

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

ROYAL BANK OF CANADA

Plaintiff

- and -

DEAN MYERS CHEVROLET and 1125278 ONTARIO LIMITED

Defendants

**FIRST REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER
DATED MARCH 19, 2020**

TABLE OF CONTENTS

INTRODUCTION	- 4 -
TERMS OF REFERENCE	- 6 -
BACKGROUND	- 6 -
RECEIVER'S ACTIVITIES	- 9 -
FINANCIAL POSITION AND RECENT OPERATING RESULTS.....	- 11 -
CREDITORS	- 14 -
CASH ON HAND.....	- 17 -
ACCOUNTS RECEIVABLES.....	- 18 -
LOANS AND ADDITIONAL AMOUNTS OWING FROM RELATED PARTIES	- 18 -
INVENTORY	- 19 -
FIXED ASSETS	- 21 -
SETTLEMENT WITH THE FORMER LANDLORD	- 21 -
CUSTOMER MATTERS	- 23 -
THE PROPOSED GM TRANSACTION.....	- 25 -
THE RECEIVER'S MARKETING OF THE REMAINING VEHICLES AND PARTS INVENTORY	- 28 -
STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	- 30 -
PROPOSED DISTRIBUTION FOR REPAYMENT OF RBC INDEBTEDNESS AND SUBSEQUENT DISCTRIBUTIONS.....	- 30 -
RECEIVER'S RECOMMENDATIONS.....	- 32 -

APPENDICES

APPENDIX	DESCRIPTION
A	Appointment Order dated February 12, 2020 and Endorsement of Justice Hainey dated February 12, 2020
B	Accepted Asset Purchase Agreement – Redacted Version
C	Statement of Receipts and Disbursements for the period February 12, 2020 to March 16, 2020

CONFIDENTIAL APPENDICES

CONFIDENTIAL APPENDIX	DESCRIPTION
A	Confidential Supplement to the Report of the Receiver
B	Accepted Asset Purchase Agreement – Unredacted Version

INTRODUCTION

1. An application was made on February 11, 2020 by Royal Bank of Canada (“**RBC**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Deloitte Restructuring Inc. (“**Deloitte**”) as receiver (the “**Receiver**”) without security, of all the assets, undertakings and properties of each of Dean Myers Chevrolet Limited (“**DMCL**” or the “**Borrower**”) and 1125278 Ontario Limited (“**1125278**” or the “**Guarantor**”, and collectively with DMCL, the “**Debtors**”) acquired for, or used in relation to a business carried on by any of the Debtors (the “**Property**”).
2. As described more particularly in this report, RBC is the senior secured lender of the Debtors and certain related parties pursuant to credit facilities granted by RBC (the “**RBC Indebtedness**”).
3. By Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 12, 2020 (the “**Appointment Order**”) and the endorsement of Justice Hainey (the “**February 12 Endorsement**”), Deloitte was appointed as the Receiver of the Property. Copies of the Appointment Order and the February 12 Endorsement are attached hereto as Appendix “**A**”.
4. DMCL is an Ontario corporation which operated as an automotive dealership and service centre located at 3180 Dufferin Street, Toronto (the “**Premises**”). DMCL was an authorized reseller of new Chevrolet, Buick and GMC branded vehicles pursuant to a dealership agreement (the “**Dealership Agreement**”) with General Motors of Canada Limited (“**GM**”). In addition, DMCL also sold used vehicles and participated in consignment sales of vehicles located at the Premises and through an online platform.
5. 1125278 is an Ontario corporation and primarily operated as a vehicle leasing company which also operated out of the Premises.
6. Copies of the Appointment Order, together with Court documents and all reports with respect to this matter are available on the Receiver’s website at www.insolvencies.deloitte.ca/en-ca/DeanMyersChevroletLimited.
7. The Appointment Order, among other things, authorized the Receiver to market any or all of the Property, including soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its sole discretion may deem appropriate.
8. Further, section 3(k)(i) of the Appointment Order authorized the Receiver to sell, convey, transfer, lease or assign the Property or parts of the Property out of the ordinary course of business, without

the approval of this Court in respect of any repurchase of vehicles or parts inventory by General Motors of Canada Company or any of its affiliates, without any per transaction aggregate limit. Section 3(k)(ii) of the Appointment Order also permitted, without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000.

9. The purpose of this first report of the Receiver (the “**Report**”) is to:
- (a) provide the Court with additional information in respect of the Debtors and the Property;
 - (b) provide the Court with an evidentiary basis to make Orders:
 - (i) approving the activities of the Receiver, including steps taken in dealing with the Property, as described in this Report;
 - (ii) approving the sale transaction (the “**GM Transaction**”) to be effected through an asset purchase agreement dated and executed on March 17, 2020 (the “**GM APA**”) between the Receiver and GM, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, for the sale of certain of the Property as described in the GM APA and the schedules thereto (the “**GM Repurchased Vehicles**”), and vesting the Company’s right, title and interest in the GM Repurchased Vehicles in GM and authorizing and directing the Receiver to carry out the terms of the GM APA;
 - (iii) temporarily sealing the confidential supplemental to this Report (the “**Confidential Supplement**”), together with the confidential appendices thereto, filed with this Court from the public record until the closing of the GM Transaction or further order of the Court;
 - (iv) prospectively authorizing and approving the Receiver to execute sale agreements for the remaining assets of the Debtors, primarily consisting of vehicles, parts inventory, and fixed assets, and to vest title free and clear in respect of such assets;
 - (v) approving a distribution of available surplus proceeds to RBC, the Debtors’ senior secured lender, as described herein, and authorizing the Receiver to make additional distributions to RBC in such amounts as the Receiver deems appropriate in partial repayment of the RBC indebtedness;
 - (vi) approving an increase in the Receiver’s borrowing limit from \$125,000 to \$750,000; and

- (vii) approving the Receiver's Statement of Receipts and Disbursements for the period February 12, 2020 to March 16, 2020.

TERMS OF REFERENCE

- 10. In preparing this Report, the Receiver has been provided with, and has relied upon, unaudited, draft and/or internal financial information, the Debtors' books and records, and discussions with management of the Debtors ("**Management**") (collectively, the "**Information**"). Except as described in this Report:
 - (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook, and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information; and
 - (b) the Receiver has prepared this Report in its capacity as a Court-appointed Receiver to support the Court's approval of the Receiver's activities and other relief being sought. Parties using the Report other than for the purposes outlined herein are cautioned that it may not be appropriate for their purposes.
- 11. Unless otherwise stated, all dollar amounts contained in the Report are expressed in Canadian dollars.
- 12. Unless otherwise provided, all other capitalized terms not otherwise defined in this Report are as defined in the Appointment Order or the GM APA.

