

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
*Ontario Business Corporations Act, R.S.O., Chapter B-16*

BETWEEN:

**ABBAS MOHAMMAD**

Applicant

and

**STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.**

Respondents

**MOTION RECORD  
(Appointment of Liquidator)  
(returnable June 20, 2017)**

June 16, 2017

**LANDY MARR KATS LLP**  
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Lawyers for Albert Gelman Inc.

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Court File No. CV-17-11740-00CL

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

*Ontario Business Corporations Act, R.S.O., Chapter B-16*

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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*Ontario Business Corporations Act, R.S.O., Chapter B-16*

BETWEEN:

**ABBAS MOHAMMAD**

Applicant

and

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2497486 ONTARIO LTD.**

Respondents

**NOTICE OF MOTION  
(Appointment of Liquidator)  
(returnable June 20, 2017)**

ABBAS MOHAMMAD (the "Applicant") will make a motion to a judge presiding over the Commercial List on Tuesday, June 20, 2017 at 10:00 a.m., or as soon after that time as the motion can be heard at 330 University Avenue, 8th Floor, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR**

1. An Order substantially in the form of the draft Order attached hereto as Schedule "A" (the "Draft Order") for various relief, including:

- (a) If necessary, abridging the time for service and validating service of this Notice of Motion and Motion Record, such that this motion is properly returnable today;
- (b) Winding up the Respondent, 2497486 Ontario Ltd. (the "Company");

- (c) Appointing Albert Gelman Inc. ("**AGI**"), as liquidator (in such capacities, the "**Proposed Liquidator**"), without security, for the purpose of winding up the Company;
- (d) Authorizing and directing the Liquidator to enter into a standard listing agreement with a duly licensed commercial real estate agent (the "**Realtor**") for the purpose of listing, marketing and selling the property, municipally known as 1028 Bloor Street West, Toronto, Ontario (the "**Real Property**"), and, if deemed advisable by the Liquidator in consultation with the Realtor, to take such actions or steps as may be required to lease any unit in the Real Property before listing the Real Property for sale;
- (e) Approving AGI's Preliminary Report to the Court and the activities of AGI as described therein; and,
- (f) Such further and other relief as to this Court may seem just.

#### **THE GROUNDS FOR THE MOTION ARE**

##### *In respect of the Winding Up and Appointment*

1. The Applicant is an Ontario company duly incorporated pursuant to the laws of the Province of Ontario;
2. The Applicant essentially holds one asset being the Real Property;
3. On March 22, 2017, the Applicant commenced the within Application, seeking certain relief pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B-16 (the "**BCA**"), including but not limited to an order winding up the Company, and appointing a liquidator to sell the assets of the Company;
4. The Applicant and the individual Respondents comprise all of the shareholders and directors of the Company;

5. There is a deadlock within the shareholders and management of the Company, and the parties cannot agree on the continued operations of the Company;

6. As a result, though not insolvent, the Company cannot continue its business and it is advisable to wind it up;

7. Further, the parties to this Application consent to the relief sought on the within Motion;

8. As a result, it is just and equitable that the Company should be wound up;

9. AGI consents to act as Liquidator;

*In respect of the proposed sale of property*

10. The Real Property constitutes the main asset of the Company;

11. Based on information available, there is sufficient equity in the Real Property to pay all the liabilities of the Company;

12. The Real Property contains three units that may be leased, two of which are already leased to arm's length third parties;

13. The proposed Liquidator recommends the granting of the relief sought;

14. Sections 207(b)(iii) and (iv), 208(1), 209, and 210 of the BCA;

15. Rules 2.03, 3.02, 16.08 and 37 of the *Rules of Civil Procedure*; and

16. Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

1. The Affidavit of Nima Baratzadeh, sworn June 16, 2017;

2. The Preliminary Report of the AGI; and

3. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 16, 2017

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Fax: (416) 225-3910

Lawyers for Albert Gelman Inc.



## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **WINDING UP AND APPOINTMENT**

2. THIS COURT ORDERS that, pursuant to section 207(b)(iii) and (iv) of the BCA, the Company be wound up.

3. THIS COURT ORDERS that pursuant to section 210 of the BCA, AGI is hereby appointed Liquidator, without security, of all of the assets, undertakings and properties of the Company acquired for, or used in relation to a business carried on by the Company, including all proceeds thereof (the "**Property**").

## **LIQUIDATOR'S POWERS**

4. THIS COURT ORDERS that in addition to all powers provided to the Liquidator pursuant to Part XVI of the BCA, the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of 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 manage, operate, and carry on the business of the Company, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Company;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, 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 Liquidator's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Company or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Company and to exercise all remedies of the Company in collecting such monies, including, without limitation, to enforce any security held by the Company;
- (g) to settle, extend or compromise any indebtedness owing to the Company;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the name and on behalf of the Company, for any purpose pursuant to this Order;
- (i) 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 the Company, the Property or the Liquidator, 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;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the 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 \$5,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00; 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;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 Liquidator, in the name of the Company;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Company, including, without limiting the generality of the

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Company;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Company may have; and
- (r) to apply to the court for an order dissolving the Company;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Liquidator 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 Company, and without interference from any other Person.

3.A. THIS COURT ORDERS that, without limiting any of the powers set out in paragraph 3 of this Order, the Liquidator is authorized and directed to enter into a standard listing agreement with a duly licensed commercial real estate agent (the "**Realtor**") for the purpose of listing, marketing and selling the property, municipally known as 1028 Bloor Street West, Toronto, Ontario (the "**Real Property**"), and may, if deemed advisable by the Liquidator in consultation with the Realtor, take such actions or steps as may be required to lease any unit in the Real Property before listing the Real Property for sale, and is hereby authorized to do so.

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

5. THIS COURT ORDERS that (i) the Company, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Liquidator of the existence of any 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 Company, 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 Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator 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 Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. 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 Liquidator for the purpose of allowing the Liquidator 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 Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. THIS COURT ORDERS that the Liquidator shall provide each of the relevant landlords with notice of the Liquidator'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 Liquidator'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 Liquidator, or by further Order of this Court upon application by the Liquidator on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE LIQUIDATOR**

9. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE COMPANY OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Company or the Property shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Company or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Company, the Liquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"), and further provided that nothing in this paragraph shall (i) empower the Liquidator or the Company to carry on any business which the Company is not lawfully entitled to carry on, (ii) exempt the Liquidator or the Company from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE LIQUIDATOR**

12. 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 the Company, without written consent of the Liquidator or leave of this Court.

