Court File No.: CL-26-00000005-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

WINDSOR PRIVATE CAPITAL LIMITED PARTNERSHIP and WINDSOR II LIMITED PARTNERSHIP

Applicants

- and -

2352107 ONTARIO INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT,* R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

FACTUM OF THE RECEIVER

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FACTUM OF THE RECEIVER

1. This Factum is filed by Albert Gelman Inc. ("**AGI**"), in its capacity as Court-appointed receiver (in such capacity, the "**Receiver**") of the property municipally located at 175 Melvin Robson Avenue, Aurora, Ontario (the "**Real Property**") and all assets, undertakings and properties of 2352107 Ontario Inc. (the "**Company**") situated on, arising from, used in connection with or otherwise relating to the Real Property, including all proceeds thereof (collectively, the "**Property**"), in support of its motion for:

(a) an order (the "**Retail Plaza AVO**"), among other things, approving the Retail Transaction[1] contemplated by the Retail APS and vesting the Company's right, title and interest in and to the Retail Plaza in the Retail Purchaser free and clear of all claims and encumbrances, other than permitted encumbrances;

(b) an order (the "**Unit 4 AVO**"), among other things, approving the Unit 4 Transaction contemplated by the Unit 4 APS and vesting the Company's right, title and interest in and to Unit 4 in the Unit 4 Purchaser free and clear of all claims and encumbrances, other than permitted encumbrances;

(c) an order (the "**Ancillary Relief Order**"), among other things:

(i) sealing the confidential appendices (the "**Confidential Appendices**") to the Third Report of the Receiver dated September 8, 2026 (the "**Third Report**") on the terms described therein;

(ii) approving the Development Lands Sale Process and the steps taken by the Receiver in connection therewith;

(iii) authorizing the Receiver to make the Proposed Distribution to Windsor II Limited Partnership ("**Windsor II**");

(iv) approving the Third Report and the Receiver's activities described therein;

[1] Capitalized terms used in paragraph 1 but not defined have the meanings given to them in the following paragraphs below.

(v) approving the Receiver's interim statement of receipts and disbursements as at September 4, 2026 (the "**Interim SRD**");

(vi) approving the fees and disbursements of the Receiver and its lawyers, Chaitons LLP ("**Chaitons**") and Torkin Manes LLP ("**Torkin**"); and

(d) such further and other relief as this Honourable Court may deem just.

PART I - FACTS[2]

Background

2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 23, 2026 (the "**Appointment Order**"), AGI was appointed as Receiver of the Property, including the Real Property.[3]

3. The Real Property has been developed as a multi-phased mixed-use commercial development known as the 'Aurora Mills Business Park' (the "**Project**").[4]

4. Phase 1 of the Project is comprised of Blocks 1, 5 and 6. Block 1 has been developed as a retail plaza (the "**Retail Plaza**"), which is currently subject to leases with three commercial tenants. Blocks 5 and 6 have been developed with a total of 24 industrial condominium units (collectively, the "**Condo Units**"). Phase 2 of the Project is comprised of Blocks 2, 3, 4 and 7 and consists of approximately 11.35 acres of development land (collectively, the "**Development Lands**").[5]

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[2] Capitalized terms used but not defined herein have their meanings given to them in the Third Report.
[3] Third Report at para. 3; Appendix "A" to the Third Report (the "**Appointment Order**").
[4] Third Report at para. 2.
[5] Third Report at para. 2.

5. Prior to the appointment of the Receiver, the Company entered into agreements of purchase and sale in respect of 20 of the 24 Condo Units.[6] The Appointment Order authorized the Receiver to complete those transactions, and on February 2, 2026,[7] the Court granted vesting orders in respect of those Condo Units to facilitate their completion.[8]

6. Pursuant to an Order of Justice Steele dated March 31, 2026 (the "**Sale Process Order**"), the Court, among other things: (a) approved the marketing and sale process for the Retail Plaza (the "**Retail Plaza Sale Process**"), including the engagement of Jones Lang LaSalle Real Estate Services, Inc. ("**JLL**") as listing agent; and (b) authorized the Receiver to make the interim distributions described in the Receiver's Second Report dated March 23, 2026.[9]

The Retail Plaza Sale Process and Retail Transaction

7. In connection with the Retail Plaza Sale Process, the Receiver and JLL prepared marketing materials, established a confidential data room and commenced marketing the Retail Plaza on April 16, 2026. [10]

