

Deloitte.

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COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

COM
May 9 2022

PLAINTIFF

INNOVATION CREDIT UNION AND CONCENTRA BANK

DEFENDANTS

1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD., PHILIP KRAHN, AND BRIAN OSTRANDER

DOCUMENT

**THIRD AND FINAL REPORT OF THE COURT
APPOINTED RECEIVER OF 1764239 ALBERTA LTD.**

DATED MAY 2, 2022

PREPARED BY DELOITTE RESTRUCTURING INC.

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

Counsel

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File No.: 1216217

Receiver

Deloitte Restructuring Inc.
700, 850 - 2nd Street SW
Calgary, AB T2P 0R8

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Introduction and background

1. On the 22nd day of July, 2020 (the "**Date of Receivership**"), Deloitte Restructuring Inc. ("**Deloitte**"), was appointed (the "**Receivership Order**") by the Court of Queen's Bench of Alberta (the "**Court**") as receiver and manager (the "**Receiver**") of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate (the "**Property**") of 1764239 Alberta Ltd. ("**176**" or the "**Debtor**") operating as the HomeStay Inn & Suites (the "**HomeStay Inn**"), including all proceeds thereof.
2. 176 is a private corporation incorporated in the province of Alberta on August 2, 2013, and is owned by Ostrander Family Holdings Ltd. ("**OFH**") (70%), Judy Harwood ("**Ms. Harwood**") (20%), and Doris Reimer (10%). HomeStay Inn was a 65-room full-service hotel located at 954 7th Street SW, Medicine Hat, Alberta.
3. As at the Date of Receivership, Deloitte retained seventeen (17) employees; three (3) salaried employees and fourteen (14) part-time staff.
4. HomeStay Inn's primary secured lenders are Innovation Credit Union and Concentra Financial Services Association (collectively "**Innovation**") which were owed approximately \$7.3 million from 176 (the "**Innovation Indebtedness**") at the Date of Receivership. Innovation holds security over all of 176's present and after acquired personal property (the "**Innovation Security**").
5. On October 4, 2017, Innovation sent a letter to 176 providing notice that it was in default of its obligations pursuant to various loan agreements, as amended, demanding repayment of the loans advanced thereunder, and issuing a notice of intention to enforce security (the "**Demand Letter**") pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"). Subsequently, Innovation provided 176 various opportunities to rectify the outstanding deficiencies on its loans, which 176 was ultimately unable to accomplish.
6. On March 11, 2020, Innovation and 176 entered into a forbearance agreement (the "**Forbearance Agreement**"). As 176 was in default of the Forbearance Agreement and the terms of the Forbearance Agreement had expired due to the effluxion of time, Innovation filed and served an application for the appointment of a Receiver over 176 on July 14, 2020, and Deloitte was appointed Receiver on July 22, 2020.
7. On November 2, 2020, the First Report of the Receiver (the "**First Report**") was filed in support of the Order pronounced on November 9, 2020 (the "**November 9 Order**") which, amongst other things, approved a sale process with respect to the HomeStay Inn and authorized the Receiver to assign 176 into bankruptcy pursuant to the provisions of section 49 of the BIA.
8. On May 28, 2021, the Second Report of the Receiver (the "**Second Report**") along with the confidential supplement to the Second Report (the "**Confidential Supplement**") was filed in support of the Orders pronounced on June 10, 2020 which approved the Receiver's activities (the "**June 10 Order**") and the sale of the HomeStay Inn (the "**Sale and Vesting Order**") to Pukhraj Harjaap Alberta Ltd. (the "**Purchaser**"). A copy of the June 10 Order and Sale and Vesting Order are attached hereto as **Appendix "A"** and **Appendix "B"**, respectively.
9. On May 31, 2021, 176 was assigned into bankruptcy and Deloitte was appointed as licensed insolvency trustee of 176's estate.
10. The Receivership Order, together with related Court documents, the Notice to Creditors, the First Report, Second Report, this third and final report (the "**Third Report**"), and the Notice of Bankruptcy/First Meeting of Creditors have been posted on the Receiver's website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/Ostrander-Hotels>.
11. Unless otherwise provided, all other capitalized terms not defined in this Third Report are as defined in the First Report, Second Report, and the Receivership Order.