### **CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Company 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 Company 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 Liquidator, and that the Liquidator shall be entitled to the continued use of the Company'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 Liquidator in accordance with normal payment practices of the Company or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

### **LIQUIDATOR TO HOLD FUNDS**

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the 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 Liquidator (the "**Post Liquidation Accounts**") and the monies standing to the credit of such Post Liquidation Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

15. THIS COURT ORDERS that all employees of the Company shall remain the employees of the Company until such time as the Liquidator, on the Company's behalf, may terminate the employment of such employees. The Liquidator 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 Liquidator may specifically agree in writing to pay.

#### **PIPEDA**

16. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the 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 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 Liquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Company, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. THIS COURT ORDERS that nothing herein contained shall require the Liquidator to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the 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 Liquidator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Liquidator shall not, as a result of this Order or anything done

in pursuance of the Liquidator's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE LIQUIDATOR'S LIABILITY**

18. THIS COURT ORDERS that the Liquidator 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 Liquidator by Part XVI of the BCA or by any other applicable legislation.

### **LIQUIDATOR'S ACCOUNTS**

19. THIS COURT ORDERS that the Liquidator and counsel to the Liquidator 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 Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the 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 Liquidator's Charge shall form a charge on the Property.

20. THIS COURT ORDERS that the Liquidator and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. THIS COURT ORDERS that prior to the passing of its accounts, the Liquidator 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 Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## FUNDING OF THE LIQUIDATION

22. THIS COURT ORDERS that the Liquidator 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 \$100,000.00 (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 Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon.

23. THIS COURT ORDERS that neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. THIS COURT ORDERS that the Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Liquidator's Certificates**") for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator'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 Liquidator's Certificates.

## SERVICE AND NOTICE

26. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, 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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to

Rule 3.01(d) of the Rules of Civil Procedure 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 '<http://www.albertgelman.com/corporate-solutions/insolvency-engagements/>'.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator 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 Company's creditors or other interested parties at their respective addresses as last shown on the records of the Company 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**

28. THIS COURT ORDERS that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. THIS COURT ORDERS that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Company.

30. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

31. THIS COURT ORDERS that the Liquidator 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 Liquidator 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.

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 Liquidator 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.

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## SCHEDULE "A"

### LIQUIDATOR CERTIFICATE

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

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

1. THIS IS TO CERTIFY that Albert Gelman Inc., the liquidator (the "**Liquidator**") of the assets, undertakings and properties 2497486 Ontario Inc. (the "**Company**") acquired for, or used in relation to a business carried on by the Company, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number CV-17-11740-00CL, has received as such Liquidator from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Liquidator 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 Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, subject to the priority of the charges set out in the Order, and the right of the Liquidator 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 Liquidator 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 Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator 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\_\_.

Albert Gelman Inc., solely in its capacity  
as Liquidator of the Property, and not in its  
personal capacity

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

Name:

Title:

TAB 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

*Ontario Business Corporations Act, R.S.O., Chapter B-16*

**B E T W E E N:**

**ABBAS MOHAMMAD**

**Applicant**

**and**

**STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.**

**Respondents**

**AFFIDAVIT OF NIMA BARATZADEH**

1. I am a friend of the Applicant in this application, have been involved in the dispute in issue, and as such have knowledge of the information to which I hereinafter depose. Where I do not have personal knowledge, I have stated the source of my knowledge and verily believe it to be true.
2. 2497486 Ontario Ltd ("249co") is an Ontario company duly incorporated pursuant to the laws of the Province of Ontario. Attached hereto and marked as **Exhibit "A"** is a true copy of the corporate profile report for 249co.
3. Abbas Mohammad ("Abbas") is a 50% shareholder of 249co.
4. Stephen Celestial ("Celestial") and Mustafa Ismael ("Ismael") are each 25% shareholders in 249co, and together hold 50% of the shares in 249co.
5. 249co holds one asset, a property located at 1028 Bloor Street West, Toronto, Ontario (the "Property"). A copy of the parcel register for the Property is attached hereto

as **Exhibit "B"**, and which contains the legal description of the Property. There is a charge registered against title to the Property in favour of Equitable Bank on December 30, 2015 (the "Charge"). The Charge is current and not in default.

6. The applicant and the individual respondents are the officers and directors of 249co. The applicant and individual respondent Celestial were the first directors, named in the articles of incorporation on October 22, 2015. The individual respondent Ismael was formally appointed as 249co's third director on March 31, 2016.

7. There are no by-laws or shareholder agreements in place as between the shareholders and or 249co.

14. The Property was purchased on October 16, 2015 and closed on December 30, 2015 for \$1,200,000.00. The Property is a mixed three story commercial-residential unit. The first floor is a commercial unit, with floors two and three being residential units.

15. I am advised by counsel for the respondents that the commercial unit is leased to an arm's length third party pursuant to the terms of a written commercial lease dated June 2, 2017 for a term of 5 years. The third-floor residential unit is also leased. The second-floor unit is currently vacant. Attached hereto and marked as **Exhibit C** is a true copy of the emails from Ryan Hanna.

16. Based on a recent appraisal provided to me by, and prepared for the individual respondents, and a current mortgage statement with respect to the Charge, I believe that the equity in 249co exceeds its liabilities.

17. However, there is a breakdown in the relationship between Abbas, on the one hand, and Celestial and Ismael, on the other. Divided, they each control 50% of the 249co and the company is deadlocked. The shareholders cannot agree on the continued operations of 249co. The shareholders' relationship has broken down and as a result, this application was commenced by Abbas for, among other things, an order that 249co be

application was commenced by Abbas for, among other things, an order that 249co be immediately wound up.

18. Though it may not be insolvent, due to the deadlock amongst the shareholders, 249co cannot continue its business. As a result, the shareholders have now agreed to the sale of the Property, wind-down and dissolution of 249co by a court-appointed liquidator, and it is advisable to do so.

19. In particular, the applicant, Celestial and Ismael have consented to the appointment of a liquidator/receiver over the assets of 249co. Attached hereto and marked as **Exhibit D** is a true copy of correspondence from counsel for Celestial and Ismael containing said consent.

20. Albert Gelman Inc. ("AGI") has consented to its Court appointment as liquidator pursuant to Part XVI of the *Business Corporations Act*. A copy of the Receiver's Consent is attached hereto and **Exhibit E**. I understand that AGI will be filing a preliminary report to the court in respect of this motion.

21. There are a number of issues that remain to be tried between Abbas and the individual respondents, but counsel have agreed that those issues will be addressed in a separate hearing.

22. I make this affidavit in support of the appointment of AGI for the purpose of liquidating, winding-down and dissolving 249co.

