will send out notices to the physicians advising them that this has been done.

Professional Fees and Disbursements

12. The total fees and disbursements of the Reciever for the period of September 28, 2011 through to November 15, 2013 total \$259,519.12, inclusive of HST. This amount includes the final account set out in the Statement of Receipts and Disbursements.
13. The total fees and disbursements of counsel to the Receiver for the period of September 24, 2011 through to August 31, 2013 total \$68,991.55, inclusive of HST. Gardiner Roberts LLP has WIP through to November 15, 2013 of \$5,172.58 inclusive of HST. Gardiner Roberts LLP estimates that the fees and disbursements through to the hearing of this motion and issuance of the discharge order and completion of this matter will be no more than \$8,800 plus HST for a total of \$9,944.00, and has agreed to cap its fees at this amount.
14. All of the assets of Healthscreen have been determined and liquidated. The Receiver's mandate is now complete and it is appropriate that the Receiver be discharged and this proceeding terminated.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the Second Report of the Receiver and the Exhibits included therein including the Statement of Receipts and Disbursements and the fee affidavits of the Receiver and its counsel; and
2. such further and other evidence as counsel may advise and this Court may permit.

November 17, 2013

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Incorporated

TO: **THE SERVICE LIST**

2293035 ONTARIO LIMITED

-and-
Applicant

HEALTHSCREEN SOLUTIONS INCORPORATED

Respondent
Court File No. CV-11-9365-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**NOTICE OF MOTION
(DISCHARGE MOTION)**

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Court File No. CV-11-9365-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

2293035 ONTARIO LIMITED

Applicant

and

HEALTHSCREEN SOLUTIONS INCORPORATED

Respondent

**SECOND REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER**

Dated November 15, 2013

INTRODUCTION

1. By Order of this Honourable Court dated September 2, 2011 (the “**Appointment Order**”), Deloitte & Touche Inc. was appointed as Receiver (the “**Receiver**”) of all of the assets, undertakings and properties (the “**Property**”) of Healthscreen Solutions Incorporated (“**Healthscreen**” or the “**Company**”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended and pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.43. Attached hereto and marked as **Exhibit “A”** is a true copy of the Appointment Order.

2. On July 1, 2013, Deloitte & Touche Inc. changed its name to Deloitte Restructuring Inc. (hereinafter referred to as, “**Deloitte**”).
3. The Appointment Order authorized the Receiver to, among other things, take possession of, and exercise control over the Property and any and all proceeds, receipts and disbursements, arising out of, or from the Property. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Property or any part thereof out of the ordinary course:
 - (a) Without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; and
 - (b) With the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause.
4. As part of the Appointment Order, a sales process was approved for the sale of the Company’s assets. That sales process contemplated that bids be received by September 23, 2011.
5. By Order of this Honourable Court dated October 11, 2011, the respective agreements of purchase and sale made as of September 23, 2011 (the “**Purchase Agreement**”) between the Receiver and 2293035 Ontario Limited (“**229**”) and between the Receiver and Physiomed Group Inc. (“**Physiomed**”) were approved and approval and vesting orders were granted to both 229 and Physiomed.

6. By further Order of this Honourable Court dated October 11, 2011, the activities of the Receiver as set out in the Receiver's First Report were approved including the interim fees and disbursements of the Receiver and its counsel, and ordered the Exhibits "**G**" and "**H**" to the First Report of the Receiver to be sealed until the Receiver's Certificates were filed for both the Physiomed and the 229 transactions. Attached as *Exhibits "B"*, "*C*", and "*D*", are copies of October 11, 2011 orders.

