

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO

Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD., and EGLINTON CASTLE INC.

Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

**MOTION RECORD OF THE APPLICANTS
IRA SMITH FEES/JARVIS UNIT F MOTION
(Returnable February 23, 2016)**

February 9, 2016

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Lawyers for the Applicants

TO: **SERVICE LIST**

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Tab 1

Court File No.: CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO

Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD., EGLINTON CASTLE INC. and THOSE CORPORATIONS LISTED ON
SCHEDULE C HERETO

Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO AND THE
REAL PROPERTY LISTED ON SCHEDULE C HERETO, TO BE BOUND BY
THE RESULT

and

SUCH OTHER RESPONDENTS FROM TIME TO TIME AS ARE ON NOTICE
OF THESE PROCEEDINGS AND ARE NECESSARY TO EFFECT THE
RELIEF SOUGHT

NOTICE OF MOTION

The Applicants, DBDC Spadina Ltd. et al., will make a motion to the Honourable Justice Newbould at 10:00 am on February 23, 2016 or as soon after that time as the motion can be heard at 330 University Avenue, 8th Floor, Toronto.

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

THE MOTION IS FOR:

- (a) An order, if necessary, abridging the time for delivery of this Notice of Motion and supporting materials pursuant to Rule 3.02 of the *Rules of Civil Procedure*, and providing that this motion is properly returnable and dispensing with further service thereof;
- (b) An Order that the Manager, Schonfeld Inc., is authorized and directed to pay the sum of \$82,039.66 (plus accrued interest), which is currently held in trust by the Manager arising from the sale of 346 Jarvis Street Unit F (the “Jarvis Unit F Property”), to Ira Smith Trustee & Receiver Inc. in its capacity as personal receiver of Norma and Ronauld Walton and its legal counsel, Miller Thomson LLP (together, the “Waltons’ Personal Receiver”), for their outstanding legal fees and disbursements as set out in the Third Report of the Receiver dated October 21, 2015 (the “Third Report”);
- (c) An Order directing that any other amounts arising from the sale of properties pursuant to these proceedings and/or the Managership that would otherwise be distributed or available to Norma and/or Ronauld Walton, be paid to the Applicants to reimburse the Applicants for the Waltons’ Personal Receiver’s fees;
- (d) Costs of this motion on a substantial indemnity basis; and
- (e) Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

The Waltons' Personal Receivership

- (f) On July 14-16, 2014, the Applicants sought certain relief in respect of the Respondents in the within Application, including the appointment of a Receiver over Norma Walton and Ronauld Walton (collectively, the "Waltons") personally;
- (g) By Order dated August 12, 2014, the Honourable Justice D.M. Brown (as he then was), appointed Schonfeld Inc., as interim Personal Receiver of the Waltons and Manager of the Schedule C Companies;
- (h) On September 5, 2014, the Honourable Justice Newbould appointed IRA Smith & Receiver Inc., as court-appointed receiver of all of the assets, undertakings and properties of the Waltons (the "Appointment Order");
- (i) The Waltons' Personal Receiver produced three reports dated December 1, 2014, February 26, 2015 and October 21, 2015, respectively;
- (j) The Waltons' Personal Receiver reported with respect to *inter alia*: the Receiver's investigation of the contents of 44 Park Lane Circle, certain shares held by the Waltons in various private corporations, including Corporate Communications Interactive Inc. ("CCI"), certain bank and investment accounts maintained by the Waltons and the income, chattels and expenses of the Waltons;
- (k) The Waltons' Personal Receiver also reported with respect to *inter alia*: a lifting of a stay of proceedings, on limited terms, in relation to certain proceedings by the Law Society of Upper Canada, the sale of certain chattels located upon the 44 Park

Lane Circle property, the Waltons' Personal Receiver's position on the funding motion brought by the Waltons and the Waltons' Personal Receiver's financial controls and supervision of the financial affairs of CCI;

- (l) On November 12, 2015 the Waltons' Personal Receiver was granted an order:
 - (i) approving its conduct and activities from the date of the Appointment Order to the date of the October 21, 2015 report;
 - (ii) approving of the Waltons' Personal Receiver's professional fees and disbursements and those of its counsel; and
 - (iii) discharging the Waltons' Personal Receiver upon the completion of the administration of the receivership.
- (m) The Waltons' Personal Receiver's fees have been paid by the Applicants;
- (n) To date, the Applicants have paid \$291,379.11 in fees to the Waltons' Personal Receiver;
- (o) To date the Waltons' Personal Receiver is still due \$99,911.38;

Jarvis Unit F Property

- (p) Jarvis Unit F Property is one of the Schedule "C" Properties that was owned by the Waltons;
- (q) Pursuant to the Order of Justice Newbould dated May 5, 2015 the Manager obtained an approval and vesting order in respect of the sale transaction

contemplated by the Agreement of Purchase and Sale dated April 15, 2015 in respect of the Jarvis Unit F Property;

- (r) The net sale proceeds of Jarvis Unit F Property of \$82,039.66 (plus accrued interest), are held in trust by the Manager, pending further Order of the Court on notice to all affected stakeholders;
- (s) Pursuant to the terms of the Appointment Orders the Waltons' Personal Receiver and counsel to the Waltons' Personal Receiver have a charge on the Jarvis Unit F Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise in favour of any person;
- (t) Rule 57 of the *Rules of Civil Procedure*, RRO 1990, reg 194; and
- (u) Such further and other grounds as the lawyers may advise.

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

- (v) The Affidavit of Jim Reitan to be sworn; and
- (w) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

-6-

January 25, 2015

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Lawyers for the Applicants

TO: **SERVICE LIST**

DBDC SPADINA LTD., and those corporations listed on Schedule A -and- NORMA WALTON et al.
hereto
Applicants

Respondents

Court File No. CV13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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Lawyers for the Applicants

Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO
Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD. and EGLINTON CASTLE INC.
Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

**AFFIDAVIT OF JIM REITAN
(SWORN FEBRUARY 5, 2016)**

IRA SMITH FEES/JARVIS UNIT F MOTION (RETURNABLE FEBRUARY 23, 2016)

I, JIM REITAN, of the Town of Woodbridge, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am Chief Financial Officer at Dr. Bernstein Diet and Health Clinics. Dr. Stanley Bernstein ("Dr. Bernstein") is the beneficial holder and directing mind of DBDC Spadina Ltd. and the corporations listed at Schedule A to the within Application (collectively, the "Applicants").

2. As part of my duties at Dr. Bernstein Diet and Health Clinics, I am responsible for reviewing the financial affairs the Applicants and, as such, have knowledge of the matters contained in this affidavit. Where matters are sworn by way of information and belief, I have stated the source of the information and verily believe it to be true and accurate.

3. I have previously sworn affidavits in connection with this matter. I swear this affidavit in support of a motion brought by the Applicants for an order authorizing and directing the Manager, Schonfeld Inc., to pay the surplus funds currently held in trust by the Manager arising from the sale of 346 Jarvis Street Unit F (the "Jarvis Unit F Property") to:

- (a) Ira Smith Trustee & Receiver Inc. in its capacity as personal receiver of Norma and Ronauld Walton and its legal counsel, Miller Thomson LLP (together, the "Waltons' Personal Receiver"), for their outstanding legal fees and disbursements as set out in the Third Report of the Receiver dated October 21, 2015 (the "Third Report"); and
- (b) the Applicants for monies paid by the Applicants to the Waltons' Personal Receiver, for their fees and disbursements as set out in the First Report of the Waltons' Personal Receiver dated December 1, 2014, the Second Report of the Waltons' Personal Receiver dated February 26, 2015 and the Third Report.

Background

4. Pursuant to the Order of Justice Newbould, dated November 5, 2013, Schonfeld Inc. was appointed as the Manager of the Schedule B Companies and the Schedule B Properties in the within Application. Attached hereto as **Exhibit "A"** is a copy of the Order of Justice Newbould dated November 5, 2013.

5. Pursuant to the Order of Justice D.M. Brown dated August 12, 2014 the Manager's mandate was expanded to include the Schedule C Properties. Attached hereto as **Exhibit "B"** is a copy of the Order of Justice D.M. Brown, dated August 12, 2014.

6. The Schedule C Properties are properties that were owned by the Waltons and in some cases third-party investors. All of the Schedule C Properties have now been sold by the Manager.

7. Also pursuant to the Order of Justice D.M. Brown dated August 12, 2014, Schonfeld Inc. was appointed as interim Personal Receiver of all the assets, properties and undertakings of Norma Walton and Ronauld Walton (the "Waltons").

8. On September 5, 2014, Justice Newbould appointed IRA Smith & Receiver Inc., as court-appointed receiver of all of the assets, undertakings and properties of the Waltons (the "Appointment Order"):

APPOINTMENT

3. **THIS COURT ORDERS** that Ira Smith Trustee & Receiver Inc. (in such capacity, the "Receiver") is hereby appointed Receiver in replacement of the Interim Receiver, without security, of all of the current and future assets, undertakings, books and records and properties, real and personal, of the Waltons of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, excluding any assets, undertakings or properties in relation to which Schonfeld has been appointed Manager pursuant to the Orders of the Court, (collectively, the "Property") effective upon the granting of this Order.

9. With respect to the Receiver's accounts, the Appointment Order states as follows:

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

Attached hereto as **Exhibit “C”** is a copy of the Order of Justice Newbould, dated September 5, 2014.

The Personal Receivership

10. Throughout the course of its receivership, the Waltons’ Personal Receiver reported with respect to *inter alia*: the Receiver’s investigation of the contents of 44 Park Lane Circle, certain shares held by the Waltons in various private corporations, including Corporate Communications Interactive Inc. (“CCI”), certain bank and investment accounts maintained by the Waltons and the income, chattels and expenses of the Waltons. Attached hereto as **Exhibit “D”** is a copy of the First Report of the Receiver, dated December 1, 2014, without enclosures.

11. The Waltons’ Personal Receiver also reported with respect to *inter alia*: a lifting of a stay of proceedings, on limited terms, in relation to certain proceedings by the Law Society of Upper Canada, the sale of certain chattels located upon the 44 Park Lane Circle property, the Waltons’ Personal Receiver’s position on the funding motion brought by the Waltons and the Waltons’ Personal Receiver’s financial controls and supervision of the financial affairs of CCI. Attached hereto as **Exhibit “E”** is a copy of the Second Report of the Receiver, dated February 26, 2015 without enclosures. Attached hereto as **Exhibit “F”** is a copy of the Third Report of the Receiver, dated October 21, 2015.

12. On November 12, 2015, the Waltons’ Personal Receiver was granted an order:

- (a) approving its conduct and activities from the date of the Appointment Order to the date of the October 21, 2015 report;

- (b) approving of the Waltons' Personal Receiver's professional fees and disbursements and those of its counsel; and
- (c) discharging the Waltons' Personal Receiver upon the completion of the administration of the receivership.

Attached hereto as **Exhibit "G"** is a copy of the Order of Justice Newbould dated November 12, 2015.

The Personal Receiver's Fees

- 13. To date, the Waltons' Personal Receiver's fees have been paid by the Applicants.
- 14. The total amount paid by the Applicants to the Waltons' Personal Receiver and its counsel is \$291,379.11 inclusive of HST.
- 15. According to the accounts provided by the Waltons' Personal Receiver and its counsel to the Applicants, the Waltons' Personal Receiver and its counsel are still due \$99,911.38 in accrued fees and disbursements (including HST).

Jarvis Unit F Properties

- 16. The Jarvis Unit F Property is one of the Schedule C Properties. It was owned by the Waltons personally. Attached hereto as **Exhibit "H"** is a copy of the Parcel Register for the property known municipally as 346 Jarvis Unit F, Toronto, bearing Property Identification Number ("PIN") 21105-0165 (LT).
- 17. Pursuant to the Order of Justice Newbould dated May 5, 2015 the Manager obtained an approval and vesting order in respect of the sale transaction contemplated by the Agreement of

Purchase and Sale dated April 15, 2015 in respect of the Jarvis Unit F Property. Attached hereto as **Exhibit "I"** is a copy of the 31st Report of the Manager, Schonfeld Inc. without enclosures.

18. The property was sold on or about May 7, 2015. I am advised by the Manager and believe that the sale proceeds, net of closing costs, of \$82,039.66 (plus accrued interest) are being held in trust by the Manager pending further Order of the Court.

19. The Appointment Orders state that the Waltons' Personal Receiver and counsel to the Waltons' Personal Receiver have a charge on the Waltons' property, of which the Jarvis Unit F Property is part, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise in favour of any person.

20. Accordingly, the Applicants seek an Order authorizing and directing the Manager to pay the surplus funds from the Jarvis Unit F Property to the Waltons' Personal Receiver and its counsel in the amount of \$82,039.66.

21. The Applicants also seek an Order directing that any other amounts arising from the sale of properties pursuant to these proceedings and/or the Managership that would otherwise be distributed or available to Norma and /or Ronauld Walton personally, be paid to the Applicants to reimburse the Applicants for the \$291,379.11 in fees paid to date by the Applicants to the Waltons' Personal Receiver and its counsel and to reimburse the Applicants for any additional fees paid by the Applicants to the Waltons' Personal Receiver and its counsel with respect to the Waltons' Personal Receivership.

22. I swear this affidavit in support of the Applicants' motion and for no other, or improper, purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
February 5, 2016

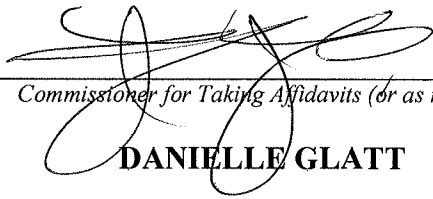
Commissioner for Taking Affidavits
(or as may be)

Danielle Glatt

Jim Reitan

Tab A

This is Exhibit "A" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)
DANIELLE GLATT

CITATION: DBCD Spadina Ltd et al v. Norma Walton et al, 2013 ONSC 6833
 COURT FILE NO.: CV-13-10280-00CL
 DATE: 20131105

**SUPERIOR COURT OF JUSTICE – ONTARIO
 COMMERCIAL LIST**

BETWEEN:

DBDC SPADINA LTD. and THOSE CORPORATIONS
 LISTED ON SCHEDULE A HERETO,

Applicants

AND:

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
 LTD. and EGLINTON CASTLE INC,

Respondents

AND

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
 BOUND BY THE RESULT

BEFORE: Newbould J.

COUNSEL: *Peter H. Griffin and Shara N. Roy*, for the Applicants

John A. Campion, Emmeline Morse and Guillermo Schible, for the Respondents

Fred Myers and Mark S. Dunn, for the Inspector

HEARD: November 1, 2013

ENDORSEMENT

[1] On October 4, 2013, Schonfeld Inc. was appointed as inspector of all of the companies in schedule B. On October 24, 2013 a motion by the applicants to have Schonfeld Inc. appointed as a manager of those corporations and related corporation was adjourned to November 1, 2013 and

interim relief was granted, including giving the applicants access to and joint control over all bank accounts.

[2] The applicants now move for the appointment of the Inspector as receiver/manager over the schedule B corporations and certain other properties that are mortgaged to Dr. Bernstein under mortgages which have expired. It is resisted by the respondents who maintain that the appointment would be an interim appointment pending a trial of the issues that should be ordered and that the applicants have sufficient protection from the order of October 24, 2013 that the respondents will not attack.

[3] For the reasons that follow, Schonfeld Inc. is appointed as receiver/manager of the 31 schedule B corporations.

Background

[4] Dr. Bernstein is the founder of very successful diet and health clinics. Norma Walton is a lawyer and co-founder with her husband Ronauld Walton of Rose & Thistle. She is a principal of Walton Advocates, an in-house law firm providing legal services to the Rose & Thistle group of companies. Ronauld Walton is also a lawyer and co-founder of Rose & Thistle and a principal of Walton Advocates

[5] Beginning in 2008, Dr. Bernstein acted as the lender/mortgagee of several commercial real estate properties owned by the Waltons either through Rose & Thistle or through other corporations of which they are the beneficial owners.

[6] Following several financings, Dr. Bernstein and the Waltons agreed to invest jointly in 31 various commercial real estate projects. Each is a 50% shareholder of each corporation set up to hold each property.

[7] The known facts and concerns of the applicants giving rise to the appointment of the Inspector are set out in my endorsement of October 7, 2013 and were contained in affidavits of James Reitan, director of accounting and finance at Dr. Bernstein Diet and Health Clinics. Since

then, there has been further affidavit material from both sides and the Inspector has delivered two interim reports and a supplement to the first. The most recent affidavit from the applicants' side is an affidavit of Mr. Reitan sworn October 24, 2013. The most recent from the respondents' side is an affidavit of Norma Walton sworn October 31, 2013 on the day before this motion was heard. There has been no cross-examination on any affidavits. The first interim report of the Inspector is dated October 21, 2013, the supplement to it is dated October 24, 2013 and the second interim report is dated October 31, 2013. I have not permitted any cross-examination of the Inspector but the respondents have been free to make reasonable requests for information from the Inspector and they have availed themselves of that opportunity.

[8] To date, Dr. Bernstein through his corporations has advanced approximately \$105 million into the 31 projects (net of mortgages previously repaid), structured as equity of \$2.57 million, debt of \$78.5 million and mortgages of \$23.34 million.

[9] According to the ledgers provided to the Inspector, the Waltons have contributed approximately \$6 million. \$352,900 is recorded as equity, which I assume is cash, \$1.78 million is recorded as debt and \$3.9 million is recorded in the intercompany accounts said to be owing to Rose & Thistle and is net of (i) amounts invoiced by Rose & Thistle but not yet paid; (ii) amounts paid by Rose & Thistle on behalf of the companies such as down-payments; and (iii) less amounts paid by DBDC directly to Rose & Thistle on behalf of the companies and (iv) other accounting adjustments.

Concerns of the applicants

(i) \$6 million mortgage

[10] This was a matter raised at the outset and was one of the basis for my finding of oppression leading to the appointment of the Inspector. Mr. Reitan learned as a result of a title search on all properties obtained by him that mortgages of \$3 million each were placed on 1450 Don Mills Road and 1500 Don Mills Road on July 31, 2013 and August 1, 2013. Dr. Bernstein had no knowledge of them and did not approve them as required by the agreements for those properties. At a meeting on September 27, 2013, Ms. Walton informed Mr. Reitan and Mr.

- Page 4 -

Schonfeld that the Waltons were in control of the \$6 million of mortgage proceeds (rather than the money being in the control of the owner companies), but refused to provide evidence of the existence of the \$6 million. Ms. Walton stated that she would only provide further information regarding the two mortgages in a without prejudice mediation process. That statement alone indicates that Ms. Walton knew there was something untoward about these mortgages.

[11] In his first interim report, Mr. Schonfeld reported that the proceeds of the Don Mills mortgages were deposited into the Rose & Thistle account. Rose & Thistle transferred \$3,330,000 to 28 of the 31 companies. The balance of the proceeds of the Don Mills mortgages totalling \$2,161,172, were used for other purposes including the following:

1. \$98,900 was paid to the Receiver General in respect of payroll tax;
2. \$460,000 was deposited into Ms. Walton's personal account;
3. \$353,000 was apparently used to repay a loan owed by Rose & Thistle in relation to Richmond Row Holdings Ltd.; and,
4. \$154,600 was transferred electronically to an entity named Plexor Plastics Corp. and \$181,950 transferred electronically to Rose and Thistle Properties Ltd. Ms. Walton advised the Inspector that she owns these entities with her husband.

[12] In her affidavit of October 31, 2013, Ms. Walton admits that \$2.1 million was "diverted" and used outside the 31 projects. She admits it should not have been done without Dr. Bernstein's consent. She offers excuses that do not justify what she did. What happened here, not to put too fine a point on it, was theft. It is little wonder that when first confronted with this situation, Ms. Walton said she would only talk about it in a without prejudice mediation.

[13] In her affidavit of October 4, 2013, Ms. Walton said she had made arrangements to discharge the \$3 million mortgage on 1500 Don Mills Rd on October 21, 2013 and to wire money obtained from the mortgage on 1450 Don Mills Road into the Global Mills account (one of the 31 companies) by the same date. Why the money would not be put into the 1450 Don

Mills account was not explained. In any event, no repayment of any of the diverted funds has occurred.

(ii) Tisdale Mews

[14] Tisdale Mews is a rezoning for 35 townhomes near Victoria Park Avenue and Eglinton Avenue East. Mr. Reitan states in his affidavit that Dr. Bernstein made his equity contribution to Tisdale Mews December 2011 in the amount of \$1,480,000. The bank statements for December 2011 for Tisdale Mews have not been made available. The forwarded balance on the bank statements available for Tisdale Mews from January 2012 is \$96,989.91, indicating that most if not all of Dr. Bernstein's money went elsewhere. Ms. Walton states in her affidavit that the project "was purchased by Dr. Bernstein on January 11, 2012" and he invested \$1.7 million in equity. How it was that Dr. Bernstein purchased the property is not explained and seems contrary to the affidavit of Mr. Reitan. The bank account statements for the property show no deposits of any consequence in January 2012 or later.

[15] In any event, Mr. Reitan was able to review bank records and other documents. Invoices and cheques written from Tisdale Mews' bank account show that a total of \$268,104.57 from Tisdale Mews has been used for work done at 44 Park Lane Circle, the personal residence of the Waltons in the Bridle Path area of Toronto.

[16] Ms. Walton in her affidavit acknowledges that the money was used to pay renovation costs on her residence. She says, however, that Rose & Thistle funded 100% of the \$268,104.57 purchases before any cheques were sent out of the Tisdale Mews account. How this was funded was not disclosed, although she did say that overall, Rose & Thistle has a positive net transfer to the Tisdale Mews account of \$2,208,964 "as per Exhibit G to the Inspector's first interim report". Exhibit G to that report has nothing to do with Tisdale Mews. Exhibit D to that report, being the property profile report of the Inspector for the 31 properties, contains no information for Tisdale Mews because information had not yet been provided to the Inspector. The Inspector's updated profile prepared after information was obtained from Rose & Thistle shows \$1,274,487 owing from Tisdale Mews to Rose & Thistle, but whether this is legitimate cannot be

determined until back-up documents sought by the Inspector are provided. It is no indication that cash was put into Tisdale Mews by Rose & Thistle.

