

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

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

Respondent

MOTION RECORD
(RE: SALE TRANSACTION APPROVAL)

March 12, 2024

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Inc.**

TO: THE SERVICE LIST

March 12, 2024

Court File No. CV-23-00707066-00CL

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

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

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

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

**SERVICE LIST
(as of March 12, 2024)**

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

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

Respondent

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TAB 1

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

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

Respondents

**NOTICE OF MOTION
(SALE TRANSACTION APPROVAL)**

KSV Restructuring Inc. (“**KSV**”) in its capacity as court-appointed receiver and manager (the “**Receiver**”) of the property, assets and undertakings (the “**Property**”) of each of 2th Inc. (“**2th**”) and Dr. Mislav Pavelic Dentistry Professional Corporation (“**Pavelic DPC**”, and together with 2th, the “**Debtors**”) will make a motion to a Judge presiding over the Commercial List on March 18, 2024 at 10:00 am or as soon after that time as the motion can be heard at Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- in writing under subrule 37.12.1 (1) because it is on consent, unopposed or made without notice;
- in writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

At the following location:

The zoom coordinates will be uploaded to Caselines.

THE MOTION IS FOR:

1. An Order, substantially in the form of the draft Approval and Vesting Order (the “**Approval and Vesting Order**”) appended at Tab 3 of the Motion Record, among other things:
 - a) abridging and validating the time for service of this motion;
 - b) authorizing and approving the sale transaction (the “**Transaction**”) contemplated in the asset purchase agreement (the “**APA**”) between the Receiver and Namrita Harchandani Dentistry Professional Corporation (in such capacity, the “**Purchaser**”) dated February 27, 2024, and vesting in the Purchaser all of the Company’s right, title, benefit, and interest in and to the assets described in the APA (the “**Purchased Assets**”) free and clear of and from any and all security interests, liens, executions, levies, charges, or other financial or monetary claims;
2. An Order, substantially in the form of the draft Ancillary Order (the “**Ancillary Order**”) contained at Tab 4 of this Motion Record, among other things:
 - a) approving the Second Report of the Receiver dated March 11, 2024, and the actions, conduct, and activities of the Receiver described therein;
 - b) approving the fees and disbursements of the Receiver and its counsel, Reconstruct LLP, including the estimated fees and disbursements to complete these proceedings;
 - c) sealing the confidential appendices to the Second Report of the Receiver dated March 11, 2024, until the closing of the Transaction; and

- d) discharging the Receiver upon the filing of a certificate substantially in the form attached as Schedule “A” to the Ancillary Order (the “**Receiver’s Certificate**”) certifying the closing of the Transaction; and
3. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Background of Proceeding to Date

4. The Receiver was appointed pursuant to an Order dated October 13, 2023 (the “**Receivership Order**”), on application by the Debtor’s only secured lender, the Bank of Montreal (“**BMO**”).
5. On January 8, 2024, the Applicant obtained an Order (the “**Sale Process Order**”) approving a sales process (the “**Sale Process**”) to identify one or more purchasers and/or investors in all or part of the property, assets and undertakings of the Debtors (the “**Property**”).

Completion of the Sale Process

6. The Receiver conducted the Sale Process in accordance with its terms. Eleven potential bidders signed confidentiality agreements and were provided access to the virtual data room populated by the Receiver.
7. Five potential bidders submitted offers by the bid deadline.
8. Pursuant to the Sale Process, the Receiver selected the Purchaser’s bid as the successful bid and has executed the APA. The APA is conditional upon the approval of the Transaction by this Court, and the grant of an Approval and Vesting Order to vest all of

the Company's right, title, and interest in the Purchased Assets free and clear of encumbrances to the Purchaser.

9. The Transaction provides for the greatest recovery available in the circumstances. The Transaction provides for continuity of the Clinic, which is beneficial to the Clinic's patients, and is likely to provide ongoing employment to the majority of the Company's 12 employees.
10. The Company conducted a sale process prior to the commencement of the receivership proceeding, which did not culminate in any feasible transaction.
11. The Receiver attempted to negotiate a closed auction process amongst the Company's two shareholders but was ultimately not able to reach terms agreeable to all of the parties regarding the proposed auction process.
12. The Sale Process was conducted in accordance with the court-approved Sale Process Order, and was commercially reasonable and appropriate under the circumstances.
13. Given the Company's previous marketing attempts and the broad marketing conducted by the Receiver in the Sale Process, the Receiver is of the view that additional time marketing the Property will not result in a superior transaction and would impair value given the associated professional costs.
14. The Company's sole secured party, BMO, supports the transaction.

Sealing Order

15. The Receiver seeks a sealing order over the confidential appendices appended to the Second Report, which contain reference to the amount of the purchase price and deposit

to be paid by the Purchaser so as not to prejudice any further sale and marketing efforts, should they be required.

16. No party will be prejudiced if the information is sealed at this time. Moreover, the salutary effects of sealing such information from the public record greatly outweighs the deleterious effects of doing so under the circumstances. Accordingly, the Receiver believes the proposed sealing order is appropriate in the circumstances.

Discharge of the Receiver

17. The Receiver seeks approval of its activities and fees, as described in the Second Report, and the fees of its counsel.
18. The Receiver proposes that it be discharged upon the closing of the Transaction, at which time it would have monetized all of the known assets of the Debtors. Accordingly, the Receiver seeks the Ancillary Order discharging it effective upon the filing of the Receiver's Certificate upon closing of the Transaction.

FURTHER GROUNDS:

19. The provisions of the BIA;
20. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194;
21. The inherent, statutory, and equitable jurisdiction of this Court;
22. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

- 23. The Motion Record of the Receiver;
- 24. Such further and other evidence as counsel may advise and this Honourable Court may permit.

March 12, 2024

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Lawyers for KSV Restructuring Inc.

TO: **THE SERVICE LIST**

Applicant

Respondent

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

Proceedings commenced at Toronto

**NOTICE OF MOTION
(SALE TRANSACTION APPROVAL)**

RECONSTRUCT LLP

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Lawyers for KSV Restructuring Inc.

TAB 2



**Second Report to Court of
KSV Restructuring Inc. as Receiver and
Manager of 2th, Inc. and Dr. Mislav Pavelic
Dentistry Professional Corporation**

March 12, 2024

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COURT FILE NO.: CV- 23-707066-00CL

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

BETWEEN:

BANK OF MONTREAL

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- and -

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

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**

**SECOND REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

MARCH 12, 2024

1.0 Introduction

1. This report (the “Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as receiver and manager (in such capacity, the “Receiver”) of the property, assets and undertakings (the “Property”) of each of 2th, Inc. (“2th”) and Dr. Mislav Pavelic Dentistry Professional Corporation (“Pavelic DPC”, and together with 2th, the “Company”) appointed pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on October 13, 2023 (the “Receivership Order”). A copy of the Receivership Order is provided at Appendix “A”.
2. The application to appoint KSV as Receiver was made by Bank of Montreal (“BMO”), the Company’s senior secured creditor. As of September 18, 2023, the Company owed BMO approximately \$2.6 million, with interest and costs continuing to accrue.
3. The primary purpose of the receivership proceeding is to maximize the value of the Company’s business and assets through a sale process conducted by the Receiver that was approved by the Court on January 8, 2024 (the “Sale Process Order”). A copy of the Sale Process Order is attached as Appendix “B”.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) summarize the results of the Sale Process;
 - c) summarize a transaction (the “Transaction”) between the Receiver and Namrita Harchandani Dentistry Professional Corporation (“Harchandani”) for substantially all of the Property pursuant to an Asset Purchase Agreement dated February 27, 2024 (the “APA”);
 - d) discuss the rationale for sealing the Offer Summary (as defined in Section 3.2 below) and the APA;
 - e) summarize the Receiver’s activities since its First Report to Court dated December 29, 2023 (the “First Report”);
 - f) summarize the Receiver’s fees and those of its counsel, Reconstruct LLP (“Reconstruct”), from the date of the Receiver’s appointment to February 29, 2024; and
 - g) recommend that the Court make the following orders:
 - i. an Approval and Vesting Order consisting of the following substantive relief (the “AVO”):
 1. approving the APA and the Transaction; and
 2. vesting the Purchased Assets (as defined in the AVO) in Harchandani, free and clear of all encumbrances, upon execution and delivery of a certificate by the Receiver confirming completion of the Transaction; and
 - ii. an Ancillary Order (the “Ancillary Order”):
 1. sealing the confidential appendices to this Report (the “Confidential Appendices”);
 2. authorizing the Receiver to distribute funds to BMO up to the balance owing to it by the Company;
 3. approving this Report and the Receiver’s activities to the date of this Report;
 4. approving the fees of the Receiver and its counsel plus an accrual of \$50,000 for fees incurred or to be incurred by the Receiver and Reconstruct to the completion of these proceedings, including the costs of this motion, excluding HST and disbursements (the “Fee Accrual”); and
 5. discharging the Receiver upon the filing of a certificate with the Court.

1.2 Restrictions

1. In conducting its review and preparing this report, the Receiver has relied upon the Company's unaudited financial statements, books and records and discussions with Brian Holland and Mislav Pavelic, directors of 2th and the Company's two indirect shareholders (together, the "Shareholders").
2. The Receiver has not performed an audit or otherwise attempted to verify the accuracy or completeness of the financial information relied on in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the Company's financial information should perform its own diligence.
3. With the exception of the Court, the Receiver accepts no responsibility for any reliance placed by any third party on the Company's financial information presented herein.

1.3 Currency

1. All references in this Report to currency are to Canadian dollars, unless otherwise noted.

2.0 Background

1. Each of the Shareholders indirectly owns 50% of the Company. The Shareholders are also guarantors of the Company's indebtedness owing to BMO.
2. The Company's principal asset is a dental clinic which operates from leased premises located at 2-1500 Bathurst St., Toronto (the "Clinic"). The Clinic continues to operate during these receivership proceedings. Dr. Pavelic is one of the dentists practicing at the Clinic.
3. 2th owns substantially all of the Clinic's physical assets, whereas the Pavelic DPC owns the patient records and intellectual property.
4. The Company currently has three dentists and twelve employees.
5. BMO is the Company's only secured creditor. The Company's unsecured creditors have been paid in the ordinary course since the date of the Receivership Order. The amount owing to the unsecured creditors as of the date of the Receivership Order was not significant and the cost to deal with those creditors would have exceeded paying those creditors in the ordinary course. BMO consented to the payment of those unsecured creditors and the Shareholders are aware that they have been paid.
6. Additional information about the Company and its background is set out in the affidavit of Michaela Wolf, a Senior Account Manager in the Special Accounts Management Unit of BMO, sworn October 3, 2023 (the "Affidavit") and in the First Report. A copy of the Affidavit, the First Report and other materials filed in this proceeding can be found on the Receiver's website at: <https://www.ksvadvisory.com/experience/case/2th>.

3.0 Sale Process

3.1 Background

1. The Company conducted a sale process prior to the commencement of the receivership proceedings. That process did not result in acceptance of an offer. In light of the prior sale process and the guarantees of the BMO debt by the Shareholders, and to minimize the costs of these proceedings, the Receiver suggested that the Shareholders agree to a closed auction process limited to the two of them. The Receiver proposed terms to participate in the auction. Ultimately, the Shareholders and the Receiver could not agree to the terms, and the Receiver brought a motion on January 8, 2024 to have the Sale Process approved by the Court. The details of the Receiver's efforts in this regard are provided in its First Report, a copy of which is provided in Appendix "C", without appendices.
2. The Sale Process was conducted in accordance with the Sale Process Order and is summarized as follows:
 - a) the Sale Process was designed to widely market the Clinic and include potentially interested parties (the "Potential Bidders"), including other dentists and consolidators of dental practices that had contacted the Receiver and parties identified by the Receiver;
 - b) on January 12, 2024, the Receiver distributed an interest solicitation letter (the "ISL") detailing the opportunity to over 60 Potential Bidders. A copy of the ISL is provided as Appendix "D";
 - c) the Receiver advised all Potential Bidders that offers were to be submitted by February 12, 2024 (the "Bid Deadline");
 - d) Eleven (11) Potential Bidders signed a confidentiality agreement ("CA"). Execution of the CA was required to obtain access to a virtual data room (the "VDR");
 - e) the VDR contained information concerning the Company, including financial information, a copy of the premises lease, an equipment listing and information regarding the Company's patient demographics (which was redacted for personal information);
 - f) the VDR also included a form of Template Asset Purchase Agreement (the "Template APA"). Prospective purchasers were encouraged to submit offers in the form of the Template APA, together with any changes to the offer blacklined against the Template APA; and
 - g) the Receiver facilitated site visits for Potential Bidders, as requested.

3.2 Sale Process Results

1. Five (5) Potential Bidders submitted offers by the Bid Deadline.
2. A summary of the offers is provided in Confidential Appendix "1" (the "Offer Summary"). The Receiver's rationale for seeking an order sealing this information is provided in Section 3.4 below.

3.3 The Transaction¹

1. A summary of the key terms and conditions of the Transaction is as follows:
 - a) Purchaser: A professional corporation owned by Dr. Harchandani, one of the dentists who practices at the Clinic.
 - a) Purchase Price: The Receiver recommends that the Purchase Price be sealed pending closing.
 - b) Deposit: The Receiver is holding the Deposit. The Template APA required a Deposit of 10% of the Purchase Price, and accordingly, the Receiver believes that the Deposit should be sealed as it would allow the Purchase Price to be derived.
 - c) Purchased Assets: All of the Receiver's and the Company's right, title and interest in the assets set out in Section 2.1 of the APA.
 - d) Closing Date: Five (5) Business Days following the date of the issuance of the AVO, or such other date as may be agreed in writing between the Receiver and Harchandani.
 - e) Termination: The APS may be terminated:
 - by mutual written consent of the Receiver and Harchandani;
 - by the Receiver or Harchandani if a material breach of any representation, warranty, covenant, obligation or other provision of the APA has been committed by the other party and such breach has not been waived or cured within five days following the date on which the non breaching party notifies the other party of such breach;
 - by the Receiver or Harchandani if the conditions in Section 6.01 and 6.02 of the APA become impossible to satisfy prior to May 1, 2024 or such later date as the parties may determine (the "Outside Date") (other than through the failure of the Receiver or Harchandani to comply with their obligations under the APA) and the other party has not waived such condition;
 - by the Receiver or Harchandani if the completion of the sale of Purchased Assets has not occurred (other than through the failure of the party seeking termination to comply with its obligations under this Agreement) on or before the Outside Date.

¹ Terms not defined in this section and section 3.4 have the meaning provided to them in the APA, unless otherwise defined herein.

- b) Conditions: The only material conditions precedent to the transaction are:
- on or prior to Closing, the landlord for the Clinic (the “Landlord”) shall have provided its written consent to the assignment of the lease to the Purchaser or the lease shall have been otherwise assigned to the Purchaser (the “Lease Assignment”), and the lease shall have a remaining lease term (including renewal options) of not less than twelve (12) years and shall not contain any demolition clause; and
 - the granting of the proposed AVO.
- c) Other: The APA is consistent with standard insolvency transactions, i.e., to be completed on an “as is, where is” basis, without any material representations or warranties.
2. As it relates to the Lease Assignment condition, the Receiver has been corresponding with the Landlord and has requested that the Landlord advise what information it requires to provide its consent. The Receiver is hopeful that such consent will be provided; however, if the Landlord does not respond and/or agree to the Lease Assignment then the Receiver intends to seek a Court order in respect of such assignment in order to facilitate closing the Transaction.
3. A copy of the APA is provided as Confidential Appendix “2”. A redacted copy of the APA is provided as Appendix “E”. The only redaction is to the amount of the Purchase Price and Deposit.