8. The Retail Plaza was listed on MLS on April 17, 2026 and was marketed through, among other things, the distribution of marketing materials, e-mail blasts, a LinkedIn campaign and signage at the Retail Plaza. The Retail Plaza was actively marketed through the bid deadline and subsequent selection period, resulting in approximately seven weeks of market exposure.[11]

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[6] Third Report at para. 2.
[7] Appointment Order at para. 3(m).
[8] See Appendix "D" to the Third Report (the "**Second Report**"), at para. 9.
[9] Third Report at para. 5; Appendix "F" to the Third Report.
[10] Third Report at para. 42.
[11] Third Report at para. 42.

9. By the bid deadline of May 21, 2026, the Receiver had received 12 offers and expressions of interest in respect of the Retail Plaza. During the subsequent selection period, the Receiver, in consultation with JLL, invited certain bidders to submit improved offers and received six second-round offers by June 4, 2026.[12]

10. Following its review of the offers received, the Receiver, in consultation with JLL, selected the offer submitted by Lucky Line Ltd. (the "**Retail Purchaser**") and negotiated and finalized an asset purchase agreement dated July 2, 2026 (the "**Retail APS**"), pursuant to which the Retail Purchaser agreed to acquire the Retail Plaza and the other Purchased Assets described therein (the "**Retail Transaction**").[13]

11. The principal terms of the Retail APS are set out in the table below:[14]

Purchased Assets	The Company's right, title and interest in the Retail Plaza, together with the leases with the Retail Plaza Tenants, the assumed contract and certain other related assets described in the Retail APS.
Purchase Price	Redacted
Deposit	$200,000
Closing Date	Seven Business Days following the granting of the Retail Plaza AVO, or such later date as may be agreed to by the parties in writing
Conditions	Completion of the Retail Transaction is conditional upon the Receiver obtaining the Retail Plaza AVO.

[12] Third Report at para. 42; Confidential Appendix "3" to the Third Report.
[13] Third Report at para. 42; Appendix "L" to the Third Report; Confidential Appendix "5" to the Third Report.
[14] Third Report at para. 43.

The Unit 4 Sale Process and Unit 4 Transaction

12. Following the granting of the Appointment Order, the Receiver solicited and received listing proposals for the four Condo Units that were not subject to pre-receivership agreements of purchase and sale, being Units 4, 5, 14 and 16 (the "**Unsold Condo Units**"), and selected Colliers International Group Inc. ("**Colliers**") as listing agent for the Unsold Condo Units.[15]

13. The Receiver and Colliers finalized a listing agreement for the Unsold Condo Units on April 14, 2026, and the Unsold Condo Units were listed for sale on MLS commencing April 15, 2026.[16]

14. Colliers marketed the Unsold Condo Units, including Unit 4, through, among other things, a dedicated listing page, marketing flyers, recurring e-mail blasts, a posting on Insolvency Insider and signage at the Real Property. Unit 4 was marketed for approximately 14 weeks.[17]

15. Colliers received inquiries regarding the Unsold Condo Units from nine prospective purchasers. The Receiver also received and reviewed formal offers in respect of certain of the Unsold Condo Units and, with the assistance of Colliers, engaged with the applicable offerors.[18]

16. As a result of the foregoing marketing efforts, the Receiver received an offer from 2810517 Ontario Inc. (the "**Unit 4 Purchaser**") to purchase Unit 4. Following negotiations among the Receiver, Colliers and the Unit 4 Purchaser, the Receiver and the Unit 4 Purchaser entered into an agreement of purchase and sale dated July 20, 2026, as amended (the "**Unit 4 APS**"), pursuant to

[15] Third Report at para. 33.
[16] Third Report at para. 34.
[17] Third Report at para. 34.
[18] Third Report at para. 34.

which the Unit 4 Purchaser agreed to acquire the Company's right, title and interest in Unit 4 (the "**Unit 4 Transaction**").[19]

17. In the course of marketing Unit 4, the Receiver received one other offer, which contemplated the purchase of all four Unsold Condo Units as a single transaction.[20]

18. The principal terms of the Unit 4 APS are set out in the table below:[21]

Purchased Asset	The Company's right, title and interest in Unit 4.
Purchase Price	Redacted
Deposit	$100,000
Closing Date	Ten Business Days following the granting of the Unit 4 AVO, or such later date as may be agreed to by the parties in writing.
Repair Undertaking	The Receiver has agreed to complete or cause to be completed certain repair work in respect of Unit 4 within a reasonable period following closing.
Conditions	Completion of the Unit 4 Transaction is conditional upon the Receiver obtaining the Unit 4 AVO.

