

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

**MOTION RECORD OF THE RECEIVER
(Returnable February 25, 2022)**

AUDAXLAW PC
3300 Bloor Street West
Suite 670, West Tower
Toronto, Ontario, M8X 2X2

FRANK SPIZZIRRI, CS
(LSO No. 37327F)
Tel: (416) 862-8329
Fax: (416) 862-8330
Email:
frank.spizzirri@audaxlaw.com

Lawyers for MNP Ltd., in its
capacity as the Court-Appointed
Receiver and Manager of Nauss
Plumbing & Heating Inc.

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

NOTICE OF MOTION

MNP Ltd., in its capacity as the Court-appointed Receiver and Manager (the “**Receiver**”) of Nauss Plumbing & Heating Inc. (“**Nauss**”), will make a motion to a Judge on Friday, February 25, 2022 at 10:00 a.m. or as soon after that time as the motion can be heard, at 155 Elm Street, Sudbury, Ontario, said motion to be heard via videoconference, due to the COVID-19 pandemic.

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

THE MOTION IS FOR:

1. An order abridging the time for service and validating service of the Motion Record, if necessary, and dispensing with any further service of the Motion Record, such that this motion is properly returnable on Friday February 25, 2022;

2. An order substantially in the form appended to the Motion Record and in particular:
 - (a) approving the Third Report Report of the Receiver dated February 16, 2022 (the “**Third Report**”), and the decision, conduct, and activities of the Receiver as set out therein;
 - (b) approving a final distribution of the proceeds of the estate, after holdbacks: first, to the Canada Revenue Agency; and second, to the Applicant, as set out in the Third Report;
 - (c) approving the fees and disbursements of the Receiver and the fees and disbursements of its counsel Audaxlaw PC;
 - (d) approving the Receiver’s Interim Statement of Receipts and Disbursements; and
 - (e) Discharging the Receiver as set out in the draft Order.
3. such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The Receiver was appointed as receiver and manager of Nauss on November 13, 2020, by order of the Honourable Justice Hennessy.
2. Upon appointment, the Receiver took control of Nauss’ business and assets, in particular, four (4) parcels of real property in and around the Sudbury area from which Nauss operated its business.

3. As part of its mandate, the Receiver listed and sold the four (4) parcels of real property for sale. The Receiver also sold Nauss' other assets through various sales efforts.
4. With all sales complete and no further recovery efforts to undertake or complete, the Receiver proposes distributing the remaining proceeds of sale, less holdbacks, to the Canada Revenue Agency and the Applicant. The CRA has provided its final accounting as has the Applicant, who's security was reviewed by Receiver's counsel and discussed in the Receiver's Second Report and Third Report.
5. With respect to the foregoing and of its administration of the estate, the Receiver has acted honestly and in good faith and has dealt with the property of Nauss in a commercially reasonable manner, as is set out in greater detail in the Third Report.
6. As its administration is effectively complete, the Receiver respectfully requests its discharge as set out in the draft order and upon the filing of the Receiver's Discharge Certificate with the court office. Any remaining books, records and assets will be turned over to Nauss' bankruptcy trustee.
7. Rules 2.03, 3.02, and 37 of the Rules of Civil Procedure.
8. Sections 101 of the Courts of Justice Act, R.S.O. 1990, c C43, as amended.
9. Section 243 of the Bankruptcy and Insolvency Act, R.S.C. 1985, as amended.
10. Such further and other grounds as counsel may advise and this Court permit.

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

1. the Third Report of the Receiver; and
2. such further and other material as counsel may advise and this Court permits.

February 16, 2021

AUDAXLAW PC
3300 Bloor Street West
670 West Tower, Toronto
Ontario, M8X 2X2

Frank Spizzirri, CS (LSO#: 37327F)
Tel: (416) 862-8329
Fax: (416) 862-8330
frank.spizzirri@audaxlaw.com

Lawyers for MNP Ltd., in its capacity as
Court-appointed Receiver and Manager of
Nauss Plumbing & Heating Inc.

TO: **Gowlings WLG (Canada) LLP**
Suite 1600, First Canadian Place
100 King Street West
Toronto, Ontario, M5X 1G5

Eric Rockerfeller
Tel: (905) 540-7108
Fax: (905) 523-2681

Email: eric.rockerfeller@gowlingwlg.com

Haddon Murray
Tel: (416) 862-7525
Fax: (416) 862-7661

Email: haddon.murray@gowlingwlg.com

Heather Fisher
Tel: (416) 369-7202
Fax: (416) 862-7661

Email: heather.fisher@gowlingwlg.com

Lawyers for the Applicant

AND TO: DICKINSON WRIGHT LLP
199 Bay Street, Suite 220
Commerce Court West
Toronto, Ontario, M5L 1G4

David Preger
Tel: (416) 646-4606
Fax: (416) 670-6009

Email: dpreger@dickinson-wright.com

Lawyers for 739572 Ontario Limited

AND TO: CANADA REVENUE AGENCY C/O DEPARTMENT OF JUSTICE

Department of Justice, Canada
120 Adelaide Street West
Suite 400
Toronto, Ontario
M5H 1T1

Edward Park

Tel: (647) 256-7429
Fax: (416) 973-0810

Email: Edward.park@justice.gc.ca

AND TO: MINISTRY OF FINANCE

Office of Legal Services
33 King Street West, 6th Floor
Oshawa, Ontario, L1H 8H5

Insolvency Unit

Tel: (905) 433-6934
Fax: (905) 436-4510

Email: insolvency.unit@ontario.ca

AND TO: MOUTSATSOS LAAKSO ALEXANDER
Suite 200
33 MacKenzie Street
Sudbury, Ontario, P3C 4Y1

Nick Kuchtaruk
Tel: (705) 806-3409
Fax: (705) 806-1136

Email: nkuchtaruk@mlalaw.ca

Lawyers for the Purchaser Lyudmyla Tereshchenko, in trust

AND TO: MOUTSATSOS LAAKSO ALEXANDER
Suite 200
33 MacKenzie Street
Sudbury, Ontario, P3C 4Y1

Sheena Alexander
Tel: (705) 806-6525
Fax: (705) 806-1136

Email: salexander@mlalaw.ca

Lawyers for the Purchaser Barker Bros. Inc.

AND TO: DEANE EWART LAW
59 Mississauga Street West
Orillia, Ontario, L3V 3A7

Deane Ewart
Tel: (705) 325-4100
Fax: (705) 325-4195

Email: dewart@simcoelaw.com

Lawyers for the Purchaser Darcy Paul Mullen

AND TO: RAMESH PATEL LAW PROFESSIONAL CORPORATION
127 Westmore Drive, Unit 101
Toronto, Ontario, M9V 3Y6

Ramesh Patel
Tel: (416) 742-2999
Fax: (416) 742-3888

Email: mail@rplawoffice.net

Lawyers for the Purchaser 2819163 Ontario Inc.

AND TO: KORA MANAGEMENT LTD.
1374 Arlington Blvd.
Sudbury, Ontario, P3E 6H8

Mitch Speigel
Tel: (705) 675-2251
Fax: (705) 675-6302

Email: mspeigel@koramgt.com

AND TO: DESMARAIS, KEENAN LLP
15 MacKenzie Street
Sudbury, Ontario, P3C 4Y1

J. Robert Leblanc
Tel: (705) 675-7521
Fax: (705) 675-7390

Email: leblanc@dklawyers.ca

Lawyers for Denis Groves



Court File No. CV-20-00637615-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

**THIRD REPORT TO THE COURT OF MNP LTD IN ITS CAPACITY AS RECEIVER
AND MANAGER OF THE ASSETS, UNDERTAKINGS, AND PROPERTIES OF
NAUSS PLUMBING & HEATING INC.**

February 16, 2022

TABLE OF CONTENTS

INTRODUCTION.....	3
PURPOSE OF THIS REPORT	6
DISCLAIMER AND TERMS OF REFERENCE	7
RECEIVER’S ACTIVITIES	7
ASSET REALIZATIONS.....	8
COMPLETION OF THE REMAINING PROPERTY SALE TRANSACTIONS.....	9
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	9
PROFESSIONAL FEES	10
STATUTORY PRIORITIES	10
SECURED CREDITORS AND MORTGAGEE DISTRIBUTIONS.....	11
BANKRUPTCY PROCEEDING	13
DISCHARGE OF THE RECEIVER	14
CONCLUSION AND RECOMMENDATION	14

APPENDICES

- Appendix “A” – Appointment Order dated November 13, 2020**
- Appendix “B” – First Report of the Receiver (without appendices) dated February 19, 2021**
- Appendix “C” – February Administrative Order dated February 26, 2021**
- Appendix “D” – Lasalle Property Approval and Vesting Order dated February 26, 2021**
- Appendix “E” – Nauss Bankruptcy Order dated February 26, 2021**
- Appendix “F” – Second Report of the Receiver (without appendices) dated May 3, 2021**
- Appendix “G” – May Administrative Order dated May 11, 2021**
- Appendix “H” – Remaining Properties Approval and Vesting Orders dated May 11, 2021**
- Appendix “I” – Interim Statement of Receipts and Disbursements as at February 11, 2022**
- Appendix “J” – Fee Affidavit of Jerry Henechowicz dated February 4, 2022**
- Appendix “K” – Fee Affidavit of Arturo Pugliese dated February 15, 2022**
- Appendix “L” – Canada Revenue Agency Property Claim as at November 13, 2020**
- Appendix “M” – Canada Revenue Agency Property Claim as at September 30, 2017**
- Appendix “N” – Canadian Imperial Bank of Commerce Statement of Account to Feb 25, 2022**

INTRODUCTION

1. On November 13, 2020 (Date of Appointment), the Ontario Superior Court of Justice (the “**Court**”) made an order (the “**Appointment Order**”), *inter alia*, appointing MNP Ltd. (“**MNP**”) as receiver and manager (the “**Receiver**”) of all the assets, undertakings and properties (“**Assets**”) including the Properties (as such term is later defined) of Nauss Plumbing & Heating Inc. (“**Nauss**” or the “**Company**”) acquired for, or used in relation to the business carried on by the Company. A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. Nauss is a private Ontario corporation that operated its businesses from the following four (4) locations that it held title to in and around Sudbury, Ontario:
 - a) a plumbing and heating contracting business operating as Nauss Plumbing & Heating from a location at 2590 Lasalle Boulevard, Sudbury, Ontario (the “**Lasalle Property**”);
 - b) a plumbing and heating contracting business operating as Garnet Plumbing from a location at 551 Centre Street, Espanola, Ontario (the “**Espanola Property**”);
 - c) a spring water bottling facility operating as Jennica Springs from a location at 1330 North Road, Markstay, Ontario (the “**Jennica Springs Property**”); and
 - d) a storage facility business for an assortment of approximately 80 third-party boats, all terrain vehicles, recreational and other vehicles (collectively the “**Customers Equipment**”) from a former hockey arena located at 7 Millichamp Street, Markstay, Ontario (the “**Arena Property**” and together with the Lasalle Property, Espanola Property and the Jennica Springs Property, hereinafter collectively referred to as, the “**Properties**”).
3. The circumstances leading to the appointment of the Receiver, are set out in the Affidavit of Sieg Flatt, sworn November 19, 2019 (the “**Flatt Affidavit**”) in support of the initial Receivership Application, brought by the Canadian Imperial Bank of Commerce (“**CIBC**” or the “**Applicant**”).

4. A copy of the Appointment Order, together with related Court documents and all reports with respect of this matter are available on the Receiver's website, which can be found at www.mnpdebt.ca/nauss.
5. On February 19, 2021, the Receiver filed its first report (the "**First Report**") to provide information to the Court in support of the Receiver's request for orders, *inter alia*:
 - a) approving the First Report and the decisions, conduct, and activities of the Receiver as set out therein;
 - b) approving the Lasalle Sale Agreement entered into between the Receiver and the Purchaser (as such term is defined in the First Report) and the Sale Transaction (as such term is defined in the First Report);
 - c) authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the closing of the Sale Transaction; and
 - d) vesting title in and to the Lasalle Property or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Lasalle Sale Agreement.

A copy of the First Report (without appendices) is attached hereto as **Appendix "B"**.

6. On February 11, 2021, CIBC made an application for a Bankruptcy Order in respect of Nauss and proposing MNP as the Trustee of the estate, subject to affirmation at the First Meeting of Creditors. The Bankruptcy Application was heard by the Court concurrently with the Receiver's motion on February 26, 2021.
7. On February 26, 2021, the Court issued:
 - a) an Order providing the relief sought by the Receiver in respect of its administration of these proceedings (the "**February Administrative Order**");
 - b) an Order approving the Lasalle Sale Agreement and Sale Transaction and vesting title of the Lasalle Property in the Purchaser (the "**Lasalle AVO**"); and
 - c) an Order adjudging Nauss bankrupt ("**Nauss Bankruptcy Order**").

Copies of the February Administrative Order, Lasalle AVO Order and Nauss Bankruptcy Order are attached hereto as **Appendices "C", "D" and "E"**, respectively.

8. On May 3, 2021, the Receiver filed its second report (the "**Second Report**") to provide information to the Court in support of the Receiver's request for orders, *inter alia*:

- a) approving the Second Report and the decisions, conduct, and activities of the Receiver as set out therein;
- b) approving each of the sale agreements for the Espanola Property, the Jennica Springs Property and the Arena Property (as defined in the Second Report and as collectively referred to herein the “**Remaining Properties Sale Agreements**”) and respective sale transactions (the “**Remaining Properties Sale Transactions**”);
- c) authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the closing the Remaining Properties Sale Transactions;
- d) vesting title in and to the Remaining Properties to or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Remaining Properties Sale Agreements;
- e) approving a distribution to the Secured Creditors subject to the Receiver maintaining a suitable holdback in respect of potential priorities and administrative expenses of these proceedings (the “**Holdback**”); and
- f) such other relief as the Court deems appropriate in the circumstances.

A copy of the Second Report (without appendices) is attached hereto as **Appendix “F”**.

9. On May 11, 2021, the Court issued:

- a) an Order providing the relief sought by the Receiver in respect of its administration of these proceedings (the “**May Administrative Order**”); and
- b) an Order approving the Remaining Properties Sale Agreements and related Sale Transactions and vesting title of the Remaining Properties in the Purchasers (the “**Remaining Properties AVO’s**”),

Copies of the May Administrative Order and Remaining Properties AVO’s are attached as **Appendices “G”** and “**H**”, respectively.

10. It should be noted by the Court that this receivership has occurred against the backdrop of the COVID-19 pandemic, resultant state of emergency and “Stay at Home” orders as declared by the Province of Ontario, which has, at times, added to the complexity of the receivership in order to ensure that the operation of the Properties conformed with applicable COVID-19 safety requirements (the “**Covid Requirements**”).

PURPOSE OF THIS REPORT

11. The purpose of this the Receiver's third report (the "**Third Report**") is to:
- a. update the Court with respect to:
 - i. the Receiver's activities since the date of the Second Report including the completion of the Remaining Properties Sale Transactions;
 - ii. the status of asset realizations;
 - iii. the administration of Nauss' bankruptcy proceeding by MNP in its capacity as Trustee of the Nauss' estate; and
 - iv. the Receiver's review of CRA's property claim for unremitted source deductions and its priority in relation to the CIBC's mortgage security.
 - b. provide support for the Receiver's motion for an order(s), among other things:
 - i. approving this Third Report and the activities and actions of the Receiver described herein;
 - ii. approving the Receiver's Interim Statement of Receipts and Disbursements for the period November 13, 2020 to January 26, 2022 (the "**Interim R&D**");
 - iii. approving the fees and disbursements of the Receiver and its counsel Audax Law LLP ("**Audax**"), including approval of the estimate of additional fees and disbursements required in connection with the receivership proceeding (collectively, the "**Professional Fees**");
 - iv. approving the release of the CRA Holdback (as such term is later defined) for distribution as set out below;
 - v. approving the discharge of MNP as Receiver and thereupon releasing MNP from any and all liability upon the filing of a certificate with the Court

confirming that the administration by the Receiver of its duties pursuant to the Appointment Order have been completed; and

vi. such other relief as the Court deems just.