3.4 Confidentiality

1. In the event that the APA is breached or terminated for any reason, another sale process may be required. If the Purchase Price and the Deposit in the APA are not sealed until the Transaction closes, future bidders would have access to the amount that was accepted by the Receiver. Similarly, if the Offer Summary is not sealed, future bidders would have access to offer details. The Receiver proposes that the terms of the Transaction could be made publicly available following Closing.
2. No party will be prejudiced if the information is sealed at this time. Accordingly, the Receiver believes the proposed sealing order is appropriate in the circumstances.
3. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so in the circumstances. The Receiver is of the view that the sealing of the Confidential Appendices is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendices is appropriate in the circumstances.

3.5 Transaction Recommendation

1. The Receiver respectfully recommends that this Court approve the APA for the following reasons:
 - a) the Receiver attempted to engage with the Shareholders on a cost-effective process to conduct an auction for the Property;
 - b) the Company conducted a sale process in advance of these proceedings, which did not result in any acceptable offers;

- c) the Sale Process was conducted in accordance with the Sale Process Order;
- d) the Receiver believes the Sale Process was commercially reasonable and appropriate in the circumstances;
- e) the Transaction provides for the greatest recovery available in the circumstances;
- f) the Transaction provides for continuity of the Clinic, which is beneficial to the Clinic's patients, and is likely to provide employment to the majority of the Company's 12 employees;
- g) the Receiver is of the view that additional time marketing the Property will not result in a superior transaction and would impair value given the professional costs associated with the Receiver continuing to oversee the Clinic;
- h) the Receiver believes that the commercial terms of the APA are reasonable; and
- i) BMO supports the Transaction.

4.0 Proposed Distribution

1. The Company's indebtedness to BMO totalled approximately \$2.6 million at the commencement of the receivership proceedings. BMO has funded the professional costs of the Receiver and its counsel Reconstruct since that time totalling \$136,294 pursuant to Receiver Certificates.
2. Reconstruct has provided the Receiver with an opinion on BMO's security over the Property (the "Security"). Subject to the standard qualifications and assumptions contained therein, Reconstruct is of the opinion that the Security constitutes a valid and enforceable charge against the Property. A copy of the security opinion is available to the Court should it wish to review it.
3. Other than the Receiver's Charge, the Receiver is not aware of any claim that ranks in priority to BMO.
4. The Receiver recommends that the Court issue an order authorizing and directing the Receiver to make one or more distributions to BMO up to the amount of the Company's indebtedness owing to it, with such distributions likely to occur upon, or immediately following, closing of the Transaction.

5.0 Receiver's Activities

1. The Receiver's activities since the date of the First Report have included, among other things, the following:
 - a) carrying out the Sale Process;
 - b) dealing with the Shareholders regarding, among other things, the Clinic's operations, bi-weekly payroll, receipts and disbursements, information requested by Potential Bidders and ongoing payments;

- c) corresponding with BMO and its counsel regarding the status of the receivership and the Sale Process;
- d) corresponding with Reconstruct regarding the Sale Process and the APA;
- e) reviewing cheques to be issued by the Company and corresponding with Mr. Holland in that regard;
- f) attending in Court on January 8, 2024 regarding approval of the Sale Process; and
- g) preparing this Report.

6.0 Professional Fees

1. The fees of the Receiver from its appointment to February 29, 2024 total \$111,527, excluding disbursements and HST. The fees of Reconstruct for the same period total \$11,343, excluding disbursements and HST. Fee affidavits and accompanying invoices in respect of the fees and disbursements of the Receiver and Reconstruct for these periods are attached as Appendices “F” and “G”, respectively, to this Report.
2. The average hourly rate for the Receiver and Reconstruct for the referenced billing period was \$623 and \$585, respectively.
3. The Receiver believes that the Fee Accrual is sufficient and necessary to cover its fees and the fees of Reconstruct to the completion of these proceedings unless the Receiver is required to bring a motion in respect of the Lease Assignment.
4. The Receiver is of the view that Reconstruct’s hourly rates are lower than the rates charged by other law firms practicing in the area of insolvency in the Toronto market, and that its fees are reasonable and appropriate in the circumstances.

7.0 Receiver’s Discharge

1. Following closing of the Transaction, the Receiver will have monetized all of the known Property. Accordingly, in the Receiver’s view, it is appropriate for the Receiver to seek its discharge at this time in order to avoid the costs of motion solely for this purpose. The Receiver’s discharge would be effective upon filing a Certificate with the Court confirming closing of the Transaction, as well as full and final distributions to BMO.
2. If, subsequent to its discharge, the Receiver receives any further recovery in relation to the Property, which is not expected, the Receiver recommends that it be directed to distribute such recoveries to BMO, net of the Receiver’s incidental professional fees (including its counsel’s fees), up to the amount owing by the Company to BMO.
3. The draft discharge order also contemplates that:
 - a) the Receiver shall remain as Receiver for the performance of such incidental duties as may be required to complete the administration of this proceeding; and
 - b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as the Receiver.

8.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(g) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF
EACH OF 2TH, INC. AND DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL
CORPORATION AND NOT IN ITS PERSONAL
OR IN ANY OTHER CAPACITY**

Appendix “A”

Court File No. CV-23-00707066-00CL

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

| | | |
|----------------------|---|------------------------------|
| THE HONOURABLE MADAM |) | FRIDAY, THE 13 TH |
| |) | |
| JUSTICE STEELE |) | DAY OF OCTOBER, 2023 |

BANK OF MONTREAL

Applicant

- and -

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

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
(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing KSV Restructuring Inc. as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of each of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record, including the Notice of Application and the Affidavit of Michaela Wolf sworn October 3, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of service of Matilda Lici sworn October 3, 2023, and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage dentists, dental hygienists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000 provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (r) to contact, make any necessary inquiries and obtain information pertaining to the Debtors from the Royal College of Dental Surgeons of Ontario, the Ministry of Health and Long-Term Care, the Ontario Dental Association and any insurance company; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their respective current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including, but not limited to the Royal College of Dental Surgeons of Ontario, the Ministry of Health and Long-Term Care, the Ontario Dental Association, and any insurance company (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and

continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any client records, including medical records (“**Client Records**”), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that, should the Receiver deem it necessary to seek from any insurance company personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors, such information shall be sought pursuant to a motion on notice to the insurance company. Such information shall only be released by the insurance company on the agreement of such insurance company or as provided in the Order so obtained.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate

access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that with respect to Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a dentist licensed and qualified to practice in the Province of Ontario to act as custodian (the “**Custodian**”) for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records, except to the extent that supervised access to the Client Records is required to be granted to any Person for any purposes required pursuant to the *Dentistry Act, 1991*, the *Regulated Health Professions Act, 1991*, or any other governing Ontario or Canadian statute that requires such Person, from time to time, to perform certain obligations.

9. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

10. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

11. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

13. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

16. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such

personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

18. **THIS COURT ORDERS** that, pursuant to section 42 of the Ontario Personal Health Information Protection Act (“PHIPA”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the dentistry business of the Debtors (the “**Dental Practice**”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Dental Practice. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgment of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information and provide the Receiver with confirmation of such destruction. Such acknowledgment shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of the PHIPA.

19. **THIS COURT ORDERS** that the Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in complete custody or control of records of personal health information held by the Debtors for the purposes of PHIPA, unless it is actually in complete custody or control of such records of personal health information.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively,

"**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

21. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

22. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

24. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

25. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

26. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

27. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

28. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

29. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.ksvadvisory.com/experience/case-studies>.

30. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

31. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction

of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

RETENTION OF LAWYERS

32. **THIS COURT ORDERS** that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include Aird & Berlis LLP, solicitors for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists, or may arise.

GENERAL

33. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

34. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

35. **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 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 or to assist the Receiver and its agents in carrying out the terms of this Order.

36. **THIS COURT ORDERS** that the Receiver be 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, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

37. **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

38. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

39. **THIS COURT ORDERS** that this Order is effective from the date it is made and is enforceable without any need for entry or filing.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (in such capacities, the "**Receiver**") of the assets, undertakings and properties of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 13th day of October, 2023 (the "**Order**") made in an action having Court file number CV-23-00707066-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

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

Per: _____

Name:

Title:

BANK OF MONTREAL
Applicant

- and - **2TH, INC.**
Respondent

038

Court File No. CV-23-00707066-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER
(appointing Receiver)

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
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Lawyers for the Applicant, Bank of Montreal

Appendix “B”

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
JUSTICE H.J. WILTON-SIEGEL)

MONDAY, THE 8th)
DAY OF JANUARY, 2024)

BANK OF MONTREAL

Applicant

- and -

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

Respondents

SALE PROCESS ORDER

THIS MOTION made by KSV Restructuring Inc. ("**KSV**") in its capacity as court-appointed receiver and manager (the "**Receiver**") without security of the property, assets and undertaking (the "**Property**") of each of 2th Inc. ("**2th**") and Dr. Mislav Pavelic Dentistry Professional Corporation ("**Pavelic DPC**", and together with 2th, the "**Company**") for an Order that, among other things, approves a sale process to be conducted by the Receiver, was heard this day at by judicial videoconference.

ON READING the first report of the Receiver dated December 29, 2023 (the "**First Report**") and schedules thereto, and on hearing the submissions of counsel for the Receiver, counsel for the Bank of Montreal, and counsel for Dr. Mislav Pavelic, no other person appearing although duly served as appears from the affidavit of service of Christel Paul sworn January 2, 2024,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

SALE PROCESS APPROVAL

2. **THIS COURT ORDERS** that the sale process and procedures described in the First Report (the "**Sale Process**") are hereby approved and the Receiver is hereby authorized to carry out the Sale Process and take such steps as it considers necessary and desirable in carrying out its obligations thereunder, all subject to approval by this Court of any sale transaction resulting from the Sale Process.

3. **THIS COURT ORDERS** that the Receiver and its affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the Receiver performing its duties under the Sale Process, except to the extent such losses, claims, damages or liabilities arise or result from the gross negligence or wilful misconduct of the Receiver, as determined by this Court in a final order that is not subject to appeal or other review.

4. **THIS COURT ORDERS** that the Receiver may apply to the Court for directions with respect to the Sale Process at any time on at least seven (7) days' notice to the service lists established in these proceedings or such other notice as directed or permitted by the Court.

PIPEDA

5. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of the Property (a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of a Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal

information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

APPROVAL OF THE FIRST REPORT AND THE RECEIVER'S ACTIVITIES

6. THIS COURT ORDERS that the First Report, and the activities of the Receiver described therein, be and are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

7. **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 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 or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

SALE PROCESS ORDER

RECONSTRUCT LLP
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

Sharon Kour (LSO #58328D)
Tel: 416.613.8283
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Email: skour@reconllp.com

Lawyers for KSV Restructuring Inc.

Appendix “C”



**First Report to Court of
KSV Restructuring Inc. as Receiver and
Manager of 2th, Inc. and Dr. Mislav Pavelic
Dentistry Professional Corporation**

December 29, 2023

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COURT FILE NO.: CV- 23-707066-00CL

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

BETWEEN:

BANK OF MONTREAL**Applicant**

- and -

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

**FIRST REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

DECEMBER 29, 2023

1.0 Introduction

1. This report (the “Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as receiver and manager (in such capacity, the “Receiver”) of the property, assets and undertakings (the “Property”) of each of 2th, Inc. (“2th”) and Dr. Mislav Pavelic Dentistry Professional Corporation (“Pavelic DPC”, and together with 2th, the “Company”) appointed pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on October 13, 2023 (the “Receivership Order”). A copy of the Receivership Order is provided at Appendix “A”.
2. The application to appoint KSV as Receiver was made by Bank of Montreal (“BMO”), the Company’s senior secured creditor. As of September 18, 2023, the Company owed BMO approximately \$2.6 million, with interest and costs continuing to accrue.
3. The primary purpose of the receivership proceeding is to maximize value for the Company’s stakeholders by conducting a sale process for Company’s business and Property (the “Sale Process”).

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) detail the Receiver's attempts to have the Shareholders (as defined below) participate in a consensual auction process between themselves for the business and Property;
 - c) discuss the need to commence the Sale Process as a result of the Shareholders' refusal to agree to certain terms required by the Receiver for the auction summarized in (b) above;
 - d) summarize the Receiver's activities since its appointment; and
 - e) recommend that this Court issue an Order:
 - i. approving the Sale Process; and
 - ii. approving this Report and the Receiver's activities to the date of this Report.

1.2 Restrictions

1. In conducting its review and preparing this report, the Receiver has relied upon the Company's unaudited financial statements, books and records and discussions with Brian Holland and Mislav Pavelic, directors of 2th and the Company's two indirect shareholders (together, the "Shareholders").
2. The Receiver has not performed an audit or otherwise attempted to verify the accuracy or completeness of the financial information relied on in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the Company's financial information should perform its own diligence.
3. With the exception of the Court, the Receiver accepts no responsibility for any reliance placed by any third party on the Company's financial information presented herein.

1.3 Currency

1. All references in this Report to currency are to Canadian dollars, unless otherwise noted.

2.0 Background

1. Each of the Shareholders indirectly owns 50% of the Company. The Shareholders are also guarantors of the Company's indebtedness owing to BMO.
2. The Company's principal asset is a dental clinic which operates from leased premises located at 2-1500 Bathurst St., Toronto (the "Clinic"). The Clinic continues to operate in the ordinary course during these receivership proceedings. Dr. Pavelic is one of the dentists practicing at the Clinic.
3. 2th owns substantially all of the Clinic's physical assets whereas the Pavelic DPC owns the patient records and goodwill.
4. BMO is the Company's only secured creditor. The Company's unsecured creditors have been paid in the ordinary course since the date of the Receivership Order. The amount owing to the unsecured creditors as of the date of the Receivership Order was not significant and the cost to deal with those creditors would have exceeded paying those creditors in the ordinary course. BMO consented to the payment of those creditors and the Shareholders are aware that these creditors have been paid.
5. Additional information about the Company and its background is set out in the affidavit of Michaela Wolf, a Senior Account Manager in the Special Accounts Management Unit of BMO, sworn October 3, 2023 (the "Affidavit"). A copy of the Affidavit and other materials filed in this proceeding can be found on the Receiver's website at: <https://www.ksvadvisory.com/experience/case/2th>.

3.0 Sale Process

1. Prior to the proceedings, the Company retained Dentacloud Inc. ("Dentacloud") to market the Clinic and two other dental clinics for sale. Those efforts resulted in the sale of the other two dental clinics but not the Clinic. The proceeds of sale from the two other clinics were applied against the balance owing to BMO under the BMO facilities. The BMO facilities originally totalled approximately \$6.5 million.
2. In light of the fact that a sale process had already been undertaken for the Clinic during the months leading up to the appointment, and in order to minimize professional costs, the Receiver had discussions upon its appointment with each of the Shareholders regarding a closed auction process where they would agree to participate in an auction between the two of them for the Clinic and Property (the "Auction Process"). The Receiver advised the Shareholders that such a process would be more efficient and less costly than a broader sale process, which would otherwise potentially increase their exposure under their personal guarantees.
3. The Receiver drafted an Auction Process and asked each Shareholder to consent to it. The Receiver advised that absent both Shareholders consenting to the process, a sale process would need to be conducted. Despite several attempts by the Receiver to accommodate feedback from the Shareholders on the Auction Process, the Shareholders ultimately did not agree to the terms of the Auction Process, including the amount of the deposit to be paid and other terms.