7. The purpose of this second report ("**Second Report**") is:
 - a) to provide an update to the Court on the Physiomed and the 229 sale transactions;
 - b) to seek an order regarding the distribution of funds to the priority creditors;
 - c) to seek an order to pay into court those CallerMD trust funds that have not been cashed by the doctors;
 - d) to seek an order unsealing *Exhibits "G"* and "*H*" to the First Report of the Receiver;
 - e) to seek an order approving the activities of the Receiver as detailed herein;
 - f) to seek the approval of the Receiver's Statement of Receipts and Disbursements for the period from September 2, 2011 to November 15, 2013;
 - g) to seek this Honourable Court's approval of the fees and disbursements of the Receiver and its counsel for the periods from September 28, 2011 and September 23, 2011 respectively to date; and

- h) to seek an order of the Court for the discharge of the Receiver.
- 8. A copy of the Appointment Order, together with related Court documents and the Notice to Creditors dated September 9, 2011 have been posted on the Receiver's website at <http://www.deloitte.com/ca/healthscreen>.
- 9. Unless otherwise provided, capitalized terms not otherwise defined in this First Report are as defined in the Appointment Order.

TERMS OF REFERENCE

- 10. This report is prepared for the use of the Court and stakeholders for the purpose of assisting the Court in making a determination whether to grant the relief requested by the Receiver. The report is based on the Receiver's analysis of information provided to it by management and directors of Healthscreen, which included both unaudited and audited financial information and internal financial reporting. The Receiver's procedures did not constitute an audit or review engagement of Healthscreen's books and records and financial reporting. The Receiver has relied on Healthscreen's financial reporting and on Healthscreen's financial statements and records in reaching the conclusions set out in this report.
- 11. Unless otherwise stated, all dollar amounts contained in the Second Report are expressed in Canadian dollars.

RECEIVER'S ACTIVITIES

12. In addition to the steps taken by the Receiver as described later in this report, the Receiver has undertaken the following activities in accordance with the terms of the Appointment Order:

- a) completed the transactions with 229 and Physiomed;
- b) issued cheques to the CallerMD doctors for the period September 2, 2011 to September 30, 2011, and October 1, 2011 to October 13, 2011;
- c) dealt with ADP to arrange for the issuance of T4's both pre and post receivership;
- d) issued the required documentation to the employees for purposes of complying with the Wage Earner's Protection Program Act (the "WEPPA");
- e) engaged with counsel for Physiomed with respect to Physiomed claims for an abatement on the purchase price; and
- f) dealt with Canada Revenue Agency ("CRA") and the Ministry of Finance ("MOR") to obtain information on deemed trust claims.

SALES TRANSACTIONS

13. As noted above, on October 11, 2011, this Honourable Court approved the respective Purchase Agreements between the Receiver and 229 and between the Receiver and Physiomed and vesting orders were granted to both 229 and Physiomed.

14. On October 13, 2011, the transactions contemplated under the Purchase Agreements were concluded.

CALLERMD TRUST CLAIMS

15. As noted in the First Report, part of the business of Healthscreen was known as the **“Physician Services Business”**. This involved the collection of monies on behalf of physicians for services not covered by provincial health insurance.
16. The agreement permits Healthscreen to charge a 15% management fee on the amounts collected but otherwise requires the payment of the balance to the physicians on a monthly basis. The money being collected by Healthscreen was specifically for the physicians and Healthscreen was only providing a collection service. Accordingly the collected fees constitute money held in trust for the physicians.
17. On September 14, 2011, the Receiver issued statements to the physicians for the period August 15, 2011 to August 31, 2011 as well as cheques totalling approximately \$134,000 to those physicians that Healthscreen received deposits for during the aforementioned period.
18. As noted in the First Report, amounts that should have been paid to physicians prior to August 15, 2011 were co-mingled with Healthscreen’s own funds. On September 24, 2011, the physicians were mailed the statements for the period October 1, 2010 to August 14, 2011. The original estimated amount owed to the physicians for the period October 1, 2010 to August 31, 2011 was \$2.3 million. After the payment to the physicians for the period August 15, 2011 to August 31, 2011, and the issuance of certain charge backs to

the physicians, the liability to the physicians has been reduced to approximately \$2.1 million.