Sworn before me at the City of Toronto  
in the Province of Ontario, this 16<sup>th</sup>  
day of June, 2017

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

)  
)  
)  
)  
)   
) \_\_\_\_\_  
) NIMA BARATZADEH  
)  
)

**ABBAS MOHAMMAD**  
Applicant

-and-

**STEPHEN CELESTIAL, et al.**  
Respondents

Court File No. CV-17-11740-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT  
TORONTO**

**AFFIDAVIT**

**LANDY MARR KATS LLP**  
Suite 900 - 2 Sheppard Avenue East  
Toronto, Ontario M2N 5Y7

David Fogel (58572A)  
Tel: (416) 221-9343  
Fax: (416) 221-8928

Lawyers for the Applicant

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF NIMA BARATZADEH, SWORN  
BEFORE ME THIS 16<sup>TH</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
A Commissioner, etc.

Request ID: 019440982  
Transaction ID: 62357750  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2016/10/03  
Time Report Produced: 13:53:00  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2497486	2497486 ONTARIO LIMITED	2015/12/22
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>		<b>Date Amalgamated</b>
STEPHEN CELESTIAL 16 FOUNDRY AVENUE		NOT APPLICABLE
		<b>Amalgamation Ind.</b>
		NOT APPLICABLE
<b>Suite # 201</b>		<b>New Amal. Number</b>
TORONTO		NOT APPLICABLE
ONTARIO		<b>Notice Date</b>
CANADA M6H 0A9		NOT APPLICABLE
		<b>Letter Date</b>
<b>Mailing Address</b>		NOT APPLICABLE
STEPHEN CELESTIAL 16 FOUNDRY AVENUE		<b>Revival Date</b>
		NOT APPLICABLE
<b>Suite # 201</b>		<b>Continuation Date</b>
TORONTO		NOT APPLICABLE
ONTARIO		<b>Transferred Out Date</b>
CANADA M6H 0A9		NOT APPLICABLE
		<b>Cancel/Inactive Date</b>
		NOT APPLICABLE
		<b>EP Licence Eff.Date</b>
		NOT APPLICABLE
		<b>EP Licence Term.Date</b>
		NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum</b>	<b>in Ontario</b>
	<b>Maximum</b>	<b>Date Ceased</b>
	00001	<b>in Ontario</b>
	00010	NOT APPLICABLE
<b>Activity Classification</b>		NOT APPLICABLE
NOT AVAILABLE		

Request ID: 019440982  
Transaction ID: 62357750  
Category ID: UNE

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2016/10/03  
Time Report Produced: 13:53:00  
Page: 2

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
2497486	2497486 ONTARIO LIMITED

<b>Corporate Name History</b>	<b>Effective Date</b>
2497486 ONTARIO LIMITED	2015/12/22

<b>Current Business Name(s) Exist:</b>	NO
<b>Expired Business Name(s) Exist:</b>	NO

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
STEPHEN CELESTIAL	16 FOUNDRY AVENUE Suite # 201 TORONTO ONTARIO CANADA M6H 0A9

<b>Date Began</b>	<b>First Director</b>	
2015/12/22	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
DIRECTOR		Y

Request ID: 019440982  
Transaction ID: 62357750  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2016/10/03  
Time Report Produced: 13:53:00  
Page: 3

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2497486

2497486 ONTARIO LIMITED

**Administrator:**  
Name (Individual / Corporation)

Address

MUSTAFA

ISMAEL

60 CLIPPER ROAD

Suite # 710  
NORTH YORK  
ONTARIO  
CANADA M2J 4E2

Date Began

First Director

2016/03/30

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

DIRECTOR

Y

**Administrator:**  
Name (Individual / Corporation)

Address

ABBAS

MOHAMMAD

259 BOAKE TRAIL

RICHMOND HILL  
ONTARIO  
CANADA L4B 4B4

Date Began

First Director

2015/12/22

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

DIRECTOR

Y

Request ID: 019440982  
Transaction ID: 62357750  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2016/10/03  
Time Report Produced: 13:53:00  
Page: 4

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2497486

2497486 ONTARIO LIMITED

Last Document Recorded

Act/Code Description

Form

Date

CIA CHANGE NOTICE

1

2016/04/04 (ELECTRONIC FILING)

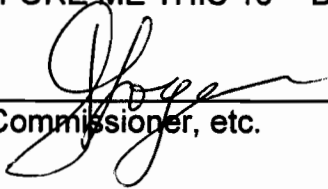
THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

~~TAB B~~

THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF NIMA BARATZADEH, SWORN  
BEFORE ME THIS 16<sup>TH</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
A Commissioner, etc.



Ontario ServiceOntario

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND  
REGISTRY  
OFFICE #66

21292-0416 (L17)

PAGE 1 OF 2  
PREPARED FOR Nannam01  
ON 2017/06/15 AT 13:49:05

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: PT LT 5-6 BLK F PL 622 NORTH WEST ANNEX AS IN WD85145; CITY OF TORONTO

PROPERTY REMARKS:

ESTATE/QUALIFIER:  
FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:  
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:  
2002/11/25

OWNERS' NAMES  
2497486 ONTARIO LIMITED

CAPACITY SHARE  
ROWN

REG. NOM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2002/11/22 **				
** SUBJECT,		ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO				
**		SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.				
**		THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
** DATE OF CONVERSION TO LAND TITLES: 2002/11/25 **						
WD85145	1953/12/04	TRANSFER		*** COMPLETELY DELETED ***	DOMINION BEAUTY SUPPLIES LIMITED	
63BA2093	1983/10/13	PLAN BOUNDRIES ACT				C
		REMARKS: CT624504				
CA460110	1997/03/19	CHARGE		*** COMPLETELY DELETED ***	THE BANK OF NOVA SCOTIA	
CA460111	1997/03/19	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		
		REMARKS: WD85145, CA460110				
CA476735	1997/06/10	NOTICE OF LEASE		*** COMPLETELY DELETED ***	DOMINION BEAUTY SUPPLIES LTD.	
		REMARKS: CHATTELS, WD85145				
CA480557	1997/06/27	CHARGE		*** COMPLETELY DELETED ***	SCOTIA MORTGAGE CORP.	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



# Ontario ServiceOntario

LAND REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER  
 REGISTRY OFFICE #66  
 21292-0416 (LTP)  
 \* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

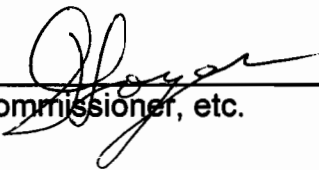
PAGE 2 OF 2  
 PREPARED FOR Naanak01  
 ON 2017/06/15 AT 13:49:05