BACKGROUND

Overview

- 13. Incorporated in Ontario in 1991, Dean Myers Chevrolet Oldsmobile (1991) Limited subsequently changed its corporate name to DMCL in 2005 and amalgamated with Somerset Chevrolet Limited in 2008. Richard Chamberlin ("**Richard**") is a director and the President of DMCL. Richard's spouse Penny Chamberlin ("**Penny**") is also a director and officer of DMCL. Telma Dantas

- (“**Dantas**”) is an officer and was employed as a financial controller of DMCL as at the date of the Appointment Order.
14. Prior to 1991, Gordon Dean Myers (“**Gordon**”) had operated a GM dealership at the Premises for decades before ultimately selling the business to DMCL, which is controlled by Richard who is Gordon’s son-in-law.
 15. The Premises is owned by Dean Myers Leasing Limited (the “**Former Landlord**”), a company controlled by Gordon. The Former Landlord entered into lease agreements (the “**Premises Lease**”) with DMCL for continued use of the Premises. As described later in this report, the Premises Lease was amended to contemplate an early termination effective June 30, 2020 to facilitate a sale of the Premises to a division of RioCan (the “**New Landlord**”) pursuant to a sale transaction which closed on March 5, 2020.
 16. The Premises consists of one large building hosting a vehicle showroom and offices, a vehicle service centre and garage, parts storage room, surrounded by a front lot and a large gated rear lot where most of the vehicle inventory is parked, and a second standalone structure which is used primarily vehicle storage.
 17. DMCL also rented a nearby ground level parking lot (the “**Overflow Lot**”) located at 3501 Dufferin Street, Toronto pursuant to a real property lease (the “**Overflow Lot Lease**”) with a third-party landlord. The Receiver understands that the Overflow Lot was not actively used by DMCL for the period leading up to the date of the Appointment Order due to sufficient parking space at the Premises. The Receiver has since consented to the termination of the Overflow Lot Lease following a request from the respective landlord.
 18. Incorporated in 1995, 1125278 operated as a vehicle leasing business under the “Dealerwerx Leasing” trading name. A corporate search report indicates that the directors and officers of 1125278 are Richard (Director and Chief Executive Officer), Penny (Director and President), and Dantas (Officer).
 19. DMCL had 44 employees as at the date of the Appointment Order, of which 42 were full-time and two (2) were part-time. DMCL’s employees included Chamberlin family members, of which the Receiver understands had varying levels of involvement in the business. The Receiver understands that as a result of liquidity issues, DMCL had laid off 9 service, technical and sales employees in the months leading up to the Appointment Order.
 20. 1125278 did not have any employees and was administered by DMCL management and employees.

Select Related Parties

21. Certain related parties which are not subject to the Appointment Order and will be described later in this Report include:

- (a) 2010197 Ontario Ltd. (“**2010197**”), which was incorporated in Ontario in 2002 and primarily operated under the “Dealerwerx” banner involved in the online marketing of used and consignment vehicles. Richard is a Director of 2010197, and Richard, Penny and Dantas are officers of 2010197. Richard advised the Receiver that 2010197 had operated from the Premises and also operates from premises located at 291 Pretty River Parkway, Collingwood. Richard further advises that 2010197 commenced purchasing vehicles from DMCL in 2019 as it was seeking to apply for and obtain an independent automotive dealership license. As described later in this Report, a preliminary review of the books and records of DMCL indicated that approximately \$79,000 was owing from 2010197 as at the date of the Appointment Order. Moreover, 2010197 was in possession of certain vehicles of DMCL and 1125278 at the date of the Appointment Order, which it has offered to purchase from the Receiver;
- (b) Somerset Automotive Sales Network Inc. (“**Somerset Automotive**”), which according to its website is a reseller and online marketing platform for pre-owned vehicles, motorcycles, boats and recreational vehicles, and operates from premises located at 13500 Intrepid Lane, Fort Myers, Florida. The Receiver understands from Richard and DMCL financial management that Somerset Automotive is owned and managed by the Chamberlin family, and that Somerset Automotive sourced and purchased used vehicles from DMCL for export to customers in Florida. As described later in this Report, a preliminary review of DMCL’s books and records indicated that at least \$699,000 was owing from Somerset Automotive as at the date of the Appointment Order, and the Receiver is investigating an additional \$1.0 million which appears to be owing from Somerset Automotive;
- (c) According to DMCL financial management, Somerset Real Estate Holdings LLC owns the real property where the Somerset Automotive dealership is situated. DMCL financial management also advised that DMCL and Somerset Real Estate Holdings Fort Myers LLC (“**Somerset Fort Myers**”) are related to Somerset Real Estate Holdings LLC, but does not have additional information in that regard. According to DMCL’s books and records, Somerset Fort Myers owes approximately \$64,000 to DMCL; and

- (d) 1056883 Ontario Inc. (“**1056883**”), which, according to DMCL financial management is a related party holding company that redirected advances from DMCL totaling approximately \$1.4 million for purchases of property in Florida and start up costs for the Somerset Automotive business.

RECEIVER’S ACTIVITIES

22. The Receiver has undertaken the following activities in accordance with the terms of the Appointment Order:
- (a) attended at the Premises and met with the employees and Management on-site to advise them of the receivership and that pursuant to paragraph 14 of the Appointment Order, their employment by DMCL had been terminated. The Receiver also made arrangements to deliver termination letters to other employees who were not onsite;
 - (b) temporarily retained four former employees of DMCL to, among other things, provide assistance with banking and accounts receivable, preparation of final payroll calculations to the date of the Appointment Order for the purpose of administering amounts due to employees under the *Wage Earner Protection Program Act* (“**WEPPA**”), updating the books of the Debtors, addressing various customer inquiries, managing communications with GM, compiling data for the collection of receivables and filing of rebate claims, and developing a realization strategy for vehicles and parts inventory;
 - (c) coordinating the delivery of records of employment and T4 slips, and expediting the issuance of WEPPA letter packages to the former employees of DMCL;
 - (d) informed Canada Revenue Agency (“**CRA**”) of the receivership, established new payroll and HST accounts for the post-receivership period, and made repeated requests for audits of the pre-receivership accounts of the Debtors;
 - (e) arranged for the changing of the locks at the buildings at the Premises;
 - (f) retained a third-party security services provider for 24-hour coverage and additional security cameras in the front of Premises and in the rear-yard;
 - (g) arranged for the continued occupation of the Premises as described in more detail later in this Report, and communicated with the Former Landlord and New Landlord;

