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 PROPOSED RECEIVER
(Approval and Vesting Order)

July 29, 2026

FASKEN MARTINEAU DuMOULIN LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)
sbrotman@fasken.com
Tel: 416 865 5419

Julia Chung (LSO: 90012D)
jchung@fasken.com
Tel: 416 868 3409

Lawyers for AlixPartners Restructuring, Inc., in its capacity as the proposed receiver of 1001281812 Ontario Inc.

TO: **THE SERVICE LIST**

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PART I - INTRODUCTION[1]

1. This factum is filed by AlixPartners Restructuring, Inc. ("**AlixPartners**"), in its capacity as the proposed receiver (in such capacity, the "**Proposed Receiver"**) of 1001281812 Ontario Inc. ("**TNP**"), in support of its motion for an order (the "**Approval and Vesting Order**"), among other relief:

(a) authorizing and directing the Proposed Receiver, if appointed, to execute the asset purchase agreement (the "**Sale Agreement**") between the Proposed Receiver, as seller, and Celina Capital Corporation and Fox Investments Inc., as buyer (in such capacity, the "**Purchaser**"), dated as of July 24, 2026 and approving the transaction (the "**Transaction**") contemplated in the Sale Agreement; and

(b) vesting in the Purchaser, or its nominee, TNP's right, title and interest in and to the assets (the "**Purchased Assets**") described in the Sale Agreement.

2. TNP acquired its business and assets less than one year ago in August 2025, as the successful bidder in a Court-approved sale process conducted by the trustee in the *Bankruptcy and Insolvency Act* ("***BIA***") proposal proceeding of the Prior Owner. The purchase price of that transaction was approximately $3.1 million.[2]

3. One year later, TNP faces a cash-flow crisis: it has sustained operating losses exceeding $2.5 million since acquisition, its rent is six months in arrears, pressure from vendors

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[1] Capitalized terms used but not defined in this section are defined below.

[2] Pre-Filing Report of the Proposed Receiver dated as of July 24, 2026 ["**Pre-Filing Report**"] at ss. 2-3, Motion Record of the Proposed Receiver dated July 24, 2026, Tab 2; Affidavit of Andrea Nickel sworn July 20, 2026 ["**Nickel Affidavit**"] at paras 7, 37 Application Record of Celina Capital Corporation dated July 21, 2026, Tab 2.

and lessors is mounting, and there is insufficient liquidity to meet its immediate payroll and other critical obligations.[3]

4. A going-concern sale of TNP's business and assets to the Purchaser is the best available outcome for all stakeholders. The Sale Agreement provides a price that significantly exceeds TNP’s liquidation value and the purchase price from 2025, assumes substantially all trade payables, and offers employment to substantially all of TNP's employees on substantially the same terms.[4]

PART II - SUMMARY OF FACTS

5. The complete factual basis for this motion is set forth in the Pre-Filing Report and the Nickel Affidavit.

A. TNP

6. TNP is a manufacturer of pre-fabricated structural components for residential properties, including roof trusses, floor trusses, wall panels, and related connectors, based out of leased premises in Smiths Falls, Ontario. TNP’s customers consist of general contractors, construction companies, and a limited number of individual homeowners.[5]

7. TNP has 24 employees who are not unionized. TNP does not offer a pension plan.[6]

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[3] Pre-Filing Report at ss. 4.2(2)(b), 4.3(2)-(3), 9.0(1)(c); Nickel Affidavit at paras 8, 24-26.
[4] Pre-Filing Report at ss. 6.0; Nickel Affidavit at paras 35-36.
[5] Pre-Filing Report at s. 2.0(7); Nickel Affidavit at para 4.
[6] Pre-Filing Report at s. 2.0(9); Nickel Affidavit at para 4.

