

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

BETWEEN :

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**CUTTING EDGE PRECISION SERVICES ULC,  
PROPER WINDSOR HOLDINGS ULC and  
SGM REAL ESTATE HOLDINGS ULC**

Respondents

**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 RECEIVER  
Returnable November 23, 2022**

November 18, 2022

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## **PART I – INTRODUCTION**

1. This factum is filed by Albert Gelman Inc. (“**AGI**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of Cutting Edge Precision Services ULC (“**CEPS**”), Proper Windsor Holdings ULC (“**PWH**”) and SGM Real Estate Holdings ULC (“**SGM**” and together with CEPS and PWH, the “**Receivership Respondents**”), in support of the Receiver’s motion for three Orders.
2. The first Order (the “**DezielCo Approval and Vesting Order**”) contains, in substance, the following requested relief:
  - (a) approving the sale of the real property, legally described as PT LT 12 CON 7 SANDWICH EAST PT 1 & 2 12R3585; S/T R694390; TECUMSEH in PIN 75234-0119 (LT) (the “**Real Property**”), as contemplated by the agreement of purchase and sale dated November 4, 2022 (the “**APS**”) between the Receiver, Arlen Tool Co. Ltd. (“**Arlen**”) and 3305 Deziel Inc. (“**DezielCo**”, and collectively with Arlen, the “**Purchasers**”), and authorizing the Receiver to complete the transaction contemplated thereby;
3. The second Order (the “**Arlen Approval and Vesting Order**”) contains, in substance, the following requested relief:
  - (a) approving the sale of all of the assets of CEPS (the “**CEPS Assets**” and together with the Real Property, the “**Purchased Assets**”), as contemplated by the APS, and authorizing the Receiver to complete the transaction contemplated thereby;

4. The third Order (the “**Ancillary Order**”) contains, in substance, the following requested relief:
  - (a) approving the First Report of the Receiver to the Court dated November 14, 2022 (the “**First Report**”) and the activities of the Receiver and its counsel set out therein;
  - (b) approving the fees and disbursements of the Receiver and its counsel to and including November 9, 2022; and
  - (c) authorizing the Receiver to make distributions to each of The Toronto-Dominion Bank (“**TD Bank**”), Business Development Bank of Canada (“**BDC**”) and CWB National Leasing Inc. (“**CWB**” and collectively with TD Bank and BDC, the “**Secured Parties**” ), in each case, on account of the Receivership Respondents’ secured indebtedness owing to each of the Secured Parties for principal, interest and costs; and
  - (d) authorizing the Receiver to make a distribution to Canada Revenue Agency (the “**CRA**”) on account of accrued and unpaid Harmonized Sales Tax (“**HST**”);

## **PART II – THE FACTS**

### **A. Background**

5. Pursuant to an application by TD Bank under ss. 243 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and s. 101 of the Courts of Justice Act, R.S.O. c. C.43, as amended, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made an Interim Order dated October 12, 2022, as amended and restated by an Order dated October 21, 2022 (the “**Receivership Order**”) appointing AGI as the

Receiver over the Real Property and all the other assets, undertakings and properties of each of the Receivership Respondents, including all the assets held in trust or required to be held in trust by or for any of the Receivership Respondents, or by their lawyers, agents and/or any other person, and all proceeds thereof (together with the Real Property, the “**Property**”).<sup>1</sup>

6. Each of the Receivership Respondents, being unlimited liability companies governed by the British Columbia *Business Corporations Act*, are indirect subsidiaries of Proper Group International LLC (“**Proper Group**”), which is a designer and manufacturer of plastic injection molds and injection-molded sub-components. The Proper Group of companies are headquartered in Warren, Michigan.<sup>2</sup>
7. CEPS carries on business as a designer and manufacturer of tooling and plastic injection molding services, serving automotive, industrial and consumer customers. SGM, a related party, is a holding company that is the registered owner of the Real Property. CEPS leases the facility located on the Real Property. PWH is a holding company that owns all of the shares of CEPS.<sup>3</sup>
8. Prior to this receivership, CEPS employed approximately 70 workers (the “**CEPS Employees**”). Fifty of the CEPS Employees are currently working while the remaining 20 were placed on temporary layoff in or around the initiation of this receivership proceeding.<sup>4</sup>

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<sup>1</sup> Receivership Order at recitals and para 3, Motion Record at Tab 7A.