- (h) made arrangements for the continuation of utilities and retained a third-party property management services company to facilitate snow removal at the Premises;
- (i) provided notice of the Receiver's appointment to the existing insurance broker in order to confirm ongoing coverage until those policies expired in March 2020. The existing insurer was unable to provide renewal coverage, and consequently, the Receiver obtained replacement insurance coverage through an alternate insurance broker;
- (j) arranged for the relocation of all new vehicles inventory and substantially all used vehicle inventory to the secured and locked rear yard at the Premises;
- (k) conducted an inventory count and mileage review in respect of vehicles located at the Premises;
- (l) coordinated the return to the Receiver of demonstrator or "demo" vehicles in the possession of former employees, and one third-party vendor;
- (m) communicated with Richard in respect of the purchase of certain used vehicles in the possession of a Chamberlin family member, and one vehicle located in Florida;
- (n) commenced a formal marketing of New Inventory (defined below) to GM dealers and negotiations with GM in respect of applicable repurchases, as described in later in this Report;
- (o) arranged for the electronic backing up of computer hard drives and the accounting system to ensure the preservation of the Debtors' data;
- (p) compiled invoice data and issued demand letters with respect to the DMCL's accounts receivable;
- (q) retained Harrison Pensa LLP ("**Harrison Pensa**") as its independent legal counsel;
- (r) conducted a detailed reconciliation of customer deposits in respect of future vehicle purchases, consulted with Richard, the Ontario Motor Vehicle Industry Council ("**OMVIC**"), and GM in this regard, and arranged for the issuance of letters by Harrison Pensa to all 58 affected customers as described in greater detail later in this Report;
- (s) made arrangements for access by GM technicians to attend at the Premises to prepare customer repair vehicles for delivery to alternate GM dealership service centres;
- (t) notified DMCL's consignment customers of the receivership, and arranged for the release to owners of the consignment vehicles located at the Premises;

- (u) coordinated inquiries with GM and a third-party tire storage provider in respect of DMCL customers who made seasonal tire storage arrangements with DMCL;
- (v) worked cooperatively with GM in addressing additional customer and stakeholder inquiries;
- (w) met with Richard to, among other things, review the available books and records, and discuss all outstanding accounts receivable and related party transactions, customer deposits, inventory, consignment vehicles, the Dealership Agreement, all known bank accounts, and the Out of Trust Funds (defined below);
- (x) issued demand letters to related parties for payment of outstanding receivables, and made inquiries to Richard in this regard;
- (y) took steps with DMCL financial management to complete documentation to recover funds in respect of certain GM rebates and other transactions;
- (z) compiled invoice data and accounts receivable, and issued demand letters to DMCL customers;
- (aa) arranged for continued deposits of monthly lease payments from 1125278 leasing customers;
- (bb) issued receivership notification letters to certain financial institutions;
- (cc) opened new bank trust accounts in the name of the Receiver;
- (dd) issued its statutory Notice and Statement of Receiver pursuant to subsections 245(1) and 246(2) of the BIA for each of DMCL and 1125278;
- (ee) arranged for the redirection of mail to the Receiver's offices; and
- (ff) addressed various additional matters as they arose from time to time.

FINANCIAL POSITION AND RECENT OPERATING RESULTS

Historical Financial Position and Operating Results – DMCL

23. The table below sets out the summary (unaudited) balance sheets for DMCL as at the dates noted:

Dean Myers Chevrolet Limited Summary Balance Sheet	12/31/2019 (Unaudited) (Interim)	12/31/2018 (Unaudited) (External Compilation)	12/31/2017 (Unaudited) (External Compilation)
Cash	690,056	1,317,681	2,795,091
Accounts receivable	2,248,477	1,090,428	1,565,554
Income taxes recoverable	-	50,077	-
Inventories	8,466,452	11,675,888	12,207,255
Prepaid expenses and sundry assets	91,818	91,791	91,183
Property, plant and equipment	680,875	736,149	760,794
Due from related companies	1,275,413	3,482,117	3,073,791
Loan receivable	137,663	241,553	-
Total assets	13,590,754	18,685,684	20,493,668
Total liabilities	10,804,183	15,575,332	17,548,400
Shareholders Equity	2,786,571	3,110,352	2,945,268
Total liabilities and shareholders equity	13,590,754	18,685,684	20,493,668

24. The following table sets out a summary of the Income Statements (unaudited) for DMCL for the periods noted:

Dean Myers Chevrolet Limited Summary Income Statement	12/31/2019 (Unaudited) (Interim)	12/31/2018 (Unaudited) (External Compilation)	12/31/2017 (Unaudited) (External Compilation)
<i>Sales</i>			
New and demo vehicle sales	17,695,526	27,936,907	29,707,752
Used vehicle sales	5,388,449	7,388,149	6,182,563
Service labour	1,843,232	2,124,037	2,270,872
Parts and accessories sales	1,797,680	3,818,476	4,333,865
Body shop labour	29,065	246,515	450,235
Net consignment revenue	829,953	6,337	27,574
Finance income	704,445	267,410	81,223
Total sales	28,288,349	41,787,831	43,054,084
Cost of sales	24,835,872	35,413,545	36,446,014
Gross profit	3,452,477	6,374,286	6,608,070
Expenses	3,776,279	6,493,921	6,510,130
Net income (loss) before provisions	(323,802)	(119,635)	97,940
Income tax and foreign exchange gain (loss)	-	284,719	(163,889)
Net income (loss) for the year	(323,802)	165,084	(65,949)

25. As set out above, there was a significant contraction in the sale of new vehicles in 2019. DMCL financial management advised that there was a general reduction in sales activity and volume of customers, compounded by a general strike at GM's manufacturing plants.
26. There was also a significant decline in used vehicle sales in 2019, partly due to reduced export sales to Somerset Automotive (2019 - \$643,000; 2018 - \$1.8 million). This decline was partly offset by growth in consignment revenue through "Dealerwerx" arrangements.

27. DMCL advised that the significant decline in parts sales in 2019 was due to DMCL reducing auto body repairs due to personnel issues and local competition. Also, parts sales to wholesalers also declined following the turnover of parts managers.
28. DMCL advised that “Finance Income” included any sales made through DMCL’s financing office, which included, among other things, extended warranty, insurance, and aftermarket products.

Historical Financial Position and Operating Results – 1125278

29. The table below sets out the summary (unaudited) balance sheets for 1125278 as at the dates noted:

1125278 Ontario Limited Summary Balance Sheet	12/31/2019 (Unaudited) (Interim)	12/31/2018 (Unaudited) (External Compilation)	12/31/2017 (Unaudited) (External Compilation)
Cash	153,100	185,111	-
Accounts receivable	-	18,739	123,998
Net investment in vehicle leases	352,625	733,257	1,389,100
Due from related companies	224,711	64,000	94,217
Total assets	730,437	1,001,107	1,607,315
Total liabilities	353,565	698,250	1,418,585
Shareholders Equity	376,872	302,857	188,730
Total liabilities and shareholders equity	730,437	1,001,107	1,607,315

30. The following table sets out a summary of the Income Statements (unaudited) for 1125278 for the periods noted:

1125278 Ontario Limited Summary Income Statement	12/31/2019 (Unaudited) (Interim)	12/31/2018 (Unaudited) (External Compilation)	12/31/2017 (Unaudited) (External Compilation)
Leasing sales	168,176	318,159	357,916
Gain on disposal of capital assets	53,274	66,774	11,993
Other	2,306	2,688	87
Total sales and other income	223,756	387,621	369,996
Expenses	149,740	273,494	300,994
Net income (loss)	74,016	114,127	69,002

31. 1125278 management advised that it was more selective with customer risk profile in 2019 and, consequently, elected to enter into fewer new leases in 2019. 1125278 management also advised that several leases expired in 2019.