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
CA486902	1997/07/28	POSTPONEMENT		*** COMPLETELY DELETED ***		
	REMARKS: CA460110, CA480557					
AT2036473	2009/03/27	DISCH OF CHARGE		*** COMPLETELY DELETED *** SCOTIA MORTGAGE CORPORATION		
	REMARKS: RE: CA480557					
AT4102156	2015/12/22	APL CR NAME OWNER		*** COMPLETELY DELETED *** DOMINION BEAUTY SUPPLIES LIMITED	CAN-RAD BEAUTY LIMITED	
AT4107021	2015/12/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
	REMARKS: CA460110.					
AT4107053	2015/12/30	TRANSFER	\$1,200,000	CAN-RAD BEAUTY LIMITED	2497486 ONTARIO LIMITED	C
	REMARKS: PLANNING ACT STATEMENTS.					
AT4107054	2015/12/30	CHARGE	\$900,000	2497486 ONTARIO LIMITED	EQUITABLE BANK	C
AT4107055	2015/12/30	NO ASSGN RENT GEN		2497486 ONTARIO LIMITED	EQUITABLE BANK	C
	REMARKS: AT4107054					
AT4130146	2016/01/27	APL (GENERAL)		*** COMPLETELY DELETED *** THE CONSUMERS' GAS COMPANY LTD.		
	REMARKS: CA476735					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

TAB C

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AFFIDAVIT OF NIMA BARATZADEH, SWORN  
BEFORE ME THIS 16<sup>TH</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
A Commissioner, etc.

## David Fogel

---

**From:** Ryan Hanna [rhanna@fijlaw.com]  
**Sent:** June-14-17 12:12 PM  
**To:** David Fogel  
**Cc:** Lynda Christodoulou  
**Subject:** RE: Re Winding-Up of 2497486 Ontario \*Updated\*

Hi

The commercial tenant is:

**1883979 ONTARIO LIMITED O/A THE COMMON ESPRESSO BAR**

Date of Lease: June 1, 2017

Term: 5 years with option to renew for additional 5 years

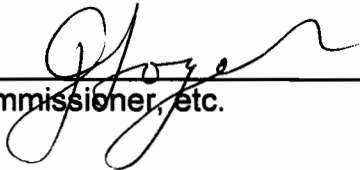
**Ryan Hanna**  
**FIJ Law LLP**  
Barristers & Solicitors  
50 West Pearce Street, Suite 10  
Richmond Hill, Ontario L4B 1C5

(905) 763-3770 ext. 250  
(905) 763-3772 – fax  
e-mail: [rhanna@fijlaw.com](mailto:rhanna@fijlaw.com)  
web: [www.fijlaw.com](http://www.fijlaw.com)

This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. Any unauthorized disclosure, copying, other distribution of this communication or taking any action on its contents is strictly prohibited. If you have received this message in error, please notify us immediately and delete this message without reading, copying or forwarding it to anyone.

TAB 10

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BEFORE ME THIS 16<sup>TH</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
A Commissioner, etc.

## David Fogel

---

**From:** Ryan Hanna [rhanna@fijlaw.com]  
**Sent:** May-31-17 6:09 PM  
**To:** David Fogel  
**Cc:** Lynda Christodoulou; Sabrina Di Millo  
**Subject:** RE: Mohammad

David,

My clients will consent to a receiver.

  
**Ryan Hanna**  
**FIJ Law LLP**  
Barristers & Solicitors  
50 West Pearce Street, Suite 10  
Richmond Hill, Ontario L4B 1C5

(905) 763-3770 ext. 250  
(905) 763-3772 – fax  
e-mail: [rhanna@fijlaw.com](mailto:rhanna@fijlaw.com)  
web: [www.fijlaw.com](http://www.fijlaw.com)

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TAB E

THIS IS EXHIBIT "E" REFERRED TO IN THE  
AFFIDAVIT OF NIMA BARATZADEH, SWORN  
BEFORE ME THIS 16<sup>TH</sup> DAY OF JUNE, 2017

  
\_\_\_\_\_  
A Commissioner, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

***Ontario Business Corporations Act, R.S.O., Chapter B-16***

**BETWEEN:**

**ABBAS MOHAMMAD**

Applicant

- and -

**STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.**

Respondents

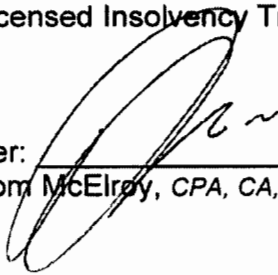
**CONSENT TO ACT**

**ALBERT GELMAN INC.** consents to the following:

1. To act as Liquidator of 2497486 Ontario Ltd.

**DATED** at Toronto, this 15th day of June, 2017

**ALBERT GELMAN INC.,  
Licensed Insolvency Trustee**

Per:   
Tom McElroy, CPA, CA, CBV, CIRP, LIT

TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
*Ontario Business Corporations Act, R.S.O., Chapter B-16***

**ABBAS MOHAMMAD**

Applicant

- and -

**STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.**

Respondents

**PRELIMINARY REPORT OF ALBERT GELMAN INC.  
in its capacity as proposed liquidator**

(Dated June 15, 2017)

**I. INTRODUCTION**

1. Albert Gelman Inc. ("AGI") understands that Abbas Mohamad (the "Applicant") intends to bring a motion before the Ontario Superior Court of Justice for an Order ("Liquidation Order") pursuant to section 207 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B-16, as amended for an order winding up the respondent, 2497486 Ontario Ltd. ("2497486") and appointing AGI as liquidator ("Liquidator"), without security, of all of the assets, undertakings and property (the "Property"), owned by 2497486.

2. Albert Gelman Inc. is a licensed trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* (Canada). AGI has consented to act as Liquidator in these proceedings in the event the Court grants the Liquidation Order. Until the

granting of the Liquidation Order and in the context of this preliminary report, AGI is referred to as the **"Proposed Liquidator"**.

## **II. PURPOSE OF THIS REPORT**

3. The purpose of the Proposed Liquidator's preliminary report is to provide the Court with details regarding the following:

- a. the real property municipally known as 1028 Bloor Street West, Toronto (the **"Real Property"**) owned by 2497486;
- b. the shareholders and directors of 2497486;
- c. the secured creditors of 2497486;
- d. the request for the appointment of a Liquidator;
- e. the action and activities of the Proposed Liquidator prior to the date of the hearing to appoint the Liquidator which is scheduled for June 20, 2017; and,
- f. the Sales Process (defined below) that the Proposed Liquidator proposes to undertake in order to market and sell the Real Property.

## **III. SCOPE AND TERMS OF REFERENCE**

4. In preparing this report, the Proposed Liquidator has obtained and relied upon certain unaudited financial information of 2497486, 2497486's books and records, and discussions with both counsel for the Applicant, Mr. David Fogel, and counsel for the Respondents, Mr. Ryan Hanna, as well as with two of the shareholders of 2497486, Mr. Stephen Celestial and Mr. Mustafa Ismael directly, and with 2497486's accountant.

