

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

**APPLICATION UNDER SECTION 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**

B E T W E E N :

**BANK OF MONTREAL**

Applicant

- and -

**1886695 ONTARIO INC.**

Respondent

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**MOTION RECORD  
(Returnable October 6, 2023)**

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September 28, 2023

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

**APPLICATION UNDER SECTION 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**

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

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

B E T W E E N :

**BANK OF MONTREAL**

Applicant

- and -

**1886695 ONTARIO INC.**

Respondent

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# **TAB 1**

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

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

**NOTICE OF MOTION  
(returnable October 6, 2023)**

KSV Restructuring Inc. (“**KSV**”), in its capacity as court-appointed receiver and manager (the “**Receiver**”), without security, of the assets, undertakings and property of 1886695 Ontario Inc., formerly known as “Brant Instore Corporation” (the “**Debtor**”), and all proceeds thereof (collectively, the “**Property**”), will make a motion to a Judge of the Ontario Superior Court of

Justice (Commercial List) (the “**Court**”) on the 6<sup>th</sup> day of October, 2023 at 12:00 p.m., or as soon after that time as the motion can be heard, via a Zoom link to be provided by the Court.

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

- in writing under subrule 37.12.1 (1);
- in writing as an opposed motion under subrule 37.12.1 (4);
- in person;
- By telephone conference;
- By video conference.

**NATURE OF MOTION:**

1. The Motion is for an order (the “**Discharge Order**”), substantially in the form included in the Motion Record at Tab 2:

- (a) approving the First Report of the Receiver, dated September 28, 2023 (the “**Report**”), and the activities of the Receiver described therein;
- (b) approving the Receiver’s Statement of Receipts and Disbursements;
- (c) approving the fees and disbursements of the Receiver and its counsel, Aird & Berlis LLP (“**A&B**”);
- (d) discharging KSV as Receiver and releasing KSV from any and all liability that the Receiver has or may hereafter have by reason of, or in any way arising from, the acts or omissions of KSV, while acting in its capacity as Receiver, except for any gross negligence or wilful misconduct on the Receiver’s part;

and such further and other relief as counsel may request and this Honourable Court deems just.

2. A blackline of the proposed form of Discharge Order against the Commercial List Model Receivership Discharge Order is included in the Motion Record at Tab 3.

**GROUNDS FOR THE MOTION:**

3. The grounds for the Motion are:

*BACKGROUND*

- (a) the Debtor is a privately owned corporation that provided a wide range of print solutions and services to North American retailers and employed approximately 139 employees;
- (b) due to challenges faced by brick-and-mortar retailers in recent years, including the rise of e-commerce and the COVID-19 pandemic, the Debtor suffered declining sales and the loss of key customers, resulting in continued financial losses;
- (c) the Debtor had been in default with its primary secured creditor, Bank of Montreal (“**BMO**”), since early 2020;
- (d) upon application of BMO, KSV was appointed as Receiver pursuant to the Receivership Order dated December 20, 2022 (the “**Receivership Order**”);
- (e) also on December 20, 2022, this Court made an Order (the “**Approval and Vesting Order**”) approving a sale of substantially all of the Property (the “**Sale Transaction**”);
- (f) the Sale Transaction was concluded by the Receiver on December 30, 2022;

- (g) in accordance with the terms of the Sale Transaction and as directed by the Approval and Vesting Order, the Receiver filed articles of amendment on January 17, 2023 changing the Debtor's name from "Brant Instore Corporation" to "1886695 Ontario Inc.";

*APPROVAL OF THE FIRST REPORT*

- (h) the Receivership Order directs and empowers the Receiver to report to the Court in respect of these proceedings at such times and intervals as the Receiver may deem appropriate;
- (i) the Receiver has filed with the Court its First Report and seeks approval of the same;
- (j) appended to the First Report is the Receiver's interim statement of receipts and disbursements for the period ending September 27, 2023 and the Receiver seeks approval of the same;
- (k) the Receiver's actions and activities, as further described in the First Report, are lawful and proper, and consistent with its powers and duties under the Receivership Order;
- (l) the Sale Transaction completed by the Receiver was approved pursuant to the Approval and Vesting Order;
- (m) the Receiver's activities have been reasonable and responsible in accordance with the Receiver's mandate as provided by the Receivership Order;

*APPROVAL OF ACCOUNTS*

- (n) the Receivership Order directs and empowers KSV to pass its accounts from time to time, and to include any necessary fees and disbursements of its legal counsel in the passing of its accounts;
- (o) KSV and its counsel, A&B, have accrued fees and expenses in their capacity as Receiver, or counsel thereto, which fees and expenses require the approval of this Court pursuant to the Receivership Order;
- (p) as set out in the Affidavit of Robert Kofman sworn September 28, 2023 (the “**Kofman Affidavit**”), KSV’s fees and disbursements for the period ending August 31, 2023, total \$237,933 (including HST) and KSV estimates that its remaining fees and disbursements from September 1, 2023 to completion of the administration of the Receivership, will total \$30,000 (including HST);
- (q) as set out in the Affidavit of Kyle Plunkett sworn September 28, 2022 (the “**Plunkett Affidavit**”), A&B’s fees and disbursements for the period ending January 31, 2023 total \$189,820.20 (including HST) and A&B estimates that its remaining fees and disbursements from February 1, 2023 to completion of the administration of the Receivership, will total \$12,000 (including HST);
- (r) the fees and disbursements of the Receiver and its counsel, both before and after the date of the Receivership Order, are secured by the Receiver’s Charge created by the Receivership Order;



*DISCHARGE*

- (a) the Receiver has sold or realized upon of the Property to the best of its ability, including through the Court-approved Sale Transaction, and the administration of the Receivership of the Debtor has otherwise come to an end;

*GENERALLY*

- (b) the other grounds set out in the First Report;
- (c) the terms and conditions of the Receivership Order including paragraphs 18, 19 and 20 thereof;
- (d) the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, including section 243 thereof;
- (e) the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, including section 100 thereof;
- (f) the *Rules of Civil Procedure* (Ontario), RRO 1990, reg. 194, including, without limitation, rules 1.04, 1.05, 2.03, 3.02, 16, and 37 thereof;
- (g) the inherent and equitable jurisdiction of this Honourable Court; and
- (h) such further and other grounds as counsel may advise and this Court may permit.

4. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the First Report, filed;

- (b) the Kofman Affidavit (an appendix to the First Report);
- (c) the Plunkett Affidavit (an appendix to the First Report); and
- (d) and such further and other material as counsel may submit and this Court may permit.

Date: September 28, 2023

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TO: **SERVICE LIST**

**BANK OF MONTREAL**  
Applicant

- and -

**1886695 ONTARIO INC.**  
Respondent

Court File No. CV-22-00691546-00CL

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

**Proceedings commenced at Toronto**

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**NOTICE OF MOTION  
(returnable October 6, 2023)**

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## **TAB 2**

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

THE HONOURABLE ) FRIDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF OCTOBER, 2023

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

**DISCHARGE ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the undertaking, property and assets of 1886695 Ontario Inc., formerly known as “Brant Instore Corporation” (the “**Debtor**”), for an order:

- (a) approving the First Report of the Receiver, dated September 28, 2023 (the “**Report**”), and the activities of the Receiver described therein;

- (b) approving the Receiver's Statement of Receipts and Disbursements;
- (c) approving the fees and disbursements of the Receiver and its counsel, Aird & Berlis LLP ("A&B");
- (d) discharging KSV as Receiver of the undertaking, property and assets of the Debtor, subject to the conditions set out in paragraph 5 of this Order; and
- (e) releasing KSV from any and all liability, as set out in paragraph 6 of this Order,

was heard this day by Zoom judicial video conference. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Report.

**ON READING** the Report, the affidavits of the Receiver and A&B as to fees (the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver, and such other parties as were present, and no one else appearing although properly served as evidenced by the Affidavit of Service of Samantha Hans, as filed;

1. **THIS COURT ORDERS** that the Report and the activities of the Receiver described therein 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.

2. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements for the period to September 27, 2023 is hereby approved.

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver with respect to the Debtor for the period to August 31, 2023, in the amount of \$237,933 (including HST), and its estimated remaining fees and disbursements from September 1, 2023 to completion of the administration of the Receivership, in the amount of \$30,000 (including HST), are hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, A&B, for the period to January 31, 2023, in the amount of \$189,820.20 (including HST), and its estimated remaining fees and disbursements from February 1, 2023 to completion

of the administration of the Receivership, in the amount of \$12,000 (including HST), are hereby approved.

5. **THIS COURT ORDERS** that upon the Receiver filing a certificate substantially in the form attached as **Schedule “A”** hereto (the “**Receiver’s Discharge Certificate**”) certifying that it has completed the other activities described in the Report and all matters to be attended to in connection with the Receivership have been provided for to the satisfaction of the Receiver, KSV shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided, however, that, notwithstanding its discharge herein, (a) KSV shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the Receivership, and (b) KSV shall continue to have the benefit of the provisions of all Orders made in the Receivership proceedings, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that, effective upon filing of the Receiver’s Discharge Certificate pursuant to paragraph 5 of this Order, 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 wilful 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 Receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver’s part.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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.

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**Schedule “A” to Discharge Order – Form of Receiver’s Certificate**

Court File No. CV-22-00691546-00CL

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

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

**RECEIVER’S DISCHARGE CERTIFICATE**

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated December 20, 2022, KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of 1886695 Ontario Inc., then known as “Brant Instore Corporation”, (the “**Debtor**”).



B. Pursuant to an Order of the Court dated October 6, 2023 (the “**Discharge Order**”), KSV was discharged as Receiver effective upon the filing by the Receiver with the Court of a certificate confirming that the Receiver has completed the activities described in the Report and all matters to be attended to in connection with the Receivership have been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** that the Receiver has completed all activities described in the Report and all matters to be attended to in connection with the Receivership have been completed to the satisfaction of the Receiver.

**KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager of the assets, undertaking and property of 1886695 Ontario Inc., and not in its personal or corporate capacity**

Per: \_\_\_\_\_

Name:

Title:

**BANK OF MONTREAL**  
Applicant

- and -

**1886695 ONTARIO INC.**  
Respondent

Court File No. CV-22-00691546-00CL

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

**Proceedings commenced at Toronto**

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**DISCHARGE ORDER**

---

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*Lawyers for the Receiver*

## **TAB 3**

Revised: May 11, 2010

Court File No. — CV-22-00691546-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) ~~WEEKDAY~~FRIDAY, THE # 6<sup>TH</sup>  
JUSTICE — CAVANAGH ) DAY OF ~~MONTH~~OCTOBER,  
20YR2023

**B E T W E E N:**

**PLAINTIFF**

**Plaintiff**

-

APPLICATION UNDER S. 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

BETWEEN:

BANK OF MONTREAL

Applicant

and—

**DEFENDANT**

**Defendant**

1886695 ONTARIO INC.

Respondent

## DISCHARGE ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~KSV Restructuring Inc. ("KSV") in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~1886695 Ontario Inc., formerly known as "Brant Instore Corporation" (the "Debtor"), for an order:

- (a) ~~1.~~ approving the First Report of the Receiver, dated September 28, 2023 (the "Report"), and the activities of the Receiver as set out in the report of described therein;
- (b) approving the Receiver ~~dated [DATE] (the "Report")~~'s Statement of Receipts and Disbursements;
- (c) ~~2.~~ approving the fees and disbursements of the Receiver and its counsel, Aird & Berlis LLP ("A&B");
- ~~3. — approving the distribution of the remaining proceeds available in the estate of the Debtor; ~~and~~~~
- (d) ~~4.~~ discharging ~~[RECEIVER'S NAME]~~KSV as Receiver of the undertaking, property and assets of the Debtor~~},~~ subject to the conditions set out in paragraph 5 of this Order; and
- (e) ~~5.~~ releasing ~~[RECEIVER'S NAME]~~KSV from any and all liability, as set out in paragraph ~~5~~6 of this Order~~};~~<sup>†</sup>,

was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by Zoom judicial video conference. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Report.

<sup>†</sup> ~~If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.~~

ON READING the Report, the affidavits of the Receiver and ~~its counsel~~ A&B as to fees (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, and such other parties as were present, and no one else appearing although properly served as evidenced by the Affidavit of Service of ~~[NAME]~~ sworn [DATE] Samantha Hans, as filed<sup>2</sup>;

1. **THIS COURT ORDERS** that the Report and the activities of the Receiver, ~~as set out in the Report, described therein~~ 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.

2. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements for the period to September 27, 2023 is hereby approved.

3. ~~2-~~ **THIS COURT ORDERS** that the fees and disbursements of the Receiver ~~and its counsel, as set out in the Report and the Fee Affidavits~~ with respect to the Debtor for the period to August 31, 2023, in the amount of \$237,933 (including HST), and its estimated remaining fees and disbursements from September 1, 2023 to completion of the administration of the Receivership, in the amount of \$30,000 (including HST), are hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, A&B, for the period to January 31, 2023, in the amount of \$189,820.20 (including HST), and its estimated remaining fees and disbursements from February 1, 2023 to completion of the administration of the Receivership, in the amount of \$12,000 (including HST), are hereby approved.

5. ~~3-~~ **THIS COURT ORDERS** that, ~~after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY]~~<sup>3</sup>.

4. ~~THIS COURT ORDERS~~ that upon payment of the amounts set out in paragraph 3 hereof ~~and~~ upon the Receiver filing a certificate substantially in the form attached as Schedule "A"

<sup>2</sup> ~~This model order assumes that the time for service does not need to be abridged.~~

<sup>3</sup> ~~This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.~~

hereto (the “Receiver’s Discharge Certificate”) certifying that it has completed the other activities described in the Report<sup>3</sup>, and all matters to be attended to in connection with the Receivership have been provided for to the satisfaction of the Receiver, KSV shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided, however, that, notwithstanding its discharge herein, (a) ~~the Receiver~~KSV shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the ~~receivership herein~~Receivership, and (b) ~~the Receiver~~KSV shall continue to have the benefit of the provisions of all Orders made in ~~this proceeding~~the Receivership proceedings, including all approvals, protections and stays of proceedings in favour of ~~[RECEIVER’S NAME]~~KSV in its capacity as Receiver.

6. ~~5.~~ **THIS COURT ORDERS AND DECLARES** that ~~[RECEIVER’S NAME]~~, effective upon filing of the Receiver’s Discharge Certificate pursuant to paragraph 5 of this Order, KSV is hereby released and discharged from any and all liability that ~~[RECEIVER’S NAME]~~KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~[RECEIVER’S NAME]~~KSV while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver’s part. Without limiting the generality of the foregoing, ~~[RECEIVER’S NAME]~~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~~Receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver’s part.<sup>4</sup>

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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,

<sup>4</sup>~~The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court’s officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.~~

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.