CREDITORS

Secured Creditors

32. RBC is the first registered secured creditor of DMCL and 1125278 with borrowings by way of certain credit facilities as set out in the Affidavit of Wojciech Karwala sworn on February 7, 2020 in support of RBC's Application for the appointment of the Receiver. As at January 27, 2020, DMCL was indebted to RBC in the amount of \$9,224,188 before accrued interest and costs. The RBC Indebtedness was guaranteed by 1125278 and also by 1056883, which company is not subject to these receivership proceedings.
33. In addition to being the Guarantor, 1125278 was also directly indebted to RBC by way of lease account floor plan facility totaling \$300,359 as at January 31, 2020.
34. The credit facilities constituting the RBC Indebtedness also included two floor plan facilities:
 - (a) a new floor plan facility (the "**New Floor Plan Facility**") for the purpose of financing the purchase of new floor plan vehicles, dealer trades and demo vehicles, of a make and model acceptable to RBC, which are to be sold and held for sale by DMCL to and for third-party customers; and
 - (b) a used floor plan facility (the "**Used Floor Plan Facility**", and together with the New Floor Plan Facility, the "**Floor Plan Facilities**") for the purpose of financing the purchase of used floor plan vehicles of a make and model acceptable to RBC, which are to be sold and held for sale by DMCL to and for third-party customers.
35. As set out in RBC's Application Record dated February 11, 2020, DMCL was required to repay the outstanding principal amount owing to RBC in respect of each advance under the Floor Plan Facilities upon the earliest of:
 - (a) 48 hours of the date of sale or other disposition of the related vehicle;
 - (b) the date of receipt of proceeds of any recoveries under insurance policies of a vehicle;
 - (c) five (5) business days of the transfer of the vehicle title or delivery of the vehicle; and
 - (d) receipt of demand for payment by RBC.
36. RBC had conducted vehicle audits in January and February 2020 which identified that DMCL was selling or otherwise disposing of vehicles and receiving corresponding payments, but was not repaying related advances under the Floor Plan Facilities to RBC (the "**Out of Trust Funds**"),

which totaled approximately \$2,720,000 as February 3, 2020. That amount increased to \$3,260,000 pursuant to an additional audit conducted by RBC on February 12, 2020 (the “**February 12 Out of Trust Funds**”).

37. The Receiver has commenced a review of the listing of 61 new and 4 used vehicles which comprise the February 12 Out of Trust Funds balance, and made inquiries to DMCL financial management in this regard. DMCL financial management has advised that operating costs were not reduced to reflect a decline in sales in December 2019 and January 2020, and funds otherwise payable to the Floor Plan Facilities were consumed for ongoing operations. The Receiver is investigating transaction and other details with DMCL financial management in respect of the February 12 Out of Trust Funds.

Independent Legal Opinion on Security Interests

38. Harrison Pensa, in its capacity as independent legal counsel to the Receiver, conducted a review of the security pledged by DMCL and 1125278 in favour of RBC (the “**RBC Security**”). Harrison Pensa’s conclusions with respect to the security are contained in a report delivered to the Receiver on March 17, 2020 (the “**Security Review**”).
39. The Security Review is limited to the laws of the Province of Ontario (“**Ontario Law**”) and the federal laws of Canada applicable therein.
40. Subject to standard assumptions and qualifications set forth in the Security Review, the Security Review concludes that, among other things:
- (a) the RBC Security creates, under Ontario Law, a valid security interest in favour of RBC in the property described in the RBC Security (which includes all of the property, assets and undertakings, and interest in the property of DMCL and 1125278) and subject to such security interest to which the *Personal Property Security Act* (Ontario) (the “**PPSA**”) applies; and
 - (b) the security interests created by the RBC Security in the personal property described in the RBC Security to which the PPSA applies have been perfected by registration under the provisions of the PPSA.
41. Other than registrations by RBC, the only other registrations under the PPSA are registrations relating to specific assets by:

- (a) CWB National Leasing Inc. (“**CWB**”) in respect of specific key cutting equipment. The Receiver’s counsel has reviewed this security and confirmed it valid in favour of CWB, and the Receiver has since contacted CWB to arrange for the pick-up of that equipment;
- (b) Pattison Sign Group (“**Pattison**”) in respect of certain signage affixed to the Premises. The Receiver’s counsel has reviewed the Pattison agreement, has confirmed it enforceable, and has communicated with the New Landlord and its counsel in connection with Pattison’s request for the dismantling and removal of that signage; and
- (c) In addition to its general registrations, RBC did cause to be registered VIN specific registrations against all New Inventory and Used Inventory.

Employee Source Deductions

- 42. DMCL had administered payroll using WinLedge, a third-party payroll service provider.
- 43. Based on the Receiver’s review of DMCL’s financial records, DMCL had remitted source deductions up to February 1, 2020.
- 44. The Receiver retained DMCL’s former payroll accountant to complete final T4 for employees and the filing of T4 summaries for the 2019 tax year and the 2020 stub-period to the date of the Appointment Order. The Receiver has made numerous requests to CRA to perform a payroll audit which has yet to be scheduled. Based on information available to the Receiver at this time and subject to a CRA payroll examination, the Receiver is not aware of any potential deemed trust amounts in respect of unremitted source deductions.
- 45. The Receiver has established a separate DMCL branch payroll account in respect of employees temporarily retained for the receivership. The Receiver has been remitting post-receivership payroll source deductions directly to CRA.

WEPPA and BIA Section 81.4 Priority Claims

- 46. DMCL last remitted payroll on February 6, 2020 in respect of the payroll period-ended February 1, 2020. Accordingly, employees did not receive payroll for the period February 2 to 12, 2020.
- 47. As set out earlier in this Report, the Receiver had expedited the performance of WEPPA obligations and mailing of WEPPA packages to eligible employees. The Receiver has since communicated with Service Canada and responded to employee inquiries.

48. The Receiver's submission to Service Canada set out a total amount of \$268,101 payable to the former employees of DMCL under WEPPA, of which approximately \$93,277 may be subject to a limited super priority pursuant to Section 81.4 of the BIA.

Harmonised Sales Tax ("HST")

49. DMCL and 1125278 had last filed and paid HST for the reporting period-ended December 31, 2019.
50. The Receiver has retained DMCL's former Controller to update the books of account and to file DMCL and 1125278's HST returns for the month of January 2020 and the February 2020 stub-period return to the date of the Appointment Order. Those returns covering the reporting period of January 1, 2020 to February 12, 2020 set out total HST owing in the amounts of \$26,295 for DMCL and \$5,522 for 1125278, but have yet to be assessed by CRA.
51. The Receiver has made numerous requests to CRA to perform an audit of the HST accounts of DMCL and 1125278's in order to assess the amount of pre-receivership HST liabilities. CRA has yet to confirm or schedule HST audits as at the date of this Report.
52. The Receiver has established receivership branch HST accounts for DMCL and 1125278, and will be filing HST returns for the post-receivership periods as they become due.

