

**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**

MOTION RECORD OF THE MANAGER, SCHONFELD INC.

**(Motion re: Discharge of the Manager's Obligations in respect of 153 Eddystone Avenue,
returnable September 17, 2014)**

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Barristers & Solicitors

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Lawyers for The Manager

TO: SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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and EGLINTON CASTLE INC.

Respondents

- and -

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

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INDEX

INDEX

TAB NO.

- A. Notice of Motion
- B Seventeenth Report of the Manager
- 1. Notice of Sale dated August 8, 2014

A

Court File No.: CV-13-1 0280-00CL

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

NOTICE OF MOTION

(Motion re: Discharge of the Manager's Obligations in respect of 153 Eddystone Avenue,
returnable September 17, 2014)

Schonfeld Inc., in its capacity as manager (the "**Manager**") of certain companies listed in Schedule "B" to the Order of Justice Newbould dated November 5, 2013 (the "**Companies**") together with the real estate properties owned by the Companies (the "**Properties**"), as amended by Order of Justice Newbould dated January 16, 2014, will make a motion to a judge presiding on the Commercial List on September 17, 2014 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto.

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

- 2 -

THE MOTION IS FOR:

1. an Order:
 - (a) abridging the time for service of the Notice of Motion and the materials filed in support of the Motion and dispensing with further service thereof;
 - (b) discharging any responsibilities that the Manager may have had with respect to the management, control, preservation or protection of the property known municipally as 153 Eddystone Avenue (the “**Eddystone Property**”);
 - (c) granting all ancillary and necessary relief, all as set out in the Order, and such further and other relief as to the Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

2. Almanox Limited (“**Almanox**”), the holder of a first mortgage on the Eddystone Property, served a notice of sale effecting the commencement of power of sale proceedings. The Manager has consented to the enforcement by Almanox of its mortgage and the stay against Eddystone Place Inc. (“**Eddystone**”) has been lifted for this specific purpose.

I. Funding Issues

3. Several Properties do not generate revenue or do not generate enough revenue to fund the obligations of the relevant owner Company. The Manager advised the parties early in these proceedings that it would not comingle funds between the various Companies and, accordingly, the Companies that did not generate revenue required an outside funding source. The Manager and the Applicants agreed that the Applicants would provide funding of approximately \$1.3 million between December 20, 2013 and January 31, 2014. That funding was provided.

4. The Applicants had no obligation to advance further amounts unless they agreed to provide further funding in writing or were ordered to provide funding by the Court. No further funding of mortgages or property tax has occurred beyond February 1, 2014.

5. The Eddystone Property was in the midst of an extensive renovation when the Manager was appointed and Eddystone, the Company which owns the Eddystone Property, did not have the ability to fund completion of these renovations. The Eddystone Property does not generate

- 3 -

revenue and, accordingly, Eddystone required funding from the Applicants to pay for the cost of, among other things, insuring and securing the property.

B. The Manager's Motion for Discharge

6. The Manager conducted an extensive marketing campaign in respect of the Eddystone Property but that campaign did not result in an acceptable offer.

7. Almanox sought and received the Manager's consent to foreclosure proceedings on July 9, 2014. However, Almanox did not proceed with its foreclosure proceedings. Almanox subsequently commenced power of sale proceedings by Notice of Sale dated August 8, 2014. The notice period in Almanox's Notice of Sale expired September 13, 2014.

8. The Applicants have advised the Manager that they are not prepared to fund properties that are subject to enforcement proceedings by mortgagees. No other source of funding is available. Accordingly, there is no funding available for the Manager's continued mandate with respect to the Eddystone Property.

9. The Manager intends to continue as manager/receiver of Eddystone to ensure that it is able to effectively exercise whatever rights it may have in respect of the Almanox's ongoing power of sale proceedings.

10. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. The Seventeenth Report of the Manager dated September 15th, 2014; and
2. Such further and other material as counsel may advise and this Honourable Court may permit.

Date: September 15, 2014

- 4 -

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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.