[17] The statement of Ms. Walton that Rose & Thistle funded 100% of the \$268,104.57 purchases on her residence before any cheques were sent out of the Tisdale Mews account makes little sense. There would be no reason for Rose & Thistle to transfer funds into the Tisdale Mews account to pay personal expenses of Ms. Walton for her residence. Again, it has all the appearances of another case of theft.

(iii) Steps to impede a proper inspection

[18] It is quite evident that from the moment the order was made appointing the Inspector, Ms. Walton took various steps to hinder the Inspector. That order was made on October 4, a Friday, and permitted the Inspector to go to the offices of Rose & Thistle during normal business hours and on that evening and throughout the week-end. Mr. Reitan swears in his affidavit that when he arrived at the Rose & Thistle offices at 3:33 p.m. on the direction of the Inspector, which was shortly after the order was made, he saw Ms. Walton locking the door to the premises and she waved to him as she walked away from the doors. He was informed by Angela Romanova that Ms. Walton had told all employees to leave the premises once the order was granted at approximately 3 pm. He observed one employee who left with a server and one or more computers. After a discussion with the employee and Steven Williams, VP of operations at Rose & Thistle, these were taken back into the building. I received an e-mail from Mr. Griffin early in the evening alerting me to the problem and I was asked to be available if necessary. Mr. Reitan states that after several hours, and following Mr. Walton's arrival, Mr. Schonfeld, Mr. Merryweather and he were allowed into the premises.

[19] Ms. Walton in her affidavit states that a laptop "that was about to be removed" from the Rose & Thistle offices was 13 years old and they were disposing of it. One of her occasional workers asked if he could have it and they agreed. She states that the timing was unfortunate. She states that there are eight server towers permanently affixed to the premises. What she does not answer is Mr. Reitan's statement that she locked the doors and told her employees to leave, that whatever was taken from the premises was returned after discussions with the employee and

- Page 7 -

Mr. Williams, the VP of operations, and that it took several hours before the Inspector and Mr. Reitan were permitted on the premises. The order appointing the Inspector required Ms. Walton to fully co-operate with the Inspector.

[20] The order also permitted the Inspector to appoint persons as considered necessary, including Mr. Reitan. Ms. Walton however took the position that Mr. Reitan should not be on the premises, which was contrary to the order, and that the Inspector should not discuss with the applicants or their lawyers any information he obtained before making his first report to the court. Mr. Reitan was the accounting person for Dr. Bernstein most familiar with the investments and not having him available to the Inspector, either on the Rose & Thistle premises or not, would not be helpful to the Inspector. On October 9, 2013 I made a further order, which should not have been necessary, permitting Mr. Reitan to be on the premises when Mr. Schonfeld or his staff were present. I also ordered that Mr. Schonfeld was entitled, but not required, to discuss his investigation with the parties or their representatives.

[21] Ms. Walton informed the Inspector that the books and record of the companies were last brought current in 2011. Since August or September, 2013, after Mr. Reitan became involved in seeking information, Rose & Thistle employees have been inputting expense information into ledgers relating to the period January 2012 and August 2013. They have also issued a number of invoices for services rendered or expenses incurred by Rose & Thistle during the period January 2012 to August 2013. On October 17, 2013, Mr. Schonfeld convened a meeting with the parties and their counsel to orally present his findings. Prior to that meeting, Ms. Walton would only provide the Inspector with access to general ledgers for individual companies once she and Rose & Thistle had completed their exercise of updating the ledgers and issuing invoices from Rose & Thistle to each company. At the meeting, Ms. Walton agreed to provide the Inspector with access to ledgers for the remaining companies in their current state. These were eventually provided.

[22] Ms. Walton instituted a procedure under which no information could be provided by Rose & Thistle employees to the Inspector only after Ms. Walton had vetted it, which was causing considerable difficulties for the Inspector. On October 18, counsel for the Inspector wrote to counsel to the respondents and asked that the respondents provide immediate unfettered access to the books and records and end the insistence that all information be provided through

Ms. Walton. During the week of October 21, Ms. Walton said she could not meet because she was involved in preparing responding material in the litigation and that her staff was unavailable. By October 24, 2013 no substantive response to the Inspector's request was made, and on that date I made an order requiring Ms. Walton not to interfere with Rose & Thistle employees providing information to the Inspector. This should not have been necessary in light of the terms of the original order of October 4, 2013 appointing the Inspector.

(iv) Improper use of bank accounts

[23] The agreements for each project require that each project has a separate bank account. The Inspector reports, however, that there has been extensive co-mingling of bank accounts and that funds were routinely transferred between the company accounts and the Rose & Thistle account. From the date of each agreement to September 30, 2013, approximately \$77 million was transferred from the companies' accounts to Rose & Thistle and Rose & Thistle transferred approximately \$53 million to the various company accounts meaning that Rose & Thistle had retained approximately \$24 million transferred to it from the various companies.

[24] Ms. Walton confirmed to the Inspector that equity contributions to, and income received by, the companies were centralized and co-mingled in the Rose & Thistle account, which she described as a "clearing house". This practice continued in September 2013 and the Inspector reported it was difficult to trace how transfers from the companies were used because the funds were also co-mingled with funds transferred to the Rose & Thistle account by other Walton companies not making up the 31 companies in which Dr. Bernstein has his 50% interest. It is clear that the Waltons did not treat each company separately as was required in the agreements for each company.

[25] To alleviate the problem of the co-mingling of funds and the payments out to Rose & Thistle, the order of October 25 provided for the payment of deposits to be made to the bank accounts of the 31 companies and that no payment out could be made without the written consent of the applicants or someone they may nominate.

(v) Receivables of Rose & Thistle from the 31 companies

[26] The agreements for the 31 properties state that Dr. Bernstein and the Waltons are to provide 50% of the equity required. They do not provide that the Walton's equity is to be provided in services. They state that each of Dr. Bernstein and the Waltons will put in amounts of money. In her lengthy affidavit of October 31, 2013, Ms. Walton went to the trouble of describing each of the 31 projects, including stating how much equity Dr. Bernstein had put into each property. Tellingly, however, she made no statement at all of how much equity she or her husband had put into any of the properties, and gave no explanation for not doing so. This may be an indication that Ms. Walton is not able to say what equity has been put into each property, hardly surprising as the books and records were two years out of date at the time the Inspector was appointed.

[27] In his first interim report, Mr. Schonfeld reported that based on invoices and general ledger entries provided to October 18, 2013, Rose & Thistle appeared to have charged the companies approximately \$27 million for various fees and HST on the fees. On October 17, the date of his meeting with the parties, he had circulated a version of his chart regarding this which identified \$2.68 million that had been transferred to Rose & Thistle that could not be reconciled to any invoice issued by Rose & Thistle. On the following day on October 18, Rose & Thistle provided additional invoices to the companies for \$5.6 million so that the total amount invoiced exceeded the amounts transferred by Rose & Thistle to the companies by \$2.9 million. In his supplement to his first report, Mr. Schonfeld reported that the respondents had produced further invoices from Rose & Thistle dated between January 2012 and September 2013 to the companies for a total of \$34.6 million, being \$10.6 million more than it had received from the companies. Mr. Schonfeld identified approximately \$3.9 million recorded on the ledgers of Rose & Thistle as owing from the companies to Rose & Thistle. This amount is part of the \$6 million recorded in the books as being the contribution by the Waltons to the companies.

(vi) Documentation to support Rose & Thistle invoices

[28] The Inspector has sought unsuccessfully so far to obtain documentation underlying Rose & Thistle's invoices of some \$34.6 million to the companies, including construction budgets for

the various projects. This is of considerable importance in understanding the claim for equity put into the properties by the Waltons, because by far the largest amount of equity now claimed to have been put in by the Waltons are the fees for services said to have been provided by the Waltons to the various companies.

[29] The information that has been obtained regarding the invoices issued to some of the companies by Rose & Thistle is troubling and gives little confidence in what Ms. Walton and Rose & Thistle have done.

[30] Riverdale Mansion Inc. is one of the 31 projects. It is the owner of a historic mansion on Pape Avenue. Riverdale transferred \$1,759,800 to Rose & Thistle and received from Rose & Thistle \$785,250. Thus Rose & Thistle retained \$974,550 transferred to it by Riverdale.

[31] Rose & Thistle provided the Inspector with invoices addressed to Riverdale for construction management fees totaling \$1,183,981 plus HST and maintenance fees of \$60,000, including \$275,000 for "deposits for materials", \$103,863 for "project management services", \$295,000 for "site plan deposits and application" and \$67,890 for "steel bar ordered and installed". At the October 17 meeting, the Inspector asked for documentation, including third party invoices, to support the amounts invoiced to Riverdale. Ms. Walton said that Rose & Thistle did not have third party invoices for many of the invoiced expenses because Rose & Thistle performed much of the work itself (it has a construction company) and that some of the expenses had not yet been incurred. In response, the Inspector requested documents such as material invoices and payroll records to validate the cost of work done by Rose & Thistle and invoiced to Riverdale. None were provided.

[32] On the following day, October 18, the Inspector received a credit note from Rose & Thistle which showed that the invoice from Rose & Thistle to Riverdale had been reversed except for \$257,065.62 for work performed in 2011. The credit note is dated December 31, 2011.

[33] In her affidavit of October 31, 2013, Ms. Walton gave an explanation for the Riverdale reversal, an explanation that has problems. She said that considerable work was done to prepare the site for construction of townhouses and condominiums. As the work was proceeding, the

project changed and the mansion will be rebuilt and become used for a woman's shelter. Rose & Thistle was owed "certain monies" for its work and the invoice for \$1,291,025 inclusive of HST was rendered by Rose & Thistle to Riverdale. She states that "the Inspector thought the amount claimed was too high" and so she issued a credit note and submitted a lower invoice for \$257,065.62 "that reflected the value of the work done by Rose & Thistle". She says she merely forgot to re-do the invoice after the plans changed.

[34] The applicants have had no chance to cross-examine Ms. Walton on her affidavit. I have considerable doubts that the Inspector told Ms. Walton that the invoice was too high, as he has had no back-up documentation to consider the validity of the invoice and was asking for it to be produced. However, even assuming that the Inspector told her the invoice was too high, which is not what the Inspector reported, one may ask why, if the new invoice of some \$257,000 reflected the work that was done, an earlier invoice had been sent for some \$1.2 million. That earlier invoice appears to have been highly improper.

[35] Dupont Developments Ltd. is one of the 31 projects. It is a contaminated industrial building and the plan according to Ms. Walton is to "gut renovate" the building and remediate the contaminated site. The Inspector requested the construction budget for it and it was provided by Mr. Goldberg, who said he was responsible for the construction project. Mr. Goldberg told Mr. Schonfeld that the budget documents were out of date. They indicate that Dupont spent \$385,000 on construction and \$20,000 on environmental renovation. The Inspector had previously been provided with an invoice issued by Rose & Thistle to Dupont for \$565,339.34 which includes an entry for construction management services of \$175,300.30, said in the invoice to be "10% of hard costs", implying that Rose & Thistle had supervised construction that cost approximately \$1.75 million. The updated general ledger for Dupont received by the Inspector on October 24 showed capitalized expenses of approximately \$248,000, construction in progress of \$36,000 and various consulting fees of approximately \$563,000. All of these documents show different construction expenditures, none nowhere near the implied cost of \$1.75 million.

[36] This Dupont budget was the only budget for any of the projects provided to the Inspector by the time of his last report dated October 31, 2013, one day before this motion was heard. The

Inspector concludes that it appears that Rose & Thistle is not maintaining project budgets on an ongoing basis to track expenses and measure construction costs against the pro forma statement prepared when the property was purchased.

[37] Fraser Properties owns property at 30 Fraser Avenue and Fraser Lands owns abutting property purchased in October 2012. Dr. Bernstein made an equity contribution of approximately \$16 million. Fraser Properties transferred \$10,281,050 to Rose & Thistle and received back \$1,215,100. Thus Rose & Thistle retained \$9,065,950. In his first report, Mr. Schonfeld said he had inspected the property and saw no construction work or evidence of recent construction work. In his supplement to his first report, after he had received the general ledger and invoices from Rose & Thistle to Fraser Properties, he reported that the invoices to Fraser Properties were approximately \$1.6 million. Assuming the invoices can be supported, that would mean that Rose & Thistle has received approximately \$7.4 million more from Fraser Properties than it invoiced to Fraser Properties. It is to be noted that at the time of the Inspector's first report, the books and records showed an intercompany receivable due to Rose & Thistle from the companies of approximately \$9.9 million. By the time of the first supplement to the Inspector's report three days later, after the invoices and general ledger had been received and reviewed, this amount was reduced to approximately \$3.9 million, due to a new debit showing as being owed by Rose & Thistle to Fraser Properties of approximately \$6.45 million.

[38] On October 31, 2013 Mr. Campion on behalf of the respondents wrote to counsel to the applicants and to the Inspector and referred to the Inspector asking which filing cabinet he could review to obtain the documents requested, such as third party invoices, contracts, payroll records or other contemporaneous documents. Mr. Campion said that the information sought can only be obtained through discussion with the staff as all documentation is on computer and not in a filing cabinet. This is troubling to the Inspector. It would mean that there is no paper of any kind in existence for \$35 million of costs said to have been incurred, or that it has all been scanned and thrown out. It would be unusual to scan it and throw it out, and questionable that it was all scanned when Rose & Thistle was two years late in their bookkeeping and according to Ms. Walton had an outdated software system.

[39] Since the Inspector was appointed, Rose & Thistle has been preparing invoices for work done going back to January 2012, and one may question where the information is coming from to do that. Mr. Campion was undoubtedly passing on what he was told by Ms. Walton, but what he was told raises concerns.

(vii) Other equity investors

[40] The agreements provided that the only shares to be issued were to Dr. Bernstein's corporations or to the Walton's corporations and neither could transfer shares to another party without the consent of the other party. However, in his prior affidavit, Mr. Reitan provided documentary evidence that disclosed that the Waltons have taken on new equity investors in at least one project, without the agreement of Dr. Bernstein. This issue was not answered by Ms. Walton in her affidavit of October 31, 2013, the failure of which is compounded in that Ms. Walton did not disclose, as previously discussed, what equity contributions have been made by the Waltons for any of the properties.

Legal principles and analysis

[41] Section 101 of the *Courts of Justice Act* provides for the appointment of a receiver/manager where it appears to a judge to be just and convenient to do so. In *Royal Bank of Canada v. Chongsim Investment Ltd.* (1997), 32 O.R. (3d) 565, Epstein J. (as she then was) discussed what should be considered in deciding whether to make such an order. She stated:

The jurisdiction to order a receiver is found in s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. This section provides that a receiver may be appointed where it appears to be just and convenient. The appointment of a receiver is particularly intrusive. It is therefore relief that should only be granted sparingly. The law is clear that in the exercise of its discretion, the court should consider the effect of such an order on the parties. As well, since it is an equitable remedy, the conduct of the parties is a relevant factor.

[42] Section 248 of the OBCA also provides for the appointment of a receiver manager if there has been oppression as contained in section 248(2). Under section 248(2) a court may make an order to rectify the matters complained of and section 248(3) provides:

(3) In connection with an application under this section, the court may make any interim or final order it thinks fit including, without limiting the generality of the foregoing,

[...]

(b) an order appointing a receiver or receiver-manager;

[43] Various cases other than the *Chongsim Investment* case have discussed the principles to be taken into account. See *Anderson v. Hunking*, [2010] O.J. No. 3042 and *Bank of Montreal v. Carnival Leasing Limited* (2011), 74 C.B.R. (5th) 300 and the authorities referred to in those cases.

[44] In my view this is not a case in which the applicants are seeking an interim order appointing a receiver/manager. They do not seek an interim order. They seek the appointment on the basis of evidence that is largely uncontested by Ms. Walton. I would agree with the respondents that if the evidence relied on by the applicants for the order sought was largely contested, the relief should be considered on the basis that it is interim relief. However, that is not the case. In any event, even if the *RJR MacDonald* tri-part test were applicable, that would not be materially different in this case from the test articulated by Epstein J. in *Chongsim Investment* that requires a consideration of the effect of the order sought on the parties and their conduct.

[45] In my reasons when the Inspector was appointed on October 4, 2013, I found oppression had occurred as follows:

[27] In my view, on the record before me Dr. Bernstein has met the test required for an investigation to be ordered. To put on two mortgages for \$6 million without the required agreement of Dr. Bernstein and then refuse to disclose what happened to the money except in a without prejudice mediation meets the higher test of oppression, let alone the lesser test of unfairly disregarding the interests of Dr. Bernstein. The other examples of the evidence I have referred, as well as the failure to provide monthly reports on the projects to Dr. Bernstein, are clearly instances of the Waltons unfairly being prejudicial to and unfairly disregarding the interests of Dr. Bernstein, a 50% shareholder of each of the owner corporations.

[46] I do not see the picture as now being less clear. To the contrary, it seems much clearer. I have referred to the concerns above in some detail. They include the following:

1. \$2.1 million was improperly taken from the proceeds of the \$6 million mortgages that never had Dr. Bernstein's approval, \$400,000 of which was taken by Ms. Walton into her personal bank account. Ms. Walton was well aware that this was wrong. She is a lawyer and the agreements were drawn in her office. Her initial reaction when confronted about the mortgages by Mr. Reitan, who at the time did not know what had happened to the mortgage proceeds, that she would only discuss it in a without prejudice mediation is a clear indication she knew what she did was wrong and contrary to Dr. Bernstein's interests.
2. \$268,104.57 was improperly paid from the Tisdale Mews account to pay for renovations to the Waltons' residence. No reasonable explanation has been provided.
3. The co-mingling of accounts and the cash sweep into the Rose & Thistle accounts was a breach of agreement and unfairly prejudicial to Dr. Bernstein and a disregard of his interests. This is particularly the case in light of the lack of current books and records that should have been prepared and available rather than requiring an Inspector to try to get to the bottom of what has occurred. A lack of records is in itself unfairly disregarding the interests of Dr. Bernstein, particularly taken the size of his investment. Blaming it on outdated computer software is hardly an answer. That should have been taken care of long ago.
4. The frenzied attempts in the past month since the Inspector was appointed to update ledgers and manufacture invoices should never have been necessary and in light of the evidence, obviously casts doubt on what is now being done to update the records. Dr. Bernstein should never have had to face this prejudicial situation.
5. The Waltons have not provided equal payments of money into any of the 31 properties. The claim that their equity was provided by way of set-off for fees and

work, even if that were permissible under the agreements, is unsupported by any available documents to the Inspector. What little has been provided raises serious issues, as discussed above. As well, taking in new equity partners is not at all what Dr. Bernstein signed up for, and indicative of a lack of ability of the Waltons to fund their equity in accordance with the agreements.

6. Dr. Bernstein was entitled to monthly reports. It is now quite evident why that has not occurred.

[47] Mr. Campion contended that a receiver/manager could not be ordered over any particular property without a finding of oppressive conduct regarding that property. I am not at all sure that such a proposition in this case is correct, but in any event there has been oppressive conduct regarding each property. The co-mingling of funds and the sweep of cash from each property's account into Rose & Thistle was oppressive in these circumstances in which there were no contemporaneous books and records kept that would permit Dr. Bernstein, or now the Inspector, to fully understand what occurred to the money from each property. The setting up of alleged fees owing to Rose & Thistle for the properties to substantiate the Waltons' equity contributions, even if permissible, without readily available documentation to substantiate the validity of the fees, was oppressive. The lack of records and reports for each property was oppressive.

[48] It is contended on behalf of the respondents that they have the contractual right to manage the projects and thus no receiver/manager should be appointed. The difficulty with this argument is that the contracts have been breached and the Waltons have certainly not shown themselves to be capable managers. A basic lack of record keeping, compounded by co-mingling of funds and transferring them to Rose & Thistle, belies any notion of proper professional management. Ms. Walton acknowledges that accounting and other issues "have plainly caused him [Dr. Bernstein] to lose confidence in my management". That is a fundamental change to the relationship.

[49] It is contended that the business will be harmed if a receiver/manager is appointed. Ms. Walton states in her affidavit that she believes that the dynamic nature of this portfolio will suffer and in the end suffer unnecessary losses. What is meant by the dynamic nature is not clear.

I recognize that a receiver/manager can in certain circumstances have negative implications in the marketplace, particularly if it means that unsold properties will have to be put up for sale at less than market prices or be sold quickly. There is no indication that is the plan here at all and there is no court ordered sale being requested.

[50] It is also to be recognized that a receiver/manager can bring stability to a situation, which in this case appears to be a requirement to protect the interests of Dr. Bernstein.

[51] Dr. Bernstein with his \$100 million plus investment has a huge financial interest in this portfolio of properties. It is hardly in his interest to have the properties dealt with in less than a sound commercial way. He suffers the same risk as the Waltons, and depending on what real equity the Waltons have put in, perhaps far more. The Waltons contend that they have huge financial risk in that they have guaranteed mortgages to the tune of some \$206 million. They have not offered any evidence that there is any likelihood of being called upon on their guarantees, and to the contrary Ms. Walton says that all of the projects except perhaps one or two of them are or expected to be profitable. There is no reason why an experienced receiver/manager with capable property managers cannot continue with the success of the ventures.

[52] The respondents contend that with the controls over the bank accounts and the other provisions of the two orders made to date, there is plenty of protection for Dr. Bernstein. There may be something in this argument, but it ignores one of the basic problems caused by the way the business has been run. There is no clear evidence yet what exactly has been put into the properties by the Waltons, and that is crucial to understanding what both Dr. Bernstein and the Waltons are entitled to. In the month since the Inspector was appointed, Ms. Walton has caused back dated invoices to be prepared for past work said to have been done. What they have been prepared from is not at all clear. With some of the troubling things about changing records that have become apparent as a result of digging by Mr. Reitan and the Inspector, discussed above, and the diversion of money that has taken place, there is reason to be concerned exactly what Ms. Walton is doing to shore up her position. The Inspector is not in a position to know what is being prepared on an *ex post facto* basis or from what, and Dr. Bernstein should not have to rely

on a hope that something untoward will no longer be done. The present situation is causing considerable harm to Dr. Bernstein.

