

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

PEAKHILL CAPITAL INC.

Applicant

and

1000093910 ONTARIO INC.

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND  
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**SUPPLEMENTAL SUBMISSIONS OF 2557904 ONTARIO INC.  
(returnable July 2, 2024 at 10:00 a.m.)**

June 28, 2024

**MILLER THOMSON LLP**

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Lawyers for 2557904 Ontario Inc.

TO: **SERVICE LIST**

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1. Further to the attendance today before the court, as the court will note, the Debtor once again did not reach out to any counsel before the hearing to ensure what position other parties took on amounts owed and to ensure they provided adequate funds to even make the request to redeem. They didn't and put all the parties and the court to more time and unnecessary expense once again.

2. As the Court will note, at the hearing the Debtor suggested to the Court that 255 was somehow responsible for not closing the transaction and was somehow in "breach" of the Original APS. The Court must be mindful of both endorsements of Vallee J and the Court of Appeal where Vallee J stated:

The cross-motion has little chance of success. It concerns a different real estate transaction entered into six days before the receivership order. The closing date is tomorrow. The receiver states that it could not close this transaction because of certain terms that it contains. Another agreement of purchase and sale entered into by the receiver and 2557004 Ontario Inc. dated November 13, 2023, referred to as the "stalking horse agreement" is now in play. The receiver's motion concerns this

transaction. The purchaser states that it would refuse to close the earlier transaction, which it considers to be null and void.

3. The Court of Appeal at paragraph 6 through 10 similarly echoed the same sentiments. It is clear from both endorsements that they found the deal to be dead based upon the advice of the Receiver that the receiver couldn't close the original transaction though no fault of 255. It is beyond distasteful that the Debtor would even now, at this late stage, suggest that the original deal failed through some fault of 255. They don't seem to care how many people they injure and inconvenience along the way in this process, costing 255 as set out in the recent affidavit filed earlier today.

4. The court will note that Ren-Tex is seeking to be paid a commission on a sale of the Property where the obligation to pay such commission is that of the Debtor and always has been. All of this plays into the case law as to why the Debtor doesn't even get through the door at this point in the proceedings.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 28<sup>th</sup> day of June, 2024



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Kevin Sherkin  
**MILLER THOMSON LLP**



PEAKHILL CAPITAL INC.

and 1000093910 ONTARIO INC.

Court File No. CV-23-00004031-0000

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT NEWMARKET

**FACTUM OF 2557904 ONTARIO INC.**  
**(returnable June 12, 2024 at 9:30 a.m.)**

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