

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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

B E T W E E N:

1000688136 ONTARIO INC.

Applicant/Creditor

and

20 CALDARI DEVELOPMENT INC.

Respondent/Debtor

FACTUM OF THE APPLICANT
(Application returnable on June 3, 2025)

May 27, 2025

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PART I - OVERVIEW

1. The Applicant, 1000688136 Ontario Inc. (the “**First Mortgagee**”), applies for the appointment of MSI Spergel Inc. (“**MSI**”), as receiver and manager of the property, assets and undertakings of the respondent, 20 Caldari Development Inc. (the “**Debtor**”), including, without limitation, the property known municipally as 20 Caldari Road, Vaughan, Ontario (the “**Property**”). The Property is improved with a commercial industrial building which is divided into units and occupied by several tenants.
2. The Debtor is indebted to the First Mortgagee in connection with a secured loan which has been in payment default for six (6) months since December 22, 2024, in addition to other defaults, and matures on June 1, 2025.
3. On January 31, 2025, the First Mortgagee issued to the Debtor a demand for payment (the “**Demand**”) and a notice of intention to enforce its security pursuant to section 244(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 as amended (the “**BIA Notice**”). As of February 26, 2025, the Debtor owed **\$9,511,676.03**¹ to the First Mortgagee, not including legal and other costs.
4. The First Mortgagee holds first-ranking security over all of the Debtor's assets, including the Property. The First Mortgagee's security agreements with the Debtor include a contractual right to appoint a receiver on default.

¹ As of May 12, 2025, this amount was \$9,697,422.60. See Supplementary Affidavit of Ricardo Sousa, para 12, and exhibit "A", mortgagee statement May 6, 2025

5. There is a second mortgage of \$5.8 million (CDN) which matures on June 1, 2025 which has no prospect of repayment. The Second Mortgagee (J.I.S. Contract Furniture Inc.) consents to the appointment of a receiver.

6. In addition to its secured indebtedness to the First Mortgagee, the Debtor owes significant arrears of property taxes to the City of Vaughan and arrears to a third party contractor, Evans Industrial Ltd, which claims are secured by statutory construction liens and trusts on the Debtor's assets.

7. Notwithstanding notification of the defaults, and the expiry of the 10-day notice period, under the BIA, the Debtor remains in default of its obligations to the First Mortgagee. **The Debtor has made no effort to rectify the defaults or comply with its obligations in the last six (6) months.**

8. The First Mortgagee has lost confidence in the Debtor's ability to repay its loans.

9. In the above circumstances, it is just and convenient to appoint a receiver to manage and sell the Property in accordance with the priorities approved by the Court.

10. The consent of the receiver, Mr. Mukul Manchanda, CA, CIRP of MSI Spergel dated April 22, 2025, has been filed.²

² Application Record, Tab 6, p.282

PART II - SUMMARY OF FACTS

A. Background

11. The Debtor is an Ontario Corporation which owns real property municipally known as 20 Caldari Road, Vaughan, ON.³

12. The shares of the Debtor are owned equally by Jay Khanna and Nakul Aurora.⁴

B. Loan and Security

13. The First Mortgagee holds first ranking security interest over all of the Debtor's assets, including the Property.⁵

14. The First Mortgagee became the first mortgagee by reason of a previous receivership of the Debtor in this Court, initiated by the Canadian Western Bank ("**CWB**"), through which, as part of a resolution of several outstanding pieces of litigation (the "**Global Resolution**"), the CWB mortgage was assigned and transferred by the Debtor to the First Mortgagee and registered against the Property as Instrument No. YR3685547 on June 7, 2024 (the "**Mortgage**").⁶

15. The Global Resolution received the endorsement of this Court by the order of the Honourable Justice Agarwal, dated May 31, 2024 (the "**Order**").⁷

³ The Affidavit of Ricardo Sousa, sworn February 28, 2025 (the "**Sousa Affidavit**") at para 3, Exhibit A, Tab 3 of the Application Record of 1000688136 Ontario Inc. dated April 16th, 2025 (the "**AR**"), p 15