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Schedule “A” to Discharge Order – Form of Receiver’s Certificate

Court File No. CV-22-00691546-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

APPLICATION UNDER S. 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

BETWEEN:

BANK OF MONTREAL

Applicant

and

1886695 ONTARIO INC.

Respondent

RECEIVER’S DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated December 20, 2022, KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of 1886695 Ontario Inc., then known as “Brant Instore Corporation”, (the “**Debtor**”).

B. Pursuant to an Order of the Court dated October 6, 2023 (the “Discharge Order”), KSV was discharged as Receiver effective upon the filing by the Receiver with the Court of a certificate confirming that the Receiver has completed the activities described in the Report and all matters to be attended to in connection with the Receivership have been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES that the Receiver has completed all activities described in the Report and all matters to be attended to in connection with the Receivership have been completed to the satisfaction of the Receiver.

**KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager of the assets, undertaking and property of 1886695 Ontario Inc., and not in its personal or corporate capacity**

Per: \_\_\_\_\_

Name:

Title:

**BANK OF MONTREAL**  
Applicant

- and -

**1886695 ONTARIO INC.**  
Respondent

Court File No. CV-22-00691546-00CL

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

**Proceedings commenced at Toronto**

**DISCHARGE ORDER**

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*Lawyers for the Receiver*

**TAB 4**



**First Report of  
KSV Restructuring Inc.  
as Receiver of  
1886695 Ontario Inc.**

**September 28, 2023**

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Court File No.: CV-22-006915446-00CL

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

APPLICATION UNDER S. 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

**BETWEEN:**

**BANK OF MONTREAL**

**APPLICANT**

**- AND -**

**1886695 ONTARIO INC.**

**RESPONDENT**

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

**SEPTEMBER 28, 2023**

## **1.0 Introduction**

1. This report (“Report”) is filed by KSV Restructuring Inc. in its capacity as receiver and manager (the “Receiver”) of the assets, undertaking and property of 1886695 Ontario Inc. (“188”), formerly known as Brant Instore Corporation (the “Company”).
2. On December 20, 2022, on application by Bank of Montreal (“BMO”), the Company’s principal secured creditor, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Receivership Order”), appointing KSV as Receiver of the Company. A copy of the Receivership Order is attached as Appendix “A”.
3. The primary purpose of the receivership proceedings was to complete a going-concern sale (the “Transaction”) of the Company’s and the Receiver’s right, title and interest in the Company’s business and assets pursuant to an Asset Purchase Agreement dated December 9, 2022 (the “APA”) between the Receiver, as vendor, and 1000369798 Ontario Inc. (the “Purchaser”), an entity related to JAL Equity Corp. (“JAL”), as purchaser. The Transaction was approved by the Court pursuant to an order dated December 20, 2022 (the “Approval and Vesting Order”) and closed on December 30, 2022 (the “Closing”). A copy of the Approval and Vesting Order is attached as Appendix “B”.

4. Pursuant to the terms of the Approval and Vesting Order, the Receiver filed articles of amendment on January 5, 2023 changing the Company's name from "Brant Instore Corporation" to "1886695 Ontario Inc." and the style of cause of the Receivership Proceedings was amended accordingly.

## 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information about the Company and these proceedings;
  - b) provide the Receiver's rationale for recommending that the receivership proceedings be terminated and the Receiver be discharged;
  - c) summarize the fees and disbursements of: (i) the Receiver from the commencement of the receivership proceedings to August 31, 2023, and (ii) the Receiver's counsel, Aird & Berlis LLP ("Aird & Berlis"), to January 31, 2023, as well as accruals of approximately \$30,000 (inclusive of HST) and \$12,000 (inclusive of HST) for the Receiver and Aird & Berlis, respectively, to cover their respective costs to the completion of these proceedings, including the preparation of this Report and the related motion materials (the "Fee Accruals"); and
  - d) recommend that the Court issue an order (the "Discharge Order"):
    - i. approving this Report and the Receiver's activities from the commencement of these proceedings to the date of this Report; and
    - ii. approving the fees and disbursements of the Receiver and Aird & Berlis to August 31, 2023 and January 31, 2023, respectively, and the Fee Accruals;
    - iii. approving the Receiver's Statement of Receipts and Disbursements to September 27, 2023 (the "R&D");
    - iv. terminating the Receivership Proceedings and discharging KSV as Receiver of the Company upon filing of the certificate substantially in the form attached as Schedule "A" to the Discharge Order (the "Discharge Certificate"); and
    - v. upon filing of the Discharge Certificate, releasing the Receiver from any and all liabilities it now has or may hereafter have by reason of, or in any way arising out of, its act or omissions, save and except for its gross negligence or wilful misconduct.

## 1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon the Company's unaudited financial information. The Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that complies with Generally Accepted Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook.



2. The Receiver expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by the Receiver in preparing this Report. The Receiver shall have no responsibility for any reliance placed on the financial information presented in this Report by any present or future investor, creditor or other stakeholder of the Company, with the exception of the Court.

### **1.3 Currency**

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

## **2.0 Background**

1. The Company is privately owned, and its controlling shareholder is Hammond, Kennedy, Whitney & Company, an Indianapolis-based private equity firm. BMO also holds a minority equity interest in the Company as a result of converting a small portion of its debt to equity in 2021.
2. Prior to Closing, the Company operated from two leased premises located in Brantford, Ontario. The Company provided a full range of commercial print solutions to some of North America's largest retailers. The Company's printing services included point-of-purchase signage, merchandising displays, banners, floor graphics, three-dimensional point-of-sale displays and other special print orders, using various methods of printing including digital, lithographic and dye sublimation.
3. At the commencement of the receivership proceedings, the Company had approximately 139 employees, the vast majority of whom were offered employment by the Purchaser.
4. BMO is the Company's primary secured creditor and provided the Company with various credit facilities, including, among others, a revolving credit facility and a capital expenditure facility. As at the date of the Receivership Order, BMO's advances to the Company totaled approximately \$13 million (the "BMO Indebtedness").

### **2.1 Transaction and Distributions**

1. KSV's report filed as proposed receiver dated December 12, 2022 (the "Pre-Filing Report"), which was filed in support of the Transaction, provides detailed information on the Transaction, including the basis for the Receiver's<sup>1</sup> recommendation that the Court approve the Transaction. Accordingly, that information is not repeated in this Report. A copy of the Pre-Filing Report is attached as Appendix "C", without appendices.
2. The cash purchase price under the Transaction was \$9.5 million and was not sufficient to repay the Company's indebtedness to BMO.
3. As at the date of this Report, the Company has no operations and all of its business and assets have been realized upon.

---

<sup>1</sup> BMO's application sought the appointment of KSV as Receiver, which immediately thereafter recommended that the Court approve the Transaction.

4. Pursuant to the Approval and Vesting Order, upon Closing, the Receiver was authorized to:
  - a) pay a success bonus to certain of the Company's key employees (the "Success Bonus"); and
  - b) make interim distributions to BMO from the proceeds of the Transaction, net of professional and other costs to complete the Transaction and the receivership proceedings.
5. Following Closing, the Receiver paid the Success Bonus to the key employees and has made interim distributions to BMO totalling approximately \$8.2 million.
6. The Court materials filed in these proceedings are available on the Receiver's website at <https://www.ksvadvisory.com/experience/case/brant-instore>.

### **3.0 Assets Under Administration**

1. As at the date of this Report, there is a cash balance of approximately \$145,000 in the receivership estate account.
2. A copy of the Receiver's interim statement of receipts and disbursements for the period ended September 27, 2023 is attached as Appendix "D".

### **4.0 Overview of Receiver's Activities**

1. Since the commencement of these proceedings, the Receiver's activities have included the following:
  - corresponding with Aird & Berlis and the Company and its counsel, McMillan LLP, in connection with the administration of the receivership proceedings and the Transaction;
  - corresponding with BMO and its counsel, Davies Ward Phillips & Vineberg LLP, in connection with the administration of the receivership proceedings and the Transaction;
  - assisting the Company to prepare a stakeholder communication strategy, including for employees, customers, suppliers and landlords;
  - drafting the Pre-Filing Report and this Report and filing same with the Court;
  - overseeing the Company's receipts and disbursements in accordance with the Receivership Order;
  - reviewing various Transaction documents prepared in connection with the Closing;
  - working with the Purchaser and its counsel to address transitional issues in accordance with the APA and a Transition Services Agreement executed in connection with the Transaction;

- closing the Transaction and distributing the sale proceeds to BMO;
- corresponding routinely with the Company's management team regarding operating and cash management issues prior to completion of the Transaction;
- responding to numerous calls and enquiries from creditors and other stakeholders;
- corresponding with Canada Revenue Agency regarding the Company's HST and payroll remittance accounts; and
- dealing with the administration of these proceedings, including filing the Receiver's statutory interim reports with the Office of the Superintendent of Bankruptcy (Canada).

## 5.0 Receiver's Discharge

1. The Receiver believes it is appropriate for it to be discharged at this time for the following reasons:
  - a) all of the Company's known assets have been realized upon pursuant to the Transaction;
  - b) the Receiver has discharged its duties and obligations in accordance with the Receivership Order and other orders issued in these receivership proceedings;
  - c) the Receiver's administration is complete and there are no outstanding issues at this time that would require that the receivership proceedings continue; and
  - d) notwithstanding its discharge, the proposed Discharge Order provides that the Receiver will continue to have the protections afforded to it at law or pursuant to the Receivership Order and the other orders issued in these proceedings and the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership. The Receiver believes that this Commercial List Model Receiver Discharge Order provision is appropriate in the circumstances so that the Receiver can deal with incidental issues that may arise following its discharge.
2. Based on the foregoing, the Receiver recommends that the Court issue an order terminating the receivership proceedings and granting the Receiver its discharge. It is the Receiver's intention to immediately file the Discharge Certificate effecting its discharge.
3. Following payment of professional fees through to completion of these proceedings, the Receiver intends to distribute the balance of the funds in its possession to BMO in respect of the BMO Indebtedness. As at the date of this Report, the Receiver is not aware of any parties that have an outstanding priority claim that ranks ahead of BMO. As noted in the Pre-Filing Report and above, BMO will incur a significant shortfall on its secured loans to the Company. Pursuant to the Approval and Vesting Order, the Receiver was authorized to make distributions to BMO.

## 6.0 Professional Fees

1. The fees and disbursements of the Receiver and its counsel, both before and after the date of the Receivership Order, are secured by the Receiver's Charge created by the Receivership Order;
2. The fees (excluding disbursements and HST) of the Receiver and Aird & Berlis to August 31, 2023 and January 31, 2023 total \$237,933 and \$189,820.20, respectively.
3. The average hourly rates for KSV and Aird & Berlis for the referenced billing periods were \$579.29 and \$529.09, respectively.
4. Detailed invoices in respect of the fees and disbursements of the Receiver and Aird & Berlis are provided in appendices to the affidavits (the "Fee Affidavits") sworn by representatives of KSV and Aird & Berlis attached as Appendices "E" and "F", respectively.
5. The Receiver is of the view that the hourly rates charged by Aird & Berlis are consistent with the rates charged by corporate law firms practicing in the area of corporate insolvency and restructuring in the Ontario market, and that the overall fees charged by Aird & Berlis and the Receiver are reasonable and appropriate in the circumstances.
6. The Receiver is also of the view that the Fee Accruals are reasonable and appropriate in the circumstances as they provide for the estimated fees incurred and to be incurred by the Receiver and Aird & Berlis prior to the filing of the Discharge Certificate, including the fees incurred in connection with preparing this Report and the accompanying motion materials.
7. The proposed Discharge Order also seeks approval of this Report and the actions, conduct and activities of the Receiver described herein. The Receiver is of the view that the actions, conduct and activities undertaken to date in connection with the Receivership Proceedings, as further detailed above, have been carried out in good faith and in accordance with the orders issued throughout the Receivership Proceedings.

## 7.0 Conclusion and Recommendation

1. The Receiver respectfully recommends that the Court make the Order granting the relief detailed in Section 1.1(1)(d) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER  
OF THE PROPERTY, ASSETS AND UNDETKING OF  
1886695 ONTARIO INC.**

## **Appendix “A”**

Court File No.

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

**APPLICATION UNDER SECTION 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**

THE HONOURABLE MR.

)

TUESDAY, THE 20TH

JUSTICE CAVANAGH

)

DAY OF DECEMBER, 2022

)

**BANK OF MONTREAL**

Applicant

- and -

**BRANT INSTORE CORPORATION**

Respondent

**ORDER  
(appointing Receiver and Manager)**

**THIS APPLICATION** 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 Brant Instore Corporation (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day virtually via videoconference.

**ON READING** the affidavit of Joshua Seager sworn December 8, 2022 and the Exhibits thereto, the pre-filing report of KSV Restructuring Inc. as the proposed receiver, and on hearing the submissions of counsel for the Applicant and the Receiver and no one else appearing although duly served as appears from the affidavit of service of Sandy Prosa sworn December 8, 2022 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 Debtor acquired for, or used in relation to a business carried on by the Debtor, 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 Debtor, including the powers to enter into any agreements, repudiate or disclaim any contracts or 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, modify, and/or terminate any contracts or agreements to which the Debtor is a party;
- (d) to engage 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 Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (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 Debtor, 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 Debtor, 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) file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor;
- (k) 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;
- (l) 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 \$250,000, 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.

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; 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 Debtor, and without interference from any other Person.

## **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its 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 (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 books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, 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 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.

7. **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**

8. **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 DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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**

11. **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 Debtor, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Debtor's 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 Debtor 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**

13. **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**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's 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**

15. **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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **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**

17. **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**

18. **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.

19. **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.

20. **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**

21. **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, 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.

22. **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.

23. **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.

24. **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**

25. **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/sci/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/Brant-Instore'.

26. **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 Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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.

## **GENERAL**

27. **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.

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

29. **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.

30. **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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity

basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. **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.

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



Digitally signed by  
Mr. Justice  
Cavanagh

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## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV RESTRUCTURING INC., the receiver (the "**Receiver**") of the assets, undertakings and properties BRANT INSTORE CORPORATION acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 2022 (the "**Order**") made in an action having Court file number \_\_\_-CL-\_\_\_\_\_, 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 the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

## **Appendix “B”**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) TUESDAY, THE 20<sup>TH</sup> DAY  
 )  
JUSTICE CAVANAGH ) OF DECEMBER, 2022

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**BRANT INSTORE CORPORATION**

Respondent

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Brant Instore Corporation (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Purchase Agreement**”) between the Receiver and 1000369798 Ontario Inc. (the “**Purchaser**”) dated December 20, 2022

and appended in redacted form to the Pre-Filing Report of KSV in its capacity as proposed Receiver to be filed in these proceedings (the “**Report**”), and included, in unredacted form, in the confidential appendices to the Report (collectively, the “**Confidential Appendices**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Purchase Agreement (the “**Purchased Assets**”), was heard this day by Zoom judicial video conference.