5. While the Proposed Liquidator has reviewed the various documents provided, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles (**"GAAP"**) or International Financial Reporting Standards (**"IFRS"**). Accordingly, the Proposed Liquidator expresses no opinion or other form of assurance pursuant to

GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

6. This report has been prepared for the use of this Court and 2497486's stakeholders as general information relating to 2497486 and to assist the Court in making a determination of whether to approve the relief sought by the Applicant. Accordingly, the reader is cautioned that this report may not be appropriate for any other purpose. The Proposed Liquidator will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

7. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

#### **IV. BACKGROUND INFORMATION**

##### Real Property

8. The principal asset of 2497486 is the Real Property which it manages. The Real Property consists of a three story building with a commercial unit on the first floor and separate residential units on each of the second and third floors. The commercial unit and the third floor residential unit are leased. The second floor residential unit is vacant.

9. The Proposed Liquidator obtained a parcel register from Land Registry Office #66 for the Land Titles Division in respect of the Real Property dated June 9, 2017 (the "Parcel Register") which indicates, among other things, the following:

- a. 2497486 is the registered owner in fee simple of the Real Property;
- b. There is a charge registered against title to the Real Property in favour of Equitable Bank on December 30, 2015 in the amount of \$900,000 as Instrument No. AT4107054; and,

- c. There is a Notice of Assignment of Rents – General registered against title to the Real Property in favour of Equitable Bank on December 30, 2015 as Instrument No. AT4107055;

10. Counsel for the Respondents provided the Proposed Liquidator with an appraisal of the Real Property which was prepared by York Simcoe Appraisal Corporation and dated May 25, 2017 (the "Appraisal"). The value set out in the Appraisal is not being disclosed at this time to avoid negatively impacting the marketing and sale of the Real Property. The Proposed Liquidator intends to provide a copy of the Appraisal to the Court under a sealing order when approval of a sale transaction is sought. At this time, the Proposed Liquidator notes that the appraised value exceeds the face amount of the Equitable Bank charge such that there appears to be sufficient equity in the Real Property, as will be more particularly described below.

#### Shareholders and Directors

11. The common shares of 2497486 are owned as follows:

- a. Abbas Mohammad – 50%;
- b. Stephen Celestial – 25%; and,
- c. Mustafa Ismael – 25%.

(collectively, the "Shareholders")

12. Based on information set out in a corporation profile report obtained by the Proposed Liquidator dated June 13, 2017, the Shareholders are also the directors of 247486. Attached hereto as Appendix "A" is a copy of the corporation profile report.

13. The Proposed Liquidator understands that the Shareholders are divided with Abbas Mohammad on one side, and Stephen Celestial and Mustafa Ismael on the other, resulting in a deadlock situation.

#### Secured and Unsecured Creditors

14. Based on the information set out in the Parcel Register, Equitable Trust has a first charge on the Real Property. Counsel to the Applicant provided the Proposed Liquidator with a mortgage discharge statement in respect of the Equitable Trust mortgage which indicates that in order for Equitable Bank to agree to discharge the mortgage on June 20, 2017, Equitable Bank requires payment in the amount of \$838,291.73 (the "Payout Statement").

15. The Proposed Liquidator conducted a search pursuant to the *Personal Property Security Act* (Ontario) ("PPSA") on June 13, 2017 (the "PPSA Search") which identified, as of June 12, 2017, Equitable Bank as having registered a financing statement on December 31, 2015. The financing statement indicates that Equitable Bank claims a security interest against 2497486 in respect of inventory, equipment, accounts and other in the amount of \$900,000 pursuant to a General Assignment of Rents and a General Security Agreement with respect to the Real Property. There were no other creditors with registered security interests identified on the PPSA Search. Attached hereto as **Appendix "B"** is a copy of the PPSA Search.

16. The Proposed Liquidator is not in a position to report on the unsecured creditors of 2497486 at this time. However, the Proposed Liquidator is advised by the directors that the quantum of any unsecured debt is significantly less than the anticipated equity available in the Real Property.

17. The Proposed Liquidator also understands that 2497486 is not in default of any of its obligations at this time, and is not otherwise insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada).

#### Appointment of Liquidator

18. The Proposed Liquidator has been advised by both counsel to the Applicant and counsel to the Respondents that the parties have agreed to the winding up of 2497486 and, for the purpose of winding up the company, the appointment of the Liquidator is on consent of both the Applicant and the Respondents.

19. The Proposed Liquidator understands that the Real Property, and any associated assets arising out of the Real Property, constitutes substantially all of the assets of 2497486. As such, the Liquidator anticipates that once the Real Property has been sold, the Liquidator will seek to pay out all of the creditors in full, pending only the resolution of any disputes as between the shareholders and the characterization of any of their claims as equity or debt.

#### **V. PRE-FILING ACTIVITIES OF THE PROPOSED LIQUIDATOR**

20. Prior to the date of the Court hearing to appoint the Liquidator, the Proposed Liquidator undertook, among other things, the following activities:

- a. Met with the respondent shareholders and their legal counsel, Mr. Ryan Hanna, on June 7, 2017 at Mr. Hanna's office to discuss the appointment of a liquidator of the 2497486's property, and in particular, the Real Property;
- b. Participated in several conference calls with counsel for the Applicant and counsel for the Respondents to discuss the appointment of a liquidator;
- c. Provided the Applicant with its consent to the appointment as Liquidator. Attached hereto as **Appendix "C"** is a copy of the consent;
- d. Obtained a fee guarantee from the Applicant along with a third party deposit from the Applicant in the amount of \$50,000 in support of the guarantee;
- e. Retained Kronis, Rotsztain, Margles, Cappel LLP as its proposed legal counsel in this matter; and,
- f. Prepared this preliminary report.

#### **VI. PROPOSED SALE PROCESS**

21. The Proposed Liquidator contemplates undertaking, among other things, the following steps in order to sell the Real Property:

- a. Select a licensed commercial real estate agent (the "Realtor") and enter into a listing agreement with the Realtor;
- b. In consultation with the Realtor, determine whether the Proposed Liquidator should enter into or renew lease agreements in order to fill or avoid a vacancy of any of the units of the Real Property, and whether this should be done prior to the listing and marketing of the Real Property;
- c. Instruct the Relator to list the property on MLS and engage in any other marketing activities that it, in consultation with the Realtor, believes will improve the exposure to the market and ultimately result in the highest purchase offers;
- d. Negotiate any offer received from any prospective purchaser of the Real Property;
- e. Enter into to an agreement to sell the Real Property (the "Transaction"); and,
- f. Obtain an Order of this honourable Court to close the Transaction.