Accounts Payable

53. As at January 31, 2020, the Debtors' records reported approximately \$276,000 of total accounts payable .

CASH ON HAND

54. The Debtors held bank accounts and operating lines of credit with RBC, and two bank accounts with Toronto-Dominion Bank ("TD") with respect to DMCL's credit card terminals.
55. DMCL also held a trust account pursuant to the *Motor Vehicle Dealer Act* (Ontario) (the "**MVDA Trust Account**") which was held at RBC.

56. There were \$275,491 and US \$19,727 in the DMCL bank accounts held at TD. The Receiver has transferred those amounts to its receivership trust account, and made arrangements with TD for the transfer of residual deposits.
57. Debtor funds held in the RBC bank accounts as at the date of the Appointment Order were cash swept by RBC. The Receiver requested all DMCL and 1125278 bank accounts at RBC be frozen and designated as deposit-only to allow for continued deposits and collections during the Receivership administration. RBC has since delivered a total sum of \$220,505 to the Receiver's trust account in respect of post-receivership collections.
58. RBC has delivered to the Receiver the full balance of \$38,285 held in the MVDA Trust Account without any deduction.

ACCOUNTS RECEIVABLES

Overview

59. The Receiver examined the accounts receivable (“A/R”) of DMCL and made inquiries with DMCL financial management, particularly with respect to aged amounts and also in connection with related party receivables.
60. The Receiver has issued A/R demand letters to third party customers and continues to follow up on outstanding payments.
61. The Receiver also issued A/R demand letters to entities related to Richard, including 2010197 (approximately \$79,000), Somerset Automotive (approximately \$699,000), Somerset Fort Myers (approximately \$65,000), and advised that transactions with these entities remained subject to future review by the Receiver.

LOANS AND ADDITIONAL AMOUNTS OWING FROM RELATED PARTIES

62. The books and records of DMCL set out additional amounts owing from related parties, including but not limited to, 1056883, Somerset Equestrian, and a principal of DMCL. The Receiver has conducted a preliminary review of those amounts and continues to seek additional details from DMCL financial management and Richard. The Receiver intends to issue formal demand letters to those parties.

INVENTORY

Overview

63. The Receiver, with assistance of RBC’s Automotive Group and former DMCL staff, performed the following:
- (a) an inventory count at the Premises to identify new vehicles (“**New Inventory**”) and used vehicles (“**Used Inventory**”, and collectively with New Inventory, the “**Car Inventory**”) owned by DMCL, and vehicles owned by third parties;
 - (b) compiled mileage data in respect of the Car Inventory;
 - (c) inventoried and secured vehicle keys for the Car Inventory, and obtained replacements for missing keys in respect of certain Used Inventory;
 - (d) reviewed and secured ownership documentation for the Car Inventory; and
 - (e) identified vehicle manuals and limited production option accessories (“**LPO Accessories**”) for New Inventory.
64. There are 89 New Inventory and 148 Used Inventory vehicles which the Receiver intends to liquidate, with book values of approximately \$4,280,000 and \$2,030,000, respectively, as at February 12, 2020 before adjustments and applicable taxes.

New Inventory

65. The New Inventory consists of new and “demo” Chevrolet, GMC, Buick vehicles for the following model years:

Model Year	Number of Vehicles
2020	52
2019	25
2018	11
2017	1
Total	89

66. As described later in this Report, the Receiver has entered into a sale agreement with GM with respect to 49 model year 2020 vehicles, which represents substantially all “non-demo” model 2020

new vehicles. Moreover, the Receiver has issued a detailed listing of all New Inventory to 61 GM dealers to date. The Receiver intends to realize on the remaining model year 2020, 2019, 2018 and 2017 new and demo vehicles by way of sales to GM dealers.

Refund of Undelivered New Vehicles

67. The Receiver undertook a reconciliation of the New Inventory and confirmed that four (4) vehicles totaling \$270,302 had been charged against the Floorplan prior to the date of the Appointment Order but were never delivered to DMCL.
68. GM confirmed that DMCL had placed orders for those vehicles and subsequently confirmed that those vehicles were not located at the Premises. GM has since refunded those vehicles to the Floorplan.

Used Inventory

69. The Receiver has worked with former DMCL staff to prepare a Used Inventory listing in order to prepare those vehicles for marketing and sale.
70. The Used Inventory consists of 148 GM and non-GM branded pre-owned vehicles as summarized in the table below:

Model Year	Number of Used Vehicles
2019	1
2018	7
2017	11
2016	13
2015	12
2014	10
2013	3
2012	8
2011	3
2010 and older	80
Total	148

71. Of the 148 vehicles, 146 are owned by DMCL and 2 are owned by 1125278. As described later in this Report, Richard has offered to purchase six (6) of the 148 used vehicles from the Receiver.
72. The Receiver has reviewed third-party values using Canadian Black Book in respect of Used Inventory. Certain vehicles, such as rare luxury vehicles, required supplemental sources of valuation. Older model year vehicles, including certain vehicles which may be assessed as scrap value, were not found in Canadian Black Book and were assigned an alternate value based on discussions with former DMCL staff.
73. The Receiver intends to market the Used Inventory to the same population of GM dealers as well as dealers in the immediate vicinity and other interested parties who have contacted the Receiver to date. In the event that the Receiver is unable to enter find a suitable buyer or buyers for the Used Inventory in a timely manner, the Receiver will be seeking to liquidate the Used Inventory at auction.

Parts Inventory

74. The books and records of DMCL set out a net book value for parts inventory totaling approximately \$759,000.
75. The Receiver continues to work with GM and former DMCL staff on an appropriate realization strategy for the parts inventory.

FIXED ASSETS

76. The fixed assets of the business primarily consist of aged service equipment, computer equipment, and office furniture with an aggregate net book value of approximately \$672,000 at the date of the Appointment Order.
77. The Receiver has obtained inquiries from interested parties in respect of these assets, and will make commercially reasonable efforts to realize on those assets prior to vacating the Premises.

SETTLEMENT WITH THE FORMER LANDLORD

78. As set out earlier in this Report, the Former Landlord completed the sale transaction of the Premises (the “**Premises Sale Transaction**”) to the New Landlord on March 5, 2020. The Receiver understands from the Former Landlord that the parties had previously attempted to consummate a

sale of the Premises in 2012, and that the principals of DMCL and the Former Landlord were engaged in litigation for a number of years.