⁴ The Affidavit of Jay Khanna, sworn February 28, 2025 (the "**Khanna Affidavit**") at paras 1 and 11, Tab 4 of the AR, p 161

⁵ The Sousa Affidavit at para 5, p 16 of the AR

⁶ The Sousa Affidavit at para 6, p 16 of the AR

⁷ The Sousa Affidavit at para 7, Exhibit B, pp. 16 and 29 of the AR

16. The Global Resolution under the Order provided for one (1) year's forbearance under terms including, *inter alia*:⁸

- (a) Acknowledgement of the transfer of the former CWB mortgage and security to the First Mortgagee;
- (b) The acknowledgement of further security being given by the Debtor and the registration of a second mortgage in favour of J.I.S. Contract Furniture pursuant to the security;
- (c) The acknowledgment of two new 1 year leases to related companies of the Debtor at the property [now in default], and which terminate May 31, 2025;
- (d) A Business Operating Agreement between the shareholders of the Debtor dated June 1, 2024 (the "BOA"), which was part of a resolution of a previous oppression remedy application [now in default];

17. In addition to the Mortgage, the following security documentation (together with the Mortgage, collectively, the "**Security**") was assigned and transferred by CWB to the First Mortgagee pursuant to the Global Resolution and as endorsed under the Order:⁹

- (a) Assignment of Debt and Security Agreement between CWB and the First Mortgagee, dated March 11, 2024;

⁸ The Sousa Affidavit at para 8, pp. 16 and 17 of the AR

⁹ The Sousa Affidavit at para 9, Exhibits C, D, E, F, G, H, I, J, and K, pp. 17 and 38-138 of the AR

- (b) Registered Assignment/Transfer of the Mortgage, dated March 11, 2024 – YR3655690;
- (c) Amendment to Commitment Letter, dated June 1, 2024;
- (d) Schedule "B" – Mortgage Amending Agreement, dated June 1, 2024;
- (e) Mortgage Statement of principal re 1000688136 Ontario Inc.;
- (f) Loan Agreement dated August 26, 2021;
- (g) Mortgage dated November 23, 2021;
- (h) General Security Agreement dated November 24, 2021; and
- (i) Amending Agreement, dated March 31, 2023.

C. Default

18. On January 31, 2025, the First Mortgagee issued the formal Demand for payment by the Debtor and the BIA Notice of the intention to enforce its security under Section 244 of the BIA.¹⁰

19. The Demand notified the Debtor of its several defaults at that time under the Security, including, inter alia:

(a) Payment Default

¹⁰ The Sousa Affidavit at para 15, Exhibit L, pp. 19 and 139 of the AR

The Debtor was in default of monthly mortgage payments owing under the First Mortgage due December 22, 2024 of \$84,201.88 and January 22, 2024 of \$84,201.88, together with late payment and other charges, totaling \$151,400.92. As of February 13, 2025, the total amount in default was \$212,189.78.¹¹

(b) Reporting Defaults

Pursuant to the Agreement dated August 26, 2021 between the First Mortgagee and the Debtor, the Debtor agreed to fulfill following Covenants and Conditions:¹²

Review Engagement, annual financial statements of the Borrower and Guarantor(s) prepared by a firm of qualified professional accountants within 120 days of the borrower's fiscal year-end, together with annual business plan including proforma balance sheets with profit and loss and cash flow statements as well as capital expenditure forecasts for the current fiscal year, showing purpose and source of financing;

Quarterly, internal financial statements of the Borrower and the Aurora Hotel Group inclusive of at least an income statement and balance sheet within 45 days of quarter end;

The Debtor missed the dates for the quarterly submissions for period ended June 30, 2024, and September 30, 2024, and since delivery of the BIA Notice in January, 2025.