4. Accordingly, the Receiver determined that it is necessary to conduct the Sale Process to realize on business and Property, a summary of which is provided below.

| Milestone | Key Dates |
|-----------------------------------|--|
| Distribute teaser | Upon issuance of a Court Order approving the Sale Process ¹ |
| Access to Virtual Data Room | Upon signing a confidentiality agreement |
| Bid Deadline | 30 days after the teaser is issued |
| Review and negotiate bids | 1-14 days after the bid deadline |
| Selection of Successful Bidder(s) | Immediately following the above |
| Court approval and closing(s) | As soon as possible |

5. As part of the proposed Sale Process, the Receiver is preparing:
- a list of potentially interested parties (the “Potential Bidders”), including other dentists and consolidators of dental practices;
 - a teaser, which will be distributed to Potential Bidders together with a confidentiality agreement (a “CA”); and
 - a data room with information about the Company, including financial information, a copy of the premises lease, an equipment listing and information regarding the Company’s patient demographics. Potential Bidders are required to execute the CA in order to obtain access to the data room.
6. As part of the proposed Sale Process, the Receiver will also be:
- requesting that parties submit a binding offer meeting at least the requirements for a Qualified Bid (as described in Section 3.1 below) by the “Bid Deadline”; and
 - facilitating due diligence by, among other things, arranging meetings with the Company’s key employees.
7. In the circumstances, the Receiver believes that the teaser, information to be made available in the data room and key employee meetings are sufficient for the Potential Bidders to perform due diligence. The Receiver will facilitate additional reasonable information requests made by Potential Bidders.
8. As part of the proposed Sale Process, Potential Bidders will be provided with a template asset purchase agreement (the “Template Purchase Agreement”) and will be strongly recommended to submit offers in the form of the Template Purchase Agreement, with a blackline to the Template Purchase Agreement.

¹ The Receiver has requested and is awaiting information from the Shareholders in order to prepare the teaser.

9. A Potential Bidder that wishes to make a bid must deliver a written copy of its bid and other materials required by the proposed Sale Process by no later than 5:00 pm (EDT) on the Bid Deadline.
10. The Receiver intends to review the offers received and negotiate with a view to expeditiously selecting the successful bidder (the "Successful Bidder"), and to seek Court approval of the transaction with the Successful Bidder as soon as possible thereafter (discussed further in Section 3.2 below).
11. The Receiver shall have the right to extend any deadline in the proposed Sale Process by up to two weeks, provided that the overall timeline does not extend beyond March 8, 2024, being approximately two months from the anticipated date that the Sale Process is approved, with the consent of BMO as the only expected affected creditor.

3.1 Qualified Bids

1. To be a "Qualified Bid" under the proposed Sale Process, a bid must, among other things, meet the following requirements:
 - a) an offer must be substantially in the form of the Template Purchase Agreement, with any changes to the offer blacklined against the Template Purchase Agreement;
 - b) include a provision stating that the offer is irrevocably open for acceptance until 30 days after the Bid Deadline;
 - c) be accompanied by a cash deposit of not less than 15% of the proposed purchase price;
 - d) include an acknowledgement that the proposed transaction is to be completed on an "as is, where is" basis and that the purchaser has relied solely on its own independent review and investigation and that it has not relied on any representation by the Company, the Receiver or their respective agents, employees or advisors;
 - e) it must not contain any condition or contingency relating to due diligence or financing or any other material conditions precedent to the purchaser's obligation to complete the transaction (except for approval by the Court); and
 - f) it must include written evidence, satisfactory to the Receiver, that the purchaser has the requisite consents (if any are necessary) and the financial ability to complete the proposed acquisition.
2. The Receiver shall have the discretion to make amendments to the proposed Sale Process that it believes are required to facilitate the best possible outcome in the Sale Process, including the maximization of value for the benefit of stakeholders.

3.2 Multiple Qualified Bids

1. If more than one Qualified Bid is received by the Bid Deadline, the Receiver will request that such bidders submit additional offers until the Receiver selects the best offer, which may not necessarily be the highest offer, based on its reasonable business judgement.

3.3 Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Sale Process for the following reasons:
 - a) the Sale Process provides for a wide marketing of the Clinic and includes Potential Bidders that have contacted the Receiver and parties identified by the Receiver;
 - b) the duration of the Sale Process is sufficient to allow interested parties to perform diligence and submit offers;
 - c) the Sale Process provides flexibility for the Receiver to amend or extend timelines, as detailed in paragraph 11 of Section 3.0; and
 - d) the terms of the Sale Process are supported by BMO.

4.0 Receiver's Activities

1. The Receiver's activities since its appointment have included, among other things, the following:
 - a) dealing with the Shareholders regarding, among other things, the Clinic's operations, receipts and disbursements, ongoing payments and the format of a sale process;
 - b) developing the Auction Process, which was ultimately not agreed to by the Shareholders;
 - c) developing the Sale Process;
 - d) preparing a letter to the Company's employees providing notice of the Receivership Order and advising of their employment status during the receivership;
 - e) corresponding with the Company's insurance agent;
 - f) dealing with BMO and its counsel regarding the status of the receivership and the proposed Sale Process;
 - g) corresponding with Reconstruct LLP, the Receiver's counsel, regarding its review of BMO's security and the Sale Process;

- h) attending calls with Dentacloud regarding, among other things, its role prior to this process and a party it identified with a potential interest in acquiring the Company's business;
- i) reviewing cheques to be issued by the Company and corresponding with Mr. Holland in that regard;
- j) preparing a Notice and Statement of the Receiver pursuant to Subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*;
- k) attending in Court on November 29, 2023 to schedule a hearing to approve the Sale Process; and
- l) preparing this Report.

5.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(e) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF
EACH OF 2TH, INC. AND DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL
CORPORATION AND NOT IN ITS PERSONAL
OR IN ANY OTHER CAPACITY**

Appendix “D”

Opportunity to acquire an established dental practice in a prime mid-town Toronto location with significant growth opportunities

2th Dental @ St. Clair Bathurst (the “Clinic”) operates a dental practice from a leased premises located at 1500 Bathurst Street, Toronto, Ontario. An opportunity exists to acquire the Clinic.

Clinic Overview

| | | |
|-----------------------------|---|---|
| Location | <ul style="list-style-type: none"> 1500 Bathurst Street, Units 2 and 3, Toronto, Ontario Excellent location at St. Clair & Bathurst, steps from the subway station, wealthy neighbourhood just north of Casa Loma, high residential density corridor, and across the street from St. Michael’s College School Easily accessible (96 walk score, 85 transit score, 83 bike score) | |
| History | <ul style="list-style-type: none"> Established in 1963 by Dr. Robert Bennett (retired in 2020) | |
| Facility | <ul style="list-style-type: none"> Lease expires on Dec 31/32 with two five-year extension options 2,133 sq. ft. suite on main floor Wheelchair accessible 7 fully-equipped operatories 10 parking spots available | <ul style="list-style-type: none"> Sterilization area 1 private office 1 staff room Within 450 meters of subway station |
| Financial metrics | <ul style="list-style-type: none"> Practice billings: \$1.6 million in 2023 Production breakdown: 67% doctor fees, 33% hygiene fees | |
| # of active patients | <ul style="list-style-type: none"> ~2,200 had an appointment within the last 3 years | |
| Marketing strategy | <ul style="list-style-type: none"> The Clinic attracts new patients through its website (www.2thdental.ca), neighbourhood mailers, client referrals, and the large window banners located at the Clinic | |
| Headcount | Dentist Hygienists Assistants Receptionists Office Manager | 3 (each part-time) 6 3 3 1 All staff paid hourly, except for one salaried assistant |



Range of Care

- Preventative, restorative, and cosmetic



Convenience

- Open 6 days per week
- Offers same-day emergency care
- Welcomes new patients



Patient centric

- Offers sedation
- Oral cancer screening
- Accepts all insurance plans

Acquisition Highlights

056

Opportunity to acquire an established dental practice in a prime mid-town Toronto location with significant growth opportunities

Established Clinic & Patient Base

- Operating more than 60 years
- ~2,200 active patients
- Dedicated team of experienced dentists, hygienists, assistants, and receptionists
- Long-standing patient base
- Patient friendly website

Street view of the Clinic



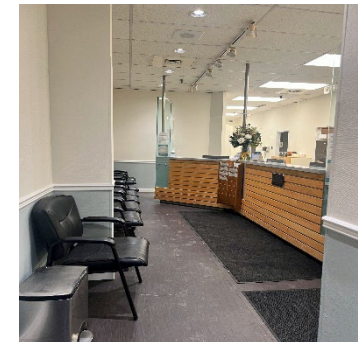
One of the seven operatories



Excellent Location

- St. Clair & Bathurst is a high residential density intersection with the practice located at street level, providing high visibility and accessibility for walk-ins and referrals
- St. Clair & Bathurst is a thriving community with several large condominiums under construction in the direct vicinity of the practice creating opportunity to attract new patients
- Subway located within a 450-metre walk

Reception area



Multiple Growth Opportunities

- Increase advertising and marketing spend to attract more patients, including search engine optimization, social media platforms, and outreach direct to new condo owners
- Invest in additional medical equipment to perform procedures that are currently referred to other practices
- Increase utilization of existing operatories, expand operating hours, and dentist and hygienist working hours



Note: This document has been prepared from information derived from the books and records of the Clinic and from discussions with certain of its employees. It is solely for use by parties interested in purchasing any or all of the Clinic's assets and may not contain all the information that a prospective purchaser may desire. The Receiver has not independently verified any of the information contained herein. No representations or warranties are made or implied by the Receiver with respect to the information in this document and, accordingly, the Receiver shall assume no liability for its correctness or completeness.



The Restructuring Process

On October 13, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order, among other things, appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacity, the “**Receiver**”) of the property, assets, and undertaking (the “**Property**”) of each of 2th, Inc. (“**2th**”) and Dr. Mislav Pavelic Dentistry Professional Corporation (“**Pavelic DPC**”, and together with 2th, the “**Clinic**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* (Ontario).¹

The primary purpose of these receivership proceedings is to maximize value for the Clinic’s stakeholders by conducting a sale process for the Property (the “**Sale Process**”).

The Clinic continues to operate in the normal course during these receivership proceedings.

The Bid Process

The Sale Process procedures are outlined in the First Report of the Receiver, which is available on the Receiver’s website at [2th, Inc.](#).

Bidders are strongly encouraged to review the terms and conditions of the Sale Process, including the requirements to participate in the Sale Process and the criteria that must be satisfied to be a “**Qualified Bidder**” pursuant to the Sale Process.

Interested parties that execute and return the attached confidentiality agreement (“**CA**”) to the Receiver (attention Eli Brenner (ebrenner@ksvadvisory.com), may be granted access, in the Receiver’s sole discretion, to additional information that will be available in a virtual data room (“**VDR**”), tour the facility, and/or meet with the Clinic’s key employees.

As part of the Sale Process, Qualified Bidders will be provided with a template asset purchase agreement (the “**Template Purchase Agreement**”). Bidders are strongly recommended to submit binding offers in the form of the Template Purchase Agreement, with a blackline to the Template Purchase Agreement. The Template Purchase Agreement will be made available in a VDR.

The Sale Process Timeline

The following table sets out the key milestones of the Sale Process.

| Milestone | Key Dates |
|-----------------------------------|--|
| Commencement of the Sale Process | January 12, 2024 |
| Bid Deadline | 5:00 pm (EDT) on February 12, 2024 |
| Review and Negotiate Bids | 1 to 14 days after the Bid Deadline |
| Selection of Successful Bidder(s) | Immediately following the above |
| Court approval and closing(s) | As soon as possible after settling the transaction documents |

In accordance with the terms of the Sale Process, the timelines may be extended by up to 14 days at the Receiver’s discretion. The Receiver is not obligated to accept any offer in the Sale Process, including the highest offer. Any transaction resulting from the Sale Process will be subject to Court approval.

Contact Information

KSV Restructuring Inc.
 220 Bay Street, Suite 1300
 Toronto, Ontario M5J 2W4

Eli Brenner, Managing Director
ebrenner@ksvadvisory.com
 (416) 932-6028



Note 1: 2th owns substantially all of the Clinic’s physical assets and Pavelic DPC owns the patients records and technical goodwill. Dr. Pavelic is one of the dentists practicing at the Clinic.



Appendix “E”

ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of February 27, 2024

BETWEEN

NAMRITA HARCHANDANI DENTISTRY PROFESSIONAL CORPORATION, a corporation incorporated under the laws of Ontario (the “**Purchaser**”),

- and -

KSV RESTRUCTURING INC., solely in its capacity as Court-appointed receiver and manager of **2TH, INC.** and **DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL CORPORATION**, and not in its personal or corporate capacity (the “**Receiver**”)

WHEREAS on October 13, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Order (the “**Receivership Order**”) appointing KSV Restructuring Inc. as Receiver of the assets, undertakings and properties of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (together, the “**Debtors**”).

AND WHEREAS pursuant to the Receivership Order, the Receiver was authorized to market and sell the assets, undertakings and properties of the Debtors.

AND WHEREAS the Purchaser desires to purchase the Purchased Assets (as defined herein) and assume the Assumed Liabilities (as defined herein) upon and subject to the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Accounting Records**” means all of the material books of account, accounting records and other financial data and information of the Debtors, and includes all accounting records, data and information stored electronically, digitally or on computer related media.

“**Affiliate**” means, with respect to any Person, any other Person that controls or is controlled by or is under common control with the referent Person.

“**Agreement**” means this agreement, including its recitals and schedules, as it may be amended, supplemented, restated or replaced from time to time by written agreement between the Parties.

“**Applicable Law**” means:

- (a) any applicable domestic or foreign law including any statute, law, regulation, code, ordinance, rule, restriction, subordinate legislation, by-law or treaty, as well as the common law; and
- (b) any applicable and enforceable rule, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

“**Approval and Vesting Order**” means an Order of the Court made in the Receivership Proceeding, substantially in the form attached hereto as **Exhibit A**, approving the entry into this Agreement by the Receiver and the consummation of the Transaction contemplated hereby, and on Closing, vesting in the Purchaser or its nominee(s) all right, title, and interest of the Debtors in and to the Purchased Assets free and clear of all Encumbrances.

“**Assignment Order**” means an order of the Court, in form and substance satisfactory to the Purchaser, acting reasonably, assigning to the Purchaser the rights and obligations of the Debtors under the Assumed Contracts for which a consent, approval or waiver necessary for the assignment of such Assumed Contracts has not been obtained, and which will include, if necessary, a mechanism for the resolution of any disputed Cure Costs.

“**Assignment and Assumption Agreement**” means an agreement pursuant to which the Receiver will assign the Assumed Contracts to the Purchaser and the Purchaser will assume the Assumed Liabilities at the Time of Closing, substantially in the form of the document set out in **Exhibit C**.

“**Assumed Contracts**” means those Contracts set out in **Exhibit B**.

“**Assumed Employees Liabilities**” has the meaning given to such term in Section 2.8(c).

“**Assumed Employees**” has the meaning given to such term in Section 5.1.

“**Assumed Liabilities**” has the meaning set out in Section 2.8.

“**Books and Records**” means all business and financial records and files of the Business, including patient files, in hard and soft copy, patient records, patient charts, x-rays, models pertaining to the Business, prescription information, the general ledger and Accounting Records relating to the Business, marketing materials, market research, all customer lists and lists of suppliers, customer records and databases, leases, sub-leases and leasing records, Contracts records, information relating to any tax imposed on the Purchased Assets, and all of the right, interest and benefit, if any, thereunder and to and in the domain names, telephone numbers and facsimile numbers used by the Debtors in the conduct of the Business; provided, however, that the Receiver may retain copies of all books and records included in the Purchased Assets to the extent necessary or useful

for the administration of the receivership proceedings or any other proceedings in respect of any of the Debtors or the filing of any tax return or compliance with any Applicable Law or the terms of this Agreement.