<u>Development Lands Sale Process</u>

19. Following the granting of the Appointment Order, the Receiver solicited and received listing proposals in respect of the Development Lands from JLL, Colliers and Lennard Commercial Realty, Brokerage ("**Lennard**"). The Receiver evaluated the proposals having regard to, among other things, the brokers' relevant experience, proposed marketing strategies and commission

[19] Third Report at para. 35; Appendix "K" to the Third Report; Confidential Appendix "1" to the Third Report.
[20] Third Report at para. 36.
[21] Third Report at para. 37.

structures and, in consultation with Windsor, selected Lennard as listing agent for the Development Lands.[22]

20. On June 23, 2026, the Receiver entered into a listing agreement with Lennard in respect of the Development Lands. Although the Receiver had initially intended to market the Development Lands following completion of certain municipal works, the Receiver determined to commence marketing in advance of completion of those works.[23]

21. Lennard prepared marketing materials and established a confidential data room for the Development Lands. The Development Lands were listed on MLS on June 29, 2026 and were also marketed through, among other things, brochure distribution, digital marketing, newspaper advertising, e-mail blasts, LinkedIn postings and tours for interested prospective purchasers.[24]

22. As of September 3, 2026, the Realtor.ca listing had received 513 views, 22 inquiries had been made in respect of the Development Lands, 11 prospective purchasers had executed confidentiality agreements and 10 had been granted access to the confidential data room.[25]

23. The Development Lands are being marketed on an unpriced, "as is, where is" basis. Offers are required to be submitted by September 11, 2026 (the "**Bid Deadline**") on the form of agreement of purchase and sale prepared by the Receiver's counsel and included in the data room (the "**Template APS**"), together with a redline showing any proposed changes to the Template APS.[26]

[22] Third Report at paras. 52-54.
[23] Third Report at paras. 55-56.
[24] Third Report at para. 58.
[25] Third Report at para. 58.
[26] Third Report at para. 58.

24. Following the Bid Deadline, the Receiver may negotiate with any or all bidders regarding the submission of improved offers. The Receiver has final authority to select the successful offer and is not required to accept the highest or any offer. Any transaction resulting from the Development Lands Sale Process is conditional upon Court approval.[27]

Proposed Interim Distributions

25. Pursuant to a Payout and Assignment Agreement dated January 15, 2026, Windsor II paid out the indebtedness owing to National Bank of Canada ("**NBC**") in respect of the NBC Term Loan, and NBC assigned to Windsor II all of its right, title and interest in the NBC Credit Agreement, the related security and the indebtedness relating to the NBC Term Loan (the "**Assigned Interest**"), other than the Retained Interest in respect of the outstanding letters of credit, which have since been fully cash collateralized.[28]

26. As at September 8, 2026, $13,841,292 remained owing to Windsor II on account of the Assigned Interest, representing principal and accrued interest, exclusive of costs.[29]

27. As described in the Second Report, the Receiver obtained an independent legal opinion confirming, subject to customary assumptions and qualifications, the validity and enforceability of the NBC security assigned to Windsor II over the Company's real and personal property, including the charge registered against title to the Real Property.[30]

[27] Third Report at para. 58.
[28] Third Report at para. 60.
[29] Third Report at para. 61.
[30] Third Report at para. 62; Second Report at para. 58.

28. Pursuant to the Sale Process Order, the Court previously authorized the Receiver to make interim distributions, including a distribution to Windsor II as assignee of the NBC Term Loan and related security.[31]

29. Following completion of the Retail Transaction and the Unit 4 Transaction, and subject to maintaining the reserves described below, the Receiver seeks authorization to make a further interim distribution to Windsor II in an amount not exceeding the amount owing to Windsor II on account of the Assigned Interest (the "**Proposed Distribution**").