**ON READING** the Report and the Confidential Appendices, and on hearing the submissions of counsel for the Receiver, counsel for the Applicant, counsel for the Purchaser, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of Samantha Hans sworn December 9, 2022, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement 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.

2. **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 Debtor's right, title and interest in and to the Purchased Assets described in the Purchase Agreement 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 of the Honourable Justice Cavanagh dated December 20, 2022; (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.

3. **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.

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

5. **THIS COURT ORDERS** that, notwithstanding the provisions of subsection 171(3) of the *Business Corporations Act* (Ontario) (the "**OBCA**"), the Receiver be and is hereby authorized and directed, upon filing of the Receiver's Certificate, to complete, execute and file articles of amendment for and on behalf of the Debtor and any officer and director of the Debtor (such articles of amendment to be deemed to have been signed by a director or an officer of the Debtor and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of the Debtor to 1886695 Ontario Inc. (and such amendment shall be deemed to have been duly authorized by Section 168 of the OBCA without any shareholder or director resolution approving such amendment being required), and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby authorized and directed to complete, execute and file for and on behalf of the Debtor and any officer and director of Debtor, if and as required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

6. **THIS COURT ORDERS** that, upon filing of the articles of amendment changing the name of the Debtor in accordance with paragraph 5 above and the Receiver filing with this Court

and written confirmation that such name change has been effected, the title of these proceedings shall be and is hereby amended to the following:

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

and the registrar is hereby directed to change and modify its court records as necessary so as to reflect this change in the title of proceeding.

7. **THIS COURT ORDERS** that, pursuant to 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 Company's records pertaining to the Debtor's past and current employees. 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 Debtor.

8. **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 the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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 Debtor and shall not be void or voidable by creditors of the Debtor, 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.

#### **SEALING**

9. **THIS COURT ORDERS** that:

- (a) Confidential Appendix 1, Confidential Appendix 2 and Confidential Appendix 3 to the Report shall be sealed, kept confidential and not form part of the public record, but rather 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 on or after the date that is three months following the date of filing of the Receiver's Certificate; and
- (b) Confidential Appendix 4 to the Report shall be sealed, kept confidential and not form part of the public record, but rather 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.

## INTERIM DISTRIBUTION

10. **THIS COURT ORDERS** that, subject to maintaining sufficient reserves to satisfy the priority claims described in the Report and to complete the administration of the receivership, the Receiver is authorised to pay:

- (a) the Success Bonus as defined and described in the Report; and
- (b) the remaining proceeds of the Transaction and any monies that come into the estate at a later date, to the Bank of Montreal up to the amount of the Debtor's indebtedness owing to the Bank of Montreal.

## 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 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.

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



Digitally signed by  
Mr. Justice Cavanagh

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**Schedule “A” – Form of Receiver’s Certificate**

Court File No. CV-22-00691546-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**BRANT INSTORE CORPORATION**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated December 20, 2022, KSV Restructuring Inc. was appointed as the receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Brant Instore Corporation (the “**Debtor**”).

B. Pursuant to an Order of the Court dated December 20, 2022, the Court approved the asset purchase agreement made as of December 20, 2022 (the “**Purchase Agreement**”) between the Receiver and 1000369798 Ontario Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s 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 Article 7 of the Purchase Agreement have been satisfied or waived by the Receiver and the

Purchaser; and (iii) the transaction contemplate by the Purchase Agreement (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 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 Purchase Agreement;
2. The conditions to Closing as set out in Article 7 of the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; 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 the undertaking, property and assets of BRANT INSTORE CORPORATION, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**Schedule "B" – Claims to be deleted and expunged**

NONE.

**BANK OF MONTREAL**  
Applicant

- and -

**BRANT INSTORE CORPORATION**  
Respondent

Court File No. CV-22-00691546-00CL

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

**Proceedings commenced at Toronto**

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**APPROVAL AND VESTING ORDER**

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*Lawyers for the Receiver*



## **Appendix “C”**



**Report of  
KSV Restructuring Inc.  
as Proposed Receiver of  
Brant Instore Corporation**

**December 12, 2022**

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Court File No.: CV-22-006915446-00CL

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

APPLICATION UNDER S. 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

**BETWEEN:**

**BANK OF MONTREAL**

**APPLICANT**

**- AND -**

**BRANT INSTORE CORPORATION**

**RESPONDENT**

**REPORT OF KSV RESTRUCTURING INC.  
AS PROPOSED RECEIVER**

**December 12, 2022**

## **1.0 Introduction**

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) as proposed receiver and manager (the “Proposed Receiver”) of the property, assets and undertaking of Brant Instore Corporation (the “Company”).
2. Bank of Montreal (“BMO” or the “Bank”), the Company’s principal secured lender, intends to bring an application before the Ontario Superior Court of Justice (Commercial List) (the “Court”) for an order (the “Receivership Order”), among other things, placing the Company in receivership and appointing KSV as receiver and manager (in such capacity, the “Receiver”) of the Company. KSV has consented to act as Receiver, should the Court grant the Receivership Order.
3. The primary purpose of the receivership proceedings is to complete a going-concern sale (the “Transaction”) of the Company’s and the Receiver’s right, title and interest in the Company’s business and assets pursuant to an Asset Purchase Agreement dated December 9, 2022 (the “APA”) between the Receiver, as vendor, and 1000369798 Ontario Inc. (the “Purchaser”), an entity related to JAL Equity Corp. (“JAL”). The Transaction and the APA are subject to Court approval.
4. If KSV is appointed as Receiver, it is its intention to seek approval of the Transaction and the APA pursuant to a motion by the Receiver to be heard immediately following its appointment as Receiver.

## 1.1 KSV's Prior Mandates

1. On February 25, 2020, KSV<sup>1</sup> was engaged by BMO to provide it with financial advisory services in respect of BMO's loans to the Company (the "Bank Mandate"). The Bank Mandate included, among other things, reviewing the Company's financial information, preparing an estimate of the realizable value of the Company's assets, reviewing and assessing the reasonableness of the Company's financial projections and monitoring the Company's financial performance.
2. On January 5, 2021, with BMO's consent and support, KSV was retained by the Company to act as the Company's Chief Restructuring Advisor (the "CRA Mandate" and together with the Bank Mandate, the "Advisory Mandates"). The CRA Mandate provided that the Bank Mandate be terminated immediately upon the commencement of the CRA Mandate. The CRA Mandate engagement letter also states that the CRA Mandate will terminate if KSV is appointed to act as a court-officer in any insolvency proceeding involving the Company. The CRA Mandate engagement letter also provides that the CRA Mandate does not preclude KSV from acting as a court-officer in a court-supervised insolvency proceeding of the Company.
3. The Advisory Mandates were performed by KSV with the full cooperation of the Bank and the Company, and KSV has been providing advisory services to both parties during these mandates with full transparency. The Company and BMO have consented to KSV acting as Receiver.
4. As detailed further in this Report, KSV has obtained significant knowledge of the Company's business and operations while performing the Advisory Mandates, such that it is well situated to provide its recommendation that: (i) the Transaction is in the best interest of the Company and its stakeholders, and (ii) the Transaction should be completed on an urgent basis.

## 1.2 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information about the Company;
  - b) discuss the Company's financial position, including the composition of, and amounts owing to, its creditors;
  - c) discuss an opinion prepared by Aird & Berlis LLP ("Aird & Berlis")<sup>2</sup> on the validity and enforceability of BMO's security;
  - d) discuss the results of a sale and investor solicitation process (the "SISP") carried out by New Direction Partners, LLC ("NDP"), an investment bank retained by the Company in July, 2022;
  - e) detail the terms of the Transaction;

---

<sup>1</sup> KSV's affiliate, KSV Advisory Inc., was engaged for the advisory mandates. KSV is a subsidiary of KSV Advisory Inc.

<sup>2</sup> KSV retained Aird & Berlis to act as its independent legal counsel in the event that the Court issues the Receivership Order.

- f) discuss a liquidation analysis prepared by KSV, which illustrates that the value of the Transaction significantly exceeds the liquidation value of the Company (the “Liquidation Analysis”);
- g) summarize the reasons that the Proposed Receiver believes it is appropriate that certain SISP related information prepared by NDP, the Transaction purchase price and the Liquidation Analysis be filed with the Court on a confidential basis for three (3) months following closing of the Transaction;
- h) summarize the terms of employee success bonus plan (the “Success Bonus Plan”) for certain of the Company’s employees and discuss the reasons that the Proposed Receiver believes it is appropriate that the terms of the Success Bonus Plan should be filed with the Court on a confidential basis pending further order of the Court;
- i) provide to the Court the Proposed Receiver’s rationale for recommending that the Court approve the Transaction; and
- j) recommend that the Court issue the following orders:
  - i. the Receivership Order which, among other things:
    - appoints KSV as Receiver;
    - grants a charge for the fees and disbursements of the Receiver and its legal counsel;
    - grants a charge for any amounts borrowed by the Receiver to fund costs of the receivership, if necessary; and
    - grants the Company a stay of proceedings;
  - ii. an Approval and Vesting Order (the “AVO”) which, among other things:
    - approves the APA and the Transaction;
    - approves the Success Bonus Plan in respect of certain of the Company’s employees (the “Key Employees”) and a distribution from the sale proceeds from the Transaction to the Key Employees on account of the success bonuses contemplated by the Success Bonus Plan (collectively, the “Success Bonus”), following Closing (as defined in the APA) of the Transaction;
    - authorizes and directs the Receiver to complete the Transaction;
    - transfers and vests all of the Company’s and the Receiver’s right, title and interest in and to the Purchased Assets (as defined in the APA) in the Purchaser, free and clear of and from any and all claims, liabilities, liens, and encumbrances;

- approves a distribution to BMO of the proceeds of the Transaction, net of professional and other costs to complete the Transaction and these proceedings, including the fees of NDP and payments to Key Employees; and
- seals the Confidential Appendices to this Report, pending closing of the Transaction other than in respect of the Success Bonus Plan, which the Proposed Receiver is recommending should be sealed until further Order of the Court.

### **1.3 Restrictions**

1. In preparing this Report, the Proposed Receiver has relied upon the Company's unaudited financial information, the Company's books and records, discussions with BMO's representatives and its legal counsel, Davies Ward Phillips & Vineberg LLP, discussions with the Purchaser's legal counsel, Osler, Hoskin & Harcourt LLP, discussions with the Company's representatives, and discussions with NDP's representatives.
2. The Proposed Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the Company's financial and other information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
3. The Proposed Receiver expresses no opinion or other form of assurance with respect to the financial and other information presented in this Report or relied upon by the Proposed Receiver in preparing this Report. Other than the Court, any party wishing to place reliance on the Company's financial information should perform its own due diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.

### **1.4 Currency**

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

## **2.0 Executive Summary**

1. The Company is privately owned and operates from two leased premises located in Brantford, Ontario, one of which serves as its head office.
2. The Company's controlling shareholder is Hammond, Kennedy, Whitney & Company ("HKW"), an Indianapolis-based private equity firm. BMO also holds a minority equity interest in the Company as a result of converting a small portion of its debt to equity in 2021 and a BMO representative sat on the Company's Board of Directors. Further information concerning the Company's ownership structure is provided in the affidavit of Joshua Seager sworn on December 9, 2022 (the "Affidavit") filed in connection with the Receivership Application.

3. The Company provides a full range of commercial print solutions to some of North America's largest retailers. The Company's printing services include point-of-purchase signage, merchandising displays, banners, floor graphics, three-dimensional point-of-sale displays and other special print orders, using various methods of printing including digital, lithographic and dye sublimation.
4. As at the date of this Report, the Company had approximately 139 employees, 97 of whom are hourly unionized employees and 42 of whom are salaried employees.
5. The Company is party to a collective agreement with National Automotive, Aerospace, Transportation and General Workers Union of Canada (UNIFOR – Canada) and Local 504 in respect of its hourly employees (the "Collective Agreement"). Pursuant to the Collective Agreement, the Company contributes to a Canada-Wide Industrial Pension Plan on behalf of the unionized employees. As of the date hereof, the Company is current on its pension contributions.
6. Due to challenges faced by brick-and-mortar retailers in recent years, including the rise of e-commerce and more recently the COVID-19 pandemic, the Company has suffered declining sales and the loss of key customers, resulting in significant financial losses, which, since 2019, total approximately \$16 million. The Company's losses are continuing. The Company does not have the liquidity to continue to operate without BMO's financial support.
7. In recent months, the challenges facing the Company have increased:
  - a) in late November 2022, the Company learned that its second largest customer (representing 18% of its annual sales) intends to terminate its relationship with the Company in the near term;
  - b) in October, 2022, its largest unsecured creditor, Miller Zell Inc. ("Miller Zell"), commenced litigation against the Company by filing a Statement of Claim in respect of amounts owing to it by the Company (US\$457,975);
  - c) certain key employees resigned;
  - d) the Company has been required to outsource certain sales, as certain of its printing equipment is aged and in need of repair or replacement; and
  - e) several of its key suppliers have ceased supplying the Company or have refused to extend further credit to the Company.
8. BMO is the Company's primary secured creditor. BMO provides the Company various credit facilities, including, among others, a revolving credit facility and a capital expenditure facility. As at December 6, 2022, BMO's advances to the Company total \$13,022,365, with interest continuing to accrue. BMO's initial credit agreement with the Company is dated December 19, 2012, which has been amended and restated on several occasions since that date (as amended, restated, replaced, supplemented or otherwise, the "Credit Agreement").



9. The Company has been in default of its obligations under the Credit Agreement since the first quarter of 2020. The Company and the Bank first negotiated a forbearance agreement in April 2020 pursuant to which KSV was retained to act as the Bank's financial advisor<sup>3</sup>. BMO has continued to support the Company since the date of the first forbearance agreement, notwithstanding the Company's ongoing under-performance and its continuing and new defaults.
10. In September 2022, the Company and the Bank negotiated a support agreement pursuant to which BMO agreed to continue to provide credit to the Company while it completed a SISP. The Company had retained NDP in July 2022 to carry out the SISP.
11. The SISP resulted in the Transaction, which as discussed below, was the best offer submitted in the SISP, exceeds liquidation value and provides other benefits, including the preservation of the jobs for the vast majority of the Company's employees. The Transaction is supported by BMO, which is projected to incur a significant shortfall on its advances to the Company. The Purchaser is willing to complete the Transaction provided it closes by December 30, 2022.
12. Without the continuing financial support of BMO, or alternative sources of funding, the Company will be without liquidity to continue to operate. If the Transaction is not approved, it is likely to result in a wind-down and liquidation of the Company's business and assets through the receivership given the Company's illiquidity and that a SISP has already been conducted.
13. The Affidavit provides additional background concerning the Company including, *inter alia*, the Company's ownership structure, details of BMO's security and the events leading to the forbearance agreement (and its various amendments). To avoid repetition, these issues have not been repeated in detail in this Report, and the Proposed Receiver encourages the reader to refer the Affidavit concurrently with a review of this Report.