(c) Property Taxes Default

The Debtor had not made any payments to the City of Vaughan for arrears of property taxes for year-end 2022, 2023, and 2024, which were then at

¹¹ The Sousa Affidavit, Exhibit L, p 139 of the AR

¹² The Sousa Affidavit, Exhibit L, p 139 of the AR

approximately \$260,379.51, and in arrears.¹³ Failure to remit and pay property taxes is a further default of the Debtor pursuant to, *inter alia*, section 7 of the Mortgage and clause 6(i) of the General Security Agreement.¹⁴

(d) Default of Construction Lien

A construction lien was registered against the Property as Instrument No. YR3729300 on October 16, 2024 by Evans Industrial Installations Ltd. in the amount of \$40,329.87, such construction lien being a default under, *inter alia*, section 5(e) of the Mortgage and clause 7(f) of the General Security Agreement.¹⁵

20. As of February 26, 2025, the total amount of principal, with **\$99,472.68** of per diem interest since the date of the Demand Letter and Notice, is **\$9,511,676.03**.¹⁶

21. The Debtor did not respond at all to the Demand or the BIA Notice, served January 31, 2025.¹⁷

22. Notwithstanding notification of the defaults, and the expiry of the 10-day notice period, under the BIA Notice, the Debtor remains in default of its obligations to the First Mortgagee and has failed to repay its indebtedness to the First Mortgagee under the Mortgage.¹⁸

¹³ Souse Supplementary Affidavit, para 14, p 4, of the Supplementary Application Record, and Exhibit B, City of Vaughan Statement of Asset, May 6, 2025

¹⁴ The Sousa Affidavit at paras 18 and 19, p 20 of the AR

¹⁵ The Sousa Affidavit at paras 22 and 23, p 21 of the AR

¹⁶ The Sousa Affidavit at paras 17 and 26, Exhibit P, pp. 17, 22, and 157 of the AR

¹⁷ The Sousa Affidavit at para 25, p 22 of the AR

¹⁸ The Sousa Affidavit at para 26, Exhibit P, pp. 22 and 157 of the AR

23. In the circumstances, given (i) the default in payment of the Mortgage, (ii) the non-compliance with the terms of the Global Settlement, as set out in the Order, and (iii) the impairment of the security of the Property by the arrears of taxes and the lien, it is just and expedient that a receiver be placed over the assets of the Debtor including, *inter alia*, the Property.¹⁹

24. The First Mortgagee has the contractual right to appoint a receiver upon the Debtor's default pursuant to Section 18(e) of the Mortgage.²⁰ The receiver appointed pursuant to the Mortgage is afforded several powers under Section 19(d), including, *inter alia*:²¹

- (a) the power to take possession of the any property or collateral charged by the Mortgage [s. 19(d)(i)];
- (b) sell, lease or re-lease any portion of the lands and property [s. 19(d)(iii)];
- (c) enter into and execute contracts in the name of the Debtor [s. 19(d)(iii)];
- (d) apply the net proceeds of sale and distribute the net proceeds of sale to secured and unsecured creditors [s. 19(d)(vi)]; and
- (e) granted a comprehensive Power of Attorney over the affairs and property of the Debtor [s. 20].

¹⁹ The Sousa Affidavit at para 29, p 22-23 of the AR

²⁰ The Sousa Affidavit, Exhibit I, p 105-106 of the AR

²¹ The Sousa Affidavit, Exhibit I, p 106-107 of the AR

25. The Second Mortgagee, J.I.S Contract Furniture Inc., has a second mortgage under the terms of the Order, which is due June 1, 2025 for \$5,800,000.00. The second mortgagee consents to the appointment of MSI as receiver.²²

D. Refinancing Proposal Not Viable

26. The refinancing proposal presented by the Aurora's (and related entities)²³ is speculative, conditional, and subject to multiple outstanding contingencies, including due diligence and credit approvals. It does not constitute a binding commitment or demonstrate financial capacity. The Respondent's assertion that refinancing is imminent is misleading and falsely suggests financial viability. There is no executed commitment, and several critical preconditions to funding, including environmental assessments, appraisals, reporting of financial and verification of debt service coverage, remain unsatisfied.²⁴

27. The proposed financing amount of \$15,500,000 (i.e. for 20 Caldari Road) is contingent on 75% of the appraised value of the Property. There is no evidence of a valid appraisal of between **\$19.5 to \$20 million** to support the financing request.