(collectively, the "Sales Process")

22. The Proposed Liquidator anticipates that the ultimate purchaser of the Real Property will require an Order of the Court approving the Transaction and vesting in that purchaser 2497486's right, title and interest in and to the Real Property free and clear of any encumbrances (the "Approval and Vesting Order"). In this regard, the Proposed Liquidator anticipates that any agreement of purchase and sale of the Real Property will be conditional on the Purchaser obtaining an Approval and Vesting Order.

## VII. RECOMMENDATIONS

23. For the reasons explained herein the Proposed Liquidator respectfully recommends that this Honourable Court make an Order approving:

- a. the appointment of the Proposed Liquidator as Liquidator of 2497486;

- b. this report and the activities of the Proposed Liquidator prior to the Court hearing to appoint the Liquidator described herein; and,
- c. the order sought by the Applicant, including with respect to the Sales Process.

\* \* \*

All of which is respectfully submitted this 15th day of June, 2017.

**ALBERT GELMAN INC., solely in its  
capacity as the Proposed Court-Appointed Liquidator of 2497486 Ontario Ltd.  
and not in its Personal or any other Capacity**

Per:



Tom McElroy, CPA, CA, CBV, CIRP, LIT

Request ID: 020367917  
Transaction ID: 64743497  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/06/13  
Time Report Produced: 09:32:26  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2497486	2497486 ONTARIO LIMITED	2015/12/22
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
STEPHEN CELESTIAL 16 FOUNDRY AVENUE	NOT APPLICABLE	NOT APPLICABLE
<b>Suite # 201</b> TORONTO ONTARIO CANADA M6H 0A9	<b>New Amal. Number</b>	<b>Notice Date</b>
	NOT APPLICABLE	NOT APPLICABLE
<b>Mailing Address</b>	<b>Letter Date</b>	
STEPHEN CELESTIAL 16 FOUNDRY AVENUE	NOT APPLICABLE	
<b>Suite # 201</b> TORONTO ONTARIO CANADA M6H 0A9	<b>Revival Date</b>	<b>Continuation Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum      Maximum</b>	<b>in Ontario</b>
	00001      00010	NOT APPLICABLE
<b>Activity Classification</b>		<b>Date Ceased</b>
NOT AVAILABLE		<b>in Ontario</b>
		NOT APPLICABLE

Request ID: 020367917  
Transaction ID: 64743497  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/06/13  
Time Report Produced: 09:32:26  
Page: 2

## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2497486	2497486 ONTARIO LIMITED

Corporate Name History	Effective Date
2497486 ONTARIO LIMITED	2015/12/22

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
STEPHEN CELESTIAL	16 FOUNDRY AVENUE Suite # 201 TORONTO ONTARIO CANADA M6H 0A9

Date Began	First Director	
2015/12/22	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

Request ID: 020367917  
Transaction ID: 64743497  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

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# CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
2497486	2497486 ONTARIO LIMITED

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
MUSTAFA ISMAEL	60 CLIPPER ROAD Suite # 710 NORTH YORK ONTARIO CANADA M2J 4E2

<b>Date Began</b>	<b>First Director</b>	
2016/03/30	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
DIRECTOR		Y

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
ABBAS MOHAMMAD	259 BOAKE TRAIL  RICHMOND HILL ONTARIO CANADA L4B 4B4

<b>Date Began</b>	<b>First Director</b>	
2015/12/22	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
DIRECTOR		Y

Request ID: 020367917  
Transaction ID: 64743497  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/06/13  
Time Report Produced: 09:32:26  
Page: 4

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2497486

**Corporation Name**

2497486 ONTARIO LIMITED

**Last Document Recorded**

**Act/Code Description**

**Form**

**Date**

CIA CHANGE NOTICE

1

2016/04/04 (ELECTRONIC FILING)

**THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.**

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

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Type of Search Business Debtor  
 Search Conducted On 2497486 ONTARIO LTD.  
 File Currency 12JUN 2017

File Number	Family	of Families	Page	of Pages	Expiry Date	Status
713024649	1	1	1	2	31DEC 2019	

## FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
713024649		001	2		20151231 1502 1902 1168	P PPSA	04

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number
	2497486 ONTARIO LIMITED	
	Address	City
	1028 BLOOR STREET WEST	TORONTO
		Province
		Postal Code
		ONTA
		M6H 1M2

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
	27OCT1973	STEPHEN		CELESTIAL

Business Debtor	Business Debtor Name	Ontario Corporation Number
	Address	City
	201-16 FOUNDRY AVENUE	TORONTO
		Province
		Postal Code
		ONTA
		M6H 0A9

Secured Party	Secured Party / Lien Claimant	City	Province	Postal Code
	EQUITABLE BANK			
	Address	City	Province	Postal Code
	30 ST. CLAIR AVENUE WEST	TORONTO	ONTA	M4V 3A1

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X		900000	30DEC2019	

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description
	GENERAL ASSIGNMENT OF RENTS & GENERAL SECURITY AGREEMENT WITH RESPECT TO 1028 BLOOR STREET WEST, TORONTO, ONTARIO

<b>Registering Agent</b>	<b>Registering Agent</b>			
	RAPID LEGAL SERVICES INC.			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	107 EASTVALE DRIVE	MARKHAM	ONTA	L3S 4T4

CONTINUED

<b>Type of Search</b>	Business Debtor						
<b>Search Conducted On</b>	2497486 ONTARIO LTD.						
<b>File Currency</b>	12JUN 2017						
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>
	713024649	1	1	2	2	31DEC 2019	

## FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>
713024649		002	2		20151231 1502 1902 1168		

<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
	20APR1984	ABBAS		MOHAMMAD
<b>Business Debtor</b>	<b>Business Debtor Name</b>			<b>Ontario Corporation Number</b>
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	259 BOAKE TRAIL	RICHMOND HILL	ONTA	L4B 4B4

<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
<b>Business Debtor</b>	<b>Business Debtor Name</b>			<b>Ontario Corporation Number</b>
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>

<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>

<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>

<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>	<b>Model</b>	<b>V.I.N.</b>

<b>General Collateral Description</b>	<b>General Collateral Description</b>

<b>Registering Agent</b>	<b>Registering Agent</b>			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>

LAST PAGE

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TAB 4

Court File No. ———CV-17-11740-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Ontario Business Corporations Act, R.S.O., Chapter B-16

THE HONOURABLE — MADAM ) WEEKDAY TUESDAY, THE #20<sup>TH</sup>  
JUSTICE — CONW AY ) DAY OF MONTH JUNE, 2017 YR

**PLAINTIFF<sup>1</sup> ABBAS MOHAMMAD**

Plaintiff Applicant

- and -

**DEFENDANT STEPHEN CELESTIAL, MUSTAFA ISMAEL and**  
**2497486 ONTARIO LTD.**

Defendant Respondents

**ORDER**  
**(appointing Receiver Liquidator and approving sale process)**

THIS MOTION made by the Plaintiff<sup>2</sup> Applicant for an Order pursuant to section 243(1) 207 and 210 of the Business Corporations Act, R.S.O., 1990, c. B-16 ~~Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3~~, as amended (the "BIABCA") and section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing {RECEIVER'S NAME} Albert Gelman Inc. as receiver [and manager] liquidator (in such capacities, the "Receiver Liquidator") without security, of all of the assets, undertakings and properties of

<sup>1</sup> The Model Order Subcommittee notes that a receiver Liquidatorship proceeding may be commenced by action or by application. This model order is drafted on the basis that the receiver Liquidatorship proceeding is commenced by way of an action.