<sup>2</sup> First Report a paras 12 and 15, Motion Record at Tab 7.

<sup>3</sup> First Report a paras 12-14, Motion Record at Tab 7.

<sup>4</sup> First Report a para 21, Motion Record at Tab 7.

9. TD Bank and BDC hold the largest secured interests as against the Receivership Respondents. Pursuant to a priority agreement between CEPS, TD Bank and BDC dated January 30, 2015, BDC subordinated its security interests in favour of TD Bank's security over CEPS's inventory, accounts receivable, and equipment that TD Bank has a purchase-money security interest in. TD Bank, in turn, subordinated its security interests in favour of BDC over all of CEPS's other personal property.<sup>5</sup>

**B. The Prior Sales Processes**

10. In February, 2022, Proper Group retained Riveron Consulting LLC to assist with conducting a sales process and marketing Proper Group's U.S. and Canadian businesses (the "**Proper Group Sales Process**"). Proper Group entered into a letter of intent with a buyer dated July 19, 2022, which contemplated the sale of all Proper Group companies. However, in September, 2022, the buyer walked away from the proposed sale transaction. Although the Proper Group Sales Process marketed the U.S. and Canadian businesses both as a whole and separately, there were no offers submitted for the CEPS Assets on a standalone basis.<sup>6</sup>
11. Given the results of the Proper Group Sales Process, the shareholders of CEPS began marketing CEPS business on a standalone basis on or about September 23, 2022 (the "**CEPS Sales Process**"). As a result of these efforts, seven potential purchasers expressed interest and entered into non-disclosure agreements to access the data room. After reviewing the data room, two potential purchasers expressed continued interest.

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<sup>5</sup> First Report a para 46, Motion Record at Tab 7.

<sup>6</sup> First Report a paras 4 and 84, Motion Record at Tab 7.

However, given CEPS's significant liquidity constraints, no formal offers were submitted prior to the Receivership Order.

12. Following the Receivership Order, the Receiver held discussions with each of the potential purchasers but only the Purchasers wished to continue with the process. These continued negotiations resulted in the execution of the APS on November 4, 2022.<sup>7</sup>
13. The APS and the transactions contemplated therein will provide for a full payout of the secured debt owed by the Receivership Respondents to BDC, and at least a majority payout to TD Bank. In addition, CWB and the CRA will also be provided with a payout.<sup>8</sup>
14. The Receivership Order grants the Receiver the authority to, among other things:
  - (a) market, solicit offers and negotiate sales in respect of the Property on such terms as it may deem appropriate in its discretion; and
  - (b) sell the Property, provided:
    - (i) court approval is obtained in the case of any transaction exceeding \$250,000 or if the aggregate consideration for all transactions exceeds \$500,000; and
    - (ii) BDC's consent is obtained in the case of any transaction that involves property in respect of which BDC has a security interest ranking higher than that of TD Bank, where the proceeds of such transaction will not repay BDC in full.<sup>9</sup>

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<sup>7</sup> First Report at paras 85-87, Motion Record at Tab 7.

<sup>8</sup> First Report at paras 82 and 92, Motion Record at Tab 7.

<sup>9</sup> First Report at para 91, Motion Record at Tab 7.

### **PART III – ISSUES AND THE LAW**

15. The substantive issues to be adjudicated by the Court on the Receiver's motion are:

- (a) the authorization of the Receiver to make distributions to the Secured Parties and the CRA;
- (b) the approval of the First Report and the activities, fees and disbursements of the Receiver and its counsel as set out therein; and
- (c) the granting of the DezielCo Approval and Vesting Order and Arlen Approval and Vesting Order (collectively, the "**Approval and Vesting Orders**");

#### **A. Distributions To The Secured Parties And The CRA**

16. The Receiver is seeking authorization to make the following distributions to the Secured Parties and the CRA under the Ancillary Order:

- (a) To BDC: \$3,122,827.33;
- (b) To TD Bank: \$3,841,406.42 and US\$248,056.72;
- (c) To CWB: US\$182,994.82; and
- (d) To the CRA: \$54,558.57.