19. On October 11, 2011, the Receiver issued statements to the physicians for the period September 1, 2011 to September 30, 2011 as well as cheques totalling approximately \$109,000 to those physicians that Healthscreen received deposits for during the aforementioned period.
20. On October 14, 2011, the Receiver issued the final statements to the physicians for the period October 1, 2011 to October 13, 2011 as well as cheques totalling approximately \$8,000 to those physicians that Healthscreen received deposits for during the aforementioned period.
21. In January 2013, the Receiver sent new cheques to those CallerMD doctors who had not cashed their original cheques. Of those reissued cheques, four cheques have not been cashed in the total amount of \$1,294.77, which are now stale dated.
22. Upon payment of the \$1,294.77 into court, the Receiver will notify those CallerMD doctors who did not cash their cheques of the proceedings and that their respective funds have been paid into court.

ADP

23. ADP had difficulty in splitting up the pre and post receivership T4's and records of employment ("ROE's") for 2011. A considerable amount of time and effort was spent with former representatives of the Company, and representatives of ADP to ensure that

the T4 and ROE's were recorded correctly, including the payments of source deductions during the receivership.

WEPPA AND VACATION PAY

24. The Receiver advised the employees of Healthscreen of their rights under WEPPA and provided the required information to Service Canada. WEPPA issued payments to employees in the total amount of \$21,080.04, of which \$10,392.31 related to vacation pay. Of the amounts paid by WEPPA, WEPPA claims a super priority over the current assets in the amount of \$5,792.72. Given that all of Healthscreen's current assets are subject to deemed trust claims, there are no current assets available to satisfy the WEPPA claim. Attached hereto and marked as *Exhibit "E"* is a copy of the summary of payments made by WEPPA.
25. The total amount of vacation pay owed to the employees of Healthscreen was \$51,628.76, of which WEPPA paid \$10,392.31 as noted above. Attached as *Exhibit "F"* is a redacted summary of the amounts owed to employees. Therefore, the remaining amount of vacation pay owed to employees is \$41,236.45.

TRANSACTION WITH PHYSIOMED

26. On November 1, 2011, Brett Moldaver ("**Moldaver**") of the law firm of Davis Moldaver LLP, sent a letter to Jonathan Wigley ("**Wigley**") of Gardiner Roberts LLP ("**Gardiner Roberts**"), a copy of which is attached as *Exhibit ("G")*. Moldaver's letter states that after closing, Physiomed "discovered several material inaccuracies or omissions that seem to amount to misrepresentations in connection with the customer lists and the

accounts receivable”. The letter goes on to state that Physiomed Group Inc. is “seeking an abatement of the purchase price.... and suggest a reserve of \$200,000 be maintained pending resolution of this matter”.

27. In Schedule “B” attached to the Appointment Order, the sales process states the following:

“The proposed terms and conditions of sale will stipulate (among other things) that:

The transaction will be effected on an “as is, where is” basis with no representations or warranties”.

28. Companies that had expressed an interest in the assets of Healthscreen, or were in the similar business as Healthscreen, were sent a confidentiality agreement, an Information Package & Terms and Conditions for Invitation for Proposals to Purchase as well as a copy of the Appointment Order. Attached as *Exhibit “H”*, is a copy of the Information Package & Terms and Conditions for Invitation for Proposals to Purchase.

29. In the Notice to Reader section of the Information Package & Terms and Conditions for Invitation for Proposals to Purchase, the following statements are made:

“Deloitte expressly advises, and the prospective purchaser acknowledges, that the prospective purchaser will not and could not reasonably rely on this information in arriving at a decision to purchase part or all of the assets listed herein. Deloitte has not independently verified any of the information contained herein and makes no express or implied representation or warranty with respect to the accuracy or completeness of such

information. Upon execution of an appropriate confidentiality agreement, Deloitte's will provide access to a virtual data room for the purposes of due diligence."

