

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.

*Mr. Justice Haney*  
JUSTICE HANEY

)  
)  
)

WEDNESDAY, THE 17<sup>TH</sup>

DAY OF OCTOBER, 2018

BETWEEN:

ASTRAZENECA CANADA INC.

Plaintiff

- and -

SAMEH SADEK also known as SAM SADEK,  
ST. MAHARIAL PHARMACY INC. dba MD HEALTH PHARMACY,  
ST. MAHARIAL CLINIC INC., SRX INVESTMENT INC.,  
SHEPHERD RX PHARMACY INC. and LILIAN FAM

Defendants

**ORDER**

**THIS MOTION**, made by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Sameh Sadek also known as Sam Sadek, St. Maharial Pharmacy Inc. dba MD Health Pharmacy, St. Maharial Clinic Inc., SRX Investments Inc., Shepherd RX Pharmacy Inc. and Lilian Fam (collectively, the “**Defendants**”), for an order, amongst other things: (i) approving the First Report of the Receiver dated October 9, 2018 (the “**First Report**”) and the actions and activities of the Receiver set out therein; (ii) amending and restating the Order of the Honourable Mr. Justice Dunphy dated September 11, 2018 (the “**Appointment Order**”) to grant certain powers to the Receiver that were inadvertently excluded from the Appointment Order; (iii) approving the agreement of purchase and sale (the “**Sale Agreement**”) between Lilian Adib Fam, as vendor, and Shawn Zarb (the “**Purchaser**”), as purchaser, dated

September 17, 2018 with respect to the property municipally known as 8 Calico Court, Halton Hills, Ontario, and authorizing the Receiver to complete the transaction contemplated by the Sale Agreement (the “**Transaction**”); (iv) sealing the Confidential Appendix (as defined in the First Report) until the completion of the Transaction or further Order of this Court; (v) declaring that all monies and assets held in TD Canada Trust (“**TD**”) account #1579-6294127 (the “**TD Account**”) shall be deemed to be Domestic Property (as defined in the Appointment Order) and transferred by TD to the Receiver forthwith; and (vi) declaring the certain funds held by Blaney McMurtey LLP (“**BM**”), in trust, in the amount of \$53,201.95 shall be deemed to be Domestic Property and transferred by BM to the Receiver forthwith, was heard this day at 330 University Avenue, Toronto, Ontario.


**ON READING** the First Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list although duly served as appears from the affidavit of service of Susy Moniz sworn October 9, 2018,

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the First Report and the actions and activities of the Receiver set out therein be and are hereby approved.
3. **THIS COURT ORDERS** that the Appointment Order be and is hereby amended and restated in the form attached hereto as **Schedule “A”**.
4. **THIS COURT ORDERS** that the Transaction be and is hereby approved and 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 such property to the Purchaser.
5. **THIS COURT ORDERS** that the Confidential Appendix be and are hereby sealed until the completion of the Transaction or further Order of this Court.

6. **THIS COURT ORDERS** that all monies and assets held in the TD Account shall be deemed to be Domestic Property and transferred by TD to the Receiver forthwith.

7. **THIS COURT ORDERS** that certain funds held by BM, in trust, in the amount of \$53,201.95 shall be deemed to be Domestic Property and transferred by BM to the Receiver forthwith.

8. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

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ENTERED AT / INSCRIT À TORONTO  
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LE / DANS LE REGISTRE NO:

OCT 17 2018

PER / PAR:

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**SCHEDULE "A"**

See attached.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) TUESDAY, THE 11<sup>TH</sup> DAY  
)  
JUSTICE DUNPHY ) OF SEPTEMBER, 2018

**ASTRAZENECA CANADA INC.**

Plaintiff

- and -

**SAMEH SADEK also known as SAM SADEK, ST. MAHARIAL  
PHARMACY INC. dba MD HEALTH PHARMACY, ST. MAHARIAL  
CLINIC INC., SRX INVESTMENT INC., SHEPHERD RX PHARMACY  
INC. and LILIAN FAM**