Purpose

12. The purpose of this Third Report is to:

- a) Provide the Court with an update of the Receiver's activities since the date of the Second Report;
- b) Respectfully recommend that this Honourable Court make orders:
 - i. Approving the activities, fees, and disbursements of the Receiver as described in this Third Report, including the payment of the estimated fees to be incurred up to the completion of the administration of the estate as set out herein and, without limitation, the steps taken by the Receiver pursuant to the Receivership Order;
 - ii. Approving the fees of the Receiver's legal counsel including the payment of the estimated fees to be incurred up to the completion of the administration of the estate, as set out herein;
 - iii. Approving the Receiver's Statement of Receipts and Disbursements for the period from July 22, 2020 to April 28, 2022 (the "SRD") attached hereto as **Appendix "C"**;
 - iv. Approving the final distribution of funds to Innovation as the senior secured creditor of 176 and to the Canada Revenue Agency ("CRA");
 - v. In the alternative, in the event of any dispute between the senior secured creditor of 176 and CRA, approving the Receiver's payment of all remaining funds (after payment of the estimated fees to be incurred up to the completion of the administration of the estate) to the Court to be held pending further Order of the Court determining entitlement to the funds;
 - vi. Approving the discharge of the Receiver and termination of these receivership proceedings upon the filing of a Receiver's Certificate confirming disbursement of all funds held and conclusion of all remaining administrative matters;
 - vii. Authorizing the Receiver to destroy 176's corporate books and records if not claimed and return courier paid for by the former directors within thirty (30) days of the Receiver's discharge; and
 - viii. Providing such further or other relief that the Court considers just and warranted in the circumstances.

Terms of reference

13. In preparing this Third Report, the Receiver has relied upon unaudited financial information prepared by the Debtors' management ("**Management**"), the Debtors' books and records, and discussions with Management. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the information.
14. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of this Third Report. Any use, which any party makes of this Third Report, or any reliance or decision to be made based on this Third Report, is the sole responsibility of such party.
15. All dollar amounts in this Third Report are in Canadian dollars, unless otherwise indicated.

Receiver's Activities since the Second Report

16. The Receiver has undertaken and performed the following activities since the Second Report:
- a) Corresponded with various creditors, employees and other interested parties with respect to the receivership proceedings;
 - b) Closed the sale of the HomeStay Inn pursuant to the Sale and Vesting Order;
 - c) Collected the Moneris withholdings of 50% of collected revenues (the "**Reserve Funds**") from the operations of the Homestay Inn;
 - d) Responded to queries from CRA regarding 176's Goods and Services Tax ("**GST**") and payroll accounts, and reconciled CRA's deemed trust claim;
 - e) Addressed post-receivership GST matters;
 - f) Prepared Records of Employment and T4 tax forms for former employees;
 - g) Assigned 176 into bankruptcy in accordance with the November 9 Order and held the first meeting of creditors of 176 on June 16, 2021;
 - h) Prepared interim statutory reports and filed same with the Office of the Superintendent of Bankruptcy ("**OSB**") in accordance with subsection 246(2) of the BIA;
 - i) Corresponded with Osler, Hoskin & Harcourt LLP ("**Osler**"), the Receiver's independent legal counsel, on various legal matters relating to the receivership;
 - j) Attended to matters of both a general and specific nature required over the course of the receivership proceedings not referred to above; and
 - k) Prepared, reviewed and finalized this Third Report.

CRA Claim and Proposed Distribution

17. The Receiver has confirmed with CRA that, as at the Date of Receivership, 176 was indebted to CRA for unremitted payroll source deductions totalling approximately \$527,000 (the "**Deemed Trust**"). Based on information and documentation available to the Receiver, 176's initial failure to remit payroll source deductions occurred in 2016 in the amount of approximately \$39,000, and the remaining \$488,000 of unremitted source deductions amassed between 2017 and 2019.
18. The Receiver and Osler have reviewed the validity and priority of CRA's submitted Deemed Trust claim and the Receiver notes the following with respect to same:
- a) A mortgage in favour of Innovation was granted in the initial principal amount of \$4,179,000 on October 31, 2013. The mortgage was registered at Alberta Land Titles on January 16, 2014 against HomeStay Inn's real property. A mortgage amending agreement increasing the principal amount of the mortgage to \$4,679,000 was registered at Alberta Land Titles on August 15, 2014;
 - b) Second and third mortgages were granted by 176 in favour of Innovation in the respective principal amounts of \$250,000 and \$1,817,250, both of which were registered at Alberta Land Titles on February 25, 2015;
 - c) As discussed in the First Report, Osler conducted an independent review of the validity and enforceability of Innovation's security on 176's assets and, subject to normal assumptions and qualifications, determined that Innovation's security was properly registered and was valid and enforceable;

