

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**BANK OF MONTREAL**

Applicant

and

**1254044 ONTARIO LIMITED, 2431264 ONTARIO INC., 2189788 ONTARIO INC.,  
1552838 ONTARIO INC., 1786675 ONTARIO LIMITED, 2034039 ONTARIO INC., 2660556  
ONTARIO LIMITED, 2541899 ONTARIO LIMITED and 2542372 ONTARIO INC.**

Respondents

**SECOND REPORT TO THE COURT SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS RECEIVER OF THE ASSETS, UNDERTAKINGS AND PROPERTIES  
OF THE RESPONDENTS**

May 1, 2020

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## 1.0

## Introduction and Purpose of Report

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### 1.1 Introduction and Background

**1.1.1** On September 30, 2019, by Order of the Honourable Justice Hainey on application made by the Canadian Imperial Bank of Commerce (“**CIBC**”), BDO Canada Ltd. (“**BDO**”) was appointed receiver of the assets, undertakings and properties of 1254044 Ontario Limited (“**125**”), 2189788 Ontario Inc. (“**218**”), 1552838 Ontario Inc. (“**155**”) and other related entities not named in this proceeding (the “**September 30 Appointing Order**”). The CIBC application record has been sealed pending further order of this Court.

**1.1.2** Bank of Montreal (“**BMO**”), the senior secured lender of 125 and 218, brought a motion to replace BDO and appoint MNP as Receiver of 125, 218 and 155. BMO’s motion was unopposed and the Honourable Justice Hainey granted an Order on October 16, 2019 discharging BDO and appointing MNP as receiver of 125, 218, 155 and two additional related party entities, 2431264 Ontario Inc. (“**243**”) and 2542372 Ontario Inc. (“**2542372**”) (the “**Initial Appointing Order**”). The Initial Appointing Order is substantially in the form of the model receivership order.

**1.1.3** By further order dated October 30, 2019 on a subsequent application by BMO, the Honourable Justice Hainey amended the Initial Appointing Order to expand MNP’s appointment to include additional entities indebted to BMO, or guarantors of BMO’s indebtedness. The entities added to the proceeding are 2034039 Ontario Inc. (“**203**”), 1786675 Ontario Limited (“**178**”), 2660556 Ontario Limited (“**266**”) and 2541899 Ontario Limited (“**2541899**”) (the “**Amended Appointing Order**”).

(collectively referred to in this report, along with those companies included in the Initial Appointing Order, as the “**Companies**”).

**1.1.4** A copy of the Amended Appointing Order, including the Initial Appointing Order, is attached as **Appendix A**.

**1.1.5** The Companies’ principals are Simranjit Dhillon, Mandhir Dhillon, Sarbjit Dhillon and Mandeep Dhillon.

**1.1.6** Attached as **Appendix B** is a listing of the Companies, including a description of operations, location and the parties having security over the Companies’ assets.

**1.1.7** The principal businesses operate from four locations throughout Southwestern Ontario as follows:

- (i) 5906 Oil Heritage Road, Wyoming Ontario (“**Oil Heritage Road**”);
- (ii) 1527 and 1537 Provincial Road, Windsor Ontario (“**Provincial Road**”);
- (iii) 5407 Walker Road, Windsor Ontario (“**Walker Road**”); and
- (iv) 203 Indian Road, Sarnia Ontario (“**Indian Road**”)

(collectively referred to in this report as the “**Real Properties**”).

**1.1.8** BMO is the senior secured lender to the Companies. In aggregate, the Companies are indebted to BMO for approximately \$27 million. BMO holds mortgages over the Real Properties together with General Security Agreements from each of the Companies.

**1.1.9** The Receiver submitted one previous report to the Court dated December 20, 2019 (the “**First Report**”). The First Report, without appendices, is attached as **Appendix C**. The First Report was submitted in support of the Receiver’s motion for, among other things, approval of a sale process for the Real Properties and the assets of the businesses carried on by the Companies from the Real Properties. A copy of the Order of Justice Hainey dated January 13, 2020 approving the First Report and the sale process is attached as **Appendix D** (the “**Sale Process Order**”).