“**Business**” means the dental practice carrying on business as “2th Dental @ St. Clair Bathurst” located at Unit 2, 1500 Bathurst Street, Toronto, Ontario.

“**Business Day**” means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario.

“**Claim**” means any right or claim of any person that may be asserted or made in whole or in part against the Receiver and/or the Debtors, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a provable claim in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

“**Closing**” means the completion of the Transaction in accordance with this Agreement;

“**Closing Date**” means five (5) Business Days following the date of the issuance of the Approval and Vesting Order, or such other date as may be agreed in writing between the parties hereto.

“**Contract**” means any contract, agreement, license, lease, obligation, promise, undertaking, understanding, arrangement, document, entitlement, engagement, instrument or commitment recognized at law or equity, whether express or implied, or arising by a course of conduct or usage of trade, to which any one of the Debtors is a party or otherwise bound.

“**Court**” has the meaning set out in the Recitals hereto.

“**Cure Costs**” means the amount of all monetary defaults, if any, existing in respect of any Assumed Contracts that are required to be paid in order to obtain the consent necessary to permit the assignment of an Assumed Contract under 2.8.

“**Deposit**” has the meaning set out in section 2.10.

“**Employees**” has the meaning set out in section 5.1

“**Excluded Assets**” has the meaning in section 2.2

“**Excluded Employee**” has the meaning set out in section 5.1.

“**Encumbrance**” means any encumbrance against or interest in the Purchased Assets of any kind whatsoever and includes, without limitation, a security interest, mortgage, lien, pledge, assignment, charge, title retention agreement, option, trust or deemed trust (whether contractual, statutory, or otherwise arising), licence, and any covenant or other agreement, restriction, or limitation relating to the Purchased Assets or the transfer of the Purchased Assets to the Purchaser pursuant to this Agreement.

“**Governmental Authority**” means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances, including, but not limited to, the Royal College of Dental Surgeons of Ontario.

“**Leased Premises**” means the business activities and operations formerly carried on by the Debtors located at the addresses municipally known as Unit 2, 1500 Bathurst Street, Toronto, Ontario.

“**Liabilities**” means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Applicable Law or Claim and those arising under any Contract or undertaking or otherwise, including any tax liability or tort liability of the Debtors.

“**Non Disclosure Agreement**” means the non-disclosure agreement dated 29th January, 2024 between the Purchaser and the Receiver.

“**Outside Date**” has the meaning set out in Section 6.4(b).

“**Party**” or “**Parties**” mean either the Receiver or the Purchaser, as appropriate in the context, or both.

“**Permits**” means all permits, licences, certificates, approvals, authorizations, and registrations, or any item with a similar effect, issued or granted by any Governmental Authority, including, for greater certainty, any applicable Certificate of Authorization from the Royal College of Dental Surgeons.

“**Person**” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other entity.

“**Purchase Price**” has the meaning set out in Section 2.3.

“**Purchased Assets**” has the meaning set out in Section 2.1.

“**Receiver**” has the meaning set out in the Recitals hereto.

“**Receiver’s Certificate**” means a certificate signed by the Receiver substantially in the form attached as **Exhibit D** confirming that: (i) the Purchaser has paid, and the Receiver has received

payment of, the Purchase Price in relation to the purchase by the Purchaser of the Purchased Assets, and (ii) the conditions to be complied with at or prior to the Time of Closing as set out in Sections 6.1 and 6.2, respectively, have been satisfied or waived by the Receiver or the Purchaser, as applicable, pursuant to Section 6.3.

“**Receivership Order**” has the meaning set out in the recitals hereto.

“**Receivership Proceeding**” means the receivership proceeding in which KSV Restructuring Inc. was appointed the Receiver of all of the current and future assets, undertakings, and properties of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation.

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Taxes**” means all taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable to them.

“**Time of Closing**” means 3:00 p.m. (Toronto Time) on the Closing Date.

“**Transaction**” means the purchase and sale of the Purchased Assets and all other transactions contemplated by this Agreement.

“**Transfer Taxes**” has the meaning set out in Section 2.7.

1.2 Headings

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Exhibits are to Articles and Sections of and Exhibits to this Agreement.

1.3 Construction

This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party does not apply to the construction or interpretation of this Agreement.

1.4 Extended Meanings

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any Person other than the Receiver and the Purchaser.

1.5 Capacity of Receiver

The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as Court appointed Receiver of the Debtors, and not in its personal or any other capacity. The Receiver shall have no personal or corporate liability of any kind whether in contract, tort or otherwise.

1.6 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re enacted or replaced and includes any regulations made thereunder.

1.7 Currency

All references to currency herein are to lawful money of Canada.

1.8 Exhibits

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

- Exhibit A** – Form of Approval and Vesting Order
- Exhibit B** – Assumed Contracts and Permits
- Exhibit C** – Form of Assignment and Assumption Agreement
- Exhibit D** – Form of Receiver’s Certificate
- Exhibit E** – Allocation of Purchase Price

ARTICLE 2 SALE AND PURCHASE

2.1 Assets to be Sold and Purchased

Upon and subject to the terms and conditions hereof, the Receiver will sell to the Purchaser and the Purchaser will purchase from the Receiver, as of and with effect from the Time of Closing, all of the right, title, benefit and interest of the Debtors in and to the assets set out and described below (collectively, the “**Purchased Assets**”):

- (a) all machinery, equipment, furniture, furnishings, computers, accessories and supplies of the Business;
- (b) Books and Records;
- (c) all Permits;

- (d) all goodwill of the Business, including all trade-marks, trade names, whether registered or unregistered, copyright, artwork, designs, licenses, customer lists and records, software, processes used in connection with the Business, together with the exclusive right of the Purchaser to represent itself as carrying on business in succession to the Debtors, and including the continuous right to use the business name currently in place at the Business;
- (e) subject to Sections 2.8 and 2.9, the Assumed Contracts enumerated in **Exhibit A** hereto.

2.2 Excluded Assets

Notwithstanding the foregoing, the Purchased Assets shall not include the following assets of the Debtors (collectively, the “**Excluded Assets**”):

- (a) any assets other than the Purchased Assets;
- (b) cash and cash equivalents whether in bank balances or otherwise;
- (c) any accounts receivable and any amounts owing to the Receiver with respect to the sale of assets other than the Purchased Assets prior to the Closing Date;
- (d) any tax rebates or refunds due to the Debtors;
- (e) corporate seals, organizational documents, minute books, stock books, tax returns or other similar records having to do with the corporate organization of the Debtors;
- (f) employee health benefit plans relating to the Business and any assets attributable thereto;
- (g) personnel and employment records relating to any Excluded Employees;
- (h) any right, title and interest which accrue or will accrue to the Debtors pursuant to the terms of this Agreement and any other agreements entered into pursuant hereto;
- (i) all amounts owing from any director, officer, former director or officer, shareholder, employee, or any Affiliate of the Debtors;
- (j) any amounts recoverable with respect to potential transactions at undervalue, preferences, or other settlements; and
- (k) insurance policies of the Debtors or the Receiver relating to the Purchased Assets and all rights in connection therewith including any rights to payments thereunder upon the occurrence or an insured event or refunds of insurance payments except for insured events in respect of the Purchased Assets which proceeds of insurance shall be paid to the Purchaser.

2.3 Purchase Price

The aggregate purchase price payable by the Purchaser to the Receiver for the Purchased Assets on the Closing Date, excluding all applicable Taxes (such amount being hereinafter referred to as the “**Purchase Price**”), is an amount equal to a sum of the following:

- (a) [REDACTED] for the Purchased Assets; and
- (b) the amount of the Assumed Liabilities.

2.4 **Legal Due Diligence**

Intentionally deleted.

2.5 **Allocation of Purchase Price**

The Purchase Price will be allocated among the Purchased Assets as set out in **Exhibit E**. The Receiver and Purchaser will make and file all tax returns and filings on a basis which is consistent with the amount and allocation of the Purchase Price.

2.6 **Elections**

The Receiver and the Purchaser will on or before the Time of Closing jointly execute an election (if applicable), in the prescribed form and containing the prescribed information, to have subsection 167(1.1) of the *Excise Tax Act* (Canada) apply to the sale and purchase of the Purchased Assets hereunder so that no Tax is payable in respect of such sale and purchase under Part IX of the *Excise Tax Act* (Canada). The Purchaser will file such election with the Minister of National Revenue within the time prescribed by the *Excise Tax Act* (Canada).

2.7 **Transfer Taxes**

The Purchaser will be liable for and, subject to Section 2.6, will pay, or will cause to be paid, all transfer, value added, ad valorem, excise, sales, use, consumption, goods or services, harmonized sales, retail sales, social services, or other similar taxes or duties (collectively, “**Transfer Taxes**”) payable under any Applicable Law on or with respect to the sale and purchase of the Purchased Assets under this Agreement. The Purchaser will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense.

The Purchaser shall indemnify and save harmless the Receiver and its employees, advisors and agents from all Claims incurred, suffered or sustained as a result of a failure by the Purchaser:

- (a) to pay any Transfer Taxes payable by the Purchaser; and/or
- (b) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Purchased Assets.

2.8 **Assumption of Liabilities**

At the Time of Closing, the Purchaser will assume and thereafter fulfil, perform and discharge when due the following Liabilities of the Debtors outstanding as at the Closing Date (collectively, the “**Assumed Liabilities**”);

- (a) all Liabilities arising from or in connection with the Purchased Assets, including the Assumed Contracts and any Cure Costs that may be owing in respect of an Assumed Contract;
- (b) all Liabilities arising from or in connection with any Taxes for which the Purchaser is responsible pursuant to Section 2.7;
- (c) all Liabilities and obligations arising from or in connection with the Assumed Employees from and after Closing including (i) relating to the Purchaser’s employment of, or termination of employment of any Assumed Employees, to the extent arising on or after the Closing Date; (ii) relating to the acceptance of the Purchaser’s offer of employment or notice of continued employment to any Employee pursuant to the terms of Section 5.1; and (iv) the obligations under Section 5.1 with respect to any Assumed Employee (collectively, the “**Assumed Employees Liabilities**”); and

2.9 Assigned Contracts

Subject to Section 2.8(a), the Purchaser, with the Receiver’s consent, will request any consents necessary, if any, to permit the assignment to the Purchaser of the Assumed Contracts. The Receiver will provide its reasonable cooperation to assist the Purchaser to obtain such consents, including by obtaining an Assignment Order and by providing financial and other information of the Debtors requested by the Purchaser or party to such Assumed Contract.

The Purchaser will be responsible for all Cure Costs in respect of any Assumed Contracts.

Nothing in this Agreement will constitute an agreement to assign or an attempted assignment of any non assignable rights or any Assumed Contracts or Permits for which any requisite consent or approval has not been obtained or which as a matter of Applicable Law or by its terms is not assignable.

2.10 Payment of Purchase Price

The Purchase Price will be satisfied by the Purchaser as follows:

- (a) an amount equal to 10% of the Purchase Price (the “**Deposit**”) forthwith upon the Purchaser executing this Agreement, by wire transfer of immediately available funds to an account specified by the Receiver, in trust, as a deposit to be held in a bank account at a Canadian chartered bank;
- (b) ██████████ by wire transfer at the Time of Closing of immediately available funds to an account specified by the Receiver; and,

- (c) by the Purchaser assuming the Assumed Liabilities, and any bank fees or charges associated with any wire transfer;

The Deposit paid to the Receiver by the Purchaser pursuant to Section 2.10(a) will be paid by the Receiver as follows:

- (d) to the Receiver at the Time of Closing if the sale and purchase of the Purchased Assets provided for herein is completed in accordance with the terms and conditions hereof;
- (e) to the Receiver on or after the fifth Business Day after the date of termination of this Agreement, if this Agreement is terminated by the Receiver pursuant to Section 6.4(a), Section 6.4(c) (where the Purchaser has failed to comply with its obligations under this Agreement) unless with respect to a condition in Section 6.2(c) or (d); or
- (f) to the Purchaser on or after the fifth Business Day after the date of termination of this Agreement if this Agreement is terminated by the Purchaser pursuant to Section 6.4(a) or Section 6.4(b), or by the Receiver pursuant to Section 6.4(c) solely with respect to a condition in Section 6.2(c) or (d) (unless the Purchaser has failed to comply with its obligations under this Agreement).

2.11 Delivery of Purchased Assets

At the Time of Closing, the Purchaser will take possession of the Purchased Assets where situated. The Purchaser acknowledges that the Receiver has no obligation to deliver possession of the Purchased Assets to the Purchaser at any location other than the Leased Premises.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Receiver's Representations and Warranties

The Receiver represents and warrants to the Purchaser that, as at the date hereof and as of the Closing Date:

- (a) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, the Receiver has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (b) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms;
- (c) 2th, Inc. is registered under Part IX of the *Excise Tax Act* (Canada) with registration number 735446718RT0001; and

- (d) the Receiver is not a non resident of Canada within the meaning of section 116 of the Tax Act.

3.2 **Purchaser's Representations and Warranties**

The Purchaser represents and warrants to the Receiver that:

- (a) the Purchaser is a corporation duly incorporated, organized and existing under the laws of Ontario;
- (b) the Purchaser has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms;
- (d) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein and the entering into of this Agreement in completion of the transactions contemplated herein will not breach its constating documents, any agreement binding on the Purchaser, or Applicable Laws relating to the Purchaser;
- (e) there are no orders of or proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (f) no authorizations, consents or approvals of, or filing with or notice to, any Governmental Authority is required in connection with the execution, delivery or performance of this Agreement;
- (g) except for the Approval and Vesting Order, no consent, waiver, authorization or approval of any Person and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement;
- (h) the Purchaser has available, or at the Time of Closing will have, sufficient funding to enable the Purchaser to consummate the purchase of the Purchased Assets on the terms set forth herein and otherwise to perform all of the Purchaser's obligations under this Agreement; and
- (i) the Purchaser is not a non resident of Canada within the meaning of section 116 of the Tax Act.

3.3 **"As Is, Where Is"**

The Purchaser acknowledges and agrees that it is purchasing the Purchased Assets on an “as is, where is” basis and on the basis that the Purchaser has conducted to its satisfaction an independent inspection, investigation and verification of the Purchased Assets (including a review of title), Assumed Liabilities and all other relevant matters and has determined to proceed with the transaction contemplated herein and will accept the same at the Time of Closing in their then current state, condition, location, and amounts.

Except as otherwise expressly provided in Section 3.1, no representation, warranty or condition whether statutory (including under the *Sale of Goods Act* (Ontario), the *International Sale of Goods Contracts Convention Act* (Canada) and the *International Sale of Goods Act* (Ontario) or any international equivalent act which may be applicable to the subject matter pursuant to the provisions of this Agreement, including but not limited to the *United Nations Convention on Contracts for the International Sale of Goods*), or express or implied, oral or written, legal, equitable, conventional, collateral, arising by custom or usage of trade, or otherwise is or will be given including as to title, outstanding liens or Encumbrances, description, fitness for purpose, merchantability, merchantable quality, quantity, condition (including physical and environmental condition), suitability, durability, assignability, or marketability thereof or any other matter or thing whatsoever, and all of the same are expressly excluded and disclaimed and any rights pursuant to such statutes have been waived by the Purchaser. The Purchaser acknowledges and agrees that it has relied entirely and solely on its own investigations as to the matters set out above and in determining to purchase the Purchased Assets and assume the Assumed Liabilities pursuant to this Agreement.

The description of the Purchased Assets and Assumed Liabilities contained herein is for the purpose of identification only and the inclusion of any item in such description does not confirm the existence of any such items or that any such item is owned by the Debtors. Except as otherwise explicitly set forth in Section 3.1, no representation, warranty or condition has been given by the Receiver concerning the completeness or accuracy of such descriptions and the Purchaser acknowledges and agrees that any other representation, warranty, statements of any kind or nature, express or implied, (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Debtors or the quality, quantity or condition of the Purchased Assets) are specifically disclaimed by the Receiver.