- d) Her Majesty the Queen in Right of Canada as represented by the Minister of National Revenue, registered writs of enforcement at Alberta Land Titles dated:
 - i. March 22, 2018 in the amount of \$134,971 plus costs, if any;
 - ii. April 3, 2018 in the amount of \$28,954 plus costs, if any; and
 - iii. March 16, 2020 in the amount of \$96,507 plus costs, if any;
 - e) Her Majesty the Queen in Right of Alberta as represented by the Minister of the Treasury Board and Finance, registered a writ of enforcement at Alberta Land Titles dated January 21, 2019 in the amount of \$259,335 plus costs, if any;
 - f) The Innovation Indebtedness, in addition to the mortgages, is also secured by: (a) a General Security Agreement ("**GSA**"); (b) personal guarantees given by Brian Ostrander ("**Mr. Ostrander**") and OFH, each in the amount of \$3,509,250; and (c) a personal guarantee given by Ms. Harwood in the amount of \$1,169,750 (which, as discussed further below, Innovation has advised the Receiver was settled with Ms. Harwood and the guarantee released in 2017);
 - g) Section 227(4.2) of the Income Tax Act carves out "prescribed security interests" from the scope of the deemed trust for unremitted source deductions;
 - h) Section 2201(1) of the Income Tax Regulations defines "prescribed security interests" as "that part of a mortgage securing performance of an obligation of the person, that encumbers land or a building, where the mortgage is registered pursuant to the appropriate land registration system before the time the amount [owed to CRA] is deemed to be held in trust by the person" (in this case 176);
 - i) Section 2201(2) of the Income Tax Regulations limits the prescribed security interest to the amount secured by the mortgage at the time of the failure to remit amounts to CRA, less the value of all rights of the secured creditor securing the obligations, including guarantees or rights of set-off; and
 - j) Section 2201(3) excludes from the prescribed security interest fixtures that a mortgagee or any other person has the right absolutely or conditionally to remove or dispose of separately from the land or building.
19. Based on the foregoing, the Receiver is of the view that all three (3) mortgages granted by 176 in favour of Innovation were registered on title of the HomeStay Inn prior to any remittance defaults by 176 and, as such, fall within the definition of "prescribed security interests" and are carved out from the scope of CRA's Deemed Trust claim. However, as the value of the proposed distribution is significantly less than the amount secured by even the first registered mortgage (discussed further below), only the first registered mortgage is considered and discussed further in this Third Report.
20. In order to ascertain the value of the "prescribed security interest" in accordance with section 2201(2) of the Income Tax Regulations, the Receiver and Osler reviewed the available supporting documents provided by Innovation with respect to the personal guarantees and note the following:
- a) OFH financial statements for the year ended December 31, 2014 (the "**OFH Financial Statements**") – the vast majority of OFH's assets were hotel investments held by 176 (the HomeStay Inn), 1885731 Alberta Ltd. (a hotel in Airdrie, Alberta), and a third company which held a hotel located in Swift Current, Saskatchewan (all of which were placed into receivership) (collectively the "**3 Hotels**"). Additionally, OFH also owned two (2) small residential properties located in Saskatoon, Saskatchewan (both of which were heavily mortgaged) (collectively the "**2 Residential Properties**"). Based on the OFH Financial Statements, which were subject to a review engagement in accordance with Canadian Generally Accepted Accounting Standards, the guarantees appear to have had little to no value as the OFH Financial Statements reflect a negative net equity position (i.e. liabilities exceeded the total value of the assets) in each of 2013 and 2014. In 2017, Innovation demanded repayment with respect to the 3 Hotels and issued a notice of intention to enforce security. Ultimately the 3 Hotels were sold through receivership proceedings.