30. The Receiver proposes to maintain aggregate reserves of $200,000 in respect of potential holdback obligations relating to the Construction Liens, together with appropriate reserves for the fees, costs and other obligations of the receivership.[32]

Sealing of the Confidential Appendices

31. The Confidential Appendices to the Third Report contain the unredacted Unit 4 APS, the Condo Unit Appraisal, summaries of the offers received in connection with the Retail Plaza Sale Process, the unredacted Retail APS and the Retail Appraisal.[33]

Activities of the Receiver

32. Paragraph 16 of the Third Report includes a detailed summary of the Receiver's activities since the date of the Second Report.[34]

[31] Third Report at para. 63.
[32] Third Report at para. 64.
[33] Third Report at para. 49.
[34] Third Report at para. 16.

<u>Professional Fees and Disbursements</u>

33. The Third Report includes fee affidavits sworn by the Receiver and its lawyers, Chaitons and Torkin, which set out the fees and disbursements incurred in connection with these proceedings for the period to August 31, 2026.[35]

PART II - ISSUES

34. The Receiver's motion raises the following legal issues:

(a) Should the Court approve the Retail Transaction and grant the Retail Plaza AVO?

(b) Should the Court approve the Unit 4 Transaction and grant the Unit 4 AVO?

(c) Should the Court approve the Development Lands Sale Process?

(d) Should the Court authorize the Proposed Distribution to Windsor II?

(e) Should the Court grant the sealing order in respect of the Confidential Appendices?

(f) Should the Court approve the Third Report and the Receiver's activities described therein?

(g) Should the Court approve the Interim SRD?

(h) Should the Court approve the fees and disbursements of the Receiver and its counsel, Chaitons and Torkin?

[35] Third Report at paras. 68-73; Appendices "N", "O" and "P" to the Third Report.

PART III – LAW AND ARGUMENT

The Retail Transaction Should be Approved and the Retail Plaza AVO Should be Granted

35. The Appointment Order empowers and authorizes the Receiver to sell, convey, transfer, lease or assign the Property, or any part thereof, out of the ordinary course of business with the approval of the Court.[36] In addition, section 100 of the *Courts of Justice Act* (Ontario) authorizes this Court to vest "in any person an interest in real or personal property that the Court has authority to order be conveyed".[37] Accordingly, this Court has jurisdiction to approve the Retail Transaction and grant the Retail Plaza AVO.

36. The following criteria are to be considered by the Court when asked to approve a sale of assets in a receivership context, as articulated by the Court of Appeal for Ontario in *Royal Bank of Canada v. Soundair Corp.* ("***Soundair***"):[38]

(a) whether the receiver made a sufficient effort to obtain the best price and did not act improvidently;

(b) the interests of all parties;

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

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

37. The *Soundair* factors are satisfied in the circumstances for the following reasons:

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[36] Appointment Order at para. 3(n).
[37] *Courts of Justice Act*, RSO 1990, c. C.43, s. 100.
[38] *Royal Bank of Canada v. Soundair Corp.* (1991), 1991 CanLII 2727 at para 16 (ONCA); *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009 at para 31.

(a) the Retail Plaza Sale Process was previously approved by this Court and the Retail Plaza was extensively marketed for approximately seven weeks by JLL, a market-leading commercial real estate services firm, in accordance with the Retail Plaza Sale Process;[39]

(b) the Receiver received 12 offers and expressions of interest in the first round and six offers in the second round;[40]

(c) following its review of the offers received, the Receiver selected the Retail Purchaser's offer as the highest and best offer received for the Retail Plaza;[41]

(d) the Retail Plaza purchase price exceeds the value of the Retail Plaza set out in the Retail Appraisal;[42]

(e) the Retail APS provides for the sale of the Retail Plaza on an "as is, where is" basis, the Retail Purchaser has paid the required deposit, and the only material condition remaining to completion is the granting of the Retail Plaza AVO;[43]

(f) there is no reason to believe that continuing to market the Retail Plaza would yield a better transaction than the one contemplated by the Retail APS, while the continued cost of marketing would erode the recovery available to the Company's secured creditors;[44] and

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[39] Third Report at para. 5; Appendix "F" to the Third Report.
[40] Third Report at para. 42(e).
[41] Third Report at para. 47(c).
[42] Third Report at para. 47(b).
[43] Third Report at para. 47(d).
[44] Third Report at para. 47(g).

(g) Windsor, the Company's senior secured creditor, consents to the Retail Transaction.[45]

38. In these circumstances, the Receiver submits that the Retail Transaction is fair and reasonable, represents the highest and best realization for the Retail Plaza in the circumstances, and should be approved. The Retail Plaza AVO should therefore be granted.