<sup>2</sup> Section 243(1) of the BIA provides that the Court may appoint a receiver Liquidator "on application by a secured creditor".

~~[DEBTOR'S NAME]2497486 Ontario Inc.~~ (the "**DebtorCompany**") acquired for, or used in relation to a business carried on by the ~~DebtorCompany~~, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of [NAME] sworn ~~[DATE]~~ June 16, 2017 and the Exhibits thereto and on hearing the submissions of counsel for ~~\_[NAMES]the Applicant and the Respondents, Stephen Celestial and Mustafa Ismael (the "Responding Shareholders"), no one appearing for the Company [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of- [RECEIVER'S NAME]AGI to act as the ReceiverLiquidator, and on being advised that the parties consent to the relief sought of the Applicant and the Responding Shareholders,~~

## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated<sup>3</sup> so that this motion is properly returnable today and hereby dispenses with further service thereof.

## WINDING UP AND APPOINTMENT

2. THIS COURT ORDERS that, pursuant to section 207(b)(iii) and (iv) of the BCA, the Company be wound up.

2.3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA210 of the BCA, [RECEIVER'S NAME]AGI is hereby appointed ReceiverLiquidator, without security, of all of the assets, undertakings and properties of the DebtorCompany acquired for, or used in relation to a business carried on by the DebtorCompany, including all proceeds thereof (the "Property").

---

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

### RECEIVER'S LIQUIDATOR'S POWERS

3.4. THIS COURT ORDERS that in addition to all powers provided to the Liquidator pursuant to Part XVI of the BCA, the ReceiverLiquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the ReceiverLiquidator is hereby expressly empowered and authorized to do any of the following where the ReceiverLiquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of 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 manage, operate, and carry on the business of the DebtorCompany, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the DebtorCompany;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, 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 ReceiverLiquidator's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the DebtorCompany or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~Company and to exercise all remedies of the ~~Debtor~~Company in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~Company;
- (g) to settle, extend or compromise any indebtedness owing to the ~~Debtor~~Company;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the ~~Receiver~~Liquidator's name or in the name and on behalf of the ~~Debtor~~Company, for any purpose pursuant to this Order;
- (i) 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 the ~~Debtor~~Company, the Property or the ~~Receiver~~Liquidator, and to settle or compromise any such proceedings.<sup>4</sup> 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;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the ~~Receiver~~Liquidator in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

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<sup>4</sup>~~This model order does not include specific authority permitting the ReceiverLiquidator to either file an assignment in bankruptcy on behalf of the DebtorCompany, or to consent to the making of a bankruptcy order against the DebtorCompany. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the ReceiverLiquidator wishes to take one of these steps.~~

- (i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~, \$5,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00~~\_\_\_\_\_~~; 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 Ontario Personal Property Security Act, [or section 31 of the Ontario Mortgages Act, as the case may be,]<sup>5</sup> shall not be required, and in each case the Ontario Bulk Sales Act shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the ReceiverLiquidator deems appropriate on all matters relating to the Property ~~and the receivership~~, and to share information, subject to such terms as to confidentiality as the ReceiverLiquidator deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

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<sup>5</sup> ~~If the ReceiverLiquidator will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the ReceiverLiquidator is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

on behalf of and, if thought desirable by the ~~Receiver~~Liquidator, in the name of the ~~Debtor~~Company;

(p) to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~Company, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the ~~Debtor~~Company;

(q) to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~Company may have; and

~~(q)~~(r) to apply to the court for an order dissolving the Company;

~~(r)~~(s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the ~~Receiver~~Liquidator 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 ~~Debtor~~Company, and without interference from any other Person.

3.A. THIS COURT ORDERS that, without limiting any of the powers set out in paragraph 3 of this Order, the Liquidator is authorized and directed to enter into a standard listing agreement with a duly licensed commercial real estate agent (the "Realtor") for the purpose of listing, marketing and selling the property, municipally known as 1028 Bloor Street West, Toronto, Ontario (the "Real Property"), and may, if deemed advisable by the Liquidator in consultation with the Realtor, take such actions or steps as may be required in an effort to lease any unit in the Real Property before listing the Real Property for sale, and is hereby authorized to do so.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVERLIQUIDATOR**

4.5. THIS COURT ORDERS that (i) the ~~Debtor~~Company, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the

foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the ReceiverLiquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the ReceiverLiquidator, and shall deliver all such Property to the ReceiverLiquidator upon the ReceiverLiquidator's request.

5.6. THIS COURT ORDERS that all Persons shall forthwith advise the ReceiverLiquidator of the existence of any 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 DebtorCompany, 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 ReceiverLiquidator or permit the ReceiverLiquidator to make, retain and take away copies thereof and grant to the ReceiverLiquidator 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 ReceiverLiquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6.7. 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 ReceiverLiquidator for the purpose of allowing the ReceiverLiquidator 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 ReceiverLiquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the ReceiverLiquidator. Further, for the purposes of this paragraph, all Persons shall provide the ReceiverLiquidator with all such assistance in gaining immediate access to the information in the Records as the ReceiverLiquidator may in its discretion require including providing the ReceiverLiquidator with instructions on the use of any computer or other system and providing the ReceiverLiquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

7.8. THIS COURT ORDERS that the ReceiverLiquidator shall provide each of the relevant landlords with notice of the ReceiverLiquidator'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 ReceiverLiquidator'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 ReceiverLiquidator, or by further Order of this Court upon application by the ReceiverLiquidator on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVERLIQUIDATOR**

8.9. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the ReceiverLiquidator except with the written consent of the ReceiverLiquidator or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTORCOMPANY OR THE PROPERTY**

9.10. THIS COURT ORDERS that no Proceeding against or in respect of the DebtorCompany or the Property shall be commenced or continued except with the written consent of the ReceiverLiquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the DebtorCompany or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10.11. THIS COURT ORDERS that all rights and remedies against the DebtorCompany, the ReceiverLiquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the ReceiverLiquidator or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (the "BIA"), and further provided that nothing in this paragraph shall (i) empower the ReceiverLiquidator or the DebtorCompany to carry on any business which the DebtorCompany is not lawfully entitled to carry on, (ii) exempt the ReceiverLiquidator or the DebtorCompany from compliance with statutory or regulatory

provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVERLIQUIDATOR**

11.12. 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 the DebtorCompany, without written consent of the ReceiverLiquidator or leave of this Court.