- b) Statement of Affairs of Mr. Ostrander dated April 10, 2015 – similar to OFH, Mr. Ostrander’s assets primarily consisted of his investments in the 3 Hotels and 2 Residential Properties. Accordingly, for the same reasons as noted above, the personal guarantee appears to have had little to no value. In 2017, a maintenance order was registered against Mr. Ostrander for approximately \$250,000 and in 2021, Innovation obtained a judgement against him for approximately \$10 million. Innovation has advised that it has been unable to collect any amounts from Mr. Ostrander in connection with its judgement, notwithstanding its various efforts.
- c) Ms. Harwood – the Receiver has been advised by Innovation that it settled and released Ms. Harwood from her personal guarantee in 2017. While the Receiver has no information regarding the quantum of that settlement, the Receiver has not made further inquiries of Innovation in this respect since, even if the entire face value of the guarantee is deducted from the value of the mortgage, the proposed distribution to Innovation (discussed further below) still falls significantly below the resulting value of the prescribed security interest. Accordingly, for the purposes of ascertaining the value of the prescribed security interest (shown at paragraph 24 below), and for purposes of fairness towards CRA, the Receiver has used the original face value of the guarantee.
21. While the Receiver recognizes that the foregoing information does not provide a full and exhaustive picture of the likely realizable value of the guarantees as at the date of 176’s failure to remit source deductions to CRA, it is the best information available to the Receiver. The Receiver is of the view that such information is sufficient to establish that the likely value of Innovation’s prescribed security interest significantly exceeds the proposed distribution to Innovation, as discussed later in this Third Report.
22. Accordingly, it is the Receiver’s view that Innovation ranks in priority to CRA with respect to all estate funds attributable to the sale of the real property under the mortgages and, in turn, that CRA’s Deemed Trust only has priority over the estate funds attributable to fixtures/personal property included in the sale of the HomeStay Inn.
23. The purchaser of the Homestay Inn did not allocate the purchase price among land, building, and personal property (i.e. furniture and fixtures). In order to address the relative priority between Innovation and CRA, an allocation of the estate funds as between the real and personal property of the Homestay Inn must be completed.
24. It is the Receiver’s view that the most practical method of allocating the estate funds would be on a pro rata basis based on the net book value of the respective assets. The most recent financial information available to the Receiver is 176’s balance sheet prepared as at July 31, 2020. As at that date, the net book value of 176’s capital assets reflected in the balance sheet totalled \$5,855,676; \$5,238,216 (89.5%) allocated to land and buildings and \$617,460 (10.5%) allocated to furniture and fixtures. Accordingly, the Receiver proposes the distribution from the receivership be allocated approximately \$747,000 to Innovation and approximately \$88,000 to CRA as follows:

Prescribed Security Interest	Total (\$)
Registered mortgage	4,679,000
Assessed value of guarantees at the date of default	
Ostrander Family Holdings	NIL
Brian Ostrander	NIL
Judy Harwood - face value	(1,169,750)
Total Prescribed Security Interest	3,509,250

Allocation of Net Sale Proceeds	Total (\$)
Estimated estate funds available for distribution	834,833
Distribution to Innovation (<i>Real property allocation</i>)	89.5% (747,176)
CRA Deemed Trust (<i>Furniture and fixtures allocation</i>)	10.5% (87,658)
100%	-

Fees and disbursements of the Receiver

25. The Receiver's professional fees are calculated based on hours spent at rates established by each professional based on their qualifications and experience.
26. The Receiver's fees and disbursements in relation to the administration of the Receivership up to and including May 2, 2022 total approximately \$253,000 (excluding GST). This total comprises four (4) interim invoices for Receiver's fees and disbursements from July 22, 2020 to April 25, 2022 totalling approximately \$237,000, unbilled work-in-progress to May 2, 2022 of approximately \$8,000, and estimated costs to complete these receivership proceedings of \$7,500 (excluding GST) on the basis that all relief sought in this Third Report is granted by this Honourable Court.
27. In the Receiver's opinion, the services rendered in respect of these fees and disbursements have been duly rendered in response to required and necessary duties of the Receiver hereunder and are reasonable in the circumstances. A summary of the invoices is attached as **Appendix "D"**. Detailed time records supporting the invoices are available in the office of the Receiver.