Conclusion

[53] Schonfeld Inc. is appointed as manager/receiver of all of the properties in schedule B, effective immediately. I was provided with a draft order that is based on the model order in use in our Court and approved by the Users' Committee. It appears satisfactory but there were no submissions as to its terms. If the respondents have any submissions with respect to the draft order, they are to be made in writing within three days and the applicants or Schonfeld Inc. shall have until Wednesday of next week to respond. In the meantime, the appointment of Schonfeld Inc. as manager/receiver is not to be delayed and Schonfeld Inc. shall immediately have the powers contained in the draft order pending any objection to it by the respondents.

[54] The applicants have applied to have Schonfeld Inc. appointed as receiver over four properties mortgaged to Dr. Bernstein with expired mortgages that are not schedule B corporations. Ms. Walton has stated in her affidavit that funds are being raised that will see these mortgages paid in full by the end of November, 2013. In light of that statement, this application is adjourned *sine die*. It can be brought on after the end of November in the event that the mortgages have not been paid in full.

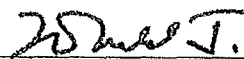
[55] The applicants have also requested a certificate of pending litigation over 44 Park Lane Circle, the residence of the Waltons in light of the evidence that money from one of the 31 schedule Dr. Bernstein corporations was used to pay for renovations to the residence. I was advised by counsel for Ms. Walton during the hearing of the motion that the money would be repaid that day. Based on that statement, the request for a certificate of pending litigation is adjourned *sine die* and can be brought back on in the event that evidence of the payment is not provided to the applicants and Schonfeld Inc.

[56] The Inspector moved for approval of his interim reports and the actions taken as disclosed in the reports, and approval for his fees and disbursements and those of his counsel. No one opposed the request although Mr. Campion said that the respondents were not consenting to

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them. In my view, the actions taken by the Inspector have been entirely proper in difficult circumstances and in her affidavit Ms. Walton acknowledges that the Inspector was necessary because of her issues. The fees and disbursements also appear reasonable. At the conclusion of the hearing I granted the order sought.

[57] The applicants are entitled to their costs from the respondents. If costs cannot be agreed, brief written submissions along with a proper cost outline may be made within 10 days and brief written reply submissions may be made within a further 10 days.

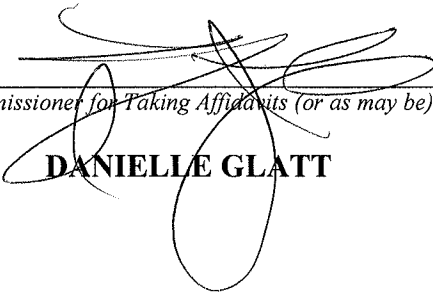


Newbould J.

Date: November 5, 2013

Tab B

This is Exhibit "B" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

Court File No. CV-13-10280-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List

THE HONOURABLE
JUSTICE D.M. BROWN

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TUESDAY, THE 12th
DAY OF AUGUST, 2014

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO

Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD. and EGLINTON CASTLE INC.

Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

JUDGMENT AND ORDER

THIS RETURN OF APPLICATION, MOTION AND CROSS-MOTION, brought by
the Applicants for various heads of relief, was heard on July 16-18, 2014 at 330 University
Avenue, Toronto, Ontario.

ON READING the Notice of Return of Application, Motion and Cross-Motion and the
proposed Fresh as Amended Notice of Application of the Applicants, the Notice of Motion of the
Respondent Norma Walton, the Affidavit of James Reitan sworn June 26, 2014 and the Exhibits

thereto, the Affidavit of Norma Walton sworn June 26, 2014 and the Exhibits thereto, the Affidavits of various shareholders in companies controlling the Schedule C Properties and the Exhibits thereto, the Affidavit of James Reitan sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Norma Walton sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Carlos Carreiro sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Yvonne Lui sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Steven Williams sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Talea Coghlin sworn July 4, 2014 and the Exhibits thereto, the Affidavit of George Crossman sworn July 4, 2014 and the Exhibits thereto, the Reports of the Inspector Schonfeld Inc. and the Affidavit of Christine Dejong sworn July 8, 2014 and upon hearing from counsel for the Applicants, the Respondents, the Inspector, the Dejongs, certain of the Schedule C Mortgagees and from Norma Walton, counsel for the Respondents Ronauld Walton, the Rose & Thistle Group Ltd. and Eglinton Castle Inc. appearing but making no submissions, and for reasons for decision released this day,

1. THIS COURT ORDERS that the time for service of the notice of motion and motion record is hereby abridged so that this motion was properly returnable on July 16-18, 2014, and hereby dispenses with further service.

CONTINUATION OF ORDERS

2. THIS COURT ORDERS that the Orders of the Court dated October 4, 2013, October 25, 2013, November 5, 2013, December 18, 2013 and March 21, 2014 continue in full force and effect, except as modified by this Order.

FRESH AS AMENDED NOTICE OF APPLICATION

3. THIS COURT ORDERS that the Applicants are granted leave to issue and serve a Fresh as Amended Notice of Application, in the form attached to the Applicants' Consolidated Notice of Motion dated June 13, 2014.

COMBINATION OF APPLICATIONS

4. THIS COURT ORDERS that the application commenced in Court File No. CV-14-501600 be transferred to the Commercial List and combined with the within application, to be heard at a time to be determined by this Court.

THE RESPONDENTS' ACCOUNTING

5. THIS COURT ORDERS that the Respondents shall disclose forthwith any agreement to cross-collateralize any obligation of the Schedule B Companies or the Schedule C Properties.

SHAREHOLDINGS IN THE SCHEDULE B COMPANIES

6. THIS COURT ORDERS that the Waltons' shareholder interests in each of the Schedule B Companies be calculated by reference to the equity contribution provisions contained in each Schedule B Company agreement and that the shares issued to the Waltons be limited to those for which they have actually paid and that any other shares be cancelled.

THE SCHEDULE C PROPERTIES

7. THIS COURT ORDERS that the Orders of this Court dated December 18, 2013 and March 21, 2014 be amended to apply to all the properties at the following municipal addresses (collectively, the "Schedule C Properties"):

- (a) 3270 American Drive, Mississauga, Ontario;

- (b) 0 Luttrell Ave., Toronto, Ontario;
- (c) 2 Kelvin Avenue, Toronto, Ontario;
- (d) 346 Jarvis Street, Suites A, B, C, E and F, Toronto, Ontario;
- (e) 1 William Morgan Drive, Toronto, Ontario;
- (f) 324 Prince Edward Drive, Toronto, Ontario;
- (g) 24 Cecil Street, Toronto, Ontario;
- (h) 30 and 30A Hazelton Avenue, Toronto, Ontario;
- (i) 777 St. Clarens Avenue, Toronto, Ontario;
- (j) 252 Carlton Street and 478 Parliament Street, Toronto, Ontario;
- (k) 66 Gerrard Street East, Toronto, Ontario;
- (l) 2454 Bayview Avenue, Toronto, Ontario;
- (m) 319-321 Carlaw, Toronto, Ontario;
- (n) 260 Emerson Ave., Toronto, Ontario;
- (o) 44 Park Lane Circle, Toronto, Ontario;
- (p) 19 Tennis Crescent, Toronto, Ontario; and
- (q) 646 Broadview Avenue, Toronto, Ontario.

8. THIS COURT ORDERS that the following properties are removed from all restrictions imposed on dealings with those properties pursuant to the Order of this Court dated July 18, 2014:

- (a) 3775 St. Clair Avenue East, Toronto, Ontario;
- (b) 185 Davenport Road, Toronto, Ontario;
- (c) 1246 Yonge Street, Toronto, Ontario;
- (d) 17 Yorkville, Toronto, Ontario;
- (e) 3 Post Road, Toronto, Ontario;
- (f) 2 Park Lane Circle Road, Toronto, Ontario;
- (g) 14/16/17 Montcrest Boulevard, Toronto, Ontario; and
- (h) 346 Jarvis Street, Suite D, Toronto, Ontario;

9. THIS COURT ORDERS that, for greater certainty, any restriction imposed on any person from dealing with any of the properties listed in paragraph 8 of this Order, pursuant to the Order of this Court dated July 18, 2014, is vacated.

10. THIS COURT ORDERS that Schonfeld Inc. shall, within 15 days of the date of this Order, give notice of this Order to the registered owners of the following properties (the "Disputed Properties"):

- (a) 19 Tennis Crescent, Toronto, Ontario;
- (b) 646 Broadview Avenue, Toronto, Ontario;

(c) 346 Jarvis Street, Suite C, Toronto, Ontario; and

(d) 252 Carlton Street and 478 Parliament Street, Toronto, Ontario.

11. THIS COURT ORDERS that if, within 60 days of the date of this Order, a registered owner of a Disputed Property provides evidence to Schonfeld Inc., to the satisfaction of Schonfeld Inc., that it acquired that Disputed Property for fair market value and that the Waltons no longer hold any interest of any kind in that Disputed Property, that Disputed Property shall be released from the other terms of this Order, and that paragraphs 8 and 9 of this Order shall apply to that Disputed Property.

CONSTRUCTIVE TRUSTS AND TRACING

12. THIS COURT ORDERS constructive trusts in favour of the Applicants in respect of each of the Schedule C Properties listed below for the proportionate share of the purchase price that those amounts represented as at the date of purchase of the properties and for any proportionate share of the increase in value to the date of realization:

(a) 14 College Street -- \$1,314,225;

(b) 3270 American Drive -- \$1,032,000;

(c) 2454 Bayview Avenue -- \$1,600,000;

(d) 346 Jarvis Street, Suite E -- \$937,000;

(e) 44 Park Lane Circle -- \$2,500,000;

(f) 2 Kelvin Street -- \$221,000;

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(g) 0 Luttrell Avenue -- \$152,900; and

(h) 26 Gerrard Street -- \$371,200,

except that no such trust will attach to any such property already sold pursuant to an Order of this Court and where there are no proceeds held in trust by Schonfeld Inc.

13. THIS COURT ORDERS that the Applicants shall be permitted to trace funds provided by the Applicants into and through the accounts of the Schedule B Companies, the accounts of the Respondent the Rose & Thistle Group Ltd., the personal accounts of the Respondents Norma and/or Ronauld Walton, the trust account of Walton Advocates and/or the trust account of Devry Smith Frank LLP, and otherwise into the companies which own the Schedule C Properties.

APPOINTMENT OF SCHONFELD AS RECEIVER/MANAGER OF THE SCHEDULE C PROPERTIES

14. THIS COURT ORDERS that Schonfeld Inc. is appointed as receiver/manager (the "Manager"), without security, of the Schedule C Properties, all proceeds thereof and revenue derived therefrom and the bank accounts of the companies which own or control the Schedule C Properties (the "Schedule C Companies"), save and except any Schedule C Property already sold pursuant to an Order of this Court and where there are no proceeds held or to be held by Schonfeld Inc.

15. THIS COURT ORDERS that, except as modified by this Order, the terms of the Order of this Court dated November 5, 2013 shall apply *mutatis mutandis* to Schonfeld's appointment as Manager pursuant to paragraph 14 of this Order.

16. THIS COURT ORDERS that the Manager's Borrowing Charge and the Manager's Charge in respect of the Schedule C Properties shall rank in subsequent priority to any all security interests, trusts, liens, charges, mortgages and encumbrances, statutory or otherwise, in favour of a mortgagee or any other Person validly registered on title of the Property. The Manager's Borrowing Charge and the Manager's Charge shall not be registered on title to the Property and shall not, if no stay is in place pursuant paragraph 18 hereof, otherwise impair a mortgagee's ability to sell or lease the Property.

17. THIS COURT ORDERS that, without limiting the generality of the terms governing the appointment of Schonfeld Inc. as Manager of the Schedule C Properties, the Waltons, and any person acting at their instruction, shall, within 15 days of the date of this Order, provide full access to all of the books and records of Schedule C Companies to Schonfeld Inc.

18. THIS COURT ORDERS that the stay of proceedings contained in paragraph 12 of the November 5, 2013 Order of this Court does not apply to stay any proceedings that may be brought by the following mortgagees on the following properties (the "Schedule C Carve-Out Properties") to enforce the terms of their mortgages, including to exercise a power of sale or to appoint a receiver in respect of those properties as those mortgagees may be entitled to, subject to the terms of this Order:

Mortgagee	Property
The Equitable Trust Company, now Equitable Bank	19 Tennis Crescent, Toronto, Ontario PIN: 21065-0069 (LT)
The Equitable Trust Company, now Equitable Bank B & M Handelman Investments Ltd. E. Manson Investments Limited	1 William Morgan Drive, Toronto, Ontario PIN: 10369-0019 (LT)

Mortgagee	Property
Bamburgh Holdings Ltd. 4055845 Canada Inc. Paul Herbert Professional Corporation 558678 Ontario Ltd. Gertner, Jeffrey Handelman, Robert	
Home Trust Company B & M Handelman Investments Ltd. Barry Alan Spiegel Trust Orenbach, Joanna Orenbach, Jonathan Bamburg Holdings Ltd. Lizrose Holdings Ltd. 1391739 Ontario Ltd. Natme Holdings Inc. E. Manson Investments Ltd. 558678 Ontario Ltd.	44 Park Lane Circle, Toronto, Ontario
The Equitable Trust Company, now Equitable Bank	346 Jarvis Street, #2, Toronto, Ontario PIN: 21105-0162 (LT)
B. & M. Handelman Investments Limited Bamburgh Holdings Ltd Paul Herbert Yerusha Investments Inc. Eroll Gordon Scotiabank ITF SDRSP 491-02252-0 (Weingarten)	346 E Jarvis Street, Toronto, Ontario
Martha Sorger 1363557 Ontario Limited	777 St. Clarens Avenue, Toronto, Ontario
Martha Sorger 1363557 Ontario Limited	260 Emerson Avenue, Toronto, Ontario

Mortgagee	Property
Equitable Trust Company, now the Equitable Bank, c/o Harbour Mortgage Corp.	3270 American Dr., Mississauga Ontario
Business Development Bank of Canada	2454 Bayview Avenue, Toronto, Ontario
Firm Capital Credit Corporation	30 and 30A Hazelton Avenue, Toronto, Ontario

or any other mortgagee or Schedule C Property which the Applicants agree or the Court orders be added to this list.

19. In the event that any mortgagee on any Schedule C Carve-Out Property sells or otherwise realizes value from a disposition of the Schedule C Carve-Out Property, the net proceeds of such a sale or disposition shall be applied as follows:

- (a) to discharge any valid encumbrance, including any liens or other mortgages, registered in priority to any mortgage held by a mortgagee that is registered against that property;
- (b) to satisfy all usual costs and expenses of the sale of the property, including but not limited to real estate commissions and legal fees;
- (c) to any mortgagee on that property in such amounts as are necessary in order to satisfy all claims that such mortgagee may have on that property pursuant to the terms of their respective mortgages; and
- (d) the balance of the net proceeds of sale or disposition of any property shall be paid to the Manager, to be held in trust, pending further order of the Court.

COSTS OF THE INSPECTOR

20. THIS COURT ORDERS restitution and repayment by the Respondents to the Applicants and/or the Schedule B Companies in respect of all funds and to be paid by the Applicants and/or the Schedule B Companies, as appropriate, in respect of the fees and disbursements of Schonfeld Inc., in its capacity as Inspector in this proceeding, and of its counsel Goodmans LLP.

232 GALLOWAY ROAD

21. THIS COURT ORDERS that the Respondents are jointly and severally liable to the Applicants for restitution in the amount of \$1,518,750 plus interest at the rate set out in the relevant mortgage documents and costs on a full indemnity basis as set out in the relevant mortgage documents in respect of the mortgage discharged from title of the property at 232 Galloway Road, and shall pay that amount to the Applicants.

OTHER RELIEF SOUGHT BY THE APPLICANTS

22. THIS COURT ORDERS that the Applicants' motion for an order that the Respondents are jointly and severally liable for restitution payable to the Applicants in the amount of \$78,420,418 for all funds diverted from the Schedule B Companies and that they pay to the Applicants the balance of those funds not otherwise recovered by the Applicants from the sale of the Schedule B Properties is adjourned to a date to be scheduled.

23. THIS COURT ORDERS that the Applicants' motion for an order that the Respondents indemnify the Schedule B Companies and the Applicants for all amounts due and owing to creditors and lien claimants of the Schedule B Properties and Companies, with that amount to be fixed, is adjourned to a date to be scheduled by this Court.

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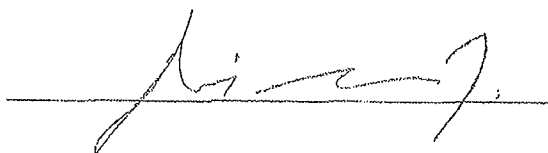
24. THIS COURT ORDERS that the Applicants' motions for an Order that the Applicants' claims to the Schedule B Companies have priority over any unauthorized interests in the Schedule B Companies is dismissed, without prejudice to the Applicants' right to seek such relief in relation to any particular unauthorized interest.

25. THIS COURT ORDERS that the Applicants' motion for an Order that the Applicants be permitted to elect to treat funds advanced by the Applicants to the Schedule B Companies as shareholder loans for the purposes of enforcement of their remedies is dismissed, with the issue of the characterization of such funds to be left to the claims process administered by the Manager.

26. THIS COURT ORDERS that the Applicants may deliver costs submissions of no more than 10 pages (excluding Bill of Costs) by August 20, 2014 and the Respondents may deliver responding costs submissions of no more than 10 pages (excluding Bill of Costs) by August 29, 2014.

ENCLOSURE
ORIGINAL
IN / ORIGINAL / ORIGINAL

SEP 08 2014



SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investment Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Inc.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Industrial Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline -- 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.
32. Richmond Row Holdings Ltd.

33. El-Ad (1500 Don Mills) Limited

34. 165 Bathurst Inc.

SCHEDULE "C" PROPERTIES

1. 3270 American Drive, Mississauga, Ontario
2. 0 Luttrell Ave., Toronto, Ontario
3. 2 Kelvin Avenue, Toronto, Ontario
4. 346 Jarvis Street, Suites A, B, C, E and F, Toronto, Ontario
5. 1 William Morgan Drive, Toronto, Ontario
6. 324 Prince Edward Drive, Toronto, Ontario
7. 24 Cecil Street, Toronto, Ontario
8. 30 and 30A Hazelton Avenue, Toronto, Ontario
9. 777 St. Clarens Avenue, Toronto, Ontario
10. 252 Carlton Street and 478 Parliament Street, Toronto, Ontario
11. 66 Gerrard Street East, Toronto, Ontario
12. 2454 Bayview Avenue, Toronto, Ontario
13. 319-321 Carlaw, Toronto, Ontario
14. 260 Emerson Ave., Toronto, Ontario
15. 44 Park Lane Circle, Toronto, Ontario
16. 19 Tennis Crescent, Toronto, Ontario
17. 646 Broadview Avenue, Toronto, Ontario

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DBDC SPADINA LTD., and those corporations listed on Schedule A hereto
Applicants

-and-

NORMA WALTON et al.
Respondents

Court

ONTARIO
SUPERIOR COURT
COMMERCIAL

PROCEEDING COMMERCIAL

JUDGMENT AT

LENCZNER SLAGHT ROSS
SMITH GRIFFIN LLP

Barristers

Suite 2600

130 Adelaide Street West

Toronto ON M5H 3P5

Peter H. Griffin (19527Q)

Tel: (416) 865-2921

Fax: (416) 865-3558

Email: pgriffin@litigate.com

Shara N. Roy (49950H)

Tel: (416) 865-2942

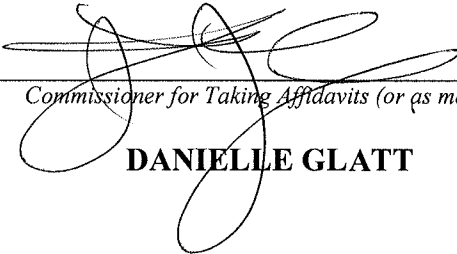
Fax: (416) 865-3973

Email: sroy@litigate.com

Lawyers for the Applicants

Tab C

This is Exhibit "C" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

**ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List**

THE HONOURABLE) FRIDAY, THE 5th
JUSTICE NEWBOULD) DAY OF SEPTEMBER, 2014

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO
Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD. and EGLINTON CASTLE INC.
Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

**ORDER
(Appointing Receiver over Property of the Waltons)**

THIS MOTION made by the Applicants for an Order appointing a receiver without security, of all of the assets, undertakings and properties of Norma Walton and Ronauld Walton (the "Waltons", reference to which also includes each of the Waltons individually), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Return of Application, Motion and Cross-Motion and the proposed Fresh as Amended Notice of Applicants of the Applicants, the Notice of Motion of the Respondent Norma Walton, the Affidavit of James Reitan sworn June 26, 2014 and the Exhibits thereto, the Affidavit of Norma Walton sworn June 26, 2014 and the Exhibits thereto, the

Affidavits of various shareholders in the Schedule C Companies (defined below) and the Exhibits thereto, the Affidavit of James Reitan sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Norma Walton sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Carlos Carreiro sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Yvonne Lui sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Steven Williams sworn July 3, 2014 and the Exhibits thereto, the Affidavit of Talea Coghlin sworn July 4, 2014 and the Exhibits thereto, the Affidavit of George Crossman sworn July 4, 2014 and the Exhibits thereto, the Reports of the Inspector Schonfeld Inc. and the Affidavit of Christine Dejong sworn July 8, 2014, the Motion Record for discharge of the Interim Receiver dated August 29, 2014, including the First Report of the Interim Receiver, and upon hearing from counsel for the Applicants, the Respondents, the Inspector, the Dejongs, certain of the Schedule C Mortgagees and from Norma Walton, counsel for the Respondents Ronauld Walton, the Rose & Thistle Group Ltd. and Eglinton Castle Inc. appearing but making no submissions, and for reasons for decision released August 12, 2014 (the "Reasons") and in conjunction with the Order of this Court dated August 12, 2014 appointing and Schonfeld Inc. Receivers + Trustees ("Schonfeld") as Interim Receiver of all of the current and future assets, undertakings, books and records and properties, real and personal, of the Waltons ("Interim Receiver"), and the Order of this Court dated September 5, 2014 discharging Schonfeld as Interim Receiver,

CONTINUATION OF ORDERS

1. THIS COURT ORDERS that the Orders of the Court dated October 4, 2013, October 25, 2013, November 5, 2013, December 18, 2013 and March 21, 2014 continue in full force and effect, except as modified by this Order.

SERVICE

2. 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.