#### **CONTINUATION OF SERVICES**

12.13. THIS COURT ORDERS that all Persons having oral or written agreements with the DebtorCompany 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 DebtorCompany 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 ReceiverLiquidator, and that the ReceiverLiquidator shall be entitled to the continued use of the DebtorCompany'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 ReceiverLiquidator in accordance with normal payment practices of the DebtorCompany or such other practices as may be agreed upon by the supplier or service provider and the ReceiverLiquidator, or as may be ordered by this Court.

#### **RECEIVERLIQUIDATOR TO HOLD FUNDS**

13.14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the ReceiverLiquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the 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 ReceiverLiquidator (the "**Post Receivership Liquidation Accounts**") and the monies standing to the credit of such Post Receivership Liquidation Accounts

from time to time, net of any disbursements provided for herein, shall be held by the ReceiverLiquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

~~14.15.~~ THIS COURT ORDERS that all employees of the DebtorCompany shall remain the employees of the DebtorCompany until such time as the ReceiverLiquidator, on the DebtorCompany's behalf, may terminate the employment of such employees. The ReceiverLiquidator 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 ReceiverLiquidator may specifically agree in writing to pay, ~~or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act.~~

#### **PIPEDA**

~~15.16.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the ReceiverLiquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the 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 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 ReceiverLiquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the DebtorCompany, and shall return all other personal information to the ReceiverLiquidator, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

~~16.17.~~ THIS COURT ORDERS that nothing herein contained shall require the ReceiverLiquidator to occupy or to take control, care, charge, possession or management

(separately and/or collectively, "**Possession**") of any of the 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 ReceiverLiquidator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The ReceiverLiquidator shall not, as a result of this Order or anything done in pursuance of the ReceiverLiquidator's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVERLIQUIDATOR'S LIABILITY**

17-18. THIS COURT ORDERS that the ReceiverLiquidator 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, ~~or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act.~~ Nothing in this Order shall derogate from the protections afforded the ReceiverLiquidator by ~~section 14.06 of the BIA~~ Part XVI of the BCA or by any other applicable legislation.

#### **RECEIVERLIQUIDATOR'S ACCOUNTS**

18-19. THIS COURT ORDERS that the ReceiverLiquidator and counsel to the ReceiverLiquidator 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 ReceiverLiquidator and counsel to the ReceiverLiquidator shall be entitled to and are hereby granted a charge (the "**ReceiverLiquidator's Charge**") on the 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 ReceiverLiquidator's Charge shall form a ~~first~~ charge on the Property, ~~in priority to all security interests, trusts, liens, charges and encumbrances, statutory or~~

~~otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~<sup>6</sup>

~~19.20.~~ THIS COURT ORDERS that the ~~Receiver~~Liquidator and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the ~~Receiver~~Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

~~20.21.~~ THIS COURT ORDERS that prior to the passing of its accounts, the ~~Receiver~~Liquidator 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~~Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIPLIQUIDATION**

~~21.22.~~ THIS COURT ORDERS that the ~~Receiver~~Liquidator 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 \$100,000.00\_\_\_\_\_ (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~~Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, ~~in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate~~

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<sup>6</sup> ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

~~in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~

~~22-23.~~ THIS COURT ORDERS that neither the Liquidator's Receiver's Borrowings Charge nor any other security granted by the Liquidator Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

~~23-24.~~ THIS COURT ORDERS that the Liquidator Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Liquidator's Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

~~24-25.~~ THIS COURT ORDERS that the monies from time to time borrowed by the Liquidator Receiver pursuant to this Order or any further order of this Court and any and all Liquidator's 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 Liquidator's Receiver's Certificates.

#### SERVICE AND NOTICE

~~25-26.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, 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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure 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 '<http://www.albertgelman.com/corporate-solutions/insolvency-engagements/>'.

~~26-27.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver Liquidator 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 ~~Debtor~~Company's creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~Company 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.~~28. THIS COURT ORDERS that the ~~Receiver~~Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

~~28.~~29. THIS COURT ORDERS that nothing in this Order shall prevent the ~~Receiver~~Liquidator from acting as a trustee in bankruptcy of the ~~Debtor~~Company.

~~29.~~30. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~Liquidator 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~~Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Liquidator and its agents in carrying out the terms of this Order.

~~30.~~31. THIS COURT ORDERS that the ~~Receiver~~Liquidator 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~~Liquidator 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, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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~~Liquidator 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.

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**SCHEDULE "A"**

**RECEIVER LIQUIDATOR CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Albert Gelman Inc., the liquidator receiver (the "**Liquidator Receiver**") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ 2497486 Ontario Inc. (the "Company") acquired for, or used in relation to a business carried on by the ~~Debtor~~ Company, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number CV-17-11740-00CL ~~CL~~ \_\_\_\_\_, has received as such ~~Receiver-Liquidator~~ from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Liquidator 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 Liquidator Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the 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*~~, and the right of the Liquidator 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 Liquidator 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 Liquidator Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator 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\_\_.

~~{RECEIVER'S NAME}~~ Albert Gelman Inc.,  
solely in its capacity  
as Liquidator Receiver of the Property, and not  
in its personal capacity

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

Name:

Title:

**ABBAS MOHAMMAD**  
Applicant

-and-

**STEPHEN CELESTIAL, et al.**  
Respondents

Court File No. CV-17-11740-0CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
  
**PROCEEDING COMMENCED AT**  
**TORONTO**

**ORDER**

**LANDY MARR KATS LLP**  
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Lawyers for the Applicant

ABBAS MOHAMMAD  
Applicant

-and-

STEPHEN CELESTIAL, et al.  
Respondents

Court File No. CV-17-11740-0CL

Service of a true copy hereof admitted

this 16 day of June 2017.  
*Copy is delivered without regard to  
Page 11/11*  
LAWYERS FOR the defendant

Service of a true copy hereof admitted

this 16 day of June 2017.  
*Copy duly averaged against  
Page 11/11*  
LAWYERS FOR Albert Gelman Esq.  
*Liquidator*

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

PROCEEDING COMMENCED AT  
TORONTO

MOTION RECORD

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