Fees and disbursements of legal counsel

28. The Receiver's legal counsel's cumulative fees and disbursements on this matter total approximately \$46,000 (excluding GST) to April 28, 2022 with estimated costs to complete these receivership proceedings of \$5,000 (excluding GST) on the basis that all relief sought in this Third Report is granted by this Honourable Court. The accounts of the Receiver's legal counsel are calculated based on hours spent at rates established by each professional based on their qualifications and experience. The Receiver is of the opinion that legal counsel's fees are reasonable and appropriate in the circumstances. A summary of the invoices is attached as **Appendix "E"**. Detailed time records supporting the invoices are available in Osler's offices.

Final Statement of Receipts and Disbursements

29. The Final Statement of Receipts and Disbursements reflecting the administration of the receivership for the period July 22, 2020 to April 28, 2022, attached hereto as **Appendix "C"**, is summarized below:

	Total (\$)
Receipts	3,455,631
Disbursements	<u>(2,562,205)</u>
Estate balance as at April 28, 2022	<u>893,426</u>

30. Total receipts were approximately \$3,456,000 and total disbursements were approximately \$2,562,000. It is anticipated that a final distribution in the amount of approximately \$747,000 will be made to Innovation and \$88,000 to CRA.
31. There are two (2) stale dated cheques totalling \$125 payable to two (2) former employees which the Receiver has been unable to locate. These cheques were originally issued on September 28, 2021. The Receiver proposes to include these funds in the distribution to Innovation as all options to locate these individuals have been exhausted.

Remaining Activities and Discharge of Receiver

32. The Receiver has concluded the majority of its administration of the receivership. The remaining tasks to conclude the receivership proceedings are as follows:
- a) Settle any remaining estate liabilities and payment of professional fees in the discretion of the Receiver;
 - b) Prepare a final statutory report and file same with the OSB in accordance with subsection 246(3) of the BIA; and
 - c) Close the Receiver's trust accounts.
33. Other than the matters addressed in this Third Report, the Receiver has completed its administration of the estate in accordance with the terms of the Receivership Order and the various other orders rendered by the Court in the course of this proceeding. The Receiver is not aware of its services being required for any further purpose other than as set out herein.
34. Accordingly, the Receiver is seeking its discharge which will be effective upon the filing of a Receiver's Certificate certifying completion of the remaining tasks outlined in paragraph 32 above.

Conclusions and Recommendations

35. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the relief detailed in paragraph 12 b) of this Third Report, and such further and other relief as this Honourable Court deems appropriate in the circumstances.

* * *

All of which is respectfully submitted at Calgary, Alberta this 2nd day of May 2022.

DELOITTE RESTRUCTURING INC.,
solely in its capacity as Court-appointed Receiver
of 1764239 Alberta Ltd. (as defined herein)
and not in its personal or corporate capacity

Per:



Robert J. Taylor, FCPA, FCA, CIRP, LIT
Senior Vice-President



Ryan Adlington, CPA, CA, CIRP, LIT
Senior Vice-President

APPENDIX "A"

COURT FILE NUMBER 1801-08520
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK
DEFENDANTS 1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,
AND BRIAN OSTRANDER

ORDER

(Approval of Fees Activities, Receiver's Statement of Receipts and Disbursements)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
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DATE ON WHICH ORDER WAS PRONOUNCED: June 10, 2020

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice Jones

LOCATION OF HEARING: Calgary Courts Centre
601 – 5th Street SW
Calgary, AB

UPON THE APPLICATION OF Deloitte Restructuring Inc. (the “**Receiver**”), in its capacity as receiver and manager of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate of 1764239 Alberta Ltd. (the “**Debtor**”); **AND UPON** having read the Receivership Order granted by the Honourable Madam Justice Campbell on July 22, 2020 (the “**Receivership Order**”), the Second Report of the Receiver, dated May 31, 2021, including the Confidential Supplement thereto (the “**Second Report**”) and the Affidavit of Service of Elena Pratt, sworn June 10, 2021; **AND UPON** hearing from counsel for

the Receiver and any other interested party; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The Receiver's accounts and the accounts of its independent counsel, Osler, Hoskin & Harcourt LLP, as set out in the Second Report, are hereby approved.
2. The Receiver's Statement of Receipts and Disbursements, as set out in the Second Report, is hereby approved.
3. The actions, conduct and activities of the Receiver, as reported in the Second Report are hereby approved.
4. The Receiver shall serve by courier, fax transmission, email transmission or ordinary post, a copy of this Order on all parties present at this Application and on all parties who are presently on the service list established in these proceedings and such service shall be deemed good and sufficient for all purposes.