28. Even **\$15.5 million** is inadequate to satisfy the total secured debt, which includes principal (first and second mortgage), arrears, interest, penalties, and legal costs. It is insufficient for the full payout or refinancing which was due on June 1, 2025.²⁵

²² The Khanna Affidavit at para 10 and 14, pp. 165 and 167 of the AR

²³ As set out in the responding affidavit of Nakul Aurora, April 23, 2025, and the refinancing proposal attached as exhibit "A"

²⁴ Sousa Supplementary Affidavit, para 4 and 6, Supplementary Application Record

²⁵ Sousa Supplementary Affidavit, para 5, Supplementary Application Record

29. The structure of the proposed refinancing is fundamentally flawed. It is contingent on the non-arm's length sale of the Property to Satish Aurora (father of Nakul Aurora), which would require an equity payout of approximately \$3.4 million to Jay Khanna pursuant to the Option Agreement under the Global Settlement. The proposed \$15.5 million does not account for this payment, resulting in a significant shortfall. A viable refinancing would require at least \$19 million. No evidence has been provided to address or cover this shortfall.²⁶

E. No Corporate Authority of Respondent Debtor

30. Jay Khanna holds a 50% ownership interest in the Respondent Debtor. Mr. Khanna has advised that he consents to the appointment of MSI Spergel Inc. as receiver and manager over the assets, property, and undertaking of the Respondent. Mr. Khanna supports the immediate court-appointed receivership proceedings.²⁷

31. Mr. Khanna has further attested that he does not consent to any proposed refinancing advanced by the Aurora interests, their father, or their related parties, on the basis that such proposal fails to provide for the crystallization and payout of his equity interest in the Respondent under the Option Agreement. Mr. Khanna supports a sale of the Property to an arm's length commercial buyer to maximize the benefit to the creditors of the Debtor. The priority debts of the Debtor are approximately \$19,450,606.86. In the absence of unanimous shareholder consent of the Respondent Debtor — which is required to approve any refinancing or related-party transaction involving a disposition of

²⁶ Sousa Supplementary Affidavit, para 7, Supplementary Application Record

²⁷ Khanna Second Supplementary Affidavit, May 26, 2025, Paragraph 6 and 7.

the Property —the proposed refinancing lacks corporate authority to be undertaken, and is not viable.²⁸

32. Mr. Khanna's position reinforces the Applicant's submission that it is just and convenient to appoint a receiver to manage and sell the Property. It is submitted that a court-supervised process is necessary to protect stakeholder interests, resolve the shareholder impasse, and preserve value for all creditors – including the Option Agreement of Mr. Khanna.

33. Since its acquisition, the Property has not been cash flow positive or commercially viable. The Respondent defaulted early on with the \$8.3 million mortgage with CWB, its original \$7.5 million mortgage, with repeated failures to meet debt servicing obligations. The arrears have grown significantly, including unpaid property taxes, HST, and construction liens.²⁹

34. The Respondent has a history of failing to meet its financial obligations. Most recently, it requested a postponement of proceedings on April 24, 2025, with a promise to pay \$375,000 in three installments before June 1, 2025. No payments have been made or received.³⁰

²⁸ Khanna Second Supplementary Affidavit, May 26, 2025, para. 11, page 8, and Exhibit "E" page 55.

