

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CRESTVIEW INVESTMENT CORPORATION

Applicant

and

2782736 ONTARIO INC. and AKASH AURORA

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED, AND RULE
14.05(3)(h) OF THE RULES OF CIVIL PROCEDURE, R.R.O. 1990, REG. 194, AS
AMENDED

**FACTUM OF THE RECEIVER
(MOTION RETURNABLE JULY 15, 2025)**

July 7, 2025

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FACTUM OF THE RECEIVER

PART I - INTRODUCTION

1. By Order of the Honourable Mr. Justice Sutherland dated March 26, 2025 (the “**Receivership Order**”) KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the property, assets, and undertaking (collectively, the “**Property**”) of the Respondent, 2782736 Ontario Inc. (the “**Debtor**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, RSO 1990 c C.43, as amended (the “**CJA**”). The Property of the Debtor includes the real property municipally known as 20 Fairview Road, Barrie, Ontario (the “**Real Property**”).

2. Since being appointed, the Receiver has reviewed the affairs of the Debtor and is of the view that the sale of the Real Property is the appropriate next step in this

receivership proceeding and in the best interest of the stakeholders involved.

Accordingly, the Receiver brings a motion for an Order, *inter alia*:

- (a) approving a sale process for the Real Property (the “**Sale Process**”), including approval of the listing agreement (the “**Listing Agreement**”) between the Receiver and Colliers International (“**Colliers**”) as set out in the Receiver’s First Report dated July 3, 2025 (the “**First Report**”);¹ and
 - (b) approving the First Report and the Receiver’s activities described therein.
3. The Receiver further seeks an Order directing the Debtor and its principals, Akash Aurora (“**Akash**”) and Ravi Aurora (“**Ravi**” and, together with Akash, the “**Auroras**”) to forthwith provide:
- (a) to the Receiver all Records, as defined in the Receivership Order, including but not limited to the Records identified in the First Report; and
 - (b) to Colliers all documents and Records that may be requested by Colliers to advance the Sale Process.

PART II - SUMMARY OF FACTS

A. BACKGROUND

(1) *The Debtor and the Real Property*

4. The Debtor owns the Real Property.² The Real Property, which is the Debtor’s principal asset, comprises the land and building located at 20 Fairview Road, Barrie, Ontario.³

5. The Real Property operates as the “Allure Hotel” pursuant to a lease between the Debtor and a related party, 2542998 Ontario Inc. (“**254 Ontario**”), dated December 1, 2020, as amended (the “**Lease**”).⁴

¹ First Report of the Receiver dated July 3, 2025 (the “**First Report**”), Motion Record, Tab 2, p 16.

² First Report, s 2.0, para 1, Motion Record, Tab 2, p 19.

³ First Report, s 1.0, para 2, Motion Record, Tab 2, p 18.

⁴ First Report, s 2.0, para 4, Motion Record, Tab 2, p 20.

6. Akash is the sole director of the Debtor. Akash's brother, Ravi, and their father, Satish, are the directors of 254 Ontario.⁵

7. The term of the Lease is 25 years and annual rent payable under the Lease is \$460,000, without escalation over the entire Lease term. Furthermore, in September 2024, the Debtor and 254 Ontario purported to amend the Lease to provide for a full abatement of rent for a period of one year due to a fire which was the subject of a property and business interruption insurance claim by 254 Ontario but not by the Debtor.⁶

8. The Debtor had no employees as of the date of the Receivership Order and closed its bank account prior to the Receivership Order coming into effect on May 12, 2025 (the "**Effective Date**").⁷

(2) The Receivership Order and Stakeholders

9. The Receivership Order was sought by the Applicant, Crestview Investment Corporation ("**Crestview**"). Crestview is the senior secured creditor of the Debtor and holds a first-ranking charge (the "**VTB Mortgage**") securing (i) a principal indebtedness of approximately \$11.3 million as of May 8, 2025; and (ii) interest and costs which continue to accrue.⁸

10. The Real Property further secures:

- (a) a second-ranking charge in favour of Zaherali Visram ("**Zaherali**") in the amount of \$2.8 million (the "**Zaherali Charge**"); and
- (b) a third-ranking charge in favour of Neemtreet Investments Ltd. ("**Neemtreet**") and 2665731 Ontario Inc. ("**266**", and together with

⁵ First Report, s 2.0, paras 2 and 4, Motion Record, Tab 2, pp 19-20.