J.C.Q.B.A.

APPENDIX "B"

COURT FILE NUMBER 1801-08520
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK
DEFENDANTS 1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,
AND BRIAN OSTRANDER

APPROVAL AND VESTING ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
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Email: rvandemosselaer@osler.com / epaplawski@osler.com

DATE ON WHICH ORDER WAS PRONOUNCED: June 10, 2020

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice Jones

LOCATION OF HEARING: Calgary Courts Centre
601 – 5th Street SW
Calgary, AB

UPON THE APPLICATION OF Deloitte Restructuring Inc. (the “**Receiver**”), in its capacity as receiver and manager of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate of 1764239 Alberta Ltd. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an Asset Purchase Agreement (the “**Sale Agreement**”) between the Receiver and Pukhraj Harjaap Alberta Ltd. (the “**Purchaser**”), dated May 6, 2021 and appended to the Second Report of the Receiver, dated May 31, 2021, including the Confidential Supplement thereto (the “**Second Report**”), and vesting in the Purchaser (or its nominee) the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”);

AND UPON HAVING READ the Receivership Order granted by the Honourable Madam Justice Campbell on July 22, 2020 (the “**Receivership Orders**”), the Second Report, and the Affidavit of Service of Elena Pratt, sworn June 10, 2021; **AND UPON** hearing from counsel for the Receiver, the Purchaser, and any other interested party, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Upon delivery of a Receiver’s certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule “A” hereto (the “**Receiver's Closing Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets listed in Schedule “B” hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and

whether secured, unsecured or otherwise (collectively, “**Claims**”) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders’ Lien Act* (Alberta); and
- (d) those Claims listed in Schedule “C” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule “D” (collectively, “**Permitted Encumbrances**”))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver’s Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, “**Governmental Authorities**”) are hereby authorized, requested and directed to accept delivery of such Receiver’s Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of Land Titles (“**Land Titles Registrar**”) for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
 - (i) cancel existing Certificate of Title No. 131 238 187 for those lands and premises municipally described as 954 – 7 Street SW, Medicine Hat,

Alberta, and legally described as: Plan 832LK, Block 1, Excepting Thereout All Mines and Minerals (the “**Lands**”);

- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee);
 - (iii) transfer to the New Certificate of Title the existing instruments listed in Schedule “D”, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule “D”; and
 - (iv) discharge and expunge the Encumbrances listed in Schedule “C” to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands; and
- (b) the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased

Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.

7. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.
9. Except as expressly provided for in the Sale Agreement or by section 5 of the *Alberta Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any

Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtor was entitled.

MISCELLANEOUS MATTERS

15. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;

- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the “BIA”), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Debtor; and
- (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

- 16. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
- 17. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
- 18. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
- (b) Posting a copy of this Order on the Receiver's website at:
<https://www.insolvencies.deloitte.ca/en-ca/Pages/Ostrander-Hotels>.

and service on any other person is hereby dispensed with.

19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



J.C.Q.B.A.

Schedule "A"

COURT FILE NUMBER	1801-08520
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	INNOVATION CREDIT UNION AND CONCENTRA BANK
DEFENDANTS	1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD., AND BRIAN OSTRANDER

RECEIVER'S CERTIFICATE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	OSLER, HOSKIN & HARCOURT LLP Barristers and Solicitors Suite 2700, Brookfield Place 225 – 6th Avenue S.W. Calgary AB T2P 1N2 Solicitors: Randal Van de Mosselaer / Emily Paplawski Telephone: (403) 260-7060 / (403) 260-7071 Facsimile: (403) 260-7024 Email: rvandemosselaer@osler.com / epaplawski@osler.com
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RECITALS

- A. Pursuant to an Order of the Honourable Justice Campbell of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated July 22, 2020, Deloitte Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of 1764239 Alberta Ltd. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated June 10, 2021, the Court approved the agreement of purchase and sale dated May 6, 2021 (the "**Sale Agreement**") between the Receiver and Pukhraj Harjaap Alberta Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 10, 14, 16 and 20 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 10, 14, 16 and 20 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

Deloitte Restructuring Inc., in its capacity as Receiver of the undertakings, property and assets of 1764239 Alberta Ltd., and not in its personal capacity.