79. Further to paragraph 15 above, to facilitate the Premises Sale Transaction, the Former Landlord had negotiated the early termination of the Premises Lease by June 30, 2020 pursuant to certain agreements with DMCL. Consequently, the Former Landlord agreed to pay DMCL an early termination fee of \$1,579,075 (the “**Lease Termination Fee**”) from the closing proceeds of the Premises Sale Transaction, subject to DMCL’s ongoing compliance with the obligations under the Premises Lease, including payment of rent, insurance, utilities, and property taxes.
80. DMCL subsequently requested a partial advance of \$1,000,000 in respect of the Lease Termination Fee to address certain liquidity issues of DMCL. The Former Landlord agreed to that request and remitted \$1,000,000 to DMCL on October 15, 2019. The books of DMCL appear that a further entry reducing A/R owing from Somerset Automotive by \$1,000,000, effectively understating the total balance payable by Somerset Automotive. The Receiver has made inquiries to DMCL financial management in respect of the timing and flow of such funds, and is assessing additional actions with respect to potentially an additional \$1.0 million owing from Somerset Automotive to the receivership estate.
81. Accordingly, the balance of the Lease Termination Fee outstanding at the date of the Appointment Order totals \$579,075 before adjustments for unpaid rent, property taxes and utilities for the duration of the lease term ending June 30, 2020.
82. The Receiver has confirmed with the Former Landlord and New Landlord that payments under the Premises Lease are to be administered and paid through the Former Landlord after the closing of the Premises Sale Transaction and to June 30, 2020.
83. The Receiver examined the Former Landlord’s calculation of unpaid amounts under the Premises Lease, and negotiated the earlier release of funds with the Former Landlord and a limited period of upfront setoffs unpaid rent and property taxes to the date of the Appointment Order plus rent and property taxes for March and April, 2020. On March 18, 2020, the Former Landlord delivered approximately \$444,000 to the Receiver’s trust account in satisfaction of the Lease Termination Fee.

CUSTOMER MATTERS

Customer Deposits

84. The Receiver worked with DMCL financial management to reconcile DMCL's listing of customer deposits which had not been properly reconciled in several years, and identified 58 customers with deposits totaling \$194,212 (the "**Customer Deposits**"). The Customer Deposits were primarily in connection with the purchase of future new vehicles, and there were two significant deposits: (i) \$78,000 for a GMC Yukon, and (ii) \$25,000 in respect of a future Corvette purchase.
85. DMCL did not fully and satisfactorily segregate the Customer Deposits in a separate trust account.
86. Following a careful analysis and reconciliation of the Customer Deposits, the Receiver and its counsel deemed the Customer Deposits to represent unsecured claims of the receivership estate.
87. The Receiver communicated with OMVIC in respect of the Customer Deposits, and has provided OMVIC with a list of affected customers.
88. The Receiver also apprised and held independent consultations with Richard, and GM in respect of the Customer Deposits.
89. The Receiver's counsel had prepared a letter to affected customers advising them of their status as unsecured creditors and also set out provisions of the MVDA and included a link to the OMVIC Compensation Fund (each a "**Customer Deposit Letter**"). A draft of a Customer Deposit Letter was shared with GM in advance for GM comment prior to issuance to affected customers. Consequently, the Receiver's counsel amended 57 of the Customer Deposit Letters to include GM contact information as instructed by GM. The Receiver understands that GM is dealing directly with these 57 customers.
90. As set out earlier in this report, the Receiver is in possession of available funds held in the MVDA Trust Account of \$38,285 as at the date of the Appointment Order. The Receiver will undertake a review of this account and report further to the Court in due course.

Consignment Customers

91. The records of DMCL set out 21 parties which had entered into consignment agreements with DMCL as agent for Dealerwerx in connection with the sale of their vehicles. Six (6) consignment

vehicles (the “**Onsite Consignment Vehicles**”) were located at the Premises and were in the possession of DMCL.

92. The Receiver notified 21 parties of the termination of their consignment agreements with DMCL, and made arrangements for the release of the Onsite Consignment Vehicles to their respective owners.

GM Customer and GM Owned Vehicles

93. As at the date of the Appointment Order, there were eight (8) GM fleet customer vehicles (the “**GM Fleet Vehicles**”) originally intended for pick-up at DMCL and four (4) vehicles owned by GM (the “**GM Owned Vehicles**”) which were located at the Premises.
94. The Receiver’s legal counsel examined the ownership documentation and VINs of the GM Fleet Vehicles and the GM Owned Vehicles and confirmed those assets did not constitute receivership property. GM has since removed the GM Fleet Vehicles and is making arrangements to deliver the GM Owned Vehicles to other GM dealerships.

Additional Customer Matters

95. DMCL had historically offered seasonal tire storage to its customers for a fee. DMCL outsourced storage to an off-site storage provider, which was a creditor of DMCL as at the date of the Appointment Order, and has been in correspondence with the Receiver in this regard. GM has requested a list of affected customers and is seeking potential solutions for the benefit of those customers. The Receiver understands that certain tires located at the dealership may also belong to DMCL customers, and will be reviewing practicable options in this regard
96. A third-party car rental service provider (the “**Car Rental Company**”) had an account with DMCL to provide DMCL customers with rental vehicles during periods that their vehicles were being serviced by DMCL. According to the Car Rental Company, customers are ultimately responsible for payment in the event of default by DMCL. The Car Rental Company has advised that it will consider enforcement actions against the affected customers if DMCL’s account has not been settled. The Receiver has notified the Car Rental Company that any claim it may have against DMCL is unsecured and that the Receiver anticipates there will be a substantial shortfall to RBC resulting in no funds being available to satisfy unsecured claims.

97. Following a review of the books and records of DMCL, there are certain customers with outstanding liens for amounts which were paid to DMCL and not delivered to the respective financing company. The Receiver continues to investigate this matter and will be writing to affected parties.
98. The Receiver has facilitated the release of a new vehicle purchased by a third-party prior to the Receivership.

THE PROPOSED GM TRANSACTION

Events Leading to the GM Transaction for Eligible Model 2020 New Inventory

99. The Receiver has maintain ongoing and open communications with representatives of GM management since the outset of the receivership to address numerous customer issues, vehicle reconciliations, and realization strategies for DMCL's New Inventory and parts inventory.
100. Due to the depreciating nature of vehicles and the inherent significant security and occupancy costs, time was of the essence. The Receiver took steps to immediately compile New Inventory listings with a view to negotiating a repurchase by GM of new vehicles and parts inventory pursuant to the terms of the Dealership Agreement.
101. The Receiver and GM entered into protracted negotiations with respect to a repurchase arrangement. During these negotiations, GM informed the Receiver that GM had conducted a review of DMCL's account with GM and had identified that DMCL was not compliant with a GM sponsored location-based program which involved the advancement of monies from GM to DMCL in prior years. Consequently, GM advised that it was entitled to a significant refund from DMCL, including applicable penalties, which exceeded the value of eligible vehicles for repurchase, and GM suspended any further processing of rebates payable to DMCL. In addition, the terms of the Dealership Agreement contemplated a significant delay in the timing of payments by GM in two tranches by a magnitude of months, and was subject to additional inspections which introduced uncertainty to any possible sale transaction.
102. GM subsequently advised that it was amenable to the repurchase of model 2020 New Inventory only, and subject to strict criteria such as minimal mileage, LPO Accessories, keys, owners manuals and no damage. Moreover, GM agreed to the timely remittance of purchase proceeds without delay.