Any documents, materials and information provided by or on behalf of the Receiver to the Purchaser with respect to the Purchased Assets or Assumed Liabilities (including any confidential information memorandums, management presentations, or material made available in the electronic data room) have been provided to the Purchaser solely to assist the Purchaser in undertaking its own due diligence, and the Receiver has not made and is not making any representations or warranties, implied or otherwise, to or for the benefit of the Purchaser as to the accuracy and completeness of any such documents, materials or information or the achievability of any valuations, estimates or projections. The Purchaser acknowledges that it has not and will not rely upon any such documents, materials or information in any manner, whether as a substitute for or supplementary to its own due diligence, searches, inspections and evaluations. The Receiver and its Affiliates, directors, officers, employees, agents and advisors shall not be liable for any inaccuracy, incompleteness or subsequent changes to any such documents, materials or information.

ARTICLE 4 COVENANTS

4.1 Covenants of the Receiver

The Receiver will ensure that the representations and warranties of the Receiver set out in Section 3.1 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Purchaser set out in Section 6.1 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

The Receiver shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court's issuance of the Approval and Vesting Order and to the extent necessary, the Assignment Order.

4.2 Covenants of the Purchaser

The Purchaser will ensure that the representations and warranties of the Purchaser set out in Section 3.2 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Receiver set out in Section 6.2 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

The Purchaser will provide the Receiver with all information within its possession or control that the Receiver may reasonably request to assist the Receiver in obtaining the Approval and Vesting Order.

The Purchaser will preserve the Books and Records delivered to it at the Time of Closing for a period of six years from the Closing Date, or for such other period as is required by any Applicable Law, and will permit the Receiver and their respective authorized representatives reasonable access thereto in connection with the affairs of the Debtors, and the right to make copies thereof at their expense.

The Purchaser shall make the necessary arrangements to replace any letters of credit or other security deposits, if any posted or received by the Debtors, the Receiver, or any other Person on their behalf, on or prior to Closing.

The Purchaser shall have obtained all necessary approvals from any applicable Governmental Authority to carry on the Business post-Closing, including any applicable Permits.

The Purchaser will comply with the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar Applicable Laws relating to privacy and the protection of personal information in respect of the Books and Records, Contracts and any other business and financial records related to the Purchased Assets.

ARTICLE 5 EMPLOYEES

5.1 Employee Matters

The Receiver shall provide to the Purchaser an up-to-date list of the names of all of the Debtors' employees, associate dentists, consultants and contractors fulfilling an employee-like role (collectively, "**Employees**"), together with their positions and material terms of employment including wages/salary, incentive compensation, service date, benefits and vacation entitlement and accrual at least three (3) Business Days prior to the Closing Date.

Prior to Closing and with effect as of the Closing, the Purchaser shall, in compliance with Applicable Law, offer continuing employment to one or more Employees on terms and conditions, including compensation, benefits, hours of work and duties, that are substantially similar and no less favourable in the aggregate to those such Employees currently enjoy. The Employees to whom the Purchaser does not elect to offer continuing employment shall hereinafter be collectively referred to as the "**Excluded Employees**". The Employees who accept the Purchaser's offer of employment, shall hereinafter be collectively referred to as the "**Assumed Employees**".

The Purchaser shall assume and be responsible for all liabilities and obligations with respect to the Assumed Employees accrued from the Closing Date, including, but not limited to, any required notice of termination, termination or severance pay (required under Applicable Law or under any Contract), employment insurance, workplace safety and insurance/workers' compensation, Canada Pension Plan, salary or wages, vacation pay, overtime pay, payroll or employer health Taxes, commissions or vacation entitlements and accruals.

ARTICLE 6 CONDITIONS AND TERMINATION

6.1 Conditions for the Benefit of the Purchaser

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Purchaser and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Receiver set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Receiver will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Receiver at or prior to the Time of Closing;
- (c) on or prior to Closing, the landlord for the Leased Premises shall have provided its written consent to the assignment of the lease to the Purchaser or the lease shall have been otherwise assigned to the Purchaser (the "**Lease Assignment**"), and said lease shall have a remaining lease term (including renewal options) of not less than twelve (12) years and shall not contain any demolition clause;

- (d) to the best of the Receiver's knowledge, no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the sale and purchase of the Purchased Assets; and
- (e) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom).

6.2 Conditions for the Benefit of the Receiver

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Purchaser set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Purchaser will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Purchaser at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the purchase and sale of the Purchased Assets;
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom); and
- (e) the Purchaser will have paid or will have made arrangements, satisfactory to the Receiver, to pay all Cure Costs pursuant to Section 2.8(a).

6.3 Waiver of Condition

The Purchaser, in the case of a condition set out in Section 6.1, and the Receiver, in the case of a condition set out in Section 6.2 (other than Section 6.2(d)), will have the exclusive right to waive the performance or compliance of such condition in whole or in part and on such terms as may be agreed upon without prejudice to any of its rights in the event of non performance of or non compliance with any other condition in whole or in part. Any such waiver will not constitute a waiver of any other conditions in favour of the waiving party. Such waiving party will retain the right to complete the purchase and sale of the Purchased Assets herein contemplated.

6.4 Termination

This Agreement may be terminated, by notice given prior to or on the Closing Date:

- (a) by the Receiver or the Purchaser if a material breach of any representation, warranty, covenant, obligation or other provision of this Agreement has been

committed by the other party and such breach has not been waived or cured within five days following the date on which the non breaching party notifies the other party of such breach;

- (b) by the Purchaser if a condition in Section 6.1 becomes impossible to satisfy prior to May 1, 2024 or such later date as the parties may determine (the “**Outside Date**”) (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition;
- (c) by the Receiver if a condition in Section 6.2 becomes impossible to satisfy prior to the Outside Date (other than through the failure of the Receiver to comply with its obligations under this Agreement) and the Receiver has not waived such condition;
- (d) by written agreement of the Purchaser and the Receiver;
- (e) by the Receiver or the Purchaser if the completion of the sale of Purchased Assets herein contemplated has not occurred (other than through the failure of the party seeking termination to comply with its obligations under this Agreement) on or before the Outside Date.

6.5 Effect of Termination

Each party’s right of termination under Section 6.4 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 6.4, all further obligations of the parties under this Agreement will terminate, except that the obligations in Sections 2.10(e) and (f), 7.4, and 9.4 will survive; provided, however, that if this Agreement is terminated by a party because of a material breach of a representation or warranty, covenant, obligation or other provision of this Agreement by the other party or because one or more of the conditions to the terminating party’s obligations under this Agreement is not satisfied as a result of the other party’s failure to comply with its obligations under this Agreement, the terminating party’s right to pursue all legal remedies with respect to such breach will survive such termination unimpaired.

ARTICLE 7 CLOSING ARRANGEMENTS

7.1 Closing

Subject to the terms and conditions of this Agreement, the sale and purchase of the Purchased Assets will be completed electronically on the Closing Date, at the Time of Closing, or via such other place as may be agreed upon in writing by the Parties.

7.2 Receiver’s Closing Deliveries

On or before the Time of Closing, the Receiver will deliver or cause to be delivered to the Purchaser the following:

- (a) a copy of the issued and entered Approval and Vesting Order;

- (b) if available, the tax election as contemplated by Section 2.6 executed by the Receiver;
- (c) a certificate executed by the Receiver confirming that the representations and warranties of the Receiver in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Receiver to be performed prior to the Time of Closing have been performed in all material respects;
- (d) a bill of sale, duly executed by the Receiver, if necessary;
- (e) the Assignment and Assumption Agreement executed by the Receiver;
- (f) the Receiver shall have delivered to the Purchaser, on or before Closing, the current floor plan for radiation shielding as submitted for approval to Ontario's Ministry of Health, X-Ray Inspection Service;
- (g) the Lease Assignment; and
- (h) such other documents or instruments as contemplated or required to be delivered by the Receiver pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

7.3 Purchaser's Closing Deliveries

On or before the Time of Closing, the Purchaser will deliver or cause to be delivered to the Receiver the following:

- (a) payment of the Purchase Price to the Receiver as contemplated by Section 2.10.
- (b) evidence, satisfactory to the Receiver, of the payment of or arrangements to pay all Cure Costs as contemplated by Section 2.8(a).
- (c) a certificate executed by a senior officer of the Purchaser confirming that the representations and warranties of the Purchaser in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Purchaser to be performed prior to the Time of Closing have been performed in all material respects;
- (d) if available, the tax election as contemplated by Section 2.6 executed by the Purchaser;
- (e) the Assignment and Assumption Agreement executed by the Purchaser; and
- (f) such other documents or instruments as contemplated or required to be delivered by the Purchaser pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

7.4 Confidentiality

Subject to the terms of the Non Disclosure Agreement, both prior to the Closing Date and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason thereafter, the Purchaser will not disclose to anyone or use for its own or for any purpose other than the purpose contemplated by this Agreement any confidential information concerning the Debtors or the operations obtained by the Purchaser pursuant hereto, and will hold all such information in the strictest confidence and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason, will return all documents, records and all other information or data relating to the Debtors or to the operations which the Purchaser obtained pursuant to this Agreement.

7.5 Delivery of Receiver's Certificate

Closing shall be deemed to have occurred upon the Receiver's execution and delivery of the Receiver's Certificate confirming the Closing of the transactions contemplated hereby, and a copy of same shall be filed with the Court.

7.6 Risk of Loss

The Purchased Assets will be at the Receiver's risk until the completion of the Transaction contemplated herein on the Closing Date and thereafter at the Purchaser's risk.

ARTICLE 8 SURVIVAL

8.1 Survival

No covenants, representations and warranties of each party contained in this Agreement will survive the completion of the sale and purchase of the Purchased Assets and assumption of the Assumed Liabilities hereunder, except for the covenants that by their terms are to be satisfied or survive after the Time of Closing (including without limitation Sections 2.7, 2.8(c), 4.2 (third paragraph), 7.4 and 9.4), which covenants will continue in full force and effect in accordance with their terms.

ARTICLE 9 GENERAL

9.1 Legal Advice

The Parties have each consulted with and been advised by their own solicitors before entering into this Agreement, have read same, and know the contents thereof.

9.2 Further Assurances

Each of the Receiver and the Purchaser will from time to time at the request and expense of the other execute and deliver all such further documents and instruments and do all acts and

things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

9.3 Time of the Essence

Time is of the essence of this Agreement.

9.4 Fees, Commissions and other Costs and Expenses

Each of the Receiver and the Purchaser shall be solely responsible for their respective legal and accounting costs and expenses and any real estate or other commissions incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim resulting from any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

9.5 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

9.6 Entire Agreement

This Agreement, including all Schedules, together with the agreements and other documents to be delivered in accordance with and pursuant to this Agreement, and the Non Disclosure Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and such agreements cancel and supersede any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement (including the agreements contemplated hereby) or in the Non Disclosure Agreement.

9.7 Amendments and Waivers

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

9.8 Assignment

This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party hereto, which consent may be arbitrarily withheld, provided that the Purchaser may designate one or more nominees to take title in and to the Purchased Assets, or any part thereof, by giving the Receiver written notice of such assignment at least two clear Business Days prior to the date of the hearing of the application for the Approval and Vesting Order.

9.9 Notices

Any demand, notice or other communication required or permitted to be given in connection with this Agreement must be in writing and delivered by courier or email as follows:

To the Receiver:

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, Ontario, M5J 2W4

Attention: Bobby Kofman
Email: bkofman@ksvadvisory.com

Attention: Mitch Vininsky
Email: mvininsky@ksvadvisory.com

With copies to (which will not constitute notice):

Reconstruct LLP
200 Bay Street, Suite 2305
Toronto, ON M5J 2J3

Attention: Sharon Kour
Email: skour@reconllp.com

To the Purchaser:

Namrita Harchandani Dentistry Professional Corporation
8 Scollard St #704
Toronto, ON, M5R 1M2

Attention: Namrita Harchandani
Email: namrita.pardeep@gmail.com

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

9.10 Remedies Cumulative

The right and remedies of the parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity

or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

9.11 No Third Party Beneficiary

This Agreement is solely for the benefit of the Parties and no third party accrues any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

9.12 Governing Law

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the Parties hereby attorn to the jurisdiction of the Court.

9.13 Attornment

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorns to the jurisdiction of the courts of the Province of Ontario.

9.14 Severability

If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited, or unenforceable, that provision will, as to that jurisdiction, be ineffective only to the extent of that restriction, prohibition, or unenforceability without invalidating the remaining provisions of this Agreement, without affecting the validity or enforceability of that provision in any other jurisdiction and, if applicable, without affecting its application to the other Parties or circumstances.

9.15 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

9.16 Electronic Execution

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

[The balance of this page has been intentionally left blank]

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

**NAMRITA HARCHANDANI DENTISTRY
PROFESSIONAL CORPORATION**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
We have authority to bind the Corporation.

**KSV RESTRUCTURING INC., solely in its capacity
as Court-appointed receiver and manager of 2TH,
INC. and DR. MISLAV PAVELIC DENTISTRY
PROFESSIONAL CORPORATION, and not in its
personal or corporate capacity**

Per: _____
Name:
Title:

EXHIBIT A

FORM OF APPROVAL AND VESTING ORDER

Court File No. CV-23-00707066-00CL

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

THE HONOURABLE) _____ DAY, THE [•]
JUSTICE _____) DAY OF [•], 2023

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 capacities, the “**Receiver**”) of the undertaking, property and assets of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (collectively the “**Debtors**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**APA**”) between the Receiver and • (the “**Purchaser**”) dated •, and vesting in the Purchaser all of the Debtors’ right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of • sworn •, and the • Report of the Receiver dated • (the “• Report”), and on hearing the submissions of counsel for the Receiver, the Applicant, and the Purchaser, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of • sworn •, filed:

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the APA.

2. **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.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “Receiver’s Certificate”), all of the Debtors’ right, title, benefit and interest in and to the Purchased Assets described in the APA shall vest absolutely in the Purchaser, 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: (i) any encumbrances or

charges created by the Receivership Order dated •; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (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.

4. **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.

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

6. **THIS COURT ORDERS** that, pursuant to (i) clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors’ records pertaining to the Debtors’ past and current employees, and (ii) *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.

7. **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) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any 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 *Bankruptcy and Insolvency Act* (Canada) 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.

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

9. **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 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 or to assist the Receiver and its agents in carrying out the terms of this Order.

[SEALING]

10. [THIS COURT ORDERS that the Confidential Appendix to the • Report shall be sealed, kept confidential and not form part of the public record, but shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court.]



Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00707066-00CL

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

THE HONOURABLE _____) _____ DAY, THE [•]
JUSTICE _____) DAY OF [•], 2023

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

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

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, KSV Restructuring Inc. was appointed as receiver and manager (in such capacities, the “**Receiver**”) of the assets, undertakings and properties of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (collectively the “**Debtors**”).

