Court File No. CL-26-00000331-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

CELINA CAPITAL CORPORATION

Applicant

and

1001281812 ONTARIO INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

FACTUM OF THE APPLICANT, CELINA CAPITAL CORPORATION

(Application Returnable July 31, 2026)

July 27, 2026

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TO: **TO THE SERVICE LIST**

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PART I - INTRODUCTION

Nature of the Application

1. On this Application, Celina Capital Corporation ("**Celina**") seeks the appointment of AlixPartners Restructuring, Inc. ("**AlixPartners**") as Court-appointed receiver over the assets and undertakings of the Respondent debtor, 1001281812 Ontario Inc. o/a TNP Panel Company ("**TNP**"). Celina is the senior secured creditor of TNP and the forgoing relief is sought with the intention of avoiding a hard shutdown and liquidation of the TNP business, and ensuing destruction of TNP's going concern value.

PART II – SUMMARY OF RELEVANT FACTS

Background and Parties

2. Celina, incorporated in the British Virgin Islands, is a Toronto Ontario-based lender in the business of advancing and managing investments in various companies in Ontario and elsewhere.[1]

3. TNP is an Ontario-incorporated[2] manufacturer of pre-fabricated structural components used in the construction industry, including roof trusses, floor trusses, wall panels, beams, sheathing, joists and related connectors and hardware. TNP operates from leased premises in Smiths Falls, Ontario and has approximately 24 employees.

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[1] Affidavit of Andrea Nickel sworn July 20, 2026 (the "**Nickel Affidavit**"), Application Record of the Applicant, Tab 2, Footnote 1 and Corporation Profile Report in respect of Celina, Nickel Affidavit, **Exhibit "A"**.

[2] Corporation Profile Report in respect of the Respondent, Nickel Affidavit, **Exhibit "B"**.

4. TNP's assets consist primarily of accounts receivable, raw material and completed inventory and equipment; approximately 20% of which is leased.

5. In 2025, Celina and another investor, Fox Investments Inc. ("**Fox**", or, with Celina, the "**TNP Lenders**"), advanced a secured loan in favour of TNP pursuant to which TNP is indebted to the TNP Lenders (the "**TNP Indebtedness**"). The TNP loan was advanced for the purpose of funding the acquisition by TNP of the assets of two insolvent companies as part of a prior insolvency proceeding (collectively, the "**Prior Owners**")[3], then operating as "TNP Panel Company".

6. Currently. TNP and a related company, TRS Components Ltd. ("**TRS**") are directly owned by and are wholly-owned subsidiaries of, Argyle TRS Holdings Inc. ("**Holdings**"), which corporation is owned and controlled by three investors: (a) the Applicant Celina, (b) Argyle Capital Partners ("**Argyle**") and (c) Fox.

<u>Basis for the Request for the Appointment of a Receiver</u>

7. Celina submits that it is just, convenient, and in the best interests of all stakeholders of TNP for the Court to grant the requested Receivership appointment for the following reasons:

(a) The term of TNP Indebtedness matured on February 11, 2026 (the "**Maturity Date**").[4] The TNP Indebtedness was not repaid in full (nor was any partial payment

[3] The exact names of the Prior Owners are11449346 Canada Inc. and 12574764 Canada Ltd. O/A United Edge Structural Components.

[4] Loan and Security Agreement dated August 11, 2025 between the TNP Lenders and the Respondent (the **"Loan and Security Agreement"**, Nickel Affidavit, **Exhibit "F"**.

made) on the Maturity Date, as required pursuant to the applicable loan and security agreement;

(b) On February 13, 2026, Celina served written demand for repayment (the "**Demand Letter**") in full and a Notice of Intention to Enforce Security (the "**NITES**"), in which Celina demanded repayment of the total amount outstanding as of that date, being $4,065,361.70.[5].Despite service of the Demand Letter and the NITES, no portion of the TNP Indebtedness has been repaid;

(c) Since the Maturity Date, The TNP Lenders have made additional advances to TNP such that the total amount advanced by the TNP Lenders to TNP as of June 30, 2026 was $4,954,803.50, not including applicable interest and costs;[6]

(d) A recent Personal Property Registry search conducted on TNP shows that Celina, in its capacity as the agent for the TNP Lenders, is the only creditor of TNP to have registered security generally over all of TNP's assets.[7]

(e) Accordingly, the secured indebtedness owed to the TNP Lenders by TNP is in default and has been for a considerable period of time.