Defendants

**AMENDED AND RESTATED ORDER  
(appointing Receiver)**

**THIS MOTION** made *ex parte* by Astrazeneca Canada Inc. (the “**Plaintiff**”) for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as receiver (in such capacity, the “**Receiver**”), without security, of all of the domestic assets, undertakings and properties of Sameh Sadek also known as Sam Sadek, St. Maharial Pharmacy Inc. dba MD Health Pharmacy, St. Maharial Clinic Inc., SRX Investment Inc., Shepherd RX Pharmacy Inc. and Lilian Fam (collectively, the “**Defendants**” and, individually, a “**Defendant**”), and for related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record and Factum of the Plaintiff dated August 8, 2018, the Supplemental Motion Record of the Plaintiff dated August 17, 2018, the Second Supplemental Motion Record of the Plaintiff dated September 5, 2018, and the Motion Record for a Receiver, the Factum and Book of Authorities of the Plaintiff dated September 10, 2018, and the Orders of

the Honourable Justice Dunphy dated August 9, 2018 (the “**August 9 Order**”), August 17, 2018 (the “**August 17 Order**”) and September 5, 2018 (the “**September Order**” and, together with the August 9 Order and the August 17 Order, the “**Mareva Orders**”), and on hearing the submissions of counsel for the Plaintiff, and on reading the consent of A&M to act as the Receiver,

## **APPOINTMENT**

1. **THIS COURT ORDERS** that, pursuant to section 101 of the CJA, A&M is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Defendants, including all proceeds thereof to the extent that such assets, undertakings and properties are located in Canada (the “**Domestic Property**”). Without limiting the generality of the foregoing, the Domestic Property includes all of the right, title and interest of the Defendants in and to the real property with the following legal descriptions:

PIN 14360 - 1750 (LT)      Interest/Estate Fee Simple

Description    PART OF LOT 11, PLAN 43M1663, DES PART 6, PL 43R30324; MISSISSAUGA. S/T EASEMENT FOR ENTRY AS IN PR806741. S/T EASEMENT FOR ENTRY AS IN PR1007490.

Address        5045 CHURCHILL MEADOWS BOULEVARD MISSISSAUGA, ONTARIO, L5M 7Z8

...

PIN 13439 - 0416 (LT)      Interest/Estate Fee Simple

Description    PT LT 26, PL 396, DES PART 1, 43R29866; MISSISSAUGA. S/T EASEMENT OVER PT LT 26, PL 396, DES PART 1, 43R29866, AS IN PR1037379.

Address        2334 HAMMOND ROAD MISSISSAUGA, ONTARIO, L5K 1T2

## **RECEIVER'S POWERS**

2. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Domestic 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 Domestic Property and any and all proceeds, receipts and disbursements arising out of or from the Domestic Property, but, for greater certainty, excluding any business and/or operations carried on by any of the Defendants;
- (b) to receive, preserve, and protect the Domestic Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Domestic 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 cease to perform any contracts of any of the Defendants;
- (d) to identify and segregate any Domestic Property that in the Receiver's reasonable judgment constitutes property that: (a) is exempt from forced seizure or sale pursuant to the *Execution Act*, R.S.O. 1990, c. E-24 (the "***Execution Act***"); or (b) constitutes "consumer goods", as that term is defined in the *Personal Property Security Act*, R.S.O. 1990, c. P.10 (the "***PPSA***"), and in the case of property so segregated, to hold such property pending further order of this Court;
- (e) to access all information relating to the Defendants' accounts or finance activities at any financial institution, with any trade creditor, with any supplier or with any third party;
- (f) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, insurance brokers, realtors, 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;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to the Defendants and to exercise all remedies of the Defendants in collecting such monies, including, without limitation, to enforce any security held by any Defendant;

- (h) to settle, extend or compromise any indebtedness owing to any Defendant;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Domestic Property, whether in the Receiver's name or in the name and on behalf of any Defendant, for any purpose pursuant to this Order;
- (j) 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 any Defendant, the Domestic 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;
- (k) to undertake any investigations deemed necessary by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Domestic Property, including, without limitation, the transfer of any funds of the Defendants to any related or unrelated parties;
- (l) subject to any applicable exemption under the *Execution Act* or the *PPSA* to which the individual Defendants are entitled, to market any or all of the Domestic Property, including advertising and soliciting offers in respect of the Domestic Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (m) subject to any applicable exemption under the *Execution Act* or the *PPSA* to which the individual Defendants are entitled, to sell, convey, transfer, lease or assign the Domestic 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 *PPSA*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (n) to apply for any vesting order or other orders necessary to convey the Domestic Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Domestic Property;
- (o) 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 Domestic Property and the receivership, and to share information; subject in all cases to such terms as to confidentiality as the Receiver deems advisable;
- (p) to make inquiries of any recipient financial institution in respect of any and all funds transferred by any of the Defendants to any related or unrelated parties, including, but not limited to, the circumstances in which such transfer was prepared, issued or effected;
- (q) to register a copy of this Order and any other Orders in respect of the Domestic Property against title to any of the Domestic Property;
- (r) 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 any Defendant;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of any Defendant, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any Defendant;
- (t) to exercise any shareholder, partnership, joint venture or other rights which any Defendant may have; and

- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail addressed to any Defendant,

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 Defendants, and without interference from any other Person.