### 3.0 Financial Information

1. The following sections provide a summary of the Company's financial position as at October 29, 2022<sup>4</sup> and its operating results for the last three fiscal years and the ten-month period ending October 29, 2022.

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<sup>3</sup> The full details of the various forbearance agreements between the Bank and the Company are provided in the Affidavit (as defined in paragraph 11 of this Section of the Report.).

<sup>4</sup> This is the month-end for accounting purposes based on the Company's accounting policies.

### 3.1 Balance Sheet

1. The Company's balance sheet as at October 29, 2022 is presented below.

Description	\$000s (unaudited)
<u>Assets</u>	
Current Assets	
Accounts receivable	5,455
Inventory	2,541
Prepaid expenses and other	1,443
Total current assets	9,439
Property, plant and equipment, net	1,609
Intangible assets	3,875
Other long-term assets	648
Total Assets	15,571
<u>Liabilities and Equity</u>	
Current Liabilities	
BMO operating line, net of cash	173
BMO Term Loan and Capex loan	12,353
Accounts payable and accrued liabilities	8,314
Total current liabilities	20,840
Other liabilities	805
Total Liabilities	21,645
Shareholders' Equity/(Deficiency)	(6,074)
Total Liabilities and Shareholders' Equity	15,571

2. The Company's balance sheet reflects that:
  - a) as a result of the Company's defaults under the Credit Agreement, all of its obligations owing to BMO are classified as current liabilities, resulting in negative working capital (i.e., its total current assets (approximately \$9.4 million) are less than 50% of its total current liabilities (approximately \$20.9 million)), meaning that the Company cannot meet its liabilities in the ordinary course of business; and
  - b) the Company has negative shareholders' equity of approximately \$6.1 million, reflecting its recurring losses. This is before writing down the value of its intangible assets (book value of approximately \$3.9 million), which have nominal, if any, value if the Company's business is discontinued.

### 3.2 Income Statement

1. The table below summarizes the Company's operating results for its fiscal years ended December 31, 2019, 2020 and 2021 and for the ten-month period ending October 29, 2022.

<u>\$000s</u>	2022	2021	2020	2019
	(10 months) (unaudited)	(reviewed)	(audited)	(audited)
Sales	26,755	29,538	29,208	41,547
Cost of sales	(19,376)	(24,177)	(22,465)	(32,927)
Gross margin	7,379	5,360	6,743	8,620
Gross margin (%)	27.6%	18.1%	23.1%	21%
Operating expenses	(5,282)	(4,742)	(5,072)	(5,079)
CEWS	-	1,399	2,338	-
EBITDA	2,097	2,017	4,009	3,541
Interest	(664)	(1,187)	(1,129)	(1,435)
Depreciation and other	(2,216)	(2,324)	(3,158)	(17,152) <sup>5</sup>
Income (taxes)/recovery	-	(53)	136	1,504
Net profit/(loss)	(783)	(1,547)	(142)	(13,542)

2. The results in the table reflect, *inter alia*, that:
  - a) revenue declined by approximately 29% between fiscal 2019 and 2021;
  - b) revenue in fiscal 2022 is consistent with fiscal 2021 – it has not recovered to prior years' levels;
  - c) net losses since January 1, 2019 total approximately \$16 million;
  - d) losses have continued in the current fiscal year;
  - e) the Company received the Canada Emergency Wage Subsidy (“CEWS”) during fiscal 2020 and 2021. Without CEWS, net losses would have been approximately \$2.5 million and \$2.9 million, respectively, in those years; and
  - f) since 2019, the Company has not generated sufficient EBITDA (even with CEWS) to service its debt owing to BMO, including interest payments of approximately \$1.2 million per year and quarterly principal repayments of approximately \$2.8 million per year.
  
3. In addition to other factors affecting the Company’s operations discussed in this Report, the Company’s recent financial results have been affected by the poor state of certain of its printing equipment. Certain of this equipment is aged and requires repair or replacement. The Company does not presently have the capital to fund these costs. As a result, the Company recently decommissioned one of its digital printing presses, causing the Company to outsource work, which resulted in lost revenue and reduced gross margins.
  
4. The Company is insolvent on both a balance sheet (its liabilities exceed its assets) and a cash flow basis (it cannot meet its liabilities as they come due).

<sup>5</sup> As a result of its continuing losses, the Company booked an impairment of its goodwill and intangible assets of \$11.2 million in the year ended December 31, 2019.

## 4.0 Creditors

### 4.1 Secured Creditors

#### 4.1.1 BMO

1. BMO's facilities are fully described in the Affidavit, as are the events of default which caused BMO, on December 1, 2022, to issue a Notice of Intention to Enforce Security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (the "244 Notice"). The history of events leading to the issuance of the 244 Notice has not been repeated herein.

#### 4.1.2 BMO Security Opinion

1. The amounts advanced by BMO under the Credit Agreement are secured by substantially all of the Company's property, assets and undertakings pursuant to security documents dated December 19, 2012. In contemplation of these potential proceedings, KSV, as Proposed Receiver, retained Aird & Berlis<sup>6</sup> to act as its independent legal counsel, if appointed Receiver. KSV requested that Aird & Berlis provide it with an opinion as to the validity and enforceability of BMO's security. Aird & Berlis's opinion confirms that subject to the customary assumptions and qualifications contained therein, BMO's security is valid and enforceable. A copy of the security opinion can be made available to the Court if it wishes to review the opinion.

#### 4.1.3 Other Secured Creditors

1. In addition to BMO, the creditors in the table below have registered security against specific assets of the Company pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA"):

<b>Creditor</b>	<b>Registration Date</b>	<b>Security</b>
Carrier Truck Center Inc.	July 31, 2017	Specific equipment and motor vehicles classifications
Xerox Canada Ltd.	June 2, 2022	Specific equipment and other collateral classifications
Hewlett-Packard Financial Services Canada Company	April 1, 2021	Specific equipment and other collateral classifications
De Lage Landen Financial Services Canada Inc.	February 16, 2022	Specific equipment, accounts, other and motor vehicle collateral classifications
CWB National Leasing Inc.	May 6, 2022	Specific equipment collateral classifications

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<sup>6</sup> Aird Berlis previously acted for the Company in respect of its negotiations with the Union concerning the Collective Agreement. BMO and the Company have each consented to Aird & Berlis acting as the Receiver's counsel.

## 4.2 Unsecured Creditors

1. Based on the Company's books and records, as of December 8, 2022, the Company's accounts payable totaled approximately \$6.5 million. These obligations include:
  - a) \$5.1 million owing to suppliers and service providers; and
  - b) \$1.4 million owing to HKW in respect of management fees.
2. The above amounts exclude off-balance sheet obligations, including amounts that may be owing to employees for termination and severance pay, as well as amounts that may be owing to real property and personal property lessors on the termination or disclaimer of their leases.
3. Of the amounts owing to unsecured creditors (excluding HKW), approximately \$2.2 million is aged more than 60 days (43% of the total payables). The Company's largest unsecured trade creditor, Miller Zell, filed a Statement of Claim dated October 19, 2022, in respect of overdue amounts owing to it by the Company.
4. KSV understands that the Company is current on its sales tax and employee withholding remittances, as well as on its pension contributions.

## 5.0 The SISP

1. NDP was retained by the Company on July 5, 2022 to conduct the SISP. NDP provides a broad range of investment banking and consulting services, with a particular focus on the printing sector, including both sell-side and buy-side M&A transactions. NDP's partners have been involved in the sale or purchase of over 400 printing/packaging companies.
2. An overview of the SISP conducted by NDP is as follows:
  - a) NDP assembled a list of 47 prospective purchasers located in Canada and the US, including 42 strategic parties and five financial targets. NDP had previously sold businesses to 16 of the parties on the buyers list;
  - b) NDP launched the SISP on August 19, 2022 by sending a "teaser" to the 47 parties it identified (the "Teaser"). The Teaser provided prospective purchasers with a description of the Company's business and the potential benefits resulting from a transaction;
  - c) Parties interested in learning more about the Company, were required to sign a non-disclosure agreement ("NDA"), following which they were provided the Company's name, a detailed confidential information memorandum concerning the Company and a bid process letter (the "Bid Process Letter"). Fourteen parties signed the NDA;

- d) Prospective purchasers who signed an NDA were required to submit to NDP written non-binding expressions of interest (an “EOI”) by September 14, 2022. Parties who submitted an acceptable EOI were then provided the opportunity to perform due diligence in the last two weeks of September 2022, including attending plant visits. Final written non-binding letters of intent (a “LOI”) were required to be submitted to NDP by October 14, 2022. Parties who submitted an acceptable LOI were provided the opportunity to perform further diligence, including access to a data room and further plant meetings.
3. The Purchaser submitted the best LOI in the SISP and thereafter NDP, the Company and the Purchaser negotiated the LOI while the Purchaser continued to perform due diligence.
4. Given the Company’s financial position and illiquidity, the Purchaser requires that the Transaction be completed through a restructuring process. Accordingly, the Purchaser and the Company commenced negotiations of the APA, with the concurrence of the Bank. The Proposed Receiver was kept apprised of the status of the SISP and the initial negotiations of the APA. Since late November, the Proposed Receiver, the Purchaser, the Company and the Bank have been negotiating the APA. The APA was finalized on December 9, 2022 and the Proposed Receiver will execute the APA if the Court approves the APA and the Transaction.
5. Copies of the Teaser, Bid Process Letter, and a process summary memorandum (the “Process Summary”) prepared by NDP (which has been redacted for confidential information regarding the participation of bidders in the process) are provided in Appendix “A”. Confidential Appendix “1” provides an unredacted copy of the Process Summary and a list of the parties contacted by NDP.
6. NDP has advised the Proposed Receiver that it believes that the Transaction (i) is the best available in the circumstances; (ii) maximizes the value of the Company’s business and assets; and (ii) that further time marketing the business would not result in a superior transaction.

## 6.0 Transaction<sup>7</sup>

1. A summary of the APA is as follows:
  - a) **Purchaser:** 1000369798 Ontario Inc.
  - b) **Purchased Assets:** Substantially all of the Company’s right, title and interest in the Company’s business and assets.
  - c) **Excluded Assets:** include, among other things:
    - all Unassumed Employee Benefit Plans;
    - the Company’s insurance policies;
    - the Company’s Cash and Cash Equivalents as of the Closing Date.

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<sup>7</sup> Defined terms in this section of the Report have the meanings provided to them in the APA.

- d) **Purchase Price:** The purchase price is provided in the unredacted APA in Confidential Appendix “2”, which the Receiver believes should be sealed for three (3) months following completion of the Transaction for the reasons provided in Section 11 of this Report. A copy of the APA with the purchase price redacted is attached as Appendix “B”.

The Purchase Price is to be paid in full in cash on closing.

Pursuant to the terms of the APA, the Purchaser is required to pay a deposit to the Proposed Receiver immediately upon the granting of the AVO.

- e) **Assumed Liabilities:** include:
- Post-Closing Assumed Contract Liabilities;
  - Leases;
  - Unionized Employee Obligations; and
  - Non-Unionized Employee Obligations.
- f) **Excluded Liabilities:** all Liabilities, other than the Assumed Liabilities;
- g) **Transferred Employees:** all Unionized Employees and all other Employees who accept the Purchaser’s offer of employment made with effect at the Closing Time;
- h) **Representation and Warranties:** Consistent with the terms of a standard insolvency transaction, i.e., on an “as is, where is” basis, with limited representations and warranties.
- i) **TSA:** The APA contemplates that, to the extent that any Consent in respect of a Material Contract (as described below in (i)) has not been obtained prior to the Closing Time, the Receiver and the Purchaser will enter into a Transition Services Agreement (“TSA”). Pursuant to the TSA, the Receiver shall agree to provide the Purchaser with the benefit of such Material Contract during the period from the Closing Time until the earlier of (i) a date that is three (3) months from the Closing Date, or (ii) the termination of the TSA. During the Transition Period, each of the Seller and the Purchaser shall use commercially reasonable efforts to obtain any Consent in respect of a Material Contract that has not been obtained prior to the Closing Time. The Purchaser may also request the Receiver to apply to the Court for an order assigning its rights, benefits and interests in and to a Material Contract.
- j) **Material Contracts:** include, among other things:
- the Leases;
  - certain equipment financing agreements; and
  - the other agreements listed in Schedule 1.1(tt) to the APA.

- k) **Closing:** Closing is required to occur by no later than December 30, 2022; and
- l) **Material Conditions:** The only material conditions precedent are that (i) the Court shall have issued the Receivership Order and the Approval and Vesting Order, and (ii) the Purchaser shall have obtained Consents for the Leases or an Order from the Court assigning the Leases to it on the existing terms.

## 7.0 Liquidation Analysis

1. The Liquidation Analysis was prepared by the Proposed Receiver based on the Company's balance sheet as at October 29, 2022.
2. Subject to the underlying assumptions detailed therein, the Liquidation Analysis reflects that the net realizable value of the Company's assets is less than the amount of the:
  - a) Company's indebtedness owing to BMO; and
  - b) Transaction purchase price.
3. A copy of the Liquidation Analysis is provided in Confidential Appendix "3". The Proposed Receiver's rationale for sealing the Liquidation Analysis is provided in Section 11 below.

## 8.0 Urgency

1. KSV, as Proposed Receiver, is of the view that there is urgency to complete the Transaction for the following reasons:
  - a) the Company is without liquidity to continue to operate absent the continuing financial support of BMO;
  - b) if the Transaction is not completed, it is likely to result in a wind-down and liquidation of the Company through the receivership given a SISF has already been conducted and the Company's illiquidity;
  - c) the Proposed Receiver understands that the Company is at risk of losing key employees if the Transaction is not completed;
  - d) the Company requires immediate capital to repair and/or replace its equipment, which is not available outside of completion of the Transaction, and which is adversely affecting the Company's operations and financial results; and
  - e) the Company is under significant pressure from its vendors, and its largest unsecured creditor has recently commenced litigation against the Company.



## 9.0 Transaction Recommendation

1. The Proposed Receiver recommends that the Court issue an order approving the Transaction for the following reasons:
  - a) in the Receiver's view, the SISP conducted by NDP was commercially reasonable, including the timelines, breadth of marketing process and information made available to interested parties;
  - b) NDP is of the view that the Transaction maximizes recoveries and is the best available transaction in the circumstances. Based on the process conducted, the Receiver does not believe a superior transaction is likely to be completed if the SISP is continued, and in any event, the Company is without liquidity to continue the SISP;
  - c) the Transaction will see the business of the Company continue, which will preserve employment for the vast majority of the Company's employees. The Transaction will provide the Company's customers with a continuing vendor and its suppliers with a continuing customer;
  - d) the purchase price under the Transaction materially exceeds the liquidation value of the Company's business and assets, as evidenced by the Liquidation Analysis;
  - e) BMO, which is expected to incur a significant shortfall on the BMO Debt, supports the Transaction. Absent the Transaction, BMO has advised the Proposed Receiver and the Company that it is not prepared to continue to fund the Company's business and operations; and
  - f) the "urgency issues" discussed in Section 8 above.

