

ONTARIO
SUPERIOR COURT OF JUSTICE

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

Applicants

- and -

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

Respondents

**SIXTH REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER OF P.O.S.E. INVESTMENTS**

AUGUST 26, 2016

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I. Introduction

1. By Order of Justice Thompson dated April 2, 2012 (the “**Initial Order**”), Deloitte Restructuring Inc. (formerly Deloitte & Touche Inc.) was appointed receiver and manager (the “**Receiver**”), without security, over all of the current and future assets, undertakings and properties of P.O.S.E. Investments. (“**POSE**” or the “**Company**”) pursuant to section 101 of the *Courts of Justice Act*. A copy of the Initial Order is attached hereto as **Appendix “A”**.
2. The Company operated as a partnership of individuals and corporations (“**Unitholders**”) and held real property through 910912 Ontario Inc. and 910913 Ontario Inc and the partnership commenced in 1990.
3. The real properties held by 910912 Ontario Inc. and 910913 Ontario Inc., in trust for POSE, were located in the Municipality of Meaford (the “**Meaford Property**”) and in the Town of Georgina (the “**Georgina Property**”), previously defined in the First Report of the Receiver, dated May 31, 2012 (the “**First Report**”), and more particularly described in Schedule “A” and Schedule “B” of the Initial Order and collectively referred to as the “**Real Properties**”.
4. The Initial Order authorized the Receiver to, among other things, take possession of and exercise control over the Real Properties and any and all proceeds, receipts and disbursements arising out of or from the Real Properties. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Real Properties or any part thereof out of the ordinary course of business.
5. By Order of the Court dated June 28, 2012, the Receiver obtained approval for the plan to market and sell the Real Properties (the “**Marketing Order**”). A copy of the Marketing Order is attached as **Appendix “B”**.
6. Pursuant to the Order of Justice Parayeski, dated January 22, 2013, the Receiver obtained an approval and vesting order for a purchaser in the Receiver’s right, title and interest in and to the Georgina Property. The order was subsequently amended on January 25, 2013 (collectively “**Approval and Vesting Order – Georgina Property**”). A copy of the Approval and Vesting Order – Georgina Property is attached as **Appendix “C”**.
7. On January 25, 2013, the sale transaction for the Georgina Property was successfully closed.
8. Pursuant to the Order of Justice Reid, dated May 28, 2013, the Receiver obtained an order that outlined the procedures that creditors and unitholders should follow with respect to proving a claim

with the Receiver (“**Claims Procedure Order**”). A copy of the Claims Procedure Order is attached as **Appendix “D”**.

9. Pursuant to the Order of Justice Talian, dated March 4, 2014, the Receiver obtained an order approving the fees and disbursements of the Receiver and those of its counsel, Gowling WLG (Canada) LLP (formerly Gowling Lafleur Henderson LLP) (“**Gowling WLG**”) (the “**Interim Fee Approval Order**”). A copy of the Interim Fee Approval Order is attached as **Appendix “E”**.
10. Pursuant to the Order of Justice Whitten, dated July 3, 2014, the Receiver obtained an approval and vesting order for a purchaser in the Receiver’s right, title and interest in and to the Meaford Property (“**Approval and Vesting Order – Meaford Property**”). A copy of the Approval and Vesting Order – Meaford Property is attached as **Appendix “F”**.
11. On July 7, 2014, the sale transaction for the Meaford Property was successfully closed.
12. The Court Orders, Receiver’s reports and letters written to update the Unitholders and all other creditors or stakeholders have been posted on the Receiver’s website www.deloitte.ca.
13. Unless otherwise provided, all other capitalized terms not otherwise defined herein have been defined in previous Reports and Orders.

II. Purpose of Report

14. The purpose of the Receiver’s Sixth Report to Court is to:
 - a) report on the activities of the Receiver since our last report dated June 18, 2014;
 - b) provide the Court with the evidentiary basis to make an Order:
 - i) approving of the Receiver’s Final Receipts and Disbursements for the period from April 2, 2012 to July 31, 2016;
 - ii) approving the Receiver’s proposed final distribution to the Unitholders;
 - iii) approving the conduct and activities of the Receiver to July 31, 2016 and the activities of the Receiver as described in this Sixth Report including, without limitation, the steps taken by the Receiver pursuant to the activities related to executing the Claims Procedure Order; and
 - iv) request that this Court grant Deloitte Restructuring Inc. a discharge in its capacity as Receiver of POSE.

III. Receiver's Activities since June 18, 2014

Meaford Property Sale Transaction

15. Following the Court Approval for the sale of the Meaford Property on July 3, 2014, the Receiver worked with its counsel, Gowling WLG and the real estate broker, CBRE, and closed the transaction on July 7, 2014. The Receiver also worked with the purchaser to transition the property to the custody of the purchaser.

Claims Procedure / Interim Distribution

16. Following the collection of the proceeds from the purchaser of the Meaford Property, the Receiver paid twenty (20) unitholders the remaining \$73,432.10 of their Cost Claims pursuant to the Claims Procedure Order. In aggregate, the Cost Claims were \$146,864.23.
17. As noted in paragraph 33 of the Initial Order, and as prescribed in the Claims Procedure Order, the Cost Claims are paid in priority to the Unitholder Claims.
18. Since the payment of the Cost Claims, the Receiver has reviewed the accuracy of the Unitholder Claims. The claims summary previously reported in our Third Report represents the claims that will be considered in the proposed final distribution to Unitholders which totals \$2,733,430.61, which included five (5) unitholders that filed shortly after the deadline reported in the Claims Procedure Order. The Unitholders will be paid on a *pro rata* basis on their claims.

