

CANADA  
District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2647250  
Estate No. 31-2647250

## TRUSTEE'S PRELIMINARY REPORT

### IN THE MATTER OF THE BANKRUPTCY OF 7895216 CANADA INC. (FORMERLY (TheRedPin.com Realty Inc.) OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Licensed Insolvency Trustee ("Trustee"): MNP Ltd.

*The information contained in this Preliminary Report has been prepared from the available books and records of the Bankrupt (as such term is later defined). These books and records have not been reviewed or otherwise audited by the Trustee and, consequently, the Trustee expresses no opinion whatsoever with respect to the validity, the exactness or the reliability of the information taken from those records contained herein.*

#### **SECTION A – BACKGROUND**

7895216 Canada Inc. (formerly TheRedPin.com Realty Inc.) ("**789 CAN**" or the "**Bankrupt**") was a wholly owned subsidiary of TheRedPin, Inc. ("**TRP Inc.**"), providing real estate brokerage services utilizing TRP Inc.'s technology platform. The Bankrupt was incorporated under the Canada Business Corporations Act on June 20, 2011 and carried on business as an Ontario real estate brokerage registered with and regulated by the Real Estate Council of Ontario pursuant to Ontario *Real Estate and Business Brokers Act, 2002*.

On June 14, 2018 (the "**Date of Receivership**") pursuant to an Order of same date (the "**Appointment Order**") issued by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), MNP Ltd. was appointed as receiver (the "**Receiver**") without security, of all assets, undertakings and properties of TRP Inc. and 789 CAN (together with the TRP Inc., collectively hereinafter referred to as the "**Debtors**") acquired for or used in relation of a business carried on by the Debtors, including all proceeds thereof (collectively the "**Property**").

The following is a brief chronology of the events that occurred in the receivership:

- On September 4, 2018, the Court ordered, *inter alia*, the approval of a sale of certain of the Debtors' Property to 2653047 Ontario Inc. (the "**Transaction**");
- Subsequent to the completion of the Transaction, the Bankrupt filed articles of amendment to change its name to "7895216 Canada Inc.";
- The Receiver applied for advice and directions of the Court with respect to whether any or all of the Third-party Commissions (namely, commissions owing by 789 CAN to the cooperating brokers (the "**Outside Brokerages**"), its agents (the "**Agents**"), certain Assignees and Cashback Buyers) collected and to be collected by the Receiver are held and to be held in trust for benefit of those parties.
- On November 30, 2018, the Court released its decision (the "**Commission Trust Decision**") wherein it concluded that "commissions, while clearly a debt owing to the agents, are

not held in trust, and, therefore, not excluded from 789 CAN's available assets subject to the Applicant's security."

- Certain of the Agents appealed the Commission Trust Decision (the "**Appeal**"), with the Appeal being heard on September 27, 2019. The Ontario Court of Appeal reserved its decision.
- On November 15, 2019, the Ontario Court of Appeal released its decision wherein it dismissed the Appeal and awarded costs of \$20,000 and \$6,000 in favour of FirePower Asset Management Inc.<sup>1</sup> and FirePower GAP Debt LP (collectively, "**FirePower**") and Trilogy Growth Fund LP ("**Trilogy**") and together with FirePower, the "**Secured Creditors**"), respectively.
- On August 22, 2019, ClaimsPro LP ("**ClaimsPro**") on behalf of Certain Underwriters at Lloyd's, the insurer of the Commission Protection Policy of Agents and cooperating brokerages of 789 CAN, brought a motion, returnable September 10, 2019, to have the Receiver pay certain Outside Brokerages' commissions where there were monies held in trust at the Date of Receivership associated with deposits provided on pending real estate transactions.
- On September 10, 2019, the Court ordered that the Receiver be authorized to pay these certain identified Outside Brokerages. The Receiver subsequently paid those Outside Brokerages for whom it had received a claim from ClaimsPro.
- On May 14, 2020, the Receiver brought a motion and obtained a Court order that subject to it maintaining sufficient reserves to satisfy certain priority payables (and claims subject to the Receiver's Charge (as defined in the Appointment Order), and to complete the administration of the receivership of the Debtors, the Receiver shall pay interim distribution of \$1,629,466 (the "**First Interim Distribution**") to Trilogy. The Court also authorized the Receiver making further interim distributions to the Secured Creditors at its sole discretion, subject only to written consent of each of Trilogy and FirePower, or as otherwise ordered by the Court.
- On May 14, 2020, the Court also heard a motion brought by FirePower and issued a Court order empowering, authorizing and directing the Receiver to file an assignment in bankruptcy on behalf of 789 CAN and further authorizing the Receiver to nominate MNP Ltd. to act as Licensed Insolvency Trustee of 789 CAN's bankruptcy estate.