## **1.2 Purpose of the Receiver’s Second Report**

**1.2.1** This constitutes the Receiver’s Second Report to the Court (the “**Second Report**”) in this matter and is filed:

- (a) to provide the Court with information on:
  - (i) the Receiver’s activities since the First Report; and
  - (ii) (ii) the results of the sale process.
- (b) in support of the Receiver’s motion for Orders:
  - (i) approving the Second Report and the activities and conduct of the Receiver described therein;
  - (ii) approving the Receiver’s Statement of Receipts and Disbursements for the period November 30, 2019 to February 28, 2020;
  - (iii) approving the Agreement of Purchase and Sale dated March 26, 2020 between the Receiver, as vendor, and 2119187 Ontario Inc., as purchaser, in respect of Oil Heritage Road and the assets of the Companies used in the operation of the businesses from Oil Heritage Road and authorizing the Receiver to complete the transaction contemplated therein (the “**Oil Heritage Road Transaction**”);
  - (iv) vesting in 2119187 Ontario Inc. the Oil Heritage Road Assets (as defined herein) free and clear of all encumbrances other than permitted encumbrances;
  - (v) approving the Agreement of Purchase and Sale dated April, 2020 between the Receiver, as vendor, and Manwinder Singh, as purchaser, in respect of Provincial Road and the assets of the Companies used in the operation of the businesses from Provincial Road and authorizing the Receiver to complete the Transaction contemplated therein (the “**Provincial Road Transaction**”);
  - (vi) vesting in Manwinder Singh, or as he directs, the Provincial Road Assets (as defined herein) free and clear of all encumbrances other than permitted encumbrances;
  - (vii) approving the Agreement of Purchase and Sale dated March 12, 2020 between the Receiver, as vendor, and 2346773 Ontario Ltd., as purchaser, in respect of Walker Road and the assets of the Companies used in the operation of the businesses from Walker Road and authorizing the Receiver to complete the transaction contemplated therein (the “**Walker Road Transaction**” and together with the Oil

Heritage Road Transaction and the Provincial Road Transaction, the “**Transactions**”);

- (viii) vesting in 2346773 Ontario Ltd. the Walker Road Assets (as defined herein) free and clear of all encumbrances other than permitted encumbrances;
- (ix) authorizing the Receiver to disclaim all contracts relating to the businesses carried on by the Companies from Oil Heritage Road, Provincial Road and Walker Road which are not assumed by and assigned to the purchasers pursuant to the Transactions; and
- (x) sealing the Confidential Supplement to the Second Report.

## 2.0

## Receiver's Activities Since the First Report

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### 2.1 Operations

- 2.1.1** Since the First Report, the Receiver has continued operating the Companies' three branded fuel stations and convenience stores at Oil Heritage Road, Provincial Road and Walker Road, the Burger King and Subway restaurants at Oil Heritage Road and the Burger King restaurant at Indian Road.
- 2.1.2** On January 21, 2020, the Receiver closed the Pizza Depot franchise restaurant ("**Pizza Depot**"), that operated as a take-out only fast food restaurant at Provincial Road, due to poor financial results and an unresolved dispute with the franchisor, Springdale Pizza Depot Ltd. ("**Springdale**"). Four staff members employed by 218 were terminated upon the store's closure. The closure did not materially impact the overall operation of the businesses from Provincial Road as the Pizza Depot operated at a loss during the receivership.
- 2.1.3** Following its appointment, the Receiver confirmed that none of the Companies were the named franchisee in the franchise agreement for the Pizza Depot. Springdale would not provide the name of the franchisee, and the Receiver was not able to identify the franchisee through investigation with former management, staff or BDO.
- 2.1.4** Springdale received all non-cash sale receipts for the Pizza Depot through the point-of-sale system. After deducting fees payable under the franchise agreement, Springdale would remit the balance to 218. Springdale initially remitted these funds to the Receiver; however, on January 16, 2020 Springdale advised the Receiver that it would no longer do so. As a result, and since the business was already losing money, the Receiver made the decision to close Pizza Depot.
- 2.1.5** The Receiver interacts with vendors daily to ensure fuel, convenience store inventory and foodstuffs for the Burger King and Subway restaurants are replenished regularly to mitigate supply related business interruption. This interaction has been vital in stabilizing the Companies' core operations.
- 2.1.6** Despite the Receiver's progress in normalizing operations, developments surrounding the Covid-19 pandemic ("**Covid Crisis**") have negatively impacted sales and forced drastic changes across all businesses. In response to the Covid Crisis, the Receiver, in consultation with operation managers, implemented various cash and food handling protocols to protect staff and the public from spreading the virus. In accordance with government mandated regulations, the Receiver closed all restaurant dine-in areas and posted notices encouraging preferred payment methods to limit the exchange of cash. In addition to the business restrictions above, reduced foot and vehicle traffic has impaired fuel sales which has had a shared effect on the ancillary convenience store and restaurant businesses. The Receiver is working with management daily to answer questions and apprise front line staff of ongoing developments surrounding the Covid Crisis.
- 2.1.7** As discussed in the first report, a commercial fuel pump at Oil Heritage Road was badly damaged in an accident that occurred on November 27, 2019. The Receiver commissioned Dart Petroleum ("**Dart**") to inspect the damage and prepare a damage estimate. Dart determined the pump was not salvageable and advised it would have to be replaced at a cost of \$63,750. The Receiver instituted an insurance claim to cover the costs through the property insurer, Federated Insurance ("**Federated**"). Federated settled the claim on payment to the Receiver of \$62,750. The Receiver has commissioned Dart to install the new pump.