DISCLAIMER AND TERMS OF REFERENCE

12. In preparing this Report, the Receiver has relied on information (the “**Information**”) regarding the Company, the Assets and Properties:

- a) included in the Application/Motion Records and other materials filed with the Court in connection with these proceedings, including the Flatt Affidavit;
- b) provided by the Company’s directors and management and its legal counsel,
- c) the Applicant and its respective legal counsel, Gowlings WLG LLP (“**Gowlings**”);
- d) located in Nauss’ available books and records;
- e) provided by Royal LePage North Heritage Realty (“**LePage**”) and RE/MAX Crown Realty (1989) Inc., (“**Remax**” and with LePage the “**Realtors**”); and
- f) otherwise made available or provided to the Receiver and its counsel.

13. Except as described in this Third Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada Handbook.

14. All currency references contained herein are in Canadian Dollars, unless otherwise specified. All capitalized terms not otherwise defined herein shall have the meanings as defined in the Appointment Order, unless otherwise specified.

RECEIVER’S ACTIVITIES

15. Since the date of the Second Report, the Receiver’s activities have related primarily to:

- a) completing the Remaining Properties Sale Transactions;
- b) facilitating a trust examination by the Canada Revenue Agency (“CRA”) regarding Nauss’ liability for unremitted employee source deductions;
- c) corresponding with the Company’s creditors, unsecured creditors, and other stakeholders regarding the status of these proceedings;
- d) communicating with the owners of Customer Equipment in storage at the Arena Property and arranging for the release of the Customer Equipment in a manner that complies with Covid Requirements;
- e) maintaining the Receiver’s website regarding these proceedings www.mnpdebt.ca/nauss;
- f) reviewing, approving, and paying the Properties’ on-going operating costs up to the date of completion of the Properties’ Sale Transactions; and
- g) preparing this Third Report and reviewing all Court materials filed in connection with this motion.

ASSET REALIZATIONS

16. Gross proceeds from the realizations of the Assets and Properties are complete as summarized in the table below:

Arena property	\$ 698,020
Lasalle property	525,762
Espanola property	270,291
Jennica Springs property	266,283
Accounts receivable	81,115
Capital and other assets	52,300
Rental income	8,454
Refunds	3,355
Bank accounts	590
TOTAL	\$ 1,906,170

COMPLETION OF THE REMAINING PROPERTIES SALE TRANSACTIONS

Espanola Sale Transaction

17. On May 10, 2021, the Espanola Sale Transaction was completed. Following traditional adjustments for a real estate transaction of this type and payment of realtor's commissions, net proceeds of \$225,790.60 were remitted to the Receiver.

Jennica Springs Sale Transaction

18. On May 10, 2021, the Jennica Springs Sale Transaction was completed. Following traditional adjustments for a real estate transaction of this type and payment of realtor's commissions, net proceeds of \$193,296.71 were remitted to the Receiver.

Arena Sale Transaction

19. Between May 1 and June 3, 2021, the Receiver co-ordinated and supervised the release of all of the Customer Equipment at the Arena Property in accordance with Covid – 19 protocols in place at that time. The removal of the Customer Equipment was necessary to provide the purchaser of the Arena Property with vacant possession. The Receiver collected \$8,454.33 of agreed upon storage and release fees from the owners of the Customer Equipment.

20. On June 22, 2021, the Arena Sale Transaction was completed. Following traditional adjustments for a real estate transaction of this type and payment of realtor's commissions, net proceeds of \$479,732.50 were remitted to the Receiver.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

21. Attached as **Appendix "I"** is the Receiver's Interim Statement of Receipts and Disbursements for the period of November 13, 2020 to February 11, 2022. During this period receipts were \$1,911,553.95 and disbursements were \$1,605,125.36 resulting in an excess of receipts over disbursements of \$306,4287.59.

PROFESSIONAL FEES

22. To date, the Receiver's accounts totalling \$159,033.50 inclusive of disbursements and applicable HST have been taxed through to April 30, 2021. The Receiver's has since issued two accounts totalling \$39,274.43 comprising \$34,644.86 for fees, \$111.27 for disbursements and HST of \$4,518.30 for the period May 1, 2021 to January 31, 2022. The Receiver's estimated fees to complete its administration will not exceed \$5,000.00 plus disbursements and HST (the "**Receiver's Accounts**"). Copies of the Receiver's Accounts, together with a summary of the accounts, total billable hours charged and the average hourly rate, are set out in the Affidavit of Jerry Henechowicz sworn February 4, 2022, attached hereto as **Appendix "J"**.
23. Audax has previously been taxed through to March 30, 2021. Audax has since issued accounts of the Receiver's Counsel, totalling \$31,437.73 in fees and disbursements and \$4,050.45 in HST for a total of \$35,488.18 for the period of March 30, 2021 to June 25, 2021. Attached hereto as **Appendix "K"** is a copy of the Fee Affidavit of Arturo Pugliese sworn February 15, 2022, attaching the Audax's untaxed account as detailed in said affidavit.
24. The average hourly rates for the Receiver and Audax for the referenced billing periods were \$377.39 and \$424.10, respectively.
25. The Receiver is of the view that the hourly rates charged by Audax are consistent with the rates charged by corporate law firms practicing in the area of insolvency in the region and that the fees charged are reasonable and appropriate in the circumstances.

STATUTORY PRIORITIES

Unremitted Employee Source Deductions

26. On February 8, 2022, CRA issued its proof of claim for unremitted employee source deductions (the "**Property Claim**") totalling \$246,915.41 up to the Date of Receivership. A copy of the Property Claim is attached as **Appendix "L"**.

HST

27. On April 9, 2021, CRA issued a Notice of (Re) Assessment totalling \$212,829.34 in respect of the Company's liability for unremitted HST up to the Date of Receivership. In light, of the Company's bankruptcy, CRA's claim has been relegated to an unsecured status and ranks subordinate to the claims of the Secured Creditors.

Employee WEPP Claims

28. Following its appointment, the Receiver paid all non-related employees any outstanding wages and vacation pay. In its administration of the WEPP program, the only claims filed by employees were for unpaid termination pay and accordingly are unsecured liabilities.

SECURED CREDITORS AND MORTGAGEES DISTRIBUTIONS

739572 Ontario Limited

29. 739572 Ontario Limited ("739572") an unrelated entity to the Company held as security for the Company's indebtedness of approximately \$73,000 plus any accruing arrears:

- a) a charge/mortgage in the principal amount of \$65,000.00 was registered against the Jennica Springs Property (the "**Jennica Charge**"); and
- b) charges/mortgages against each of the Arena Property, the Lasalle Property and the Espanola Property that ranks behind CIBC's charge/mortgage on these properties.

30. As set out in the Second Report, the indebtedness to 739572 as of December 8, 2020 totaled \$70,959.47 plus any accruing interest and legal costs. On June 17, 2021 the Receiver distributed \$80,000.00 to 739572 in full repayment of its secured debt as authorized by the May Administrative Order.

Kora Management Ltd.

31. As set out in the Second Report, Kora Management Ltd. ("**Kora**") an unrelated entity to the Company held as security for the Company's indebtedness of approximately

\$25,000 plus any accruing interest on the charge/mortgage in the principal amount of \$25,000.00 against the Jennica Springs Property (the "**Jennica 2nd Charge**");

32. As set out in the Second Report, the indebtedness to Kora as at April 30, 2021 totalled \$25,440 plus any accruing interest. On June 1, 2021 the Receiver distributed 25,688.59 to Kora in full repayment of its secured debt as authorized by the May Administrative Order.

CIBC Security and Distribution

33. As security for the Company indebtedness, Nauss provided CIBC with:

- a) a general security agreement in respect of all of the personal property of Nauss the terms of which are incorporated within the credit agreements (the "**CIBC GSA**");
- b) a charge/mortgage in the principal amount of \$583,000.00 against the Arena Property (the "**Arena Charge**");
- c) a charge/mortgage in the principal amount of \$206,000.00 against the Espanola Property (the "**Espanola Charge**"); and
- d) a charge/mortgage in the principal amount of \$210,000.00 against the Lasalle Property (the "**Lasalle Charge**" and together with the Arena Charge and the Espanola Charge, hereinafter collectively referred to as, the "**CIBC Mortgages**").

34. Property searches for the Arena Property, the Espanola Property and the Lasalle Property indicate the CIBC registered its mortgage security August 21, 2017, August 22, 2017, August 21, 2017, respectively, and advanced funds to Nauss on September 15, 2017 (the "**Mortgage Advance Date**").

35. On February 8, 2022, CRA has submitted a Property Claim as at September 30, 2017 that confirms Nauss' unremitted employee source deductions totalled \$87,120.17 on the Mortgage Advance Date. A copy of the CRA's Property Claim as at September 30, 2017 is attached as **Appendix "M"**.

36. Accordingly, the Receiver is of the view that the CRA's Property Claim registered against title to the Properties and the proceeds therefrom, is limited to \$87,120.17 and the balance of the proceeds from the Properties constitutes a "prescribed security interests" pursuant to the Income Tax Regulations and hold priority over any subsequent interest in that specific property that may be asserted at a later date by CRA.
37. As set out above, CRA's Property Claim totals \$246,915.41. Accordingly, the balance of CRA's Property Claim \$159,795.24 (\$246,915.41-\$87,120.17) only has priority to any assets realization from the Company's personal property, which totals \$145,814.00.
38. Based on the above, the Receiver is therefore of the view that CRA's Property Claim totals \$232,934.17 (\$87,120.17 plus \$145,814.00) and that as a result, the amount of \$232,934.17 should be distributed to CRA.
39. CIBC has provided its statement of account to February 25, 2022 that indicates a remaining balance of \$207,064.33 plus daily accruing interest. A copy of CIBC's statement of account is attached as **Appendix "N"**.
40. The Receiver recommends and requests that the Court confirm the CRA's Property Claim as set out above in paragraph 38 and that all remaining funds be distributed to CIBC to the maximum amount of the Company's remaining indebtedness to CIBC subject to the Receiver maintain a sufficient holdback to cover the amount of CRA's Property Claim and estimated future professional fees, and any other contingencies that may arise.

BANKRUPTCY PROCEEDING

41. As set out above in paragraph 7.c) of this Second Report, on February 26, 2021, Nauss was adjudged bankrupt by Order of the Court. On March 5, 2021, MNP in its capacity as Trustee sent the Notice to Creditors advising of the bankruptcies and the First Meetings of Creditors on March 19, 2021 (the "FMOC") to all known creditors of the Company. Pursuant to subsection 102(4) of the BIA, the Notice of Bankruptcy was published in the Sudbury Star newspaper on March 10, 2021.

42. No creditors attended the FMOC so that pursuant to paragraph 106(2)(a) of the BIA, the Trustee continues to administer Nauss' Estate and may convene another meeting of creditors should circumstances warrant.
43. The Receiver additionally recommends that upon its discharge, MNP in its capacity as Trustee of the Nauss Estate maintain possession of the Company's books and records in the Receiver's possession.

DISCHARGE OF THE RECEIVER

44. With the completion of the final distributions noted above as well as any remaining administrative steps, the Receiver has completed its administration of the estate of Nauss and respectfully recommends that it be discharged as Receiver, upon the filing of the Receiver's Discharge Certificate, which is appended to the Draft Order.

CONCLUSION AND RECOMMENDATION

45. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in paragraph 11.b) of this Report.

All of which is respectfully submitted, this 16th day of February 2022.

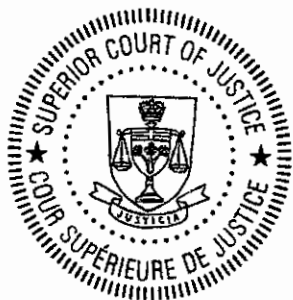
MNP LTD.,

Solely In Its Capacity As Court-Appointed
Receiver And Manager Of Nauss Plumbing & Heating Inc.
And Not In Its Personal Or Corporate Capacity
Per:



Jerry Henechowicz CPA, CA, CIRP, LIT
Senior Vice President

APPENDIX A



Court File No. CV-19-8866-0000

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	FRIDAY, THE 13 th
)	
JUSTICE HENNESSY	)	DAY OF NOVEMBER, 2020

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

NAUSS PLUMBING & HEATING INC.

Respondent

ORDER
(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing MNP Ltd. ("MNP") as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Nauss Plumbing & Heating Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 155 Elm Street, Sudbury, Ontario.

ON READING the affidavit of Heather Fisher sworn October 30, 2020, and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and those other parties listed on the counsel slip, and on being advised that the Debtor and 739572 Ontario Limited ("739") do not oppose the within Order, no one else appearing for any other party although duly served as

- 2 -

appears from the affidavit of service of Heather Fisher sworn October 30, 2020 and on reading the consent of MNP to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor and all proceeds thereof (collectively, the "**Property**"), including but not limited to the lands and premises listed in Schedule "**B**" hereto (the "**Schedule "B" Real Property**") and the lands and premises listed in Schedule "**C**" hereto (the "**Schedule "C" Real Property**").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- 3 -

- (c) to cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (f) to settle, extend or compromise any indebtedness owing to the Debtor;
- (g) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (j) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- 4 -

- (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$50,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.

- (k) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property including as against the Real Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- 5 -

- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

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

- 6 -

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. THIS COURT ORDERS that, except as otherwise permitted by paragraph 10 of this Order, no Proceeding against or in respect of the Debtor or the Property shall be commenced or

- 7 -

continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that, except as otherwise provided in this paragraph 10, all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. Notwithstanding anything otherwise contained in this paragraph 10, in relation to its Charge/Mortgage registered in favour of 739, as Instrument No. SD342507, on September 5, 2017 (the "739 Charge"), 739 shall be at liberty to (i) issue a notice of intention to enforce security pursuant to section 244 of the BIA, (ii) issue a notice of sale under mortgage in respect to the Schedule "C" Property, and (iii) to list the Schedule "C" Real Property for sale under power of sale, upon giving the Receiver 30 days prior written notice if 739 is not satisfied with the Receiver's marketing and sale efforts in relation to thereto.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized

- 8 -

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

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that, except as otherwise provided for in this paragraph 13, all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court. Any rents, funds, monies or other forms of payments received or collected by the Receiver from and after the making of this Order in relation to the Schedule "C" Real Property, shall be deposited into an account to be opened by the Receiver (the "**Schedule "C" Real Property Account**") and the monies standing to the credit of the Schedule "C" Real Property Account shall be paid by the Receiver to 739 and shall be applied by 739 on account of the indebtedness owing under the 739 Charge.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related

liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall

exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that, save except with respect to the Schedule "C" Real Property and the proceeds thereof, the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. With respect to the Schedule "C" Real Property and the proceeds thereof, the Receiver's Charge shall form a second charge on the Schedule "C" Real Property, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but otherwise subject to the 739 Charge and sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

- 11 -

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

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$70,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the 739 Charge over the Schedule "C" Real Property, the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

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

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates

evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.MNPdebt.ca/Nauss.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

28. THIS COURT ORDERS that the Receiver is hereby authorized and empowered, but not obligated, to cause the Debtor to make an assignment in bankruptcy and nothing in this Order shall prevent the Receiver from acting as trustee in the Debtor's bankruptcy.

- 13 -

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

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

31. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

PC Hennessy

ENTERED AT SUDBURY

on Friday, November 13th, 2020

Court No. 7712

by: **Chelsea Borton**

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that MNP Ltd., the receiver (the "**Receiver**") of the assets, undertakings and properties Nauss Plumbing & Heating Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (the "**Court**") dated the ___ day of _____, 2019 (the "**Order**") made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

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

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

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

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

DATED the ____ day of _____, 20__.