## 10.0 Success Bonus

1. On or around November 3, 2022, the Company entered into the Success Bonus Plan with the Key Employees in order to enhance the likelihood that these employees would not resign while the SISP was carried out. The Success Bonus Plan was developed by the Company, in consultation with BMO. KSV has worked closely with the Key Employees during its Advisory Mandates and agrees that the Key Employees are integral to the operation of the business and that their involvement assisted in advancing the SISP, which ultimately culminated in the Transaction.
2. The Proposed Receiver has reviewed the terms of the Success Bonus Plan and is of the view that the terms of the Success Bonus Plan are consistent with the market for an employee retention plan and that the amounts payable under the plan are reasonable. The names of the Key Employees and the amounts payable to each Key Employee is provided in Confidential Appendix "4".
3. If the proposed Transaction is approved and the Transaction closes, the Success Bonus Plan payments will be earned and payable. BMO has advised the Proposed Receiver that it consents to the payment of the Success Bonus Plan amounts from the proceeds of the Transaction in priority to BMO.

4. A court-ordered charge is not being sought for the Success Bonus Plan.
5. The Proposed Receiver believes the Success Bonus Plan is appropriate for the following reasons:
  - a) the continued involvement and cooperation of the Key Employees will assist to complete the Transaction;
  - b) in the Proposed Receiver's view, the amounts payable under the Success Bonus Plan are reasonable;
  - c) the involvement of the Key Employees has assisted, and will continue to assist, to reduce professional costs; and
  - d) BMO, which is projected to suffer a significant shortfall on its advances to the Company notwithstanding the Transaction, is supportive of the payment of the Success Bonus Plan and has, as noted above, agreed to permit these payments to be made ahead of it, thereby reducing its own recovery.

## 11.0 Sealing

1. Confidential Appendices "1", "2" and "3" include confidential information regarding the SISP, the unredacted APA and the Liquidation Analysis, respectively. The Proposed Receiver recommends that these appendices be sealed for three (3) months<sup>8</sup> following completion of the Transaction (if approved), as making publicly available these documents may negatively impact any future recoveries in these proceedings if the Transaction does not close. The Proposed Receiver is not aware of any party that will be prejudiced if these documents are temporarily sealed.
2. As Confidential Appendix "4" includes personal information, including the terms of the Success Bonus Plan and the names of the Key Employees, the Proposed Receiver is of the view that the information in this confidential appendix should be sealed subject to further order of the Court.
3. Sealing the confidential appendices is beneficial to maximizing value in these proceedings and maintains the integrity of the SISP. The salutary effect of sealing the confidential information greatly outweighs the deleterious effects of making this information publicly available at this time. Accordingly, the Proposed Receiver believes that sealing the Confidential Appendices is appropriate in the circumstances.

## 12.0 Distribution and Net Steps

1. If the Proposed Receiver is appointed Receiver and the Transaction is approved by the Court, the Receiver intends, subject to Court approval, to make a distribution or distributions of the sale proceeds generated from the Transaction to BMO up to the amount of the secured indebtedness owed by the Company to BMO, after paying or reserving for the costs of these proceedings, including the fees and costs of NDP and the Receiver, as well as payment of the Success Bonus Plan amounts. As noted, BMO is projected to incur a significant shortfall on its secured loans to the Company.

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<sup>8</sup> To align with the end date of the TSA.

## 13.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposed Receiver respectfully recommends that the Court make the Orders granting the relief detailed in Section 1.2 (1)(j) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
IN ITS CAPACITY AS PROPOSED COURT-APPOINTED RECEIVER  
OF THE PROPERTY, ASSETS AND UNDETKING OF  
BRANT INSTORE CORPORATION**

## **Appendix “D”**

Receivership of 1886695 Ontario Inc.

**Statement of Receipts and Disbursements**

For the Period December 20, 2022 to September 27, 2023

(\$; unaudited)

Description	Note	Amount
<i>Receipts</i>		
Proceeds from Transaction		9,500,000
Cash transferred from the Company's operating accounts		152,550
Interest		16,094
		<u>9,668,644</u>
<i>Disbursements</i>		
Distributions to BMO		8,226,000
New Direction Partners LLC (success fee)	1	308,875
Legal fees and disbursements		311,820
Receiver's fees		224,593
Operating and maintenance costs		163,971
HST		92,923
Other professional fees		89,493
Transport and Freight		38,479
Wages		32,856
Source deductions		29,598
Insurance		4,040
Bank charges		405
Software and license		275
Filing fees		73
		<u>9,523,400</u>
Balance in Receiver's account, before accrued liabilities		<u><u>145,244</u></u>

Notes:

1. New Direction Partners LLC was the banker retained in the sale process.

## **Appendix “E”**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**BETWEEN:**

**BANK OF MONTREAL**

**APPLICANT**

**- AND -**

**1886695 ONTARIO INC.**

**RESPONDENTS**

**AFFIDAVIT OF ROBERT KOFMAN**  
(Sworn September 28, 2023)

I, Robert Kofman, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Managing Director of KSV Restructuring Inc. ("KSV").
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) ("Court") made on December 20, 2022 ("Order"), KSV was appointed as receiver and manager (the "Receiver") of the property, assets, and undertakings of 1886695 Ontario Inc. (formerly known as Brant Instore Corporation) (the "Company").
3. I have been involved in the management of this mandate since the proceedings commenced. As such, I have knowledge of the matters to which I hereinafter depose.
4. On September 28, 2023, the Receiver issued its First Report to Court in which it outlined its activities with respect to the Company and provided information with respect to its fees.

5. I hereby confirm that attached as Exhibit "A" hereto are true copies of the accounts of KSV for the periods indicated and confirm that these accounts accurately reflect the services provided by KSV in this matter and the fees and disbursements claimed by it.

6. Additionally, attached hereto as Exhibit "B" is a summary of additional information with respect to all members of KSV who have worked on this matter, including their roles, hours and rates, and I hereby confirm that the list represents an accurate account of such information.

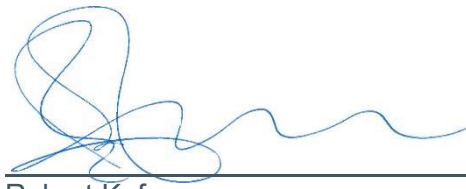
7. I consider the accounts to be fair and reasonable considering the circumstances connected with this administration.

8. I also confirm that the Receiver has not received, nor expects to receive, nor has the Receiver been promised any remuneration or consideration other than the amount claimed in the accounts.

**SWORN BEFORE ME** at the City of Toronto, on September 28, 2023.



Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024



Robert Kofman



This is Exhibit "A" referred to in the  
Affidavit of Robert Kofman sworn before  
me, this 28<sup>th</sup> day of September, 2023



---

Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024



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**INVOICE**

Brant Instore Corporation  
c/o KSV Restructuring Inc.  
220 Bay Street, Suite 1300, Box 20  
Toronto, ON M5J 2W4

January 11, 2023

Invoice No: 2909  
HST #: 818808768RT0001

**Re: Brant Instore Corporation (the “Company”)**

For professional services rendered from November 1, 2022 to December 31, 2022 by KSV Restructuring Inc. (“KSV”) to prepare for and act as Court appointed receiver and manager of the Company, which appointment was pursuant to an order of the Ontario Superior Court of Justice issued on December 20, 2022 (“Receivership Order”), including:

General

- Corresponding with Bank of Montreal (“BMO”), Davies Ward Phillips & Vineberg LLP (“Davies”), BMO’s counsel, and Aird & Berlis (“A&B”), the Receiver’s counsel, regarding this mandate;
- Corresponding with Osler, Hoskin & Harcourt LLP (“Osler”), counsel to 1000369798 Ontario Inc. (the “Purchaser”), regarding a going concern transaction (the “Transaction”) for the Company’s business and assets pursuant to an Asset Purchase Agreement dated December 9, 2022 (the “APA”);
- Corresponding with Heather Nicholls, the Company’s Chief Executive Officer, regarding all aspects of the Company’s business and operations and the Transaction;
- Preparing for the Company’s receivership;

Court and Legal Matters

- Reviewing and commenting on the receivership application materials filed by BMO, including:
  - a Notice of Motion;
  - the Affidavit of Joshua Seager sworn December 9, 2022;
  - a draft Receivership Order; and
  - a Factum;

- Reviewing and commenting on the Receiver's motion materials in connection with the approval of the Transaction, including:
  - a Notice of Motion;
  - a draft Approval and Vesting Order in respect of the Transaction; and
  - a Factum;
- Drafting the Report to Court as proposed Receiver dated December 12, 2022, the primary purpose of which was to recommend approval of the Transaction and the APA;
- Attending at Court virtually on December 20, 2022 for the hearing of the receivership application and the sale approval motion;
- Discussing and reviewing a security opinion from A&B on the security granted by the Company to BMO;

#### Transaction Matters

- Corresponding with New Direction Partners, LLC ("NDP"), the Company's investment banker, regarding the sale and investment solicitation process (the "SISP") and the Transaction, including attending calls with NDP on November 16, 2022 and December 1, 2022;
- Reviewing materials provided by NDP to summarize the SISP it carried out for the Company's business and assets;
- Reviewing and commenting on multiple iterations of the APA and discussing same, and the terms of the Transaction, with Davies, Osler and A&B;
- Reviewing and commenting on various ancillary documents and schedules prepared in connection with the Transaction, including, but not limited to (the "Ancillary Documents"):
  - a schedule of contracts to be assumed by the Purchaser;
  - a schedule of liabilities to be assumed by the Purchaser;
  - a Transition Services Agreement; and
  - a letter of consent to the assignment of the Company's contractual counterparties;
- Corresponding extensively with A&B and Osler regarding the Ancillary Documents;
- Corresponding with A&B and Osler regarding the terms of an amendment to the APA, including regarding the treatment of employee liabilities;
- Reviewing correspondence between Osler and George Street Law Group LLP ("GS Law"), counsel to the Company's landlord for its premises in Brantford, Ontario (the "Landlord"), regarding the Transaction and the assumption of the Company's real property leases by the Purchaser;

- Dealing extensively with A&B and Osler regarding the consent of the real property lease assignments from the Landlord, including on December 13, 15, 19 and 22, 2022;
- Reviewing and commenting on the closing agenda prepared in respect of the Transaction;
- Reviewing and considering the purchase price allocation with respect to the Transaction;
- Reviewing and considering various employee issues, including the payout of accrued vacation, the Purchaser's offer to the Company's existing employees and the Company's labour union;
- Corresponding with Osler and A&B regarding closing the Transaction on December 30, 2022;
- Executing the Receiver's Certificate dated December 30, 2022 in connection with the closing of the Transaction;

#### Operations

- Attending at the Company's head office during the receivership, including on December 20, 21, 22 and 28, 2022;
- Attending an on-site employee meeting on December 20, 2022;
- Opening receivership estate accounts for the Company;
- Corresponding daily with the Company's management during the receivership period regarding operational issues;
- Preparing a communication plan (the "Communications Plan") for the Company's employees, vendors and customers, including:
  - customer scripts;
  - supplier scripts;
  - employee letters; and
  - employee scripts;
- Discussing the Communications Plan with the Company, A&B and Osler and reviewing comments from each on the Communications Plan;
- Preparing a cash flow forecast for the period commencing on December 20, 2022 and corresponding with the Company regarding the same;
- Preparing a letter to BMO dated December 20, 2022 to obtain access to the Company's bank accounts and to place restrictions on the accounts;

- Monitoring transactions in the Company's operating accounts commencing the date of the Receivership Order;
- Monitoring the Company's receipts and disbursements;
- Corresponding with the Company's vendors to continue supply and service during the receivership;
- Corresponding with Randstad Canada ("Randstad"), a temporary labour agency, regarding the continuity of services to the Company during the receivership period, including on December 18, 19, 20 and 22, 2022;
- Corresponding with the Company regarding a flood resulting from a broken pipe at the Company's premises on December 18, 19 and 26, 2022;
- Corresponding with the Company, A&B and Osler regarding the purchase of inventory during the receivership period, including attending a call on December 21, 2022;
- Corresponding with Duncan Financial Group ("Duncan") and Hub International Ontario Limited, the Company's insurance brokers, regarding coverage for the Company's business and property during the receivership;
- Corresponding with Duncan regarding insurance for the Company's property required post-closing of the Transaction, including on December 29, 2022;

#### Other

- Drafting and sending to all creditors the Notice and Statement of the Receiver ("Notice") dated December 29, 2022 pursuant to sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*;
- Compiling and attaching to the Notice a list of the Company's known creditors;
- Maintaining the Receiver's case website;
- Reviewing registrations against the Company pursuant to the *Personal Property Security Act*;
- Corresponding with Kroll Consulting Canada Co. ("Kroll") to backup the Company's servers and systems;
- Attending a call on December 20, 2022 with Kroll and IT Force, the Company's outsourced IT service provider, regarding the system backup;
- Corresponding with Xerox Canada Ltd., a secured creditor of the Company, regarding its security and the assumption of its leasing contract by the Purchaser;
- Reviewing and considering the distribution to BMO of the proceeds from the Transaction;

- Updating BMO regularly regarding the receivership proceedings;
- Convening internal meetings; and
- Dealing with all other matters not otherwise referred to herein.

