



Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE PENNY)
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)

WEDNESDAY, THE 15th
DAY OF JUNE, 2022

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

- and -

AXESS PICKERING LTD.

Respondent

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**Alvarez & Marsal**”) in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Axess Pickering Ltd. (the “**Axess Pickering**” or the “**Company**”), for an order:

1. Abridging and validating the time and manner of service of the Notice of Motion and the Motion Record so that this Motion is properly returnable on the date scheduled for the hearing thereof, and dispensing with further service thereof;
2. Approving the Fourth Report of the Receiver dated May 31, 2022 (the “**Fourth Report**”), including the actions and activities of the Receiver referred to therein;
3. Approving the fees and disbursements of the Receiver as well as its independent counsel, Lax O’Sullivan Lisus Gottlieb LLP, and its real estate counsel, Dickinson Wright LLP, as set out in the Fee Affidavits;

4. Dismissing the claim against Axess Pickering Ltd. brought by the Liberty Creditors, as defined in the Fourth Report, and dismissing the action bearing Court File No. CV-21-00671739-0000 as against Axess Pickering on a with prejudice basis;
5. Terminating the Receivership and discharging Alvarez & Marsal as Receiver of the undertaking, property and assets of Axess Pickering as of the date of the requested Discharge Order, and releasing Alvarez & Marsal of the undertakings, property and assets of Axess Pickering Ltd. upon the Receiver filing a Receiver's Certificate substantially in the form attached hereto as Schedule "A" (the "**Receiver's Discharge Certificate**");
6. Releasing Alvarez & Marsal from any and all liability arising by reason of, or in any way arising out of, the acts or omissions of Alvarez & Marsal while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the Receiver's part;
7. Authorizing but not obligating the Receiver to file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* on behalf of the Company, and authorizing but not obligating Alvarez & Marsal to act as trustee in bankruptcy in respect of any such bankruptcy proceedings; and,
8. Such further and other grounds as counsel may advise and this Honourable Court may permit;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated June 2, 2022, the Fourth Report, the affidavits of the Receiver and its counsel as to fees, and on hearing the submissions of counsel;

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record is hereby abridged and validated and this Motion is properly returnable today.

RECEIVER'S ACTIVITIES

2. **THIS COURT ORDERS** that the Fourth Report and the activities of the Receiver as set out in the Fourth Report are hereby approved.

3. **THIS COURT ORDERS** that (i) the fees and disbursements of the Receiver and its counsel, as set out in the Fourth Report and the Fee Affidavits, are hereby approved, (ii) the Remaining Fees are hereby approved and no further approval of the fees and disbursements of the Receiver or its counsel is required in respect of the Remaining Fees unless those amounts exceed the aggregate amount of \$30,000, and (iii) the Receiver is hereby authorized to pay any unpaid fees and disbursements.

DISMISSAL OF CLAIM

4. **THIS COURT ORDERS** that the claim against Axxess Pickering brought by the Liberty Creditors, as defined in the Fourth Report, is hereby dismissed, and the action bearing Court File No. CV-21-00671739-0000 as against Axxess Pickering is hereby dismissed on a with prejudice basis.

ASSIGNMENT INTO BANKRUPTCY

5. **THIS COURT ORDERS** that the Receiver is hereby authorized, but not required, to assign the Company into bankruptcy, and if the Company is so assigned, Alvarez & Marsal is hereby appointed to act as trustee of the Company.

DISCHARGE

6. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved and assigning the Company into bankruptcy, and upon the Receiver filing the Receiver's Discharge Certificate certifying that it has completed the remaining activities described in the Fourth Report, Alvarez & Marsal shall be discharged as Receiver, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership proceedings, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of Alvarez & Marsal, in its capacity as Receiver.

7. **THIS COURT ORDERS** that Alvarez & Marsal is hereby released and discharged from any and all liability that Alvarez & Marsal now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Alvarez & Marsal 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, Alvarez & Marsal is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "R. J. 3.".

Applicants

-and-

AXESS PICKERING LTD.

Respondent

Court File No./N° du dossier du greffe : CV-21-00669408-00CL

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PROCEEDING COMMENCED AT TORONTO

ORDER

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Lawyers for Alvarez & Marsal Canada Inc. in its capacity as
Court-Appointed Receiver