APPOINTMENT

3. THIS COURT ORDERS that Ira Smith Trustee & Receiver Inc. (in such capacity, the "Receiver") is hereby appointed Receiver in replacement of the Interim Receiver, without security, of all of the current and future assets, undertakings, books and records and properties, real and personal, of the Waltons of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, excluding any assets, undertakings or properties in relation to which Schonfeld has been appointed Manager pursuant to the Orders of the Court, (collectively, the "Property") effective upon the granting of this Order.

RECEIVER'S POWERS

4. THIS COURT ORDERS that the Receiver 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 Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to have the sole and exclusive right and control of the Waltons' bank accounts wherever located in accordance with this Order;
- (c) 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;
- (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 Receiver'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 Waltons or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Waltons and to exercise all remedies of the Waltons in collecting such monies, including, without limitation, to enforce any security held by the Waltons;
- (g) to settle, extend or compromise any indebtedness owing to the Waltons;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Waltons, 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 Waltons, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (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 in its discretion may deem appropriate;
- (k) to enter into agreements and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, with the prior approval of this Court in respect of any transaction, 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, 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 Receiver 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 Receiver 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 Receiver, in the name of the Waltons;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Waltons may have; and
- (q) 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 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 Waltons, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. THIS COURT ORDERS that (i) the Waltons, (ii) all of the Waltons' current and former employees, agents, accountants, and legal counsel, and all other persons acting on the instructions or behalf of one or both of them, (iii) Meridian Credit Union, and (iv) 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 Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request, if such Property has not already been delivered to Schonfeld.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver 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 Property, business or affairs of the Waltons, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure, if such disclosure and access has not already been provided to Schonfeld.

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 Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy

any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. THIS COURT ORDERS that Schonfeld, in its capacity as Receiver/Manager of the Schedule B Companies and Schedule C Properties (as defined in the Order of this Court dated August 12, 2014) and Interim Receiver of the Property, may share with the Receiver, information, documents and records in its possession and control related to the Waltons. For greater clarity, Schonfeld is a Person as defined in this Order.

NO PROCEEDINGS AGAINST THE RECEIVER

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 Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

10. THIS COURT ORDERS that no Proceeding against or in respect of the Waltons or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Waltons or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding any other provision in this Order, the parties shall not be precluded from taking any steps in Ontario Superior Court of Justice, Court File No. CV-13-10280-00CL (Commercial List) or in Ontario Superior Court of Justice, Court File No. CV-14-501600, including steps arising out of the Reasons and that the Receiver is empowered to bring a motion for approval of an Order of this Court approving a Claims Process to determine the validity, quantum and priority of any claims by creditors of the Waltons, subject to the Orders of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. THIS COURT ORDERS that, except as may be provided herein, all rights and remedies against the Waltons, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided that nothing in this paragraph shall (i) empower the Receiver or the Waltons to carry on any business which the Waltons are not lawfully entitled to carry on, (ii) exempt the Receiver or the Waltons 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 RECEIVER

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 Waltons, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Waltons 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 Waltons are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Waltons' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Waltons or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the 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 Receiver, 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 Waltons, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. The Receiver shall further enjoy the protections from liability as would otherwise be afforded to a trustee in bankruptcy under section 14.06 of the *Bankruptcy and Insolvency Act* or under similar legislation applicable to trustees and receivers.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate 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. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

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

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

GENERAL

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

26. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Waltons.

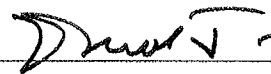
27. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

28. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

- 13 -

30. THIS COURT ORDERS that any court materials in these proceedings may be served by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time.



ENTERED IN THE REGISTRY AT TORONTO
ON 12 SEP 2014
LG / ENL / 12 SEP 2014

SEP 12 2014

MB

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investment Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Inc.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Industrial Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline – 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

SCHEDULE "C" PROPERTIES

1. 3270 American Drive, Mississauga, Ontario
2. 0 Luttrell Ave., Toronto, Ontario
3. 2 Kelvin Avenue, Toronto, Ontario
4. 346 Jarvis Street, Suites A, B, C, E and F, Toronto, Ontario
5. 1 William Morgan Drive, Toronto, Ontario
6. 324 Prince Edward Drive, Toronto, Ontario
7. 24 Cecil Street, Toronto, Ontario
8. 30 and 30A Hazelton Avenue, Toronto, Ontario
9. 777 St. Clarens Avenue, Toronto, Ontario
10. 252 Carlton Street and 478 Parliament Street, Toronto, Ontario
11. 66 Gerrard Street East, Toronto, Ontario
12. 2454 Bayview Avenue, Toronto, Ontario
13. 319-321 Carlaw, Toronto, Ontario
14. 260 Emerson Ave., Toronto, Ontario
15. 44 Park Lane Circle, Toronto, Ontario
16. 19 Tennis Crescent, Toronto, Ontario
17. 646 Broadview Avenue, Toronto, Ontario

SCHEDULE "D"**RECEIVER CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, 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 ____-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the 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 Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

DBDC SPADINA LTD., and those corporations listed on Schedule A
hereto
Applicants

-and- NORMA WALTON et al.

Respondents

Court File No. CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

**LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP**

Barristers

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130 Adelaide Street West

Toronto ON M5H 3P5

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Shara N. Roy (49950H)

Tel: (416) 865-2942


Fax: (416) 865-3973

Email: sroy@litigate.com

Lawyers for the Applicants

Tab D

This is Exhibit "D" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

**FIRST REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
NORMA WALTON AND RONALD WALTON
DATED DECEMBER 1, 2014**

A. INTRODUCTION

1. Pursuant to the Reasons for Decision dated August 12, 2014¹ (the "Reasons") and the Order of The Honourable Mr. Justice D.M. Brown of the same date, Schonfeld Inc. was appointed on an interim basis as Receiver of all of the assets, properties and undertaking of Norma Walton and Ronald Walton. In accordance with the Reasons, by Order of the Honourable Mr. Justice Newbould dated September 5, 2014 (but not issued until September 12, 2014) (the "Appointment Order"), Ira Smith Trustee & Receiver Inc. ("ISI") was appointed receiver (the "Receiver") without security, of all of the assets, properties and undertaking of Norma Walton and Ronald Walton (collectively the "Debtors" or the "Waltons"), replacing Schonfeld Inc.

A copy of the Appointment Order is attached as Exhibit "A".

¹See Reasons Page 78, paragraph 233. DBDC Spadina Ltd. v. Walton, 2014 ONSC 4644. This decision has also been reported at (2014) 121 O.R. (3d) 449.

2. Schonfeld Inc. remains as Manager, as defined and described in various Court Orders in the litigation of DBDC Spadina Ltd. v. Walton (the "Manager")².

B. PURPOSE OF REPORT

3. The purpose of this report (the "First Report") is to report to this Honourable Court on the financial position of the Debtors, the actions and activities of the Receiver and to support a motion by the Receiver to obtain an Order of the Court approving:

- i. this First Report and the actions and activities of the Receiver described herein since September 5, 2014;
- ii. in advance the sale of a vehicle, in a commercially reasonable manner, described as a 2011 Nissan Armada, VIN#5N1AA0NE5BN620916, owned by Norma Walton;
- iii. the amendment of paragraph 4(k) of the Appointment Order to allow for sales of assets out of the ordinary course of business, without the prior approval of the Court

²Schonfeld Inc. is manager of: (i) certain companies listed in Schedule "B" to the Order of Mr. Justice Newbould dated November 5, 2013 together with the real estate properties owned by specific companies, as amended by Order of Mr. Justice Newbould dated January 16, 2014; and (ii) the properties listed at Schedule "C" to the Order of Mr. Justice Brown dated August 12, 2014, all of which was confirmed in the Appointment Order.

in the case of any asset being sold for a maximum amount of \$30,000 (excluding HST);

- iv. the lifting of the stay of proceedings against Norma Walton solely for the purpose of allowing the Law Society of Upper Canada ("LSUC") to continue its disciplinary proceedings against Norma Walton, on certain terms;
- v. the accounting for the receipts and disbursements of the Receiver from September 5 to November 25, 2014; and
- vi. the fees, disbursements and other costs incurred to November 25, 2014 by the Receiver and its legal counsel, Miller Thomson LLP ("MT").

C. DISCLAIMER

4. In preparing this First Report, the Receiver, where stated, has relied upon unaudited and draft, internal financial information obtained from the Debtors' books and records and discussions with third parties as stated herein (collectively, the "Information"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information.

5. This report is prepared solely for the use of the Court and the stakeholders in this proceeding, for the purpose of assisting the Court in making a determination whether to approve

the actions and activities of the Receiver, and other relief being sought. It is based on the Receiver's analysis of the Information as stated herein, which included unaudited financial statements and internal financial reporting. The Receiver's procedures did not constitute an audit or financial review engagement of the Debtors' financial reporting. Where stated, the Receiver has relied upon the financial statements and financial and other records of the Debtors in reaching the conclusions set out in this report.

D. BACKGROUND AND OVERVIEW

6. Norma Walton is a lawyer currently suspended by LSUC with ongoing regulatory proceedings. The Receiver's understanding is that on May 16, 2014, the Law Society discipline panel imposed the penalty of an 18-month suspension on Ms. Walton's licence, and on September 19, 2014, ordered Norma Walton to pay costs totalling \$172,632. The Receiver further understands that LSUC has appealed the penalty, arguing that she should have been disbarred, and Norma Walton has appealed at least the costs portion of the decision arguing that the Appointment Order stays the LSUC and its discipline panel. This situation is discussed further below.

7. Ronald Walton is a lawyer who is restricted from practicing law in Ontario as a result of his voluntary undertaking to LSUC.

8. The Receiver's current understanding, based on its investigation to date, is that the Debtors are owners of the real property described as 44 Park Lane Circle, Toronto, which is currently under

the administration of the Manager. Norma Walton is the owner of one vehicle described as a 2011 Nissan Armada, VIN#5N1AA0NE5BN620916, and the Debtors are owners of various shares in private corporations, which in most cases, currently appear to be of limited or no value. Some of the corporations, or their primary assets, are under the administration of the Manager, and others not under the administration of the Manager are described below in this First Report.

9. After the issuance of the Reasons, and prior to the issuance of the Appointment Order, Mr. L. Smith, President of ISI, met with representatives of the Manager, in order to: (i) become familiarized with the assets, properties and undertaking of the Debtors; (ii) obtain a copy of the backup taken by the Manager of the computer server utilized by the Debtors and the various corporations managed and controlled by the Debtors so that the Receiver would have access to that financial and other information contained thereon; (iii) enter into arrangements on the division of duties between the Manager and ISI in its capacity as the Receiver over the assets, properties and undertaking of the Debtors so there would not be any duplication; and (iv) enter into discussions with Norma Walton, to obtain disclosure of the assets, properties and undertaking of the Debtors, so that the Debtors and the Receiver would both agree upon the protocol to be followed in connection with the receivership administration.

10. On September 16, 2014, the Receiver issued to all (then) known creditors its Notice and Statement of the Receiver in accordance with Sections 243(1) and 246(1) of the *Bankruptcy and*

Insolvency Act (Canada) (the "Receiver's Notice"). Attached as Exhibit "B" is a copy of the Receiver's Notice.

E. ASSETS

44 Park Lane Circle, Toronto, Ontario.

11. As indicated above, this real property is under the administration of the Manager. Therefore, the Receiver has not spent any time in dealing with any issues concerning the realty or its occupants.

12. On September 5, 2014, our Mr. I. Smith met with Norma Walton and Ronald Walton at the 44 Park Lane Circle premises. The purpose of the visit was to:

- i. answer questions regarding the administration of this receivership, the rights and responsibilities of Norma Walton and Ronald Walton in their receivership and to enter into arrangements with Norma Walton and Ronald Walton given their complex situation in order for the Receiver to be able to carry out its duties, including all investigations, without unduly interfering with their personal lives;
- ii. tour the premises and determine which assets, if any, were available to take possession of under the Appointment Order while understanding their rights under the provincial *Execution Act*, R.S.O. 1990, CHAPTER E.24; and
- iii. make satisfactory arrangements to take possession of any available assets.

13. The Receiver inspected the registrations for the three vehicles used by Norma Walton and Ronald Walton and inspected and photographed all of them. Two of the vehicles, being a 2013 Lincoln MKX and a 2013 Ford F150 truck, are both leased from Canadian Road Management Company, Oakville, ON. As stated above, the third vehicle, the Nissan Armada, is owned by Norma Walton. The Receiver also took a tour of the premises and took a video of the tour so that there would be a record of the possessions on site at that day. The Receiver made satisfactory arrangements with the Waltons to perform an appraisal of the contents early in the following week, and to take possession of the Nissan Armada. The Receiver confirmed that all three vehicles had current insurance coverage.

14. The Receiver retained Corporate & General Liquidators and Auctioneers (the "Appraiser") to perform an appraisal of the contents of the Park Lane Circle residence, to take possession of the Nissan Armada in order to appraise it and seek offers to purchase it and to also perform an appraisal of the office furniture and equipment located on the business premises used by Norma and Ronald Walton's companies, being 1 William Morgan Drive, Toronto, ON (further discussed below). The Appraiser attended at the Park Lane Circle residence on September 9, 2014.

15. Attached as Exhibit "C" is a copy of the Appraiser's report dated September 11, 2014 indicating that the liquidation value of the assets inspected at both premises is as follows:


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BANKRUPTCY COURT REPORTER

44 Park Lane Circle	\$12,650
1 William Morgan Drive	<u>2,235</u>
Total	<u>\$14,885</u>

16. Given the liquidation value of the assets, property and undertaking of Norma Walton and Ronauld Walton located in the Park Lane Circle residence and the exemptions they are entitled to under provincial law, the Receiver has not taken possession of any of those assets.

2011 Nissan Armada, VIN#5N1AA0NE5BN620916.

17. As indicated above, the Appraiser took possession of this vehicle and has it stored at the Appraiser's premises, 361 Steelcase Road West, Unit 7, Markham, ON. The Receiver's initial desktop appraisal indicated that this vehicle had an approximate value in the range of \$28,000 to \$30,000. The Appraiser has advised the Receiver that in their opinion, given the condition and mileage of the vehicle, it has a slightly lower value. Notwithstanding these values, the Appraiser advised the Receiver that this vehicle is not in great demand.

18. The Appraiser was canvassing the marketplace of vehicle dealers known to it, and was receiving offers in the \$20,000 to \$22,000 range. The Receiver would have been prepared to negotiate and ultimately accept an offer in the \$22,000 range; however Paragraph 4(k) of the Appointment Order states that the Receiver is authorized:


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CHARTERED PROFESSIONAL ACCOUNTANT

"(k) to enter into agreements and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, *with the prior approval of this Court* (emphasis added) in respect of any transaction..."

19. Accordingly, we advised the Appraiser that we could not accept an offer prior to obtaining Court approval. They advised that no potential purchaser was interested in submitting an offer for one vehicle which could not be completed quickly, and that no potential purchaser was willing to have their offer outstanding with the inevitable time delay of the Receiver seeking Court approval.

20. The Receiver could not justify incurring the costs of a motion and Court attendance solely for the purpose of obtaining approval for the sale of the vehicle, and the Receiver did not have sufficient other information at that time to properly and fully advise this Honourable Court on in relation to the assets, properties and undertaking of Norma Walton and Ronald Walton, as is currently the case. The Receiver therefore concluded that the only reasonable solution was that it had no choice but to wait for its First Report to Court and this motion in order to obtain approval in advance, to sell the vehicle in a commercially reasonable manner.

21. Given the inherent delay and additional storage costs incurred prior to obtaining Court approval for the sale of the vehicle, the Receiver respectfully recommends to this Honourable Court that it would be appropriate to amend paragraph 4(k) of the Appointment Order to read as follows:

to enter into agreements and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, without the prior approval of the Court in the case of any asset being sold for a maximum amount of \$30,000 (excluding HST) and with the prior approval of this Court in respect of any other transaction, 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, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

Office furniture and equipment

22. Norma Walton advised that Corporate Communications Interactive Inc. ("CCI"), which at that time was located at 1 William Morgan Drive, Toronto, ON (see further discussion below), is the owner of those assets utilized by many of her companies, and the shares of CCI are the subject of this receivership administration. The Appraiser also attended at the 1 William Morgan Drive premises on September 9, 2014 for the purpose of performing the appraisal of the office furniture and equipment. Given that CCI was continuing to operate, at least in the short term (as further discussed below), and the office furniture and equipment is of minimal liquidation value, the Receiver has not interfered with CCI's use of those assets.

23. The Receiver notes that 1 William Morgan Drive is one of the properties listed on Schedule "C" to the Order of Mr. Justice Brown dated August 12, 2014, as confirmed in the Appointment Order, and therefore is in the Manager's administration. Accordingly, the Receiver is not dealing with any issues concerning this realty.

Shareholdings in various private corporations

24. As part of the Receiver's initial investigation and discussions with Norma Walton, the Receiver determined that Norma Walton and Ronald Walton were shareholders in various private corporations which were used by the Debtors in their various business ventures. Some of the corporations were the subject matter of the Manager's administration, and accordingly, the Receiver has not spent any time in dealing with those corporations.

25. The Receiver's initial investigation indicated that there were twenty nine (29) other private corporations not under the Manager's administration, where the Debtors either were the sole shareholders or were shareholders with others, all of which whose operations were controlled either by the Debtors or Norma Walton.

26. These corporations are identified as follows:

- i. 1659126 Ontario Inc.
- ii. 1793530 Ontario Inc.
- iii. 364808 Ontario Limited
- iv. Carport Realty Holdings Inc.
- v. CCI Interactive Inc.
- vi. College Lane Ltd.
- vii. Corporate Communications Interactive Inc.

- viii. CCI
- ix. Gerrard Church 2006 Inc.
- x. Gerrard House Inc.
- xi. Handy Home Products Inc.
- xii. Hazelton Property Management Inc.
- xiii. Highland Creek Townes Inc.
- xiv. Invictus Employment Training Centre Inc.
- xv. Legal Audit Inc.
- xvi. McCaul Mansions Inc.
- xvii. Metro Spa Ltd.
- xviii. Palmer Productions Ltd.
- xix. Plexor Plastics Corp.
- xx. Quest Beyond the Stars Ltd.
- xxi. Re-Memory Productions Inc.
- xxii. Richmond East Properties Ltd.
- xxiii. Rose and Thistle Asset Management Ltd.
- xxiv. Rose and Thistle Construction Ltd.
- xxv. Rose and Thistle Homes Ltd.
- xxvi. Rose and Thistle Media Inc.
- xxvii. Rose and Thistle Properties Ltd.
- xxviii. Rose and Thistle Group Ltd.

xxix. Urban Amish Interiors Inc.

27. Attached as Exhibit "D" is a memo to file prepared by Mr. S. Sugar of the Receiver arising from his investigation of the corporate minute books which the Receiver took possession of and information contained therein led to the identification of other corporations for which the minute books are not in the Receiver's possession as the shares were either sold or otherwise transferred prior to the appointment of the Receiver.

28. The Receiver's initial major findings can be summarized as follows:

- i. The minute books reviewed were not kept up to date, but each contained sufficient documentation to allow a basic review and understanding.
- ii. 163483 Ontario Inc. owned certain real estate, which the Receiver understands to be described as 14 Montcrest Blvd. and 646 Broadview Ave., both in Toronto, ON. The shares of the company apparently were either purchased by or transferred to "the Rawlings" on or about September 3, 2013. The Receiver's understanding is that they are Norma Walton's parents. Her parents were also indicated as investors in various companies. The Receiver also understands that the Montcrest property was sold in 2008. The unaudited financial statements as at September 2, 2013 prepared by the company's external accountant indicates the company owned property at a cost of \$1.33 million. The Receiver assumes this to be the Broadview Ave. property as both the internal accounting records and the financial statements do not state otherwise. The Receiver anticipates that further investigation of this issue may be required.


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SHERBORN, ONT. M9W 1G9

- iii. The shares of the Old Telegram Building Inc. were sold in a transaction designed to transfer ownership in the real estate owned by that corporation. It appears that Norma and Ronald Walton benefitted personally from this sale, but the Receiver currently has insufficient documentation to be able to quantify the total amount of funds obtained by them personally.
- iv. Norma Walton created and ran a continual process of cancelling certain share certificates issued to investors in the various real estate projects and issuing new ones in different corporations either to satisfy equity requirements to obtain further funding to advance certain real estate projects, or to prove to investors that a new investment opportunity requiring funding has arisen.
- v. The Receiver did not find adequate evidence that the cancellation and issuance of shares was authorized by the respective Directors of the various corporations, notwithstanding the provisions of either the *Ontario Business Corporations Act* R.S.O. 1990, CHAPTER B.16 ("OBCA") or the *Canada Business Corporations Act* R.S.C., 1985, c. C-44. Also, the share certificates reviewed by the Receiver also contain the wording "Restrictions on Transfer" on their face.
- vi. Evidence of backdating of transactions was found.
- vii. Invictus Employment Training Centre Inc. is a registered charity. Although it has apparently not filed its information return due no later than June 30, 2014, its status is still active and registered. Attached hereto as Exhibit "E" is a search conducted by the Receiver on November 24, 2014 evidencing its current status.
- viii. Handy Home Products Inc. ("Handy") and Plexor Plastics Inc. should be considered as related. The Debtors owned 50% of the common shares of each


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corporation while their business partner, inventor and manufacturer, Mr. R. Lambert, owned the other 50% of the common shares of each corporation. The Receiver's understanding is that the Debtors operated both corporations and that Mr. Lambert, who was in charge of production and marketing, allowed the Debtors to have full control of the financial management, legal matters and administration responsibilities of Handy.

The Receiver's further understanding is that in February 2014, the common shares of Handy were transferred to Mr. Lambert who became the sole shareholder of Handy. The Receiver also understands that there was no cash consideration for the share transfer. Rather, it was a settlement of unlitigated claims Mr. Lambert would make if not settled in his favour against the Debtors and Rose and Thistle Group Ltd. for the oppression remedy under the OBCA, including but not limited to alleged breaches of fiduciary duties as directors of Handy, claims in tort for conversion, conspiracy, unjust enrichment and breach of constructive trust none of which claims were admitted by the Debtors and all of which they denied. As a result of the settlement by way of the transfer of shares to Mr. Lambert, no litigation ensued. The Receiver's understanding is that Handy continues to operate and that Plexor Plastics Inc. is an inactive corporation. The Receiver anticipates that further investigation of this issue may be required.