Total fees and disbursements	\$ 158,948.96
HST	<u>20,663.36</u>
Total due	<u>\$ 179,612.32</u>

KSV Restructuring Inc.  
Brant Instore Corporation  
**Time Summary**

For the period November 1, 2022 to December 31, 2022

<b>Personnel</b>		<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
Robert Kofman	Overall responsibility	775	90.60	70,215.00
Noah Goldstein	All aspects of mandate	675	48.00	32,400.00
Murtaza Tallat	All aspects of mandate	495	99.30	49,153.50
Nisan Thurairatnam	Mandate assistance	425	11.45	4,866.25
Administrative/Other			9.30	1,733.00
Total Fees			<u>258.65</u>	<u>158,367.75</u>
Add: Out-of-Pocket Disbursements				
Ascend fee				275.00
Postage				147.66
Photocopies				158.55
Total Out-of-Pocket Disbursements				<u>581.21</u>
Total Fees and Out-of-Pocket Disbursements				<u><u>158,948.96</u></u>



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**INVOICE**

Brant Instore Corporation  
c/o KSV Restructuring Inc.  
220 Bay Street, Suite 1300, Box 20  
Toronto, Ontario, M5J 2W4

February 13, 2023

Invoice No: 2976  
HST #: 818808768RT0001

**Re: Brant Instore Corporation (the “Company”)**

For professional services rendered during January 2023 by KSV Restructuring Inc. (“KSV”) in its capacity as Court-appointed receiver and manager of the Company pursuant to an order of the Ontario Superior Court of Justice issued on December 20, 2022 (the “Receivership Order”), including:

General

- Corresponding with Bank of Montreal (“BMO”), Davies Ward Phillips & Vineberg LLP (“Davies”), BMO’s counsel, and Aird & Berlis (“A&B”), the Receiver’s counsel, regarding the receivership proceedings;
- Corresponding with Osler, Hoskin & Harcourt LLP (“Osler”), counsel to 1000369798 Ontario Inc. (the “Purchaser”), regarding a going concern transaction (the “Transaction”) for the Company’s business and assets pursuant to an Asset Purchase Agreement dated December 9, 2022 (the “APA”), which transaction closed on December 30, 2022;
- Corresponding with Osler regarding the assignment of certain of the Company’s contracts;
- Corresponding with Heather Nicholls, the Company’s former Chief Executive Officer and EVP, Finance and Operations of the Purchaser, regarding various aspects of the Company’s business and operations and post-closing matters concerning the Transaction;
- Reviewing Articles of Amendment regarding a corporate name change for the Company and corresponding with A&B regarding the same;
- Considering matters relating to the allocation of the purchase price from the Transaction and corresponding with A&B regarding the same on January 5, 2023;



Operations

- Corresponding with New Direction Partners, LLC (“NDP”), the Company’s investment banker, regarding professional fees payable to it under the Transaction;
- Corresponding extensively with BMO regarding banking matters;
- Attending several calls with Ms. Nicholls regarding banking matters;
- Monitoring receipts and disbursements in the Company’s bank accounts;
- Preparing multiple transfers to the Purchasers of accounts receivables collected in the Company’s accounts, following closing of the Transaction;
- Corresponding with Xerox Canada Ltd., a lessor, regarding the amounts owing to it by the Company;
- Corresponding with the Company’s vendors on a daily basis regarding the amounts owing to them;
- Reviewing approximately 95 invoices submitted by vendors for post-filing services and supplies, and paying same;
- Corresponding with Duncan Financial Group, the Purchaser’s insurance broker, regarding a refund owing to the Company as a result of the cancellation of the Company’s insurance policies;
- Corresponding with Ms. Nicholls regarding certain consignment inventory claimed by Nazdar Inks & Coatings;
- Corresponding with Ms. Nicholls regarding the Company’s HST returns;

Other

- Maintaining the Receiver’s case website;
- Arranging for Kroll Consulting Canada Co. to backup the Company’s servers and systems;
- Preparing a statement of receipts and disbursements dated January 12, 2023 and discussing same with BMO;
- Making distributions to BMO on January 4 and 12, 2023 from the proceeds of the Transaction;
- Responding to inquiries from creditors and vendors regarding these proceedings;
- Updating BMO regarding the receivership proceedings;
- Convening internal meetings; and

- Dealing with all other matters not otherwise referred to herein.

Total fees and disbursements	\$	52,286.77
HST		<u>6,797.28</u>
Total due	\$	<u>59,084.05</u>

KSV Restructuring Inc.  
Brant Instore Corporation

**Time Summary**

For the period ending January 31, 2023

<b>Personnel</b>		<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
Robert Kofman	Overall responsibility	800	10.50	8,400.00
Noah Goldstein	All aspects of mandate	700	20.70	14,490.00
Murtaza Tallat	All aspects of mandate	525	42.25	22,181.25
Nisan Thurairatnam	Mandate assistance	425	6.25	2,656.25
Administrative/Other			13.80	3,552.75
Total Fees			<u>93.50</u>	<u>51,280.25</u>
Out-of-pocket disbursements (mileage & postage)				<u>1,006.52</u>
Total				<u><u>52,286.77</u></u>



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**INVOICE**

Brant Instore Corporation  
c/o KSV Restructuring Inc.  
220 Bay Street, Suite 1300, Box 20  
Toronto, Ontario, M5J 2W4

March 13, 2023

Invoice No: 3021  
HST #: 818808768RT0001

**Re: Brant Instore Corporation (the "Company")**

For professional services rendered during February 2023 by KSV Restructuring Inc. ("KSV") in its capacity as Court-appointed receiver and manager of the Company pursuant to an order of the Ontario Superior Court of Justice issued on December 20, 2022 (the "Receivership Order"), including:

- corresponding with the Company's most significant secured creditor, Bank of Montreal ("BMO"), Davies Ward Phillips & Vineberg LLP ("Davies"), BMO's counsel, and Aird & Berlis ("A&B"), the Receiver's counsel, including regarding a going concern transaction for the Company's business which closed on December 30, 2022 (the "Transaction");
- corresponding with Heather Nicholls, the Company's former Chief Executive Officer;
- corresponding with BMO and Ms. Nicholls regarding access issues to the Company's bank accounts held at BMO;
- monitoring the Company's receipts and disbursements;
- transferring accounts receivable collections received after closing of the Transaction from the Company's bank accounts to the account of 1000369798 Ontario Inc. (the "Purchaser");
- reviewing vendor invoices in respect post-filing services and supplies, and paying same;
- corresponding with Duncan Financial Group, the Purchaser's insurance broker, regarding a refund owing to the Company as a result of the cancellation of the Company's insurance policies;
- corresponding with Canada Revenue Agency in order to obtain the information necessary to open post-filing HST accounts;

- corresponding with Ms. Nicholls regarding information required to file the Company's HST returns for December 2022;
- preparing a Statement of Receipts and Disbursements dated February 24, 2023 and discussing same with BMO;
- distributing on February 24, 2023 proceeds from the Transaction to BMO;
- responding to inquiries from creditors and vendors;
- updating BMO regarding the receivership proceedings;
- convening internal meetings; and
- dealing with all other matters not otherwise referred to herein.

Total fees and disbursements	\$	15,049.63
HST		<u>1,956.45</u>
Total due	\$	<u>17,006.08</u>

KSV Restructuring Inc.  
Brant Instore Corporation  
**Time Summary**

For the period ending February 28, 2023

<b>Personnel</b>		<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
Robert Kofman	Overall responsibility	800	3.20	2,560.00
Noah Goldstein	All aspects of mandate	700	7.60	5,320.00
Murtaza Tallat	All aspects of mandate	525	10.90	5,722.50
Nisan Thurairatnam	Mandate assistance	425	1.50	637.50
Administrative/Other			3.85	705.00
Total Fees			<u>27.05</u>	<u>14,945.00</u>
Add: Out of Pocket Disbursements				
Meals				46.76
Courier				50.67
Postage				7.20
Out-of-pocket disbursements				<u>104.63</u>
Total				<u><u>15,049.63</u></u>



**ksv advisory inc.**

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**INVOICE**

Brant Instore Corporation  
c/o KSV Restructuring Inc.  
220 Bay Street, Suite 1300, Box 20  
Toronto, ON M5J 2W4

September 28, 2023

Invoice No: 3294  
HST #: 818808768RT0001

**Re: Brant Instore Corporation (the "Company")**

For professional services rendered by KSV Restructuring Inc. from March 1 to August 31, 2023, in its capacity as Court-appointed receiver and manager (the "Receiver") of the Company pursuant to an order of the Ontario Superior Court of Justice issued on December 20, 2022 (the "Receivership Order"), including:

- corresponding with the Company's most significant secured creditor, Bank of Montreal ("BMO"), and Aird & Berlis ("A&B"), the Receiver's counsel, generally regarding these receivership proceedings, including as outlined further below;
- corresponding: with former representatives of the Company regarding vendor invoices and the Company's accounts with Canada Revenue Agency ("CRA"), including attending calls on March 9 and 28, 2023, April 18 and 29, 2023, June 6, 2023 and July 4, 2023;
- corresponding with CRA regarding the Company's sales tax and payroll source deductions accounts, including on March 3, 20 and 28, 2023, April 13 and 17, 2023, June 6, 2023 and July 4 and 31, 2023;
- corresponding with BMO to close Company's operating accounts, including on April 21 and 27, 2023;
- reviewing vendor invoices in respect post-filing services and supplies, and paying same;
- preparing a Statement of Receipts and Disbursements dated February 24, 2023 and discussing same with BMO;
- making multiple distributions to BMO from the receivership estate account and corresponding with BMO regarding the same;
- preparing the Receiver's interim report pursuant to Subsection 246(2) of the *Bankruptcy and Insolvency Act*; responding to inquiries from creditors and vendors;
- updating BMO regarding the receivership proceedings;

- convening internal meetings; and
- dealing with all other matters not otherwise referred to herein.

Total fees and disbursements	\$	13,359.66
HST		<u>1,736.76</u>
Total due	\$	<u><u>15,096.42</u></u>



KSV Restructuring Inc.  
Brant Instore Corporation

**Time Summary**

For the period ending August 31, 2023

<b>Personnel</b>		<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
Robert Kofman	Overall responsibility	800	2.80	2,240.00
Murtaza Tallat	All aspects of mandate	525	13.75	7,218.75
Nisan Thurairatnam	Mandate assistance	425	2.33	990.25
Administrative/Other			12.65	2,891.00
Total Fees			<u>31.53</u>	<u>13,340.00</u>
Out-of-pocket disbursements				19.66
Total				<u><u>13,359.66</u></u>

This is Exhibit "B" referred to in the  
Affidavit of Robert Kofman sworn before  
me, this 28<sup>th</sup> day of September, 2023



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Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024

Brant Instore Corporation

**Time Summary**

For the Period of November 7, 2022 to August 31, 2023

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Name	Hours	Hourly Rate	Total (\$)
Robert Kofman	107.10	775 - 800	83,415.00
Noah Goldstein	76.30	675 - 700	52,210.00
Murtaza Tallat	166.20	495 - 525	84,276.00
Nisan Thurairatnam	21.53	425	9,150.25
Other staff and administrative	39.60		8,881.75
Total	<u>410.73</u>		<u>237,933.00</u>
Average hourly rate			<u>579.29</u>

## **Appendix “F”**

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

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent


**AFFIDAVIT OF KYLE PLUNKETT**


(sworn September 28, 2023)

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

1. I am a partner at Aird & Berlis LLP (“**A&B**”) and, as such, I have knowledge of the matters to which I hereinafter depose. A&B has acted as counsel for KSV Restructuring Inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of Brant Instore Corporation., now operating as “1886695 Ontario Inc.”, and continues to do so.
2. A&B has prepared in connection with its fees and disbursements as follows (collectively, “**Statements of Account**”):

- (a) an account dated December 31, 2022, which captures the fees rendered for the period from November 15, 2022 to December 30, 2022 in the amount of \$173,376.10, inclusive of HST and disbursements; and
  - (b) an account dated February 23, 2023, which captures the fees rendered for the period from January 3, 2023 to January 31, 2023 in the amount of \$16,444.10, inclusive of HST and disbursements.
3. Attached hereto and marked as **Exhibit "A"** to this affidavit is copy of the aforementioned Statements of Account.
  4. Attached hereto and marked as **Exhibit "B"** to this affidavit is a summary with a breakdown of timekeepers who have worked on this file for the periods referenced above. The average hourly rate is \$529.09.
  5. Assuming that this Honourable Court grants an Order as requested, without opposition, the proposed accrual of legal fees and disbursements to capture the period from and after February 1, 2023 to the discharge of the Receiver is \$12,000, exclusive of HST.
  6. This Affidavit is made in support of a motion to, *inter alia*, approve the attached Statements of Account of A&B and the fees and disbursements detailed therein, and for no improper purpose.

SWORN before me at the City of )  
 Toronto, in the Province of Ontario, )  
 this 28<sup>th</sup> day of September, 2023. )  
 )  
 )  
 \_\_\_\_\_ )  
 Commissioner for Taking Affidavits (or as )  
 may be) )

  
 \_\_\_\_\_  
**KYLE PLUNKETT**

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF KYLE PLUNKETT

Sworn before me

This 28<sup>th</sup> day of September, 2023

A handwritten signature in blue ink, appearing to read "Samanta Han", is written above a horizontal line.

Commissioner for taking Affidavits, etc



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
airdberlis.com

KSV Advisory Inc.  
2308-150 King Street West  
Toronto, ON  
M5H 1T9 Canada

December 31, 2022

Attention: Mr. Bobby Kofman

**Invoice No: 1322143**

**Re: Receivership of Brant Instore Corporation**

Client No: 041611  
Matter No: 304521

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**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending December 31, 2022**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	15/11/22	895.00	0.20	179.00	Emails with R. Kofman
KBP	21/11/22	595.00	0.70	416.50	Email exchanges with client regarding proposed deal structure; email exchange with Davies regarding security and BMO loan documents.
SLG	21/11/22	895.00	0.50	447.50	Emails with N. Goldstein and discussion with K. Plunkett
KBP	22/11/22	595.00	1.00	595.00	Review search summary; review and consider initial APA.
SLG	22/11/22	895.00	0.30	268.50	Emails with K. Plunkett re kick off call
SRM	22/11/22	425.00	1.30	552.50	Review email; Review credit agreement; Conduct prelims; Order and begin review of corporate profiles and PPSA searches
KBP	23/11/22	595.00	0.70	416.50	Review BMO credit documents; email exchanges with N. Renner.
SLG	23/11/22	895.00	3.00	2,685.00	Meeting with K. Plunkett and N. Goldstein and R. Kofman re background
SRM	24/11/22	425.00	0.40	170.00	Review UCC searches and report on same; Review certified PPSA search
KBP	25/11/22	595.00	0.70	416.50	Attend call with N. Renner to discuss BMO security and proposed APA; email to N. Renner.
SLG	25/11/22	895.00	0.30	268.50	Review status and telephone call with R. Kofman
KBP	29/11/22	595.00	0.50	297.50	Attend call with client to discuss updates; review and respond to emails from N. Renner.