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of all of the assets, undertakings and properties of the Defendants, including all proceeds thereof to the extent that such assets, undertakings and properties are located outside of Canada (the “**Foreign Property**”, and together with the Domestic Property, 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 access all information relating to the Defendants’ accounts or finance activities at any financial institution, with any trade creditor, with any supplier or with any third party;
- (b) to undertake any investigations deemed necessary by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Foreign Property, including, without limitation, the transfer of any funds of the Defendants to any related or unrelated parties;
- (c) 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 Foreign Property and the receivership, and to share information, subject in all cases to such terms as to confidentiality as the Receiver deems advisable; and
- (d) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail addressed to any Defendant.

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

4. **THIS COURT ORDERS** that (i) the Defendants, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders (as applicable), and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including, without limitation, any brokers, banks, credit card processors, creditors, financial institutions, or suppliers (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 Domestic Property to the Receiver, and shall deliver all such Domestic 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 client records and prescription information, 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 Defendants, any transfers of money or Property, or obligations incurred by the Defendants, out of the ordinary course of business or personal conduct 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.

6A. **THIS COURT ORDERS** that, in respect to the Records subject to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991*, the *Drug and Pharmacies Regulation Act, 1990* or any other applicable governing Ontario or Canadian statute (collectively, the “**Pharmacy Regulations**”), the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspect of such Records; (ii) to the extent possible, provide such Records to the Ontario College of Pharmacists (“**College**”) or any pharmacy to which the College directs the Receiver to provide such Records; (iii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the “**Custodian**”) for such Records; (iv) not allow anyone other than the Receiver, the College, a pharmacy designated by the College or the Custodian to have access to such Records; (iv) have access to such Records for any purposes required pursuant to the Pharmacy Regulations that requires the Defendants, from time to time, to perform certain obligations.

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 DEFENDANTS OR THE DOMESTIC PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding in Canada (a “**Domestic Proceeding**”) against or in respect of any of the Defendants or the Domestic Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court, and, subject to paragraph 36 hereof, any and all Domestic Proceedings currently under way against or in respect of any of the Defendants or the Domestic 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 any Defendant, the Receiver, or affecting the Domestic 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 (i) any “eligible financial contract” as defined in the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”), or (ii) any rights and remedies in respect of a Proceeding that is not a Domestic Proceeding, further provided that nothing in this paragraph shall (a) empower the Receiver or any Defendant to carry on any business which any Defendant is not lawfully entitled to carry on, (b) exempt the Receiver or any Defendant from compliance with statutory or regulatory provisions relating to health, safety or the environment, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) 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 any Defendant, 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 any Defendant 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 Defendant 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 any Defendant'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 such Defendant 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 Domestic 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. The Receiver shall segregate any funds received by it that constitute Foreign Property, and record and keep such Foreign Property separate and apart from any Domestic Property, pending further Order of this Court.

## **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Defendants, if any, shall remain the employees of the Defendants until such time as the Receiver, on the Defendants' 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 subsections 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 Domestic 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 Domestic 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 Domestic Property shall be entitled to continue to use the personal information provided to it, and related to the Domestic Property purchased, in a manner which is in all material respects identical to the prior use of such information by any Defendant, 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 Domestic 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 Domestic 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. 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 Domestic 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 Domestic Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person.

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, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, 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 Domestic 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 Encumbrances in favour of any Person, other than the Receiver’s Charge.

22. **THIS COURT ORDERS** that neither the Receiver’s Charge, 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 these proceedings, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Ontario *Rules of Civil Procedure* (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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: [www.alvarezandmarsal.com/mdhealth](http://www.alvarezandmarsal.com/mdhealth).

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 Defendants’ creditors or other interested parties at their respective addresses as last shown on the records of the Defendants 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 any Defendant.