MNP Ltd., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"**DESCRIPTION OF SCHEDULE "B" REAL PROPERTY**

1. The lands and premises municipally known as 551 Centre Street, Espanola, Ontario and legally described as:
 - **PIN 73407-0024 (LT):** PCL 10208 SEC SWS; PT LT 8 CON 5 MERRITT AS IN LT64894 EXCEPT PT 1 53R13128 & PT 153R17437; S/T PT 2 & 3 53R13128 AS IN LT696426; ESPANOLA
2. The lands and premises municipally known as 2590 Lasalle Blvd., Sudbury, Ontario and legally described as:
 - **PIN 73564-0117 (LT):** PCL 18965 SEC SES; PT LT 9 CON 6 NEELON AS IN LT 109921 EXCEPT LT 1 PL M861; S/T LT80621; GREATER SUDBURY
3. The lands and premises municipally known as 7 Millichamp Street, Markstay, Ontario, and legally described as:
 - **PIN 73484-0035 (LT):** PCL 53626 SEC SES; FIRSTLY: LT 22 PL M1034 HAGAR; SECONDLY: PT LT 12 CON 3 HAGAR PT 1, 53R16102; MARKSTAY-WARREN

SCHEDULE "C"**DESCRIPTION OF SCHEDULE "C" REAL PROPERTY**

The lands and premises municipally known as 1330 North Road, Markstay, Ontario, and legally described as **PIN 73488-0010 (LT): PCL 51424 SEC SES; PT LT 12 CON 1 LOUGHRIN PT 1 & 2 53R15954; MARKSTAY-WARREN**

Court File No. CV-8866-0000

CANADIAN IMPERIAL BANK OF COMMERCE

- and -

NAUSS PLUMBING & HEATING INC.

Applicant

Respondent

APPLICATION UNDER 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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT SUDBURY

RECEIVERSHIP ORDER

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Haddon Murray (#61640P)
Tel: 416-862-3604
Fax: 416-862-7661
haddon.murray@gowlingwlg.com

Solicitors for the Applicant

APPENDIX B

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

**FIRST REPORT TO THE COURT OF MNP LTD IN ITS CAPACITY AS RECEIVER
AND MANAGER OF THE ASSETS, UNDERTAKINGS, AND PROPERTIES OF
NAUSS PLUMBING & HEATING INC.**

February 19, 2021

TABLE OF CONTENTS

INTRODUCTION.....	4
PURPOSE OF THIS REPORT	6
DISCLAIMER AND TERMS OF REFERENCE	7
RECEIVER’S ACTIVITIES	8
THE PROPERTIES.....	12
CONFIDENTIAL APPENDICES.....	16
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	16
PROFESSIONAL FEES	17
STATUTORY PRIORITIES	17
BANKRUPTCY APPLICATION.....	18
SECURED CREDITORS AND MORTGAGEES.....	18
CONCLUSION AND RECOMMENDATION	19

APPENDICES

- Appendix “A” – Appointment Order dated November 13, 2021**
- Appendix “B” – Marley Mechanical Ltd. Asset Purchase Agreement dated December 18, 2020**
- Appendix “C” – Canam - Appraiz Inc. Appraisal December 17, 2020**
- Appendix “D” – Northland Group of Companies Ltd. Bill of Sale dated December 29, 2020**
- Appendix “E” – McDowell Brothers Industries Inc. email January 15, 2021**
- Appendix “F” – Marley Mechanical Ltd. Asset Purchase Agreement dated February 8, 2021**
- Appendix “G” – John Law Bill of Sale dated December 29, 2020**
- Appendix “H” – Notice to Equipment Storage Customers**
- Appendix “I” – Interim Statement of Receipts and Disbursements**
- Appendix “J” – Receiver’s Fee Affidavit February 19, 2021**
- Appendix “K” - Audaxlaw PC Fee Affidavit February 19, 2021**
- Appendix “L” – PPSA Report**
- Appendix “M” – Lasalle Property Parcel Register**
- Appendix “N” – Espanola Property Parcel Register**

TABLE OF CONTENTS (Cont'd)

Appendix "O" – Arena Property Parcel Register

Appendix "P" – Jennica Springs Property Parcel Register

CONFIDENTIAL APPENDICES

Confidential Appendix "1" – Summary of Listing Proposals

Confidential Appendix "2" – Summary of Offers for Lasalle Property

Confidential Appendix "3" – Lasalle Sale Agreement

Confidential Appendix "4" – 11993330 Canada Inc. Agreements

INTRODUCTION

1. On November 13, 2020, the Ontario Superior Court of Justice (the “**Court**”) made an order (the “**Appointment Order**”), *inter alia*, appointing MNP Ltd. (the “**Receiver**”) as receiver and manager of all the assets, undertakings and properties (“**Assets**”) including real property (the “**Properties**”) of Nauss Plumbing & Heating Inc. (“**Nauss**” or the “**Company**”) acquired for, or used in relation to the business carried on by the Company. A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. Nauss is a private Ontario corporation that operated its businesses from four (4) locations that it holds title to in and around Sudbury, Ontario:
 - a) plumbing and heating contracting from 2590 Lasalle Boulevard, Sudbury, Ontario (the “**Lasalle Property**”);
 - b) plumbing and heating contracting also known as Garnet Plumbing from 551 Centre Street, Espanola, Ontario (the “**Espanola Property**”);
 - c) a spring water bottling facility operating as Jennica Springs from its location at 1330 North Road, Markstay, Ontario (the “**Jennica Springs Property**”);
 - d) and a storage facility for boats, all terrain vehicles, recreational and other vehicles (collectively the “**Customers Equipment**”) from a former hockey arena located at 7 Millichamp Street, Markstay, Ontario (the “**Arena Property**” and together with the Lasalle Property, Espanola Property and the Jennica Springs Property, hereinafter collectively referred to as, the “**Properties**”).
3. As set out in further detail below, since its appointment on November 13, 2020, the Receiver has suspended the Company’s operations, taken possession and control of the Assets, including the Properties, and undertaken those additional steps considered necessary to safeguard and protect the Assets and Properties.
4. It should be noted by the Court that this receivership has occurred against the backdrop of the COVID-19 pandemic and resultant state of emergency as declared by the Province of Ontario, which has, at times, added to the complexity of the receivership in order to ensure

that the operation of the Properties conformed with applicable COVID-19 safety guidelines.

Circumstances Leading to the Receiver's Appointment

5. The circumstances leading to the appointment of the Receiver, are set out in the Affidavit of Sieg Flatt, sworn November 19, 2019 (the "**Flatt Affidavit**") in support of the initial Receivership Application, brought by the Canadian Imperial Bank of Commerce ("**CIBC**" or the "**Applicant**"), including the following:
 - a) as of November 17, 2019, Nauss was indebted to CIBC in the approximate amount of \$930,00 plus accruing interest and all other charges and expenses of enforcement (the "**Indebtedness**");
 - b) as security for the Indebtedness, Nauss provided CIBC with:
 - i. a general security agreement in respect of all of the personal property of Nauss the terms of which are incorporated within the credit agreements (the "**CIBC GSA**");
 - ii. a charge/mortgage in the principal amount of \$583,000.00 against the Arena Property (the "**Arena Charge**");
 - iii. a charge/mortgage in the principal amount of \$206,000.00 against the Espanola Property (the "**Espanola Charge**");
 - iv. a charge/mortgage in the principal amount of \$210,000.00 against the Lasalle Property (the "**Lasalle Charge**" and together with the Arena Charge and the Espanola Charge, hereinafter collectively referred to as, the "**CIBC Mortgages**");
 - c) Nauss was in default of both the CIBC GSA and each of the CIBC Mortgages and appeared to owe CRA approximately \$350,000 in respect of unremitted source deductions.
6. A copy of the Appointment Order, together with related Court documents and all reports with respect of this matter are available on the Receiver's website, which can be found at www.mnpdebt.ca/nauss .

PURPOSE OF THIS REPORT

7. The purpose of this the Receiver's first report (the "**First Report**") is to:
- a) update the Court with respect to:
 - i. the activities of the Receiver since the date of the Appointment Order;
 - ii. the Company's Assets and Properties and realizations to-date;
 - iii. other issues the Receiver has responded to in connection with the Properties and termination of the Company's operations;
 - iv. review the listing proposals obtained from for each of the Properties from Royal LePage North Heritage Realty ("**LePage**") and RE/MAX Crown Realty (1989) Inc., ("**Remax**" and together with LePage, hereinafter collectively referred to as the "**Realtors**") as well as the listings agreements entered into with Remax for the sale of each of these Properties;
 - v. the offers received for the Lasalle and Espanola Properties; and
 - vi. an Asset Purchase Agreement dated January 15, 2021 (the "**Lasalle Sale Agreement**") entered into between the Receiver, as vendor, and Barker Brothers Inc. or its assignee as purchaser (the "**Purchaser**") and the transaction contemplated therein (the "**Sale Transaction**");
 - b) provide information to the Court in support of the Receiver's request for orders, *inter alia*,
 - i. approving the First Report and the decisions, conduct, and activities of the Receiver as set out therein;
 - ii. approving the Lasalle Sale Agreement and the Sale Transaction;
 - iii. authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the closing of the Sale Transaction;
 - iv. vesting title in and to the Lasalle Property or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Lasalle Sale Agreement;
 - v. sealing the **Confidential Appendices "1", "2", "3" and "4"** noted in this Report until such time as the sale of all of the Properties are closed or by further order of the Court;

- vi. authorizing the Receiver to repay to 11993330 Canada Inc. a deposit of \$82,000 paid by 11993330 Canada Inc. in connection with an incomplete transaction, discussed in greater detail below;
- vii. approving the fees and disbursements of the Receiver and its counsel Audaxlaw PC (“**Audax**”) as set out in this Report and the Fee Affidavits of Jerry Henechowicz and Arturo Pugliese, respectively (collectively, the “**Fee Affidavits**”); and
- viii. approving the Receiver’s Interim Statement of Receipts and Disbursements dated February 12, 2021; and
- ix. such other relief as the Court deems appropriate in the circumstances.

DISCLAIMER AND TERMS OF REFERENCE

8. In preparing this Report, the Receiver has relied on information (the “**Information**”) regarding the Company, the Assets, and Properties:
 - a) included in the Application/Motion Records and other materials filed with the Court in connection with these proceedings, including the Flatt Affidavit;
 - b) provided by the Company’s directors and management and its legal counsel,
 - c) the Applicant and its respective legal counsel, Gowlings WLG LLP (“**Gowlings**”);
 - d) located in Nauss’ available books and records;
 - e) provided by the Realtors; and
 - f) otherwise made available or provided to the Receiver and its counsel.
9. Except as described in this Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada Handbook.

10. All currency references contained herein are in Canadian Dollars, unless otherwise specified. All capitalized terms not otherwise defined herein shall have the meanings as defined in the Appointment Order, unless otherwise specified.

RECEIVER'S ACTIVITIES

11. Since its appointment, the Receiver's activities have concentrated upon:

- a) taking possession and control of the Assets and Properties;
- b) changing locks and arranging for required security patrols of the Properties;
- c) continuing insurance coverages in place as well as arranging for insurance coverage for certain of the Assets and Properties that were uninsured as of the date of the Receiver's appointment;
- d) retaining certain employees and contractors of Nauss to update payroll records, determine the amount of outstanding wages and vacation pay including issuing T4's and Records of Employment, assist in accounts receivable collections and facilitate safeguarding and protection of the Assets and Properties;
- e) identifying and conducting an inventory count of all Customer Equipment located at the Arena Property and notifying the known owners of this equipment of the Receiver's appointment as described below in paragraph 42;
- f) obtaining appraisals for the Company's inventories, equipment, vehicles and installation trucks;
- g) obtaining listing proposals for each of the Properties from the Realtors entering into Listing Agreements with Remax;
- h) pursuant to the authorized sale transaction limits without Court approval (individual and aggregate of \$50,000) as set-put in paragraph 3(j)(i) of the Appointment Order, negotiated and completed four (4) sales transactions for certain of the Assets

totalling \$47,000. These four (4) sale transactions are discussed in greater detail later in this Report;

- i) preparing statutory notices and filings pursuant to Section 245 and 246(1) of the *Bankruptcy and Insolvency Act* (the “BIA”);
- j) corresponding with secured creditors, unsecured creditors, and other stakeholders regarding the status of these proceedings;
- k) maintaining the Receiver’s website regarding these proceedings www.mnpdebt.ca/nauss;
- l) reviewing, approving, and paying various operating costs;
- m) negotiating of the Lasalle Sale Agreement as described in greater detail below; and
- n) preparing this First Report and reviewing all Court materials filed in connection with this motion.

ASSET REALIZATIONS

Bank Accounts

12. The Company maintained bank accounts at the Royal Bank of Canada in Sudbury, Ontario. (the “RBC Accounts”). Following its appointment, the Receiver arranged for RBC Accounts to be changed to deposit only and all funds to be remitted to the Receiver. On January 6, 2021, \$17,469.26 was remitted to the Receiver from the RBC Accounts representing post receivership collections along with \$590.45 from the Company’s savings account.

Accounts Receivable

13. Based on the Company’s records and in consultation with the former employee that was responsible for accounts receivable collections, a total of \$103,659.55 appeared to be collectable of which \$77,936.81 has been collected by the Receiver as of the date of this

First Report. Collection efforts are continuing in respect of the remaining potentially collectable accounts receivable.

Projects in Progress

14. Following its appointment, the Receiver along with the Company's management reviewed the status of the projects in progress (the "Projects"), costs to complete, customer's willingness to accept the completed projects without post service guarantees and the likely recoveries. In addition, the Receiver reviewed with the Company's insurers whether there was suitable liability coverage in place for any Projects completed by the Receiver.
15. Based on the above review, the Receiver estimated maximum potential net recoveries from the Projects totaled approximately \$21,000. Based on the concerns and risks set out above, the Receiver concluded that it was not economically feasible and practical to complete the Projects.
16. On or about December 10, 2020, Marley Mechanical Ltd. ("Marley"), a company owned and operated by the Company's principal, Mr. Dennis Groves ("Groves"), offered to acquire the Receiver's interests in the Projects, if any, for \$10,000 plus applicable HST. Given the issues noted above and in an effort to maximize the realizations from the Projects, the Receiver, in consultation with CIBC, accepted the offer from Marley.
17. A copy of the Asset Purchase Agreement regarding the Projects dated December 18, 2020 Between the Receiver as Vendor and Marley is attached as **Appendix "B"**.

Appraisal of Inventory, Equipment and Service Trucks

18. The Receiver obtained an appraisal of the gross forced liquidation value (the "GFLV") of the Company's inventory, equipment, and service trucks from Canam-Appraiz Inc. ("Canam") a copy of which is attached as **Appendix "C"** and summarized below:

	Location			Total
	Lasalle & Espanola	Arena	Jennica Springs	
Inventory & Equipment	\$ 29,100	\$ 23,700	\$ 8,750	\$ 61,550
Service Trucks	22,500			\$ 22,500
	\$51,600	\$ 23,700	\$ 8,750	\$ 84,050

Inventory and Equipment

19. The Receiver with the assistance of the Realtors obtained offers for the inventory and equipment (collectively the **“Inventory”**) from prospective purchasers of the Properties and other parties that contacted the Receiver. These offers were reviewed with Canam and CIBC and it was agreed that in light of multiple locations, the appraisals, the costs of moving the Inventory to a single location for an auction or liquidation sale, the selling costs, the COVID restrictions and limited number of likely purchasers, the Receiver accepted an offer from the Northland Group of Companies Ltd. (**“Northland”**) to purchase the Inventory located only at the Lasalle and Espanola Properties for \$22,000 plus applicable HST. In addition, Northland agreed to these Properties’ premises in a broomswept workman like condition by no later than January 21, 2021. A copy of the Bill of Sale dated December 29, 2020 between the Receiver as Vendor and Northland as Purchaser is attached as **Appendix “D”**.

Service Trucks

20. At the Receiver’s appointment date, four (4) Econoline vans that were each more than 10 years old and not running were parked across the street from the Lasalle Property on the property of McDowell Brothers Industries Inc. (**“McDowell”**). McDowell provided the Receiver documentation that indicated that Nauss owed \$1,137 for outstanding parking and storage fees (the **“Storage Fees”**) which constituted a possessory Repair and Storage Lien against these units.
21. Since the vehicles had a GFLV of \$2,000, by email dated January 15, 2021, McDowell agreed that it would dispose of these units and remit any surplus in excess of the outstanding Storage Fees to the Receiver. The Receiver has not yet received McDowell’s accounting for the disposition of these service trucks and is following up. A copy of the Receiver’s email confirmation to McDowell is attached as **Appendix “E”**.

22. The Realtors also solicited offers from prospective purchasers of the Properties for the nine (9) remaining service trucks at the Lasalle and Espanola Properties that have an GFLV of \$18,500. The best offer for these units was \$12,000 plus applicable HST from Marley.
23. Given the relatively low value of the remaining service truck and taking in consideration the potential holding and selling costs, the Receiver, in consultation with CIBC, accepted Marley's offer to purchase the nine (9) remaining service trucks at the Lasalle and Espanola Properties.
24. A copy of the Bill of Sale dated February 8, 2021 regarding these units between Marley as Purchaser and the Receiver as Vendor is attached as **Appendix "F"**.