<u>The Unit 4 Transaction Should be Approved and the Unit 4 AVO Should be Granted</u>

39. The same principles set out above with respect to the Retail Transaction apply to the Unit 4 Transaction.

40. The *Soundair* factors are satisfied in the circumstances for the following reasons:

(a) Unit 4 was extensively marketed for approximately 14 weeks by Colliers, a market-leading commercial real estate services firm;[46]

(b) the Unit 4 purchase price exceeds the appraised value of Unit 4 set out in the Condo Unit Appraisal, and the Unit 4 APS reflects the highest and best offer received by the Receiver for Unit 4;[47]

(c) the Unit 4 APS provides for the sale of Unit 4 on an "as is, where is" basis, with no representations or warranties from the Receiver other than as expressly set out therein;[48]

[45] Third Report at para. 47(h).
[46] Third Report at para. 39(a).
[47] Third Report at para. 39(c).
[48] Third Report at para. 39(d).

(d) the Unit 4 Purchaser has paid the required deposit and is ready, willing and able to close the Unit 4 Transaction;[49]

(e) the only remaining material condition to completion of the Unit 4 Transaction is the granting of the Unit 4 AVO;[50]

(f) Windsor, the Company's senior secured creditor, consents to the Unit 4 Transaction;[51]

(g) there is no reason to believe that continuing to market Unit 4 would yield a better transaction than the one contemplated by the Unit 4 APS, while continued marketing and carrying costs would erode the recovery available to the Company's creditors.[52]

41. In these circumstances, the Receiver submits that the Unit 4 Transaction is fair and reasonable, represents the highest and best realization for Unit 4 in the circumstances, and should be approved. The Unit 4 AVO should therefore be granted.

<u>The Development Lands Sale Process Should be Approved</u>

42. The Court has jurisdiction to approve a sale process proposed by a court-appointed receiver pursuant to section 243(1)(c) of the *Bankruptcy and Insolvency Act*. The Appointment Order also

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[49] Third Report at para. 39(e).
[50] Third Report at para. 39(f).
[51] Third Report at para. 39(g).
[52] Third Report at para. 39(h).

authorizes the Receiver to market the Property, solicit and negotiate offers and engage agents and other professionals in connection with the exercise of its powers.[53]

43. In *CCM Master Qualified Fund Ltd. v. blutip Power Technologies Ltd.*, the Court held that the criteria identified in *Soundair* also inform the determination of whether to approve a court-appointed receiver's proposed sale process. Specifically, the court is to assess:[54]

(a) the fairness, transparency and integrity of the proposed process;

(b) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and

(c) whether the sale process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.

44. The Development Lands Sale Process satisfies these criteria for the following reasons:

(a) the Receiver solicited and considered listing proposals from JLL, Colliers and Lennard and, in consultation with Windsor, selected Lennard as listing agent having regard to the brokers' relevant experience, proposed marketing strategies and commission structures;[55]

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[53] Appointment Order at para. 39(l).
[54] *CCM Master Qualified Fund v. blutip Power Technologies*, 2012 ONSC 1750 at para 6
[55] Third Report at paras. 53-55.

(b) the Development Lands have been broadly marketed through MLS, marketing materials, digital and newspaper advertising, e-mail campaigns, LinkedIn postings, a confidential data room and tours for prospective purchasers;[56]

(c) the marketing efforts have generated meaningful market interest, including 22 inquiries, 11 executed confidentiality agreements and 10 prospective purchasers being granted access to the data room as at September 3, 2026;[57]

(d) the Development Lands are being marketed on an unpriced, “as is, where is” basis, with all bidders required to submit offers using the Template APS and to identify any proposed changes thereto;[58]

(e) offers are required to be submitted by the Bid Deadline, subject to extension by the Receiver in consultation with Lennard, following which the Receiver may negotiate with bidders regarding the submission of improved offers;[59]

(f) the Receiver retains the discretion to select the successful offer and is not required to accept the highest or any offer;[60] and

(g) any transaction resulting from the Development Lands Sale Process remains subject to Court approval.[61]

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[56] Third Report at para. 58.
[57] Third Report at para. 58(d).
[58] Third Report at para. 58(k).
[59] Third Report at para. 58(c).
[60] Third Report at para. 58(o).
[61] Third Report at para. 58(r).