⁶ First Report, s 2.0, paras 5 and 6, Motion Record, Tab 2, p 20.

⁷ First Report, s 2.0, paras 7 and 8, Motion Record, Tab 2, p 20.

⁸ First Report, s 2.1, para 1(a), Motion Record, Tab 2, p 20.

Neemtree, the “**Third Mortgagees**”) of \$1 million (the “**266/Neemtree Charge**”).⁹

11. In addition to the indebtedness under the VTB Mortgage, the Zaherali Charge and the 266/Neemtree Charge, the Debtor owed property tax arrears in the amount of \$968,042 to the City of Barrie as of November 25, 2024 (the “**Tax Arrears**”) with additional property taxes continuing to accrue in 2025.¹⁰

12. The Receiver has further been advised by Canada Revenue Agency (“**CRA**”) that the Debtor also has a Harmonized Sales Tax (“**HST**”) balance owing of approximately \$480,823 relating to HST returns from 2021 to 2023, with interest continuing to accrue and balances yet to be assessed from January 1, 2024 onward.¹¹

B. THE SALE PROCESS

13. The purpose of the Sale Process is to market the Real Property and realize its value for the benefit of the stakeholders.

14. The Receiver solicited listing proposals (the “**RFP Process**”) from three national realty brokerages and received two proposals (the “**Proposals**”).¹² The Receiver has compiled a schedule comparing the key terms of the Proposals (the “**Realtor Schedule**”) which is attached as confidential Appendix “1” to the First Report.¹³

15. The Receiver seeks an Order sealing the Realtor Schedule until the earlier of a further Order of the Court or the completion of a sale transaction for the Real Property in order to preserve the integrity of the Sale Process and protect the realization potential of the Real Property.¹⁴

⁹ First Report, s 2.1, paras 1(b)-(c), Motion Record, Tab 2, p 20.

¹⁰ First Report, s 2.1, para 3, Motion Record, Tab 2, p 21.

¹¹ First Report, s 2.1, para 4, Motion Record, Tab 2, p 21.

¹² First Report, s 3.1, paras 1 and 3, Motion Record, Tab 2, p 22.

¹³ First Report, s 3.1, para 3 and Appendix “1”, Motion Record, Tab 2, p 22, and Tab 3, p 79.

¹⁴ First Report, s 3.4, para 1, Motion Record, Tab 2, p 26.

16. Based upon its review of the Proposals and consultations with Crestview, considering various factors including the realtors' approach to valuing the Real Property, suggested range of values, and commission structures, subject to the Court approving the Listing Agreement, the Receiver has engaged Colliers as the listing brokerage.¹⁵

17. The Sale Process, which is described in detail in the First Report, would proceed in three phases, briefly summarized as follows:¹⁶

- (a) **Phase 1 – Underwriting:** In this phase of the Sale Process, Colliers and the Receiver will prepare a teaser brochure and other marketing materials, identify key purchaser prospects and establish and populate a data room for key documents, certain of which the Receiver and Colliers require from the Debtor, to be provided to prospective purchasers;
- (b) **Phase 2 – Marketing and Diligence:** In this phase Colliers will publish and promote the sale opportunity as deemed appropriate in the judgment of Colliers and the Receiver in order to maximize interest in the Real Property. The Receiver and Colliers will further facilitate due diligence investigations by prospective purchasers, subject to confidentiality agreements being entered into; and
- (c) **Phase 3 – Offer Review and Negotiation:** In this phase, Colliers will collect and provide the Receiver with all offers received from prospective purchasers and the Receiver will select a successful bidder.