## **2.2 Wage Earner Protection Program**

**2.2.1** The Receiver initiated a claims process for four (4) former employees of 218 and one (1) employee of 2542372. The Companies' employees are not owed wages or vacation pay; therefore, WEPP claims are limited to termination pay in lieu of notice ("**Termination Pay**").

**2.2.2** Under section 81.4 of the *BIA*, payments for Termination Pay rank as unsecured claims.

## **2.3 CRA**

**2.3.1** Following its appointment, the Receiver requested CRA to perform an audit of the Companies' source deduction and HST accounts for the period prior to the date of receivership. CRA has not yet completed the audits and the scheduling of the audits has been delayed due to the Covid Crisis.

**2.3.2** The Receiver has requested separate HST accounts be opened for each entity for HST reporting and remitting purposes. This has not yet been completed by CRA to date.

## 3.0

## Sale Solicitation Process

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### 3.1 Sale Solicitation Process

- 3.1.2** Pursuant to the Amended Appointing Order, the Receiver was authorized to market the assets and operations of the Companies, including advertising and soliciting offers and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate. The Companies' assets are comprised of real estate, leasehold improvements, restaurant equipment, inventory (fuel, foodstuffs and convenience store items), franchise rights and business goodwill (collectively the "Assets").
- 3.1.3** In its First Report the Receiver outlined the Sales Solicitation Process ("SSP") to be undertaken by the Receiver to market and solicit offers for the Assets. The SSP was approved by the Court in the Sale Process Order (Appendix D).
- 3.1.4** Pursuant to the SSP, the Receiver undertook the following steps to market and solicit offers for the Assets:
- On December 17, 2020, the Receiver emailed an Invitation for Proposals to 129 potential interested parties including domestic and international industry participants and equity investment firms identified by the Receiver and MNP Corporate Finance Ltd;
  - The Receiver advertised the Invitation for Proposals in the financial section of the national edition of the Globe & Mail, London Free Press and Windsor Star on Friday January 10, 2020;
  - The Receiver notified more than 650 MNP partners across Canada of the SSP and provided a copy of the Invitation for Proposals for distribution to MNP clients that may be interested in the opportunity; and
  - The Receiver published a notice of the SSP in the Insolvency Insider, a weekly email publication circulated within the national insolvency industry.
- 3.1.5** As a result of the marketing described above, 38 parties executed confidentiality agreements and were provided a copy of the Receiver's confidential information memorandum detailing the opportunity. A virtual data room with additional information was set up by the Receiver and interested parties were granted access.
- 3.1.6** The Receiver responded to queries and information requests of all interested parties in a timely and efficient manner.
- 3.1.7** The deadline to submit offers was established as 2:00 p.m. on Wednesday, February 12, 2020 ("**Original Bid Deadline**"). The Original Bid Deadline provided prospective bidders eight weeks to complete due diligence and submit an offer.
- 3.1.8** The Receiver's marketing campaign resulted in 13 en bloc and location specific offers being received by the Original Bid Deadline, with multiple offers for each location. Of the offers received, seven of the offers included the Oil Heritage Road Assets, three included the Walker Road Assets, six included the Provincial Road Assets and five included the Indian Road Assets.
- 3.1.9** Having regard to the multiple competing en bloc and location specific offers, on February 18, 2020, the Receiver contacted offerors to advise that the Original Bid Deadline was being extended to 2:00 pm on Friday February 21, 2020 ("**Second Bid Deadline**"), and requested offerors to revisit their offers and lodge their final and best offer by the Second Bid Deadline. En bloc bidders were also asked to clarify whether their offers could be accepted for individual

locations. All parties which had submitted an offer were notified of the extension. The Bank supported extending the Original Bid Deadline.

**3.1.10** After the Second Bid Deadline, there were five offers which included the Oil Heritage Road Assets, six offers which included the Provincial Road Assets, three offers which included the Walker Road assets and five offers which included the Indian Road Assets.

**3.1.11** Details of the offers submitted are included in the Confidential Supplemental (“**Confidential Supplement**”) for which the Receiver is requesting a sealing order pending the completion of the Transactions.