45. In these circumstances, the Receiver submits that the Development Lands Sale Process is fair, transparent and commercially reasonable and was appropriately designed to canvass the market for the Development Lands with a view to maximizing value for the benefit of all stakeholders. The Development Lands Sale Process, including the steps taken by the Receiver in connection therewith to date, should therefore be approved.

The Proposed Distribution Should be Approved

46. Pursuant to the Appointment Order, all funds received or collected by the Receiver, including proceeds from the sale of the Property, are to be held by the Receiver and paid in accordance with the Appointment Order or any further Order of this Court.[62]

47. The Court previously authorized the Receiver to make interim distributions to Windsor II pursuant to the Sale Process Order. In doing so, Justice Steele considered, among other things, the Receiver's independent legal opinion confirming the validity and enforceability of the NBC security assigned to Windsor II, the maintenance of appropriate reserves and the interests of the Construction Lien claimants.[63]

48. The Receiver recommends that the Court authorize the Proposed Distribution for the following reasons:

(a) as at September 8, 2026, $13,841,292 remains owing to Windsor II on account of the Assigned Interest, representing principal and accrued interest, exclusive of costs;[64]

[62] Third Report at para. 13.
[63] See Appendix "F" to the Third Report.
[64] Third Report at para. 61.

(b) the Receiver obtained an independent legal opinion confirming, subject to customary assumptions and qualifications, the validity and enforceability of the NBC security assigned to Windsor II;[65]

(c) the Receiver proposes to maintain aggregate reserves of $200,000 in respect of potential holdback obligations relating to the Construction Liens, together with appropriate reserves for the fees, costs and other obligations of the receivership;[66]

(d) the Proposed Distribution will be made following completion of the Retail Transaction and the Unit 4 Transaction and subject to the maintenance of the foregoing reserves;[67] and

(e) the Proposed Distribution will not exceed the amount owing to Windsor II on account of the Assigned Interest.[68]

49. In these circumstances, following completion of the Retail Transaction and the Unit 4 Transaction and subject to maintaining the foregoing reserves, the Receiver requests that the Court authorize the Proposed Distribution to Windsor II in an amount not exceeding the amount owing to Windsor II on account of the Assigned Interest.

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[65] Third Report at para. 62.
[66] Third Report at para. 64.
[67] Third Report at para. 65.
[68] Third Report at para. 65.

The Sealing Order Should be Granted

50. In *Sherman Estate v. Donovan* ("***Sherman Estate***"), the Supreme Court of Canada held that a person asking a court to exercise discretion in limiting the 'open court' presumption must establish that:[69]

(a) court openness poses a serious risk to an important public interest;

(b) the order sought is necessary to prevent the risk to the identified interest because reasonable alternative measures will not prevent this risk; and

(c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

51. The Confidential Appendices contain commercially sensitive information, including the unredacted Unit 4 APS, the Condo Unit Appraisal, the unredacted Retail APS, the Retail Appraisal and summaries of offers received for the Retail Plaza. Public disclosure of that information prior to completion of the applicable sales could negatively impact further marketing or sale efforts in respect of the Retail Plaza or the Unsold Condo Units.[70]

52. The proposed sealing order is limited in scope and duration. Subject to further order of the Court, the Receiver seeks to seal:

(a) Confidential Appendix "1" until completion of the Unit 4 Transaction;

(b) Confidential Appendix "2" until completion of the sale of all Unsold Condo Units; and

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[69] *Sherman Estate v. Donovan, 2021 SCC 25 (CanLII)*, 2021 SCC 25 at para 38.
[70] Third Report at para. 49.

(c) Confidential Appendices "3" to "6" until completion of the Retail Transaction.

53. The Receiver is of the view that no person will be prejudiced by the proposed sealing order and that the salutary effects of sealing the Confidential Appendices outweigh any deleterious effect on the open court principle.[71]

54. In these circumstances, the Receiver submits that the requirements in *Sherman Estate* are satisfied and the requested sealing order should be granted.