Nothing contained in this document is, or should be relied upon as, a representation as to the future potential for the assets. Each prospective purchaser must rely upon its own inspection and investigation in order to satisfy itself as to title, merchantability, encumbrances, description, fitness for purpose, quantity, condition, existence, quality, value or any other matter or thing whatsoever relating to the assets to be purchased. Deloitte gives no representations or warranties with respect to any of the foregoing matters and has no liability from the use of the information contained in this Information Package."

30. Paragraph 2 of the Terms and conditions of sale section of the Information Package & Terms and Conditions for Invitation for Proposals to Purchase states that:

"Proposals will be considered on the basis that the party submitting the proposal has inspected the assets described in each parcel and examined and satisfied itself as to the title thereto and that no representation, warranty, term, condition, understanding or collateral agreement, statutory or otherwise, is expressed or can be implied, with respect to title, merchantability, condition, description, fitness for purpose, quality, quantity or any other thing, affecting any of the assets or in respect of any other matter or thing whatsoever except as expressly stated herein. Without limiting the foregoing, each party submitting a proposal acknowledges and agrees that each parcel is specifically offered on an "as is where is" basis as each parcel will exist on the Closing Date and no adjustment shall be allowed by either the Receiver or a Purchaser for changes in condition or

quantities of the assets from the date hereof and that the sale, transfer and assignment of the assets may be subject to the terms of a license, patent or any other agreements comprising or relating to such assets, requiring the consent of any licensor or any other party, or imposing any restrictions on disclosure or assignability, or relating to confidentiality and rights of first refusal for the benefit of any other party to such license, patent or any other agreement. The Purchaser acknowledges that it will be responsible for making its own arrangements with any licensors or lessors of assets or other parties required to operate or related to any of the assets. It shall be the sole responsibility of a Purchaser to obtain, at its own expense, any consents to the transfer of the purchased assets and any further documents or assurances which are necessary or desirable in the circumstances. Each party submitting a proposal acknowledges that the Receiver is not required to inspect or count, or provide any inspection or counting, of the assets or any part thereof and such party shall be deemed, at its own expense, to have relied entirely on its own judgement, inspection and investigation. The Receiver shall not be liable for any incorrect description, defect or condition of any of the assets, and each person submitting a proposal shall make no claim against the Receiver or any of its directors, officers or employees in connection with the proposal for the purchase of any of the parcels. In particular, no adjustments will be entertained for longs and shorts.”

31. In the Description of Assets available for sale, there was the following Notice of Disclaimer:

“DELOITTE & TOUCHE INC. EXPRESSLY ADVISES THAT THE PROSPECTIVE PURCHASER WILL NOT AND COULD NOT REASONABLY RELY ON THIS

INFORMATION IN ARRIVING AT A DECISION TO PURCHASE PART OR ALL OF THE ASSETS LISTED HEREIN. DELOITTE & TOUCHE INC. HAS NOT INDEPENDENTLY VERIFIED ANY OF THE INFORMATION CONTAINED HEREIN AND MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. EACH PROSPECTIVE PURCHASER MUST RELY UPON ITS OWN INSPECTION AND INVESTIGATION IN ORDER TO SATISFY ITSELF AS TO TITLE, MERCHANTABILITY, ENCUMBRANCES, DESCRIPTION, FITNESS FOR PURPOSE, QUANTITY, CONDITION, EXISTENCE, QUALITY, VALUE OR ANY OTHER MATTER OR THING WHATSOEVER RELATING TO THE ASSETS TO BE PURCHASED. DELOITTE & TOUCHE INC. GIVES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY OF THE FOREGOING MATTERS AND HAS NO LIABILITY FROM THE USE OF THE INFORMATION CONTAINED IN THIS INFORMATION PACKAGE.”