[5] Demands and NITES, Nickel Affidavit, **Exhibit "G"**.
[6] Nickel Affidavit, **para, 3(b)**.
[7] PPSA search with a search currency of July 16, 2026, Nickel Affidavit, **Exhibit "C"**.

(f) The security held by Celina against TNP specifically authorizes Celina to move for the appointment of a Receiver over the assets of TNP in the event of default in payments by TNP to Celina.[8]

(g) TNP is insolvent and currently unable to fund bi-weekly payroll and critical payments such as rent, payments to equipment lessors and required CRA remittances. Celina is the only party prepared to fund TNP's immediate cashflow requirements. Without such funding, TNP will not be able to continue to operate.[9]

(h) Celina is of the view that the current circumstances at TNP are unsustainable and that long term stabilization of TNP can only be achieved though a sale of the business and assets.

(i) Celina is willing to make the advances that will be required for payroll, rent and other critical payables in the immediate future to avoid a shutdown of business operations at TNP, but is only willing to do so in the context of a receivership, and a sale of the business as a going concern under the auspices of a receiver.[10]

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[8] Paragraph 12, Loan and Security Agreement, Nickel Affidavit, Exhibit "F", and see also Nickel Affidavit, **para. 18**, **and Footnote 9**.
[9] Nickel Affidavit, **para. 3(e)**.
[10] Nickel Affidavit, **para. 3(g)**.

TNP Loan Agreement

8. The TNP Indebtedness was advanced pursuant to a Loan and Security Agreement dated August 11, 2025 (the "**TNP Loan Agreement**"). The TNP Loan Agreement provides, among other things:

(a) An established maturity date of February 11, 2026, on which date repayment of the full amount outstanding pursuant to the TNP Indebtedness became due and owing;[11]

(b) Terms providing for Celina's appointment as the agent of the TNP Lenders for the purposes of administering and undertaking enforcement measures, if necessary, in respect of the TNP loan;[12] and

(c) A general security interest granted by TNP in favour of Celina, as agent for the TNP Lenders, over all of the assets, property and undertakings of TNP[13].

The 2025 Sales Process

9. In April 2025, the Prior Owners filed a Notice of Intention to Make a Proposal ("**NOI**"), pursuant to the *Bankruptcy and Insolvency Act*. Albert Gelman Inc. ("**AG**") was appointed as proposal trustee of the Prior Owner.[14] Following a fulsome sale process conducted in the NOI proceedings of the Prior Owner[5], AG recommended that the Court approve acceptance of an offer

[11] Page 1, Loan and Security Agreement, Nickel Affidavit, **Exhibit "F"**.
[12] Section 14 Loan and Security Agreement, Nickel Affidavit, **Exhibit "F"**.
[13] Section 8, Loan and Security Agreement, Nickel Affidavit, **Exhibit "F"**.
[14] Nickel Affidavit, **para. 5**.

(the "**TNP Offer**") made by TNP (or on its behalf) to purchase the Prior Owner's business and assets.[15]

10. The TNP Offer was approved by Court Order dated July 30, 2025 (the "**Prior Owner AVO**")[16] and the transaction was completed in August 2025. Since that date, other than the return of certain equipment leased by the Prior Owner to the lessors thereof, the assets owned by TNP remain substantially the same as the assets that were acquired from the Prior Owner, and the structure and operation of the business has not significantly changed.[17]

Other Creditors/Obligations of TNP

11. TNP's creditors consist of Celina, ordinary course trade creditors, equipment lessors and TNP's real property landlord. CRA is also in the process of completing an HST audit and has demanded payment from Celina of alleged HST arrears in the amount of $98,500. Celina believes, however, that certain tax credits available to TNP may be applied to offset this amount but have not, for whatever reason, been accounted for by CRA. Notwithstanding Celina's understanding, absent any resolution of the issue with CRA, the demand persists as an unfunded liability. [18]

12. Immediately after its acquisition by Holdings, TNP began defaulting on rental payments owed to TNP's real property landlord and as stated above, on payments owed to various equipment lessors. TNP is 6 months in arrears in respect of its real property lease. TNP has never generated positive cashflow from its business operations. During the week of June 29, 2026, cash available

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[15] SISP process terms as approved by the Court, Exhibit "A" to the Order of Kershman J. dated April 29, 2025, appended as, Appendix "C" to the Fourth Report of the Proposal Trustee dated July 25, 2025, Nickel Affidavit, Nickel Affidavit, **Exhibit "D"**.
[16] AVO dated July 30, 2025, Nickel Affidavit, **Exhibit "E"**.
[17] Nickel Affidavit, **para. 7**.
[18] Nickel Affidavit, p**ara. 23**.

