

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

THE HONOURABLE MR.) TUESDAY, THE 12th DAY
)
JUSTICE PENNY) OF APRIL, 2022
)

BETWEEN:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED, VICAR HOMES LTD. And
TRADE CAPITAL FINANCE CORP.**

Respondents

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

**ORDER
(Interim Distribution #2)**

THIS MOTION, made by the Applicant, Buduchnist Credit Union Limited (“BCU”), for an order authorizing and directing the Receiver to make certain distributions of funds to BCU, was heard this day at Toronto via Zoom video conference due to the COVID-19 Pandemic.

ON READING the Motion Record of BCU dated February 20, 2020, Supplementary Motion Record of BCU dated June 28, 2021, Second Supplementary Motion Record of BCU dated November 18, 2021, Factum & Book of Authorities of BCU dated December 9, 2021, Factum & Compendium of BCU dated December 9, 2022, Supplementary Compendium of BCU dated March 30, 2022, the Seventh Report of the Receiver dated October 21, 2020 (without appendices), Transcript of the Cross-Examination of Okansa Prociuk held December 17, 2018, Transcript of the Continued Cross Examination of Oksana Prociuk held March 11, 2020,

Endorsement of Justice Penny (Scheduling Conference) dated December 7, 2021, Updated Interim Statement of Receipts and Disbursements as of March 22, 2022, Woodland Motion Costs Award Amount (BCU) up to March 31, 2022, Updated summary of what BCU contends should be non-contentious distributions to BCU as at March 31 2022, Transcript of the Rule 39.03 Examination of Roma Bereza held September 11, 2020, Transcript of the Rule 39.03 Examination of Roma Bereza held January 10, 2019 and Notice of Motion - Applicant - Buduchnist Credit Union Limited (CV-21-00663709-00CL), Responding Motion Record of Trade Capital Finance Corp. (“TC”) dated January 24, 2020, Factum of TC dated February 3, 2022, Book of Authorities of TC dated February 3, 2022, Compendium of TC dated February 3, 2022, Supplementary Compendium of TC dated March 30, 2022, Aides Memoire for Hearing of TC dated March 31, 2022 and Supplementary Application Record (Reply) dated November 18, 2019 (CV-19-00618175-00CL) and on hearing the submissions of counsel for BCU, TC, in the presence of counsel for 2321197 Ontario Inc., Carlo Demaria, Sandra Demaria, 2321198 Ontario Inc., and Vicar Homes Ltd. (collectively, the “**Demaria Parties**”), no one appearing for any other person on the service list although properly served as appears from the affidavits of service of Amanda Campbell sworn January 10, 2020, February 20, 2020, June 23, 2021, November 19, 2021 and December 10, 2021, filed and on being advised by counsel for BCU and TC on April 1, 2022 that TC no longer opposes the distributions below and that the Demaria Parties do not oppose and the Receiver supports the further interim distributions below,

1. **THIS COURT ORDERS AND DIRECTS** the Receiver to make the following unopposed interim distributions to BCU, pending this Court’s disposition of BCU’s claims to additional distributions which remain contested by TC:

- (a) \$83,297.78¹ of the net proceeds of the real property municipally known as 211 Woodland Acres Crescent, Vaughan, Ontario (the “**Woodland Property**”) as payment in full of the costs awarded in favour of BCU pursuant to the Order of the Honourable Justice Conway, dated August 20, 2020;

¹ Calculated as \$77,500 cost award plus interest at the applicable post judgment interest rate from August 20, 2020 to March 31, 2022.

- (b) \$952,988.11² of the remaining net proceeds of the Woodland Property, being one half of the remaining net proceeds from the Woodland Property available for distribution as of March 22, 2022 after first deducting the amount in paragraph 1(a) above, which amount is attributable to Sandra Demaria's half interest in the Woodland Property as joint owner, being a portion of the total amount owing under paragraph 2 of the Judgment, dated August 28, 2020, against Sandra Demaria in respect of the second mortgage registered by BCU against the Woodland Property on December 5, 2012; and
- (c) \$63,243³ being one half of the remaining net proceeds from the real property municipally known as 6216 Fifth Line, Egbert, Ontario (the "**Cottage Property**") available for distribution as of March 22, 2022, which amount is attributable to Sandra Demaria's half interest as joint owner and which was assigned to BCU by Sandra Demaria pursuant to the Irrevocable Quit Claim, Release and Direction, dated November 27, 2019, to be credited to Sandra Demaria's remaining liabilities to BCU in respect of the mortgages registered by BCU against the Cottage Property and the Woodland Property.



A handwritten signature in blue ink, appearing to read "Perry J.", is written over a horizontal line.

² Calculated as 50% of the remaining net proceeds of the Woodland Property held by the Receiver as shown on the Receiver's Updated Interim Statement of Receipts and Disbursements, dated March 22, 2022 ("**Updated R&D**").

³ Calculated as 50% of the remaining net proceeds of the Cottage Property held by the Receiver as shown on the Updated R&D, after first deducting the amount payable in paragraph 1(a) of this Order.

BUDUCHNIST CREDIT UNION LIMITED
Applicant

- and -

2321197 ONTARIO INC. et al.
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER
(Interim Distribution #2)

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