32. On September 19, 2011, after protracted negotiations with Physiomed, a confidentiality agreement was signed which is attached as *Exhibit “I”*. The second paragraph under point 2 of the confidentiality agreement states:

“We acknowledge that the Receiver shall not be deemed to have made any representation or warranty as to the accuracy of completeness of any of the Information furnished to us at any time, nor shall the Receiver have any liability to us or our representatives relating to or arising from our use of any of the Information.”

33. On September 23, 2011, Physiomed submitted an offer to purchase the Physician Services Business for \$400,000, which was subsequently approved by the Superior Court of Justice (Commercial List) on October 11, 2011. Paragraph 2.1 (b) of the executed Asset Purchase Agreement (“**APA**”) which is currently under seal states:

“The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an “as is, where is” basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the Sale of Goods Act (Ontario) including sections 13, 14, and 15) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this

Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets.”

34. Paragraph 2.1 (c) states:

“The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s) or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchasers solely for the Purchaser’s convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information, other than as set out herein.”

35. Note the APA with Physiomed does not have a Purchase Price Adjustment Clause.

36. It is important to note that the primary individual involved in the due diligence for Physiomed was Justin Belobaba (“**Belobaba**”), the former President and CEO of Healthscreen and its predecessor companies for the period May 8, 2007 to March 4, 2011.

37. As noted in paragraph 23 in the First Report,

- (a) With the assistance of the Company’s employees and management, the Receiver prepared a list of parties who were most likely to have an interest in making an offer to purchase the Property on a going concern basis. The Receiver contacted

each of these parties, including those parties that had participated in the M Partners process and sent email copies of the Information Package and Terms and Conditions for Invitation for Proposals to Purchase either Parcel 1 (Physician Services Business) or Parcel 2 (the Software Business) or both Parcel 1 and 2. Along with the Information Package, the Receiver sent a copy of the Appointment Order and a Confidentiality Agreement that was required to be executed in order to have access to the Company's information. The Receiver also established a virtual "deal room" that was accessible to interested parties upon receipt of a signed confidentiality agreement. Attached as *Exhibit "F"* to the First Report is a listing of the files contained in that room. The information uploaded to the deal room was prepared by employees of Healthscreen, not the Receiver.

38. As noted in paragraph 26 in the First Report, the 229 bid included both a cash and credit bid component.
39. Since a brief email exchange on December 13, 2012 between Moldaver and counsel for the Receiver, neither the Receiver nor its counsel have heard further from Moldaver. In light of the lack of further contact, the passage of time, and the Receiver's view that this claim has no merit, the Receiver does not propose to maintain a holdback as requested by Moldaver.

INDEPENDENT SECURITY REVIEW

40. As noted in the First Report, the Receiver instructed Gardiner Roberts, independent counsel to the Receiver, to perform an independent review of the security held by the Applicant and others who hold secured claims on the assets of Healthscreen. Attached as

Exhibit "C" to the First Report is a copy of the solicitor's opinions regarding the security.

41. Subject to certain standard assumptions, exceptions, and qualifications, Gardiner Roberts' independent review confirmed, in the following priority order, that:

(a) Pursuant to a credit agreement, RBC has a first ranking position over the assets and undertaking of Healthscreen. The RBC debt currently relates to VISA indebtedness of approximately \$37,000;

(b) 229 has good and valid security over the assets of the Company for all indebtedness owed to 229. The initial indebtedness was for \$5,104,000. Interest and costs accumulated on that debt and were extinguished upon the Sale Transaction;

(c) CIT Financial Ltd has a security interest in a photocopier. Similarly Alliance Funding Corporation registered against Medical Telecom Corporation (and did not re-register against Healthscreen) for certain equipment. This latter interest relates to a lease for certain equipment and software. Alliance has indicated it was unaware of the amalgamation of Medical Telecom with Healthscreen. Alliance's claim is not material in size;

(d) MOR has a priority claim for approximately \$145,000 relating to sales tax (includes interest);

(e) Justin Belobaba for \$50,000 plus interest and costs; and

- (f) Azedomine Inc. for \$55,553 plus interest and costs;