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

DBDC SPADINA LTD. ET AL

and

NORMA WALTON ET AL

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

Applicants

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at TORONTO

NOTICE OF MOTION
(Motion re: Discharge of the Manager's Obligations
in respect of 153 Eddystone Avenue, returnable
September 17, 2014)

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B

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Respondents

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

SEVENTEENTH REPORT OF THE MANAGER, SCHONFELD INC.

Contents

Contents

I.	Introduction.....	3
A.	Purpose of this Report.....	3
B.	Terms of reference	3
C.	Background	4
II.	The Eddystone Property.....	4
A.	Funding issues.....	4
B.	The Manager’s Motion for Discharge.....	5
III.	Conclusion and Recommendations	5

I. Introduction

1. This is the Seventeenth Report of Schonfeld Inc. (the “**Manager**”) in its capacity as Manager of certain companies listed at Schedule “B” to the Order of Justice Newbould dated November 5, 2013 (the “**Companies**”),¹ together with the real estate properties owned by the Companies (the “**Properties**”).

A. Purpose of this Report

2. Almanox Limited (the “**Almanox**”), the holder of a first mortgage on 153 Eddystone Avenue (the “**Eddystone Property**”), served a notice of sale effecting the commencement of power of sale proceedings. The Manager has consented to the enforcement by Almanox of its mortgage and the stay against Eddystone Place Inc. (“**Eddystone**”) has been lifted for this specific purpose.

3. The Manager has brought a motion for an Order discharging it from any obligation for the management, control preservation or protection of the Eddystone Property. For greater certainty, the Manager has not sought any discharge or other relief in respect of its mandate as Manager of the Company that owns the Eddystone Property.

4. This Report provides a summary of the circumstances that, in the Manager’s view, require that it be relieved of responsibility for the Eddystone Property and a recommendation that this Honourable Court grant the relief described in the Manager’s Notice of Motion.

B. Terms of reference

5. 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 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.

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

C. Background

6. The 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 Companies were incorporated to purchase and develop a particular 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.

8. Pursuant to the Order of Justice Newbould dated November 5, 2014 (the “**November 5 Order**”), the Manager was appointed to provide independent management of the Companies and the Properties for the benefit of all stakeholders.

II. The Eddystone Property

A. Funding issues

9. Several Properties do not generate revenue or do not generate enough revenue to fund the obligations of the relevant owner Company. The Manager advised the parties early in these proceedings that it would not comingle funds between the various Companies and, accordingly, the Companies that did not generate revenue required an outside funding source. The Manager and the Applicants agreed that the Applicants would provide funding of approximately \$1.3 million between December 20, 2013 and January 31, 2014. That funding was provided.

10. The Applicants had no obligation to advance further amounts unless they agreed to provide further funding in writing or were ordered to provide funding by the Court. No further funding of mortgages or property tax has occurred beyond February 1, 2014.

11. The Eddystone Property is owned by one of the Companies, Eddystone. The Eddystone Property was in the midst of an extensive renovation when the Manager was appointed and

Eddystone did not have the ability to fund completion of these renovations. The Eddystone Property does not generate revenue and, accordingly, Eddystone required funding from the Applicants to pay for the cost of, among other things, insuring and securing the property.

B. The Manager's Motion for Discharge

12. The Manager conducted an extensive marketing campaign in respect of the Eddystone Property but that campaign did not result in an acceptable offer.

13. Almanox sought and received the Manager's consent to foreclosure proceedings on July 9, 2014. However, Almanox did not proceed with its foreclosure proceedings. Almanox subsequently commenced power of sale proceedings by Notice of Sale dated August 8, 2014, which is attached as Appendix 1. The notice period in Almanox's Notice of Sale expired September 13, 2014.

14. The Applicants have advised the Manager that they are not prepared to fund properties that are subject to enforcement proceedings by mortgagees. No other source of funding is available. Accordingly, there is no funding available for the Manager's continued mandate with respect to the Eddystone Property.

15. The Manager intends to continue as manager/receiver of Eddystone to ensure that it is able to effectively exercise whatever rights it may have in respect of the Almanox's ongoing power of sale proceedings.