Per: _____

Name:

Title:

Schedule "B"

PLAN 832LK

BLOCK 1

EXCEPTING THEREOUT ALL MINES AND MINERALS

AREA: 0.938 HECTARES (2.32 ACRES) MORE OR LESS

Schedule "C"

Registration Number	Registration Date	Particulars
131 238 189	September 20, 2013	Mortgage to Callaghan Inn Limited Original Principal Amount: \$950,000
141 016 072	January 16, 2014	Mortgage to Concentra Financial Services Original Principal Amount: \$4,179,000
141 016 073	January 16, 2014	Mortgage to Primewest Mortgage Investment Original Principal Amount: \$921,400
141 026 166	January 28, 2014	Postponement of Mortgage 131238189 to Mortgages 141016072 and 141016073
141 213 233	August 15, 2014	Caveat re: Amending Agreement Caveator – Concentra Financial Services Association
141 255 201	September 23, 2014	Postponement of Mortgage 141016073 to Mortgage 141016072 and Caveat 141213233
151 055 152	February 25, 2015	Mortgage to Concentra Financial Services Association Original Principal Amount: \$250,000.00
151 055 153	February 25, 2015	Mortgage to Concentra Financial Services Association Original Principal Amount: \$1,817,250.00
161 053 211	February 26, 2016	Postponement of Mortgage 141016073 to Mortgage 141016072, Caveat 141213233, Mortgage 151055152 and Mortgage 151055153
161 068 552	March 16, 2016	Caveat re: Agreement Charging Land Caveator – Primewest Mortgage Investment
171 083 973	April 22, 2017	Mortgage to Ostrander Family Holdings Ltd. Original Principal Amount: \$2,500,000
181 063 129	March 22, 2018	Writ in favour of Her Majesty the Queen in Right of Canada as represented by Minister of National Revenue Canada Revenue Agency Amount: \$134,971 and costs, if any Action Number: 134971

Registration Number	Registration Date	Particulars
181 068 701	April 3, 2018	Writ in favour of Her Majesty the Queen in Right of Canada as represented by Minister of National Revenue Amount: \$28,954 and costs, if any Action Number: ITA-1969-18
181 073 919	April 12, 2018	Tax Notification by The City of Medicine Hat
191 014 560	January 21, 2019	Writ in favour of Her Majesty the Queen in Right of Alberta as represented by Minister of Treasury Board and Finance Amount: \$259,335 and costs, if any Action Number: 1803-24346
191 015 584	January 22, 2019	Caveat re: Amending Agreement Caveator – Primewest Mortgage Investment Corporation
201 052 904	March 16, 2020	Writ in favour of Her Majesty the Queen in Right of Canada as Represented by Minister of National Revenue Amount: \$96,507 and costs, if any Action Number: ETA-545-20

Schedule "D"

Registration Number	Registration Date	Particulars
031 099 497	March 27, 2003	Easement

APPENDIX "C"

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 Alberta Ltd.
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD JULY 22, 2020 TO APRIL 28, 2022
\$CAD**

	Total
Receipts	
Sale of Assets	2,300,000
Operating Income	455,374
Deposit on Sale of Assets	300,000
Receiver's Certificate	250,000
Accounts receivable	95,012
GST collected	22,624
Cash in bank	13,824
Hotel Sales Tax	17,998
Interest	798
	<hr/>
Total receipts	3,455,631
Disbursements	
Property/Realty Taxes	1,165,680
Payroll	402,635
Receiver's Certificate Repayment	258,996
Receiver's fees and costs	221,895
Utilities on operations	144,813
Operating expenses	90,849
Misc	84,656
Insurance	44,330
Legal fees/disbursements	38,369
Repairs and maintenance	18,246
Hotel Room Tax remittance to Ministry of Finance	18,037
GST	25,757
HST/GST remitted	14,003
Bank charges	13,914
Lease payments	10,581
WEPP (Section 81.4) Claims	6,644
Workplace/employee insurance	2,424
Funds transfer to bankruptcy	306
Filing fees paid to Official Receiver	70
	<hr/>
Total disbursements	2,562,205
Excess of receipts over disbursements	893,426
Accruals	
Receiver's Fees	(30,890)
Legal Fees	(12,121)
GST	(2,151)
Fees to transfer to Bankruptcy	(13,431)
	<hr/>
Estimated Estate Balance	834,833