to TNP in its bank account has dwindled to only $2,000, and far below the amounts needed by TNP to carry on business.[19]

13. TNP urgently requires funding to make critical payments necessary to sustain business operations. Such critical payments include the following, without limitation: weekly payroll in the amount of approximately $45,500, six months of arrears in rent payable under the lease for its principal business premises, totaling $280,161, arrears in payment of capital leases has led to the repossession of equipment used in TNP's business operation and trade payables of approximately $1.84 million in the aggregate.[20]

The Financial Performance of TNP Since the Acquisition by TNP

14. Since acquisition of the TNP business and assets in August 2025, TNP has incurred operating losses in excess of $2.5 million, which losses are continuing.[21]

15. There is no basis to conclude that the value of TNP as a going concern exceeds the amount paid by TNP to acquire the business less than a year ago. In fact, as a result of the return of the leased equipment discussed above, mounting operating losses and the need for additional funding in order to keep the business in operation, there is good reason to believe that the value of the business is considerably less than the purchase price paid by TNP to acquire it less than a year ago.[22]

16. As indicated above, Celina has already been required to make emergency advances to TNP to fund critical expenses and other urgent payables and is prepared to make further advances as may

[19] Nickel Affidavit, p**ara. 25**.
[20] Nickel Affidavit, **para. 26**.
[21] Nickel Affidavit, p**ara. 8**.
[22] Nickel Affidavit, **para. 8**.

be required, but TNP is unable to secure the required approval of its Board of Directors necessary to amend the terms of TNP's existing credit facility or enter into a new one in order to align with its current and anticipated future emergency funding advances. This circumstance presents an imminent risk of operational shut down, and to TNP's viability and going concern value.

17. In the absence of a receivership, Celina is not willing to continue making the advances that will be required to cover TNP's payroll, rent and other critical payables.[23]

Related Insolvency Processing

18. As stated above, TRS, like TNP, is a wholly-owned subsidiary of Holdings. While TRS and TNP are related corporations and are each wholly owned subsidiaries of Holdings, they have distinct and separate businesses and independent financing arrangements. Bank of Montreal ("**BMO**") is the operating lender and senior general secured creditor and operating lender of TRS.

19. TRS has defaulted under the terms of the loan and security agreements established with BMO, and that BMO has issued written demand for repayment and Notice of Intention to Enforce Security ("**NITES**") against TRS. Simultaneous with the commencement of the within Application, BMO is bringing an Application (the "**BMO Application**") for the appointment of AlixPartners as Receiver over TRS. There are overlapping facts and circumstances which have led to the distress of both TRS and TNP and BMO, Celina and AlixPartners are each aligned in the view that the most practical and efficient manner of proceeding will be for this Application and the companion BMO Application to proceed together and, assuming both the relief sought by

[23] Nickel Affidavit, **para. 27**.

Celina on this Application and BMO on the companion Application is granted, each be administered by a common receiver.

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

The Issue on this Application

20. It is respectfully submitted that the issue raised on this Application is whether the requested Receivership should be granted by the Court pursuant to the Form of Receivership Order submitted by Celina to the Court.

The Test for the Appointment of a Receiver Pursuant to s 243 of the BIA

21. Celina seeks the appointment of a receiver pursuant to subsection 243(1) of the BIA and section 101 of the Courts of Justice Act (Ontario) (the "**CJA**"). Both statutes enable the Court to appoint a receiver and manager where such appointment is "just or convenient."

> ***Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, at s. 243(1)**
>
> ***Courts of Justice Act*, R.S.O. 1990, c. C.43 at s.101(1)**

22. In determining whether it is "*just or convenient*" to appoint a receiver under either the BIA or CJA, Ontario courts have applied the decision of The Honourable Mr. Justice Blair in *Freure Village*. In that case, His Honour confirmed that, in deciding whether the appointment of a receiver is just or convenient, the court "*must have regard to all of the circumstances but in particular the nature of the property and the rights and interests of all parties in relation thereto*," which includes the rights of the secured creditor under its security.