18. The Receiver recommends the approval of the Sale Process on the basis that it is:

- (a) a fair and open process developed through review of the Proposals and with input from Colliers;¹⁷

¹⁵ First Report, s 3.1, paras 4 and 5, Motion Record, Tab 2, pp 22-3.

¹⁶ First Report, s 3.2, para 1, Motion Record, Tab 2, pp 23-4.

¹⁷ First Report, s 3.3, para 1(a), Motion Record, Tab 2, p 25.

- (b) allows the Receiver sufficient flexibility in order to maximize value;¹⁸
- (c) consistent with the processes and procedures commonly followed in the sale of real property from which a business is operated.¹⁹

19. The Receiver's recommendation for the approval of the Sale Process is further supported by the fact that the proposed listing brokerage, Colliers, is a leading brokerage with experience and expertise necessary to properly market the Real Property, including knowledge of the Barrie hospitality market.²⁰

C. DEALINGS WITH THE AURORAS

20. Since the Effective Date, the Receiver has met with Ravi and made requests for production of certain Records required for the administration of this receivership, including preparation of the Sale Process.²¹

21. Despite the Receiver's requests and follow-up correspondence by the Receiver's counsel to the Debtor's counsel, the Debtor, 254 Ontario and the Auroras have failed or refused to produce to the Receiver a number of key records, including but not limited to:²²

- (a) documentation involving The Canadian Red Cross or other agencies regarding the arrangements made to house evacuees from northern Manitoba at the Hotel;
- (b) historical operating statements (including occupancy and ADR statistics) for the years 2019 through 2024, as well as 2025 year-to-date;
- (c) The 2025 monthly budget for the Hotel;

¹⁸ First Report, s 3.3, para 1(b), Motion Record, Tab 2, p 25.

¹⁹ First Report, s 3.3, para 1(c), Motion Record, Tab 2, p 25.

²⁰ First Report, s 3.3, para 1(d), Motion Record, Tab 2, p 25.

²¹ First Report, s 2.3, paras 1 and 4, Motion Record, Tab 2, p 21.

²² First Report, s 2.3, para 3, Motion Record, Tab 2, p 21.

- (d) a site plan, including the proposed new Starbucks facility which is to be constructed on the Real Property;
- (e) a complete copy of the franchise agreement between 254 Ontario and Choice Hotels pursuant to which the Hotel is operated;
- (f) a creditor listing;
- (g) the most recent financial statements and tax returns; and
- (h) a diligence list of information requests prepared by Colliers.

22. As the Auroras have been non-cooperative and disregarded their obligations pursuant to paragraph 7 of the Receivership Order, the Receiver seeks a further Order expressly directing them to cooperate with the Receiver and provide all Records, including as set out in the First Report, forthwith.²³

D. THE RECEIVER'S ACTIVITIES

23. Since the Effective Date, the Receiver has diligently advanced the receivership proceeding by, *inter alia*:²⁴

- (a) corresponding with the Auroras regarding the Receiver's information requests;
- (b) touring the Real Property;
- (c) conducting the RFP Process;
- (d) corresponding with the Debtor's insurance agent to confirm coverage and balances due;
- (e) corresponding with CRA regarding the Debtor's sales tax account;
- (f) engaging a site security consultant to attend periodically at the Real Property;

²³ First Report, s 2.3, para 5. Motion Record, Tab 2, p 22.

²⁴ First Report, s 4.0, para 1, Motion Record, Tab 2, p 26.

- (g) issuing the Receiver's interim report pursuant to Subsection 246(1) of the BIA;
- (h) attending regular status update calls with Crestview; and
- (i) preparing the First Report.

24. In conjunction with the approval of the Sale Process, the Receiver seeks approval and ratification of its activities, as more particularly described in the First Report.

