



**Second Supplement to Fourth Report of
KSV Restructuring Inc.
as Receiver of the
assets, undertakings and properties of
Rando Drugs Ltd.
and Related Companies**

November 5, 2020

Contents

Page

1.0	Introduction	1
1.1	Purposes of this Report.....	1
2.0	Settlement.....	2
2.1	Recommendation.....	3

Appendices

Appendix

Tab

Settlement.....	A
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COURT FILE NO.: CV-19-00632106-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

ECN FINANCIAL INC.

APPLICANT

- AND -

2345760 ONTARIO INC., RANDO DRUGS LTD., 2275518 ONTARIO INC., FAMILY
HEALTH PHARMACY WEST INC. FORMERLY KNOWN AS M. BLACHER DRUGS LTD.,
2501380 ONTARIO INC., 2527218 ONTARIO INC., DUMOPHARM INC., 2527475 ONTARIO
INC. AND GRACE DIENA

RESPONDENTS

SECOND SUPPLEMENT TO FOURTH REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER OF THE ASSETS, UNDERTAKINGS AND PROPERTIES OF
RANDO DRUGS LTD. AND RELATED COMPANIES

NOVEMBER 5, 2020

1.0 Introduction

1. This report (the "Second Supplemental Report") further supplements the Fourth Report to Court dated September 23, 2020 (the "Report") and the Supplement to the Fourth Report to Court dated November 3, 2020.
2. This Second Supplemental Report is subject to the restrictions and qualifications set out in the Report.
3. Defined terms in the Second Supplemental Report have the meanings provided to them in the Report.

1.1 Purposes of this Report

1. The purposes of this Second Supplemental Report are to:
 - a) summarize a settlement among the Receiver, ECN and Ms. Diena dated November 4, 2020 (the "Settlement"); and
 - b) recommend that the Court issue an Order approving the Settlement.

2.0 Settlement

1. As set out in the Report and the Supplemental Report, the Receiver and Mr. Diena have differing views as to the ownership of Rando. The Receiver has produced evidence that Rando is owned by 2345 and therefore its shares are subject to the Receivership Order.
2. In addition to Rando, the Receiver and ECN have reviewed evidence that certain other assets associated with Mr. Diena or Ms. Diena, a secured guarantor of the ECN Facility, are subject to the security interests of ECN. While the Dienas dispute ECN's interest in those assets, including DNPI and companies owned by the Trust, they have agreed to the terms of Settlement as summarized below:
 - a) Ms. Diena shall pay to the Receiver \$150,000 (the "Settlement Amount") immediately upon the execution of this Settlement.
 - b) Ms. Diena and all members of her family, the Trust and any other company or entity which she may own, have a direct or indirect interest in, or of which she is an officer (collectively the "Diena Parties" and each a "Diena Party") will not oppose, assert a claim against or in any other way participate in:
 - i. the proposed transaction contemplated by the Sponsorship Agreement;
 - ii. the Proposal;
 - iii. any motion for direction or distribution of the remaining sale proceeds (the "Pelham Proceeds") from the sale of a pharmacy completed in July 2018 associated with Rando; and
 - iv. any further motions or matters within the receivership;
 - c) To the extent possible, the Diena Parties will assist the Receiver to recover the Pelham Proceeds and shall execute (or request that another Diena Party execute) any documents (the "Pelham Support Documents") reasonably required by the Receiver in connection with the recovery of the Pelham Proceeds.
 - d) The Receiver and ECN agree that upon receipt of the Settlement Amount by the Receiver and the Pelham Support Documents, the Receiver and ECN shall not pursue any further claims against the Diena Parties, nor shall the Receiver or ECN pursue any claim against the Trust or DNPI in connection with the ECN Facility.
 - e) The Receiver shall bring a motion to approve the Settlement and discharge the receivership as against Ms. Diena, which motion shall not be opposed by ECN.
3. A copy of the Settlement is provided in Appendix "A".

2.1 Recommendation

1. The Receiver respectfully recommends that the Court issue an Order approving the Settlement for the following reasons:
 - a) It avoids litigation related to the ownership of Rando and the transaction contemplated by the Sponsorship Agreement;
 - b) It maximizes recoveries in the circumstances and will allow for the receivership, which commenced in December 2019, to be completed without further delays; and
 - c) It is supported by ECN, the Company's senior secured creditor and the party with the most significant economic interest in these proceedings.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER OF
THE ASSETS, UNDERTAKINGS AND PROPERTIES OF
RANDO DRUGS LTD. AND RELATED COMPANIES
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “A”

SETTLEMENT

Dated this 4 day of November, 2020.

BETWEEN:

KSV Restructuring Inc. in its capacity as receiver of
the property, assets and undertaking of Rando Drugs
Ltd. and related companies (the "**Receiver**")

- and-

ECN Financial Inc. ("**ECN**")

- and-

Grace Diena ("**Ms. Diena**")

WHEREAS:

A. Pursuant to an order (the "**Receivership Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on December 4, 2019, KSV Kofman Inc. (now KSV Restructuring Inc., "**KSV**") was appointed as Receiver over the assets, property and undertaking of Rando Drugs Ltd., 2345760 Ontario Inc., 2275518 Ontario Inc. ("**Abira**"), Family Health Pharmacy West Inc., formerly known as M. Blacher Drugs Ltd., 2501380 Ontario Inc., 2527218 Ontario Inc. Dumopharm Inc. and 2527475 Ontario Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court made on February 26, 2020, the Receivership Order was expanded to include the property, assets and undertaking of Ms. Diena.