## 4.0

## Sale of Assets

### 4.1 Proposed Sales

- 4.1.1 The Receiver accepted location specific offers from four different parties (“**Accepted Offers**”). The following is a summary of the Accepted Offers which are discussed in further detail below and in the Confidential Supplement:

Purchaser	Assets Subject to Purchase*
2119187 Ontario Inc. (“ <b>2119187</b> ”)	Real property, chattels, inventory, contracts and leases in respect of the businesses operated from Oil Heritage Road (collectively the “ <b>Oil Heritage Road Assets</b> ”).
Manwinder Singh (“ <b>Singh</b> ”)	Real property, chattels, inventory, contracts and leases in respect of the businesses operated from Provincial Road (collectively the “ <b>Provincial Road Assets</b> ”).
2346773 Ontario Ltd. (“ <b>2346773</b> ”)	Real property, chattels and inventory in respect of the businesses operated from Walker Road (collectively the “ <b>Walker Road Assets</b> ”).
Kamal Aggarwal (“ <b>Aggarwal</b> ”)	Real property lease, chattels, inventory and contracts for the Burger King restaurant operated at Indian Road (collectively the “ <b>Indian Road Assets</b> ”).

\*Accepted Offers contemplate the purchase of the Companies’ right, title and interest only.

- 4.1.2 2119187, Singh and 2346773 waived any conditions to their offers and the Receiver has entered into Agreements of Purchase and Sale with those parties. Redacted copies of the Agreements of Purchase and Sale are attached as **Appendix E, Appendix F and Appendix G**. The purchase price for each of the Transactions has been redacted to prevent disclosure pending completion of the Transactions. Unredacted copies of the Agreements of Purchase and Sale are included in the Confidential Supplement.
- 4.1.3 The offer made by Aggarwal was subject to financing. On April 23, 2020 the lawyer for Aggarwal advised that financing had not been approved and the condition was not being waived. The deposit provided by Aggarwal was subsequently returned. The Receiver will be resuming its efforts to find another purchaser for the Indian Road Assets.
- 4.1.4 The Receiver conducted the sale process as provided for in the SSP as previously approved by the Court. The sale process resulted in multiple offers for each location, on an en bloc and individual location basis. It is the Receiver’s view that the marketing and solicitation process was appropriate and properly exposed the assets to the market. The Receiver’s marketing efforts have been exhausted and there are no other viable proposals under consideration at this time.
- 4.1.5 The Bank is the senior lender to the Companies. The Transactions, if approved, will result in a shortfall to the Bank. The Bank supports the completion of the Transactions.
- 4.1.6 The Receiver’s analysis of the offers and the Transactions is included in the Confidential Supplement.

**4.1.7** As the Receiver was of the view that the market value of the assets would be determined through the exposure of the assets to the open market through the sale process, the Receiver did not obtain appraisals of Oil Heritage Road, Provincial Road or Walker Road as part of the sale process. The Receiver did have in its possession at the time of the sale process appraisals obtained by the Companies prior to the Receiver’s appointment. Copies of those appraisals were included in the data room and were available to prospective purchasers. Excerpts from those appraisals are included in the Confidential Supplement. The Receiver’s sensitivity analysis of those appraisals is also included in the Confidential Supplement.

**4.1.8** The appraisals made available to prospective purchasers included an appraisal dated June 21, 2019 prepared by Otto and Company for 2541899 which valued Walker Road as of June 12, 2019 (the “**Otto Appraisal**”). The Receiver retained Ray Bower Appraisal Services Inc. to complete a review of the Otto Appraisal. A copy of that review is included in the Confidential Supplement.

**4.2 Encumbrances to be Vested Out**

**4.2.1** Copies of the parcel registers for Oil Heritage Road, Provincial Road and Walker Road as of March 31, 2020 are attached as **Appendix H, Appendix I** and **Appendix J**, respectively. The instruments and encumbrances to be deleted from title and vested out from those properties are as follows:

**Oil Heritage Road (PIN 43104-0011)**

Registration Number	Date	Instrument Type	Party To
LA184441	2017/04/28	CHARGE	BMO
LA184442	2017/04/28	NO ASSGN RENT GEN	BMO
LA222108	2019/06/28	CHARGE	BMO
LA222109	2019/06/28	NO ASSGN RENT GEN	BMO
LA222296	2019/07/04	POSTPONEMENT	BMO
LA228176	2019/10/24	CONSTRUCTION LIEN	OGILVIE ELECTRIC INC.
LA228229	2019/10/25	CONSTRUCTION LIEN	COPE CONSTRUCTION & CONTRACTING INC.
LA228832	2019/11/04	RESTRICTIONS ORDER	CIBC
LA229069	2019/11/08	APL COURT ORDER	BDO
LA229179	2019/11/12	APL COURT ORDER	MNP
LA229578	2019/11/20	CONSTRUCTION LIEN	WALTER PEPER
LA230214	2019/11/29	CONSTRUCTION LIEN	OGILVIE ELECTRIC INC.
LA232024	2020/01/07	CERTIFICATE	WALTER PEPER C.O.B. AS PEPER MINT CONSTRUCTION

Registration Number	Date	Instrument Type	Party To
LA232180	2020/01/10	CERTIFICATE	OGILVIE ELECTRIC INC.
LA233124	2020/01/29	CERTIFICATE	COPE CONSTRUCTION & CONTRACTING INC.