Goodwill and Intellectual Property

25. The Receiver sought offers for the Company's goodwill and intellectual property related the plumbing and heating businesses (the "**Plumbing IP**") from all potential purchasers of the Lasalle and Espanola Properties as well as others known to the Receiver from its local Sudbury office.
26. The Receiver received one offer as potential purchasers advised they were of the view that since Groves, had, in their opinion, effectively continued Nauss' business under Marley, the Plumbing IP had only a nominal value. The Receiver only received one offer for this asset and completed the sale of the Plumbing IP for \$3,000 plus applicable HST to Mr. John Law. A copy of the Bill of Sale dated December 29, 2020, is attached as **Appendix "G"**.

THE PROPERTIES

Listing Proposals and Agreements

27. The Receiver obtained listing proposals from two well know commercial realtors in the Sudbury region. A summary of the listing proposals is attached as **Confidential Appendix "1"**.
28. Following consultations with CIBC, on or about November 25, 2020, the Receiver entered into Listing Agreements with Remax. The Listing Agreements continue until February 28,

2021 and include up to a 4.5% commission to be shared between the listing and buyer's brokers. The Listing Prices are set out below:

Property	Listing Price
Lasalle	\$ 499,900
Espanola	\$ 399,900
Jennica Springs	\$ 299,900
Arena	\$ 999,900
	\$ 2,199,600

Lasalle Property

29. Three (3) competitive offers were received for the Lasalle Property by December 8, 2020 as summarized in attached **Confidential Appendix "2"**.
30. On December 10, 2020, the Receiver sent each of the prospective purchasers that had submitted an offer to provide their final and best offer by December 16, 2020.
31. The Receiver, in consultation with the Applicant, ultimately accepted the revised offer of Barker Bros Ltd. and negotiated the Lasalle Sale Agreement dated January 15, 2021, a copy of which is attached as **Confidential Appendix "3"**. The Lasalle Sale Agreement includes the following material terms:
- a) **Purchase price:** the final purchase price in the Lasalle Sale Agreement attached as **Confidential Appendix "3"** and subject to closing adjustments for standard closing adjustments for a real property sale;
 - b) **Conditions upon:**
 - i. the Purchaser's inspection and investigation of the property and its title by February 5, 2021, that was subsequently waived on February 4, 2021;
 - ii. the Court's approval of the Lasalle Sale Agreement and issuance of a vesting order substantially in the form attached to the Lasalle Sale Agreement; and
 - iii. the closing of the contemplated transaction by March 1, 2021.

- c) **Representations and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an “as is, where is” bases, with limited representations and warranties.

Lasalle Sale Agreement Recommendation

32. The Receiver recommends that the Court approve the Lasalle Sale Agreement and authorize the Receiver to complete the Sale Transaction and vesting title to the Lasalle Property in the Purchaser for the following reasons:

- a) the Receiver was authorized to market this Property by the Appointment Order;
- b) the market was widely canvassed by Remax;
- c) the Purchase Price is significantly higher than the listing price/selling price suggested in both Listing Proposals;
- d) the Sale Transaction represents the highest and best offer with the highest likelihood of closing; and
- e) the Applicant has advised that it supports the Sale Transaction.

33. In the Receiver’s opinion, the Sale Transaction represents the best and highest offer for the Property and the sale process and listing of this Property was fair and reasonable. The Receiver made sufficient effort to obtain the best price and has not acted improvidently. Accordingly, the Receiver respectfully requests that the Court approve the Sale Transaction, grant an order vesting the right, title and interest in the Lasalle Property to the Purchaser and authorize the Receiver to take all steps necessary to complete the Sale Transaction.

Espanola Property

34. Mr Aaron Scully (“Scully”), the principal of a Ford truck dealership that operates on the adjacent property submitted an “as is, where is” offer for the Espanola Property that was substantially less than the listing price. Scully advised that extensive environmental

remediation was required on his property and the offer reflected an estimate of the environmental remediation costs to be incurred for the Espanola Property.

35. Based on the above, the Receiver commissioned Pinchin Environmental Ltd. (“**Pinchin**”) to complete a Phase II environmental assessment of the Espanola Property. On February 16, 2021, the Receiver has advised by Pinchin that its testing did not uncover environmental contamination that would require remediation. Accordingly, the Receiver has instructed Remax to resume its sales efforts for the Espanola Property.

Jennica Springs

36. On November 3, 2020, the Company entered into a conditional Asset Purchase Agreements with 11993330 Canada Inc. (“**119 Canada**”) for the Jennica Springs and Arena Properties as well as the Jennica Springs assets and business on a going-concern basis. The contemplated transactions were subject to various conditions and were scheduled to close on or about the November 18, 2020. A copy of these agreements is attached as **Confidential Appendix “4”**.
37. Following its appointment, the Receiver, contacted 119 Canada and its counsel, Moutsatsos Laakso Alexander LLP, to confirm whether they wished to complete the transaction. Following multiple discussions, 119 Canada withdrew its offer.
38. On December 22, 2020, 119 Canada’s deposits paid to the Company’s counsel, totalling \$82,000 was remitted to the Receiver. Accordingly, the Receiver with the consent of the Bank, recommends that the Court authorize the Receiver to return the \$82,000 deposit to 119 Canada.
39. Although there have been multiple showings and interest in this property and the Jennica Springs assets and business, no other offers have been submitted to date.

Arena Property

40. Following its appointment, the Receiver attended at the Arena Property and completed an inventory of all the Customer Equipment on site. The estimated annual storage revenue is between \$20,000 to \$30,000.

41. Based on discussions with Groves and review of the Company's limited records regarding the Customer Equipment, it was determined that customers had agreed that any equipment store on site was not being insured by the Company. In addition, the Receiver confirmed with the Company's current insurer, that there was no insurance of any kind for the Arena Property or its contents. Insurance coverage for the Arena Property and the Company's assets being stored on site was subsequently put in place.
42. On November 23, 2020, the Receiver sent a notice to the parties storing their equipment at the Arena Property to, among other things, advise of the Receiver's appointment and to have them confirm to the Receiver that their equipment not being insured by the Receiver. A copy of this notice is attached as **Appendix "H"**.
43. To date, substantially all of the customers have confirmed as requested.

CONFIDENTIAL APPENDICES

44. The Receiver is of the view that **Confidential Appendices "2" and "3"** should remain sealed until the earlier of 60 days following the closing of the Sale Transaction or further order of the Court, as the information contained therein is commercially sensitive and could prejudice the sale of the Lasalle Property in the event the Sale Transaction does not close.
45. The Receiver is of the view that **Confidential Appendices "1" and "4"** should remain sealed until further order of the Court, as the information contained therein is commercially sensitive and relates to the as of yet unsold properties, as well as the Lasalle Property.
46. The Receiver does not believe that any party will suffer any material prejudice if the Confidential Appendices are sealed in this manner.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

47. Attached as **Appendix "I"** is the Receiver's Interim Statement of Receipts and Disbursements for the period of November 13, 2020 to February 12, 2021. During this period receipts were \$209,344.59 and disbursements were \$61,882.95 resulting in an

excess of receipts over disbursements of \$147,461.64. The balance is exclusive of the \$52,500 deposit from the Purchaser which is currently being held in trust by Audax.

PROFESSIONAL FEES

48. The Receiver's accounts total \$116,090.34 comprising \$97,602.50 for fees, \$5,132.31 for disbursements and HST of \$13,355.53 for the period September 4, 2020 to February 10, 2021. Copies of the Receiver's Accounts, together with a summary of the accounts, total billable hours charged and the average hourly rate, are set out in the Affidavit of Jerry Henechowicz sworn February 19, 2021, attached hereto as **Appendix "J"**.
49. The accounts of the Receiver's Counsel, Audax, total \$8,981.73 in fees and disbursements and \$1,161.49 in HST for a total of \$10,143.22 for the period of November 16, 2020 to January 28, 2021. Attached hereto as **Appendix "K"** is a copy of the Fee Affidavit of Arturo Pugliese sworn February 19, 2021, attaching the Audax's Account and a summary of the personnel, hours and hourly rates described in the Audax's Account.
50. The average hourly rates for the Receiver and Audax for the referenced billing periods were \$342.65 and approximately \$460.00, respectively.
51. The Receiver is of the view that the hourly rates charged by Audax are consistent with the rates charged by corporate law firms practicing in the area of insolvency in the region and that the fees charged are reasonable and appropriate in the circumstances.

STATUTORY PRIORITIES

Unremitted Employee Source Deductions and HST

52. On February 16, 2021, a representative of Canada Revenue Agency ("CRA") contacted the Receiver to arrange a trust examine of the Company's payroll and HST accounts. In addition, the CRA representative advised that subject to completion of a trust examine for 2019 and 2020:

- a) the Company's current liability for unremitted employee source deductions, employer contributions, penalties and interest totals approximately \$428,000;

- b) that only four (4) remittances out of the required eleven (11) for 2020 were received by CRA; and
- c) with the respect to unremitted HST, the current balance including penalties and interest totals approximately \$181,000 and that no filings or remittances were made by the Company in 2020.

Employee WEPP Claims

53. Following its appointment, the Receiver paid all non-related employees any outstanding wages and vacation pay. In its administration of the WEPP program, the only claims filed by employees were for unpaid termination pay. Accordingly, the Receiver does not anticipate any priority claims in respect of WEPP.

BANKRUPTCY APPLICATION

54. Gowlings as counsel to CIBC has advised the Receiver that contemporaneously with this motion by the Receiver, it will bring its own motion seeking an order adjudging Nauss bankrupt.
55. MNP has also consented to act as Trustee should the Court issue an order adjudging the Company bankrupt. In the regard, since the Company's creditors have been already been advised of these Receivership proceedings, MNP in its capacity proposed Trustee recommends that to promote efficiency and costs, the required mailing of the Notice of the First Meeting of Creditors (the "Notice") that normally includes a copy of the Company's Statement of Affairs, Proof of Claim form and Form of Proxy (collectively the "Forms"), be limited to the Notice including directions to download the Forms.

SECURED CREDITORS AND MORTGAGEES

56. Attached hereto as **Appendix "L"** is a copy of the PPSA Report for Nauss.

57. Attached here to as **Appendices "K", "M", "N", and "O"** are copies of the parcel registers for each of the Lasalle Property, the Espanola Property, the Arena Property, and the Jennica Springs Property, respectively.
58. The Applicant holds as security for the Company's indebtedness, a GSA, the Arena Charge, the Espanola Charge; and the Lasalle Charge.
59. 739572 Ontario Limited ("739572") which the Receiver understands is not related to Nauss, holds as security for the Company's indebtedness of approximately \$73,000 plus any accruing arrears:
- a) a charge/mortgage in the principal amount of \$65,000.00 against the Jennica Springs Property (the "**Jennica Charge**"); and
 - b) charges/mortgages against each of the Arena, Lasalle and Espanola Properties that are registered behind CIBC on these Properties.
60. The Receiver's counsel is in the process of reviewing the security documents of CIBC and of 739572.

CONCLUSION AND RECOMMENDATION

61. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make order granting the relief detailed in paragraph 7(b) of this Report.

All of which is respectfully submitted, this 19th day of February, 2021.

MNP LTD.,
Solely In Its Capacity As Court-Appointed
Receiver And Manager Of Nauss Plumbing & Heating Inc.
And Not In Its Personal Or Corporate Capacity

Per: 

Jerry Henechowitz CPA, CA, CIRP, LIT
Senior Vice President

APPENDIX C

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE JUSTICE	)	DAY, THE 26TH DAY OF
K.E. CULLIN	)	FEBRUARY, 2021
)	

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

ADMINISTRATIVE ORDER

(February 26, 2021)

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and Barker Bros Inc. dated January 15, 2021, and an order vesting in Barker Bros Realty Incorporated, the nominee of Barker Bros Inc. (the “**Purchaser**”), all of Nauss Plumbing & Heating Inc.’s (“**Nauss**”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”) and other relief, was heard this day, via videoconference. due to the COVID-19 pandemic.

ON READING the First Report of the Receiver dated February 19, 2021 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver, the Applicant, and any such other counsel as were present, no one appearing for any other person on the service list,

although properly served as appears from the affidavit of Angela Makris sworn February 23, 2021 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS AND DECLARES** that the First Report and the decisions, conduct, and activities set out therein be and are hereby approved.
3. **THIS COURT ORDERS** that Confidential Appendices #2 and #3 to the First Report be and are hereby sealed until the earlier of 60 days from the date of this order or further order of the Court.
4. **THIS COURT ORDERS** that Confidential Appendices #1 and #4 to the First Report be and are hereby sealed until further order of the Court.
5. **THIS COURTS ORDERS AND DIRECTS** that the Receiver repay the \$82,000 deposit paid by 11993330 Canada Inc. to Nauss in connection with proposed, but not completed, sale transactions that had been entered into between 11993330 Canada Inc. and Nauss prior to the receivership.
6. **THIS COURT ORDERS AND DECLARES** that the fees and disbursements of the Receiver and its counsel Audaxlaw PC as set out in the First Report be and are hereby approved.
7. **THIS COURT ORDERS AND DECLARES** that the Receiver's Interim Statement of Receipts and Disbursements as set out in the First Report be and are hereby approved.

A handwritten signature in black ink, appearing to be a stylized 'S' or 'E' with a flourish, positioned above a horizontal line.

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**ADMINISTRATIVE ORDER
(FEBRUARY 26, 2021)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX D

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE JUSTICE	)	DAY, THE 26TH DAY OF
K.E. CULLIN	)	FEBRUARY, 2021
)	

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

SALE APPROVAL AND VESTING ORDER

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and Barker Bros Inc. dated January 15, 2021, and an order vesting in Barker Bros Realty Incorporated, the nominee of Barker Bros Inc. (the “**Purchaser**”), all of Nauss Plumbing & Heating Inc.’s (“**Nauss**”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”) and other relief, was heard this day, via videoconference, due to the COVID-19 pandemic.

ON READING the First Report of the Receiver dated February 19, 2021 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver, the Applicant, and any such other counsel as were present, no one appearing for any other person on the service list,

although properly served as appears from the affidavit of Angela Makris sworn February 23.

2021 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of Nauss's right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement, and more particularly set out in **Schedule D**, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated November 13, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C**) and, for greater certainty, this

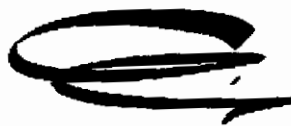
Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a transfer/deed of land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject real property in fee simple, and is hereby directed to delete and expunge from title to the real property all of the Claims listed in **Schedule B** hereto.
6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Nauss's records pertaining to Nauss's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Nauss.
8. **THIS COURT ORDERS** that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of Nauss and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Nauss;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Nauss and shall not be void or voidable by creditors of Nauss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of section 6(3) of the *Retail Sales Act* (Ontario).
10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Schedule A – Form of Receiver’s Certificate

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

RECEIVER’S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hennessey of the Ontario Superior Court of Justice (the “**Court**”) dated November 13, 2020, MNP Ltd. was appointed as receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Nauss Plumbing & Heating Inc. (“**Nauss**”).