B. Pursuant to an Order of the Court dated •, 2023, the Court approved the agreement of purchase and sale made as of •, 2023 (the “**Asset Purchase Agreement**”) between the Receiver

and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ 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 the Asset Purchase 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, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

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 Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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 2th, Inc. and Dr. Mislav Pavelic
Dentistry Professional Corporation, and not
in its personal capacity**

Per: _____
Name:
Title:

Schedule B – Encumbrances to be deleted and expunged from title

EXHIBIT B

ASSUMED CONTRACTS AND PERMITS

1. To be populated

EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT is made as of <*>, 2023

BETWEEN

<*>, a corporation incorporated under the laws of <*>
(the “**Purchaser**”),

- and -

KSV RESTRUCTURING INC., solely in its capacity as Court-appointed receiver of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation, and not in its personal or corporate capacity

WHEREAS the parties hereto have entered into an asset purchase agreement dated as of <*>, 2023 (the “**Asset Purchase Agreement**”), pursuant to which KSV Restructuring Inc., solely in its capacity as court appointed receiver of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (collectively, the “**Debtors**”) and not its personal capacity (the “**Receiver**”), has agreed to assign all of the Debtors’ right, title, benefit and interest in and to the Purchased Assets to the Purchaser, and the Purchaser has agreed to assume, perform and indemnify and hold harmless the Receiver and the Debtors from the Assumed Liabilities, upon the terms and conditions set forth therein;

AND WHEREAS pursuant to Sections 7.02(d) and 7.03(e) of the Asset Purchase Agreement, the Purchaser and the Receiver are required to enter into and deliver this Agreement at the Time of Closing;

NOW THEREFORE in conjunction with and in consideration of the completion of the transactions to be effected at the Time of Closing as contemplated by the Asset Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Receiver and the Purchaser agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Asset Purchase Agreement.

1.2 Headings

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something

in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of, and Schedules to, this Agreement.

1.3 **Extended Meanings**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing”.

ARTICLE 2 ASSIGNMENT AND ASSUMPTION

2.1 **Assignment by the Purchaser**

Upon and subject to the terms of the Asset Purchase Agreement, effective at the Time of Closing, the Receiver hereby assigns and transfers to the Purchaser all of the Debtors’ right, title, benefit and interest under or in respect of the Assumed Contracts.

2.2 **Assumption by the Purchaser**

Upon and subject to the terms of the Asset Purchase Agreement, effective at the Time of Closing, the Purchaser hereby assumes and agrees to fulfill, perform and discharge the Assumed Liabilities.

2.3 **Release by the Purchaser**

The Purchaser hereby: (i) unconditionally and irrevocably fully releases and discharges the Receiver and the Debtors from any Claim which the Purchaser may now or hereafter have against the Receiver or the Debtors by reason of any matter or thing arising out of, or resulting from, any of the Assumed Liabilities, and (ii) agrees that the Purchaser will not make or take any Claim with respect to any matter released and discharged in this Section 2.03 which may result in any Claim against the Receiver or the Debtors for contribution or indemnity or other relief.

2.4 **Indemnity by the Purchaser**

The Purchaser hereby indemnifies and saves harmless the Receiver on its own behalf and as trustee for its Affiliates and its and their current and former directors and officers, employees, agents, advisors, and representatives (collectively, the “**Indemnitees**”) from and against all Claims asserted against any of the Indemnitees in any way directly or indirectly arising from, relating to or in connection with any of the Assumed Liabilities. The Purchaser appoints the Receiver as the trustee for the Indemnitees of the covenants of indemnification of the Purchaser with respect to such Indemnitees specified in this Section 2.04 and the Receiver accepts such appointment.

ARTICLE 3 GENERAL

3.1 Further Assurances

The Receiver and the Purchaser will from time to time execute and deliver all such further documents and instruments and do all acts and things as any of the other parties may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

3.2 Time of the Essence

Time is of the essence of this Agreement.

3.3 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

3.4 Amendments and Waivers

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by each of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

3.5 Assignment

This Agreement may not be assigned by the Receiver or by the Purchaser without the consent of: (i) in the case of an assignment by the Receiver, the Purchaser; and (ii) in the case of an assignment by the Purchaser, the Receiver.

3.6 Notices

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and in accordance with Section 9.09 of the Asset Purchase Agreement.

3.7 Governing Law

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

3.8 Attornment

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorn to the jurisdiction of the courts of the Province of Ontario.

3.9 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

3.10 Electronic Execution

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

3.11 Severability

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any of the parties.

[The balance of this page has been intentionally left blank]

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

[PURCHASER]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

KSV RESTRUCTURING INC., solely in its capacity as Court-appointed receiver of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation, and not in its personal or corporate capacity

Per: _____
Name:
Title:

EXHIBIT D

FORM OF RECEIVER'S CERTIFICATE

Court File No. CV-23-00707066-00CL

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

THE HONOURABLE) _____ DAY, THE [•]
JUSTICE _____) DAY OF [•], 2023

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

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

Respondents

RECEIVER'S CERTIFICATE

RECITALS

D. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, KSV Restructuring Inc. was appointed as receiver and manager (in such capacities, the “**Receiver**”) of the assets, undertakings and properties of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (collectively the “**Debtors**”).

E. Pursuant to an Order of the Court dated •, 2023, the Court approved the agreement of purchase and sale made as of •, 2023 (the “**Asset Purchase Agreement**”) between the Receiver and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ 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 the Asset Purchase 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.

F. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

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 Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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 2th, Inc. and Dr. Mislav Pavelic
Dentistry Professional Corporation, and not
in its personal capacity**

Per: _____
Name:
Title:

EXHIBIT E**ALLOCATION OF PURCHASE PRICE**

[The Purchase Price allocation will be determined by the Purchaser and the Receiver prior to the Closing Date]

Appendix “F”

COURT FILE NO.: CV- 23-707066-00CL

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

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

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

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

**AFFIDAVIT OF MITCH VININSKY
(sworn March 12, 2024)**

I, **MITCH VININSKY**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Managing Director of KSV Restructuring Inc. ("KSV").
2. Pursuant to an order (the "**Receivership Order**") of the Ontario Superior Court of Justice (Commercial List) made on October 13, 2023, KSV was appointed as receiver and manager (in such capacity, 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 "**Company**").
3. I have been integrally involved in this mandate since the date of the Receivership Order. As such, I have knowledge of the matters to which I hereinafter depose.
4. The Receiver prepared invoices detailing its services rendered and disbursements incurred (the "**Invoices**") from September 15, 2023 to February 29, 2024 in the aggregate amount of \$111,527 plus disbursements and taxes. Attached hereto and marked as **Exhibit "A"** to this Affidavit is a copy of the Invoices.
5. Additionally, attached hereto as Exhibit "B" is a summary of roles, hours and rates charged by members of the Receiver who have worked on this matter, and I hereby confirm that the list represents an accurate account of such information. The average hourly rate of the Receiver is \$622.53.
6. I consider the accounts to be fair and reasonable considering the circumstances connected with this matter.

7. This Affidavit is made in support of a motion to, *inter alia*, approve the attached accounts of the Receiver and the fees and disbursements detailed therein, and for no improper purpose whatsoever.

SWORN before me at the City of)
Toronto, in the Province of Ontario,)
this 12th day of March, 2024)
)

Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025



MITCH VININSKY

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF MITCH VININSKY

Sworn before me

this 11th day of MARCH, 2024



Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025etc

**ksv advisory inc.**

220 Bay Street, Suite 1300

Toronto, Ontario, M5J 2W4

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F +1 416 932 6266

ksvadvisory.com

INVOICE

BMO Financial Group
First Canadian Place
100 King St. West, 19th Floor
Toronto, ON M5X 1A1

November 13, 2023

Attention: Michaela Wolf

Invoice No: 3350

HST #: 818808768RT0001

Re: 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (together, the "Company")

For professional services rendered from September 15 to October 31, 2023 by KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver"), without security, of all of the Company's property, assets and undertakings (the "Property") appointed pursuant to an order of the Ontario Superior Court of Justice issued on October 13, 2023 (the "Receivership Order"), including:

- Corresponding with Bank of Montreal ("BMO"), the Company's senior lender, and with Aird & Berlis LLP ("A&B"), BMO's counsel, regarding a receivership over the Property;
- Reviewing and commenting on several versions of the receivership application materials, including a draft affidavit, notice of motion and receivership order;
- Attending calls on October 3 and 12, 2023 with A&B regarding the application materials and the Company's operations;
- Attending at Court, virtually, on October 13, 2023 regarding the receivership hearing;
- Attending a call on October 13, 2023 with Brian Holland, one of the Company's shareholders, to discuss, among other things, a sale process for the Property (a "Sale Process");
- Preparing a letter to the Company's employees providing notice of the Receivership Order and advising of their employment status during the receivership;
- Attending a call on October 16, 2023 with A&B and Manis Law, counsel to Mislav Pavelic, the Company's other shareholder, to discuss, among other things, a Sale Process;

- Reviewing a copy of the Company's insurance binder provided by Mr. Holland and corresponding with the Company's insurance agent regarding same;
- Preparing a Notice and Statement of Receiver pursuant to Subsection 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*;
- Preparing terms of a Sale Process for review by Messrs. Holland and Pavelic;
- Corresponding with each of Messrs. Holland and Pavelic regarding the terms of the Sale Process;
- Attending a call on October 23, 2023 with BMO to discuss the Sale Process and the Company's funding of principal and interest payable to BMO;
- Reviewing the Company's internal financial statements as of September 30, 2023 and discussing same with Mr. Holland;
- Attending a call on October 30, 2023 with Dentacloud Inc. ("Dentacloud"), a party formerly engaged by the Company to carry out a marketing process;
- Reviewing an agreement among the Company, BMO and Dentacloud regarding fees payable to Dentacloud; and
- To all other meetings, correspondence, etc. pertaining to this matter.

| | |
|-------------------------------------|---------------------|
| Professional fees and disbursements | \$ 17,741.27 |
| HST | <u>2,306.37</u> |
| Total due | <u>\$ 20,047.64</u> |

KSV Restructuring Inc.
2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation

Time Summary

For the period September 15, 2023 to October 31, 2023

| | Rate (\$) | Hours | Amount (\$) |
|---|-----------|-------|-------------|
| Bobby Kofman | 800 | 10.70 | 8,560.00 |
| Mitch Vininsky | 700 | 12.00 | 8,400.00 |
| Other staff and administration | | 4.05 | 771.25 |
| Total Fees | | | 17,731.25 |
| Disbursements (postage and photocopies) | | | 10.02 |
| Total Fees and Disbursements | | | 17,741.27 |

**ksv advisory inc.**

150 King Street West, Suite 2308

Toronto, Ontario, M5H 1J9

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

INVOICE

BMO Financial Group
First Canadian Place
100 King St. West, 19th Floor
Toronto, ON M5X 1A1

December 11, 2023

Attention: Michaela Wolf

Invoice No: 3397

HST #: 818808768RT0001

Re: 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (together, the "Company")

For professional services rendered in November 2023 by KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver"), without security, of all of the Company's property, assets and undertakings (the "Property") appointed pursuant to an order of the Ontario Superior Court of Justice issued on October 13, 2023 (the "Receivership Order"), including:

- Corresponding with Bank of Montreal ("BMO"), the Company's senior lender, and with Aird & Berlis LLP ("A&B"), BMO's counsel, regarding the receivership proceeding;
- Corresponding with Mislav Pavelic, one of the Company's shareholders, and his counsel, Manis Law, to discuss, among other things, a sale process for the Property (a "Sale Process");
- Corresponding with Brian Holland, the Company's other shareholder, to discuss, among other things, the Sale Process and funding for the business;
- Updating terms of a Sale Process for review by Messrs. Holland and Pavelic based on their comments;
- Corresponding with A&B regarding a template agreement of purchase and sale;
- Attending a call on November 6, 2023 with Dentacloud Inc., the company formerly engaged by the Company to carry out a marketing process, regarding a party potentially interested in acquiring the Company's business;
- Reviewing cheques to be issued by the Company and corresponding with Mr. Holland in that regard;

- Attending a call on November 22, 2023 with Bank of Montreal (“BMO”) to discuss the Sale Process and the Company’s cash position, including its inability to pay principal and interest to BMO;
- Corresponding with CDSPI Advisory Services Inc., the Company’s insurance agent;
- Corresponding with Reconstruct LLP, the Receiver’s counsel, to schedule a Court hearing to address a sale process for the Property;
- Attending in Court, virtually, on November 29, 2023 to schedule a hearing to approve a sale process for the Property;
- Attending a call on November 30, 2023 with Mr. Holland regarding the Sale Process and the Company’s cash flow;
- To all other meetings, correspondence, etc. pertaining to this matter.

| | |
|-------------------------------------|---------------------|
| Professional fees and disbursements | \$ 16,451.72 |
| HST | 2,138.72 |
| Total due | \$ <u>18,590.44</u> |

KSV Restructuring Inc.
2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation

Time Summary

For November 2023

| | Rate (\$) | Hours | Amount (\$) |
|---|------------------|--------------|-------------------------|
| Bobby Kofman | 800 | 5.10 | 4,080.00 |
| Mitch Vininsky | 700 | 11.50 | 8,050.00 |
| Other staff and administration | | 0.80 | 168.00 |
| Total Fees | | | <u>12,298.00</u> |
| Disbursements (Receiver's legal counsel and software license) | | | <u>4,153.72</u> |
| Total Fees and Disbursements | | | <u><u>16,451.72</u></u> |

**ksv advisory inc.**

150 King Street West, Suite 2308

Toronto, Ontario, M5H 1J9

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F +1 416 932 6266

ksvadvisory.com

INVOICE

BMO Financial Group
First Canadian Place
100 King St. West, 19th Floor
Toronto, Ontario, M5X 1A1

January 11, 2024

Attention: Michaela Wolf

Invoice No: 3435

HST #: 818808768RT0001

**Re: 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation
(together, the "Company")**

For professional services rendered in December 2023 by KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver"), without security, of all of the Company's property, assets and undertakings (the "Property") appointed pursuant to an order of the Ontario Superior Court of Justice issued on October 13, 2023 (the "Receivership Order"), including:

- Corresponding with Bank of Montreal ("BMO"), the Company's senior lender, with Aird & Berlis LLP ("A&B"), BMO's counsel, and with Reconstruct LLP ("Reconstruct"), the Receiver's counsel, regarding the receivership proceeding;
- Attending a call on December 1, 2023 with A&B to discuss the Company's banking, as well as principal and interest payments to BMO;
- Corresponding with Mislav Pavelic, one of the Company's shareholders, and his counsel, Manis Law, to discuss, among other things, a sale process for the Property (a "Sale Process");
- Corresponding with Brian Holland, the Company's other shareholder, to discuss, among other things, the Sale Process and the Company's cash flow during the receivership period;
- Corresponding with A&B regarding a template agreement of purchase and sale;
- Reviewing the Company's proposed disbursements and corresponding with the Company and Mr. Holland regarding same;
- Corresponding with KMR Bookkeeping ("KMR"), the Company's bookkeeper, regarding the Company's historical financial results and certain disbursements;

- Attending a call on December 15, 2023 with BMO regarding, among other things, the Company's cash flow;
- Preparing the Receiver's First Report to Court dated December 29, 2023 (the "First Report") regarding, among other things, approval of a Sale Process;
- Reviewing and commenting on a Notice of Motion and draft Order related to the First Report;
- Corresponding with A&B, BMO and Reconstruct regarding the First Report;
- Preparing an information request list to commence the Sale Process and discussing same with the Company, Mr. Holland and KMR;
- Beginning to prepare marketing materials, including a buyer's list and a "teaser"; and
- To all other meetings, correspondence, etc. pertaining to this matter.

| | | |
|-------------------------------------|----|-------------------------|
| Professional fees and disbursements | \$ | 18,229.86 |
| HST | | <u>2,369.88</u> |
| Total due | \$ | <u><u>20,599.74</u></u> |