PART III - STATEMENT OF ISSUES, ANALYSIS AND ARGUMENT

A. ISSUES

25. The issues to be considered on this motion are whether the Court ought to:
- (a) approve the Sale Process, including the Listing Agreement;
 - (b) grant a sealing Order in respect of the Realtor Schedule;
 - (c) approve the First Report and the Receiver's activities set out therein; and
 - (d) order that the Auroras and 254 Ontario cooperate with the Receiver and provide all Records required by the Receiver or Colliers, including the Records identified in the First Report.

B. ANALYSIS AND ARGUMENT

(1) Sale Process Approval

26. Under section 243(1) of the BIA, the Court may empower the Receiver to exercise broad powers and control over the Debtor's Property.²⁵

27. Under paragraphs 5(j)-(k) of the Receivership Order, the Court specifically empowered the Receiver to market, solicit offers for, sell, convey and transfer any of the Debtor's Property, which includes the Real Property, subject to Court approval as required.²⁶ Pursuant to this mandate, the Receiver has, together with Colliers,

²⁵ [*Bankruptcy and Insolvency Act*](#), RSC 1985, c B-3 ("**BIA**"), [s 243\(1\)](#).

²⁶ Receivership Order at paras 5(j)-(k), Motion Record, Tab 2-A, pp 32-3.

developed the Sale Process for the purposes of soliciting offers from prospective purchasers and selling the Real Property for the benefit of the stakeholders.²⁷

28. In considering the approval of a sale process proposed by a receiver, the Court should consider:²⁸

- (a) the fairness, transparency and integrity of the proposed process;
- (b) the commercial efficacy of the proposed process in view of the circumstances; and
- (c) whether the proposed process will optimize the chances of securing the best price for the assets being sold.

29. Further, when reviewing a proposed sale process, while the Court will carefully consider the receiver's proposal and the procedures that were followed, it will generally defer to the business expertise of the receiver and would only proceed in a manner contrary to the receiver's recommendation in "special circumstances."²⁹

30. The Sale Process is fair, open and transparent. It is designed to expose the Real Property to the open market. The fairness of the Sale Process is reinforced by the uniform conditions and requirements applicable to all potential bids as well as the use of a standard form of purchase agreement to be developed by the Receiver.³⁰

31. The Sale Process is also commercially efficacious. Through the involvement of Colliers, which is a reputable and experienced realty broker with particular experience in the Barrie hospitality market, the Sale Process is designed to ensure an effective and efficient marketing and sale of the Real Property.

32. Lastly, the Sale Process optimizes the chances for securing the best price for the Real Property through a systematic and structured bid solicitation process and targeted marketing efforts leveraging Colliers' expertise.

²⁷ First Report, ss 3.2 and 3.3, Motion Record, Tab 2, pp 23-5.

²⁸ [*CCM Master Qualified Fund v. blutip Power Technologies*](#), 2012 ONSC 1750 ("**CCM**") at [para 6](#).

²⁹ [*Marchant Realty Partners Inc. v 2407553 Ontario Inc.*](#), 2021 ONCA 375 at [para 15](#).

³⁰ First Report, s 3.2, para 1, Motion Record, Tab 2, p 23.

33. It is respectfully submitted that a consideration of the factors set out in *CCM* militate in favour of approval of the Sale Proposal.

(2) Sealing Order

34. The Receiver seeks a sealing order in respect of the Realtor Schedule.

35. The making of a sealing order, which limits the open court presumption, requires the Court to consider the analytical framework set out by the Supreme Court of Canada in *Sherman Estate v. Donovan*. Specifically, the Court must be satisfied that:³¹

- (a) court openness poses a serious risk to an important public interest;
- (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

36. This framework has been applied in the receivership context. In *Ontario Securities Commission v. Bridging Finance Inc.*, Chief Justice Morawetz considered the *Sherman Estate* factors and held that (i) there is a public interest in ensuring the integrity of the receiver-administered sales process; (ii) there was no reasonable alternative to the sealing order; and (iii) as a matter of proportionality, the benefits of the sealing order outweighed its negative effects.³²

37. It is respectfully submitted that the sealing order sought:

- (a) engages a legitimate public interest in protecting the integrity of the Sale Process;
- (b) is the only reasonably available means of protecting the integrity of the Sale Process; and

³¹ [*Sherman Estate v Donovan*](#), 2021 SCC 25 ("*Sherman Estate*") at [para 38](#).