B. Pursuant to an Order of the Court dated February 26, 2021, the Court approved the agreement of purchase and sale made as of January 15, 2021 (the “**Asset Purchase Agreement**”) between the Receiver and Barker Bros Inc. and provided for the vesting in, Barker Bros Realty Incorporated, the nominee of Barker Bros. Inc. (the “**Purchaser**”), pursuant to an Assignment and Assumption Agreement dated February ___, 2021, of all of Nauss’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets, (ii) that the conditions to closing as set

out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MNP LTD. solely in its capacity as receiver and manager of NAUSS HEATING & PLUMBING INC., and not in any other capacity

Per: _____

Name:

Title:

Schedule B – Claims to be deleted and expunged from title to Real Property

SD341554 – Charge – From NAUSS PLUMBING & HEATING INC. to CANADIAN IMPERIAL BANK OF COMMERCE

SD341555 – Notice of Assignment of Rents – General – from NAUSS PLUMBING & HEATING INC. to CANADIAN IMPERIAL BANK OF COMMERCE

SD342507 – Charge – From NAUSS PLUMBING & HEATING INC. to 739572 ONTARIO LIMITED

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

LT80621 – Transfer Easement – The Hydro-Electric Power Commission of Ontario

LT386617 – Notice – Airport Zoning Regulation

Schedule D – Description of Lands

**PIN 73564-0117 (LT): PCL 18965 SEC SES; PT LT 9 CON 6 NEELON AS IN LT 109921
EXCEPT LT 1 PL M861; S/T LT80621; GREATER SUDBURY**

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**SALE APPROVAL AND
VESTING ORDER
(FEBRUARY 26, 2021)**

**AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2**

**Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330**

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX E

Court File No. B-3003-21

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

*IN THE MATTER OF the Bankruptcy of NAUSS PLUMBING & HEATING INC.
having a head office in the City of Sudbury,
in the City of Greater Sudbury,
Province of Ontario*

THE HONOURABLE JUSTICE	)	FRIDAY, THE 26 TH
)	
K.E. CULLIN	)	DAY OF FEBRUARY, 2021

**APPLICATION UNDER section 43(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended**



BANKRUPTCY ORDER

ON THE APPLICATION of Canadian Imperial Bank of Commerce ("CIBC"), a creditor, of the City of Toronto, in the Province of Ontario, filed on February 11, 2021;

AND UPON READING the Application and the Affidavit of Verification of Sieg Flatt, sworn February 10, 2021 and the Consent of MNP Ltd.;

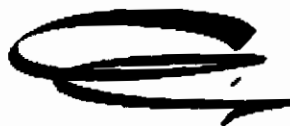
AND UPON HEARING the submissions of counsel for CIBC;

AND it appearing to the court that an act of bankruptcy has been committed in that Nauss Plumbing & Heating Inc. ("Nauss") has ceased to meet its liabilities generally as they have become due;

1. **THIS COURT HEREBY ORDERS** that Nauss is adjudged bankrupt and a Bankruptcy Order is hereby made against Nauss.

-2-

2. **THE COURT FURTHER ORDERS** that MNP Ltd. be appointed as Trustee of the estate of the bankrupt (the "Trustee").
3. **THE COURT FURTHER ORDERS** that the Trustee is authorized to send notice of the first meeting of creditors (the "Notice") in the manner prescribed by section 102 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") by sending the Notice together with directions to download documents to accompany the notice set out in section 102(2) of the BIA (the "Forms").
4. **THE COURT FURTHER ORDERS** that service of the Notice in the manner prescribed in paragraph 3 of this Order shall constitute compliance by the Trustee with section 102(2) of the BIA.
5. **THE COURT FURTHER ORDERS** that the Trustee give security in cash or by bond or suretyship without delay, in accordance with subsection 16(1) of the BIA.
6. **THE COURT FURTHER ORDERS** that the costs of the Applicant Creditor be paid out of the estate of the bankrupt on taxation of the estate.



Court File No. B-3003-21

IN THE MATTER of the Bankruptcy of NAUSS PLUMBING & HEATING INC.
having a head office in the City of Sudbury, in the City of Greater Sudbury, Province of Ontario

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

**PROCEEDING COMMENCED AT
SUDBURY**

BANKRUPTCY ORDER

Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5
Canada

Haddon Murray (LSO#61640P)
Tel: 416-862-3604
haddon.murray@gowlingwlg.com

Lawyers for the creditor, Canadian Imperial Bank of
Commerce

File Number: H218127

APPENDIX F

Court File No. CV-20-00637615-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

**SECOND REPORT TO THE COURT OF MNP LTD IN ITS CAPACITY AS RECEIVER
AND MANAGER OF THE ASSETS, UNDERTAKINGS, AND PROPERTIES OF
NAUSS PLUMBING & HEATING INC.**

May 4, 2021

TABLE OF CONTENTS

INTRODUCTION.....	4
PURPOSE OF THIS REPORT	6
DISCLAIMER AND TERMS OF REFERENCE	7
RECEIVER’S ACTIVITIES	8
CONFIDENTIAL APPENDICES.....	12
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	13
PROFESSIONAL FEES	13
STATUTORY PRIORITIES	14
SECURED CREDITORS AND MORTGAGEES.....	15
HOLDBACK AND DISTRIBUTION.....	16
CONCLUSION AND RECOMMENDATION.....	17

APPENDICES

- Appendix “A”** – Appointment Order dated November 13, 2021
- Appendix “B”** – First Report of the Receiver (without Appendices)
- Appendix “C”** – Administrative Order dated February 26, 2021
- Appendix “D”** – Approval and Vesting Order dated February 26, 2021
- Appendix “E”** – Naus Bankruptcy Order dated February 26, 2021
- Appendix “F”** – Notice to Customers dated November 23, 2021
- Appendix “G”** – Notice to Customers dated April 21, 2021
- Appendix “H”** – Interim Statement of Receipts and Disbursements
- Appendix “I”** – Receiver’s Accounts
- Appendix “J”** – Receiver’s Counsel’s Accounts
- Appendix “K”** – CRA’s Property Claim
- Appendix “L”** – CIBC Payout Statement
- Appendix “M”** – 739572 Ontario Limited Payout Statement
- Appendix “N”** – Kora Management Ltd Payout Statement
- Appendix “O”** – Espanola Property Title Abstract

Appendix “N” – Jennica Springs Property Title Abstract

Appendix “N” – Arena Property Title Abstract

CONFIDENTIAL APPENDICES

Confidential Appendix “1”: Confidential Supplement to the Second Report

INTRODUCTION

1. On November 13, 2020 (Date of Appointment), the Ontario Superior Court of Justice (the “**Court**”) made an order (the “**Appointment Order**”), *inter alia*, appointing MNP Ltd. (“**MNP**”) as receiver and manager (the “**Receiver**”) of all the assets, undertakings and properties (“**Assets**”) including real property (the “**Properties**”) of Nauss Plumbing & Heating Inc. (“**Nauss**” or the “**Company**”) acquired for, or used in relation to the business carried on by the Company. A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. Nauss is a private Ontario corporation that operated its businesses from the following four (4) locations that it held title to in and around Sudbury, Ontario:
 - a) plumbing and heating contracting from 2590 Lasalle Boulevard, Sudbury, Ontario (the “**Lasalle Property**”);
 - b) plumbing and heating contracting also known as Garnet Plumbing from 551 Centre Street, Espanola, Ontario (the “**Espanola Property**”);
 - c) a spring water bottling facility operating as Jennica Springs from its location at 1330 North Road, Markstay, Ontario (the “**Jennica Springs Property**”); and
 - d) a storage facility for boats, all terrain vehicles, recreational and other vehicles (collectively the “**Customers Equipment**”) from a former hockey arena located at 7 Millichamp Street, Markstay, Ontario (the “**Arena Property**” and together with the Lasalle Property, Espanola Property and the Jennica Springs Property, hereinafter collectively referred to as, the “**Properties**”).
3. The circumstances leading to the appointment of the Receiver, are set out in the Affidavit of Sieg Flatt, sworn November 19, 2019 (the “**Flatt Affidavit**”) in support of the initial Receivership Application, brought by the Canadian Imperial Bank of Commerce (“**CIBC**” or the “**Applicant**”).

4. A copy of the Appointment Order, together with related Court documents and all reports with respect of this matter are available on the Receiver's website, which can be found at www.mnpdebt.ca/nauss.
5. On February 19, 2021 the Receiver filed its first report (the "**First Report**") to provide information to the Court in support of the Receiver's request for orders, *inter alia*:
 - a) approving the First Report and the decisions, conduct, and activities of the Receiver as set out therein;
 - b) approving the Lasalle Sale Agreement and the Sale Transaction (as defined in the First Report);
 - c) authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the closing of the Sale Transaction; and
 - d) vesting title in and to the Lasalle Property or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Lasalle Sale Agreement.

A copy of the First Report (without appendices) is attached as **Appendix "B"**.

6. On February 11, 2021, CIBC filed a Bankruptcy Application in respect of Nauss naming MNP as the proposed Trustee, subject to affirmation at the First Meeting of Creditors. The Bankruptcy Application was heard concurrently with the Receiver's motion on February 26, 2021.
7. On February 26, 2021, the Court issued orders:
 - a) providing the relief sought by the Receiver in respect of its administration of these proceedings (the "**Administrative Order**");
 - b) approving the Lasalle Sale Agreement and Sale Transaction and vesting title of the Lasalle Property in the Purchaser (the "**Lasalle AVO**"); and
 - c) adjudging Nauss bankrupt ("**Nauss Bankruptcy Order**").

Copies of the Administrative Order, Lasalle AVO Order and Nauss Bankruptcy Order are attached as **Appendices "C", "D" and "E"**, respectively.

8. It should be noted by the Court that this receivership has occurred against the backdrop of the COVID-19 pandemic, resultant state of emergency and "Stay at Home" orders

as declared by the Province of Ontario, which has, at times, added to the complexity of the receivership in order to ensure that the operation of the Properties conformed with applicable COVID-19 safety requirements (the “**Covid Requirements**”).

PURPOSE OF THIS REPORT

9. The purposes of this the Receiver’s second report (the “**Second Report**”) are to:
 - a) provide the Court with an update in respect to:
 - i. the activities of the Receiver since the date of the First Report;
 - ii. realizations from the Company’s Assets and Properties including from the completion of the Lasalle Sale Transaction;
 - iii. the offers received for Espanola, Jennica Springs and Arena Properties (collectively the “**Remaining Properties**”);
 - iv. an Asset Purchase Agreement dated April 21, 2021 (the “**Espanola Sale Agreement**”) entered into between the Receiver, as vendor, and 2819163 Ontario Inc. or its assignee as purchaser (the “**Espanola Purchaser**”) and the transaction contemplated therein (the “**Espanola Sale Transaction**”);
 - v. an Asset Purchase Agreement dated April 22, 2021 (the “**Jennica Springs Sale Agreement**”) entered into between the Receiver, as vendor, and Lyudmyla Tereshchenko, in trust and her nominee, 11993330 Canada Inc. as purchaser (the “**Jennica Springs Purchaser**”) and the transaction contemplated therein (the “**Jennica Springs Sale Transaction**”);
 - vi. an Asset Purchase Agreement dated April 22, 2021 (the “**Arena Sale Agreement**”) entered into between the Receiver, as vendor, and Darcey Paul Mullen and his nominee, XMD Inc., as purchaser (the “**Arena Purchaser**”) and the transaction contemplated therein (the “**Arena Sale Transaction**”);
 - vii. the security granted by the Company to each of CIBC, 739572 Ontario Limited (“**739572**”) and Kora Management Ltd. (“**Kora**” and collectively with CIBC and 739572 the “**Secured Creditors**”) and other potential statutory claims that may have priority to any of the Secured Creditors’ security;

- b) provide information to the Court in support of the Receiver's request for orders, *inter alia*,
- i. approving the Second Report and the decisions, conduct, and activities of the Receiver as set out therein;
 - ii. approving each of the Espanola, Jennica Springs and Arena Sale Agreements (collectively the "**Remaining Properties Sale Agreements**") and respective sale transactions (the "**Remaining Properties Sale Transactions**");
 - iii. authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the closing the Remaining Properties Sale Transactions;
 - iv. vesting title in and to the Remaining Properties to or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Remaining Properties Sale Agreements;
 - v. sealing the **Confidential Appendix "1"** (the "**Confidential Supplement**") until such time as the sale of all of the Remaining Properties are closed or by further order of the Court;
 - vi. approving the Receiver's Interim Statement of Receipts and Disbursements dated April 30, 2021; and
 - vii. approving the fees and disbursements of the Receiver and its counsel Audaxlaw LLP ("**Audax**") as set out in this Report and the Fee Affidavits of Jerry Henechowicz and Arturo Pugliese (collectively, the "**Fee Affidavits**");
 - viii. approving a distribution to the Secured Creditors subject to the Receiver maintaining a suitable holdback in respect of potential priorities and administrative expenses of these proceedings (the "**Holdback**"); and
 - ix. such other relief as the Court deems appropriate in the circumstances

DISCLAIMER AND TERMS OF REFERENCE

10. In preparing this Report, the Receiver has relied on information (the "**Information**") regarding the Company, the Assets and Properties:

- a) included in the Application/Motion Records and other materials filed with the Court in connection with these proceedings, including the Flatt Affidavit;
 - b) provided by the Company's directors and management and its legal counsel,
 - c) the Applicant and its respective legal counsel, Gowlings WLG LLP ("**Gowlings**");
 - d) located in Nauss' available books and records;
 - e) provided by Royal LePage North Heritage Realty ("**LePage**") and RE/MAX Crown Realty (1989) Inc., ("**Remax**" and with LePage the "**Realtors**"); and
 - f) otherwise made available or provided to the Receiver and its counsel.
11. Except as described in this Second Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada Handbook.
12. This Second Report should be read in conjunction with the Confidential Supplement.
13. All currency references contained herein are in Canadian Dollars, unless otherwise specified. All capitalized terms not otherwise defined herein shall have the meanings as defined in the Appointment Order, unless otherwise specified.

RECEIVER'S ACTIVITIES

14. Since the date of the First Report, the Receiver's activities have concentrated upon:
- a) completing the Lasalle Sale Transaction;
 - b) negotiating the Remaining Properties Sale Agreements as described in greater detail below;
 - c) facilitating a trust examination by the Canada Revenue Agency ("**CRA**") regarding Nauss' liability for unremitted employee source deductions;

- d) corresponding with the Company's creditors, unsecured creditors, and other stakeholders regarding the status of these proceedings;
- e) communicating with the owners of Customer Vehicles (as defined below) in storage at the Arena Property and establishing a protocol for the release of the Customer Vehicles that complies with Covid Requirements;
- f) maintaining the Receiver's website regarding these proceedings www.mnpdebt.ca/nauss;
- g) reviewing, approving, and paying the Properties' on-going operating costs; and
- h) preparing this Second Report and reviewing all Court materials filed in connection with this motion.

ASSET REALIZATIONS

15. Net proceeds from the realizations of the Assets and Properties to April 30, 2021 are summarized in the table below:

Bank accounts	\$ 590
Accounts receivable	78,084
Deposits	3,355
Sales of assets	41,000
Lasalle property	511,849
	634,878

THE PROPERTIES

Completion of the Lasalle Transaction

16. On March 1, 2021 the Lasalle transaction was completed and the Receiver's Certificate confirming closing of this transaction was filed with the Court on March 3, 2021. Following traditional adjustments for a real estate transaction of this type and payment of Realtor commissions, net proceeds of \$511,849.22 were remitted to the Receiver.

The Remaining Properties

17. As set out in the First Report, on December 8, 2020, the Receiver entered into Listing Agreements with Remax for the Remaining Properties that initially were scheduled to expire on February 28, 2021 but were extended to April 30, 2021. The listing agreements provide for a 4.5% commission to be shared between the listing and buyer's brokers. The Listing Prices for the Remaining Properties were as follows:

Property	Listing Price
Espanola	\$ 399,900
Jennica Springs	\$ 299,900
Arena	\$ 999,900
	\$ 1,699,700

Remaining Properties Sale Agreements

18. Remax solicited multiple offers (the “**Offers**”) for the Remaining Properties in late January and February 2020. All of the Offers were submitted on standard Ontario Real Estate Association forms, contained various conditions and were accompanied by a deposit.
19. The Offers received for the Remaining Properties and the Remaining Properties Sale Agreements are reviewed and summarized in the Confidential Supplement attached as **Confidential Appendix “1”**.

Remaining Properties Sale Agreements

20. The Receiver, in consultation with the Applicant, ultimately accepted the offers of the Espanola, Jennica Springs and Arena Purchasers (collectively the “Remaining Properties Purchasers”) and negotiated the Remaining Properties Sale Agreements copies of which are included in the Confidential Supplement and all include the following material terms:
- a) **Purchase price:** the final purchase price Remaining Properties Sale Agreements attached as Confidential Supplement and subject to closing adjustments for standard closing adjustments for a real property sale;
 - b) **Conditions upon:**

- i. in the case of the Arena Property, the Purchaser's inspection and investigation of the property and its title by May 28, 2021;
 - ii. the Court's approval of the Remaining Properties Sale Agreements and issuance of a vesting order substantially in the form attached to the Remaining Properties Sale Agreements; and
 - iii. the closing of the contemplated transactions by June 23, 2021, May 11, 2021 and May 11, 2021 for the Arena, Jennica Springs and Espanola Properties, respectively.
- c) **Representations and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" bases, with limited representations and warranties.