The Court Should Approve the Third Report and the Activities Described Therein

55. This Court has the inherent jurisdiction to review and approve the activities of a court appointed receiver as set out in the receiver's reports.[72]

56. It has become common practice for court officers to seek approval of their reports and the activities described therein.[73] Court approval, among other things, allows the court officer to bring its activities before the court and present an opportunity to address concerns of stakeholders, while enabling the court to satisfy itself that the court officer's activities have been conducted in a prudent and diligent manner.[74]

57. The Third Report includes a detailed summary of the Receiver's activities since the Second Report, which were necessary and undertaken in good faith pursuant to the Receiver's duties and powers under the Appointment Order and in the interests of the Company's stakeholders.[75]

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[71] Third Report at para. 50.
[72] *Bank of America Canada v. Willann Investments Ltd.* (1996), 1996 CanLII 2782 (ONCA).
[73] *Target Canada Co. (Re)*, 2015 ONSC 7574 at para 2; *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, 2023 ONSC 3400 at paras 65-66.
[74] 2015 ONSC 7574, *supra* note 73 at para 23; 2023 ONSC 3400, *supra* note 73 at paras 65-66.
[75] Third Report at para. 16.

58. The Receiver respectfully submits that the Third Report and the activities described therein should be approved.

The Court Should Approve the Interim SRD

59. The Interim SRD summarizes the receipts and disbursements in these receivership proceedings to September 4, 2026.[76]

60. The disbursements reflected in the Interim SRD were necessary, reasonable and incurred in the ordinary course of administering these receivership proceedings.

61. The Receiver respectfully submits that the Interim SRD should be approved.

The Court Should Approve Fees and Disbursements of the Receiver and its Counsel

62. The Appointment Order provides that the Receiver and its counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts.[77]

63. In determining whether to approve the accounts of a Court-appointed receiver and its counsel, the Court will consider the overall value contributed, taking into account the following factors:[78]

(a) the nature, extent and value of the assets;

(b) the complications encountered;

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[76] Third Report at para. 67; Appendix "M" to the Third Report.
[77] Appointment Order at para. 18.
[78] *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851 at para 33.

(c) the degree of assistance provided by the debtor;

(d) the time spent;

(e) the receiver's knowledge, experience and skill;

(f) the diligence and thoroughness displayed;

(g) the responsibilities assumed;

(h) the results of the receiver's efforts; and

(i) the cost of comparable services when performed in a prudent and economic manner.

64. The Receiver is of the view that its fees and disbursements and those of its counsel, Chaitons and Torkin, as described in their respective fee affidavits, are fair and reasonable, and that the hourly rates charged by Chaitons and Torkin are consistent with the rates charged by law firms practicing in the area of insolvency in the Toronto market.[79]

65. The Receiver respectfully submits that the fees and disbursements of the Receiver, Chaitons and Torkin should be approved.

PART IV – RELIEF SOUGHT

66. For the reasons set out above, the Receiver respectfully recommends and requests that the Court grant the relief sought on this motion.

[79] Third Report at para. 74.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 10th day of September, 2026.

per: ______________________________

CHAITONS LLP
Lawyers for the Court-appointed Receiver,
Albert Gelman Inc.

SCHEDULE "A"

TABLE OF AUTHORITIES

Tab	Title	Pinpoints
Case law		
1	*Bank of America Canada v Willann Investments Ltd*, 1996 CanLII 2782	
2	*Bank of Nova Scotia v Diemer*, 2014 ONCA 851	33
3	*CCM Master Qualified Fund v blutip Power Technologies*, 2012 ONSC 1750	6
4	*Elleway Acquisitions Limited v 4358376 Canada Inc*, 2013 ONSC 7009	31
5	*Royal Bank of Canada v Soundair Corp*, 1991 CanLII 2727	16
6	*Sherman Estate v Donovan, 2021 SCC 25 (CanLII)*, 2021 SCC 25	38
7	*Target Canada Co (Re)*, 2015 ONSC 7574	2, 23
8	*Triple-I Capital Partners Limited v 12411300 Canada Inc*, 2023 ONSC 3400	65-66

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date September 10, 2026

Signature

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY-LAWS

***Courts of Justice Act*, RSO 1990, c C.43**

Vesting orders

100 A court may by order vest in any person an interest in real or personal property that the court has authority to order be disposed of, encumbered or conveyed. R.S.O. 1990, c. C.43, s. 100.

WINDSOR PRIVATE CAPITAL LIMITED PARTNERSHIP and WINDSOR II LIMITED PARTNERSHIP -and- **2352107 ONTARIO INC.**

Applicants Respondent

Court File No.: CL-26-00000005-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

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Lawyers for Albert Gelman Inc., in its capacity as Court-appointed Receiver, and not in its personal or corporate capacities