²⁹ Sousa Supplementary Affidavit, para 8, Supplementary Application Record

³⁰ Sousa Supplementary Affidavit, para 11, Supplementary Application Record

F. Further Impairment of Equity In Property

35. Since February 26, 2025, monthly interest payments of \$77,285.21 each have been missed, the arrears have increased significantly to \$9,697,422.60.³¹

36. Property taxes have also gone unpaid, increasing from \$207,000 to \$260,379.51 (as of May 28, 2025).³²

37. The total liabilities of the Respondent secured and under the Global Settlement (calculated or estimated as of June 3, 2025), are **\$19,450,606.86**.³³

38. There is no credible basis to believe that the Respondent is capable of curing the default. The value of the Property continues to erode by the accumulating payment defaults, jeopardizing the interests of all creditors. Without immediate court intervention, the Property risks further devaluation, inability to sell or refinance, and irreversible loss to secured creditors.³⁴

PART III - THE ISSUES

39. The sole issue on this application is whether it is just or convenient for the Court to appoint MSI as receiver on the terms of the proposed receivership order.

³¹ Sousa Supplementary Affidavit, para 12, Supplementary Application Record

³² Sousa Supplementary Affidavit, para 14, Supplementary Application Record

³³ Second Supplementary Affidavit of Jay Khanna, sworn May 26, 2025, Para 12 and Exhibit "E"

³⁴ Sousa Supplementary Affidavit, para 15 through 17, Supplementary Application Record

PART IV - LAW AND ARGUMENT

G. MSI Should be Appointed as Receiver and Manager

i. *Test to Appoint a Receiver*

40. Pursuant to section 243(1) of the BIA and section 101 of the Courts of Justice Act R.S.O. 1990, c. C43, as amended, the Court may appoint a receiver and manager where it is “just or convenient” to do so.

41. In determining whether it is just and convenient to appoint a receiver, this Court must have regard to “all of the circumstances, but in particular the nature of the property and the rights and interest of all parties in relation thereto”. The applicant need not establish that it will suffer irreparable harm if the proposed receiver is not appointed.³⁵

42. The First Mortgagee has the contractual right to appoint a receiver who is afforded all powers and discretion of the First Mortgagee under the Mortgage.³⁶

43. Where a debtor has expressly agreed to appoint a receiver in the event of a default, the court should not ordinarily interfere with the contract between the parties.³⁷

44. It is well established that the extraordinary nature of a receiver “*is significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements.*” The appointment of a receiver “*becomes even less extraordinary when dealing with a default under a mortgage.*”³⁸

³⁵ *Bank of Montreal v Carnival National Leasing Limited*, 2011 ONSC 1007 at paras 24 and 28

³⁶ *Supra* note 19, at para 23 of this Factum, the Sousa Affidavit, Exhibit I, pp. 106-107 of the AR.

³⁷ *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640 at para 16.

³⁸ *BCIMC Construction Fund Corporation et al v The Clover on Yonge Inc.* 2020 ONSC 1953 at paras 43-44

45. Where, as here, an applicant is seeking to enforce a term of an agreement assented to by the parties, the inquiry as to whether it is just and convenient to appoint a receiver “requires the court to determine whether it is in the interests of all concerned to have the receiver appointed”. In making this determination, courts have been informed by the following factors, among others:³⁹

- (a) the need to preserve and maximize the return on the subject property;
- (b) the relationship between the debtor and its creditors;
- (c) the risk of the lender’s security deteriorating; and
- (d) loss of confidence in the debtor’s management.

46. It is submitted that, in the case at bar, the evidence establishes that all these criteria are met.

47. As was the case in *ATB Financial* and *JBT Transport*,⁴⁰ the Court under the Order has afforded the Debtor a long period of forbearance during which the Debtor has been unable to secure the necessary funding. Furthermore, the prospect of refinancing as set out by the respondent⁴¹ would not raise funds sufficient to pay out the Tax Arrears the first mortgagee and the second mortgagee in full.

³⁹ *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.*, 2020 ONSC 1953 at para 45.

⁴⁰ *ATV Financial v Mayfield Investments Ltd.*, 2024 ABKB 635 at para 18, and *JBT Transport*, 2025 ONSC 1436, at para 26.

⁴¹ Affidavit of Nakul Aurora, April 23, 2025, and Exhibit A.