8. TNP is owned by Argyle TRS Holdings Inc. which in turn is owned by Mark Fox (indirectly through a holding company), Celina Capital Corporation ("**Celina**"), Argyle Joist Inc., Argyle Truss Inc. and other investors.[7]

B. The Prior Sale Process

9. On April 3, 2025, 12574764 Canada Ltd., o/a United Edge Structural Components ("**United Edge**") and 11449346 Canada Inc. o/a P3 Panel Company ("**P3**" and together with United Edge, the "**Prior Owner**") filed a Notice of Intention to Make a Proposal ("**NOI**") under the *Bankruptcy and Insolvency Act*, with Albert Gelman Inc. ("**Gelman**") acting as the proposal trustee.[8]

10. Gelman conducted a sale and investment solicitation process (the "**Prior Sale Process**") that involved a wide marketing of the Prior Owner's business and assets. In the Prior Sale Process, 15 interested parties received data room access and five offers were submitted, with TNP's offer selected as the successful bid.[9]

11. The Prior Sale Process led to this Court's approval of the sale of the Prior Owner's business and assets to TNP on July 30, 2025 for a total purchase price of $3,057,455, plus certain assumed obligations (primarily capital leases).[10]

12. TNP's acquisition of these assets was financed by loan advances provided by Celina and Fox Investments Inc., an entity related to Mark Fox ("**FII**", and together with Celina,

[7] Pre-Filing Report at ss. 2.0(5)-(6); Nickel Affidavit at para 9.
[8] Pre-Filing Report at s. 2.0(1), Appendix "A"; Nickel Affidavit at para 5.
[9] Pre-Filing Report at s. 2.0(2), 5.0, Appendix "A"; Nickel Affidavit at para 6.
[10] Nickel Affidavit at paras 6, 37.

the "**Lenders**") pursuant to a loan and security agreement dated as of August 11, 2025 (the "**Loan Agreement**"). The Loan Agreement matured on February 11, 2026.[11]

13. TNP's indebtedness to the Lenders under the Loan Agreement was $4,065,362 as of the date of maturity. Celina subsequently made post-maturity advances totalling $700,000 to TNP to fund TNP's operations.[12]

C. TNP's Financial Distress

14. Since acquisition of the TNP business and assets in August 2025, TNP's business has eroded. Specifically:

(a) TNP has incurred operating losses exceeding $2.5 million, which losses are continuing;[13]

(b) TNP is in arrears of approximately six months of rent;[14]

(c) TNP's forecasts negative cash flow for the next thirteen weeks, with a peak negative position of approximately $240,000, confirming that TNP cannot fund operations from its own resources;[15]

(d) TNP has never generated positive cash flow from its business operations;[16] and

[11] Pre-Filing Report at ss. 2.0(10), 3.1; Nickel Affidavit at para 12, Exhibit "F".
[12] Pre-Filing Report at s. 3.1(2); Nickel Affidavit at para 3.
[13] Pre-Filing Report at s. 5.0(2); Nickel Affidavit at para 8.
[14] Pre-Filing Report at s. 4.3(3); Nickel Affidavit at para 24.
[15] Pre-Filing Report at s. 4.3, Appendix "B".
[16] Nickel Affidavit at para 25.

(e) trade creditors and equipment lessors are pressing for payment, and TNP lacks sufficient liquidity to meet its next payroll without an immediate funding injection.[17]

15. TNP's unaudited balance sheet as of May 31, 2026 also demonstrates that there is no equity value in TNP.[18]

16. The Proposed Receiver has reviewed TNP's financial information, held discussions with Celina, and participated in the negotiation and drafting of the Sale Agreement. The liquidation analysis conducted by the Proposed Receiver (the "**Liquidation Analysis**") demonstrates that the purchase price contemplated by the Sale Agreement materially exceeds the liquidation value of TNP's business and assets, and there is no equity value in TNP.[19]

D. The Transaction

17. The Sale Agreement was negotiated between the Proposed Receiver, as seller, and the Lenders (as Purchaser).[20]

18. The Sale Agreement contemplates, among other things, the following:[21]

(a) a purchase price of $4,065,362 to be paid by way of "credit bid";

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[17] Pre-Filing Report at s. 8.0(b); Nickel Affidavit at para 26.
[18] Pre-Filing Report at ss. 4.1-4.2.
[19] Pre-Filing Report at s. 7.0(2); Appendix "D".
[20] Pre-Filing Report at Appendix "C", s. 6.13.
[21] Pre-Filing Report at s. 6.0, Appendix "C".

(b) the Purchaser's assumption of the Assumed Liabilities, including TNP's liabilities and obligations in respect of the Intangible Assets (as defined therein) from and after closing and all other liabilities and obligations of TNP contemplated therein, including substantially all trade payables;

(c) the Purchased Assets are substantially all of the assets, property and rights of TNP;

(d) the Purchaser will offer employment to substantially all of TNP's current employees on terms consistent with their present terms of employment;

(e) the Purchaser acknowledges that the Purchased Assets are being sold on an "as is, where is" basis;

(f) closing is subject to, among other conditions: (i) the Court having issued an order appointing AlixPartners as the receiver and the Approval and Vesting Order, and (ii) the Purchaser having paid the costs of the receivership proceedings;

(g) the Purchaser may direct title to a nominee, including Terra Nova (SF) Components Inc., and

(h) closing is scheduled to take place ten days following the date of the Approval and Vesting Order.