DEEMED TRUSTS

42. The Receiver has had certain audits performed for the deemed trust claims, the summary of which is noted below:
- (a) On January 19, 2012, CRA filed a proof of claim in the amount of \$4,521.29 for source deductions, of which, \$3,790.86 is a deemed trust claim pursuant to subsection 227(4) of the Income Tax Act. Attached as *Exhibit "J"* is a copy of the proof of claim;
- (b) At the time of the First Report as noted in paragraph 19 (b), the estimated amount owing with respect to GST/HST was \$165,000. On September 7, 2012, CRA issued an amended proof of claim in the amount of \$201,746.74, of which, \$178,444.89 is a trust claim pursuant to Section 222(3) of the Excise Tax Act. Attached as *Exhibit "K"* is a copy of the proof of claim; and
- (c) With respect to provincial RST claims, MOR registered its security interest for approximately \$145,000. At the time of the First Report, it was estimated that approximately \$230,000 was owed.
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43. There has been correspondence between the Receiver and MOR and on April 19, 2013, MOR filed the following unsecured proofs of claim on the same day that MOR issued Notices-Receiver's Sale of Assets claiming priority for the same amount:

- (a) \$35,058.52 – Healthscreen Solutions Incorporated;
 - (b) 92,548.77- 1589681 Ontario Limited;
 - (c) On April 22, 2013, MOR issued another claim in the amount of \$100,972.88 for 1589681 Ontario Limited; and
 - (d) On April 25, 2013, the Receiver wrote the MOR requesting a breakdown on the amount of tax owing, separately from that of penalties and interest.
44. Of the RST lien in the amount of \$139,279.03 as at June 3, 2013, \$105,297.45 represented the deemed trust portion relating to the taxes owed. Attached as *Exhibit "L"* is a copy of the Statement of Account. As noted in the Statement of Account for March 31, 2010, the deemed trust portion relating to taxes was \$24,985.97 plus penalties and interest, all of which was paid except for a portion of the penalties and interest in the amount of \$1,946.83. Therefore, the \$105,297.45 does not include any taxes for March 31, 2010.
45. Also on June 3, 2013, the Ontario Ministry submitted two additional statements of account in the amounts of \$38,737.58, and \$101,990.38, of which, the deemed trust portion for taxes are \$32,326.30, and \$11,596.80 respectively. Attached as *Exhibit "M"* are copies of the additional statements of account.
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46. As noted in paragraphs 24 of this report, WEPPA is owed a priority claim of \$5,792.72. The remaining amount of vacation pay owed to employees as noted in paragraph 25 is \$41,236.45.

47. The deemed trust claims which are in priority to WEPPA are summarized in the table below:

Deemed trust claims	\$
CRA-source deductions	3,790.86
CRA-GST/HST	178,449.89
MOR (lien claim)–Healthscreen	105,297.43
MOR–Healthscreen	32,326.30
MOR-1589681 Ontario Limited	11,596.80
Vacation Pay owed to Employees	41,236.45
Total	\$372,697.73

48. There are insufficient proceeds on hand to pay the priority claims in full. The Receiver recommends that the balance of the proceeds on hand be paid on a pro-rata basis to each of the deemed trust claims which are summarized later in this report.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

49. Attached as *Exhibit “N”* is the Receiver’s Statement of Receipts and Disbursements for the period September 2, 2011 to November 15, 2013 (the “**Receivership Period**”) for the operating account. As at November 15, 2013, 2013, the closing cash balance is \$374,367.88 of which \$1,294.77 represents trust funds belonging to CallerMD doctors.
50. Included in the total operating cash receipts of approximately \$2,090,000, are the cash purchase price for the sale of the Physician Services Business and the Software Business. The total operating cash disbursements of approximately \$1,716,000 were primarily composed of payroll costs including source deduction remittances of approximately \$673,000, payments to CallerMD doctors of approximately \$251,000, consulting fees and