III. Conclusion and Recommendations

16. For the reasons set out above, the Manager respectfully recommends that this Honourable Court grant the relief sought by the Manager's Notice of Motion and that possession of, and responsibility for, the Eddystone Property be transferred to the Almanox.

All of which is respectfully submitted this 15th day of September, 2014.

SCHONFELD INC.

**In its capacity as Manager pursuant to
the Order of Newbould, J. dated
November 5, 2013**

Per: _____
Harlan Schonfeld CPA•CIRP



SCHEDULE "A" COMPANIES

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5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
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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.
32. Richmond Row Holdings Ltd.

- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

6369018

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Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, Ontario M5C 2W7

Tel: 416-863-1188
Fax: 416-863-0305
www.torkinmanes.com

Stewart Thom
Direct Tel: 416-777-5197
Direct Fax: 1-877-689-3872
sthom@torkinmanes.com

Our File No: 33909.0001

Associated worldwide with



Torkin|Manes
Barristers & Solicitors

August 28, 2014

Delivered By Courier & by Registered Mail

Eddystone Place Inc.
c/o the Rose and Thistle Group Ltd.
30 Hazelton Lane
Toronto, ON M5R 2E2

Eddystone Place Inc.
c/o Norma Walton
44 Park Lane Circle
North York, ON M3C 2N2

Schonfeld Inc. Receivers + Trustees,
solely in its capacity as receiver/manager
of Eddystone Place Inc.,
77 King St. West, Suite 3000
TD Centre North Tower
Toronto, ON M5K 1G8

Norel Electric Ltd.
c/o Brauti Thorning Zibarras LLP
151 Yonge Street, Suite 1800
Toronto, ON M5C 2W7
Attention: M.R. McMaskin

Gentry Environmental Systems Ltd.
c/o Glaholt LLP
141 Adelaide St. West, Suite 800
Toronto, ON M5H 3L5
Attention.: Andrea W.K. Lee

Renovation, Malja
c/o Arnold H. Zweig
Barrister & Solicitor
393 University Avenue, Suite 2000
Toronto, ON M5G 1E6

MTE Consultants Inc.
520 Bingemans Centre Drive
Kitchener, ON N2B 3X9

Abaco Glass Inc.
c/o Arnold H. Zweig
Barrister & Solicitor
393 University Avenue, Suite 2000
Toronto, ON M5G 1E6

Dear Sirs/Madams:

Re: Re: Eddystone Place - Notice of Sale dated August 5, 2014

Please be advised that it has come to our attention that there was a typographical error in the Notice of Sale originally served on August 8, 2014. The mistake is contained in the paragraph, at the top of page two, reading:

AND unless the said sums are paid on or before the 15th day of October, 2013, we shall sell the property covered by the Charge under the provisions

contained in it. This notice is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same. (**emphasis added**)

Pursuant to section 32 of the *Mortgages Act*, no sale of the property shall be made until at least thirty-five days after the notice has been given. Accordingly, the Notice of Sale ought to have read as follows:

AND unless the said sums are paid on or before the **13th day of September, 2014**, we shall sell the property covered by the Charge under the provisions contained in it. This notice is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same. (**emphasis added**)

It is the intention of the mortgagee to proceed on the basis that the stay and redemption period in respect of the property expires on September 13, 2014. We note that none of the parties served with the notice of sale have contacted our firm to inquire regarding or comment on the erroneous date in the Notice of Sale as originally served. We request that any parties who may wish to object to Almanox proceeding in the manner stated herein contact our firm at the earliest opportunity. We will rely on this correspondence failing receipt of any objection prior to September 13, 2014.

A corrected copy of the Notice of Sale is attached for convenience.

Yours truly,

TORKIN MANES LLP

Per:



Stewart Thom
ST/sj

Attachment

NOTICE OF SALE UNDER CHARGE (CORRECTED)

20

(Originally served on August 8, 2014)

TO: All those parties shown on Schedule "A" attached hereto.

TAKE NOTICE that default has been made in payment of the moneys due under a certain charge dated the 12th day of December, 2012, made between:

EDDYSTONE PLACE INC.