Remaining Properties Sale Agreements Recommendation

21. The Receiver recommends that the Court approve the Remaining Property Sale Agreements and authorize the Receiver to complete the Remaining Properties Sale Transactions contemplated sale transactions and vesting title to the Remaining Properties to the respective purchasers for the following reasons:
- a) the Receiver was authorized to market the Remaining Properties by the Appointment Order;
 - b) the market was widely canvassed by Remax;
 - c) the Remaining Properties Sales Transactions represents the highest and best offer in the circumstances;; and
 - d) the Applicant and other Secured Creditors have advised that they support these transactions.
22. In the Receiver's opinion, the Remaining Properties Sale Transactions represents the best and highest offer for these Properties and the sale process and listing of this Properties was fair and reasonable. The Receiver , through Remax as its agent, made sufficient effort to obtain the best price and has not acted improvidently. Accordingly,

the Receiver respectfully requests that the Court approve the Remaining Properties Sale Transactions, grant an order vesting the right, title and interest in the Remaining Properties to the respective Purchasers and authorize the Receiver to take all steps necessary to complete the Remaining Property Sales Transactions.

CONFIDENTIAL APPENDICES

23. The Receiver is of the view that Confidential Supplement should remain sealed until the earlier of 60 days following the closing of the last of the Remaining Properties' respective Sale Transactions or further order of the Court, as the information contained therein is commercially sensitive and could prejudice the sale of the Remaining Properties in the event the Sale Transactions do not close.
24. The Receiver does not believe that any party will suffer prejudice if the Confidential Appendices are sealed in this manner.

Arena Property (Stored Equipment)

25. On November 23, 2020, the Receiver sent a notice to the parties storing their equipment at the Arena Property (the "Storage Customers") to, among other things, advise of the Receiver appointment and to have them confirm to the Receiver that their equipment not being insured by the Receiver. A copy of this notice is attached as **Appendix "F"**.
26. To date substantially all of the Storage Customers have confirmed as requested.
27. Historically, given the nature of the items in storage, equipment would be released from the Arena in mid to late April. On April 21, 2021, the Receiver sent a notice to the known Storage Customer advising that, among other thing, due to the Ontario Government Emergency Orders and the "Stay at Home" orders, the Receiver would only release and equipment in storage to those customer's requiring the equipment considered essential for their personal safety and well being. A copy of this notice is attached as **Appendix "G"**.

28. Following multiple discussions and correspondence with certain Storage Customers and MNP LLP enterprise risk consulting group that have specific accreditations and experience in this area, the Receiver is establishing a protocol for the release of equipment at the Arena on a scheduled "Curb Side" program. Priority is being given to those Storage Customers that have indicated the stored equipment is essential for their personal safety and well being. In addition, the Receiver has advised Storage Customers that they will be required to pay a release fee of between \$75.00 to \$100.00 per unit plus HST to reimburse the Receiver for the estimated costs incurred storing and releasing their equipment through the Receivership.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

29. Attached as **Appendix "H"** is the Receiver's Interim Statement of Receipts and Disbursements for the period of November 13, 2020 to April 30, 2021. During this period receipts were \$814,928.64 and disbursements were \$247,115.32 resulting in an excess of receipts over disbursements of \$567,813.32.

PROFESSIONAL FEES

30. To date, the Receiver's accounts have been taxed through to February 10, 2021. The Receiver's has since issued accounts totalling \$42,942.83 comprising \$37,514.00 for fees, \$488.50 for disbursements and HST of \$4,940.33 for the period February 11 to April 30, 2021. Copies of the Receiver's Accounts, together with a summary of the accounts, total billable hours charged and the average hourly rate, are set out in the Affidavit of Jerry Henechowicz sworn May 3, 2021, attached hereto as **Appendix "I"**.

31. Audax has previously been taxed through to January 31, 2021. Audax has since issued accounts of the Receiver's Counsel, Audax, totalling \$26,395.74 in fees and disbursements and \$3,335.05 in HST for a total of \$29,730.83 for the period of February 7, 2021 to March 30, 2021. Attached hereto as **Appendix "J"** is a copy of the Fee Affidavit of Arturo Pugliese sworn May 3, 2021, attaching the Audax's Account and a summary of the personnel, hours and hourly rates described in the Audax's Account.

32. The average hourly rates for the Receiver and Audax for the referenced billing periods were \$475.16 and \$416.94, respectively.
33. The Receiver is of the view that the hourly rates charged by Audax are consistent with the rates charged by corporate law firms practicing in the area of insolvency in the region and that the fees charged are reasonable and appropriate in the circumstances.

STATUTORY PRIORITIES

Unremitted Employee Source Deductions

34. On April 22, 2021, Canada Revenue Agency (“CRA”) issued its proof of claim for unremitted employee source deductions (the “**Property Claim**”) totalling \$240,070.28 for the period ended December 31, 2019 (the “**2019 Property Claim**”). A copy of the 2019 Property Claim is attached as **Appendix “K”**.
35. CRA has not yet completed its trust examination for 2020. Based on the Receiver’s review of the Company’s payroll records and consultations with CRA, the estimate additional Property Claim for 2020 is approximately \$45,000. In total, CRA’s total estimated Property Claim is approximately \$300,000.
36. As CRA has not yet completed its review of Nauss, the Receiver makes no determination at this time with regards to CRA’s Property Claim – both in terms of amount and priority vis-a-vis other creditors. The Receiver will do so once CRA has completed its review.

HST

37. On April 9, 2021, CRA issued a Notice of (Re) Assessment totalling \$212,829.34 in respect of the Company’s liability for unremitted HST up to the Date of Receivership. In light, of the Company’s bankruptcy, CRA’s claim has been relegated to an unsecured status and ranks subordinate to the claims of the Secured Creditors.

Employee WEPP Claims

38. Following its appointment, the Receiver paid all non-related employees any outstanding wages and vacation pay. In its administration of the WEPP program, the only claims filed by employees were for unpaid termination pay and accordingly unsecured liabilities. The Receiver does not anticipate any priority claims in respect of WEPP.

SECURED CREDITORS AND MORTGAGEES

39. As security for the Company indebtedness, Nauss provided CIBC with:

- a) a general security agreement in respect of all of the personal property of Nauss the terms of which are incorporated within the credit agreements (the "**CIBC GSA**");
- b) a charge/mortgage in the principal amount of \$583,000.00 against the Arena Property (the "**Arena Charge**");
- c) a charge/mortgage in the principal amount of \$206,000.00 against the Espanola Property (the "**Espanola Charge**"); and
- d) a charge/mortgage in the principal amount of \$210,000.00 against the Lasalle Property (the "**Lasalle Charge**" and together with the Arena Charge and the Espanola Charge, hereinafter collectively referred to as, the "**CIBC Mortgages**").

40. The indebtedness to CIBC as at May 3, 2021 totals \$1,106,242.01 plus any accruing interest as set out on CIBC's payout statement attached as **Appendix "L"**.

41. 739572 an unrelated entity to the Company holds as security for the Company's indebtedness of approximately \$73,000 plus any accruing arrears:

- a) a charge/mortgage in the principal amount of \$65,000.00 against the Jennica Springs Property (the "**Jennica Charge**"); and

b) charges/mortgages against each of the Arena, Lasalle and Espanola Properties that ranks behind CIBC on these Properties.

42. The indebtedness to 739572 as at December 8, 2021 totals \$70,959.47 plus any accruing interest as set out on 739572's payout statement attached as **Appendix "M"**.

43. Kora an unrelated entity to the Company holds as security for the Company's indebtedness of approximately \$25,000 plus any accruing arrears a charge/mortgage in the principal amount of \$25,000.00 against the Jennica Springs Property (the "**Jennica 2nd Charge**");

44. The indebtedness to Kora as at April 30, 2021 totals \$25,440 plus any accruing interest as set out on Kora's payout statement attached as **Appendix "N"**.

45. A copy of the title abstract for each of the Espanola Property, the Jennica Springs Property, and the Arena Property is attached as **Appendices "O", "P", and "Q"**.

46. Audax has reviewed the Secured Creditors security and has opined, subject to the usual assumptions and qualifications, that their security as set out above is valid and enforceable in accordance with their terms.

HOLDBACK AND DISTRIBUTION

47. The Receiver recommends, in light of the above, that it be authorized to distribute:

- a) \$70,959.47 plus any per diem interest to 739572 on account of the Jennica Charge;
- b) \$25,440.00, plus any per diem interest, to Kora on account of the Jennica 2nd Charge; and
- c) all remaining funds to CIBC to the maximum amount of the Company's indebtedness to CIBC subject to the Receiver maintain a sufficient holdback to cover the amount of CRA's Property Claim, once determined, estimated future professional fees, and any other contingencies that may arise.

CONCLUSION AND RECOMMENDATION

48. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make order granting the relief detailed in paragraph 9 (b) of this Report.

All of which is respectfully submitted, this 4th day of May, 2021.

MNP LTD.,

Solely In Its Capacity As Court-Appointed
Receiver And Manager Of Nauss Plumbing & Heating Inc.
And Not In Its Personal Or Corporate Capacity

Per: 

Jerry Henechowicz CPA, CA, CIRP, LIT
Senior Vice President

APPENDIX G



Court File No. CV-19-00008866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE JUSTICE	)	TUESDAY, THE 11TH DAY OF
	)	MAY, 2021
R.D CORNELL)	

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

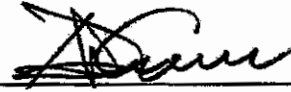
ADMINISTRATIVE ORDER

(May 11, 2021)

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “Receiver”), for: i) orders approving three (3) sale transactions, as set out in the Receiver’s notice of motion dated May 4, 2021, together with respective orders vesting title in the purchasers, or their nominees, of all of Nauss Plumbing & Heating Inc.’s (“Nauss”) right, title, benefit and interest in and to the assets described in the respective asset purchase agreements; and ii) an order for related and other relief, including an interim distribution to certain creditors, was heard this day, via videoconference, due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated May 4, 2021 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver and any such other counsel as present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Angela Makris, sworn May 4, 2021 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS** that Confidential Supplement to the Second Report be and is hereby sealed until the filing of the last Receiver's Certificate in respect of the three (3) sales set out in the Second Report or further order of the Court.
3. **THIS COURT ORDERS** that the balance of the motion be adjourned to a date to be set.



Justice R.D Cornell

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

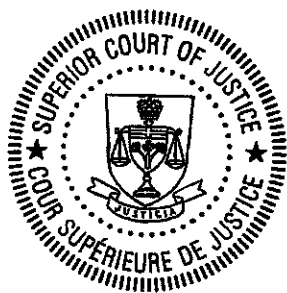
**SALE APPROVAL AND VESTING
ORDER
(1330 NORTH ROAD PROPERTY)
(MAY 11, 2021)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX H



Court File No. CV-19-00008866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE JUSTICE)
)
R.D CORNELL)

TUESDAY, THE 11TH DAY OF
MAY, 2021

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

SALE APPROVAL AND VESTING ORDER

(1330 North Road Property)

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and Lyudmyla Tereshchenko, in trust, dated April 22, 2021, and an order vesting in 11993330 Canada Inc., the nominee of Lyudmyla Tereshchenko, in trust (the “**Purchaser**”), all of Nauss Plumbing & Heating Inc.’s (“**Nauss**”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”) and other relief, was heard this day, via videoconference, due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated May 4, 2021 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver and any such other counsel

as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Angela Makris, sworn May 4, 2021, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "Receiver's Certificate"), all of Nauss's right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement, and including the real property described in **Schedule D**, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated November 13, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on

Schedule C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a transfer/deed of land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject real property in fee simple, and is hereby directed to delete and expunge from title to the real property all of the Claims listed in **Schedule B** hereto.
6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Nauss's records pertaining to Nauss's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Nauss.
8. **THIS COURT ORDERS** that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Nauss and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Nauss;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Nauss and shall not be void or voidable by creditors of Nauss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of section 6(3) of the *Retail Sales Act* (Ontario).
10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Justice R.D. Cornell

Schedule A – Form of Receiver’s Certificate

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

RECEIVER’S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hennessey of the Ontario Superior Court of Justice (the “**Court**”) dated November 13, 2020, MNP Ltd. was appointed as receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Nauss Plumbing & Heating Inc. (“**Nauss**”).

B. Pursuant to an Order of the Court dated May 11, 2021, the Court approved the agreement of purchase and sale made as of April 22, 2021 (the “**Asset Purchase Agreement**”) between the Receiver and Lyudmyla Tereshchenko, in trust, and provided for the vesting in and to, 11993330 Canada Inc., the nominee of Lyudmyla Tereshchenko, in trust (the “**Purchaser**”), of all of Nauss’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets, (ii) that the conditions to closing as set out in the Asset Purchase Agreement have been satisfied

or waived by the Receiver and the Purchaser, and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MNP LTD. solely in its capacity as receiver and manager of NAUSS HEATING & PLUMBING INC., and not in any other capacity

Per: _____

Name:

Title:

Schedule B – Claims to be deleted and expunged from title to Real Property

SD342507 – Charge - From NAUSS PLUMBING & HEATING INC. to 739572 ONTARIO LIMITED

SD342517 – Charge - From NAUSS PLUMBING & HEATING INC. to KORA MANAGEMENT LTD.

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

None

Schedule D – Description of Lands

**PIN 73488-0010 (LT): PCL 51424 SEC SES; PT LT 12 CON 1 LOUGHRIN PT 1 & 2 53R15954;
MARKSTAY-WARREN**

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

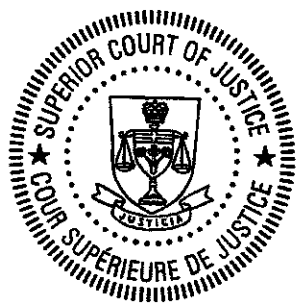
Proceeding commenced at:
SUDBURY

**ADMINISTRATIVE ORDER
(MAY 11, 2021)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**



Court File No. CV-19-00008866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE JUSTICE)
)
R.D CORNELL)

TUESDAY, THE 11TH DAY OF
MAY, 2021

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

SALE APPROVAL AND VESTING ORDER

(551 Centre Street Property)

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “Receiver”), for an order approving the sale transaction (the “Transaction”) contemplated by an asset purchase agreement (the “Asset Purchase Agreement”) between the Receiver and 2819163 Ontario Inc., dated April 21, 2021, and an order vesting in 2819163 Ontario Inc. (the “Purchaser”), all of Nauss Plumbing & Heating Inc.’s (“Nauss”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “Purchased Assets”) and other relief, was heard this day, via videoconference, due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated May 4, 2021 (the “Second Report”), and on hearing the submissions of counsel for the Receiver and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Angela Makris, sworn May 4, 2021, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "Receiver's Certificate"), all of Nauss's right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement, and more particularly set out in **Schedule D**, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated November 13, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a transfer/deed of land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject real property in fee simple, and is hereby directed to delete and expunge from title to the real property all of the Claims listed in Schedule B hereto.
6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Nauss's records pertaining to Nauss's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Nauss.
8. **THIS COURT ORDERS** that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Nauss and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of Nauss;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Nauss and shall not be void or voidable by creditors of Nauss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of section 6(3) of the *Retail Sales Act* (Ontario).
10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Justice R.D. Cornell

Schedule A – Form of Receiver’s Certificate

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

RECEIVER’S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hennessey of the Ontario Superior Court of Justice (the “**Court**”) dated November 13, 2020, MNP Ltd. was appointed as receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Nauss Plumbing & Heating Inc. (“**Nauss**”).