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Bank and investment accounts

29. The Receiver was aware that Norma and Ronald Walton each maintained a personal bank account at Meridian Credit Union ("Meridian"), where the Debtors also maintained various corporate bank accounts. The Manager had already frozen all the personal and corporate bank accounts maintained or controlled by the Debtors at Meridian. Other than for the account of CCI (further discussed below) all other bank accounts were either in overdraft or had extremely minimal balances. After numerous discussions and communications with representatives of both the Manager and Meridian, on September 22, 2014, the Receiver made arrangements with Meridian to take over control of the bank accounts maintained at Meridian that were not the subject of the Manager's administration and therefore were subject to the receivership administration. Representatives of the Receiver became the sole signing authority for any activity dealing with such accounts maintained at Meridian. The Receiver also controls who may have online access to view the accounts online.

30. The Receiver had no knowledge whether or not the Debtors maintained bank accounts at any of the major chartered banks. Accordingly, the Receiver communicated with the banks: (i) putting them on notice of the receivership of the Debtors; (ii) providing a copy of the Appointment Order; and (iii) requesting that any funds, property or safety deposit boxes in the

name of either or both of Norma Walton or Ronald Walton be frozen for the benefit of the Receiver.

31. The Receiver communicated with The Toronto-Dominion Bank, Canadian Imperial Bank of Commerce, The Bank of Nova Scotia, Bank of Montreal, Royal Bank of Canada, National Bank of Canada, HSBC Canada and Tangerine Bank Canada. No funds or other property was located in or recovered from those banks.

32. The Receiver was also aware of the possibility that investments/securities were held at D&D Securities Inc., CIBC Wood Gundy and/or Mackie Research Capital Corporation ("Mackie"). Accordingly, the Receiver issued similar freeze letters to these companies. CIBC Wood Gundy advised that there were no accounts held. Mackie advised that the Debtors jointly owned a Registered Education Savings Plan ("RESP") and provided the July 2014 statement. The statement indicates that the Debtors withdrew the contributed amount of \$30,020.07 on July 31, 2014 as a capital withdrawal and Mackie returned \$5,984.01 grant to the government. The balance of \$21,870.52 Mackie advises relates to only investment growth and that no contributed amount remains in the account. Mackie's position is that the growth is not property of the Debtors and therefore is not being distributed to the Receiver. The Receiver is currently looking into this situation further. Mackie advised that the Debtors also maintained a brokerage account

that had a credit balance of \$54.13 and this amount was provided to the Receiver. The Receiver anticipates that further investigation of this issue may be required.

33. The Receiver was also aware of potential accounts maintained with D&D Securities Inc. ("D&D") in Toronto. In response to the Receiver's demand letters, Mr. P. Lilly, President of D&D advised that there six accounts maintained at D&D. Two cash accounts have no balance, two RRSP accounts and one cash account has a total of \$199.43 and one account being a locked-in retirement account ("LIRA") owned by Ronald Walton contains cash and securities with a current balance of \$30,724.39. Norma Walton is the Designated Beneficiary under the LIRA. The Receiver's investigation of these accounts is ongoing.

34. The Receiver's review indicates that in January 2014 Ronald Walton obtained the amount of \$75,139.20 through a deregistration of his RRSP account no. 2D-BJC and Norma Walton obtained the amount of \$62,983.43 through a deregistration of her RRSP account no. 2D-BBB.

35. The Receiver maintained the freezing on all accounts maintained at Meridian, other than for the account maintained by CCI.

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CCI

36. The Receiver determined that CCI is an active company. CCI had a few corporate customers for which it provides an e-Learning platform which allows companies to layer their specific training modules on top of CCI's e-Learning platform to provide their specific training modules to their respective employees. CCI can also assist in the deployment and updating of the customers' respective online learning training modules if requested. The Receiver's review indicated that CCI's common shares are owned by the Debtors (50%), Paul Duffy (37.5%) and Ange Boudle (12.5%).

37. The Receiver's understanding is that CCI's platform hosting infrastructure is fully managed by Nanotek Consulting Corp. ("Nanotek"), Units 1 & 2 -- 81 Zenway Blvd., Woodbridge, ON. The Receiver also understands that the CCI source code currently resides in three locations: (i) Nanotek's servers; (ii) Nanotek's secure offsite mirror and backup; and (iii) locally on CCI's platform, which is an administrators development environment for development purposes. As needed copies or partial copies are provided to development contractors and these versions/contractors do not come in contact with CCI servers.

38. Norma Walton advised the Receiver that in her view, CCI should continue operations. CCI has five (5) employees as follows: (i) Norma Walton - Manager; (ii) Mario Bucci -- CFO; (iii) Amy Collins -- Assistant to Mr. Bucci; (iv) Gina Karkanis -- Programmer; and (v) Jim

Kitchingman – Programmer. The Programmers work from their respective home offices while Ms. Walton, Mr. Bucci and Ms. Collins worked from the 1 William Morgan Drive premises.

39. The Receiver's review of the available historical CCI accounting records indicated that CCI probably could continue on a break-even basis, but would not generate any profit. Norma Walton disagreed with this assessment, and at her request, Mr. Bucci prepared a budget provided to the Receiver indicating that CCI could generate as much as \$83,000 in free cash flow by the end of 2014.

40. Notwithstanding that the Receiver believed that Mr. Bucci's assessment was extremely optimistic and that CCI would likely only be able to operate on a break-even basis, the Receiver concurred that CCI should continue operating in the short term, as long as it could remain self-funding, subject to specific financial controls. The main reasons the Receiver has come to this conclusion are that:

- i. CCI itself was not in receivership or subject to any other insolvency proceedings;
- ii. the Receiver was the Receiver of the shares held by the Debtors in CCI, and not the assets, properties and undertaking of CCI;
- iii. the immediate shutdown of CCI by the Receiver would require consultation with the other shareholders;

- iv. the other shareholders, the customers and the employees of CCI could be harmed by a shutdown; and
- v. if CCI could operate profitably, there may be some value to the shares owned by the Debtors for the Receiver to realize upon.

41. Therefore, the Receiver believed that if sufficient financial controls could be put into place so that CCI would be allowed to operate, and could pay all of its expenses, including remittances of payroll source deductions and the employer share, as well as any net HST, if any (which was not the case prior to the date of the Appointment Order), then there was no harm in allowing CCI to operate on its own cash flow and there was potential harm if the Receiver unilaterally decided to cease CCI's operations.

42. The Receiver explained its concerns to Norma Walton, and the Receiver explained that for CCI to be allowed to operate, there would have to be specific financial controls put into place, including none of CCI's employees being allowed to sign cheques or instruct Meridian in the operation of the CCI bank account. Ms. Walton agreed to the Receiver's suggestions and such financial controls were put in place.

43. The Receiver believed that the best arrangement would be to place financial controls normally found in a Court-mandated Interim Receiver appointment; i.e. the Receiver would control receipts and disbursements and monitor operations, but CCI's management would remain in control otherwise of running the business. The Receiver would not make any management

decisions but would allow existing management being Norma Walton and Mario Bucci to make all decisions in connection with CCI's business, while not having any ability to access CCI's funds maintained at Meridian. The Receiver also noted that CCI's customers paid by wire transfer into CCI's account maintained at Meridian, and that CCI's obligations were paid for by way of cheque.

44. In addition to the arrangements made with Meridian indicated above, which included exerting control over CCI's bank account maintained at Meridian, the Receiver required that Mr. Bucci provide the Receiver with regular reporting on CCI's operations. Further, the Receiver provided Mr. Bucci with its standard cheque requisition form. For any payment CCI management wished to make, the cheque requisition form had to be completed in full with complete backup of the proposed payment and the cheque and the form had to be approved by both Mr. Bucci and Ms. Walton prior to presentation to the Receiver for review and signing of the cheque. Upon review by the Receiver that the proposed disbursement appeared to be connected to furthering CCI's business operations, one of the two Receiver's representatives authorized to sign cheques on the Meridian account would do so. The cheque would then be provided to Mr. Bucci for delivery to the payee and the Receiver retained the cheque requisitions and respective backup documentation in its file.

45. Ms. Collins resigned in November 2014 to pursue another opportunity. Therefore CCI currently has four (4) employees earning the following gross pay amounts on a semi-monthly payroll: (i) Norma Walton -- \$1,500; (ii) Mario Bucci -- \$3,837.50; (iii) Gina Karkanis -- \$2,708.33; and (iv) Jim Kitchingman -- \$3,229.17.

46. The Receiver advises that to date, CCI is operating on a break-even basis, is not accumulating any cash above its operational needs, and the government remittances since the date of the Appointment Order are current. To date the Receiver and, to the best of the Receiver's knowledge, CCI have not been contacted by Canada Revenue Agency ("CRA") in connection with any arrears accumulated prior to the Receiver's appointment.

47. The mortgage payments on the 1 William Morgan Drive premises were in arrears and CCI and its employees could not remain there. Norma Walton arranged for CCI to lease three commercial offices within space leased by FR Safety Apparel Inc., 25 Hollinger Road, Unit 10, Toronto, ON. The lease term commences on October 1, 2014 and ends on August 31, 2015. The monthly lease cost is \$1,000 plus HST on a gross basis. The lease is currently in good standing as CCI has made the required rent payments to date out of its own cash flow.

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F. ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

48. Attached as Exhibit "F" is the memo of Mr. M. Wolfe of the Receiver concerning his review of the available internal accounting records of the various companies identified, as well as the financial statements and income tax returns prepared by the Mr. G. Crewe, Chartered Professional Accountant, the external accountant of all the companies. Mr. Crewe initially did not agree to provide the Receiver with the financial statements and income tax returns of the various companies and of Norma and Ronald Walton. Mr. Crewe felt that he should be compensated for his time in compiling the documents for the Receiver. The Receiver advised Mr. Crewe of his duty to cooperate with the Receiver and deliver such property and directed him to the appropriate provisions within the Appointment Order. As a result, Mr. Crewe, under protest, provided the Receiver with the required documentation.

49. Mr. Crewe advised the Receiver that the various companies' books and records were never current and therefore could not be relied upon. The Receiver's review of the internal accounting records confirmed that they cannot be relied upon. Further, the Receiver's review of the internal accounting records also confirmed the evidence submitted in the litigation leading to this receivership appointment³.

³See Reasons Page 4, paragraph 8, DBDC Spadina Ltd. v. Walton, 2014 ONSC 4644

50. Accordingly, the Receiver will not repeat those findings and each finding as discussed in Exhibit "F" of this First Report. Rather, to summarize, the Receiver's initial findings are:

- i. the internal accounting records are incomplete and cannot be relied upon;
- ii. many of the transactions are recorded by way of global journal entries to summarize purported transactions, rather than recording each transaction as they occur in accordance with generally accepted accounting procedures;
- iii. the Debtors appeared to be taking on third party investors in their projects;
- iv. the Debtors were engaged in significant related party transactions in respect of the projects through and using Rose and Thistle Group Ltd. and other related entities;
- v. it appears that there was extensive co-mingling of funds;
- vi. investors whose investments were characterized as share purchases in various real estate project corporations were in some instances having their shares redeemed and transferred to other related entities, as the Debtors either needed to show that there was the opportunity for a new equity investment or that a specific entity had sufficient equity invested in order to obtain financing;
- vii. the share transfers appeared to have been made without regard to the provincial and federal legislation governing share transfers and any restrictions thereon;
- viii. arrears for HST and employee source deductions exist in various companies;
- ix. the business reason for various journal entries in the internal accounting records is not readily evident; and

- x. between January 1, 2012 and December 31, 2013, it appears that the Debtors on a net basis withdrew at least \$3 million in cash from various corporations.

51. As indicated in Exhibit "F", a significant further amount of investigation work would have to be performed to reach any definitive conclusions. The Receiver notes that the Manager has undertaken a significant amount of forensic work to date, so the Receiver would not undertake any further investigation work without first conferring with the Manager and the Applicants to ensure that there is not any duplication of efforts and that there is agreement amongst the significant stakeholders that the Receiver should undertake such further investigation work.

G. OTHER MATTERS

LSUC

52. On November 21, 2014, the Receiver's legal counsel, Mr. J. Cathart of MT, was contacted by Mr. J. Elcombe, lawyer for LSUC. Mr. Elcombe advised of the current status of the proceedings involving LSUC and Norma Walton described in paragraph 6 of this First Report. Mr. Elcombe also advised that Norma Walton is claiming due to these receivership proceedings, there is a stay of proceedings and therefore LSUC may not continue in either disciplinary proceedings or in the enforcement of any cost award. Mr. Elcombe has asked if the Receiver would consent to a lifting of the stay so that the proceedings may continue.

53. Mr. Carhart spoke with Mr. Elcombe, Ms. Jan Parmega and Ms. Arwen Tillman - all of the LSUC - on November 27, 2014. They indicated to Mr. Carhart that the LSUC's immediate concern is to seek judicial recognition of their position that the issuance, by the LSUC discipline panel, of its September 19, 2014 decision is not nullified by (i) the Reasons or (ii) the Order of Justice Brown dated August 12, 2014; or (iii) the Appointment Order, although the LSUC understands that the enforcement of the financial aspects of the costs order has been stayed. The Receiver is prepared to consent to a lifting of the stay so as to allow the LSUC to seek that determination - such consent would be on the traditional terms for lifting stays in such situations which would include clarification that the Receiver need not defend any aspect of such a proceeding and that no costs or other amounts could be awarded against the Receiver or the Estate of either of the Waltons in that regard and that any costs which are incurred by the Receiver in connection with such matters may be recovered by the Receiver as well as the fact that the stay would not be considered to have been lifted for purposes of allowing the LSUC to take enforcement proceedings to collect any debt arising out of any cost order/ decision. Mr. Elcombe, Ms. Parmega and Ms. Tillman also indicated to Mr. Carhart that the LSUC's additional concerns relate to the ongoing dispute with Ms. Walton concerning the status of her licence to practice law and those matters may require further treatment in the future.

54. Accordingly, the Receiver respectfully recommends to this Honourable Court that the stay of proceedings in connection with Norma Walton be lifted in order to allow LSUC's normal

disciplinary process to be continued. The Receiver does not believe that LSUC would be prejudiced by distinguishing between disciplinary proceedings and enforcement on a debt.

Receiver's meeting with the Applicants et al

55. On October 2, 2014, Mr. I. Smith of the Receiver and Mr. Carhart met with Mr. S. Schonfeld and Mr. G. Moulton of the Manager and Dr. S. Bernstein and Mr. J. Reitan of the Applicants, and their respective legal counsel at the offices of MT. The purpose of the meeting was to provide both the Manager and the Applicants with a summary of the actions, activities and initial findings of the Receiver at that date, and to determine if either the Manager or the Applicants had information in their possession which would assist the Receiver.

56. The Receiver obtained and shared information and at the conclusion of the meeting, both the Manager and the Applicants agreed that the Receiver and MT should continue its activities, which the Receiver advises are consistent with the actions and activities described in this First Report.

57. The Receiver has obtained an indemnity for its funding from Dr. S. Bernstein. The Receiver advises that its ability to continue with its ongoing investigations and the receivership administration is dependent on the Receiver understanding the funding it can look to for the fees, disbursements and costs of the Receiver and MT.

The Debtors' Statement of Income and Expenses

58. In a bankruptcy proceeding, a trustee in bankruptcy is required to determine the bankrupt's personal and family situation for the purposes of subsection 68(3) of the *Bankruptcy and Insolvency Act* (Canada). It is necessary to establish the earnings and expenses of both the bankrupt and the bankrupt's family unit. The bankrupt must disclose the earnings and expenses of each member of the family unit by providing the trustee with income and expense statements for the entire period of bankruptcy.

59. There is no such requirement in this receivership proceeding akin to the requirements of determining surplus income in a bankruptcy. However, the living expenses of Norma Walton and Ronald Walton have been touched upon in the Manager's administration, and may become the subject matter of further Court supervision. Accordingly, the Receiver has requested to date that Norma Walton complete two monthly statements of income and expenses for her, Ronald Walton and their family. Norma Walton has complied.

60. The most recent monthly statement of income and expenses was prepared by Norma Walton on November 21, 2014 and can be summarized as follows:

	<u>Norma</u>	<u>Ronauld</u>	<u>Total</u>
Employment income net of tax	\$2,866	-	\$2,866
Federal allowance	200	-	200
Assistance from parents	<u>5,369</u>	<u>\$2,500</u>	<u>7,869</u>
	<u>\$8,435</u>	<u>\$2,500</u>	10,935
Family expenses			<u>10,935</u>
Excess/ (deficiency)			\$ -

Receiver's website

61. The Receiver established on its website a webpage dedicated to this receivership administration. The Receiver refers any party enquiring about the status of the receivership to the Norma Walton and Ronauld Walton receivership webpage:


IRA SMITH
 TRUSTEE & RECEIVER INC.
STARTING DATE: 11/11/2011

http://www.irasmlthinc.com/case_studies/normawalton/index.html

Attached as Exhibit "G" is a copy of the webpage.

H. RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

62. Attached as Exhibit "H" is the Receiver's Statement of Receipts and Disbursements for the period September 5 to November 25, 2014, indicating funds on hand in the amount of \$1,374.13 (the "Statement of Receipts and Disbursements").

I. PROFESSIONAL FEES AND DISBURSEMENTS

63. Attached as Exhibit "I" is a copy of the Affidavit of Mr. Ira Smith in connection with the Receiver's fee and disbursements including the detailed statement of account for the period up to November 25, 2014 in the amount of \$174,671.93 (inclusive of HST). As indicated in the Affidavit (and the Statement of Receipts and Disbursements), to date, the amount of \$NIL has been advanced on account of the fees and disbursements.

64. Attached as Exhibit "J" is a copy of the Affidavit of Mr. David Reynolds in connection with MT's fee and disbursements including the detailed statement of account for the period up to November 25, 2014 in the amount of \$53,260.29 (inclusive of HST). As indicated in the Statement of Receipts and Disbursements, to date, the amount of \$NIL has been advanced on account of MT's fees and disbursements.

J. CONCLUSION AND RECOMMENDATIONS

65. For the reasons set out in this First Report, the Receiver respectfully requests that this Honourable Court approve:

- i. this First Report and the actions and activities of the Receiver described herein since September 5, 2014;
- ii. in advance the sale of a vehicle, in a commercially reasonable manner, described as a 2011 Nissan Armada, VIN#5N1AA0NE5BN620916, owned by Norma Walton;
- iii. the amendment of paragraph 4(k) of the Appointment Order to allow for sales of assets out of the ordinary course of business, without the prior approval of the Court in the case of any asset being sold for a maximum amount of \$30,000 (excluding HST);
- iv. the lifting of the stay of proceedings against Norma Walton solely for the purpose for allowing the Law Society of Upper Canada ("LSUC") to continue its disciplinary proceedings against Norma Walton;
- v. the accounting for the receipts and disbursements of the Receiver from September 5 to November 25, 2014; and
- vi. the fees, disbursements and other costs incurred to date by the Receiver and its legal counsel, MT.

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All of which is respectfully submitted at Toronto, Ontario this 1st day of December, 2014.

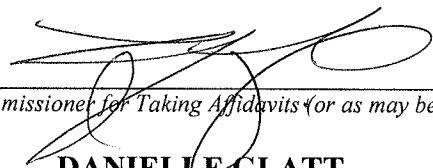
IRA SMITH TRUSTEE & RECEIVER INC.
solely in its capacity as Court-Appointed Receiver
of Norma Walton and Ronald Walton
and not in its personal capacity

Per: 

Ira Smith, President

Tab E

This is Exhibit "E" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

Court File No. CV-13-10280-00CL

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO

Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD. and EGLINTON CASTLE INC.

Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

SECOND REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
NORMA WALTON AND RONAULD WALTON

DATED FEBRUARY 26, 2015

**SECOND REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
NORMA WALTON AND RONAULD WALTON**

DATED FEBRUARY 26, 2015

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**SECOND REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
NORMA WALTON AND RONAULD WALTON**

DATED FEBRUARY 26, 2015

Exhibits

Exhibit "A"	Order of the Honourable Mr. Justice Newbould dated September 5, 2014
Exhibit "B"	Receiver's First Report to Court dated December 1, 2014
Exhibit "C"	First Approval Order
Exhibit "D"	Ms. Sims' email and attachment of the Receiver's letter dated December 3, 2014
Exhibit "E"	Order of the Court dated January 6, 2015, vacant possession of the real property described as 44 Park Lane Circle
Exhibit "F"	S. Wilson & Co. Bailiffs Limited Report on Chattels
Exhibit "G"	Insolvency search on Corporate Respondents
Exhibit "H"	Receiver's Statement of Receipts and Disbursements for the period September 5, 2014 to February 25, 2015
Exhibit "I"	Affidavit of Mr. Ira Smith in connection with the Receiver's fee and disbursements including the detailed statement of account for the period from November 26, 2014 to February 24, 2015
Exhibit "J"	Affidavit of Mr. David Reynolds in connection with Miller Thomson LLP's fee and disbursements including the detailed statement of account for the period from November 26, 2014 to February 24, 2015

SECOND REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF

NORMA WALTON AND RONAULD WALTON

DATED FEBRUARY 26, 2015

A. INTRODUCTION

1. Pursuant to the Reasons for Decision dated August 12, 2014¹ (the "Reasons") and the Order of The Honourable Mr. Justice D.M. Brown of the same date, Schonfeld Inc. was appointed on an interim basis as Receiver of all of the assets, properties and undertaking of Norma Walton and Ronauld Walton. In accordance with the Reasons, by Order of the Honourable Mr. Justice Newbould dated September 5, 2014 (but not issued until September 12, 2014) (the "Appointment Order"), Ira Smith Trustee & Receiver Inc. ("ISI") was appointed receiver (the "Receiver") without security, of all of the assets, properties and undertaking of Norma Walton and Ronauld Walton (collectively the "Debtors" or the "Waltons"), replacing Schonfeld Inc.

A copy of the Appointment Order is attached as Exhibit "A".

¹See Reasons Page 78, paragraph 233, DBDC Spadina Ltd. v. Walton, 2014 ONSC 4644. This decision has also been reported at (2014) 121 O.R. (3d) 449.