17. The Receiver submits that, subject to standard assumptions and qualifications, the Secured Parties hold valid and enforceable security interests in respect of the property covered by their respective security. The Receiver and its counsel have reviewed the applicable loan and security documents for each of the Secured Parties and the Receiver has been provided with security opinions which confirm, subject to standard assumptions

and qualifications, the validity of TD Bank's and BDC's security interests in the Property, registered as against the Receivership Respondents.<sup>10</sup>

18. Based on a review of the Receivership Respondents' books and records, the Receiver has determined that SGM is indebted to the CRA in the amount of \$56,900.77 as of November 3, 2022 in respect of HST, of which \$54,558.57 (which excludes amounts relating to penalties and interest) is subject to the deemed trust under section 222 of the *Excise Tax Act* which ranks in priority to the claims, secured or otherwise, of all creditors.<sup>11</sup>

**B. The First Report, Fees And Disbursements**

19. The activities of the Receiver as set out in the First Report were all necessary and undertaken in good faith pursuant to the Receiver's duties and powers set out in the Receivership Order. The activities were made with consideration towards the best interests of Receivership Respondents' stakeholders generally and in consultation with appropriate creditors. The Receiver respectfully submits that the First Report and the Receiver's activities described therein should be approved.
20. The Receivership Order provides that the Receiver and its counsel 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.<sup>12</sup> The Receiver is seeking approval for its total fees (inclusive of applicable taxes) in the amount of \$164,999.79 for

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<sup>10</sup> First Report at paras 43 and 45, Motion Record at Tab 7.

<sup>11</sup> First Report at para 61, Motion Record at Tab 7.

<sup>12</sup> Receivership Order at para 19, Motion Record at Tab 7A.

the period from October 3, 2022 to November 9, 2022, and the total fees of its counsel (inclusive of applicable taxes) in the amount of \$70,758.35 for the period from October 4, 2022 to November 9, 2022. Fee affidavits of both the Receiver and Aird & Berlis LLP in support of this relief are appended to the First Report.

### C. The Approval And Vesting Orders

21. In determining whether to approve a proposed sale of assets by a receiver, the Court must consider the following principles set out by the Ontario Court of Appeal in *Royal Bank v. Soundair* (“*Soundair*”):

- (a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
- (b) whether the interests of all parties have been considered;
- (c) the efficacy and integrity of the process by which offers are obtained; and
- (d) whether there has been unfairness in the working out of the process.<sup>13</sup>

22. In the present case, the Receiver submits that each element of the *Soundair* test has been met:

- (a) *Efforts to Obtain the Best Price*: The CEPS Assets have already been marketed in two prior sales processes (the Proper Group Sales Process and the CEPS Sales Process). There have been no further offers to purchase the Purchased Assets beyond the one made by the Purchasers. In addition, the purchase price contemplated by the APS is:

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<sup>13</sup> [\*Royal Bank of Canada v. Soundair Corp.\*](#) (1991), 4 O.R. (3d) 1 (Ont. C.A.) at para 16 [*Soundair*].

- (i) fair and reasonable based on estimates of value as outlined in recent appraisals prepared for the Receiver by Asset Services Inc. and S. Derochie & Associates Inc.; and
  - (ii) significantly higher than the value that would be received for the Purchased Assets in a forced liquidation scenario.<sup>14</sup>
- (b) *Interests of All the Parties:* The Receiver, BDC, TD Bank and the Receivership Respondents are all in support of the APS and the transactions contemplated therein. Based on the Receivership Respondents' books and records, the purchase price contemplated in the APS is sufficient to fully satisfy all amounts owing to BDC and a significant portion of the amounts owing to TD Bank, if not all.<sup>15</sup> In addition, the Purchasers intend to offer continued employment to the majority of CEPS's existing employees.<sup>16</sup>
- (c) *The Efficacy and Integrity of the Process:* The Proper Group Sales Process was conducted by an arm's length US consulting firm. In addition (and as further detailed in the First Report), the Receiver, once appointed, held discussions with both potential purchasers identified during the CEPS Sales Process and took into consideration, *inter alia*, the cost of operating the Receivership Respondents as a going concern and the interests of the shareholders and CEPS Employees. The Receiver also held discussions with both TD Bank and BDC, who are, as noted above, both in support of the approval of the APS.<sup>17</sup>

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<sup>14</sup> First Report at paras 30 and 82, Motion Record at Tab 7.