B. Pursuant to an Order of the Court dated May 11, 2021, the Court approved the agreement of purchase and sale made as of April 21, 2021 (the “**Asset Purchase Agreement**”) between the Receiver and 2819163 Ontario Inc., and provided for the vesting in and to, 2819163 Ontario Inc. (the “**Purchaser**”), of all of Nauss’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets, (ii) that the conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MNP LTD. solely in its capacity as receiver and manager of NAUSS HEATING & PLUMBING INC., and not in any other capacity

Per:

Name:

Title:

Schedule B – Claims to be deleted and expunged from title to Real Property

SD341681 – Charge – From NAUSS PLUMBING & HEATING INC. to CANADIAN IMPERIAL BANK OF COMMERCE

SD341684 – Notice of Assignment of Rents – General – from NAUSS PLUMBING & HEATING INC. to CANADIAN IMPERIAL BANK OF COMMERCE

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

None

Schedule D -- Description of Lands

**PIN 73407-0024 (LT): PCL 10208 SEC SWS; PT LT 8 CON 5 MERRITT AS IN LT64894
EXCEPT PT 1 53R131128 & PT 1 53R17437; S/T PT 2 & 3 53R13128 AS IN LT696426;
ESPANOLA**

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**SALE APPROVAL AND VESTING
ORDER
(551 CENTRE STREET PROPERTY)
(MAY 11, 2021)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX I

**IN THE MATTER OF THE RECEIVERSHIP OF
NAUSS PLUMBING & HEATING INC.
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
AS AT FEBRUARY 11, 2022**

RECIEPTS

2590 Lasalle Boulevard, Sudbury	\$ 525,762.35
7 Millichamp Street, Markstay	698,020.68
551 Centre Street, Espanola	270,291.35
1330 North Road, Markstay	266,282.98
Accounts receivable	81,114.94
Trucks and vehicles	27,300.00
Inventory	22,000.00
Arena storage and release fees	8,454.33
HST collected	5,268.73
Refunds- miscellaneous	3,355.33
Intellectual property	3,000.00
Cash on hand	590.45
Interest Income	112.81
	<u>1,911,553.95</u>

DISBURSEMENTS

Distributions to Canadian Imperial Bank of Commerce	925,000.00
Municipal taxes	119,739.73
Receiver fees and disbursements	166,765.94
Real estate commissions	81,962.50
Distribution to 739572 Ontario Limited	80,000.00
Legal fees and disbursements	67,815.20
HST paid (ITC)	42,152.72
Insurance	32,874.14
Distribution to Kora Management Ltd.	25,688.59
Espanola environmental assessment	14,653.00
Repairs and maintenance	11,201.40
Utilities	8,824.85
Wages	7,780.98
Outside consulting and casual labour	7,140.53
Appraisal	6,500.00
Other misc disbursements	2,728.61
Security	1,026.55
Purchases	760.38
Subcontractors	745.80
Telephone	632.67
Redirection of mail	643.45
Bank charges	416.78
Filing fees paid to Official Receiver	71.54
	<u>1,605,125.36</u>

EXCESS OF CASH RECEIPTS OVER DISBURSEMENTS

\$ 306,428.59

APPENDIX J

Court File No.: CV-19-8866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE RECEIVERSHIP OF
NAUSS PLUMBING & HEATING INC.
OF THE CITY OF GREATER SUDBURY
IN THE PROVINCE OF ONTARIO

AFFIDAVIT OF JERRY HENECHOWICZ
(Sworn February 4, 2022)


I, Jerry Henechowicz, of the City of Markham, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

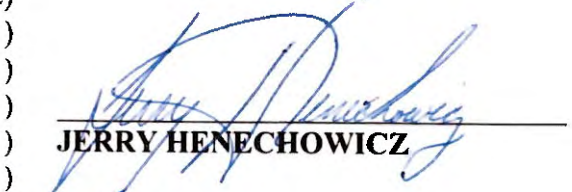
1. I am a Senior Vice President and a licensed Trustee with MNP Ltd. the Court-appointed receiver and manager (the "**Receiver**") of Nauss Plumbing & Heating Inc. (the "**Company**") and as such have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of the assets, property and undertaking of the Company by Order of the Court dated November 13, 2020.
3. The Receiver has prepared two Statement of Account in connection with its appointment as Liquidator detailing its services rendered and disbursements incurred for the period May 1, 2021 to January 31, 2022. Attached hereto and marked as Exhibit "A" to this my Affidavit is a summary of the Statements of Account.
4. Attached hereto and marked as Exhibit "B" are copies of the Statements of Account. The average hourly rate in respect of the account is \$377.39.
5. This Affidavit is made in support of a motion to, *inter alia*, approve the receipts and disbursements of the Receiver and its accounts.

SWORN before me by video conference)

this 4th day of February, 2022



A Commissioner, etc.

)
)
)
) 
) **JERRY HENECHOWICZ**
)

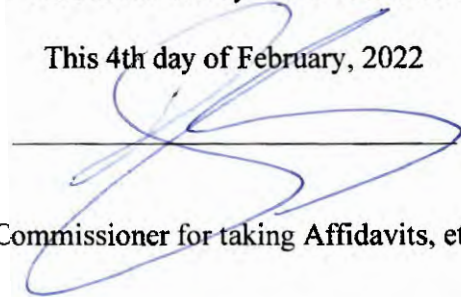
Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF JERRY HENECHOWICZ

Sworn before me by video conference

This 4th day of February, 2022



Commissioner for taking Affidavits, etc

**RECEIVERSHIP OF NAUSS PLUMBING & HEATING INC.
SUMMARY OF RECEIVER AND MANAGERS ACCOUNTS
FOR THE PERIOD MAY 1, 2021 TO JANUARY 31, 2022**

DATE	INV #	PERIOD ENDED	HOURS	FEEES	DISB.	HST	TOTAL
30-Jun-21	9921923	24-Jun-21	69.50	25,917.36	111.27	3,383.72	29,412.35
01-Feb-22	10171870	31-Jan-22	22.30	8,727.50	-	1,134.58	9,862.08
			91.80	34,644.86	111.27	4,518.30	39,274.43
Average Hourly Rate			377.39				

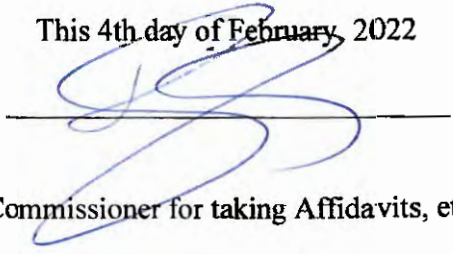
Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF JERRY HENECHOWICZ

Sworn before me by video conference

This 4th day of February 2022



Commissioner for taking Affidavits, etc

Invoice

Invoice Number : 9921923 Client Number : 0789331
 Invoice Date : Jun 30 2021 Invoice Terms : Due Upon Receipt

Nauss Plumbing & Heating Inc.
 c/o MNP LTD.
 300-111 Richmond Street West
 Toronto, ON M5H 2G4

For Professional Services Rendered :

Professional services as Court Appointed Receiver and Manager of Nauss Plumbing & Heating Inc. for the period ended June 24, 2021 as set out on the attached time and billing summary 26,028.63

Harmonized Sales Tax : 3,383.72

Total (CAD) : 29,412.35

HST Registration Number . 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We
 sincerely appreciate your trust in us.

Licensed Insolvency Trustees
 111 RICHMOND STREET WEST, SUITE 300;
 TORONTO ON; M5H 2G4
 P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

MNP LTD.

COURT APPOINTED RECEIVER AND MANAGER OF NAUSS PLUMBING & HEATING INC.

FOR THE PERIOD MAY 1 TO JUNE 24, 2021

DATE	PROFESSIONAL	HOURS	DESCRIPTION
01-May-2021	Jerry Henechowicz	2.50	Drafting of 2nd Report to Court
01-May-2021	Robert Wiley	.60	get truck out of the warehouse.. truck wouldn't start had some fun getting it to work.
02-May-2021	Jerry Henechowicz	2.10	Drafting of 2nd Report to Court
03-May-2021	Jerry Henechowicz	3.60	Preparation of second report to Court accumulation of Appendices
03-May-2021	Sheldon Title	1.00	review of report
03-May-2021	Robert Wiley	.30	email and call w/ Denis, send email to Jerry re same
04-May-2021	Jerry Henechowicz	2.70	Multiple redrafts and amendments to completion of 2nd report and confidential supplement report
05-May-2021	Jerry Henechowicz	1.20	Multiple calls and emails with Frank Spizziri related to sale approval motion, redrafting of Supplemental confidential report, review and payment of operating expenses, responding to emails related to Tereschenko claims re Arena property, responding to Storage Customers.
05-May-2021	Patricia Ball	.20	process cheque requisitions
06-May-2021	Jerry Henechowicz	1.00	Update to confidential supplement, calls with Frank Spizziri on timing of motion, call with Robert Wiley and Dennis Groves to arrange Arena moveout, calls/emails from storage
06-May-2021	Jim Guo	.20	chq run
06-May-2021	Robert Wiley	.40	meeting w/ Jerry and Dennis
07-May-2021	Jerry Henechowicz	1.00	Updates to confidential supplement completion of same review of emails re closings timelines
09-May-2021	Jerry Henechowicz	1.50	Preparing and sending notice for removal of 3rd Party property at Arena Property
10-May-2021	Jerry Henechowicz	3.10	Calls with counsel regarding hearing on sale approval, responding to calls emails from storage customers, arranging staff for Arena Removal, emails and calls with Eric Rockefeller on proposed distributions of sale proceeds, execution and sending of closing documents
10-May-2021	Robert Wiley	.30	call w/ Jerry, call from Guy re Greg getting calls intended for Dennis and email his Dennis's number for the people calling and texting Greg.
10-May-2021	Robert Wiley	.40	Talk with Partners, calls with staff to see if they can take on the Thursday and Friday, Several calls. Talk with Katrina, email Jerry same with her availability.
10-May-2021	Trina Bumingham	.50	Documents uploaded to MNPdebt webpage; Documents saved to directory.
11-May-2021	Jerry Henechowicz	1.50	Follow up on Court attendance, execution of Receiver certificates, calls and emails related to Arena releases
11-May-2021	Robert Wiley	.40	discussion with Jerry, call purchasers lawyer, track down copy of new key that Terry made.
12-May-2021	Jerry Henechowicz	1.80	On-going emails and calls re Arena moveout,
12-May-2021	Robert Wiley	.20	call from Maja @ audaxlaw
12-May-2021	Robert Wiley	.30	discussion with Jerry and Katerina and get Katerina set up with some internet
13-May-2021	Jerry Henechowicz	.30	Update on removal of 3rd party equipment from site
13-May-2021	Katerina Choumskaia	8.00	bankruptcy asset removal
14-May-2021	Jerry Henechowicz	1.10	Follow up on motion, updates on status of arena move out
14-May-2021	Katerina Choumskaia	8.00	bankruptcy asset removal
15-May-2021	Katerina Choumskaia	8.00	bankruptcy asset removal
17-May-2021	Jerry Henechowicz	.30	Emails to follow up on Arena moveout

**MNP LTD.
COURT APPOINTED RECEIVER AND MANAGER OF NAUSS PLUMBING & HEATING INC.**

FOR THE PERIOD MAY 1 TO JUNE 24, 2021

DATE	PROFESSIONAL	HOURS	DESCRIPTION
18-May-2021	Jerry Henechowicz	.80	Receipt and review of orders, cancellation of services for sold properties, preparing distribution
19-May-2021	Jerry Henechowicz	.20	Review of orders and preparing distributions
19-May-2021	Patricia Ball	.10	process cheque requisition
25-May-2021	Jerry Henechowicz	.30	Update to banking records and calls with employees
25-May-2021	Robert Wiley	.20	talk to dennis, get keys for Markstay & money for rick and email jerry re same.
25-May-2021	Robert Wiley	.40	call for 4m terry email jerry and ratal with Dennis
26-May-2021	Jerry Henechowicz	.30	Payment of expenses and review of insurance refund
26-May-2021	Jim Guo	.20	chq run
26-May-2021	Robert Wiley	.20	deposit money at bank
26-May-2021	Robert Wiley	.20	call from GSU wrt bills out for Nov 2020 - current. got invoices and send to Jerry via email
27-May-2021	Jerry Henechowicz	.20	Update email to Gowlings
27-May-2021	Matthew Lem	.10	Attend to wire transfer authorization
27-May-2021	Fatemah Khalfan	.50	- Arranged for wire transfer
28-May-2021	Jerry Henechowicz	.60	Payment of operating expenses and insurance recovery, distribution to Gowlings
28-May-2021	Jim Guo	.20	chq run
28-May-2021	Robert Wiley	.30	emails / discussion with Jerry see if another staff can attend.
28-May-2021	Robert Wiley	1.70	wait for client who is showing up to get equipment from the warehouse
31-May-2021	Jerry Henechowicz	.20	Preparation and sending of operating expenses
31-May-2021	Fatemah Khalfan	.30	- Posting wire transfer details to Ascend
31-May-2021	Fatemah Khalfan	.40	- Communications with vendor for new wire transfer details
31-May-2021	Fatemah Khalfan	.60	- 2 wire transfers
01-Jun-2021	Jerry Henechowicz	.30	Instructions to counsel re removal of Jennica springs equipment
01-Jun-2021	Fatemah Khalfan	.40	Term deposit was cashed and interest earned; had to post to Ascend with correction
01-Jun-2021	Fatemah Khalfan	1.00	- Prepared, sent 2 wire transfers for authorization; saved to client folder; posted to Ascend
02-Jun-2021	Jerry Henechowicz	.20	Follow up on Closing of Arena and removal of Jennica Springs equipment
03-Jun-2021	Jerry Henechowicz	.30	Call with Spizziri re letter to Jennica Springs purchaser to pick up assets, review of correspondence
03-Jun-2021	Fatemah Khalfan	.40	Checked Notes and WIP on MP with update received from JH
04-Jun-2021	Jerry Henechowicz	.30	Calls and emails with 2nd mortgagee
04-Jun-2021	Fatemah Khalfan	.30	Received call from creditor (739572 Ontario Ltd); discussed with creditor; passed information on to JH
07-Jun-2021	Chahna Nathwani	1.00	Invoice Preparation-1st to 31st May 2021- Matthew
08-Jun-2021	Jerry Henechowicz	.50	Preparation of draft R&D and ERV

MNP LTD.

COURT APPOINTED RECEIVER AND MANAGER OF NAUSS PLUMBING & HEATING INC.

FOR THE PERIOD MAY 1 TO JUNE 24, 2021

DATE	PROFESSIONAL	HOURS	DESCRIPTION
10-Jun-2021	Jerry Henechowicz	.30	Responding to emails related to Arena and Jennica Springs closing
16-Jun-2021	Jerry Henechowicz	.20	Follow up on status of closing
16-Jun-2021	Robert Wiley	.20	call from Terry, email Denis and Jerry
16-Jun-2021	Chahna Nathwani	.30	Cheque Requisition- Enbridge and Eastlink J. HENECHOWICZ
21-Jun-2021	Patricia Ball	.10	cheque requisition
21-Jun-2021	Patricia Ball	.50	March-May Bank Recs
21-Jun-2021	Chahna Nathwani	.20	Cheq Req, Ascend posting - MOORE PROPANE LTD
21-Jun-2021	Fatemah Khalfan	.40	Cheque requisition prepared
22-Jun-2021	Patricia Ball	.40	May Bank Rec
22-Jun-2021	Matthew Lem	.10	Attend to call from AUDAXLAW re closing;
22-Jun-2021	Chahna Nathwani	.20	Cheque Requisition - Hydro One
23-Jun-2021	Matthew Lem	1.20	Review documents; attend to video conference all with M. Petrovic re closing on 7 Millichamp; email documents to AUDAXLAW; arrange for courier to AUDAXLAW of documents; discussions with
24-Jun-2021	Chahna Nathwani	.20	Cheque requisition and entry into Ascend

69.50

BILLING SUMMARY			
PROFESSIONAL	HOURS	HOURLY RATE	AMOUNT
Chahna Nathwani	1.90	215.00	408.50
Fatemah Khalfan	4.30	215.00	924.50
Jerry Henechowicz	28.40	590.00	16,756.00
Jim Guo	0.60	190.00	0.36
Katerina Choumskaia	24.00	200.00	4,800.00
Matthew Lem	1.40	290.00	406.00
Patricia Ball	1.30	190.00	247.00
Robert Wiley	6.10	275.00	1,677.50
Sheldon Title	1.00	590.00	590.00
Trina Burningham	0.50	215.00	107.50
Total	69.50		25,917.36

DISBURSEMENTS

Travel	111.27
TOTAL FEES AND DISBURSEMENTS	<u>26,028.63</u>

Invoice

Invoice Number : 10171870

Client Number : 0789331

Invoice Date : Feb 1 2022

Invoice Terms : Due Upon Receipt

Nauss Plumbing & Heating Inc.
 c/o MNP LTD.
 300-111 Richmond Street West
 Toronto, ON M5H 2G4

For Professional Services Rendered :

Professional services as Court-appointed Receiver and Manager of Nauss
 Plumbing & Heating Inc. for the period ended January 31, 2022 as set out on
 the attached time and billing summary. 8,727.50

Harmonized Sales Tax : 1,134.58

Total (CAD) : 9,862.08

HST Registration Number 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We
 sincerely appreciate your trust in us.