KSV Restructuring Inc.
 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation
Time Summary
 For December 2023

| | Rate (\$) | Hours | Amount (\$) |
|---|-----------|-------|-------------|
| Bobby Kofman | 800 | 5.75 | 4,600.00 |
| Mitch Vininsky | 700 | 12.90 | 9,030.00 |
| Eli Brenner | 535 | 5.75 | 3,076.25 |
| Other staff and administration | | 1.50 | 292.50 |
| Total Fees | | | 16,998.75 |
| Disbursements (Receiver's legal counsel and OSB fees) | | | 1,231.11 |
| Total Fees and Disbursements | | | 18,229.86 |

**ksv advisory inc.**

220 Bay Street, Suite 1300

Toronto, Ontario, M5J 2W4

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

INVOICE

BMO Financial Group
First Canadian Place
100 King St. West, 19th Floor
Toronto, Ontario, M5X 1A1

February 22, 2024

Attention: Michaela Wolf

Invoice No: 3524

HST #: 818808768RT0001

Re: 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (together, the "Company")

For professional services rendered in January 2024 by KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver"), without security, of all of the Company's property, assets and undertakings (the "Property") appointed pursuant to an order of the Ontario Superior Court of Justice issued on October 13, 2023 (the "Receivership Order"), including:

- Corresponding with Bank of Montreal ("BMO"), the Company's senior lender, Aird & Berlis LLP ("A&B"), BMO's counsel, and Reconstruct LLP, the Receiver's counsel, regarding the receivership proceeding;
- Preparing marketing materials, including a buyer's list, a "teaser", a template purchase agreement, a confidentiality agreement, and a data room, to conduct a sale process for the Property (a "Sale Process");
- Attending at the Company's dental clinic (the "Clinic") and meeting with the Clinic manager on January 3, 2024, to obtain background information regarding the Company;
- Attending in Court, virtually, on January 8, 2024, for a hearing regarding, among other things, approval of the Sale Process;
- Corresponding with Brian Holland, one of the Company's shareholders, to discuss the Company's cash flow during the receivership period and the overdraft limit required for the Company's bank accounts;
- Preparing a weekly cash flow projection and discussing same with BMO;

- Reviewing the Company's proposed disbursements and corresponding with the Company and Mr. Holland regarding same;
- Corresponding with KMR Bookkeeping ("KMR"), the Company's bookkeeper, regarding the Company's payroll and certain disbursements;
- Corresponding with KMR regarding the deposit of the Company's weekly cheques and the payment of its credit card;
- Corresponding with Messrs. Pavelic and Holland regarding the procedures for the Receiver to deposit cheques weekly and to be added as signatory to the Company's accounts;
- Dealing with BMO regarding issues related to the deposit of cheque and the requirement for the Receiver to control this process;
- Contacting prospective buyers regarding the Sale Process;
- Corresponding extensively with prospective buyers regarding their questions, information requests and the Sale Process;
- Attending calls on January 15, 16, 17, 18, 24, 26, and 29, 2024 with prospective buyers;
- Attending at the Clinic on January 27, 2024, with a prospective buyer;
- Attending a call on January 30, 2024 with the Clinic manager to discuss the Company's accounts receivable collections;
- Attending a call on January 31, 2024 with A&B and BMO to discuss, among other things, the Sale Process and the Company's overdraft limit;
- Providing regular updates to BMO regarding the Sale Process; and
- To all other meetings, correspondence, etc. pertaining to this matter.

| | |
|-------------------------------------|---------------------|
| Professional fees and disbursements | \$ 41,373.17 |
| HST | <u>5,378.51</u> |
| Total due | <u>\$ 46,751.68</u> |

KSV Restructuring Inc.
2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation

Time Summary
For January 2024

| | Rate (\$) | Hours | Amount (\$) |
|--|-----------|-------|-------------|
| Bobby Kofman | 850 | 6.50 | 5,525.00 |
| Mitch Vininsky | 750 | 16.70 | 12,525.00 |
| Eli Brenner | 560 | 30.00 | 16,800.00 |
| Other staff and administration | | 13.65 | 3,713.75 |
| Total Fees | | | 38,563.75 |
| Disbursements (Receiver's legal counsel and postage) | | | 2,809.42 |
| Total Fees and Disbursements | | | 41,373.17 |

* The hourly rates were increased as of January 1, 2024 for Messrs. Kofman and Vininsky by \$50 and for Mr. Brenner by \$25.

**ksv advisory inc.**

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Toronto, Ontario, M5J 2W4

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F +1 416 932 6266

ksvadvisory.com

INVOICE

BMO Financial Group
First Canadian Place
100 King St. West, 19th Floor
Toronto, Ontario, M5X 1A1

March 8, 2024

Attention: Michaela Wolf

Invoice No: 3539

HST #: 818808768RT0001

Re: 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation (together, the "Company")

For professional services rendered in February 2024 by KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver"), without security, of all of the Company's property, assets and undertakings (the "Property") appointed pursuant to an order of the Ontario Superior Court of Justice issued on October 13, 2023 (the "Receivership Order"), including:

- Corresponding with Bank of Montreal ("BMO"), the Company's senior lender, Aird & Berlis LLP ("A&B"), BMO's counsel, and Reconstruct LLP, the Receiver's counsel, regarding the receivership proceeding;
- Corresponding with the manager of the Company's dental clinic (the "Clinic") regarding payroll matters and disbursements;
- Corresponding with BMO regarding the Company's cash flow during the receivership period and the overdraft limit required for the Company's bank accounts;
- Reviewing the Company's proposed disbursements and corresponding with the Company and Brian Holland, one of the Company's shareholders, regarding same;
- Corresponding with KMR Bookkeeping ("KMR"), the Company's bookkeeper, regarding the Company's payroll and certain outstanding vacation pay;
- Corresponding with KMR regarding the Company's credit card;
- Dealing with BMO to obtain access to the Company's bank accounts;

- Attending a call on February 20, 2024 with A&B regarding an email from Dentalcloud Inc., a sales advisor that had been engaged by the Company, related to potential fees;

Sale Process

- Corresponding with and responding to inquiries from prospective purchasers regarding the sale process for the Property (a "Sale Process");
- Attending calls on February 9 and 12, 2024 with prospective purchasers;
- Reviewing and summarizing the offers received for the Property;
- Attending calls on February 13, 15, 16, 20, and 26, 2024 with Harchandani Dentistry Professional Corporation ("Harchandani") and its counsel, Chaitons LLP;
- Reviewing and commenting on several versions of an asset purchase agreement between the Receiver and Harchandani (the "APA");
- Corresponding with Manis Law, counsel to Mislav Pavelic, the Company's other shareholder, regarding the results of the Sale Process;
- Preparing a report to Court, in draft, regarding approval of the APA;
- Corresponding with the Company's landlord regarding an assignment of its lease to Harchandani;
- Providing regular updates to BMO regarding the Sale Process; and
- To all other meetings, correspondence, etc. pertaining to this matter.

| | |
|-------------------------------------|---------------------|
| Professional fees and disbursements | \$ 26,822.25 |
| HST | 3,486.89 |
| Total due | <u>\$ 30,309.14</u> |

KSV Restructuring Inc.
2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation

Time Summary

For February 2024

| | Rate (\$) | Hours | Amount (\$) |
|--|-----------|-------|-------------------------|
| Bobby Kofman | 850 | 3.60 | 3,060.00 |
| Mitch Vininsky | 750 | 13.30 | 9,975.00 |
| Eli Brenner | 560 | 21.00 | 11,760.00 |
| Other staff and administration | | 4.35 | 1,140.25 |
| Total Fees | | | <u>25,935.25</u> |
| Disbursements (Receiver's legal counsel) | | | 887.00 |
| Total Fees and Disbursements | | | <u><u>26,822.25</u></u> |

Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF MITCH VININSKY

Sworn before me

this 11th day of MARCH, 2024



Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025

2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation
 Schedule of Professionals' Time and Rates
 For the Period from September 15, 2023 to February 29, 2024

| Personnel | Title | Duties | Hours | Billing Rate (\$ per hour) | Amount (\$) |
|--------------------------------|-------------------|------------------------|---------------|-------------------------------|-------------------|
| Bobby Kofman | Managing Director | Overall responsibility | 31.65 | 800 - 850 | 25,825.00 |
| Mitch Vininsky | Managing Director | Overall responsibility | 66.40 | 700 - 750 | 47,980.00 |
| Eli Brenner | Managing Director | Sale process | 56.75 | 535 - 560 | 31,636.25 |
| Other staff and administrative | | | 24.35 | 195 - 275 | 6,085.75 |
| Total fees | | | <u>179.15</u> | | <u>111,527.00</u> |
| Average hourly rate | | | | | \$ 622.53 |

Appendix “G”

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

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

Respondent

FEE AFFIDAVIT

I, **SHARON KOUR**, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am a Partner with the law firm Reconstruct LLP ("**Reconstruct**"), and as such, I have knowledge of the following matters. Where I have relied on information from others, I state the source of such information and verily believe it to be true.
2. On October 13, 2023, KSV Restructuring Inc. ("KSV") was appointed as the Receiver over the assets, property and undertakings of 2th, Inc. and Dr. Mislav Pavelic Dentistry Professional Corporation ("the Respondent").
3. The Receiver retained Reconstruct as its counsel to advise regarding matters related to KSV's appointment and the performance of its duties and powers.
4. Reconstruct has prepared statements of account (the "**Accounts**") in connection with its mandate as counsel to the Receiver detailing its fees and disbursements incurred

for the period of October 17, 2023 to February 29, 2024 (the “**Billing Period**”). Attached hereto and marked as **Exhibit “A”** are copies of the Accounts.

5. The Accounts are a fair and accurate description of the services provided, the disbursements incurred, and the amounts charged by Reconstruct, and are based on its standard rate and charges.

6. As detailed in the Accounts, the total amount being claimed for the work performed by Reconstruct during the Billing Period is \$13,533.70 (including fees of \$11,343.00, disbursements of \$633.72, and HST of \$1,556.98).

7. The total amount of WIP being claimed by Reconstruct during the Billing Period of March 1 to March 12, 2024 is \$8,073.00 (exclusive of HST). Attached as **Exhibit “B”** is a copy of the pre-bill.

8. Attached hereto and marked as **Exhibit “C”** is a summary of the timekeepers whose services are reflected in the Accounts, including their title, hourly rate, and the fees and hours billed. Reconstruct incurred a total of 19.4 hours, at an average hourly rate of \$584.70 (exclusive of HST).

9. This affidavit is sworn in support of the Receiver’s motion for, *inter alia*, approval of the fees and disbursements of Reconstruct, as well as those of its legal representatives, and for no other improper purpose.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario, on)
12th day of March 2024.)
)

DocuSigned by:

Jared S. Rosenbaum

04F41D3699B442A...

A Commissioner for taking Affidavits.

DocuSigned by:

Sharon Kour

0AD321AB356F4F8...

SHARON KOUR

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF **SHARON KOUR** SWORN BEFORE ME,
THIS 12TH DAY OF MARCH, 2024

DocuSigned by:

Jared S. Rosenbaum

91P41D35B5E442A...

A COMMISSIONER FOR TAKING AFFIDAVITS

RECON

R E C O N S T R U C T L L P

INVOICEInvoice # 495804
Date: 11/14/2023
Due On: 12/14/2023200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON
M5J 2J3
T: 416.613.8280
F: 416.613.8290KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, ON
M5J 2W4**00363-KSV Restructuring Inc.****2th, Inc.****Services**

| Date | Description | Hours | Rate | Total | LP |
|------------|--|-------|----------|--------------------------|-------------------|
| 10/17/2023 | Review of security documents; Drafting security review. | 2.50 | \$405.00 | \$1,012.50 | SP |
| 10/18/2023 | Further review of security documents and drafting security opinion. | 3.10 | \$405.00 | \$1,255.50 | SP |
| 10/18/2023 | Review and comment on security review; emails to S. Parsons re: same. | 1.20 | \$650.00 | \$780.00 | CF |
| 10/19/2023 | Further review of security documents and drafting security opinion; correspondence with S. Kour, C. Fell and M. Vininsky regarding security opinion. | 1.20 | \$405.00 | \$486.00 | SP |
| | | | | Quantity Subtotal | 8.0 |
| | | | | Services Subtotal | \$3,534.00 |

Expenses

| Date | Type | Description | Quantity | Rate | Total | Total |
|------------|---------|---|----------|----------|----------|----------|
| 10/18/2023 | Expense | Ecore (Corp searches, PPSAs, Parcel Searches etc.) PPSA and Corp searches on DR. MISLAV PAVELIC DENTISTRY PROFESSIONAL CORPORATION, DR PAVELIC DENTISTRY PROFESSIONAL CORPORATION, 2652714 ONTARIO INC, | 1.00 | \$294.72 | \$294.72 | \$333.03 |

PINNACLE RIDGE CAPITAL GROUP II, LP,
10981893 CANADA INC., 2th, Inc.

| | | | Expenses Subtotal | \$294.72 |
|--------------------|--------------|-------------|-----------------------------|--------------------|
| Time Keeper | Hours | Rate | Total | |
| Caitlin Fell | 1.2 | \$650.00 | \$780.00 | |
| Shaun Parsons | 6.8 | \$405.00 | \$2,754.00 | |
| | | | Quantity Total | 8.0 |
| | | | Subtotal | \$3,828.72 |
| | | | Tax (13.0%) | \$497.73 |
| | | | Total | \$4,326.45 |
| | | | Payment (12/20/2023) | -\$4,326.45 |
| | | | Balance Owing | \$0.00 |

Detailed Statement of Account

Other Invoices

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|-----------------------|---------------|-------------------|--------------------------|--------------------|
| 495917 | 02/21/2024 | \$3,173.61 | \$0.00 | \$3,173.61 |
| 495960 | 03/13/2024 | \$1,002.31 | \$0.00 | \$1,002.31 |

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|-----------------------|---------------|-------------------|---------------------------------|--------------------|
| 495804 | 12/14/2023 | \$4,326.45 | \$4,326.45 | \$0.00 |
| | | | Outstanding Balance | \$4,175.92 |
| | | | Total Amount Outstanding | \$4,175.92 |

Please make all amounts payable to: Reconstruct LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

**INVOICE**

Invoice # 495862
Date: 12/12/2023
Due On: 01/11/2024

200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON
M5J 2J3
T: 416.613.8280
F: 416.613.8290

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, ON
M5J 2W4

00363-KSV Restructuring Inc.**2th, Inc.**

| Date | Description | Hours | Rate | Total | LP |
|--------------------------|---|-------|----------|----------|------------|
| 11/15/2023 | Call with K. Plunkett re bank's position on sale process; call to M. Vininsky and follow up with email re sale process. | 0.60 | \$685.00 | \$411.00 | SK |
| 11/16/2023 | Communications with B. Kofman and M. Vininsky; communication with court office. | 0.20 | \$685.00 | \$137.00 | SK |
| 11/17/2023 | Communication with counsel re sale approval motion. | 0.10 | \$685.00 | \$68.50 | SK |
| 11/20/2023 | Communications re scheduling of sale approval motion. | 0.10 | \$685.00 | \$68.50 | SK |
| 11/21/2023 | Email re court scheduling. | 0.10 | \$685.00 | \$68.50 | SK |
| 11/29/2023 | Attending hearing before Justice Steele. | 0.50 | \$685.00 | \$342.50 | SK |
| Quantity Subtotal | | | | | 1.6 |

| Time Keeper | Hours | Rate | Total |
|-----------------------------|-------|----------|-------------------|
| Sharon Kour | 1.6 | \$685.00 | \$1,096.00 |
| Quantity Total | | | 1.6 |
| Subtotal | | | \$1,096.00 |
| Tax (13.0%) | | | \$142.48 |
| Total | | | \$1,238.48 |
| Payment (12/20/2023) | | | -\$17.50 |

Invoice # 495862 - 12/12/2023

| | |
|-----------------------------|--------------------|
| Payment (01/18/2024) | -\$1,220.98 |
| Balance Opening | \$0.00 |