<sup>15</sup> First Report at paras 82 and 84, Motion Record at Tab 7.

<sup>16</sup> First Report at para 82, Motion Record at Tab 7.

<sup>17</sup> First Report at paras 74, 77 and 84, Motion Record at Tab 7.

(d) *Whether the Process was Unfair*: The Receiver does not believe that a further marketing process would result in a transaction more fair or beneficial to the stakeholders than the one contemplated by the APS. Finally, as noted above, the purchase price is sufficient to satisfy the majority of secured claims against the Receivership Respondents.<sup>18</sup>

23. Although the Receiver did not run the CEPS Sales Process, it has, in its capacity as the Court's officer, assessed the reasonableness of the CEPS Sales Process (preceded as it was by the Proper Group Sales Process), and the Receiver did conduct negotiations with potential purchasers identified in the CEPS Sales Process and did negotiate the APS. The transaction contemplated by the APS is, therefore, not a true "quick flip".

24. This Court has, however, on numerous occasions applied *Soundair* principles to approve true "quick flip" transactions in which a receiver, upon its appointment, requests approval of an already negotiated purchase agreement. In *Tool-Plas Systems Inc., Re. ("Tool-Plas")*, 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.<sup>19</sup>

25. In *Tool-Plas*, the quick flip transaction was approved where:

(a) There was substantial risk associated with a marketing process;

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<sup>18</sup> First Report at paras 74-78 and 92, Motion Record at Tab 7.

<sup>19</sup> *Tool-Plas Systems Inc., Re.* (2008), 48 C.B.R. (5th) 91 (Ont. S.C.J.), at paras 15 and 20 .

- (b) The proposed price exceeded a going concern and liquidation value of the assets;
- (c) The transaction was a successful outcome for certain stakeholders, including the secured lenders and certain employees; and
- (d) While certain parties would receive no recovery, this outcome was inevitable.<sup>20</sup>

26. Similarly, this Court has also noted that “specific consideration to the economic realities of the business and the specific transactions in question” is warranted in the context of quick flip transactions.<sup>21</sup> Courts have approved quick flip sales where:

- (a) 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;
- (b) Delay of the transaction will erode the realization of the security of the creditor in sole economic interest<sup>22</sup>; and
- (c) The record revealed a professional and prolonged effort to elicit interest in the properties from third party purchasers.<sup>23</sup>

27. The Receiver submits that circumstances of the present case also lend themselves favourably to the specific considerations afforded to quick flip sales:

- (a) As noted above, the Receiver believes that a further marketing process would not result in a more favourable purchase price or outcome for stakeholders. In fact, the Receiver believes that a further marketing process would result in a substantially less favourable outcome for stakeholders because, *inter alia*:

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<sup>20</sup> *Ibid* at paras 10, 11, 16, and 17.

<sup>21</sup> [Elleway Acquisitions Ltd. v. 4358376 Canada Inc.](#), 2013 ONSC 7009 at para 33.

<sup>22</sup> *Ibid*, citing [Fund 321 Ltd. Partnership v. Samsys Technologies Inc.](#) (2006), 21 C.B.R. (5<sup>th</sup>) 1 (Ont. S.C.J.) [*Fund 321*] and [Bank of Montreal v. Trent Rubber Corp.](#) (2005), 13 C.B.R. (5<sup>th</sup>) 31 (Ont. S.C.J.).

<sup>23</sup> [Montrose Mortgage Corp. v. Kingsway Arms Ottawa Inc.](#), 2013 ONSC 6905 at para 11 [*Montrose*].