<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
KBP	30/11/22	595.00	1.20	714.00	Review and consider updated APA; attend call with client to discuss proposed transaction; attend call with Oslers and Davies regarding same.
SEB	30/11/22	675.00	0.60	405.00	Emails and phone cal from K. Plunkett; phone call with BMO and purchaser counsel
SLG	30/11/22	895.00	0.40	358.00	Telephone call with K. Plunkett, N. Goldstein and R. Kofman re next steps
KBP	01/12/22	595.00	2.00	1,190.00	Attend call with client team to discuss updates on proposed deal terms; review and respond to emails from N. Renner regarding same; review updated draft APA;
SEB	01/12/22	675.00	0.10	67.50	Email fro K. Plunkett
KBP	02/12/22	595.00	2.20	1,309.00	Attend call with Oslers and client to discuss APA sale transaction; email exchanges with N. Renner; review mark-up of APA from Oslers.
SEB	02/12/22	675.00	3.10	2,092.50	Emails from B. Kofman; emails from and to K. Plunkett; phone call with KSV and Davies; phone call with N. Renner; emails from and to S. Hans; review BMO loan and security; draft security opinion; emails from K. Esaw
SH	02/12/22	335.00	0.20	67.00	Emails to S. Babe re the security opinion and factum
KBP	03/12/22	595.00	1.20	714.00	Review and consider updated draft APA; email exchanges with Davies and Stikemans regarding same.
SEB	03/12/22	675.00	0.70	472.50	Emails from N. Renner; emails from B. Kofman; emails from K. Plunkett; email from K. Esaw
KBP	04/12/22	595.00	2.00	1,190.00	Prepare and attend call with Stikemans and Davies teams, respectively, to discuss APA and materials; attend call with N. Renner; emails to client regarding same.
SEB	04/12/22	675.00	2.90	1,957.50	Emails from and to K. Plunkett; emails from B. Kofman; emails from S. Hans; draft order; phone call with KSV, Davies and Osler; emails from N,. Goldstein
SH	04/12/22	335.00	1.80	603.00	Draft consent to act as a receiver and consent to receivership; Email to K. Plunkett and S. Babe enclosing same
KBP	05/12/22	595.00	2.70	1,606.50	Review and provide comments on APA; drafting motion materials; email exchanges with Oslers and Davies; email exchanges with client.

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SEB	05/12/22	675.00	2.50	1,687.50	Draft Order; email from N. Renner; emails to and from K. Plunkett; emails from S. Hans; emails to KSV; emails from and to K. Esaw; emails from N. Goldstein; email from B. Kofman
SH	05/12/22	335.00	4.40	1,474.00	Revise consents; Emails to lender's counsel, client and K. Plunkett enclosing same; Review all security documents provided by lender's counsel; Draft security opinion re same
KBP	06/12/22	595.00	3.20	1,904.00	Review and provide comments on draft Orders; review and provide comments on draft APA; various email exchanges with N. Renner; various email exchanges with K. Esaw; emails to client.
SEB	06/12/22	675.00	1.30	877.50	Emails from and to K. Plunkett; emails from and to N. Renner; email from S. Hans; revise Order; email from Osler; email from K. Esaw
SH	06/12/22	335.00	1.50	502.50	Revise security opinion; Email to S. Babe and K. Plunkett re same
KBP	07/12/22	595.00	4.40	2,618.00	Draft court materials; attend various calls with client and Davies to discuss sale terms; email exchanges with Osler's team regarding sale documents.
SEB	07/12/22	675.00	7.50	5,062.50	Emails from and to K. Plunkett; emails from and to N. Renner; review draft receivership order; draft security opinion; email from B. Kofman; emails from M. Tallat; emails from and to S. Hans; emails from and to K. Esaw
SH	07/12/22	335.00	3.40	1,139.00	Review all debtor leases registered under the PPSA; Emails to K. Plunkett, S. Babe and purchaser's counsel re same; Call with K. Plunkett re same; Review assumed contracts schedule; Emails to K. Plunkett and purchaser's counsel re same
KBP	08/12/22	595.00	4.20	2,499.00	Draft and revise court materials; review and provide comments on updated sale documents; attend various calls with Osler's to discuss sale terms; attend various calls with client to discuss same.
SEB	08/12/22	675.00	10.30	6,952.50	Phone call with Osler and Davies; emails from N. Renner; emails from and to B. Kofman; emails to and from S. Hans; emails from and to K. Plunkett; emails from and to K. Esaw; draft security opinion; review draft report; revise Order; review notice of application; emails from Osler; phone call with N. Renner and K. Plunkett; research factum; draft notice of motion

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SH	08/12/22	335.00	3.90	1,306.50	Review Bank Act search; Emails to K. Plunkett and S. Babe re security opinion; Review draft of pre-filing report; Draft notice of motion; Email to K. Plunkett and S. Babe re same; Update and circulate service list
SRM	08/12/22	425.00	0.30	127.50	Review email and Bank Act security; Order, review and report on Bank Act searches
KBP	09/12/22	595.00	5.40	3,213.00	Revise and finalize sale documents; attend various calls with Oslers and Davies regarding same; revise and updates court materials; attend calls with client team.
SEB	09/12/22	675.00	12.00	8,100.00	Emails from N. Renner; email to Osler; phone call with Osler and Davies; revise order; phone call with KSV; emails from and to B. Kofman; emails from K. Esaw; emails and phone call from and to K. Plunkett; emails from M. Cressatti; email from M. Tallat; emails from and to S. Hans; email from N. Goldstein; email from lessor
SH	09/12/22	335.00	4.60	1,541.00	Update and circulate the service list; Emails to K. Plunkett and client re same; Emails to K. Plunkett re debtor leases; Update the notice of motion and draft approval and vesting order; Prepare for service of same; Emails and calls to K. Plunkett and S. Babe re same; Call with client re assumed contracts; Email to K. Plunkett re same; Draft and swear affidavit of service
KBP	10/12/22	595.00	1.00	595.00	Review and respond to emails from client regarding report and updates from TSA negotiations; email exchange with Davies.
SEB	10/12/22	675.00	0.20	135.00	Email from B. Kofman; email from K. Plunkett
SH	10/12/22	335.00	2.40	804.00	Research re sealing orders; Draft factum of the proposed receiver
SH	11/12/22	335.00	3.10	1,038.50	Review research re quick flip sales; Draft factum of the proposed receiver
KBP	12/12/22	595.00	2.50	1,487.50	Review and provide drafting comments on factum to working group; various email exchanges on draft employee letters and consent to assignments; email exchanges with client team.
SEB	12/12/22	675.00	5.30	3,577.50	Phone call wit K. Plunkett and S. Hans; emails from and to S. Hans; emails from K. Plunkett; emails from B. Kofman; emails from Xerox; email from N. Renner; emails from M. Cressatti; email from M. Tallat; draft Factum; review report; mail from R. Kashyap

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SH	12/12/22	335.00	2.90	971.50	Update the service list; Prepare motion record for service; Serve same; Emails and calls to K. Plunkett and S. Babe re same; Email to K. Plunkett and S. Babe re factum
KBP	13/12/22	595.00	3.40	2,023.00	Negotiate updated schedules; attend various calls with client; review and update factum; review and provide comments on draft LL consent.
PLW	13/12/22	240.00	0.40	96.00	Submitted Notice of Motion for filing online
PLW	13/12/22	240.00	0.40	96.00	Submitted Motion Record for filing online
SEB	13/12/22	675.00	4.20	2,835.00	Emails from N. Renner; emails from M. Tallat; draft factum; emails from and to B. Kofman; emails from and to K. Plunkett; email from landlord counsel; email from Xerox
SH	13/12/22	335.00	4.40	1,474.00	Draft and swear affidavit of service re motion record; Emails to client, K. Plunkett and purchaser's counsel re consents; Review same; Update service list; Revise and circulate factum; Emails to K. Plunkett and S. Babe re same; Prepare book of authorities
KBP	14/12/22	595.00	3.50	2,082.50	Review and respond to various emails from Oslers team regarding APA and assumed contracts; attend calls with client team to discuss same; review and consider email from LL counsel; finalize factum.
SEB	14/12/22	675.00	4.80	3,240.00	Emails from B. Kofman; emails from and to N. Renner; emails and phone call from and to K. Plunkett; emails from and to K. Esaw; emails from N. Goldstein; research anti deprivation and accelerated rent issue; emails from Unifor; revise Factum; emails from S. Hans; email from M. Tallat; email from M. Cressatti
SH	14/12/22	335.00	6.40	2,144.00	Revise and update factum and book of authorities; Emails to client re same; Prepare for service re same; Prepare and circulate landlord consents; Emails to client and counsel for purchaser's re same; Prepare list of closing items; Emails to client re same; Emails to K. Plunkett, S. Babe and K. Nordstrom re ipso facto clauses
HMF	15/12/22	875.00	0.70	612.50	Discussion with Kyle Plunkett re acceleration rent and ipso facto issue; Reviewed law; Email to K. Plunkett

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
KBP	15/12/22	595.00	2.00	1,190.00	Review and provide comments on factum of applicant; attend call with K. Esaw to discuss closing deliverables; attend call with Landlord's counsel to discuss assignment; email exchanges client team regarding same.
KN	15/12/22	295.00	3.10	914.50	Research for K. Plunkett re enforceability of ipso facto clauses in the context of insolvency proceedings
SEB	15/12/22	675.00	2.80	1,890.00	Phone call with landlord's counsel; emails and phone call from K. Plunkett; email from B. Kofman; emails from S. Hans; emails from student; emails from Davies; emails from K. Esaw; emails from N. Renner; email from Lessor
SH	15/12/22	335.00	4.60	1,541.00	Draft and swear affidavit of service re factum and book of authorities; Email to purchaser's counsel and client re Xerox lease; Research re ipso facto clauses and accelerated rent; Emails to K. Plunkett and K. Nordstrom re same; Calls with K. Nordstrom re same; Email to the court re confidential appendices; Update service list; Emails to K. Plunkett re test to force an assignment of contract in a receivership
KBP	16/12/22	595.00	1.00	595.00	Attend call with K. Esaw to discuss LL assignment; review and respond to emails from working group regarding closing deliverables.
KN	16/12/22	295.00	2.20	649.00	Research for K. Plunkett re test for assignment of contracts in a receivership
PLW	16/12/22	240.00	0.40	96.00	Submitted Book of Authorities for filing online
SH	16/12/22	335.00	3.40	1,139.00	Email to purchaser's counsel enclosing compiled APA; Research re test to force an assignment of contract in a receivership; Emails to K. Nordstrom re same
KBP	18/12/22	595.00	2.00	1,190.00	Prepare and finalize materials for Motion on December 20th; review and respond to emails from client team regarding closing deliverables.
SH	18/12/22	335.00	0.90	301.50	Emails to K. Plunkett, applicant's counsel and purchaser's counsel re court materials and CaseLines
KBP	19/12/22	595.00	5.40	3,213.00	Attend calls with S. Nash regarding lease consent; attend various calls with client to discuss motion to approve and closing documents; review and respond to various emails from Oslers; review and respond to various emails from N. Renner.

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SEB	19/12/22	675.00	4.80	3,240.00	Emails and phone calls from and to K. Plunkett; emails to and from Landlord counsel; email from Davies; emails from lessor; emails from S. Hans; emails from B. Kofman; emails from N. Goldstein; review leases; email from K. Esaw
SH	19/12/22	335.00	6.80	2,278.00	Update draft order; Prepare motion materials for CaseLines; Email to court enclosing same; Emails to K. Plunkett and S. Babe re same; Call with K. Plunkett re same; Prepare for motion; Draft file summary; Draft counsel slip; Emails to applicant's counsel re same; Emails to K. Plunkett, S. Babe and K. Nordstrom re test to force an assignment of contract; Draft PPSA acknowledgement and release; Review correspondence with landlord's counsel
KBP	20/12/22	595.00	4.20	2,499.00	Prepare for motion; attend call with S. Nash; attend call with K. Esaw; attend calls with client; attend motion.
SEB	20/12/22	675.00	4.90	3,307.50	Emails form B. Kofman; emails from and to K. Plunkett;; prepare for and attend court; email from N. Goldstein; emails and phone call from and to Landlords' counsel; email to Osler; emails from K. Esaw; emails from M. Cressatti; emails from S. Hans; emails from M. Tallat; email from Justice Cavanagh
SH	20/12/22	335.00	2.20	737.00	Serve orders and endorsement; Prepare same to be filed; Compile and circulate Asset Purchase Agreement; Emails to counsel to Xerox and purchaser's counsel re Xerox leases; Email to K. Plunkett re PPSA acknowledgement
KBP	21/12/22	595.00	3.00	1,785.00	Attend calls with client team to advance negotiations; attend calls with K. Esaw; review and provide comments on various closing documents draft; various emails exchanges with working group.
PLW	21/12/22	240.00	0.40	96.00	Submitted 2 Orders of December 20, 2022 for entry online
SEB	21/12/22	675.00	5.60	3,780.00	Emails and phone calls from and to K. Plunkett; emails and phone call from and to K. Esaw; emails from and to S. Hans; emails from M. Cressattii; emails and phone call from and to landlords' counsel; emails from and to B. Kofman; phone call with KSV and Osler; draft Order and notice of motion for forced assignment

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SH	21/12/22	335.00	6.40	2,144.00	Update and circulate service list; Draft notice of motion and assignment order re motion to assign real property leases; Revise same; Emails with K. Plunkett and S. Babe re same; Emails to purchaser's counsel re assumed contracts
KBP	22/12/22	595.00	3.50	2,082.50	Attend various calls with Oslers team to settle and negotiate closing documents and assignment documents; email exchanges with S. Nash; review and provide comments on draft closing documents, and update same.
SEB	22/12/22	675.00	5.70	3,847.50	Phone call with landlord and purchaser counsel; phone call with K. Plunkett and S. Hans; emails from and to B. Kofman; emails from and to K. Plunkett; email to N. Renner; emails from M. Tallat; emails from and to landlords' counsel; emails from D. Rosenblatt; email from Commercial List Office; emails from S. Hans; emails from M. Cressatti
SH	22/12/22	335.00	5.90	1,976.50	Revise notice of motion re motion to assign real property leases; Prepare motion record re same; Draft letters to third party claimants; Prepare list of closing deliverables; Call with K. Plunkett and S. Babe re same; Emails to purchaser's counsel and client re asset purchase agreement; Update transition services agreement; Emails to purchaser's counsel re closing deliverables and assumed leases
KBP	23/12/22	595.00	3.20	1,904.00	Attend various calls with Oslers team to negotiate closing deliverables; attend calls with B. Kofman to discuss same; review and provide comments on various draft closing documents and assignment documents.
SEB	23/12/22	675.00	2.20	1,485.00	Emails from B. Kofman; emails from and to K. Plunkett; review and comment on closing documents; email from D. Rosenblat; email from M. Cressatti; emails from S. Hans; email from M. Tallat
SH	23/12/22	335.00	2.20	737.00	Draft Bring Down Certificate; Emails to K. Plunkett and S. Babe re same; Email to client re third party claim letters; Emails to K. Plunkett, S. Babe and A. Gentile re tax elections
SEB	24/12/22	675.00	0.30	202.50	Emails form B. Kofman; email from S. Hans
SH	24/12/22	335.00	0.10	33.50	Email to client re third party claim letters; Review edits to same
KBP	26/12/22	595.00	1.50	892.50	Review and provide comments on Closing Agenda; review and provide comments on Seller side documents.