103. With respect to parts inventory and remaining New Inventory which are not subject to the APA, GM has offered suggestions and cooperation to facilitate the marketing and realization of those assets to fellow GM dealers.
104. The Receiver has since facilitated two site attendances by GM to inspect the New Inventory, mileage, condition, LPO Accessories and other pertinent criteria for a repurchase.
105. The Receiver and GM also negotiated a mutually acceptable list of 49 eligible model 2020 vehicles and terms of an agreement, including full invoice value plus applicable taxes.
106. The parties mutually agreed to exclude one (1) eligible model year 2020 vehicle from the GM APA due to HST difference which could be maximized by way of a sale to GM dealer. Two (2) model 2020 demos were also excluded from the GM APA since they exceeded the permitted mileage criteria to be eligible for a repurchase by GM. These three (3) vehicles will be marketed with the remaining New Inventory.
107. A redacted copy the GM APA is attached hereto as **Appendix “B”**, and the unredacted copy is attached as **Confidential Appendix “B”** to the Confidential Supplement. The Confidential Supplement includes the Purchase Price under the GM APA. In the event that the GM Transaction is not approved by this Court, or if the GM Transaction is approved but the does not close, the disclosure of the Purchase Price under the GM APA would negatively impact any future sale process for the assets subject to the GM APA. As a result, the Receiver hereby requests that the Court seal the Confidential Supplement and that it remain under seal until the closing of the Transaction or further Order of the Court.

Terms of the GM APA

108. A summary of the non-commercially sensitive key terms of the GM APA is provided below.

Summary of the Asset Purchase Agreement	
Purchaser	<ul style="list-style-type: none">• General Motors of Canada Company
Transaction Type	<ul style="list-style-type: none">• Sale of assets• Form of Approval and Vesting Order appended to the GM APA

APA Date	<ul style="list-style-type: none">• March 17, 2020
Purchase Price	<ul style="list-style-type: none">• Confidential
Purchase Price Adjustments and Funding	<ul style="list-style-type: none">• Adjustments for any specific vehicle not deemed eligible following a final pre-closing inspection• Due to complex GM system restrictions, GM is unable to process a repurchase by way of payment directly to the Receiver. GM will process a transfer of funds to the existing RBC floor plan account. The Receiver is seeking Court approval for a distribution to RBC of these monies.• The GM system payment will be enhanced by rebates totaling \$24,443 which will need to be returned by the Receiver to GM following closing.
Deposit Received	<ul style="list-style-type: none">• None
Outside Closing Date	<ul style="list-style-type: none">• May 15, 2020
Purchased Assets	<ul style="list-style-type: none">• 49 model 2020 new vehicles as detailed in Schedule "A" to the GM APA, together with applicable accessories and vehicle documentation
Delivery	<ul style="list-style-type: none">• GM or an authorized GM new car dealer will take possession of the purchased vehicles within 5 days after the closing date, at the cost and expense of GM
Additional Terms	<ul style="list-style-type: none">• Termination of the Dealership Agreement following the completion of the transaction pursuant to the GM APA (the "GM Transaction")• GM will continue to provide reasonable access to the necessary GM systems to the Receiver to permit the Receiver to administer the estate after termination until the receivership is discharged or the Receiver provides notice that access is no longer needed
Conditions to Closing	<ul style="list-style-type: none">• Approval and Vesting Order issued by the Court• GM's funding of the purchase price• Filing of the Receiver's Certificate in the form substantially similar to the Approval and Vesting Order

The Receiver's Observations

109. The Receiver makes the following observations with respect to the Transaction for consideration by the Court:

- (a) the Receiver has conducted a detailed reconciliation and commercially reasonable assessment of the New Inventory;

- (b) the Receiver considered the benefits of an *en bloc* offer for substantially all of the model 2020 year vehicles at full GM dealer invoice value;
- (c) GM's undertaking to remove the vehicles at its own expense is commercially advantageous to the receivership estate and reduces administration;
- (d) significant security and occupancy costs can be mitigated by the timely realization of a commercially reasonable transaction which can be completed without delay;
- (e) the Receiver has appropriately consulted with and sought input from the stakeholders in connection with the Transaction, including RBC and Richard;
- (f) no party is objecting to the conclusion of the Transaction;
- (g) GM represents a purchaser with a strong financial covenant with the ability to promptly deliver the purchase proceeds and execute the expedited removal of the purchased assets from the Premises; and
- (h) the Receiver believes the Transaction represents commercially reasonable value; and
- (i) the GM APA represents an advantageous offer and maximizes recoveries for all stakeholders.

THE RECEIVER'S MARKETING OF THE REMAINING VEHICLES AND PARTS INVENTORY

Marketing of to GM Dealers and Select Additional Parties

- 110. The Receiver consulted with DMCL staff, and representatives of GM and RBC's automotive group in respect of a strategic list of prospective GM dealers.
- 111. On February 28, 2020, the Receiver issued a detailed listing of all New Inventory to GM dealers in Ontario and select GM dealers in Quebec.
- 112. The Receiver will be updating fellow GM dealers to provide the following:
 - (a) an updated list of remaining model year 2020, 2019, 2018 and 2017 new and demo vehicles which removes vehicles repurchased by GM;
 - (b) copies of purchase invoices in respect of the remaining New Inventory;
 - (c) a copy of the Receiver's form of Bill of Sale and accompanying schedule; and

- (d) information in respect of site inspections.
113. The Receiver intends to market the Used Inventory and certain fixed assets to the same population of GM dealers plus dealers in the immediate vicinity and other interested parties who have contacted the Receiver to date.
114. Parts inventory will also be primarily marketed to GM dealers due to the nature of those products.