³² [*Ontario Securities Commission v Bridging Finance Inc.*](#), 2021 ONSC 4347 at [para 24](#).

- (c) is more beneficial than it is deleterious as a matter of proportionality.

(3) Approval of the First Report and the Receiver's Activities

38. Pursuant to section 183(1) of the BIA, this Court is invested with jurisdiction at law and in equity so as to exercise original, auxiliary and ancillary jurisdiction in receivership proceedings under the BIA.³³

39. In the case of *Target Canada Co. (Re)*, Chief Justice Morawetz discussed the principles relevant to the approval of reports of a court officer – in that case, a monitor appointed under the *Companies' Creditors Arrangements Act*.

40. The approval of a receiver's activities and reports to the Court is based on sound policy reasons, including the provision of protection for the receiver.³⁴

41. In the circumstances, it is respectfully submitted that the Receiver's First Report and its activities set out therein should be approved.

(4) Direction to the Auroras

42. The Auroras' lack of cooperation with the Receiver is canvassed in detail in the First Report.³⁵

43. The Auroras' failure or refusal to provide Records required by the Receiver is contrary to paragraph 7 of the Receivership Order. Furthermore, the Auroras' conduct is detrimental to the Receiver's ability to carry out its mandate and administer these receivership proceedings effectively and efficiently.

44. It is respectfully submitted that this Court should expressly direct the Auroras, in accordance with the Receivership Order, to furnish the Receiver forthwith with the

³³ [BIA, s 183\(1\)](#).

³⁴ [Target Canada Co. \(Re\)](#), 2015 ONSC 7574 at [para 22](#); see also [Triple-I Capital Partners Limited v 12411300 Canada Inc.](#), 2023 ONSC 3400 at [paras 65-66](#).

³⁵ First Report, s 2.3, paras 1-5, Motion Record, Tab 2, pp 21-2.

Records identified in the First Report and produce to the Receiver and to Colliers such further Records as may be required from time to time.

PART IV - ORDER REQUESTED

45. The Receiver respectfully requests that the relief sought herein be granted and the Court grant an Order substantially in the terms of the draft Order at Tab 4 of the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of July, 2025.



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SCHEDULE “A”

LIST OF AUTHORITIES

1. [CCM Master Qualified Fund v blutip Power Technologies](#), 2012 ONSC 1750.
2. [Marchant Realty Partners Inc. v 2407553 Ontario Inc.](#), 2021 ONCA 375.
3. [Ontario Securities Commission v Bridging Finance Inc.](#), 2021 ONSC 4347.
4. [Sherman Estate v Donovan](#), 2021 SCC 25.
5. [Target Canada Co. \(Re\)](#), 2015 ONSC 7574.
6. [Triple-I Capital Partners Limited v 12411300 Canada Inc.](#), 2023 ONSC 3400.

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date July 7, 2025



Signature

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY - LAWS

1. [**Bankruptcy and Insolvency Act**](#), RSC 1985, c B-3

Courts vested with jurisdiction

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

(a) in the Province of Ontario, the Superior Court of Justice;

[...]

Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or

(c) take any other action that the court considers advisable.

2. [**Courts of Justice Act**](#), RSO 1990, c C.43

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms

(2) An order under subsection (1) may include such terms as are considered just.
R.S.O. 1990, c. C.43, s. 101 (2).

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RCP-F 4C (September 1, 2020)