APPENDIX "D"

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 ALBERTA LTD.
SUMMARY OF RECEIVER'S FEES
AS AT APRIL 28, 2022
\$CAD**

Invoice	Period	Fees		Subtotal	GST	Total	Paid	Outstanding
80001415698	July 13, 2020 to September 25, 2020	102,495.00	-	102,495.00	5,124.75	107,619.75	107,619.75	
8001431842	September 26, 2020 to October 23, 2020	17,352.50	-	17,352.50	867.63	18,220.13	18,220.13	
8001848923	October 24, 2020 to May 21, 2021	87,002.50	-	87,002.50	4,350.13	91,352.63	91,352.63	
8002083558	May 22, 2021 to September 3, 2021	15,045.00	-	15,045.00	752.25	15,797.25	15,797.25	
DRAFT	September 3, 2021 to April 25, 2022	15,390.00	-	15,390.00	769.50	16,159.50	-	16,159.50
		237,285	-	237,285	11,864	249,149	232,990	16,160
Work-in-progress		8,000		8,000	400	8,400		8,400
Estimated costs to close		7,500		7,500	375	7,875		7,875
		252,785	-	252,785	12,639	265,424	232,990	32,435

APPENDIX "E"

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 ALBERTA LTD.
SUMMARY OF LEGAL FEES
AS AT APRIL 28, 2022
SCAD**

Invoice	Period	Fees	Disbursements	Subtotal	GST	Total	Paid	Outstanding
12428253	July 27, 2020 to July 31, 2020	405.00	-	405.00	20.25	425.25	425.25	-
12436428	August 1, 2020 to August 28, 2020	3,889.00	133.00	4,022.00	201.10	4,223.10	4,223.10	-
12445550	August 29, 2020 to September 23, 2020	4,058.00	25.30	4,083.30	204.17	4,287.47	4,287.47	-
12454943	October 19, 2020 to October 22, 2020	1,350.00	-	1,350.00	67.50	1,417.50	1,417.50	-
12463901	November 1, 2020 to November 26, 2020	2,345.00	252.71	2,597.71	129.89	2,727.60	2,727.60	-
12483128	January 8, 2021 to January 28, 2021	1,982.50	-	1,982.50	198.25	2,180.75	2,180.75	-
12491437	February 8, 2021 to February 10, 2021	2,971.25	-	2,971.25	148.42	3,119.67	3,119.67	-
12501052	March 22, 2021	178.50	-	178.50	8.93	187.43	187.43	-
12510879	April 5, 2021 to April 30, 2021	3,822.25	-	3,822.25	382.23	4,204.48	4,204.48	-
12520245	May 3, 2021 to May 31, 2021	6,598.00	-	6,598.00	329.90	6,927.90	6,927.90	-
12530621	June 1, 2021 to June 29, 2021	7,388.85	-	7,388.85	369.45	7,758.30	7,758.30	-
12539997	July 1, 2021 to July 9, 2021	1,221.60	-	1,221.60	61.08	1,282.68	1,282.68	-
12559367	September 1, 2021	241.97	-	241.97	7.55	249.52	249.52	-
12569448	October 20, 2021 to October 21, 2021	489.25	-	489.25	24.47	513.72	513.72	-
12594228	December 8, 2021 to December 15, 2021	5,034.81	-	5,034.81	251.74	5,286.55	-	5,286.55
12603499	January 18, 2022 to January 20, 2022	133.00	-	133.00	6.65	139.65	139.65	-
12613340	February 14, 2022 to February 24, 2022	883.75	-	883.75	44.19	927.94	927.94	-
12623350	March 9, 2022 to March 30, 2022	2,085.83	-	2,085.83	104.29	2,190.12	-	2,190.12
		45,079	411	45,490	2,560	48,050	40,573	7,477
Work-in-progress		5,000	-	5,000	250	5,250	-	5,250
		50,079	411	50,490	2,810	53,300	40,573	12,727