H. It is Just and Convenient To Appoint MSI as Receiver and Manager

48. Having regard to the foregoing considerations, in the case at bar it is just and convenient to appoint MSI, as receiver and manager given that:

- (a) notwithstanding the issuance of demand, and the section 244 BIA notice, the Debtor has failed to repay the amounts in default under the Mortgage – indeed, **the Debtor has made no effort to remedy any of the defaults;**
- (b) the statutory notice period under the BIA Notice has expired;
- (c) the Mortgage, General Security Agreement, and other Security, contain contractual entitlements to appoint a receiver upon default;
- (d) The First Mortgagee has lost faith in the ability of the Debtor's ability to turn the situation around;
- (e) there are arrears of realty tax and HST owing to the municipal and federal governments which are secured by statutory liens and trusts over the Debtor's property, assets, and undertakings;
- (f) The Debtor is in default of multiple terms of the previous Court-endorsed forbearance terms under the Order;
- (g) the security of the lender, being the Property, is deteriorating by reason of the accumulation of defaulted payments, the accumulation of defaulted taxes, the accumulation of non-payment of rent and, the lien, coupled with the Debtor's inability or refusal to deal with any of the foregoing;

- (h) The security of the Second Mortgage of \$5.8 Million is also at a substantially greater risk of deterioration and loss;
- (i) The second mortgagee consents to the receiver; and
- (j) a Court-appointed receiver will ensure that the interests of all of the Debtor's creditors and stakeholders are considered and facilitate a fair and transparent marketing and sale process for achieving a sale of the Debtor's business and Property, and a distribution of the proceeds of sale to the Debtor's stakeholders in accordance with their legal priorities.

I. The Terms of the Draft Order are Appropriate

49. The Draft Order is based on the Toronto Commercial List model receivership order (the "**Model Order**"). Variations to the Model Order are minimal and designed to address features of the Debtor's business and the 20 Caldari Property.

(1) Receiver's Charges

50. Under Section 243(6) of the BIA, in appointing a Receiver, the Court may make an order respecting the payment of fees and disbursements of the Receiver, including granting the Receiver a charge, ranking ahead of secured creditors if satisfied that those who would be affected by such an order were given reasonable notice and an opportunity to make representations.⁴²

⁴² BIA, s 243(6)

51. Under Section 101(2) of the CJA, the Court may appoint a Receiver on "such terms as are considered just."⁴³

52. The Draft Order provides for a "Receiver's Charge" on the Property (as defined in the Draft Order) to secure the reasonable fees and disbursements of the Receiver and its counsel, in each case at their standard rates, and a "Receiver's Borrowings Charge" (together with the Receiver's Charge, the "**Receiver's Charges**") to secure monies borrowed by the Receiver from time to time for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by the Draft Order.

53. Given the absence of information as to the Debtor's cash resources and the financial position of the Debtor's business, it is expected that the Receiver may require additional funding during the Receivership proceeding. Such funding would be raised through borrowings by the Receiver.

54. The Receiver's Charges will rank ahead of the first mortgagee's existing security and the security of any other parties holding a security interest in the Caldari Property, including the tax arrears and the second mortgagee. All those parties have been given notice of this Application and have an opportunity to make representations.

55. It is submitted that the granting of the Receiver's Charges is both appropriate in the circumstances and within the Court's jurisdiction under the BIA and the CJA.

⁴³ CJA, s 101(2)

(2) Receiver's Counsel

56. The Draft Order contemplates that counsel for the applicant may act for the Receiver in this proceeding in respect of all matters in which there is no conflict of interests. The Draft Order further allows the Receiver to retain independent counsel for matters in which a conflict of interests exists or may exist.

57. Such relief has been granted by the Court in similar circumstances.⁴⁴

58. As the senior secured creditor with a significant outstanding debt owing to it under the first mortgagee the applicant interests and objectives in seeking to maximize recovery are generally aligned with those of the Receiver and other stakeholders.