> ***Bank of Nova Scotia v. Freure Village of Clair Creek* (1996), 40 C.B.R. (3d) 274, [1996] O.J. No. 5088 at para. 10 (Gen. Div. [Comm. List]) [*Freure Village*] (CanLII: http://canlii.ca/t/1wbtz).**

23. When the rights of the secured creditor under its security include a specific right to the appointment of a receiver (as in the present case), the burden on the applicant seeking the relief is relaxed. Indeed, The Honourable Mr. Chief Justice Morawetz held in *Elleway Acquisitions* that:

> [W]hile the appointment of a receiver is generally regarded as an extraordinary equitable remedy, courts do not regard the nature of the remedy as extraordinary or equitable where the relevant security document permits the appointment of a receiver. This is because the applicant is merely seeking to enforce a term of an agreement that was assented to by both parties.

***Elleway Acquisitions Limited v. The Cruise Professionals Limited*, 2013 ONSC 6866 [Comm. List] at para. 27 [*Elleway Acquisitions*] (CanLII: http://canlii.ca/t/g22q3).**

24. More recently, The Honourable Mr. Justice Osborne echoed this holding in *iSpan Systems*:

> Where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: while the appointment of a receiver is generally an extraordinary equitable remedy, the courts do not so regard the nature of the remedy where the relevant security permits the appointment and as a result, the applicant is merely seeking to enforce a term of an agreement already made by both parties [citations omitted].

***iSpan Systems LP*, 2023 ONSC 6212 [Comm. List] at para. 31 [*iSpan Systems*] (CanLII: https://canlii.ca/t/k0x62).**

25. This is a situation where there is a contractual right to appoint a receiver is not extraordinary relief. Rather, this is the applicant seeking to enforce a term of an agreement already agreed to by both parties in the Loan and Security Agreement. Pursuant to section 12 of the Loan and Security Agreement, Celina is contractually entitled to have a receiver appointed upon the nonpayment of any principal or interest when due. Such an event has occurred and the appointment of a receiver

is no longer an extraordinary remedy; it is simply the result of enforcing a contractual term that was mutually assented to by parties to the Loan and Security Agreement.

26. More than six months have elapsed since the date on which the Demand Letters and NITES were issued. It is submitted that this represents more than enough time to refinance or otherwise repay the TNP Indebtedness, if TNP was capable of doing so. TNP has neither proposed a concrete plan to address its outstanding obligations, nor expressed any intention or desire to negotiate same through a negotiated forbearance agreement or otherwise. There is no reason to believe that if given more time, TNP would have any realistic prospect of refinancing or otherwise paying out the TNP Indebtedness.

> ***Bank of Montreal v. Carnival National Leasing Limited*, 2011 ONSC 1007, 74 C.B.R. (5th) 300, [2011] O.J. No. 671 at para. 13 (Gen. Div. [Comm. List]) [*Carnival Leasing*] (CanLII: https://canlii.ca/t/2fqm3).**

27. While the above facts establish that the test for the appointment of a Receiver has been met in this case, the ongoing cash flow crisis currently facing TNP provides further basis for the Court to conclude that a receivership is just and convenient in this case, and will benefit all stakeholders with a financial interest in TNP's business and assets.

28. It is submitted that TNP is hopelessly insolvent. Without external funding from some source, it will almost certainly run out of cash and will cease carrying on business within a matter of weeks, or even days. Other than Celina, no other party has demonstrated or even indicated that it is ready, willing and able to advance that funding, albeit in the specific context of the requested receivership.

29. It is accordingly respectfully submitted that the appointment of a Receiver is just and convenient in these circumstances.

PART IV - ORDER REQUESTED

30. For the reasons set out above, Celina respectfully requests that this Honourable Court appoint AlixPartners Restructuring Inc. as receiver over the assets and undertakings of TNP on the terms set out in the draft Order submitted to the Court by Celina.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of July, 2026.

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SCHEDULE "A"

LIST OF AUTHORITIES

1. *Bank of Nova Scotia* v. *Freure Village of Clair Creek* (1996), 40 C.B.R. (3d) 274, [1996] O.J. No. 5088

2. *Elleway Acquisitions Limited* v. *The Cruise Professionals Limited*, 2013 ONSC 6866

3. *iSpan Systems LP*, 2023 ONSC 6212

4. *Bank of Montreal* v. *Carnival National Leasing Limited*, 2011 ONSC 1007, 74 C.B.R. (5th) 300, [2011] O.J. No. 671 at para. 13 (Gen. Div.

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

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

Date July 27, 2026

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY - LAWS

1. *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3, as amended

Court may appoint receiver

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

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

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

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

2. *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

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