19. The Lenders are the only secured creditors with general security over TNP. Legal counsel to the Proposed Receiver, Fasken Martineau DuMoulin LLP, has confirmed the validity

and enforceability of the security granted in favour of Celina, as agent for the Lenders, subject to customary assumptions and qualifications.[22]

20. The Proposed Receiver believes that the Transaction is in the best interests of TNP and its stakeholders and that the Transaction should be completed on an urgent basis because, among other reasons:[23]

(a) TNP is without liquidity to continue to operate, and the Lenders are not prepared to provide financial support to TNP to operate the business outside of a receivership;

(b) TNP is facing pressure from vendors and is in arrears of its rent;

(c) the Proposed Receiver's view is that TNP is unlikely to survive the disruption, cost, customer and vendor uncertainty associated with another protracted process in close proximity to the NOI proceedings, which were completed one year ago;

(d) ongoing distress in the construction and residential housing sectors makes it important for TNP to provide certainty to its customers;

(e) the value of the Transaction exceeds liquidation value and exceeds the purchase price paid by TNP in the Prior Sale Process notwithstanding deterioration of the business over the past year;

[22] Pre-Filing Report at s. 3.2.
[23] Pre-Filing Report at ss. 8.0-9.0.

(f) substantially all stakeholders in these proceedings will be unaffected by the proposed Transaction and will benefit from its going-concern nature; and

(g) the Transaction allows TNP to continue to operate, providing customers with an ongoing supplier and suppliers with an ongoing customer.

PART III - STATEMENT OF ISSUES

21. The sole issue on this motion is whether the Approval and Vesting Order should be granted. The Proposed Receiver submits that the answer is "yes".

PART IV - LAW & AUTHORITIES

22. In determining whether to approve a proposed sale of assets by a receiver, the Court considers the following well-settled principles set out by the Court of Appeal for Ontario in *Royal Bank of Canada v Soundair* ("***Soundair***"):

(a) whether the party seeking sale approval has made a sufficient effort to obtain the best price and to not act improvidently;

(b) the interests of all parties;

(c) the efficacy and integrity of the process by which the party obtained offers; and,

(d) whether the working out of the process was unfair.[24]

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[24] *Royal Bank of Canada v Soundair Corp.*, [1991] 46 OAC 321 [*Soundair*] at para 16 (CA); *Elleway Acquisitions Limited v 4358376 Canada Inc.*, 2013 ONSC 7009 [*Elleway*] at para 31; *Montrose Mortgage Corp. v Kingsway Arms Ottawa Inc.*, 2013 ONSC 6905 [*Montrose*] at para 10; *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, 2023 ONSC 5911 [*Romspen*] at para 49.

23. In reviewing a sale process, the Court defers to the business expertise of the receiver.[25] It is only in "exceptional" circumstances that a Court will intervene and proceed contrary to the recommendations of a receiver.[26]

24. Here, the Proposed Receiver is seeking Court approval of a pre-packaged sale transaction pursuant to an already-negotiated agreement, which is colloquially referred to as a "quick flip" transaction.[27]

25. Courts applying the *Soundair* principles in the context of quick flip transactions will scrutinize with particular care the adequacy and fairness of the sale and marketing process,[28] and give "specific consideration to the economic realities of the business and the specific transactions in question."[29] Courts have approved such transactions where, for example:

(a) the marketing process was nonetheless fair and reasonable and the court was of the view that no purpose would be served by a further marketing process;[30]

(b) an immediate sale is the only realistic way to provide maximum recovery for a creditor who stands in a clear priority of economic interest to all others;[31] and

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[25] *Ontario Securities Commission v Bridging Finance Inc.,* 2022 ONSC 1857 at para 43 [*Bridging Finance*].