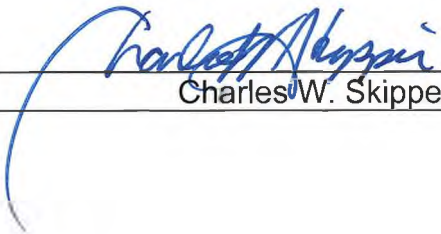
59. Permitting the Receiver to retain the applicant's counsel will advance those objectives by allowing for a more efficient representation of the Receiver by counsel who is familiar with the Debtor, the Caldari Property and the interest of all stake holders. To the extent any issues arise in these proceedings where the Receiver determines that it would be appropriate to engage independent counsel, or request direction of the court, it is empowered by the Draft Order to do so.

⁴⁴ Canadian Imperial Bank of Commerce v Urbancorp (Leslieville) Developments Inc et al. (CV-16-11409-00CL), Order Appointing Receiver dated May 31, 2016, at para 5(d)

PART V - ORDER REQUESTED

60. For the reasons set out above, the First Mortgagee, with the consent of the Second Mortgagee, respectfully requests an order appointing MSI Spergel Inc. as receiver and manager of the Debtor and Property, in accordance with the draft Order prepared in accordance with the Model Commercial Receivership Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of May, 2025.



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APPENDIX TO APPLICANT'S FACTUM

STATEMENT OF PRIORITY OBLIGATIONS OF 20 CALDARI DEVELOPMENT INC. (AS OF JUNE 3, 2025)	
Description	Amount (CAD)
1st Mortgage – 1000688136 Ontario Inc. (Instrument YR3655690, Tab 12)	\$ 9,274,225.76
Interest Arrears (Dec 2024 – Jun 3, 2025) (After credit for attorned rent)	\$ 412,207.39
Property Taxes (City of Vaughan to May 28, 2025, Exhibit B)	\$ 260,379.51
CRA / HST Exposure – Caldari Development Inc. (Affidavit Apr 23, 2025) Estimated	\$ 100,000.00
Construction Lien (Instrument YR3732583, Exhibit N)	\$ 40,329.87
2nd Mortgage – J.I.S. Contract Furniture (Instrument YR3685547, Exhibit L)	\$ 5,800,000.00
Per diem Interest June 1 -3 2025	\$ 4,766.13
Equity Purchase – Jay Khanna (Option Agreement, Second Supplemental Affidavit, May 26, Exhibit "B:	\$ 3,483,698.20
Receiver's Fees (msi Spergel Inc.)	\$ 30,000.00
Estimated Legal Fees and Costs	\$ 45,000.00
TOTAL OBLIGATIONS (AS OF JUNE 3, 2025)	\$ 19,450,606.86

Note: This chart appears as Exhibit "E" to the Second Supplemental Affidavit of Jay Khanna, sworn May 26, 2025

SCHEDULE "A"
LIST OF AUTHORITIES


1. *Bank of Montreal v Carnival National Leasing Limited*, 2011 ONSC 1007.
2. *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640.
3. *BCIMC Construction Fund Corporation et al v The Clover on Yonge Inc*, 2020 ONSC 1953.
4. *ATV Financial v Mayfield Investments Ltd.*, 2024 ABKB 635.
5. *JBT Transport*, ATV Financial 2025 ONSC 1436.
6. *Canadian Imperial Bank of Commerce v Urbancorp (Leslieville) Developments Inc et al.* (CV-16-11409-00CL), Order Appointing Receiver dated May 31, 2016, at para 5(d).

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

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

Date

May 27/25


Signature

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY - LAWS

Bankruptcy and Insolvency Act, RSC 1985, c B-3

Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a

receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
- (c) take any other action that the court considers advisable.

Courts of Justice Act, R.S.O. 1990, c. C.43

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c.

C.43, s. 101 (2)

1000688136 ONTARIO INC.
Applicant

-and- 20 CALDARI DEVELOPMENT INC.
Respondent

Court File No. CV-25-00001199-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
BRAMPTON

FACTUM OF THE APPLICANT

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