C. ECN is the senior secured creditor of the Debtors (other than Abira) and Ms. Diena pursuant to a promissory notes executed by 2345 between February 25, 2013 and March 31, 2017 (the "**Promissory Notes**") as guaranteed by the other Debtors and Ms. Diena (the "**Guarantees**") and secured pursuant to various security agreements granted by the Debtors and Ms. Diena in favour of ECN (the "**Security**" and collectively with the Promissory Notes and Guarantees, the "**ECN Loan Documents**"). ECN is a secured creditor of Abira.

D. There exist ongoing disputes as to entitlement and ownership of various assets including with respect to the Grace Family Trust (the "**Trust**") and Dedicated National Pharmacies Inc. ("**DNPI**").

E. The parties wish to settle certain of these matters on the terms set out below.

NOW THEREFORE IN CONSIDERATION OF \$10.00 AND THE OTHER CONSIDERATION SET OUT BELOW, THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED AND AGREED, THE PARTIES AGREE AS FOLLOWS:

1. Ms. Diena shall pay to the Receiver \$150,000 (the "**Settlement Amount**") immediately upon the execution of this Settlement.
2. Effective immediately, Ms. Diena hereby irrevocably agrees for herself and on behalf of all members of her family, the Trust and any other company or entity which she may own, have a direct or indirect interest in, or of which she is an officer (collectively the "**Diena Parties**" and each a "**Diena Party**") that none of them shall oppose, assert a claim against or in any other way participate in:
 - a. the proposed transaction with respect to the sponsorship agreement dated as of September 16, 2020 between the Receiver and 2775506 Ontario Inc. with respect to the acquisition of new shares of Rando and the making of a proposal (the "**Proposal**") to the creditors of Rando or any other similar transaction with respect to Rando;
 - b. the Proposal or any other proposal made on behalf of Rando including at a meeting of creditors or Court hearings in connection with the same;
 - c. any motion for direction or distribution of the remaining sale proceeds from the sale of the Family Health Pharmacy-Pelham (the "**Pelham Proceeds**"); and
 - d. any further motions or matters within the Receivership of the remaining Debtors.
3. Ms. Diena for herself and the other Diena Parties hereby agrees, to the extent possible, to assist the Receiver in recovery of the Pelham Proceeds and shall execute (or request that another Diena Party execute) any documents (the "**Pelham Support Documents**") reasonably required by the Receiver in connection with the recovery of the Pelham Proceeds.
4. The Receiver and ECN hereby agree that effective immediately upon receipt of the Settlement Amount by the Receiver and the Pelham Support Documents, the Receiver and ECN shall not pursue any further claims against the Diena Parties, nor shall the Receiver or ECN pursue any claim against the Trust or DNPI in connection with the ECN Loan Documents.
5. The Receiver shall bring a motion to approve this settlement and discharge the receivership as against Ms. Diena (the "**Discharge Order**"), which motion shall not be opposed by ECN. Provided this Settlement is entered into on or before November 4, 2020, the Receiver shall endeavor to obtain such Discharge Order on November 9, 2020 or such other next Court date as it may otherwise need to schedule. For greater certainty, the Receiver shall have no obligation to schedule a motion solely for the purpose of obtaining the Discharge Order.
6. The Parties represent and warrant that they have not assigned to any person or

corporation the claims released above, and with respect to which the Parties agree not to make any claims or take any proceedings.

7. The Parties hereto acknowledge that each of them have received independent legal advice prior to the execution and delivery of this Settlement, or have waived their right to same.
8. This Settlement and each of its provisions shall enure to the benefit of and shall be binding on the personal representatives of each of the Parties hereto and their respective heirs, beneficiaries, successors, and assigns.
9. The terms of this Settlement shall be construed exclusively in accordance with the laws of the Province of Ontario.

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IN WITNESS WHEREOF, the Parties hereto have executed this Settlement effective as of the date first above written.

KSV RESTRUCTURING INC. solely in its capacity as receiver of the property, assets and undertaking of RANDO DRUGS LTD. and related companies and not in its personal capacity



Per: Mitch Vininsky

I have the authority to bind the corporation listed above.

ECN FINANCIAL INC.

Per:

I have the authority to bind the corporation listed above.



Witness



Grace Diena

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement effective as of the date first above written.

KSV RESTRUCTURING INC. solely in its capacity as receiver of the property, assets and undertaking of RANDO DRUGS LTD. and related companies and not in its personal capacity

Per: Mitch Vininsky

I have the authority to bind the corporation listed above.

ECN FINANCIAL INC.

Per: *Asan Fromen*, VICE PRESIDENT

I have the authority to bind the corporation listed above.

Laura Lee

Witness

Grace Diena

Grace Diena