[26] *Bridging Finance* at para 45, citing *Soundair.*

[27] *Montrose* at para 10. For unreported orders and endorsements (where available) approving quick flip transactions, see: *Bank of Montreal v Brant Instore Corporation* (20 December 2022), Toronto CV-22-00691546-00CL (Order (appointing Receiver and Manager) and Approval and Vesting Order); *The Toronto-Dominion Bank v Kivuto Solutions Inc.* (7 February 2023), Toronto CV-23-00693569-00CL (Order (appointing Receiver), Approval and Vesting Order, and Endorsement (Justice McEwan)).

[28] *Romspen* at para 49; *Montrose* at para 10.

[29] *Elleway* at para 33.

[30] *Romspen* at paras 48, 55-56, 58.

[31] *Elleway* at para 33.

(c) delay in the transaction will erode the realization of the security of that creditor.[32]

26. In certain circumstances, a quick flip transaction may represent the best or only available commercial alternative to a liquidation.[33]

27. In *Tool-Plas Systems Inc., Re.,* the Honourable Justice Morawetz, as he then was, observed that:

> A 'quick flip' transaction is not the usual transaction. In certain circumstances, however, it may be the best, or the only, alternative. In considering whether to approve a 'quick flip' transaction, the Court should consider the impact on various parties and assess whether their respective positions and the proposed treatment that they will receive in the 'quick flip' transaction would realistically be any different if an extended sales process were followed.[34]

28. In *Propostition de SRTX inc.*, while recognizing that pre-pack sales were rare, the Superior Court of Quebec approved such transaction because the proposed transaction represented the best possible outcome under the circumstances and was the product of a fair and reasonable process designed to maximize the value of the debtors' business.[35]

29. In this case, the Sale Agreement meets each of the *Soundair* principles. The Transaction represents the best viable transaction in respect of the Purchased Assets in the current circumstances for the following reasons:

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[32] *Elleway* at para 33.

[33] *Montrose* at para 10.

[34] *Tool-Plas Systems Inc., Re* (2008), 48 CBR (5th) 91 (Ont SCJ) at para 15. See also *9-Ball Interests Inc. v Traditional Life Sciences Inc.,* 2012 ONSC 2788 [*9-Ball*] at para 27.

[35] *Propostition de SRTX inc.*, 2026 QCCS 570 [*SRTX*] at para 42.

(a) *Sufficient effort was made to obtain the best price and the Proposed Receiver did not act improvidently*. Conducting a further sale process is not a realistic option given TNP's liquidity constraints, and not necessary because a comprehensive sale process was conducted one year ago. TNP's business and assets were acquired through the Prior Sale Process for $3,057,455. Since that acquisition, TNP's financial position has deteriorated materially, with operating losses of approximately $2.6 million incurred since the business was acquired. The Liquidation Analysis also demonstrates that TNP's liquidation value is significantly less than the purchase price (i.e., secured indebtedness of $4,065,361.70). The Transaction therefore represents the best available outcome in the circumstances.[36]

(b) *The Transaction benefits substantially all stakeholder groups:* The Transaction: (i) is a successful outcome for all or substantially all of the employees, whose employment will be continued, (ii) is agreeable to the Lenders, the only secured creditors of TNP, (iii) is a going-concern transaction, which preserves customer and supplier relationships, and (iv) assumes substantially all trade payables.[37]

(c) *The Transaction is a result of a fair, efficient sale process run with integrity*. The market has already spoken. TNP's business and assets were marketed through a sale process approximately one year ago. The Transaction further promotes fairness to stakeholders by providing for the assumption of trade liabilities, preserving

[36] Pre-Filing Report at ss. 4.2(2), 5.0, 7.0, 8.0(1); Nickel Affidavit at paras 3(e), 5-8, 37.
[37] Pre-Filing Report at s. 6.0, Appendix "C"; Nickel Affidavit at paras 35-36.

employment opportunities for employees, and maintaining the business as a going concern rather than forcing a liquidation.[38]

(d) *There is no realistic prospect of an additional marketing or sale process in respect of the Purchased Assets*. There is no money to conduct a further marketing and sale process as the Lenders are not prepared to continue to fund such a process and the Transaction must, on the terms of the Sale Agreement, close by August 31, 2026. No further purpose would be served by a further marketing process.[39]

30. In expressing this view, the Proposed Receiver is mindful of the fact that the entities comprising the Purchaser are, directly or indirectly, related to TNP and the heightened scrutiny that related party transaction entails. While not expressly applicable in receivership proceedings, the Proposed Receiver is of the view that the additional factors with which the Court must be satisfied on a sale to a related person in bankruptcy or proposal proceedings under the *BIA* would be met in these circumstances.[40]

31. This Court has also previously declined to approve "quick flip" or "prepack" transactions. However, such cases turn on their specific facts and are distinguishable from the circumstances before this Court.

