

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

THE HONOURABLE)
JUSTICE PENNY)
MONDAY, THE 18TH
DAY OF MARCH, 2024

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

2TH, INC. and DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL CORPORATION

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as court-appointed receiver and manager (in such capacity, the "**Receiver**") of each of 2th, Inc. ("**2th**") and Dr. Mislav Pavelic Dentistry Professional Corporation ("**Pavelic DPC**", and together with 2th, the "**Debtors**") for an Order (the "**Vesting Order**") that, among other things: (a) approves the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement between the Receiver and Namrita Harchandani Dentistry Professional Corporation (in such capacity, the "**Purchaser**") dated February 27, 2024 (the "**APA**"), and (b) vests in the Purchaser, in the manner described in the APA, all of the Debtor's right, title and interest in and to the assets described in the APA (the "**Purchased Assets**") was heard this day by judicial video conference.

ON READING the Notice of Motion, the Second Report of the Receiver dated March 12, 2024 (the "**Second Report**"), filed, and on hearing the submissions of counsel for the Receiver, the Debtors, and all other counsel listed on the counsel slip, no one appearing for any other person on the service list, although properly served:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall be as defined in the APA.
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record in support of this Motion and the Second Report be and is hereby validated, such that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the APA 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 the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of Receiver's Certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the APA shall vest absolutely in the Purchaser, in the manner described in the APA, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the 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.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that the Receiver may rely on written notice from the Purchaser and the Debtors regarding the satisfaction or waiver of conditions to closing under the APA and shall have no liability with respect to the delivery of the Receiver's Certificate.

8. **THIS COURT ORDERS** that, pursuant to (i) clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Receiver's records pertaining to the Debtors' past and current employees, and (ii) the *Personal Health Information Protection Act* (Ontario), the Receiver is authorized and permitted to disclose and transfer to the Purchaser all patient records in the Debtors' possession pertaining to the Debtors' patients.. The Purchaser 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 by the Debtors.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada), R.S.C., 1985, c. B-3 (the

“BIA”) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, 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.

10. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from Section 6(3) of the *Retail Sales Tax Act* (Ontario).

11. **THIS COURT ORDERS** that the Receiver is authorized and directed to make one or more distributions to the Bank of Montreal up to the amount of the Debtors' indebtedness owing thereto, with such distributions to occur upon or immediately following closing of the Transaction.

GENERAL

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, 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 orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that the Receiver is at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the

terms of this Order.

14. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order, and this Order is enforceable without the need for entry and filing.



Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-23-707066-00CL

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B E T W E E N :

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Applicant

- and -

2TH INC. and DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL CORPORATION

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (the “**Court**”) dated October 13, 2023, KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver (the “**Receiver**”) of the property, assets and undertakings of each of 2th Inc. (“**2th**”) and Dr. Mislav Pavelic Dentistry Professional Corporation (“**Pavelic DPC**”, and together with 2th, the “**Debtors**”).

B. Pursuant to an Order of the Court dated March 18, 2024, the Court approved the asset purchase agreement between the Receiver and Namrita Harchandani Dentistry Professional Corporation (in such capacity, the “**Purchaser**”) dated February 27, 2024 (the “**APA**”), and provided for the vesting in the Purchaser all of the Debtor’s right, title and interest in and to the Purchased Assets (as defined in the APA) in the manner described in the APA, 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 (as defined in the APA) for the Purchased Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver and the Purchaser.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid, and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA;
2. The conditions to Closing as set out in the APA have been satisfied or waived by the Purchaser and Receiver; 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]

KSV Restructuring Inc., in its capacity as receiver of each of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation and not in its personal capacity

Per: _____

Name:

Title:

BANK OF MONTREAL

and

2th, Inc. et al.

Applicant

Respondents

**ONTARIO
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(COMMERCIAL LIST)**

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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