2. Schonfeld Inc. remains as Manager, as defined and described in various Court Orders in the litigation of DBDC Spadina Ltd. v. Walton (the "Manager")².

3. By Order of the Honourable Mr. Justice Pattillo dated December 8, 2014, the actions and activities of the Receiver, as contained in the Receiver's First Report to Court dated December 1, 2014 (the "First Report"), and the First Report, were approved by this Honourable Court (the "First Approval Order"). A copy of the First Report (without exhibits) is attached as Exhibit "B". A copy of the First Approval Order is attached as Exhibit "C".

B. PURPOSE OF REPORT

4. The purpose of this report (the "Second Report") is to report to this Honourable Court on the financial position of the Debtors, the actions and activities of the Receiver and to support a motion by the Receiver to obtain an Order of the Court approving:

- i. this Second Report and the actions and activities of the Receiver described herein since the activities reported upon in the First Report;

²Schonfeld Inc. is manager of: (i) certain companies listed in Schedule "B" to the Order of Mr. Justice Newbould dated November 5, 2013 together with the real estate properties owned by specific companies, as amended by Order of Mr. Justice Newbould dated January 16, 2014; and (ii) the properties listed at Schedule "C" to the Order of Mr. Justice Brown dated August 12, 2014, all of which was confirmed in the Appointment Order.

- ii. the accounting for the receipts and disbursements of the Receiver from September 5, 2014 to February 25, 2015; and
- iii. the fees, disbursements and other costs incurred for the period from November 26, 2014 to February 24, 2015 by the Receiver and its legal counsel, Miller Thomson LLP ("MT").

C. DISCLAIMER

5. In preparing this Second Report, the Receiver, where stated, has relied upon unaudited and draft, internal financial information obtained from the Debtors' books and records and discussions with third parties as stated herein (collectively, the "Information"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information.

6. This report is prepared solely for the use of the Court and the stakeholders in this proceeding, for the purpose of assisting the Court in making a determination whether to approve the actions and activities of the Receiver, and other relief being sought. It is based on the Receiver's analysis of the Information as stated herein, which included unaudited financial statements and internal financial reporting. The Receiver's procedures did not constitute an audit or financial review engagement of the Debtors' financial reporting. Where stated, the Receiver has relied upon

the financial statements and financial and other records of the Debtors in reaching the conclusions set out in this report.

D. BACKGROUND AND OVERVIEW

7. In the First Report, the Receiver provided background and overview information in relation to Norma Walton and Ronauld Walton. Norma Walton is a lawyer whose licence to practice law has been revoked by The Law Society of Upper Canada ("LSUC") with ongoing regulatory proceedings³. Ronauld Walton is a lawyer who is restricted from practicing law in Ontario as a result of his voluntary undertaking to LSUC and whose licence is now suspended administratively.

8. Readers of this Second Report are referred to Section D of the First Report for further background and overview information.

E. ASSETS

9. In the First Report, the Receiver reported on its understanding of the assets owned by one or both of the Debtors as follows:

- a) the real property described as 44 Park Lane Circle, Toronto, ON;

³ *Law Society of Upper Canada v. Walton*, 2015 ONLSTA 8 (CanLII), February 18, 2015, Tribunal File No.: LAP07/14

- b) 2011 Nissan Armada, VIN#5N1AA0NE5BN620916;
- c) Office furniture and equipment;
- d) Bank and investment accounts; and
- e) Shareholdings in various private corporations not under the administration of the Manager identified as follows:
 - i. 1659126 Ontario Inc.
 - ii. 1793530 Ontario Inc.
 - iii. 364808 Ontario Limited
 - iv. Carport Realty Holdings Inc.
 - v. CCI Interactive Inc.
 - vi. College Lane Ltd.
 - vii. Corporate Communications Interactive Inc.
 - viii. CCI
 - ix. Gerrard Church 2006 Inc.
 - x. Gerrard House Inc.
 - xi. Handy Home Products Inc.
 - xii. Hazelton Property Management Inc.
 - xiii. Highland Creek Townes Inc.

- xiv. Invictus Employment Training Centre Inc.
- xv. Legal Audit Inc.
- xvi. McCaul Mansions Inc.
- xvii. Metro Spa Ltd.
- xviii. Palmer Productions Ltd.
- xix. Plexor Plastics Corp.
- xx. Quest Beyond the Stars Ltd.
- xxi. Re-Memory Productions Inc.
- xxii. Richmond East Properties Ltd.
- xxiii. Rose and Thistle Asset Management Ltd.
- xxiv. Rose and Thistle Construction Ltd.
- xxv. Rose and Thistle Homes Ltd.
- xxvi. Rose and Thistle Media Inc.
- xxvii. Rose and Thistle Properties Ltd.
- xxviii. Rose and Thistle Group Ltd.
- xxix. Urban Amish Interiors Inc.

10. In the First Report, the Receiver advised of the results of its conservatory measures, appraisals obtained and investigations conducted in connection with the Debtors' above noted assets. For the complete description of the Receiver's findings as of that date, readers are referred

to the First Report. The Receiver's major findings in the First Report can be summarized as follows:

- a) The real property was under the administration of the Manager. Therefore, the Receiver did not spend any time in dealing with any issues concerning the realty (see further discussion below).
- b) The Receiver retained Corporate & General Liquidators and Auctioneers (the "Appraiser") to: (i) perform an appraisal of the contents of the Park Lane Circle residence; (ii) take possession of the Nissan Armada in order to appraise it and seek offers to purchase it; and (iii) perform an appraisal of the office furniture and equipment located on the business premises used by Norma and Ronauld Walton's companies, being 1 William Morgan Drive.
- c) The Appraiser's Report indicated that the liquidation value of the assets, property and undertaking of Norma Walton and Ronauld Walton located in the Park Lane Circle residence (prior to consideration of moving, storage, insurance and realization costs) was the amount of \$12,650. Given the exemptions the Debtors are entitled to under provincial law, at the time of the First Report the Receiver had not taken possession of any of those assets.

- d) The Appraiser's Report indicated that the liquidation value of the assets, property and undertaking owned by Corporate Communications Interactive Inc. ("CCI") located at the William Morgan premises (prior to consideration of moving, storage, insurance and realization costs) was the amount of \$2,235. As indicated in the First Report, CCI is an active corporation and consequently continues to use those assets.
- e) The Appraiser took possession of the 2011 Nissan Armada, stored it at the Appraiser's premises, 361 Steelcase Road West, Unit 7, Markham, ON. The Receiver's initial desktop appraisal indicated that this vehicle had an approximate value in the range of \$28,000 to \$30,000. The Appraiser advised the Receiver that in their opinion, given the condition and mileage of the vehicle, it had a value of \$25,000. The Appraiser also advised the Receiver that this vehicle was not in great demand.
- f) Investment accounts maintained with D&D Securities Inc. ("D&D") in Toronto. In response to the Receiver's demand letters, Mr. P. Lilly, President of D&D advised that there were six accounts maintained at D&D. Two cash accounts which have no balance, two RRSP accounts and one cash account having a total of \$199.43 and one account being a locked-in retirement account ("LIRA") owned by Ronauld Walton. The Receiver was advised that the LIRA contains cash and securities with a balance of \$30,724.39. Norma Walton is the Designated Beneficiary under the LIRA.

- g) The Receiver's review indicated that in January 2014 Ronauld Walton obtained the amount of \$75,139.20 through a deregistration of his RRSP account no. 2D-BJC and Norma Walton obtained the amount of \$62,983.43 through a deregistration of her RRSP account no. 2D-BBB.
- h) That the only one of the above-listed corporations that was operating was CCI, the Receiver's implementation of sufficient financial controls to allow it to operate and that CCI was continuing to operate on only a break-even basis.
- i) The accounting records and financial statements of the above-listed companies were incomplete and could not be relied upon, as well as specific individual findings based on the review of the available books and records.

F. ACTIVITIES SINCE THE FIRST REPORT

11. Besides the above-noted approvals obtained in the First Approval Order, the Court also approved in advance the sale, in a commercially reasonable manner, of the vehicle described as a 2011 Nissan Armada, VIN#5N1AA0NE5BN620916, owned by Norma Walton. The First Approval Order also amended paragraph 4(k) of the Appointment Order to provide the Receiver with the authority to enter into agreements and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, without the prior approval of the Court in the case of any asset being sold for a maximum amount of \$30,000 (excluding HST).

The prior approval of the Court continues to be required for the sale of any asset for proceeds in excess of this threshold.

2011 Nissan Armada -

12. The Appraiser sold the 2011 Nissan for the Receiver. The gross proceeds of sale was the amount of \$19,000.00, costs and commission incurred was the amount of \$4,915.50 and on December 19, 2014 the Appraiser provided the Receiver with its accounting and a cheque in the net amount of \$14,084.50. The funds were deposited into the Receiver's trust bank account maintained for this receivership administration.

Ronald Walton LIRA -

13. On December 3, 2014, the Receiver wrote to Ronald Walton in concerning the Receiver's ongoing investigation into his LIRA. The Receiver issued the letter by email c/o Norma Walton.

14. Norma Walton confirmed receipt of the letter and advised that she would use her best efforts to respond. The Receiver advised her that it required the written response of Ronald Walton. Norma Walton was not prepared to provide an assurance satisfactory to the Receiver that either she would provide the letter to her husband or that he would provide the requested response.

15. Accordingly, on the same day, the Receiver sent by registered mail to Ronald Walton, a letter containing the same contents and requests concerning his LIRA. The letter went unclaimed and was returned to the Receiver by Canada Post.

16. Therefore, on January 12, 2015, Ms. M. Sims of MT provided by email a copy of the Receiver's December 3, 2014 letter to Mr. Walton to his legal counsel, Mr. H. Cohen of Cohen, Sabsay LLP. Attached as Exhibit "D" is a copy of Ms. Sims' email and attachment of the Receiver's letter dated December 3, 2014. To date, Mrs. Walton and neither Mr. Walton nor Mr. Cohen have responded/cooperated with the Receiver. The Receiver will obtain advice from MT regarding Mr. Walton's apparent contempt of the Appointment Order.

Chattels owned by the Debtor located upon the 44 Park Lane Circle real property -

17. Mr. J. Carhart of MT had previously been contacted by Mr. L. Zimmerman of Zimmerman Associates, who advised that he is legal counsel to a mortgagee of the 44 Park Lane Circle real property. In December, 2014, Mr. Zimmerman advised that the mortgagee entered into a private agreement to sell the real property and fixtures located thereon, but not any of the chattels.

18. Discussions ensued between Mr. Zimmerman and Mr. Carhart, Mr. I. Smith of the Receiver and Mr. L. Wallach, Barrister & Solicitor, who was assisting Mr. Zimmerman. The matters discussed concerned: (i) the private sale of the real property and its fixtures; (ii) the

agreement reached between the mortgagee and the Debtors to vacate the 44 Park Lane Circle residence; (iii) the Receiver's position that the chattels located upon the real property were available for the Receiver to realize upon; and (iv) the Receiver's need for satisfactory arrangements to be made with the Receiver to allow for the Receiver's access to the property for the removal of the chattels.

19. By Order of the Court dated January 6, 2015, the mortgagee obtained vacant possession of the real property no earlier than February 5, 2015 (the "Vacant Possession Order").

Attached as Exhibit "E" is a copy of the Vacant Possession Order.

20. The Receiver made arrangements with the Debtors to have the Appraiser attend at the Park Lane Circle premises on February 2, 2015 as the Debtors advised that they would be moving out between February 2 and 5, 2015. On February 3, 2015, Norma Walton advised the Receiver that they have moved out of the Park Lane Circle residence and that their new address is 15 Montessor Drive, Toronto, ON. The Appraiser attended at 9AM on February 2 and found the Debtors had already moved out and the mortgagee had secured the premises and posted security. The Appraiser, on behalf of the Receiver, was denied access to the premises.

21. Further discussions ensued between Messrs. Zimmerman, Wallach, Carhart and Smith regarding the denial of entry and access to the Debtors' assets and the Receiver's view that this was in contradiction of the provisions of the Appointment Order.

22. The Receiver's position was that the mortgagee could either purchase the Receiver's right, title and interest, if any, in the chattels owned by the Debtor located upon the real property, thereby allowing it to also convey the chattels to the purchaser. Alternatively, they could provide the Receiver with access in order for the chattels to be removed.

23. The chattels located upon the real property after the Debtors moved out consisted of high end built in fridge and freezer units, as well as various hanging ceiling lighting. The Appraiser had not considered these items in its appraisal report to the Receiver. The Receiver and the Appraiser were of the view that the realizeable value of these items were minimal, after the cost of removal, storage, insurance and sales commission were considered.

24. The mortgagee requested its bailiff, S. Wilson & Co. Bailiffs Limited (the "Bailiff"), to prepare a report on the net realizeable value of the chattels (after consideration of sales costs). Attached as **Exhibit "F"** is a copy of the Bailiff's report indicating a net realizeable value in the range of \$1,419.00 to \$1,947.88 (plus HST). The Bailiff is well known to the Receiver as an experienced liquidator and accordingly the Receiver as prepared to rely upon the Bailiff's assessment. Mr. Carhart advised Messrs. Zimmerman and Wallach that the Receiver was prepared to sell its right, title and interest, if any, in the chattels for the amount of \$2,000 plus HST.

25. The mortgagee agreed and the Receiver issued its standard Bill of Sale for this transaction made as of February 5, 2015. As of this date, the Receiver has received the principal amount of \$2,000 which has been deposited into the Receiver's trust bank account maintained for this receivership administration. The Receiver is awaiting receipt of the HST (which has been acknowledged on behalf of the mortgagee as owing) and the signed Bill of Sale from the mortgagee.

CCI -

26. The Receiver has continued its financial controls and supervision of the financial affairs of CCI, including signing cheques and dealing with the CCI's bank account maintained at Meridian Credit Union Limited. The Receiver advises that CCI continues to operate at only a break-even level.

Norma Walton motion dated February 20, 2015 returnable March 5, 2015 -

27. On behalf of the Receiver, MT was served with a copy of Norma Walton's motion record. The relief being sought by Norma Walton is as follows:

- i. an Order be made requiring the Manager and/or the Receiver to release the amount of \$200,000 plus HST to Norma Walton for ongoing legal expenses in the litigation that led to the appointment of the Manager and the Receiver; and

- ii. an Order be made requiring the Manager and/or the Receiver to pay the monthly amount of \$9,000 to Norma Walton to contribute to the funding of her family living expenses.

28. The Receiver's overall position on Norma Walton and Ronald Walton's application is as follows:

- i. Firstly, the Receiver is not in possession of any funds in excess of the amounts encumbered by the Receiver's Charge as set out in paragraph 18 of the Appointment Order. As a result, the Receiver is not in possession of any funds that are available to be paid as requested by the Debtors, if, in all the circumstances, this Honourable Court was inclined to direct funds to be paid to the Debtors.
- ii. Secondly, the Receiver is of the view that if this Honourable Court determines that any amounts held by the Manager are the property of Norma Walton or Ronald Walton, and are not in fact claimed or payable to the Applicants or other claimants, then any such funds should first be paid to the Receiver pursuant to the Appointment Order and not paid as requested by Norma Walton or Ronald Walton.

29. As an independent Court Officer, the Receiver takes no position on the issue of whether Norma Walton should have the Court appoint representative counsel for her in this litigation, including a mechanism for funding such representative counsel. The Receiver's understanding is that the Manager and/or the Applicants will have submissions to make to this Honourable Court.

30. With respect to Norma Walton's request that either the Manager or the Receiver pay to her the monthly amount of \$9,000 to assist in the funding of her family's living expenses, the Receiver advises as follows:

- i. Her application is framed such that this payment is towards "...the reasonable living expenses of Norma Walton and her family...". The Receiver's review of her motion record does not disclose any evidence that these are reasonable (emphasis added) living expenses.
- ii. Norma Walton does not provide in her evidence a copy of her employment or independent contractor agreement as the case may be, with Blue Parrott Properties Ltd., to evidence her claim as to what her monthly income from that source is. The Receiver's view is that full disclosure is required so that this Honourable Court, when assessing her evidence, can satisfy itself that there is no other remuneration involved such as performance bonuses or profit sharing. Norma Walton's evidence merely states that her total monthly income from both Blue

Parrott and CCI is the monthly amount of \$5,865.94 in net monthly income. The Receiver advises that CCI pays Norma Walton the monthly amount of \$2,865.94, net of payroll deductions.

- iii. Norma Walton quotes various aspects of the First Report as to the Receiver's findings as of that date on the state of Norma and Ronald Walton's assets. However, Norma Walton fails to mention the existence or use of the amounts the Receiver determined Norma and Ronald Walton received from collapsing certain of their assets prior to the Receiver's appointment.

31. As indicated above, Norma Walton is aware of the Receiver's request for information concerning Ronald Walton's LIRA. The Receiver notices that she has failed to provide any useful information concerning Ronald Walton's LIRA although she makes reference to it in her Affidavit and presumably has full knowledge of its details, including those requested by the Receiver.

Ronald Walton, The Rose & Thistle Group Ltd. and Eglinton Castle Inc. (the "Respondents") motion dated February 24, 2015 returnable March 5, 2015 -

32. On behalf of the Receiver, MT was served with a copy of the Respondents' motion record. The relief being sought by the Respondents is as follows:

- i. an Order be made requiring the Manager and/or the Receiver to release to the Respondents a yet to be determined amount for currently outstanding and future legal expenses in the litigation that led to the appointment of the Manager and the Receiver; and
- ii. an Order be made requiring the Manager and/or the Receiver to pay a yet to be determined monthly amount to contribute to the funding of the reasonable living expenses of the Respondents.
- iii. Notwithstanding the wording in the Notice of Motion, in paragraph 11 of his sworn Affidavit, Mr. Walton determines that he requires the monthly amount of \$7,350 towards his total monthly family living expenses of \$14,715.00.

33. The Receiver's overall position on the Respondents' application is the same as indicated above in paragraph 28 of this Second Report in connection with the application by Norma Walton.

34. With respect to the Respondents' request that either the Manager or the Receiver pay to them a yet to be determined monthly amount to fund the Respondents' reasonable living expenses, the Receiver advises as follows:

- i. Although the request to fund living expenses is on behalf of all Respondents, it appears that the only evidence in support of the request is solely in relation to Ronald Walton's living expenses. Although the corporate respondents do not have "living expenses", the inference is that no funds are being requested on behalf of the corporate respondents, other than for the above-mentioned legal fees. The Receiver's review of their motion record does not disclose any evidence that these are reasonable (emphasis added) living expenses.
- ii. The Respondents do not provide any evidence of their current financial position and whether or not the corporate respondents have any capability of producing revenue, a portion of which may be available to Mr. (and Mrs.) Walton as salary, dividends or otherwise. The Receiver notes that neither of the corporate respondents are currently directly in any form of insolvency proceedings. Attached as **Exhibit "G"** is a copy of the insolvency searches performed by the Receiver.
- iii. Ronald Walton's evidence is that he is unemployed and earns no income. Mr. Walton does not provide any evidence, such as a redacted copy of prior income tax returns, in support of his submission that he earns no income. Mr. Walton

also does not state that he is searching for employment. He also does not provide any medical evidence that he is infirm and unable to work.

- iv. The Receiver's limited understanding is that Mr. and Mrs. Walton chose that Mr. Walton not work but rather be available to chauffeur their children to and from school and sporting activities and otherwise be available to attend to their needs. This lifestyle choice may no longer be appropriate given Mr. and Mrs. Walton's changed family and financial circumstances.
- v. Mr. Walton largely adopts the position of Mrs. Walton as it relates to the family unit. Mr. Walton's monthly family expenses appear identical to those in Mrs. Walton's motion record.
- vi. In her Affidavit, as indicated above, Mrs. Walton indicates that her monthly family living expenses are the amount of \$14,715.00 and that she has net monthly income of \$5,865.94 (although in her listing of monthly family expenses included in Exhibit "O" to her sworn Affidavit it indicates net monthly income of \$5,965.94). She also states that she has a monthly shortfall of \$8,749.06. In his sworn Affidavit, as indicated above, Mr. Walton adopts Mrs. Walton's budget as his family budget, with a total monthly expenditure of \$14,715.00 and he states in paragraph 11 of his sworn Affidavit that he requires a monthly contribution of

\$7,350.00. Mrs. Walton's Notice of Motion indicates that she requires a monthly contribution of \$9,000.00. When added to Mr. Walton's request, this totals the monthly amount of \$16,350.00, which is in excess of what each of them have attested to as being their monthly family expenses totalling \$14,715.00. Further, in paragraph 19(a) of her sworn Affidavit, Mrs. Walton attests that she earns \$5,865.94 in net monthly income (as indicated above and subject to the initial concerns raised by the Receiver in this Second Report). Based on Mrs. and Mr. Walton's request for monthly funding in the total amount of \$16,350, it raises the question what is Mrs. Walton using her net employment income for if not family living expenses?

- vii. Based on the above, the Receiver believes that the accounting provided by Mrs. and Mr. Walton attempts to show that they are taking Mrs. Walton's income into account, but based on the total of their funding requests, they are clearly not allocating any of her net monthly income to family living expenses. Further, the Receiver recommends that before this Honourable Court considers any funding request, Mrs. and Mr. Walton should be required to submit one combined monthly family budget, pared down to only essential living expenses commensurate with their current situation, clearly take Mrs. Walton's net monthly income to offset those expenses and provide complete backup for all income and

expense line items. Only then can a proper assessment of actual needs of reasonable expenses be considered.

G. OTHER MATTERS

Assets --

35. As indicated above, Ronauld Walton through his counsel is aware of the Receiver's request for information concerning his LIRA. Mr. Walton has failed to provide any useful information concerning his LIRA and continues to contravene the requirements of the Appointment Order in providing such information which is within either his possession or control to the Receiver. No doubt Mr. Walton is in possession or control of the information concerning his LIRA requested by the Receiver.

36. The Receiver needs to consider what sales process would be appropriate under the circumstances to realize upon the known assets of the Debtors. Subject to further information to be obtained regarding Ronauld Walton's LIRA, and any other new information which may become available, the currently known assets for which a sales process could be conducted would be the shares of CCI and the other 28 inactive corporations indicated above owned by the Debtors.

37. The Receiver is currently determining the options available to realize upon the various shareholdings and will further Report to this Honourable Court.