- (i) the weekly expenses of continuing the business of CEPS to support an extended sales process are forecast at approximately \$100,000 per week. At the same time, the post receivership invoicing is forecast to be immaterial. Accordingly, the security position of the Secured Parties will decrease by approximately \$100,000 per week during the period of any extended sales process;<sup>24</sup> and
  - (ii) there is no guarantee that another purchaser can be secured.
- (b) As noted above, the Receiver estimates that the forced liquidation value of the Purchased Assets as a whole is significantly lower than the purchase price contemplated by the APS of approximately \$8,600,000.<sup>25</sup>
  - (c) The Purchasers intend to continue to employ the majority of the CEPS Employees. These employees would be terminated in a forced liquidation scenario.<sup>26</sup>
  - (d) While unsecured creditors are not expected to receive any recovery on their indebtedness, this outcome would be inevitable. The Receiver submits that the transactions contemplated by the APS provide for the best possible outcome for the Secured Parties and other stakeholders.
28. In *9-Ball Interests Inc. v Traditional Life Sciences Inc.*,<sup>27</sup> (“**9-Ball**”), Justice Brown, as he then was, dismissed an application to appoint a receiver and a motion to approve a quick flip sale, where the debtor, the applicant and the proposed purchaser were all related parties, and the purchaser was found to, effectively, be making a credit bid. Brown J.

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<sup>24</sup> First Report at paras 74, 77 and 84, Motion Record at Tab 7.

<sup>25</sup> First Report at para 82, Motion Record at Tab 7.

<sup>26</sup> *Ibid.*

<sup>27</sup> *9-Ball Interests Inc. v Traditional Life Sciences Inc.*, 2012 ONSC 2788, at paras 29, 32 and 33.

distinguished *Tool-Plas* as a case of a related party purchaser, but not a credit bid, and distinguished another quick flip approval decision, *Fund 321 Ltd. Partnership v. Samsys Technologies Inc.*,<sup>28</sup> (“**Fund 321**”) as neither a case of a related party transaction nor a credit bid. Brown J. found, among other things, that he was not presented with sufficient evidence of the validity of the security being applied in the credit bid, and that the short, cursory sale process, without any independent valuations, provided insufficient evidence that the purchaser was offering the best price attainable.

29. It is respectfully submitted that the present case ought to be distinguished on its facts from *9-Ball*. TD Bank, the Receivership Respondents and the Purchasers are all unrelated, and the Purchasers are not a credit bidding. As well, in contrast to *9-Ball*, the Proper Group Sales Process and the CEPS Sales Process were not cursory and the Receiver has obtained independent valuations.
30. The Court has repeatedly held that it will place a great deal of confidence in a receiver’s expert business judgment. Where a Court-appointed receiver has canvassed alternatives and chosen a transaction, as the Receiver has done in this case, that transaction will be approved. Only in exceptional circumstances will the Court intervene and proceed contrary to the recommendation of a Court-appointed receiver.<sup>29</sup> In *Skyepharma PLC v. Hyal Pharmaceutical Corp.*, the Honourable Justice Farley stated:

Provided a receiver has acted reasonably, prudently and not arbitrarily, a court should not sit as in an appeal from a receiver’s decision, reviewed in detail every element of the procedure by which the receiver made the decision (so long as that procedure fits with the authorized process specified by the court if a specific

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<sup>28</sup> *Fund 321 Ltd.*, *supra* note 22.

<sup>29</sup> *Morgan Trust Co. of Canada v. Falloncrest Financial Corp.*, [1996] O.J. No. 3919, *aff’d* [1996] O.J. No. 4298 (C.A.), leave to appeal dismissed, [1997] S.C.C.A. No. 4381.

order to that affect has been issued). To do so would be futile and duplicative. It would emasculate the role of the receiver and make it almost inevitable that the final negotiation of every sale would take place on the motion for approval. See *Royal Bank v. Soundair* at p. 14 and *Crown Trust Co. v. Rosenberg* at p. 109.<sup>30</sup>

31. The Court has accorded a receiver such deference even where the transaction under consideration is a true “quick flip”. In each of *Tool-Plas*, *Fund 321* and *Montrose Mortgage Corp. v. Kingsway Arms Ottawa Inc.*, this Honourable Court showed deference to the sale transaction recommendation made by a receiver or proposed receiver. The Receiver’s support for the APS in this case ought to be given similar deference.
  