29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction 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 Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, and the costs of the Plaintiff's motion to obtain the Mareva Orders, in each case on a full indemnity basis, to be paid by the Receiver from the Defendants' estates with such priority and at such time as this Court may determine.

#### **MISCELLANEOUS AND PROCEDURAL MATTERS**

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 the Plaintiff is granted leave to bring this motion without notice.

34. **THIS COURT ORDERS** that the Motion Record for a Receiver, the Factum, and Book of Authorities, of the Plaintiff, all dated September 10, 2018, and this Order (the "**Sealed Materials**") are hereby sealed and that no one shall have access to the Sealed Materials except for the parties in this proceeding and their respective legal counsel until five (5) days from the date of this Order have elapsed, subject to paragraph 35 of this Order.

35. **THIS COURT ORDERS** that this Order:

- (a) may be provided by the Receiver to such persons at such times as the Receiver in its sole discretion deems necessary or advisable to permit or assist the Receiver in the exercise of the Receiver's powers and duties conferred by this Order; and
- (b) shall be served on the persons listed on the Service List attached at **Schedule "B"** hereto in accordance with paragraphs 25 and 26 of this Order within ten days of the date of this Order, or at such earlier time at the Receiver may determine in its discretion.

#### **PLAINTIFF'S MOTION FOR JUDGMENT**

36. **THIS COURT ORDERS** that, notwithstanding paragraphs 9 and 10 of this Order, the Plaintiff is granted leave to (a) bring a motion for judgment in this action and to take out any judgment or order arising therefrom, (b) take any steps in furtherance of or that follow from such judgment or order (except to the extent such steps would interfere with the Receiver's exclusive powers in paragraph 2 of this Order), (c) bring any motion to add parties to this action, (d) take any steps to enforce any judgment or order in a Proceeding that is not a Domestic Proceeding, and (e) take any steps permitted by the Mareva Orders and/or to bring any motion to vary or amend the Mareva Orders, in each case without further notice to the Defendants unless required by law. The Plaintiff's motion for judgment shall be returnable on a date to be set by this Court at a 9:30 appointment.

#### **CONTINUATION OF THE MAREVA ORDERS**

37. **THIS COURT ORDERS** that the Mareva Orders shall not in any way affect or limit the powers and duties of the Receiver conferred by this Order.

38. **THIS COURT ORDERS** that the Receiver shall disclose to the Plaintiff all relevant information acquired or received by the Receiver regarding the Defendants, the Domestic Property, and the Foreign Property, subject in all cases to such terms as to confidentiality as the Receiver deems advisable.

39. **THIS COURT ORDERS** that, subject to paragraph 37 of this Order, the Mareva Orders remain in full force and effect in all other respects.

40. **THIS COURT ORDERS** that TD Canada Trust forthwith freeze and prevent any removal or transfer of monies or assets held in any account #1579-6294127 (the "**DS Account**"), until further Order of the Court.

41. **THIS COURT ORDERS** that TD Canada Trust forthwith disclose and deliver up to the Receiver and the Plaintiff any and all records held by it concerning the DS Account.

*"Dunphy, J."*

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Justice Dunphy

## SCHEDULE "A"

### RECEIVER CERTIFICATE

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

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

1. **THIS IS TO CERTIFY** that Alvarez & Marsal Canada Inc., the receiver (the "**Receiver**") of all of the assets, undertakings and properties of Sameh Sadek also known as Sam Sadek, St. Maharial Pharmacy Inc. dba MD Health Pharmacy, St. Maharial Clinic Inc., SRX Investment Inc., Shepherd RX Pharmacy Inc. and Lilian Fam, including all proceeds thereof, to the extent such assets, undertakings and properties are located in Canada (collectively, the "**Domestic Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 11th day of September, 2018 (the "**Order**") made in an action having Court file number CV-18-602745-00-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 Domestic 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*, R.S.C. 1985, c. B-3 (the "**BIA**"), 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 Domestic 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\_\_.