32. Recently in *Paystone Holdings Inc. (Re)*, this Court declined to approve a "prepack" transaction in the context of proceedings under the *Companies' Creditors Arrangement*

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[38] Pre-Filing Report at ss. 5.0, 6.0(d)-(f), Appendix "C", Nickel Affidavit at paras 35-37.
[39] Pre-Filing Report at ss. 6.0(j), 8.0(c), 9.0(f); Nickel Affidavit at para 3(e).
[40] BIA, ss. 30(6) and 65.13(5).

Act ("**CCAA**").[41] In that case, the debtor had undertaken a sale process before the CCAA proceeding and sought approval of a sale transaction that did not arise out of the sale process and would leave the subordinate secured creditor's debt behind. The subordinate secured creditor also alleged that it was excluded from the sale process and negotiations with respect to the prepack transaction.[42]

33. Similarly, in *9-Ball Interests Inc. v Traditional Life Sciences Inc.*, the Court declined to approve a transaction to a related party that was credit bid by the senior secured creditor.[43] In refusing to approve the transaction, the Court, among other things, placed weight on the fact that the debtor had no employees and there was no threat that "turn[ing] off the lights" would result in a significant loss of jobs.[44]

34. The present case is distinguishable from *Paystone* on several material grounds. Unlike *Paystone*, there is no subordinate secured creditor whose claim is would be left behind or prejudiced by the Transaction. In addition, the Transaction does not arise in isolation from a Court-approved sale process. The market was thoroughly canvassed and the assets were sold in the Prior Sale Process roughly one year ago, with the market and business having deteriorated since that time – and notwithstanding those facts, the purchase price under the Transaction is approximately $1 million than was paid one year ago.[45]

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[41] *Paystone Holdings Inc. (Re)*, 2026 ONSC 3693 [*Paystone*] at para 9.
[42] *Paystone* at paras 61-65, 67, 71-72, 74, 79-80.
[43] *9-Ball* at para 4.
[44] *9-Ball* at para 25.
[45] Pre-Filing Report at s. 5.0, Appendix "A"; Nickel Affidavit at para 37.

35. Additionally, unlike *9-Ball*, there is genuine urgency for TNP. With no assurance of ongoing funding, a lack of liquidity, and in light of TNP's poor financial performance, the Proposed Receiver would likely be forced to pivot to a liquidation if the Transaction is not approved, resulting in the loss of operations and jobs.[46]

PART V - ORDER REQUESTED

36. For the reasons outlined above, the Proposed Receiver respectfully requests that this Honourable Court grant the order substantially in the form as the Approval and Vesting Order found at Tab 3 of the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of July, 2026.

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP

FASKEN MARTINEAU DuMOULIN LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)
sbrotman@fasken.com
Tel: 416 865 5419

Julia Chung (LSO: 90012D)
jchung@fasken.com
Tel: 416 868 3409

Lawyers for AlixPartners Restructuring, Inc., in its capacity as the proposed receiver of 1001281812 Ontario Inc.

[46] Pre-Filing Report at s. 4.1(d); Nickel Affidavit at paras 3(e)-(f), 25.

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Royal Bank of Canada v Soundair Corp.*, [1991] 46 OAC 321

2. *Elleway Acquisitions Limited v 4358376 Canada Inc.*, 2013 ONSC 7009

3. *Montrose Mortgage Corp. v Kingsway Arms Ottawa Inc.*, 2013 ONSC 6905

4. *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, 2023 ONSC 5911

5. *Ontario Securities Commission v Bridging Finance Inc.*, 2022 ONSC 1857

6. *Tool-Plas Systems Inc., Re* (2008), 48 CBR (5th) 91 (Ont SCJ)

7. *9-Ball Interests Inc. v Traditional Life Sciences Inc.*, 2012 ONSC 2788

8. *Propostition de SRTX inc.*, 2026 QCCS 570

9. *Paystone Holdings Inc. (Re)*, 2026 ONSC 3693

10. *Bank of Montreal v Brant Instore Corporation* (20 December 2022), Toronto CV-22-00691546-00CL (Order (appointing Receiver and Manager) and Approval and Vesting Order)