IV. Receiver's Fees and Disbursements

19. The Receiver seeks to have its fees and disbursements, including those of its legal counsel, approved by this Court.
20. As noted above, on March 4, 2014 the Court approved the interim fees and disbursements of the Receiver and its counsel from the outset of the administration to January 31, 2014.
21. The total fees, disbursements and HST of the Receiver for services provided during the period February 1, 2014 to present have been \$26,182.91 for fees and disbursements and \$3,403.77 in HST of which \$12,091.00 (including HST) has not yet been paid.
22. Attached as **Appendix "G"** is an affidavit of Rob Biehler of Deloitte Restructuring Inc. as sworn on August 25, 2016 regarding the Receiver's fees and disbursements, including an estimate of the fees and disbursements to fully complete its administration, in particular the final dividend to Unitholders. A copy of the Receiver's accounts for the period of February 1, 2014 through to present has been attached as an Exhibit to that affidavit.

23. Gowling WLG has acted as Receiver’s legal counsel on all matters related to the receivership proceedings to date. The total fees, disbursements and HST of Gowling WLG for services provided from November 1, 2013 to present have been \$47,984.51, including an estimate to complete the administration, and \$5,000.00 (including HST) has not yet been paid. The activities of Gowling WLG as described in the accounts are summarized in the Affidavit of Dom Glavota sworn on August 31, 2016 and as attached as **Appendix “H”**. A copy of Gowling WLG’s accounts is attached as an Exhibit to that affidavit.

V. Receiver’s Final Statement of Receipts and Disbursements

34. Attached as **Appendix “I”** is a copy of the Receiver’s Final Statement of Receipts and Disbursements for the period April 2, 2012 to July 31, 2016, showing an excess of receipts over disbursements of \$450,169.94, prior to the professional fee payments described above and the accruals noted below and the proposed final distributions to Unitholders.

35. Set out below, is an estimated distribution of the net receipts on hand:

- | | |
|---|-----------------|
| a) Receiver’s fee estimate | \$12,091.00; |
| b) Gowling WLG’s fee estimate | \$5,000.00; and |
| c) The remaining funds to Unitholders – estimated | \$433,078.94 |

VI. Summary of Unitholder Claims and Projected Final Dividend of Receipts and Disbursements

36. Set out below is a summary of the claims as filed with the Receiver:

Nature of Claim	#	\$
Creditor Claims	0	0
Cost Claims from Applicants	20	\$146,864.23
Admitted Unitholder Claims	97	\$2,733,430.61
	117	\$2,880,294.84

37. Attached as **Appendix “J”** is a detailed listing of parties who have received full payment of their Cost Claims.

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38. Attached as **Appendix “K”** is a detailed listing of the Unitholder Claims and proposed final distribution (“**Proposed Final Distribution**”).
39. As noted in our Fourth Report dated February 21, 2014, 51 Unitholders with potential Claims of approximately \$1.2 million did not file a Proof of Claim nor have they contacted the Receiver about the Claims Procedure. As set out in the Claims Procedure Order all parties are now barred from making a claim.

VII. Conclusion and Recommendations

40. The Receiver submits to this Court that it has taken all reasonable actions in the circumstances and has represented itself in the best interests of all the stakeholders in the course of administering its duties as Receiver.
41. The Receiver respectfully requests that this Court grant an Order *inter alia*:
- a) approving of the Receiver’s Final Statement of Receipts and Disbursements for the period April 2, 2012 to July 31, 2016;
 - b) approving the fees and disbursements of the Receiver from February 1, 2014 and those of its counsel, Gowling WLG from November 1, 2013;
 - c) approving of the conduct and activities of the Receiver since the Fifth Report dated June 18, 2014; and
 - d) upon payment of the Final Distribution, discharging and releasing the Receiver.

All of the foregoing is respectfully submitted to this Court as of this 26th day of August, 2016.

Deloitte Restructuring Inc.

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



Per:

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

APPENDIX “A” – INITIAL ORDER

APPENDIX “B” – MARKETING ORDER

**Appendix “C” – Approval and Vesting Order – Georgina
Property**

Appendix “D” – Claims Procedure Order

APPENDIX “E” – INTERIM FEE APPROVAL ORDER

**APPENDIX “F” – APPROVAL AND VESTING ORDER –
MEAFORD PROPERTY**

APPENDIX “G” – AFFIDAVIT OF ROB BIEHLER

APPENDIX “H” – AFFIDAVIT OF DOM GLAVOTA

**APPENDIX “T” – RECEIVER’S FINAL STATEMENT OF RECEIPTS
AND DISBURSEMENTS**

APPENDIX “J” – SCHEDULE OF COST CLAIMS PAID

**APPENDIX “K” – SCHEDULE OF CLAIMS AND PROPOSED
DISTRIBUTION TO UNITHOLDERS**