Receiver's website -

38. The Receiver continues to maintain and update its website page dedicated to this receivership administration. The Receiver refers any party enquiring about the status of the receivership to the Norma Walton and Ronauld Walton receivership webpage:

http://www.irasmithinc.com/case_studies/normawalton/index.html

H. RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

39. Attached as Exhibit "H" is the Receiver's Statement of Receipts and Disbursements for the period September 5, 2014 to February 25, 2015, indicating funds on hand in the amount of \$17,003.63 (the "Statement of Receipts and Disbursements").

I. PROFESSIONAL FEES AND DISBURSEMENTS

40. Attached as Exhibit "I" is a copy of the Affidavit of Mr. Ira Smith in connection with the Receiver's fee and disbursements including the detailed statement of account for the period from November 26, 2014 to February 24, 2015 in the amount of \$14,981.28 (inclusive of HST). As

indicated in the Affidavit (and the Statement of Receipts and Disbursements), to date, the amount of \$NIL has been advanced on account of the fees and disbursements.

41. Attached as Exhibit "J" is a copy of the Affidavit of Mr. David Reynolds in connection with MT's fee and disbursements including the detailed statement of account for the period from November 26, 2014 to February 24, 2015 in the amount of \$58,465.61 (inclusive of HST). As indicated in the Statement of Receipts and Disbursements, to date, the amount of \$NIL has been advanced on account of MT's fees and disbursements.

J. CONCLUSION AND RECOMMENDATIONS

42. For the reasons set out in this Second Report, the Receiver respectfully requests that this Honourable Court approve:

- i. this Second Report and the actions and activities of the Receiver described herein since the date of the First Report;
- ii. the accounting for the receipts and disbursements of the Receiver for the period September 5, 2014 to February 25, 2015; and
- iii. the fees, disbursements and other costs incurred for the period from November 26, 2014 to February 24, 2015 by the Receiver and its legal counsel, MT described herein.

**

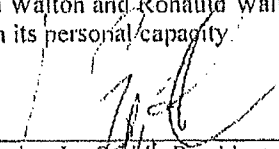
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All of which is respectfully submitted at Toronto, Ontario this 26th day of February, 2015.

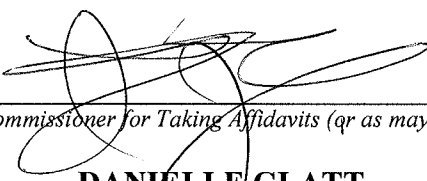
IRA SMITH TRUSTEE & RECEIVER INC.
solely in its capacity as Court-Appointed Receiver
of Norma Walton and Ronald Walton
and not in its personal capacity.

Per:


Ira Smith, President

Tab F

This is Exhibit "F" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

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Court File No.: CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

BETWEEN:

**DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE "A" HERETO**
Applicants

- and -

**NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD.
and EGLINTON CASTLE INC.**
Respondents

- and -

**THOSE CORPORATIONS LISTED ON SCHEDULE "B" HERETO, TO BE
BOUND BY THE BY THE RESULT**

**THIRD REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF**

NORMA WALTON AND RONAULD WALTON

DATED OCTOBER 21, 2015

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**THIRD REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF**

NORMA WALTON AND RONAULD WALTON

DATED OCTOBER 21, 2015

EXHIBIT LIST

Exhibit "A"	Appointment Order of Justice Newbould, dated September 5, 2014
Exhibit "B"	First Report of the Receiver, dated December 1, 2014 (without exhibits)
Exhibit "C"	Approval Order of Justice Pattillo, dated December 8, 2014
Exhibit "D"	Second Report of the Receiver dated February 26, 2015 (without exhibits)
Exhibit "E"	Approval Order of Justice Newbould, dated March 5, 2015
Exhibit "F"	Unaudited Financial Statements of Corporate Communications Interactive Inc., dated September 30, 2015
Exhibit "G"	Proposal Form of Bill of Sale
Exhibit "H"	Proposed Form of Discharge Certificate
Exhibit "I"	Receiver's Statement of Receipts and Disbursements
Exhibit "J"	Fee affidavit of Brandon Smith, sworn October 21, 2015
Exhibit "K"	Fee Affidavit of David Reynolds, sworn October 21, 2015

**THIRD REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF**

NORMA WALTON AND RONAULD WALTON

DATED OCTOBER 21, 2015

A. INTRODUCTION

1. Pursuant to the Reasons for Decision dated August 12, 2014¹(the “**Reasons**”) and the Order of The Honourable Mr. Justice D.M. Brown of the same date, Schonfeld Inc. was appointed on an interim basis as Receiver of all of the assets, properties and undertaking of Norma Walton and Ronauld Walton. In accordance with the Reasons, by Order of the Honourable Mr. Justice Newbould dated September 5, 2014 (but not issued until September 12, 2014) (the “**Appointment Order**”), Ira Smith Trustee & Receiver Inc. (“**ISI**”) was appointed receiver (the “**Receiver**”) without security, of all of the assets, properties and undertaking of Norma Walton and Ronauld Walton (collectively the “**Debtors**” or the “**Waltons**”), replacing Schonfeld Inc.

A copy of the Appointment Order is attached as **Exhibit “A”**.

¹See Reasons Page 78, paragraph 233, DBDC Spadina Ltd. v. Walton, 2014 ONSC 4644. This decision has also been reported at (2014) 121 O.R. (3d) 449.

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2. Schonfeld Inc. remains as Manager, as defined and described in various Court Orders in the litigation of DBDC Spadina Ltd. v. Walton (the “**Manager**”)².

3. By Order of the Honourable Mr. Justice Pattillo dated December 8, 2014, the actions and activities of the Receiver, as contained in the Receiver’s First Report to Court dated December 1, 2014 (the “**First Report**”), and the First Report, were approved by this Honourable Court (the “**First Approval Order**”). A copy of the First Report (without exhibits) is attached as **Exhibit “B”**. A copy of the First Approval Order is attached as **Exhibit “C”**.

4. By Order of the Honourable Mr. Justice Newbould dated March 5, 2015, the actions and activities of the Receiver, as contained in the Receiver’s Second Report to Court dated February 26, 2015 (the “**Second Report**”), and the Second Report, were approved by this Honourable Court (the “**Second Approval Order**”). A copy of the Second Report (without exhibits) is attached as **Exhibit “D”**. A copy of the Second Approval Order is attached as **Exhibit “E”**.

²Schonfeld Inc. is manager of: (i) certain companies listed in Schedule “B” to the Order of Mr. Justice Newbould dated November 5, 2013 together with the real estate properties owned by specific companies, as amended by Order of Mr. Justice Newbould dated January 16, 2014; and (ii) the properties listed at Schedule “C” to the Order of Mr. Justice Brown dated August 12, 2014.

B. PURPOSE OF REPORT

5. The purpose of this report (the “**Third Report**”) is to report to this Honourable Court on actions and activities of the Receiver and to support a motion by the Receiver to obtain an Order of the Court approving:

- i. this Third Report and the actions and activities of the Receiver described herein since the activities reported upon in the Second Report;
- ii. the accounting for the receipts and disbursements of the Receiver from September 5, 2014 to August 31, 2015;
- iii. the fees, disbursements and other costs incurred for the period from to February 25, 2015 to September 30, 2015 (including an estimate of the time required to complete this receivership administration) by the Receiver and from February 25, 2015 to October 20, 2015 for the Receiver’s legal counsel, Miller Thomson LLP (“MT”);
- iv. the Receiver assigning to Norma and Ronauld Walton the Receiver’s right, title and interest, if any, in the assets, properties and undertakings of the Waltons, including the assets indicated below as unrealizable assets; and
- v. the discharge of the Receiver.

C. DISCLAIMER

6. In preparing this Third Report, the Receiver, where stated, has relied upon unaudited and draft, internal financial information obtained from the Debtors' books and records and discussions with third parties as stated herein (collectively, the "**Information**"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information.

7. This Third Report is prepared solely for the use of the Court and the stakeholders in this proceeding, for the purpose of assisting the Court in making a determination whether to approve the actions and activities of the Receiver, and the other relief being sought. It is based on the Receiver's analysis of the Information as stated herein, which included unaudited financial statements and internal financial reporting. The Receiver's procedures did not constitute an audit or financial review engagement of the Debtors' financial reporting. Where stated, the Receiver has relied upon the financial statements and financial and other records of the Debtors in reaching the conclusions set out in this report.

D. BACKGROUND AND OVERVIEW

8. In the First Report, the Receiver provided background and overview information in relation to Norma Walton and Ronauld Walton, the actions and activities of the Receiver and the Receiver's then understanding of their assets, including the:

- i. real property described as 44 Park Lane Circle, Toronto, ON;
- ii. 2011 Nissan Armada, VIN#5N1AA0NE5BN620916;
- iii. Office furniture and equipment;
- iv. Bank and investment accounts; and
- v. Shareholdings in various private corporations not under the administration of the Manager.

9. In the Second Report, the Receiver provided then current information in relation to Norma Walton and Ronauld Walton, including with respect to the:

- i. lack of clarity and completeness in the response of Ronauld Walton to the requests of the Receiver and MT regarding full disclosure on his locked-in retirement account held with D&D Securities Inc.;
- ii. sale of the chattels of the matrimonial home previously owned by the Waltons described as 44 Park Lane Circle real property to the first mortgagee who was selling the real property under power of sale proceedings;
- iii. Receiver's continued oversight and financial controls of the financial affairs of the only company in operation amongst the various private company shareholdings of

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the Waltons, Corporate Communications Interactive Inc. ("CCI"), including signing cheques and dealing with CCI's bank account maintained at Meridian Credit Union Limited.

- iv. Receiver's comments on the Norma Walton motion dated February 20, 2015 returnable March 5, 2015 so as to be of assistance to this Honourable Court; and
- v. Receiver's comments on the Ronauld Walton, The Rose & Thistle Group Ltd. and Eglinton Castle Inc. motion dated February 24, 2015 returnable March 5, 2015 so as to be of assistance to this Honourable Court;

10. The Receiver refers the readers of this Third Report to Exhibits "B" and "D" contained in this Third Report for greater details.

E. ACTIVITIES SINCE THE SECOND REPORT

11. The activities of the Receiver have been mainly that of a conservation role since the issuance of the Second Report. The reason for this is that Mr. J. Reitan, a representative of the Applicants advised the Receiver and MT shortly after the issuance of the Second Approval Order, that the Applicants might not be willing to further fund the Receiver to take specific actions, and agreed that a meeting should take place to determine what funding the Applicants were prepared to commit.

12. On March 23, 2015, a meeting was held at the offices of MT between Mr. I. Smith of the Receiver, Mr. J. Carhart of MT, Dr. S. Bernstein and Mr. J. Reitan of the Applicants and Ms. S. Roy and Mr. P-E Veel of the Applicants' legal counsel, Lenczner Slaght Royce Smith Griffin LLP ("LS").

13. At that meeting, Messrs. Smith and Carhart described the issues and activities that the Receiver felt were worth pursuing, including obtaining Court approval for a sales process for at least the shares of CCI, which might result in a net realization for the receivership administration. Dr. Bernstein and Mr. Reitan advised at the conclusion of the meeting that they would take the advice into consideration in making their determination on the ongoing funding of the Receiver.

14. The Receiver at that meeting also raised the possibility of seeking further information concerning Mrs. Walton's employment by or her providing real estate consulting services to at least two Ontario corporations, Blue Parrot Properties Ltd. ("**Blue Parrot**") and Rocket Property Ltd. ("**Rocket**"). The Receiver's understanding is that:

- i. upon incorporation on October 12, 2014, one of the two Directors of Blue Parrott was Ms. A. Collins, a former employee of one of Ms. Walton's former operating companies; and

H. PROFESSIONAL FEES AND DISBURSEMENTS

24. Attached as **Exhibit "J"** is a copy of the Affidavit of Mr. Brandon Smith in connection with the Receiver's fee and disbursements including the detailed statement of account for the period from February 24, 2015 to September 30, 2015 (including an estimate to complete this receivership administration) in the amount of \$36,608.52 (inclusive of HST). As indicated in the Affidavit (and the Statement of Receipts and Disbursements), to date, the amount of \$NIL has been advanced on account of the fees and disbursements.

25. Attached as **Exhibit "K"** is a copy of the Affidavit of Mr. David Reynolds in connection with MT's fee and disbursements including the detailed statement of account for the period from February 24, 2015 to October 20, 2015 (including an estimate to complete this receivership administration) in the amount of \$67,845.36 (inclusive of HST). As indicated in the Statement of Receipts and Disbursements, to date, the amount of \$NIL has been advanced on account of MT's fees and disbursements.

J. CONCLUSION AND RECOMMENDATIONS

26. For the reasons set out in this Third Report, the Receiver respectfully requests that this Honourable Court approve:

- i. this Third Report and the actions and activities of the Receiver described herein since the date of the Second Report;
- ii. the accounting for the receipts and disbursements of the Receiver for the period September 5, 2014 to August 31, 2015;
- iii. the fees, disbursements and other costs incurred for the period from February 25, 2015 to September 30, 2015 by the Receiver and from February 25, 2015 to October 20, 2015 the Receiver's legal counsel, MT described herein;
- iv. the Receiver assigning to Norma and Ronauld Walton the Receiver's right, title and interest, if any, in the assets, properties and undertaking of the Waltons, including the assets specifically listed above as unrealizable assets on the terms described above; and
- v. the discharge of the Receiver on the terms described herein.

**

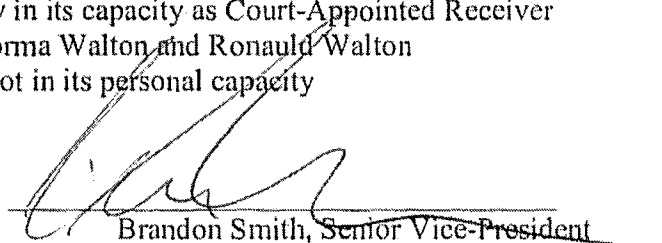
**

**

All of which is respectfully submitted at Toronto, Ontario this 21st day of October, 2015.

IRA SMITH TRUSTEE & RECEIVER INC.
solely in its capacity as Court-Appointed Receiver
of Norma Walton and Ronauld Walton
and not in its personal capacity

Per:

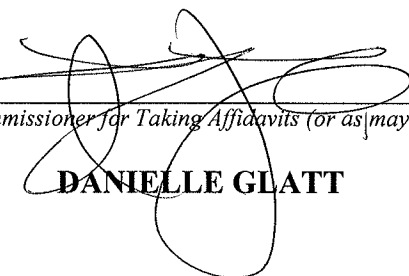

Brandon Smith, Senior Vice-President

15539841.2


IRA SMITH
TRUSTEE & RECEIVER INC.
STARTING OVER STARTING NOW

Tab G

This is Exhibit "G" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

Court File No. CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 12TH
JUSTICE *Newbold*) DAY OF NOVEMBER, 2015

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE "A" HERETO

Applicants

- and -

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD.
and EGLINTON CASTLE INC.

Respondents

- and -

THOSE CORPORATIONS LISTED ON SCHEDULE "B" HERETO, TO BE
BOUND BY THE BY THE RESULT

DISCHARGE ORDER

November 12, 2015

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Jeffrey C. Carhart LSUC#: 23645N

Craig A. Mills LSUC#: 40947B

Tel: 416.595.8615 /8596

Fax: 416.595.8695

Email: jcarhart@millerthomson.com

Email: cmills@millerthomson.com

Lawyers for Ira Smith Trustee & Receiver Inc., in its capacity as the Court appointed receiver of all of the assets, undertakings and properties of Norma Walton and Ronauld Walton (the "**Receiver**").

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investment Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Inc.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Industrial Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline - 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.
32. Richmond Row Holdings Ltd.
33. El-Ad (1500 Don Mills) Limited
34. 165 Bathurst Inc.

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Norma Walton and Ronauld Walton (the “**Waltons**”), for an order:

1. approving the activities of the Receiver as set out in the Third Report of the Receiver dated October 21, 2015 (the “**Third Report**”) and the Supplement to the Third Report of the Receiver dated October 29, 2015 (the “**Supplement**”).
2. approving the fees and disbursements of the Receiver and its counsel for the period February 25, 2015 to October 6, 2015 as set out in the Third Report and the Supplement;
3. approving the distribution of the remaining unrealizable undertaking, property and assets of the Waltons in the manner more particularly described in the Third Report to Norma and Ronauld Walton and upon the filing of a discharge certificate in the form attached;
4. discharging Ira Smith Trustee & Receiver Inc. as Receiver of the undertaking, property and assets of the Waltons upon the filing of a discharge certificate in the form attached as contemplated in the Third Report.
5. releasing Ira Smith Trustee & Receiver Inc. from any and all liability, as set out in paragraph 5 of this Order, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report, the Supplement the affidavits of the Receiver and its counsel as to fees (the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of Anita Filazzola sworn October 27, 2015 and October 30, 2015, filed;

1. THIS COURT ORDERS that the activities of the Receiver, as set out in the Third Report and the Supplement, are hereby approved.
2. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in the Third Report and the Supplement and the Fee Affidavits, are hereby approved.
3. THIS COURT ORDERS that, after payment of the fees and disbursements herein approved, the Receiver shall convey the unrealizable undertaking, property and assets of the

Waltons – as more particularly described in the Third Report - to the Waltons, as contemplated in the Third Report.

4. THIS COURT ORDERS that upon (i) payment of the fees and disbursements set out in paragraph 2 hereof; and (ii) the conveyance of the property set out in paragraph 3 hereof and upon the Receiver filing the Discharge Certificate in the form attached as Appendix A certifying that it has completed the other activities described in the Third Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Waltons, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Ira Smith, Trustee & Receiver Inc. in its capacity as Receiver.

5. THIS COURT ORDERS AND DECLARES that Ira Smith Trustee & Receiver Inc. is hereby released and discharged from any and all liability that Ira Smith Trustee & Receiver Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Ira Smith Trustee & Receiver Inc. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Ira Smith Trustee & Receiver Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

November 12/15
let this order stand.
Z.J.

APPENDIX A

Court File No. CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE "A" HERETO

Applicants

- and -

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD.
and EGLINTON CASTLE INC.

Respondents

- and -

THOSE CORPORATIONS LISTED ON SCHEDULE "B" HERETO, TO BE
BOUND BY THE BY THE RESULT

DISCHARGE CERTIFICATE

The undersigned, Ira Smith Trustee & Receiver Inc., in its capacity as court appointed Receiver without security (the "**Receiver**") of all of the assets, undertaking and property of Norma Walton and Ronauld Walton (the "**Waltons**") hereby certifies, for the purposes of the Order of Justice _____ dated the 12th day of November, 2015 (the "**Order**") that:

1. The conveyance of the unrealizable undertaking and property and assets of the Waltons as more particularly defined in the Third Report of the Receiver (as defined in the Order) has been completed as contemplated in the Third Report
2. The payment of fees and disbursements of the Receiver and of its legal counsel as approved by the Order has been completed.

DATED at Toronto, Ontario, this _____ day of _____, _____.

Ira Smith Trustee & Receiver Inc., in its capacity as
court appointed Receiver without security of all of
the assets, undertaking and properties of Norma
Walton and Ronauld Walton.

Per: _____

DBDC SPADINA LTD. et al
Applicants and

NORMA WALTON, RONAULD WALTON et al
Respondents

Court File No.: CV-13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

MILLER THOMSON LLP


Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Jeffrey C. Carhart LSUC#: 23645N
Craig A. Mills LSUC#: 40947B
Tel: 416.595.8615 /8596
Fax: 416.595.8695
Email: jcarhart@millerthomson.com
Email: cmills@millerthomson.com

Lawyers for the Receiver

Tab H

This is Exhibit "H" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

PROPERTY DESCRIPTION: PT LT 2 PL D17 TORONTO, DESIGNATED AS PTS 6 PL 66R24790, T/W EASEMENT OVER PT 15 PL 66R24790 AS IN CA494127; S/T EASEMENT IN FAVOUR OF ROGERS CABLE COMMUNICATIONS INC. AS IN AT2265539; S/T EASEMENT IN FAVOUR OF ENBRIDGE GAS DISTRIBUTION INC. AS IN AT2300088; T/W EASEMENT OVER PTS 9, 10, 11, 12 & 13 PL 66R24790 AS IN AT2387831 T/W AN UNDIVIDED COMMON INTEREST IN TORONTO COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 2091; CITY OF TORONTO

PROPERTY REMARKS: FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2004/10/27. FOR ADDITIONAL ENCUMBRANCES THE PIN FOR TORONTO COMMON ELEMENTS CONDOMINIUM PLAN NO. 2091 IN BLOCK 13091 MUST BE EXAMINED.