### Provincial Road

(a) 1527 Provincial Road, Windsor (PIN 01560-2611)

Registration Number	Date	Instrument Type	Party To
CE805631	2017/11/27	CHARGE	BMO
CE805632	2017/11/27	NO ASSGN RENT GEN	BMO
CE910531	2019/10/01	APL COURT ORDER	BDO
CE916522	2019/11/04	RESTRICTIONS ORDER	CIBC
CE917785	2019/11/12	APL COURT ORDER	MNP

(b) 1537 Provincial Road (PIN 01560-2703)

Registration Number	Date	Instrument Type	Party To
CE805631	2017/11/27	CHARGE	BMO
CE805632	2017/11/27	NO ASSGN RENT GEN	BMO
CE916522	2019/11/04	RESTRICTIONS ORDER	CIBC
CE917785	2019/11/12	APL COURT ORDER	MNP

### Walker Road (PIN 70622-0310)

Registration Number	Date	Instrument Type	Party To
CE859181	2018/11/13	NOTICE OF LEASE	PARKLAND
CE863792	2018/12/07	CHARGE	BMO
CE863793	2018/12/07	NO ASSGN RENT GEN	BMO
CE863800	2018/12/07	POSTPONEMENT	BMO
CE896668	2019/07/16	CHARGE	QUEENWEST ET AL.
CE896669	2019/07/16	NO ASSGN RENT GEN	QUEENWEST ET AL.
CE916522	2019/11/04	RESTRICTIONS ORDER	CIBC
CE917785	2019/11/12	APL COURT ORDER	MNP

- 4.2.2** BMO holds the only registered charges against Oil Heritage Road and Provincial Road. There are two registered charges against Walker Road: a first charge in favour of BMO securing the principal sum of \$7,250,000, plus interest and costs, and a second charge in favour of Queenwest Leasing Inc., and others (“**Queenwest**”), securing the principal sum of \$2,500,000 plus interest and costs. The Walker Road Transaction, if approved, will not generate sufficient funds to fully pay the amount secured by the BMO first charge. Queenwest, through its lawyer, has expressed concern with completing a sale for Walker Road at a price which will not yield any value for Queenwest under its second charge.
- 4.2.3** Prior to the Receiver accepting the offer for Walker Road, Queenwest, through its counsel, expressed to the Receiver an interest in taking an assignment of the BMO charge over Walker Road with a view to then excluding Walker Road from the sale process.
- 4.2.4** To allow Queenwest the opportunity to obtain an assignment of the BMO charge and remove Walker Road from the sale process, section 4.2(d) of the Walker Road agreement of purchase and sale provides that the obligation of the Receiver to complete the Walker Road Transaction is conditional upon the BMO charge over Walker Road not being assigned to Queenwest on or before closing. Should Queenwest truly be of the view that the Walker Road sale price is insufficient, the inclusion of that condition allows Queenwest to protect its interest as second mortgagee should it wish to do so.
- 4.2.5** As of the date of this Report, the BMO charge has not been assigned to Queenwest.
- 4.2.6** Copies of searches against 125, 155, 178, 203, 243, 2541899, 266 and 218, being all of the Companies other than 2542372, under the *Personal Property Security Act* as of December 23, 2019 are attached as **Appendix K, Appendix L, Appendix M, Appendix N, Appendix O, Appendix P, Appendix Q, and Appendix R**. A search of registrations for 2542372 is not provided as that company operated the Indian Road Burger King restaurant, the assets of which are not included in the Transactions. The registrations and security interests to be vested out as disclosed by those searches are as follows:

(a) 125

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20030910 1453 1862 5119	PPSA	HARGETT ENTERPRISES, INC.	EQUIPMENT, ACCOUNTS, OTHER
20090730 1505 1590 9008	PPSA	BRADSHAW FUELS LTD.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER
ASSIGNMENT 20110914 1536 1862 8656			ASSIGNED TO PIONEER ENERGY LP
ASSIGNMENT 20150703 0957 1862 2375			ASSIGNED TO PARKLAND INDUSTRIES LTD.
20131126 1200 1862 9812	PPSA	PIONEER ENERGY LP	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
ASSIGNMENT 20150702 1400 1862 2248			ASSIGNED TO PARKLAND INDUSTRIES LTD.
20151112 0849 6083 7430	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20171123 1352 1590 7048	PPSA	BANK OF MONTREAL	ACCOUNTS, OTHER
20180105 1033 4085 8190	PPSA	TOYOTA CREDIT CANADA INC.	CONSUMER GOODS, EQUIPMENT, OTHER, MOTOR VEHICLE INCLUDED
20191011 1423 1295 9833	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER
20191011 1440 1295 9834	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER
20191015 1226 1902 6027	PPSA	MERIDIAN ONECAP CREDIT CORP.	EQUIPMENT, OTHER

(b) 155

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20090730 1504 1590 9006  ASSIGNMENT 20110914 1535 1862 8654	PPSA	BRADSHAW FUELS LTD.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER  ASSIGNED TO PIONEER ENERGY LP
20171123 1352 1590 7046  AMENDMENT 20171201 0938 1590 7684	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED  ADD TO THE COLLATERAL DESCRIPTION
20191011 1201 1295 9829	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER



REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20191011 1440 1295 9834	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER

(c) 178

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20090730 1503 1590 9005  ASSIGNMENT 20110916 1351 1862 8989  AMENDMENT 20110916 1359 1862 8993	PPSA	BRADSHAW FUELS LTD.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER  ASSIGNED TO PIONEER ENERGY LP  TO CORRECT DEBTOR'S NAME
20171123 1352 1590 7047  AMENDMENT 20171201 0937 1590 7683	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED  ADD TO THE COLLATERAL DESCRIPTION

(d) 203

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20090730 1503 1590 9004  ASSIGNMENT 20110914 1535 1862 8653	PPSA	BRADSHAW FUELS LTD.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER  ASSIGNED TO PIONEER ENERGY LP
20171123 1352 1590 7046  AMENDMENT 20171201 0938 1590 7684	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED  ADD TO THE COLLATERAL DESCRIPTION

(e) 243

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20170403 1547 1590 0925	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20191011 1440 1295 9834	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER

(f) 2541899 Ontario Limited

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20181127 0947 1590 4033	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20190716 1438 1862 3718	PPSA	QUEENWEST LEASING INC.  1616292 ONTARIO LIMITED  RAKESH CHADDHA  SAVITA CHADDHA  2323583 ONTARIO INC.  NITI KHANNA  2131774 ONTARIO INC.  MIRJANA MALIC  DEEPAK KHANNA	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20191011 1440 1295 9834	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER

(g) 266

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20181127 0947 1590 4033	PPSA	BANK OF MONTREAL	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20190716 1440 18162 3720	PPSA	QUEENWEST LEASING INC.  1616292 ONTARIO LIMITED  RAKESH CHADDHA  SAVITA CHADDHA  2323583 ONTARIO INC.  NITI KHANNA  2131774 ONTARIO INC.  MIRJANA MALIC  DEEPAK KHANNA	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED

(h) 218

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
20090730 1500 1590 8999  ASSIGNMENT 20110914 1534 1862 8651  ASSIGNMENT 20150703 0958 1862 2376	PPSA	BRADSHAW FUELS LTD.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER  ASSIGNED TO PIONEER ENERGY LP  ASSIGNED TO PARKLAND INDUSTRIES LTD.
20131126 1113 1862 9807  ASSIGNMENT 20150702 1403 1862 2250	PPSA	PIONEER ENERGY LP	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER

REGISTRATION NO.	PPSA/ RSLA	SECURED PARTY	COLLATERAL CLASSIFICATION
			ASSIGNED TO PARKLAND INDUSTRIES LTD.
20171123 1352 1590 7048	PPSA	BANK OF MONTREAL	ACCOUNTS, OTHER
20180104 1312 1532 5147	PPSA	BANK OF MONTREAL/BANQUE DE MONTREAL	INVENTOR, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE INCLUDED
20191011 1204 1295 9830	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER
20191011 1440 1295 9834	PPSA	CANADIAN IMPERIAL BANK OF COMMERCE	OTHER

**4.2.7** The Receiver provides the following information with respect to the registrations disclosed by the PPSA searches:

- (a) *BMO* – there are outstanding registrations in favour of BMO against each of the Companies. BMO supports the completion of the Transactions;
- (b) *Hargett Enterprises, Inc.* (“**HEI**”) – HEI registered a financing statement against 125 on September 10, 2003. The Receiver has been unable to locate a copy of the security agreement to which the registration relates and is unaware of any indebtedness owing by 125 to HEI. Attached as **Appendix S** is a copy of an email dated January 15, 2020 from Wayne Hargett Jr. advising that the assets of HEI were sold in 2008 and the HEI no longer exists;
- (c) *Parkland Industries Ltd./Pioneer Energy* (“**Parkland**”) – there are outstanding registrations in favour of Parkland against 125 (the owner of Oil Heritage Road) and 155, 178, 203 and 218 (the owners and operators of Provincial Road). Requests made of Parkland for copies of the security agreements to which those registrations relate have not been responded to. Based on copies of fuel supply agreements which the Receiver has been able to obtain, it appears that Parkland may have supplied certain fuel pumps and point of sale equipment which are included in the Oil Heritage Road Transaction and the Provincial Road Transaction. Parkland’s interest in the assets included in the Oil Heritage Road Transaction and Provincial Road Transaction will be addressed at a later date on a distribution motion
- (d) *Toyota Credit Canada Inc.* (“**TCCI**”) – TCCI registered a financing statement against 125 in respect of Lexus motor vehicle. The motor vehicle is not included in the Transactions;
- (e) *CIBC* – CIBC registered financing statements against 125, 155, 243, 2541899 and 218 to provide notice of the mareva order. The Receiver is unaware of any security interest held by CIBC in the assets subject to the Transactions; and

- (f) *Meridian OneCap Credit Corp.* (“**MOCC**”) – MOCC registered a financing statement against 125 in respect of a lease of a coffee machine which is included in the Oil Heritage Road Transaction. MOCC’s interest in the assets included in the Oil Heritage Road Transaction will be addressed at a later date on a distribution motion.

### **4.3 Disclaimer of Agreements**

**4.3.1** The Companies are parties to agreements for, among other things, the supply of motor fuels and the operation of the franchised restaurants and convenience stores from the Real Properties included in the Transactions. The material agreements for each location are as follows:

#### *Oil Heritage Road*

- (a) Motor Fuel Supply Agreement ESSO Branded Motor Fuels dated October 1, 2013 between Parkland and 125 as amended by an Amending Agreement dated November 28, 2017. The agreement requires 125 to purchase its entire motor fuel requirements for the Oil Heritage Road location from Parkland until August 31, 2021 or until a minimum of 36 million litres of fuel are purchased;
- (b) Dealer Supply Contract dated September 30, 2014 between SFJ Inc. and 125 for the supply by SFJ Inc. to 125 of diesel fuel on a consignment basis until September 30, 2023;
- (c) *On The Run* Convenience Store Single Site Franchise Agreement dated November 1, 2016 between Parkland and 125;
- (d) Burger King Subfranchise Agreement dated March 13, 2015 between Redberry Franchising Corp. (“Redberry”) and 243; and
- (e) Franchise Agreement dated March 27, 2009 between Subway Franchise Systems of Canada, Ltd. (“Subway”) and Sarbjit S. Dhillon.

#### *Provincial Road*

- (a) Motor Fuel Supply Agreement ESSO Branded Motor Fuels dated October 1, 2013 between Parkland, 218 and 155 as amended by an Amending Agreement dated November 28, 2017. The agreement requires 218 to purchase its entire motor fuel requirements for the Provincial Road location from Parkland until August 31, 2021 or until a minimum of 33.6 million litres of fuel are purchased; and
- (b) *On The Run* Convenience Store Single Site Franchise Agreement dated November 1, 2016 between Parkland and 218.

#### *Walker Road*

- (a) Lease dated November 5, 2018 between 2541899, as lessor, and Parkland Fuel Corporation (“**PFC**”), as lessee, for Walker Road (“**Parkland Lease**”);
- (b) Sublease dated August 13, 2019 between PFC, as sublandlord, and 2541899, as subtenant, for Walker Road;

- (c) *On The Run* Convenience Store Single Site Franchise Agreement dated December 1, 2017 between Parkland and 2541899 as amended by an *On The Run* Amending Agreement for Use of Express Mart Trademarks dated December 1, 2017; and
- (d) Motor Fuels Consignment Agreement dated November 21, 2017 between 2541899 and PFC for the supply by PFC to 2541899 of motor fuel on a consignment basis. The agreement was for a one year term with an automatic annual renewal.

**4.3.2** The Motor Fuel Supply Agreements for Oil Heritage Road and Provincial Road and the Lease Agreement for Walker Road each include a right of first refusal in favour of Parkland. The Franchise Agreement for the Burger King restaurant operated at Oil Heritage Road includes a right of first refusal in favour of the franchisor, Redberry. The Sale Process Order provides that the rights of first refusal do not apply to any offers made to the Receiver under the SSP and that the Receiver was at liberty to enter into sale agreements without complying with the terms of the rights of first refusal. Parkland and Redberry did not oppose the making of that Order.