32. The Receiver recognizes that courts will scrutinize the adequacy and the fairness of the sales and marketing process in quick flip transactions.<sup>31</sup> With this in mind, the Receiver respectfully submits that the *Soundair* principles have been satisfied and that the APS and the transactions contemplated therein are commercially reasonable under the circumstances. This Court’s approval of the APS, the associated vesting in favour of the Purchasers and the distributions to the Secured Parties and the CRA are in the best economic interests of the Receivership Respondents’ stakeholders. The Receiver’s counsel has provided the Receiver with an opinion confirming the validity and enforceability of TD Bank’s and BDC’s security, subject to standard assumptions and qualifications. As such, the Receiver’s request for the Approval and Vesting Orders and the Ancillary Order falls within “*the general principle that the court will be loathe to interfere with the business judgment of a Receiver and refuse to approve a transaction*”

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<sup>30</sup> *Skypepharma PLC v. Hyal Pharmaceutical Corp.*, [1999] O.J. No. 4300, at para 7; aff’d (2000), 47 O.R. (3d) 234 (Ont. C.A.) at para 7.

<sup>31</sup> *Montrose* at para 10.

*recommended by the Receiver acting properly in the fulfillment of its obligations as an officer of the court.”<sup>32</sup>*

**PART IV – RELIEF SOUGHT**

33. The Receiver respectfully requests the granting of orders substantially in the form contained in its motion record dated November 14, 2022.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** as of the date first written above.



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**Kyle Plunkett**  
**Aird & Berlis LLP**

Lawyers for the Receiver

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<sup>32</sup> *Soundair*, at para. 16; [Morganite Canada Corp. v. Wolfhollow Properties Inc.](#) (2003), 47 CBR (4th) 89 (ONSC) at para 7.

**SCHEDULE “A”  
LIST OF AUTHORITIES**

1.	<i>Royal Bank of Canada v. Soundair Corp.</i> , (1991) 4 O.R. (3d) 1 (C.A.)
2.	<i>Tool-Plas Systems Inc., Re.</i> (2008), 48 C.B.R. (5th) 91 (Ont. S.C.J.)
3.	<i>Elleway Acquisitions Ltd. v. 4358376 Canada Inc.</i> , 2013 ONSC 7009
4.	<i>Fund 321 Ltd. Partnership v. Samsys Technologies Inc.</i> (2006), 21 C.B.R. (5 <sup>th</sup> ) 1 (Ont. S.C.J.)
5.	<i>Bank of Montreal v. Trent Rubber Corp.</i> (2005), 13 C.B.R. (5 <sup>th</sup> ) 31 (Ont. S.C.J.)
6.	<i>Montrose Mortgage Corp. v. Kingsway Arms Ottawa Inc.</i> , 2013 ONSC 6905
7.	<i>9-Ball Interests Inc. v Traditional Life Sciences Inc.</i> , 2012 ONSC 2788
8.	<i>Morgan Trust Co. of Canada v. Falloncrest Financial Corp.</i> , [1996] O.J. No. 3919, aff’d [1996] O.J. No. 4298 (C.A.)
9.	<i>Skyepharm PLC v. Hyal Pharmaceutical Corp.</i> , [1999] O.J. No. 4300, at para 7; aff’d (2000), 47 O.R. (3d) 234 (Ont. C.A.)
10.	<i>Morganite Canada Corp. v. Wolfhollow Properties Inc.</i> , (2003) 47 CBR (4th) 89 (ONSC)

**SCHEDULE “B”  
RELEVANT STATUTES**

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

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.

**Courts of Justice Act, R.S.O. 1990, c. C-34, as amended**

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.

**THE TORONTO-DOMINION BANK**

Applicant

-and-

**CUTTING EDGE PRECISION SERVICES ULC, *et al.***

Respondents

Court File No: CV-22-00688427-00CL

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**FACTUM OF THE RECEIVER**

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