ESTATE/QUALIFIER:

FEE SIMPLE
LT ABSOLUTE PLUS

RECENTLY:

DIVISION FROM 21105-0147

PIN CREATION DATE:

2010/05/31

OWNERS' NAMES

WALTON, RONALD
WALTON, NORMA

CAPACITY SHARE

JTEN
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 2010/05/31 **						
**SUBJECT TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPHS 3 AND 14 AND *						
** PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **						
** TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **						
CA779158	2002/07/25	AGREEMENT				C
REMARKS: SKETCH ATTACHED.						
66R21407	2004/10/27	PLAN REFERENCE				C
66R21817	2005/06/10	PLAN REFERENCE				C
REMARKS: STRATA PLAN.						
AT859525	2005/07/13	NOTICE		CONTEXT (RADIO CITY) INC. JARVIS MEWS INC.		C
REMARKS: THIS NOTICE WILL BE EFFECTIVE FOR AN INDETERMINATE TIME						
AT859552	2005/07/13	NOTICE		CONTEXT (RADIO CITY) INC. JARVIS MEWS INC.		C
REMARKS: THIS NOTICE WILL BE EFFECTIVE FOR AN INDETERMINATE TIME						
AT1957788	2008/11/25	TRANS POWER SALE		*** DELETED AGAINST THIS PROPERTY *** MINTZ, IRWIN	1780355 ONTARIO INC.	
REMARKS: RE: AT687743						
AT2093115	2009/06/12	RESTRICTION-LAND		*** DELETED AGAINST THIS PROPERTY *** 1780355 ONTARIO INC.		
REMARKS: NO TRANSFER OR CHARGE WITHOUT THE CONSENT OF THE DIRECTOR OF COMMUNITY PLANNING, NORTH YORK DISTRICT, CITY OF TORONTO						

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.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT2229482	2009/11/16	BYLAW		CITY OF TORONTO		C
		REMARKS: BY-LAW NO. 909-2009				
AT2265539	2009/12/23	TRANSFER EASEMENT	\$2	1780355 ONTARIO INC.	ROGERS CABLE COMMUNICATIONS INC.	C
AT2296153	2010/02/02	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 1780355 ONTARIO INC.	2174217 ONTARIO INC.	
		REMARKS: COMMUNITY PLANNING (TORONTO) CONSENTED TO THIS REGISTRATION.				
AT2300088	2010/02/08	TRANSFER EASEMENT	\$2	1780355 ONTARIO INC.	ENBRIDGE GAS DISTRIBUTION INC.	C
66R24790	2010/03/25	PLAN REFERENCE				C
AT2387831	2010/05/25	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** 1780355 ONTARIO INC.	1780355 ONTARIO INC.	
		REMARKS: PLANNING ACT STATEMENTS				
TCP2091	2010/06/17	CE CONDO PLN				C
AT2416044	2010/06/17	CONDO DECLARATION		1780355 ONTARIO INC.		C
AT2432436	2010/06/30	APL DELETE REST		*** COMPLETELY DELETED *** CITY OF TORONTO		
		REMARKS: AT2093115.				
AT2438772	2010/07/06	TRANSFER		*** COMPLETELY DELETED *** 1780355 ONTARIO INC.	MORENO, JUDY MORENO, LUISA	
AT2438773	2010/07/06	CHARGE		*** COMPLETELY DELETED *** MORENO, JUDY MORENO, LUISA	ROYAL BANK OF CANADA	
AT2439193	2010/07/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2174217 ONTARIO INC.		
		REMARKS: AT2296153.				
AT3193701	2012/12/10	CHARGE		*** COMPLETELY DELETED *** MORENO, JUDY MORENO, LUISA	ROYAL BANK OF CANADA	


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.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT3198133	2012/12/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
REMARKS: AT2438773.						
AT3200161	2012/12/17	TRANSFER	\$936,000	MORENO, JUDY MORENO, LUISA	WALTON, RONAULD WALTON, NORMA	C
REMARKS: PLANNING ACT STATEMENTS.						
AT3200162	2012/12/17	CHARGE		*** COMPLETELY DELETED *** WALTON, NORMA WALTON, RONAULD	368230 ONTARIO LIMITED	
AT3200172	2012/12/17	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** WALTON, NORMA WALTON, RONAULD	368230 ONTARIO LIMITED	
REMARKS: AT3200162						
AT3226164	2013/01/29	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
REMARKS: AT3193701.						
AT3281212	2013/04/19	CHARGE	\$647,500	WALTON, NORMA WALTON, RONAULD	MERIDIAN CREDIT UNION LIMITED	C
AT3281213	2013/04/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** 368230 ONTARIO LIMITED		
REMARKS: AT3200162.						

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 I

This is Exhibit "T" referred to in the Affidavit of Jim Reitan sworn
February 5, 2016



Commissioner for Taking Affidavits (or as may be)

DANIELLE GLATT

Court File No.: CV-13-10280-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE "A" HERETO

Applicants

- and -

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP
LTD. and EGLINTON CASTLE INC.

Respondents

- and -

THOSE CORPORATIONS LISTED IN SCHEDULE "B" HERETO, TO BE
BOUND BY THE RESULT

31st REPORT OF THE MANAGER, SCHONFELD INC.

(Motion for Approval and Vesting Order with Respect to 346 Jarvis, Unit F, Distribution of
Proceeds from 1 and 9-11, Cityview and Payment of Mortgages Registered against 346 Jarvis)

Contents

I.	INTRODUCTION	1
A.	Purpose of this Report.....	1
B.	Terms of reference	2
C.	Confidentiality	2
D.	Background	3
II.	THE TRANSACTION.....	4
A.	Interested Parties.....	4
B.	The Marketing Process	5
C.	Timing of the Transaction.....	5
D.	Stakeholder Approval	5
E.	Proposed Distribution of Sale Proceeds.....	6
III.	CONCLUSION AND RECOMMENDATIONS	6

I. INTRODUCTION

1. This is the 31st Report of Schonfeld Inc. (the “**Manager**”) in its capacity as Manager of (i) certain companies listed at Schedule “B” to the Order of Justice Newbould dated November 5, 2013 (the “**Schedule B Companies**”),¹ together with the real estate properties owned by those companies (the “**Schedule B Properties**”); and (ii) the properties listed at Schedule “C” to the Judgment and Order of Justice Brown dated August 12, 2014 (the “**Schedule C Properties**” and together with the Schedule B Properties, the “**Properties**”).

A. Purpose of this Report

2. This Manager has brought a motion for, among other things:
- (a) an approval and vesting order in respect of the sale transaction (the “**Transaction**”) contemplated by the Agreement of Purchase and Sale between the Manager and Jan Wielopolski (the “**Purchaser**”) dated April 15, 2015 (the “**Jarvis Unit F Agreement**”), in respect of the Property known municipally as 346 Jarvis Street, Unit F, Toronto, Ontario (the “**Jarvis Unit F Property**”). A copy of the Jarvis Unit “F” Agreement is attached as **Confidential Appendix “A”**;
 - (b) an Order permitting the confidential appendices to this Report (the “**Confidential Appendices**”) to be filed under seal without being served on the Service List.

¹ Schedule “B” was amended by Order dated January 16, 2014.

- 2 -

- (c) Distribution of certain proceeds from the sale of the Schedule “B” Property at 1 and 9-11 Cityview (the “**Cityview Property**”) to companies have valid claims pursuant to the *Construction Lien Act* against the Cityview Property;
- (d) Payment of two mortgages registered by the Bank of Nova Scotia (“BNS”) against the Schedule “C” Properties known municipally as 346 Jarvis, Units A and B, as described below.

3. This Report provides the factual background relevant to the relief sought by the Manager and a recommendation that this Honourable Court grant the relief described in the Manager’s Notice of Motion.

B. Terms of reference

4. Based on its review and interaction with the parties to date, nothing has come to the Manager’s attention that would cause it to question the reasonableness of the information presented herein. However, the Manager has not audited, or otherwise attempted to independently verify, the accuracy or completeness of any financial information of the Schedule B Companies or of the companies that own the Schedule C Properties (collectively, the “**Companies**”). The Manager therefore expresses no opinion or other form of assurance in respect of any of the Companies’ financial information that may be in this Report.

C. Confidentiality

5. In the Manager’s judgment, disclosure of some of the documents appended to this Report would negatively impact the Manager’s ability to carry out its mandate by, among other things, interfering with the integrity of any subsequent sales process in respect of the Jarvis Unit F Property if the Transaction is not completed. In particular, and without limiting the generality of

- 3 -

the foregoing, it is the Manager's judgment that it would impair the Manager's ability to maximize realization of the Jarvis Unit F Property were any information to be made public concerning any discussions of sale process or value of the Jarvis Unit F Property among the Manager, the parties or any of the Properties. Accordingly, a number of appendices to this Report have been identified as Confidential Appendices and will be filed in a separate confidential appendix brief (the "**Confidential Appendix Brief**"). The Manager respectfully requests an Order authorizing it to file the Confidential Appendices under seal without serving the Confidential Appendix Brief on the Service List.

D. Background

6. The Schedule B Companies are a group of real estate development corporations incorporated as part of a series of joint ventures between Dr. Stanley Bernstein and companies that he controls (the "**Bernstein Group**") and Norma and Ronauld Walton and entities that they control (the "**Walton Group**"). Most of the Schedule B Companies were incorporated to purchase and develop a particular Schedule B Property.

7. In the summer and fall of 2013, the relationship between the Walton Group and the Bernstein Group broke down amid allegations that the Walton Group had, among other things, placed mortgages on jointly-held properties without the Bernstein Group's consent and failed to provide reporting required by the agreements that govern the joint venture. The dispute between the Walton Group and Bernstein Group is described in more detail in the Endorsement of Justice Newbould dated November 5, 2013, which is attached as **Appendix "A"**.

8. Pursuant to the Order of Justice Newbould dated November 5, 2013 (the "**November 5 Order**"), which is attached as **Appendix "B"**, the Manager was appointed to provide

- 4 -

independent management of the Schedule B Companies and the Schedule B Properties for the benefit of all stakeholders.

9. The Manager's mandate was further expanded to include certain other real estate properties owned by the Walton Group, being the Schedule C Properties, pursuant to the Reasons of Justice Brown dated August 12, 2014, which are attached as **Appendix "C"**, and the Judgment and Order of Justice Brown dated August 12, 2014, which is attached as **Appendix "D"**.

II. THE TRANSACTION

A. Interested Parties

10. The Jarvis Unit F Property is one of the Schedule "C" Properties owned by the Waltons.

11. A mortgage in favour of Meridian Credit Union Limited (the "Mortgagee") is registered on title to the Jarvis Unit F Property. The balance outstanding on this mortgage was \$622,827.29 as of April 30, 2015.

12. The Manager has asked its counsel, Goodmans LLP ("Goodmans"), to conduct a security review of the Mortgage and has been advised that the Mortgage is properly registered. However, the Manager recently learned of potential *Planning Act* issues that may affect the validity of the mortgages registered on 346 Jarvis (collectively, the "**Jarvis Mortgages**"). The Manager instructed Goodmans to conduct a further review of the *Planning Act* issues and their effect on, among other things, the validity of the Mortgage. The results of this review are reported below.

13. As described below, the Manager is seeking to cure any potential *Planning Act* issues that could affect the validity of the Jarvis Mortgages. In the circumstances, it is unlikely that issues

- 5 -

relating to the validity of the Mortgage may not be definitively resolved before the scheduled closing date of May 7, 2015.

B. The Marketing Process

14. The Manager retained Chestnut Park Real Estate Limited ("**Chestnut Park**") to market the Jarvis Unit F Property, along with other Units at 346 Jarvis Street.

15. The marketing process for the Jarvis Unit F Property initially commenced in July 2014, when qualified purchasers were introduced through showings of other units listed on MLS.

16. Jarvis Unit F Property was first listed by Chestnut Park on MLS on March 10, 2015. MLS Listings were advertised on www.Realtor.ca. Listings were also advertised on www.ChestnutPark.com. In addition to these advertisements, Chestnut Park sent mass emails to its client database and featured the property on the website at www.346JarvisStreet.info.

17. A more detailed description of the marketing process is set out in the Chestnut Park's marketing report (the "**Chestnut Park Report**"), which is attached as Confidential **Appendix "B"**. Chestnut Park recommends proceeding with the Transaction.

C. Timing of the Transaction

18. The Transaction is scheduled to close on May 7, 2015.

D. Stakeholder Approval

19. The receiver of the Waltons in their personal capacity, Ira Smith Inc., the Applicants, the Mortgagee have all been advised of the Transaction. The Manager is not aware of any opposition to the Transaction.

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E. Proposed Distribution of Sale Proceeds

20. Numerous stakeholders, including the creditors of the Vendor, the Applicants and the Respondents, may assert an entitlement to the proceeds from the sale of the Jarvis Unit F Property. The Manager recommends that sale proceeds, net of closing costs, be held in trust by the Manager or its counsel pending further Order of the Court on notice to all affected stakeholders and that the Mortgage be paid once any *Planning Act* issues affecting are cured as described below.

III. 346 JARVIS TITLE ISSUES**A. Background**

21. When the Manager was appointed over the Schedule “C” Properties, it was advised that the Jarvis Property was comprised of six properties, which are known municipally as 346 Jarvis Street, Units A, B, C, D, E and F (collectively, the “**Jarvis Property**”). Two of these properties, Units C and D, were sold prior to the Manager’s appointment. Norma and Ronauld Walton (the “**Waltons**”) are the registered owners of Units A, B, E and F. The mortgages registered against these properties are listed below:

Unit	Description of Mortgage
Unit A	Charge from the Waltons to The Bank of Nova Scotia, registered as Instrument No. AT2868194 on November 14, 2011.
Unit B	Charge from the Waltons to The Bank of Nova Scotia, registered as Instrument No. AT2868218 on November 14, 2011.
Unit E	Charge from the Waltons to B & M Handelman Investments Limited et al, registered as Instrument No. AT3280553 on April 19, 2013.
Unit F	Charge from the Waltons to Meridian Credit Union Limited, registered as Instrument No. AT3281212 on April 19, 2013.

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22. As noted above, a syndicate of mortgagees lead by Stephen Handelman (the “**Handelman Group**”) registered a mortgage against Unit E (the “**Handelman Mortgage**”). The Handelman Group’s right to enforce the Handelman Mortgage was not stayed by the August 12 Order and it chose to commence power of sale proceedings in respect of Unit E. Accordingly, the Manager sought and obtained a discharge in respect of Unit E.

23. After its appointment, the Manager marketed Units A, B and F for sale. The sale of Unit A was approved by Order dated April 7, 2015. The sale of Unit B was approved by Order dated April 29, 2015.

24. After the sale of Unit A closed, but before any payment to The Bank of Nova Scotia (“**BNS**”) was made, the Manager learned of potential *Planning Act* issues relating to the Jarvis Property that could affect, among other things, the validity of mortgages registered against parts of the Jarvis Property. The Manager has, with the assistance of its counsel, investigated these issues. The results of this investigation are summarized below.

25. Section 50(5) of the *Planning Act* prohibits the conveyance of part of any lot of land within a registered plan of subdivision by way of deed, transfer, grant or mortgage or charge (among other dispositions of land), unless such conveyance meets one of the listed exceptions in section 50(5) of the *Planning Act* or is otherwise exempted by the *Planning Act* or other legislation.

26. On September 30, 2009, the Council of the City of Toronto (“**Council**”) adopted a recommendation that it enact a part lot control exemption by-law for the Jarvis Property pursuant to section 50(7) of the *Planning Act*.

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27. Council enacted By-law No. 909-2009 on October 1, 2009, which was registered on title to the Jarvis Property on November 16, 2009 as Instrument No. AT2229482 (the “**By-law**”). The By-law, a copy of the registered version of which is attached as **Appendix “E”**, exempted the Jarvis Property from the application of section 50(5) of the *Planning Act* for a period of two years, from October 1, 2009 to September 30, 2011.

28. The effect of the By-law was to allow for the individual sale and/or mortgaging of the six parts of the Jarvis Property during the period from October 1, 2009 to September 30, 2011, subject to the approval of the Director of Community Planning.

29. On November 8, 2011, Units A and B were both conveyed to Walton from 1780355 Ontario Inc. (“**Buildco**”) a holding company controlled by the Waltons that had previously held title to the Jarvis Property by separate consecutive transfers. These conveyances occurred after the end of the two year exemption provided by the By-Law.

30. On November 14, 2011, a mortgage in favour of BNS was registered against the Unit A lands as Instrument No. AT2868194 (“**BNS A Charge**”). On November 14, 2011, a separate mortgage in favour of BNS was registered against the Unit B lands as Instrument No. AT2868218 (“**BNS B Charge**” and collectively, the “**BNS Charges**”). The principal amount of the BNS A Charge is \$600,000, and the principal amount of the BNS B Charge is \$592,000.

31. Unit E was transferred from Buildco to Lori-Ellen Nusbaum and Sheldon Tyber on July 6, 2010. The transfer was permitted at that time because of the application of the two-year exemption from section 50(5) of the *Planning Act* in the By-law.

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32. Unit F was transferred from Buildco to Judy Moreno and Luisa Moreno on July 6, 2010. The transfer was permitted at that time because of the application of the two-year exemption from section 50(5) of the *Planning Act* in the By-law.

33. Unit F was subsequently transferred to the Waltons on December 17, 2012. The transfer of Unit F was permitted because of the application of the “no abutting lands” exception at section 50(5)(a) of the *Planning Act*.²

34. Unit E was subsequently transferred to the Waltons on April 15, 2013. The transfer of Unit E was permitted because of the application of the “no abutting lands” exception at section 50(5)(a) of the *Planning Act*.³

35. Accordingly, as of April 15, 2013, Units E and F were both owned by the Waltons and title between Units E and F merged on this date. Because the Waltons owned both Unit E and Unit F, a conveyance of Unit E or Unit F separate from the other would no longer be permitted without *Planning Act* consent as the Waltons could not rely on the “no abutting lands” exception at section 50(5)(a) of the *Planning Act*.

36. On April 19, 2013, a mortgage in favour of B&M Handelman Investments Limited et al. was registered against the Unit E lands as Instrument No. AT3280553 (“**Handelman E Charge**”); also on April 19, 2013, a separate mortgage in favour of Meridian Credit Union Limited was registered against the Unit F lands as Instrument No. AT3281212 (“**Meridian F Charge**”).

² It is assumed that Judy Moreno and Luisa Moreno did not retain any interest in abutting lands when they transferred Unit F to the Waltons on July 6, 2010.

³ It is assumed that Lori-Ellen Nusbaum and Sheldon Tyber did not retain any interest in abutting lands when they transferred Unit E to the Waltons on April 15, 2013.

B. Certificates of Validation

37. Based on the foregoing, it was possible (although far from certain) that issues exist with respect to the validity of each of the mortgages registered against the Jarvis Property. The Manager evaluated these issues and has determined that the appropriate course of action is to cure any potential deficiencies by obtaining a Certificate of Validation pursuant to section 57 of the *Planning Act* with respect to Units A, B and F. The effect of the Certificates of Validation will be to cure any violations of the *Planning Act* retroactively.

38. Any issues relating to the Handelman E Charge have already been cured by Certificate of Validation dated April 23, 2015, and attached as **Appendix “F”**.

39. The Manager decided to seek Certificates of Validation for several reasons. First, there is no evidence that any of the affected mortgagees benefitted in any way from the potential failure of the Waltons to comply with the *Planning Act*. Fairness considerations militate against an attack on mortgages granted in good faith by arm's length parties. Second, there is no certainty that the mortgages in question are invalid. Litigation regarding the validity of these mortgages could easily have consumed the equity in the Jarvis Properties, to the detriment of all stakeholders. Third, affected mortgagees could have obtained a Validation Certificate to cure any *Planning Act* violations, as the Handelman Group did. Fourth, each mortgagee could potentially have rights in equity based on facts not known to the Manager.

40. The Certificates of Validation will resolve any doubt with respect to the validity of the mortgages registered against Unit A, B and F, accordingly, the Manager respectfully recommends payment of the relevant mortgages once the Certificates of Validation are obtained.

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IV. THE CITYVIEW PROPERTY

41. In early December 2014, the Manager served a motion for, among other things:

- (a) Approval of the Manager's fees and disbursements, and those of its counsel, Goodmans LLP ("**Goodmans**"); and
- (b) Approval of a methodology for the allocation of Manager's fees (and those of its counsel) among the various Schedule B Companies and Schedule C Properties (the "**Fee Allocation Methodology**").

42. The Manager's motion was adjourned from December 17, 2014 to February 4, 2015 and then again from February 4, 2015 to April 16, 2015 at the request of three contractors (the "**Cityview Lien Claimants**") that registered liens (the "**Cityview Liens**") pursuant to the *Construction Lien Act* against the Cityview Properties. The Cityview Lien Claimants opposed the Manager's motion at the hearing of it on April 16, 2015.

43. By Reasons for Decision dated April 20, 2015, Justice Newbould granted the relief sought by the Manager, rejected the Cityview Lien Claimants' opposition to that relief and dismissed a separate motion by the Cityview Lien Claimants to subordinate the Manager's Charge and Manager's Borrowing Charge (as defined in the November 5 Order) to the Cityview Liens.

44. The Manager did not seek, and was not awarded, costs against the Cityview Lien Claimants. However, the Manager's and Goodmans' fees relating to the period from December 2014 to April 2015, when the Manager spent considerable time responding to the Cityview Lien Claimants' various positions, have not yet been allocated among the various assets subject to these proceedings. It may be appropriate to allocate some portion of these fees to the Cityview

Property, so that other stakeholders (primarily the Applicants) who did not oppose the Manager's motion do not bear the entire cost of responding to objections from the Cityview Lien Claimants.

45. The Manager is presently holding proceeds from the sale of the Cityview Property totalling \$825,584.92. The aggregate value of the Manager's Charge and the Manager's Borrowing Charge is presently \$367,918.77. The Manager proposes holding a further \$50,000 in reserve against a potential further allocation to the Cityview Property or further Order of the Court.

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46. Based on the foregoing, the Manager proposes the following interim distribution to the Cityview Lien Claimants:

Cityview Industrial Ltd.			
Lien Claimant Distribution			
Funds on Hand at April 30, 2015	825,584.92		
Allocated fees (approved by April 20 Order)	(367,918.77)		
Holdback	(50,000.00)		
Funds Available for Distribution	407,666.15		
Lien Claimant	Approved Lien	Distribution	
Fox Contracting Ltd.	701,210.28	333,370.90	47.5%
Laser Heating & Air Conditioning Inc.	151,395.76	71,976.90	47.5%
MHBC Planning Limited	4,876.41	2,318.35	47.5%
Gemtec Wall & Ceiling Systems Ltd.	0.00	0.00	
(included in Fox Contracting)			
	857,482.45	407,666.15	47.5%

V. CONCLUSION AND RECOMMENDATIONS

47. For the reasons set out in the above report, the Manager respectfully recommends that this Honourable Court grant the relief sought in the Manager's Notice of Motion.

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All of which is respectfully submitted this 1st day of May, 2015.

SCHONFELD INC.

**In its capacity as Manager pursuant to the Order of Newbould, J. dated November 5, 2013
and the Judgment and Order of Brown, J. dated August 12, 2014**

**Per: _____
Harlan Schonfeld CPA, CIRP**

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investments Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Ltd.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Lands Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE “B” COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline – 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen’s Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

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- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

6449104

DBDC SPADINA LTD., and those corporations listed on Schedule A -and- NORMA WALTON et al.
hereto
Applicants

Respondents

Court File No. CV13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF JIM REITAN
(SWORN FEBRUARY 5, 2016)**

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-and- NORMA WALTON et al.

Respondents

Court File No. CV13-10280-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD OF THE APPLICANTS
IRA SMITH FEES/JARVIS UNIT F MOTION
(Returnable February 23, 2016)**

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