**4.3.3** The Agreements of Purchase and Sale for Oil Heritage Road and Provincial Road permit the purchasers, prior to closing, to elect what contracts, if any, they want to assume and have assigned to them. Obtaining any required third party consents to the assignments is the responsibility of the purchasers. 2119187 and Singh have not yet advised the Receiver what contracts, if any, they wish to obtain an assignment of and assume for Oil Heritage Road and Provincial Road, respectively. The Agreements of Purchase and Sale permit the Receiver to disclaim any contracts for which consent to an assignment is required but not obtained by the purchasers by closing.

**4.3.4** The Agreement of Purchase and Sale for Walker Road provides that the purchaser is not assuming the Parkland Lease or any contracts on closing.

**4.3.5** As shown on Appendix J, notice of the Parkland Lease was registered against title to Walker Road on November 13, 2018 as instrument CE859181 (“**Notice of Lease**”). The BMO charge was registered against title to Walker Road on December 7, 2018 as instrument CE863792. The Notice of Lease was postponed to the BMO charge by a postponement registered on December 7, 2018 as instrument CE863800. Based on the foregoing, it is the Receiver’s understanding that the BMO charge has priority over the Parkland Lease.

**4.3.6** To complete the Transactions, it is the Receiver’s intention to disclaim all of the contracts for Walker Road and any contracts for Oil Heritage Road and Provincial Road which are not being assigned to and assumed by the purchasers. The Amended Appointing Order gives to the Receiver the usual power to cease to perform any contracts of the Companies. Disclaiming the contracts which the purchasers do not want to be assigned to them will facilitate the completion of the Transactions and is commercially reasonable.

#### **4.4 Subway Restaurant Assets**

**4.4.1** The Franchise Agreement for the operation of the Subway restaurant at Oil Heritage Road is between Subway, as franchisor, and Sarbjit S. Dhillon, as franchisee. Although Sarbjit S. Dhillon is the franchisee in the Franchise Agreement, the restaurant was operated by 125 prior to the appointment of the Receiver. The employees that worked in the restaurant were employed by 125, expenses were paid for by 125 and all receipts were deposited to 125’s account. Section 9(b) of the Franchise Agreement permits the assignment of the right to operate the restaurant (but not the assignment of the Franchise Agreement itself) to a corporation controlled by the franchisee.

**4.4.2** The assets used in the operation of the Subway restaurant (furniture, fixtures, foodstuffs) are included in the Oil Heritage Road Transaction. It is the Receiver's understanding that the purchaser, 2119187, will be seeking to enter into a new franchise agreement with Subway to permit the continued operation of the restaurant under the Subway banner following closing.

## **5.0**

## ***Statement of Receipts and Disbursements***

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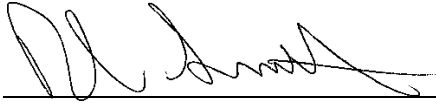
- 5.1.1** **Appendix T** summarizes the Receiver's Statement of Receipts and Disbursements for the period of October 16, 2019 to February 28, 2020. The appendix includes a consolidated statement plus individual statements for each location under the Receiver's mandate.
- 5.1.2** In addition to advances under receiver certificates totalling \$1.0 million from the Bank, on a consolidated basis the Receiver has generated receipts from operations of \$5,997,487.
- 5.1.3** The Receiver has made total disbursements of \$5,871,919, primarily for:
- (i) Fuel purchase;
  - (ii) Employee wages;
  - (iii) Retail good purchases;
  - (iv) Maintenance and repairs; and
  - (v) Insurance
- 5.1.4** Excluding the \$1.0 million advances from BMO, operations to February 28, 2020 generated a profit of approximately \$125,568.
- 5.1.5** The Receiver's total receipts include Insurance Proceeds which will be paid to Dart upon completion of the fuel pump installation at Oil Heritage Road.
- 5.1.6** Cash deposits in respect of the Transactions have been deposited into a separate trust account pending completion of the sales.



**6.1.1** We submit this Second Report to the Court and respectfully request that the Court make an order as requested in paragraph 1.2.1 above.

All of which is respectfully submitted this 1st day of May 2020.

**MNP Ltd. in its capacity as Receiver of  
1254044 Ontario Limited, 2431264 Ontario Inc., 2189788 Ontario Inc.,  
1552838 Ontario Inc., 1786675 Ontario Limited, 2034039 Ontario Inc., 2660556 Ontario  
Limited, 2541899 Ontario Limited, 2542372 Ontario Inc.**



Per: Robert W. Smith CPA, CA, CIRP, LIT  
Senior Vice President