On May 25, 2020 (the "**Bankruptcy Date**"), the Receiver filed, and the Office of the Superintendent of Bankruptcy accepted an assignment in bankruptcy on behalf of 789 CAN. MNP Ltd. was appointed the Trustee of the estate, subject to affirmation by the estate's creditors.

On June 1, 2020, the Notice to Creditors advising of the bankruptcy and the First Meeting of Creditors, a list of creditors and a proof of claim form, along with a proxy, were sent to all known creditors of the Bankrupt. Pursuant to subsection 102(4) of the BIA, the Notice of Bankruptcy was published in the June 1, 2020 edition of the *Toronto Sun* newspaper.

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<sup>1</sup> As of June 15, 2018, FirePower Asset transferred its interest in the Loan Agreement to FirePower GAP Debt II LP.

The various public documents related to 789 CAN's receivership and bankruptcy proceedings are posted at:

<https://mnpdebt.ca/en/corporate/engagements/theredpin-inc-and-the-redpin-com-realty-inc>

## **SECTION B – PRELIMINARY EVALUATION OF ASSETS AND SECURITY INTERESTS**

Based on its statement of affairs (“SOA”), the Bankrupt's assets consist of the following:

<b>Asset Description</b>	<b>Estimated Realizable Value (\$)</b>
Cash in Bank – Held by the Receiver	\$2,361,867
Commissions Receivables (defined below)	3,043,616
<b>Total</b>	<b>\$5,405,483</b>

As noted in the Receiver's reports, at the Date of Receivership, there were commissions receivable due to 789 CAN totaling approximately \$6.65 million relating to more than 730 properties and more than 940 trades (the “**Commissions Receivables**”); the Commissions Receivables were not expected to be fully collected until sometime in 2023 due to a portion of the trades being associated with pre-construction condominium transactions (“**Pre-Construction Receivables**”).

There remains approximately \$3,043,616 (inclusive of HST) in Commissions Receivable due to collect. The Receiver anticipates that certain closings will be delayed as a result of the COVID-19 pandemic, which in turn, will delay collection of certain Commissions Receivable.

On the Bankruptcy Date, the Receiver made the First Interim Distribution and on May 27, 2020, distributed a further \$112,639 to Trilogy. These distributions were made from the \$2,361,867 of Cash in the Bank held by the Receiver.

The Bankrupt's assets are subject to the claims of the Secured Creditors. The Receiver has obtained an opinion from Aird & Berlis LLP, the Receiver's independent legal counsel, confirming the validity and enforceability of the security granted by the Bankrupt in favour of the Secured Creditors.

## **SECTION C – BOOKS AND RECORDS**

The Trustee has access to the Bankrupt's available books and records necessary for the administration of these proceedings.

## **SECTION D - CONSERVATORY AND PROTECTIVE MEASURES**

On the Bankruptcy Date, all of the Bankrupt's assets were in the Receiver's possession and control, and accordingly, no conservatory or protective measures were necessary.

## **SECTION E - PROVABLE CLAIMS**

The claims of creditors as per the Company's Statement of Affairs ("**SOA**") and the claims filed as at 5:00 pm on June 11, 2020 are summarized below:

	<u>Statement of Affairs</u>	<u>Claims as Filed</u>
Secured/Deemed Trust	\$ 7,660,304 <sup>2</sup>	\$Nil
Preferred	Nil	Nil
Unsecured	3,461,058	Nil
Contingent	75,677	Nil
	<u>\$11,197,039</u>	<u>\$ Nil</u>

#### **SECTION F - LEGAL PROCEEDINGS, TRANSFERS AT UNDER-VALUE AND PREFERENCE PAYMENTS**

##### *Legal Proceedings*

To date, the Trustee has not commenced any legal proceedings.

##### *Transfers at Under-Value and Preference Payments*

The Trustee has not carried out a review for potential preference payments and/or Transfers at Undervalue, as the Property has been administered by the Receiver since the Date of Receivership.

#### **SECTION G - ANTICIPATED REALIZATIONS AND PROJECTED DISTRIBUTION**

Given the foregoing and the SOA, it is anticipated that there will be a shortfall suffered by the Secured Creditors in the receivership. Accordingly, the Trustee does not anticipate any realizations in the estate, and therefore no distributions to 789 CAN's creditors in this proceeding.

#### **SECTION H - OTHER MATTERS**

None

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<sup>2</sup> Includes an amount of \$2,254,821, representing the balance of the claims of the secured creditors in excess of the estimated value of the security.

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Dated at Toronto, Ontario this 11<sup>th</sup> day of June 2020.

***MNP LTD.***

***Trustee of the Estate of  
7895216 Canada Inc., a Bankrupt***

Per:



Sheldon Title  
License Insolvency Trustee