Proposed Disposition Plan

115. The Receiver is seeking an Order approving a proposed disposition plan in order to efficiently administer the remaining vehicles, parts and other assets of the receivership estate, which includes:
- (a) prospectively authorizing the Receiver to accept an offer or offers to purchase, either by private sale or auction, any or all of the unsold vehicles, parts inventory, fixed assets and equipment of the Debtor (“**Unsold Units**”) provided that the sale price for each Unsold Unit to which such offer(s) relates is acceptable to the Receiver having regard to the value for such Unsold Unit(s) and prior sales of similar units and with consideration to the current market conditions and all other terms of the offer(s) are, in the Receiver’s sole opinion, in the best interest of the stakeholders of the Debtors;
 - (b) prospectively authorizing the execution of an agreement of purchase and sale or bill of sale in respect of each Unsold Unit by the Receiver, as vendor, and the purchase of each Unsold Unit (each purchaser hereinafter referred to as the “**Purchaser**”) substantially in the form provided by the Receiver, together with any amendments or modifications thereto deemed necessary by the Receiver (each agreement hereinafter referred to as an “**Unsold Unit Sale Agreement**”);
 - (c) prospectively approving the sale transactions (each such transaction a “**Transaction**” and together, the “**Transactions**”) in respect of the Unsold Units; and
 - (d) providing that, upon delivery by the Receiver to the Purchaser of the Receiver’s form of Receiver’s Certificate substantially (the “**Receiver’s Certificate**”), all of the Debtors’ right, title and interest in and to the Unsold Unit(s) described in each applicable Unsold Unit Sale Agreement (the “**Purchased Assets**”) will vest in and to the applicable Purchaser, free and clear of any and all claims and encumbrances;
116. The Receiver is of the view that the nature and value of the remaining assets, including the potential for numerous individual transactions, can be administered in a standardized manner and without

requiring additional Court attendances. The Receiver is also seeking to expedite, to the extent possible in the circumstances, the sale of remaining assets to minimize significant overhead and occupancy costs with respect to the Premises.

117. In the event that the Receiver is unable to enter find a suitable buyer or buyers for the remaining inventory in a timely manner, the Receiver will be seeking to market the vehicles to the general public and consider a liquidation by way of auction.

2010197 Purchase and Settlement Offer re Used Vehicles

118. As set out earlier in this Report, the Receiver has issued a demand letter to 2010197 in respect of seven (7) vehicles which 2010197 had purchased from DMCL for approximately \$79,000.
119. Richard also submitted an offer for the Receiver's consideration in respect of six (6) used vehicles which were in the possession of the Chamberlin family as at the date of the Appointment Order.
120. The Receiver has since examined DMCL's books of accounts to assess the commercial reasonableness of those transactions and offer amounts, and has provided Richard with its findings. The Receiver and Richard have agreed to revised amounts and are seeking to agree on a form of bill of sale as at the date of this Report.
121. In addition, the Receiver has communicated with Richard in respect of a potential sale to Richard of a New Inventory model 2018 vehicle which the Receiver understands is located at Richard's residential property in Florida.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

122. Attached as **Appendix "C"** is a cumulative Statement of Receipts and Disbursements for the period February 12, 2020 to March 16, 2020, together. As at March 16, 2020, the closing cash balance was approximately \$531,867, which includes \$38,285 in respect of DMCL's MVDA Trust Account.

PROPOSED DISTRIBUTION FOR REPAYMENT OF RBC INDEBTEDNESS AND SUBSEQUENT DISCTRIBUTIONS

123. As set out earlier in this Report, the Receiver has obtained an independent legal opinion confirming the validity and enforceability of RBC's security.

124. It is the Receiver's opinion that the estimated recovery from the assets and undertakings of DMCL and 1125278 will not be sufficient to retire the estimated amount of the RBC Indebtedness and potential priority claims with the result that there will be no recovery available to the unsecured creditors of the receivership estates of DMCL and 1125278.
125. The Receiver is aware of the following potential priority claims:
 - (a) \$93,277 in respect of BIA Section 81.4 of the BIA as calculated by the Receiver as part of its WEPPA submission to Service Canada;
 - (b) \$26,295 for DMCL and \$5,522 for 1125278 in respect of unpaid HST for the pre-receivership period. The Receiver is not aware of any unremitted employee source deductions. The Receiver has made requests to CRA for audits of the Debtors' HST and payroll tax accounts, but such audits have yet to be scheduled.
126. At this time, the Receiver is seeking Court approval of an initial distribution of available funds plus anticipated funds from the closing of the GM Transaction.
127. In order to minimize the costs associated with obtaining approval by the Court of further distributions of available funds to RBC, the Receiver is also seeking Court approval for future distributions from available funds to RBC as they become available in the Receiver's opinion up to the full amount of the RBC Indebtedness without further order of this Court.
128. As set out earlier in this Report, GM system restrictions prevent the direct payment of any repurchase directly to the Receiver, and can only flow through the existing floor plan account. The Receiver has been advised by RBC that the floor plan account system has similar limitations and cannot redirect the funds out of the floor plan account. However, RBC has advised the Receiver that it will support the increase of the Receiver's borrowings to allow the Receiver to fulfil receivership obligations and potential priority claims which may have priority to RBC. Section 22 of the Appointment Order authorizes the Receiver to borrow up to \$125,000. RBC has confirmed that it supports the increase of this limit to \$750,000 and will fund this amount as necessary to settle known priority payables, plus accrued and future receivership liabilities, payroll and contract labour costs, occupancy costs, security costs and other protective disbursements, taxes, and professional fees, and contingencies in the circumstances.

RECEIVER'S RECOMMENDATIONS

129. For the reasons set out above, the Receiver recommends that the Court make an Order:

- (a) approving the activities of the Receiver, including steps taken in dealing with the Property, as described in this Report;
- (b) approving the GM Transaction to be effected through the GM APA, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, for the sale of the GM Repurchased Vehicles, and vesting the Company's right, title and interest in the GM Repurchased Vehicles in GM and authorizing and directing the Receiver to carry out the terms of the GM APA;
- (c) temporarily sealing the Confidential Supplement, together with the confidential appendices thereto, filed with this Court from the public record until the closing of the GM Transaction or further order of the Court;
- (d) prospectively authorizing and approving the Receiver to execute sale agreements for the remaining assets of the Debtors, primarily consisting of vehicles, parts inventory, and fixed assets, and to vest title free and clear in respect of such assets;
- (e) approving a distribution of available surplus proceeds to RBC, the Debtors' senior secured lender, as described herein, and authorizing the Receiver to make additional distributions to RBC in such amounts as the Receiver deems appropriate in partial repayment of the RBC indebtedness;
- (f) approving an increase in the Receiver's borrowing limit from \$125,000 to \$750,000; and
- (g) approving the Receiver's Statement of Receipts and Disbursements for the period February 12, 2020 to March 16, 2020.

All of which is respectfully submitted at Toronto, Ontario this 19th day of March, 2020.

DELOITTE RESTRUCTURING INC.,

solely in its capacity as the
Court-appointed Receiver of
Dean Myers Chevrolet Limited and
1125278 Ontario Limited, and
without personal or corporate liability

Per:



Paul M. Casey, CPA, CA, FCIRP, LIT
Senior Vice-President



Stefano Damiani, CPA, CA, CIRP, LIT
Vice-President

ROYAL BANK OF CANADA

-and- DEAN MYERS CHEVROLET LIMITED and 1125278 ONTARIO LIMITED

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**FIRST REPORT OF THE RECEIVER, DELOITTE
RESTRUCTURING INC.**

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