<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
SEB	26/12/22	675.00	0.30	202.50	Emails from K. Plunkett
KBP	27/12/22	595.00	2.60	1,547.00	Review and respond to various emails from Oslers and clients; review and provide comments on closing deliverables.
SEB	27/12/22	675.00	1.10	742.50	Emails from and to K. Plunkett; review closing agenda; email from S. Hans
SH	27/12/22	335.00	2.50	837.50	Revise and circulate closing agenda and bring-down certificate to purchaser's counsel; Emails to client re WSIB application; Prepare tax election forms; Emails to S. Babe and K. Plunkett re same
SLG	27/12/22	895.00	0.50	447.50	Review emails and update on status of transaction
KBP	28/12/22	595.00	3.10	1,844.50	Review and respond to various emails from Oslers; various email exchanges with client; review and provide comments on closing deliverables.
SEB	28/12/22	675.00	4.00	2,700.00	Emails from and to B. Kofman; emails from M. Cressatti; draft closing documents; emails from and to K. Plunkett; email from M. Tallat; emails from S. Hans; emails from D. Rosenblat; email from K. Esaw; email from lessor; email from N. Rennet
SH	28/12/22	335.00	6.90	2,311.50	Emails to K. Plunkett, S. Babe and purchaser's counsel re closing deliverables; Draft and send receivership letters to third party claimants; Revise tax election forms and circulate same to client; Review receivables acknowledgement; Update and circulate service list; Update and circulate receiver's certificate; Review assumed contracts schedule; Emails to K. Plunkett, S. Babe and client re notices of disclaimer
KBP	29/12/22	595.00	3.70	2,201.50	Revise and update draft closing deliverables; attend various calls with client team to discuss finalizing documents; email exchanges with Oslers team; email exchanges with working group.
SEB	29/12/22	675.00	4.80	3,240.00	Email from B. Kofman; emails from M. Cressatti; emails from and to S. Hans; emails from and to M. Tallat; email from Xerox; email from N. Renner; emails from N. Goldstein; emails to and from M. Horvat; emails from and to K. Plunkett; emails from D. Rosenblat



MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SH	29/12/22	335.00	8.40	2,814.00	Emails to K. Plunkett, S. Babe, client and purchaser's counsel re tax election forms; Prepare draft of notice of disclaimer; Emails to K. Plunkett and S. Babe re same; Revise consent to assignment; Emails to K. Plunkett, purchaser's counsel and client re same; Emails to purchaser's counsel re outstanding closing deliverables; Prepare and circulate signature package to client; Draft PPSA acknowledgements; Emails to K. Plunkett and S. Babe re same; Send out notices of disclaimer for PPSA registered parties; Draft remaining notices of disclaimer; Emails to client re same; Emails to client re accounts receivable; Review client correspondence re insurance; Draft direction re insurance; Emails to K. Plunkett and S. Babe re same; Emails to K. Plunkett and S. Babe re Xerox lease
KBP	30/12/22	595.00	3.00	1,785.00	Attend to closing sale transaction; review and respond to emails from Xerox; email exchanges with client team.
SEB	30/12/22	675.00	3.20	2,160.00	Attend to closing matters; emails and phone call from and to K. Plunkett; emails from and to B. Kofman; emails to and from Xerox; emails from M. Tallat; emails from N. Renner; email from K. Esaw; email from Purchaser; email from D. Rosenblat
SH	30/12/22	335.00	4.40	1,474.00	Emails to K. Plunkett and client re direction re insurance; Review all vendor contracts; Prepare list of vendor addresses; Release three notices of disclaimer; Prepare remainder of same; Emails to K. Plunkett, S. Babe and client re same; Emails to client and purchaser's counsel re signature packages and closing deliverables; Review and update closing agenda; Release documents from escrow; Close sale transaction

**TOTAL:** 284.40 \$151,730.00

Name	Hours	Rate	Value
Babe, Sam E. (SEB)	95.20	\$675.00	\$64,260.00
Fogul, Harry M. (HMF)	0.70	\$875.00	\$612.50
Graff, Steven L. (SLG)	5.20	\$895.00	\$4,654.00
Hans, Samantha (SH)	93.70	\$335.00	\$31,389.50
Morris, Shannon R (SRM)	2.00	\$425.00	\$850.00
Nordstrom, Karlie (KN)	5.30	\$295.00	\$1,563.50
Plunkett, Kyle B. (KBP)	80.70	\$595.00	\$48,016.50
Williams, Patrick L. (PLW)	1.60	\$240.00	\$384.00

**OUR FEE** \$151,730.00  
HST @ 13% 19,724.90

**DISBURSEMENTS**

**Non-Taxable Disbursements**

Agents Fees - Non Taxable	565.59
Due Diligence-Gov Fee	136.68
Search Under P.P.S.A.	112.00

Total Non-Taxable Disbursements \$814.27

**Taxable Disbursements**

Binding and Tabs	28.00
Courier/Delivery	517.68
Due Diligence	178.80
Photocopies/Scanning	183.00
Service Provider Fee	72.10

Total Taxable Disbursements \$979.58  
HST @ 13% 127.35

**AMOUNT DUE** \$173,376.10 CAD

THIS IS OUR INVOICE HEREIN  
AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

**Payment Information**

---

Payment by Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

Payment by Cheque:

Payable To:
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Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Email notification for EFT and WIRE payments: [accounting@airdberlis.com](mailto:accounting@airdberlis.com)

**Payment is due on receipt.**

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITOR ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 10.00% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.





Aird & Berlis LLP  
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airdberlis.com

KSV Advisory Inc.  
220 Bay Street, 13th Floor  
P.O. Box 20  
Toronto, Ontario  
M5J 2W4 Canada

February 23, 2023

Attention: Mr. Bobby Kofman

**Invoice No: 1328075**

**Re: Receivership of Brant Instore Corporation**

Client No: 041611  
Matter No: 304521

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending January 31, 2023**

Total Fees	\$13,717.50
Total Disbursements	891.98
Total Taxes	1,834.62
<b>Amount Due</b>	<b>\$16,444.10 CAD</b>

---

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**GST / HST Registration # 12184 6539 RT0001**



Aird & Berlis LLP  
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Toronto, Ontario M5J 2T9 Canada

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airdberlis.com

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February 23, 2023

Attention: Mr. Bobby Kofman

**Invoice No: 1328075**

**Re: Receivership of Brant Instore Corporation**

Client No: 041611  
Matter No: 304521

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**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending January 31, 2023**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
KBP	03/01/23	650.00	1.00	650.00	Review and respond to emails from Oslers team regarding post-closing deliverables; email exchanges with client team regarding same.
SEB	03/01/23	715.00	1.40	1,001.00	Emails from and to S. Hans; email from K. Plunkett
SH	03/01/23	345.00	6.80	2,346.00	Prepare all post-closing deliverables; Prepare special resolution and articles of amendment re corporate name change; Emails to K. Plunkett, S. Babe and client re same; Prepare and release additional notices of disclaimer; Review responses to same; Emails to S. Babe and client re same; Email to client re Nazdar notice of disclaimer; Revise and PPSA acknowledgements; Call with K. Plunkett re same; Emails to client enclosing same
KBP	04/01/23	650.00	0.90	585.00	Review and respond to emails from Oslers regarding post-closing items; email exchanges with KSV regarding same.
MNA	04/01/23	340.00	0.60	204.00	Receive instructions from J. McLean to prepare articles of amendment to change the name of Brant Instore Corporation to 1886695 Ontario Inc., review profile report and special resolution, prepare articles of amendment, email to J. McLean for review
PLW	04/01/23	255.00	0.40	102.00	Submitted Receivers Certificate for filing online
SEB	04/01/23	715.00	0.70	500.50	Emails from and to S. Hans; emails from K. Plunkett

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SH	04/01/23	345.00	4.80	1,656.00	Emails to client re special resolution; Emails to K. Plunkett, S. Babe and client re counsel to Nazdar re notice of disclaimer; Call with client re same; Prepare and release additional notices of disclaimer; Emails to K. Plunkett re same; Emails to client and purchaser's counsel re resolution and articles of amendment; Emails to purchaser's counsel re the receiver's certificate
KBP	05/01/23	650.00	0.50	325.00	Email exchanges with Oslers and KSV regarding price allocation; review and consider emails from KSV regarding updates on consents.
MNA	05/01/23	340.00	0.30	102.00	Receive email from S. Hans attaching signed documents for the change of name for Brant Instore Corporation to numbered name, review same, prepare documents for amendment and send to agent for filing, receive filed certificate and articles of amendment for 1886695 Ontario Inc., email to S. Hans for her records
SEB	05/01/23	715.00	0.90	643.50	Emails from S. Hans; emails from M. Cressatti; emails from K. Plunkett; email from B. Kofman; email from M. Tallat
SH	05/01/23	345.00	2.10	724.50	Emails to P. Williams and purchaser's counsel re the receiver's certificate; Email to purchaser's counsel re resolution; Emails to K. Plunkett and S. Babe re the articles of amendment; Update and file same
KBP	06/01/23	650.00	0.50	325.00	Address post-closing deliverables; review and consider emails from client team.
SEB	06/01/23	715.00	0.70	500.50	Emails to and from S. Hans; emails from K. Plunkett; email from lessor; email from M. Cressatti
SH	06/01/23	345.00	0.60	207.00	Emails to S. Babe and K. Plunkett re notifying the commercial list of the corporate name change; Draft letter to the commercial list re same
SEB	09/01/23	715.00	0.10	71.50	Email from S. Hans
SH	09/01/23	345.00	0.10	34.50	Email to K. Plunkett and S. Babe re letter to the commercial list
SEB	10/01/23	715.00	1.50	1,072.50	Emails from and to M. Tallat; emails from K. Plunkett; emails from and to S. Hans; emails from and to Commercial List office; email from M. Cressatti; email from Xerox
SH	10/01/23	345.00	0.60	207.00	Emails to the commercial list re the debtor's corporate name change

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SEB	11/01/23	715.00	0.60	429.00	Email from Commercial List office; email from S. Hans; emails from and to B. Kofman; email from K. Plunkett
SH	11/01/23	345.00	0.20	69.00	Email to client re corporate name change
SEB	18/01/23	715.00	0.10	71.50	Email from M. Cressatti
MFH	19/01/23	690.00	0.40	276.00	Review of partnership agreement; Discussion with S. Graff
SEB	19/01/23	715.00	1.10	786.50	Emails from and to Xerox; emails to and from M. Tallat; email from B. Kofman; emails from and to K. Plunkett
SH	19/01/23	345.00	0.40	138.00	Review shipping documents from Shabad Transport, Inc. and correspondence from purchaser's counsel
MFH	23/01/23	690.00	1.00	690.00	Review of partnership agreement; Research; Attendance on conference call regarding structure of potential competition and solicitation issues
<b>TOTAL:</b>			28.30	\$13,717.50	

Name	Year of Call	Title	Hours	Rate	Value
Alexandroff, Marna N. (MNA)		Law Clerk	0.90	\$340.00	\$306.00
Babe, Sam E. (SEB)	2004	Partner	7.10	\$715.00	\$5,076.50
Hans, Samantha (SH)	2022	Associate	15.60	\$345.00	\$5,382.00
Horvat, Michael F. (MFH)	1999	Partner	1.40	\$690.00	\$966.00
Plunkett, Kyle B. (KBP)	2011	Partner	2.90	\$650.00	\$1,885.00
Williams, Patrick L. (PLW)		Law Clerk	0.40	\$255.00	\$102.00

**OUR FEE** \$13,717.50  
 HST @ 13% 1,783.27

**DISBURSEMENTS**

**Non-Taxable Disbursements**

Filing Fee 177.00  
 Notice of Motion/Application 320.00

Total Non-Taxable Disbursements \$497.00

**Taxable Disbursements**

Courier/Delivery 388.23

Photocopies/Scanning

6.75

Total Taxable Disbursements

\$394.98

HST @ 13%

51.35

**AMOUNT DUE**

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**\$16,444.10 CAD**

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AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

**Payment Information**

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**GST / HST Registration # 12184 6539 RT0001**





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220 Bay Street, 13th Floor  
P.O. Box 20  
Toronto, Ontario  
M5J 2W4 Canada

February 23, 2023

Attention: Mr. Bobby Kofman

**Invoice No: 1328075**

**Re: Receivership of Brant Instore Corporation**

Client No: 041611  
Matter No: 304521

---

**REMITTANCE SLIP**

Total Fees	\$13,717.50
Total Non-Taxable Disbursements	497.00
Total Taxable Disbursements	394.98
Total Taxes	1,834.62

**AMOUNT DUE**

**\$16,444.10 CAD**

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**GST / HST Registration # 12184 6539 RT0001**

Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF KYLE PLUNKETT

Sworn before me

This 28<sup>th</sup> day of September, 2023

A handwritten signature in blue ink, appearing to read "Samantha Han", is written above a horizontal line.

Commissioner for taking Affidavits, etc

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

APPLICATION UNDER S. 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

BETWEEN:

**BANK OF MONTREAL**

Applicant

and

**1886695 ONTARIO INC.**

Respondent

**SUMMARY OF TIME INCURRED**

<b>LAWYER</b>	<b>CALL TO BAR</b>	<b>HOURS</b>	<b>RATE</b>	<b>VALUE</b>
Harry Fogul		0.70	875.00	\$612.50
Steve Graff		5.20	895.00	\$4,654.00
Kyle B. Plunkett	2011	83.60	595/650	\$49,901.50
Sam Babe	2004	102.3	675/715	\$69,336.50
Samantha Hans	2022	109.3	335/345	\$36,771.50
Michael Horvat	1999	1.4	690.00	\$966.00
Karlie Nordstrom		5.3	295.00	\$1,563.50
<b>CLERK</b>				
Patrick L. Williams		2.00	240/255	\$486.00
Marna Alexandra		0.90	340.00	\$306.00
Shannon Morris		2.0	425.00	\$850.00

**BANK OF MONTREAL**  
Applicant

- and -

**1886695 ONTARIO INC.**  
Respondent

Court File No. CV-22-00691546-00CL

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

**Proceedings commenced at Toronto**

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**AFFIDAVIT OF FEES  
(Motion returnable October 6, 2023)**

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**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street  
Suite 1800  
Toronto, ON M5J 2T9

**Kyle Plunkett (LSO# 61044N)**

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Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Sam Babe (LSO# 49498B)**

Tel: (416) 865-7718

Email: [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

**Samantha Hans (LSO# 84737H)**

Tel: (437) 880-6105

Email: [shans@airdberlis.com](mailto:shans@airdberlis.com)

*Lawyers for the Receiver*

**BANK OF MONTREAL**  
Applicant

- and -

**1886695 ONTARIO INC.**  
Respondent

Court File No. CV-22-00691546-00CL

---

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

**Proceedings commenced at Toronto**

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**MOTION RECORD**

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**AIRD & BERLIS LLP**  
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Brookfield Place  
181 Bay Street  
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Toronto, ON M5J 2T9

**Kyle Plunkett (LSO# 61044N)**

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**Sam Babe (LSO# 49498B)**

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**Samantha Hans (LSO# 84737H)**

Tel: (437) 880-6105

Email: [shans@airdberlis.com](mailto:shans@airdberlis.com)

*Lawyers for the Receiver*