(Chargor),

- and -

ALMANOX LIMITED

(Chargee),

on the security of ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being legally described as

Municipal Address: 153 Eddystone Avenue, North York, Ontario, M3N 1H5

Legal Description: LT 30-31 PL 7530 NORTH YORK; TORONTO (N YORK), CITY OF TORONTO

PIN: 10285-0008 (LT)

registered in the Land Registry Office for Toronto (No. 80), which charge (the "Charge") was registered on the 15th day of April, 2013, as Instrument No. AT3276931.

AND WE HEREBY give you notice that the amounts now due on the Charge for principal money, interest, and costs, respectively, are made up as follows:

Principal balance	\$1,875,000.00
Interest outstanding to August 5, 2014	\$41,517.19
Legal Fees	<u>\$20,000.00</u>
Total due as at August 5, 2014	\$1,936,517.19

Such costs being up to and including the service of this Notice only, and thereafter such further costs and disbursements will be charged as may be proper together with interest on the above amounts in default at the rate as provided in the Charge from the date hereof to the date of payment.

AND unless the said sums are paid on or before the ~~15th day of October, 2013~~ 13th day of September, 2014, we shall sell the property covered by the Charge under the provisions contained in it. This notice is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same.

THIS notice is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same. 21

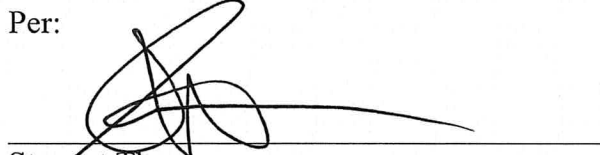
DATED at the City of Toronto, as of the 5th day of August, 2014.

ALMANOX LIMITED

By its solicitors

Torkin Manes LLP

Per:

A handwritten signature in black ink, appearing to be 'Stewart Thom', is written over a horizontal line.

Stewart Thom

Torkin Manes LLP

Barristers & Solicitors

151 Yonge Street, Suite 1500

Toronto, Ontario M5C 2W7

Tel: 416-777-5197

Fax: 416-863-0305

SCHEDULE "A"

TO: EDDYSTONE PLACE INC.
c/o the Rose and Thistle Group Ltd.
30 Hazelton Lane
Toronto, ON M5R 2E2

AND SCHONFELD INC. RECEIVERS + TRUSTEES, solely in
TO: its capacity as receiver/manager of Eddystone Place Inc.,
77 King St. West, Suite 3000
TD Centre North Tower
Toronto, ON M5K 1G8

Attention: James Merryweather & Harlan Schonfeld

AND NOREL ELECTRIC LTD.
TO: c/o Brauti Thorning Zibarras LLP
151 Yonge Street, Suite 1800
Toronto, ON M5C 2W7

Attention: M.R. McMaskin - File #3617 001

AND RENOVATION, MALJA
TO: c/o Arnold H. Zweig
Barrister & Solicitor
393 University Avenue, Suite 2000
Toronto, ON M5G 1E6

AND GENTRY ENVIRONMENTAL SYSTEMS LTD.
TO: c/o Glaholt LLP
141 Adelaide St. West, Suite 800
Toronto, ON M5H 3L5

Attention.: Andrea W.K. Lee

AND MTE CONSULTANTS INC.
TO: 520 Bingemans Centre Drive
Kitchener, ON N2B 3X9

AND ABACO GLASS INC.
TO: c/o Arnold H. Zweig
Barrister & Solicitor
393 University Avenue, Suite 2000
Toronto, ON M5G 1E6

DBDC SPADINA LTD., et al
Applicants

NORMA WALTON, et al
Respondents

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List**

Proceeding commenced at Toronto

**MOTION RECORD OF THE MANAGER,
SCHONFELD INC.**

(Motion re: Discharge of the Manager's
Obligations in respect of 153 Eddystone Avenue,
returnable September 17, 2014)

**GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7**

Brian Empey LSUC#: 30640G
Mark S. Dunn LSUC#: 55510L
Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for The Manager

File No. 14-0074