Detailed Statement of Account

Other Invoices

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|----------------|------------|------------|-------------------|-------------|
| 495917 | 02/21/2024 | \$3,173.61 | \$0.00 | \$3,173.61 |
| 495960 | 03/13/2024 | \$1,002.31 | \$0.00 | \$1,002.31 |

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|---------------------------------|------------|------------|-------------------|-------------------|
| 495862 | 01/11/2024 | \$1,238.48 | \$1,238.48 | \$0.00 |
| Outstanding Balance | | | | \$4,175.92 |
| Total Amount Outstanding | | | | \$4,175.92 |

Please make all amounts payable to: Reconstruct LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

**INVOICE**

Invoice # 495917
Date: 01/22/2024
Due On: 02/21/2024

200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON
M5J 2J3
T: 416.613.8280
F: 416.613.8290

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, ON
M5J 2W4

00363-KSV Restructuring Inc.**2th, Inc.**

| Date | Description | Hours | Rate | Total | LP |
|------------|--|-------|----------|------------|----|
| 12/04/2023 | Email regarding active litigation stayed by receivership proceeding ad correspondence from Loopstra Nixon re same. | 0.10 | \$685.00 | \$68.50 | SK |
| 12/05/2023 | Communications with KSV re sale process. | 0.10 | \$685.00 | \$68.50 | SK |
| 12/19/2023 | Communications re report. | 0.10 | \$685.00 | \$68.50 | SK |
| 12/26/2023 | Review and comment and receiver's report. | 0.40 | \$685.00 | \$274.00 | SK |
| 12/27/2023 | Review comments from bank counsel on report. | 0.10 | \$685.00 | \$68.50 | SK |
| 12/28/2023 | Email to M. Vininsky and finalizing report; drafting order. | 0.90 | \$685.00 | \$616.50 | SK |
| 12/29/2023 | Drafting Notice of Motion, draft Order; instructions to C. Paul to serve; review final version of report and communications with M. Vininsky re same; communications with M. Lici re service list. | 2.40 | \$685.00 | \$1,644.00 | SK |

Quantity Subtotal 4.1

| Time Keeper | Hours | Rate | Total |
|-------------|-------|----------|------------|
| Sharon Kour | 4.1 | \$685.00 | \$2,808.50 |

Quantity Total 4.1

Subtotal \$2,808.50

Tax (13.0%) \$365.11

Total \$3,173.61

Detailed Statement of Account

Other Invoices

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|----------------|------------|------------|-------------------|-------------|
| 495960 | 03/13/2024 | \$1,002.31 | \$0.00 | \$1,002.31 |

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|----------------|------------|------------|-------------------|-------------|
| 495917 | 02/21/2024 | \$3,173.61 | \$0.00 | \$3,173.61 |

Outstanding Balance \$4,175.92
Total Amount Outstanding \$4,175.92

Please make all amounts payable to: Reconstruct LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

Remittance Advice

Wire Transfer Information

Bank Name/Address: Royal Bank of Canada
Main Branch - Toronto
Royal Bank Plaza
200 Bay Street
Toronto, ON M5J 2J5

Account Number: 1570423
Transit Number: 00002
Bank Number: 003

Name/Account #: Reconstruct LLP

SWIFT: ROYCCAT2

Payment by e-transfer: accountspayable@reconllp.com

Payment by Credit Card: Please call 416.613.8280 to make a payment.

Please include the invoice number 495917 as an additional reference so we may accurately identify and apply your payment.
Please provide adequate payment to cover the wire fees assessed by your financial institution.

**INVOICE**

Invoice # 495960
Date: 02/12/2024
Due On: 03/13/2024

200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON
M5J 2J3
T: 416.613.8280
F: 416.613.8290

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, ON
M5J 2W4

00363-KSV Restructuring Inc.**2th, Inc.****Services**

| Date | Description | Hours | Rate | Total | LP |
|--------------------------|---|-------|----------|----------|-----------------|
| 01/08/2024 | Communications with Court re: sale process approval motion; appearance at motion. | 0.60 | \$685.00 | \$411.00 | SK |
| 01/16/2024 | Review APA, discussion with C. Fell. | 0.20 | \$685.00 | \$137.00 | SK |
| Quantity Subtotal | | | | | 0.8 |
| Services Subtotal | | | | | \$548.00 |

Expenses

| Date | Type | Description | Quantity | Rate | Total | Total |
|--------------------------|---------|--|----------|----------|----------|-----------------|
| 01/05/2024 | Expense | Court Filing: Filing motion record dated 29-DEC-2023 | 1.00 | \$339.00 | \$339.00 | \$383.07 |
| Expenses Subtotal | | | | | | \$339.00 |

| Time Keeper | Hours | Rate | Total |
|-----------------------|-------|----------|-----------------|
| Sharon Kour | 0.8 | \$685.00 | \$548.00 |
| Quantity Total | | | 0.8 |
| Subtotal | | | \$887.00 |

Invoice # 495960 - 02/12/2024

| | |
|--------------------|-------------------|
| Tax (13.0%) | \$115.31 |
| Total | \$1,002.31 |

Detailed Statement of Account

Other Invoices

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|----------------|------------|------------|-------------------|-------------|
| 495917 | 02/21/2024 | \$3,173.61 | \$0.00 | \$3,173.61 |

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|---------------------------------|------------|------------|-------------------|-------------------|
| 495960 | 03/13/2024 | \$1,002.31 | \$0.00 | \$1,002.31 |
| Outstanding Balance | | | | \$4,175.92 |
| Total Amount Outstanding | | | | \$4,175.92 |

Please make all amounts payable to: Reconstruct LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

Remittance Advice

Wire Transfer Information

Bank Name/Address: Royal Bank of Canada
Main Branch - Toronto
Royal Bank Plaza
200 Bay Street
Toronto, ON M5J 2J5

Account Number: 1570423
Transit Number: 00002
Bank Number: 003

Name/Account #: Reconstruct LLP

SWIFT: ROYCCAT2

Payment by e-transfer: accountspayable@reconllp.com

Payment by Credit Card: Please call 416.613.8280 to make a payment.

Please include the invoice number 495960 as an additional reference so we may accurately identify and apply your payment.
Please provide adequate payment to cover the wire fees assessed by your financial institution.

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF **SHARON KOUR** SWORN BEFORE ME,
THIS 12TH DAY OF MARCH, 2024

DocuSigned by:

Jared S. Rosenbaum

A COMMISSIONER FOR TAKING AFFIDAVITS

RECON

R E C O N S T R U C T L L P

INVOICE

Invoice # 496101
Date: 03/12/2024
Due On: 04/11/2024

200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON
M5J 2J3
T: 416.613.8280
F: 416.613.8290

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, ON
M5J 2W4

00363-KSV Restructuring Inc.

2th, Inc.

| Date | Description | Hours | Rate | Total | LP |
|------------|---|-------|----------|------------|----|
| 03/05/2023 | Dealing with counsel on court scheduling issues. | 0.10 | \$685.00 | \$68.50 | SK |
| 03/04/2024 | Communications re APA and next steps toward sale approval. | 2.30 | \$685.00 | \$1,575.50 | SK |
| 03/05/2024 | Receipt of emails from S. Kour re introduction to matter; reviewing materials; drafting notice of motion | 2.10 | \$550.00 | \$1,155.00 | JR |
| 03/05/2024 | Communications with court re motion scheduling; communications with H. Manis re results of sale process. | 0.60 | \$685.00 | \$411.00 | SK |
| 03/06/2024 | Instruct L. Rivers re preparing skeleton of factum, skeleton draft orders; drafting and preparation of factum for sale approval | 1.50 | \$550.00 | \$825.00 | JR |
| 03/06/2024 | Follow up re court scheduling. | 0.10 | \$685.00 | \$68.50 | SK |
| 03/07/2024 | Emails w/ S. Kour, M. Vininsky re confirmation of court date; discussions re same with L. Rivers | 0.30 | \$550.00 | \$165.00 | JR |
| 03/07/2024 | Communications re court scheduling. | 0.10 | \$685.00 | \$68.50 | SK |
| 03/08/2024 | Emails w/ Court, L. Rivers, KSV re court date | 0.30 | \$550.00 | \$165.00 | JR |
| 03/08/2024 | Follow up with J. Rosenbaum re court time. | 0.10 | \$685.00 | \$68.50 | SK |
| 03/11/2024 | Receipt and review of 2nd report of KSV, marking up of same and provide comments to S. Kour; drafting motion materials [NoM, draft orders] and provide to S. Kour for review; drafting factum | 4.50 | \$550.00 | \$2,475.00 | JR |

| | | | | | |
|------------|--|------|----------|--------------------------|-------------|
| 03/11/2024 | Review report, provide comments, revisions to Orders, communications with KSV. | 1.50 | \$685.00 | \$1,027.50 | SK |
| | | | | Quantity Subtotal | 13.5 |

| Time Keeper | Hours | Rate | Total | |
|--------------------|--------------|-------------|-----------------------|-------------------|
| Sharon Kour | 4.8 | \$685.00 | \$3,288.00 | |
| Jared Rosenbaum | 8.7 | \$550.00 | \$4,785.00 | |
| | | | Quantity Total | 13.5 |
| | | | Subtotal | \$8,073.00 |
| | | | Tax (13.0%) | \$1,049.49 |
| | | | Total | \$9,122.49 |

Detailed Statement of Account

Other Invoices

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|-----------------------|---------------|-------------------|--------------------------|--------------------|
| 495917 | 02/21/2024 | \$3,173.61 | \$0.00 | \$3,173.61 |
| 495960 | 03/13/2024 | \$1,002.31 | \$0.00 | \$1,002.31 |
| 496100 | 04/11/2024 | \$3,792.85 | \$0.00 | \$3,792.85 |

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due | |
|-----------------------|---------------|-------------------|--------------------------|---------------------------------|--------------------|
| 496101 | 04/11/2024 | \$9,122.49 | \$0.00 | \$9,122.49 | |
| | | | | Outstanding Balance | \$17,091.26 |
| | | | | Total Amount Outstanding | \$17,091.26 |

Please make all amounts payable to: Reconstruct LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

Remittance Advice

Wire Transfer Information

Bank Name/Address: Royal Bank of Canada
Main Branch - Toronto
Royal Bank Plaza
200 Bay Street
Toronto, ON M5J 2J5

Account Number: 1570423
Transit Number: 00002
Bank Number: 003

Name/Account #: Reconstruct LLP

SWIFT: ROYCCAT2

Payment by e-transfer: accountspayable@reconllp.com

Payment by Credit Card: Please call 416.613.8280 to make a payment.

Please include the invoice number 496101 as an additional reference so we may accurately identify and apply your payment.
Please provide adequate payment to cover the wire fees assessed by your financial institution.

THIS IS **EXHIBIT "C"** REFERRED TO IN THE
AFFIDAVIT OF **SHARON KOUR** SWORN BEFORE ME,
THIS 12TH DAY OF MARCH, 2024

DocuSigned by:

Jared S. Rosenbaum

91F41D35BBB442A...

A COMMISSIONER FOR TAKING AFFIDAVITS

RECONSTRUCT LLP – Timekeeper Summary

| TIMEKEEPER | TITLE | RATE | HOURS | FEES | DISCOUNT TO FEES | TOTAL FEES BILLED |
|--------------------------------------|--------------|-------------|--------------|--------------------|-------------------------|--------------------------|
| Sharon Kour | Partner | \$685 | 11.4 | \$7,809.00 | \$0.00 | \$7,809.00 |
| Caitlin Fell | Partner | \$650 | 1.2 | \$780.00 | \$0.00 | \$780.00 |
| Shaun Parsons | Associate | \$405 | 6.8 | \$2,754.00 | \$0.00 | \$2,754.00 |
| TOTALS | | | 19.4 | \$11,343.00 | \$0.00 | \$11,343.00 |
| | | | | | Disbursements | \$633.72 |
| | | | | | Sub Total | \$11,976.72 |
| | | | | | HST | \$1,556.98 |
| | | | | | TOTAL | \$13,533.70 |
| Average Hourly Rate: \$584.70 | | | | | | |

BANK OF MONTREAL

Applicant

-and-

2th Inc. et al.

Respondent

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

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

Proceedings commenced at Toronto

FEE AFFIDAVIT

RECONSTRUCT LLP
Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

Sharon Kour LSO No. 58328D
skour@reconllp.com
Tel: 416.613.8283

Jared S. Rosenbaum LSO No. 74769U
jrosenbaum@reconllp.com
Tel: 416.613.8284

Lawyers for KSV Restructuring Inc.

TAB 3

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

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

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

BETWEEN:

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 Act* (Ontario).

GENERAL

11. **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.

12. **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.

13. **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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN :

BANK OF MONTREAL

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
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

Sharon Kour LSO No. 58328D
skour@reconllp.com
Tel: 416.613.8283

Jared S. Rosenbaum LSO No. 74769U
jrosenbaum@reconllp.com
Tel: 416.613.8284

Lawyers for KSV Restructuring Inc.

TAB 4

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

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

| | | |
|----------------|---|--------------------|
| THE HONOURABLE |) | MONDAY, THE 18TH |
| |) | |
| JUSTICE PENNY |) | 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

ANCILLARY ORDER

THIS MOTION, made by KSV Restructuring Inc. ("**KSV**"), in its capacity as court-appointed receiver and manager (in such capacity, the "**Receiver**") of each of 2th, Inc. ("**2th**") and Dr. Mislav Pavelic Professional Corporation ("**Pavelic DPC**"), and together with 2th, the "**Debtors**") for an Order (the "**Ancillary Order**") that, among other things: (a) approves the Second Report of the Receiver dated March 12, 2024 (the "**Second Report**"); (b) approves the fees and disbursements of the Receiver and its counsel, Reconstruct LLP ("**Reconstruct**"); (c) seals the confidential appendices to the Second Report; and (d) discharges KSV as Receiver of the Debtors upon the conditions set out herein, was heard this day by judicial videoconference.

ON READING the Notice of Motion, the Second Report of the Receiver (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

1. **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 CONDUCT, ACTIONS AND FEES OF THE RECEIVER

2. **THIS COURT ORDERS** that the Second Report, as well as the actions, conduct and activities of the Receiver as set out therein, be and are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel Reconstruct up to and including February 29, 2024, as set out in the Second Report, plus an accrual of \$50,000 for fees incurred or to be incurred by the Receiver and Reconstruct to the completion of these proceedings, excluding HST and disbursements, are hereby approved.

SEALING ORDER

4. **THIS COURT ORDERS** that the confidential appendices to the Receiver's Second Report are sealed pending closing of the sale transaction pursuant to the Asset Purchase Agreement dated February 27, 2024.

DISCHARGE OF THE RECEIVER

5. **THIS COURT ORDERS** that upon the Receiver filing a certificate a substantially in the form attached as Schedule "A" to the Approval and Vesting Order made on March 18, 2024 certifying the closing of the sale transaction contemplated in the asset purchase agreement between the Receiver and Namrita Harchandani Dentistry Professional Corporation dated February 27, 2024, the Receiver shall be discharged as Receiver of the property, assets and undertakings of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the

performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver herein, save and except for any gross negligence or willful misconduct on the Receiver's part. Without limiting the generality of the foregoing, KSV is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or willful misconduct on the Receiver's part.

GENERAL

7. **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 their respective agents in carrying out the terms of this Order.

8. **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.

9. **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.



BANK OF MONTREAL

and

2th, Inc. et al.

Applicant

Respondents

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

Proceedings commenced at Toronto

ANCILLARY ORDER

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**MOTION RECORD
(Re: SALE TRANSACTION APPROVAL)**

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