11. *The Toronto-Dominion Bank v Kivuto Solutions Inc.* (7 February 2023), Toronto CV-23-00693569-00CL (Order (appointing Receiver), Approval and Vesting Order, and Endorsement (Justice McEwan))

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 29, 2026

Signature

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY - LAWS

***Bankruptcy and Insolvency Act*, RSC 1985, c B-3**

Powers exercisable by trustee with permission of inspectors

30 (1) The trustee may, with the permission of the inspectors, do all or any of the following things:

(a) sell or otherwise dispose of for such price or other consideration as the inspectors may approve all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(b) lease any real property or immovable;

(c) carry on the business of the bankrupt, in so far as may be necessary for the beneficial administration of the estate of the bankrupt;

(d) bring, institute or defend any action or other legal proceeding relating to the property of the bankrupt;

(e) employ a barrister or solicitor or, in the Province of Quebec, an advocate, or employ any other representative, to take any proceedings or do any business that may be sanctioned by the inspectors;

(f) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time, subject to such stipulations as to security and otherwise as the inspectors think fit;

(g) incur obligations, borrow money and give security on any property of the bankrupt by mortgage, hypothec, charge, lien, assignment, pledge or otherwise, such obligations and money borrowed to be discharged or repaid with interest out of the property of the bankrupt in priority to the claims of the creditors;

(h) compromise and settle any debts owing to the bankrupt;

(i) compromise any claim made by or against the estate;

(j) divide in its existing form among the creditors, according to its estimated value, any property that from its peculiar nature or other special circumstances cannot be readily or advantageously sold;

(k) elect to retain for the whole part of its unexpired term, or to assign, surrender, disclaim or resiliate any lease of, or other temporary interest or right in, any property of the bankrupt; and

(l) appoint the bankrupt to aid in administering the estate of the bankrupt in such manner and on such terms as the inspectors may direct.

Permission limited to particular thing or class

(2) The permission given for the purposes of subsection (1) is not a general permission to do all or any of the things mentioned in that subsection, but is only a permission to do the particular thing or things or class of thing or things that the permission specifies.

If no inspectors

(3) If no inspectors are appointed, the trustee may do all or any of the things referred to in subsection (1).

Sale or disposal to related persons

(4) The trustee may sell or otherwise dispose of any of the bankrupt's property to a person who is related to the bankrupt only with the court's authorization.

Related persons

(5) For the purpose of subsection (4), in the case of a bankrupt other than an individual, a person who is related to the bankrupt includes

(a) a director or officer of the bankrupt;

(b) a person who has or has had, directly or indirectly, control in fact of the bankrupt; and

(c) a person who is related to a person described in paragraph (a) or (b).

Factors to be considered

(6) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition of the property was reasonable in the circumstances;

(b) the extent to which the creditors were consulted;

(c) the effects of the proposed sale or disposition on creditors and other interested parties;

(d) whether the consideration to be received for the property is reasonable and fair, taking into account the market value of the property;

(e) whether good faith efforts were made to sell or otherwise dispose of the property to persons who are not related to the bankrupt; and

(f) whether the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition of the property.

…

Restriction on disposition of assets

65.13 (1) An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Individuals

(2) In the case of an individual who is carrying on a business, the court may authorize the sale or disposition only if the assets were acquired for or used in relation to the business.

Notice to secured creditors

(3) An insolvent person who applies to the court for an authorization shall give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(4) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the trustee approved the process leading to the proposed sale or disposition;

(c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(5) If the proposed sale or disposition is to a person who is related to the insolvent person, the court may, after considering the factors referred to in subsection (4), grant the authorization only if it is satisfied that

> **(a)** good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the insolvent person; and
>
> **(b)** the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

CELINA CAPITAL CORPORATION -and- 1001281812 ONTARIO INC.

Applicant Respondent

Court File No. CL-26-00000331-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

FACTUM OF THE PROPOSED RECEIVER
(Approval and Vesting Order)

FASKEN MARTINEAU DUMOULIN LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)
sbrotman@fasken.com
Tel: 416 865 5419

Julia Chung (LSO: 90012D)
jchung@fasken.com
Tel: 416 868 3409

Lawyers for AlixPartners Restructuring, Inc., in its capacity as the proposed receiver of 1001281812 Ontario Inc.