**ALVAREZ & MARSAL CANADA INC.,**  
solely in its capacity as Receiver of the Property,  
and not in its personal capacity

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

Name:

Title:

**SCHEDULE "B"**  
**SERVICE LIST**

**Defendants**

TO: **SAMEH SADEK ALSO KNOWN AS SAM SADEK,  
ST. MAHARIAL PHARMACY INC. dba MD HEALTH  
PHARMACY, ST. MAHARIAL CLINIC INC., SRX INVESTMENT  
INC. and SHEPHERD RX PHARMACY INC.**

E-mail: [sadekx@gmail.com](mailto:sadekx@gmail.com)

AND TO: **LILIAN FAM**  
5045 Churchill Meadows Blvd.  
Mississauga ON L5M 7Z8

E-mail: [lilianfam@hotmail.com](mailto:lilianfam@hotmail.com)

**Banks named in August 9, 2018 and September 5, 2018 Orders of the  
Honourable Justice Dunphy**

AND TO: **RBC ROYAL BANK**  
Kathrine Smirle  
200 Bay Street  
Toronto, ON M5J 2J5  
[kathrine.smirle@rbc.com](mailto:kathrine.smirle@rbc.com)

AND TO: **THE BANK OF NOVA SCOTIA**  
Ian Arellano, Executive Vice-President and General Counsel  
44 King Street West  
Toronto, ON M5H 1H1  
[ian.arellano@scotiabank.com](mailto:ian.arellano@scotiabank.com)

AND TO: **CANADIAN IMPERIAL BANK OF COMMERCE**  
Stephen Scholtz  
Senior Vice-President and General Counsel (Canada)  
199 Bay Street, Commerce Court West, 11th Floor  
Toronto, ON M5L 1A2  
[Stephen.Scholtz@CIBC.com](mailto:Stephen.Scholtz@CIBC.com)



AND TO: **TD CANADA TRUST**

Ellen Patterson  
Group Head and General Counsel TD Bank Group  
12th Floor, TD Tower, TD Centre  
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Toronto, Ontario M5K 1A2  
[ellen.patterson@td.com](mailto:ellen.patterson@td.com)

Legal Demands Department  
4720 Tahoe Boulevard, 3rd Floor  
Mississauga, ON L4W 5P2  
Phone: 877-372-3972  
Fax: 855-569-1640  
ATTN: Rosanna Paolitto

AND TO: **BANK OF MONTREAL**

Miguel Mendes  
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Mississauga, ON L5M 5Y7

HSBC Branch  
101-3029 Argentinia Rd  
Mississauga, ON L5N8P7

AND TO: **NATIONAL BANK OF CANADA**  
Dominic Paradis  
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Corporate Secretary's Office  
600 De La Gauchetière Street West, 4th Floor  
Montreal, Quebec H3B 4L2  
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**Parties to other proceedings involving the defendants**

McKesson Canada Corporation v. St. Maharial Pharmacy Inc. et al.

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ESI Canada v. St. Maharial Pharmacy Inc. dba MD Health pharmacy

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Teva Canada Limited v. St. Maharial Pharmacy Inc. et al.

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170735 Ontario Inc. et al. v. Emily Rx Pharm Inc. et al.

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**Timothy Gindy**  
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Lawyers for the defendant in the above-noted  
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**Creditors (if not named above)**

AND TO: **MAXIUM FINANCIAL SERVICES INC. AND CWB MAXIUM  
FINANCIAL INC.**  
30 Vogell Rd. #1  
Richmond Hill, ON L4B 3K6

AND TO: **STUART BUDD & SONS LTD.**  
2430 S Service Rd W  
Oakville, ON L6L M59

AND TO: **KOHL & FRITSCH LIMITED**  
7622 Keele Street  
Concord, ON L4K 2R5

**Other**

AND TO: **STI TECHNOLOGIES LTD.**  
38 Solutions Drive #200  
Halifax, NS B3S 1L8

AND TO: **CLAIMSECURE INC.**  
1 City Centre Dr #620  
Mississauga, ON L5B 1M2

AND TO: **CAMERON STEWART LIFESCIENCE CANADA INC.**  
3470 Superior Court  
Oakville, ON L6L 0C4

AND TO: **MINISTRY OF FINANCE (ONTARIO)**  
Legal Service Branch  
33 King Street West, 6<sup>th</sup> Floor  
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ASTRAZENECA CANADA INC. -and- SAMEH SADEK also known as SAM  
SADEK et al.

Plaintiff

Defendants

Court File No. CV-18-602745-00 CL

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

Proceeding commenced at Toronto

**ORDER**

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**ASTRAZENECA CANADA INC.**  
Plaintiff

-and-

**SAMEH SADEK also known as SAM SADEK, et al.**  
Defendants

Court File No. CV-18-602745-00-CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**Proceedings commenced at Toronto**

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**ORDER**

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et al.*