Licensed Insolvency Trustees
 111 RICHMOND STREET WEST, SUITE 300;
 TORONTO ON; M5H 2G4
 P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

**MNP LTD.
COURT APPOINTED RECEIVER AND MANAGER OF NAUSS PLUMBING & HEATING INC.**

FOR THE PERIOD ENDED JANUARY 31, 2022

DATE	PROFESSIONAL	HOURS	DESCRIPTION
29-Jun-2021	Fatemah Khalfan	.50	Prepared draft May invoice; sent to M. Lem for review
30-Jun-2021	Jerry Henechowicz	.20	Follow up on closing proceeds
05-Jul-2021	Matthew Lem	.10	Wire authorization
05-Jul-2021	Chahna Nathwani	.70	Cheque Requisitions for Jerry
05-Jul-2021	Fatemah Khalfan	.50	Wire requisition prepared; wire transfer authorized and sent to M. Lem for his authorization; saved to client folder
06-Jul-2021	Chahna Nathwani	.50	Cheque preparation, entry into Ascend, cheque process, cheque printing, mail preparation
06-Jul-2021	Fatemah Khalfan	.40	Prepared wire requisition; processed wire authorization (Gowling) from my end and sent to M. Lem to authorize from his end
12-Jul-2021	Chahna Nathwani	.10	Deposit voucher - Espandola general hospital
13-Jul-2021	Fatemah Khalfan	.40	Cheque requisition prepared, sent to J. Henechowicz
14-Jul-2021	Fatemah Khalfan	.40	Forwarded emails received from J. Henechowicz re receipts and disbursements to C. Nathwani for bank reconciliation
14-Jul-2021	Fatemah Khalfan	.40	Forwarded emails received from J. Henechowicz re receipts and disbursements to C. Nathwani for bank reconciliation
19-Jul-2021	Chahna Nathwani	.60	cheque requisition, entering payment into ascend, Process cheque, Printing, Preparing for mailing, scanning cheque and save a copy - Keith R. Thompson Inc.
26-Jul-2021	Patricia Ball	.10	June Bank Rec
28-Jul-2021	Chahna Nathwani	.20	Cheque requisition preparation, Posting into Ascend
28-Jul-2021	Chahna Nathwani	.50	cheque requisition, process , posting into Ascend
28-Jul-2021	Chahna Nathwani	.70	Change of ownership - Request call to Eastlink and Hydro
20-Aug-2021	Fatemah Khalfan	.40	Cheque requisition for MNP Invoice sent to J. Henechowicz; cheque printed
24-Aug-2021	Jerry Henechowicz	.30	Follow up on status of source audit
27-Aug-2021	Jerry Henechowicz	.60	Follow up on CRA audit
27-Aug-2021	Fatemah Khalfan	.70	Cheque received; recorded; deposit slip printed; taken to bank for deposit
27-Aug-2021	Fatemah Khalfan	1.00	Received cheque; prepared deposit slip; attended at bank for deposit
30-Aug-2021	Jerry Henechowicz	.10	Responding to creditors
31-Aug-2021	Fatemah Khalfan	.30	Creditors package emailed
08-Sep-2021	Jerry Henechowicz	.30	Follow up on CRA source claim and audit
09-Sep-2021	Jerry Henechowicz	.30	Preparation and sending of reporting email to CIBC
10-Sep-2021	Matthew Lem	.30	Attend to up load documents to CRA
15-Sep-2021	Jerry Henechowicz	.20	HST Filings

MNP LTD.

COURT APPOINTED RECEIVER AND MANAGER OF NAUSS PLUMBING & HEATING INC.

FOR THE PERIOD ENDED JANUARY 31, 2022

DATE	PROFESSIONAL	HOURS	DESCRIPTION
16-Sep-2021	Patricia Ball	.10	Aug Bank Rec
17-Sep-2021	Jerry Henechowicz	.20	On going follow up re CRA source claim
22-Sep-2021	Robert Wiley	.20	email from Chahna and looking to find relevant informaiton to email to her.
22-Sep-2021	Chahna Nathwani	.50	call in with Jerry, communication with Robert Wiley regarding CRA outstanding documents
23-Sep-2021	Fatemah Khalfan	.60	Recorded receipt of a cheque x 2 accounts; prepared receipt voucher; sent to J. Henechowicz
06-Jan-2022	Jerry Henechowicz	1.10	Preparation for and call with CIBC and Gowlings to review CRA claim's
07-Jan-2022	Jerry Henechowicz	.30	Calls with CRA re obtain their statutory claims, preparation of revised distribution to CIBC and forwarding to Spizzirri for review.
10-Jan-2022	Jerry Henechowicz	.60	Call with Spizzirri to review revised payout estimates and preparation of reporting email to CIBC
10-Jan-2022	Fatemah Khalfan	.50	Prepared two cheque requisitions for MNP Invoices; sent to M. Lem and J. Henechowicz
11-Jan-2022	Fatemah Khalfan	.50	Cheque requisition signed off by M. Lem and J. Henechowicz; cheque printed
24-Jan-2022	Jerry Henechowicz	.30	Emails to Frank Spizzirri re timing of discharge motion, emails with CRA re claim
26-Jan-2022	Jerry Henechowicz	2.50	Drafting of discharge report
26-Jan-2022	Fatemah Khalfan	.20	Emails exchanged with P. Ball on a credit received on bank statement
27-Jan-2022	Jerry Henechowicz	2.20	Calls with CRA and drafting of report
31-Jan-2022	Jerry Henechowicz	.70	Reporting drafting
31-Jan-2022	Fatemah Khalfan	.20	Email sent to J. Henechowicz for details on a deposit; received information back and forwarded to P. Ball
31-Jan-2022	Fatemah Khalfan	.80	HST collected compiled for J. Henechowicz, re: RT0002 returns to be filed

22.30

BILLING SUMMARY			
PROFESSIONAL	HOURS	HOURLY RATE	AMOUNT
Chahna Nathwani	3.80	215.00	817.00
Fatemah Khalfan	7.80	215.00	1,677.00
Jerry Henechowicz	9.90	595.00	5,890.50
Matthew Lem	0.40	595.00	238.00
Patricia Ball	0.20	200.00	40.00
Robert Wiley	0.20	325.00	65.00
Total	22.30		8,727.50

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING AND HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**AFFIDAVIT OF JERRY
HENECHOWICZ
(SWORN FEBRUARY 4, 2022)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330
frank.spizzirri@audaxlaw.com

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX K

Court File No. CV-19-00008866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

AFFIDAVIT OF ARTURO PUGLIESE

(Sworn February 15, 2022)

I, **ARTURO PUGLIESE**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the principal of Audaxlaw PC (“**Audax**”) and as such I have personal knowledge of the matters to which I hereinafter depose, save and except those matters based upon information and belief, in which case I have stated the source of such facts, all of which I verily believe to be true.
2. Pursuant to an order of the Court dated November 13, 2020, MNP Ltd. (“**MNP**”) was appointed receiver and manager of all of the assets, undertakings and properties of Nauss Plumbing & Heating Inc.. MNP retained Audax as its counsel in this matter.

3. Attached hereto and marked as **Exhibit "A"** to this my affidavit is a true copy of the invoice issued by Audax for fees and disbursements incurred by Audax in respect of this proceeding for the period April 1, 2021 to May 14, 2021 (the "**Period**"). The total fees charged for the Period are \$16,225.00, plus HST of \$2,109.25 for a total of \$18,334.25.

4. Attached hereto and marked as **Exhibit "B"** to this my affidavit is a true copy of the invoice issued by Audax for fees and disbursements incurred by Audax in respect of this proceeding relating to the sale of the "Jennica Springs" property (the "**Jennica Springs Transaction**"). The total fees charged for the Jennica Springs Transaction are \$5,520.00, plus disbursements of \$275.68 plus HST of \$740.76 for a total of \$6,536.44.

5. Attached hereto and marked as **Exhibit "C"** to this my affidavit is a true copy of the invoice issued by Audax for fees and disbursements incurred by Audax in respect of this proceeding relating to the sale of the "Centre Street" property (the "**Centre Street Transaction**"). The total fees charged for the Centre Street Transaction are \$3,595.00, plus disbursements of \$471.74 plus HST of \$519.65 for a total of \$4,586.39.

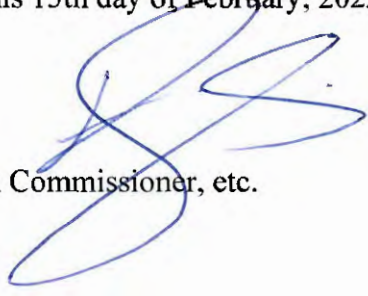
6. Attached hereto and marked as **Exhibit "D"** to this my affidavit is a true copy of the invoice issued by Audax for fees and disbursements incurred by Audax in respect of this proceeding relating to the sale of the "Millichamp" property (the "**Millichamp Transaction**"). The total fees charged for the Millichamp Transaction are \$5,000.00, plus disbursements of \$350.31, plus HST of \$680.79 for a total of \$6,031.10.

7. The average hourly rate charged across all four (4) accounts set out above was approximately \$424.10.

8. The invoices are a fair and accurate description of the services provided and the amounts charged by Audax herein.

9. I make this affidavit in support of a motion for an Order approving Audax's fees and disbursements and for no other or improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario,
this 15th day of February, 2022



A Commissioner, etc.

)
)
)
)
)
)
)
)
)
)



ARTURO PUGLIESE

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF ARTURO PUGLIESE
SWORN BEFORE ME
THIS 15th DAY OF FEBRUARY, 2022**



A Commissioner, etc.

Arturo R. Pugliese o/a AUDAX Law
Barrister & Solicitor

3300 Bloor Street West, Suite 670
 West Tower
 Toronto, ON M8X 2X2

Phone: 416-862-8329

Fax: 416-862-8330

MNP Ltd.

May 21, 2021

111 Richmond Street West

Suite 300

Toronto, ON M5H2G4 Canada

File #: 20-296

Attention: Jerry Henechowicz

Inv #: 3095

RE: Counsel to Court-Appointed Receiver

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Lawyer</u>
Apr-01-21	exchange of correspondence with counsel to the purchaser of Lasalle Property regarding clean up; exchange of correspondence with real estate agent regarding remaining three (3) properties	0.80	FS
Apr-06-21	exchange of correspondence with J. Henechowicz regarding vehicles and equipment at the Arena Property	0.40	FS
Apr-07-21	exchange of correspondence with J. Henechowicz regarding status of APA negotiations	0.40	FS
Apr-08-21	correspondence to D. Ewart regarding deal issues; review draft correspondence regarding removal of vehicles from the Arena Property; create a distribution waterfall spread sheet	1.10	FS
Apr-09-21	correspondence from counsel to Arena Property purchaser regarding status	0.20	FS
Apr-13-21	review status of remaining sales of properties; correspondence to/from J. Henechowicz regarding status; call from M. Speigel from Kora Management Ltd.	1.00	FS
Apr-14-21	call to T. Zuk, real estate agent; exchange of correspondence with J. Henechowicz	0.30	FS
Apr-15-21	calls to/from T. Zuk regarding sale of three properties	0.40	FS
Apr-16-21	calls to/from T. Zuk (x3); correspondence from D. Ewart regarding Arena property	1.20	FS
Apr-20-21	call with J. Henechowicz regarding timing of motion; revise APA for Arena property	1.00	FS

Apr-21-21	circulate revised APA for Arena property; review receivership order regarding priorities; exchange of correspondence with J. Henechowicz	0.80	FS
Apr-22-21	exchange of correspondence with counsel to Arena Property Purchaser regarding finalizing APA; exchange of correspondence with J. Henechowicz regarding timing of court approval and CIBC's support of sales; revise Arena Property APA	1.40	FS
Apr-23-21	exchange of correspondence with counsels for Arena Property;	0.20	FS
Apr-26-21	review CRA initial claim;	0.40	FS
Apr-27-21	correspondence from counsel to Arena Property purchaser; outline notice of motion; exchange of correspondence with J. Henechowicz regarding sale approval motion;	0.50	FS
Apr-28-21	draft motion record and draft orders; exchange of correspondence with counsel to Arena Property purchaser	1.00	FS
Apr-29-21	correspondence with J. Henechowicz regarding transactions	0.40	FS
May-03-21	work on motion materials and review and comment on Second Report of the Receiver; calls to/from J. Henechowicz	0.60	FS
May-04-21	finalize motion record; various discussions with J. Henechowicz regarding finalizing Second Report and Confidential Supplement; co-ordinate filing of motion record; draft factum; review case law	3.90	FS
May-05-21	liaise with Sudbury Court regarding scheduling of May 11, 2021 motion;	0.40	FS
May-06-21	liaise with Sudbury Courthouse regarding motion on May 11, 2021; correspondence to service list; draft factum and review cases	1.50	FS
May-07-21	finalize factum and book of authorities; have factum and book of authorities served and confidential report delivered with the court	1.40	FS
May-10-21	draft orders and liaise with court office with respect to court materials and motion; calls (x2) with J. Henechowicz regarding motion and CIBC; call with CIBC's counsel with respect to interim distribution; in house discussion with M. Petrovic regarding motion and closing of sale transactions	1.80	FS
May-11-21	correspondence from CIBC's counsel regarding interim distribution; prepare for an attend motion; liaise with Justice Cornell's Registrar regarding revised orders; exchange	4.20	FS

	of correspondence with court office requesting and confirm motion on May 14, 2021; discussions with M. Petrovic regarding closings and potential extension of closings; correspondence to service list (x2) regarding orders and motion adjournmen		
May-12-21	discussion with M. Petrovic re post-closing matters; exchange of correspondence with Sudbury courthouse regarding May 14, 2021 motion	0.60	FS
May-13-21	letter to Sudbury courthouse regarding motion on May 14, 2021; correspondence to Sudbury courthouse regarding filing of receiver's certificates for sold properties; prepare for motion	1.20	FS
May-14-21	prepare for motion; attend motion for approval of Arena property sale and administrative relief; call with J. Henechowicz	2.40	FS
	Total Hours	<hr/> 29.50	
	Total Fees	<hr/> \$16,225.00	
	HST on Fees	\$2,109.25	
	Total Disbursements	<hr/> \$0.00	<hr/> \$0.00
	HST on Disbursements	\$0.00	

Total Fees, Disbursements & HST

\$18,334.25

Balance Due Now

\$18,334.25

Total HST: \$2,109.25

HST #: 87666 6710 RT0001

* tax-exempt

E. & O.E.
AUDAX law

Per:



Arturo B. Pugliese

Accounts due when rendered. Interest will be charged at the rate of 2.50% per annum (or as otherwise permitted by the Courts of Justice Act, or at law) on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

TRUST STATEMENT

		<u>Disbursements</u>	<u>Receipts</u>
Mar-26-21	Received From: MNP Ltd.		10,143.22
	Funds Received on Account		
Apr-06-21	Paid To: Arturo R. Pugliese o/a AUDAX Law	10,143.22	
	Payment of Invoice No. 3041		
Apr-23-21	Received From: MNP Ltd.		8,926.04
	Funds Received on Account		
May-03-21	Paid To: Arturo R. Pugliese o/a AUDAX Law	8,926.04	
	Payment of Invoice No. 3068		
	Total Trust	\$19,069.26	\$19,069.26
	<u>Trust Balance</u>		<u>\$0.00</u>

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF ARTURO PUGLIESE
SWORN BEFORE ME
THIS 15th DAY OF FEBRUARY, 2022**



A Commissioner, etc.

Arturo R. Pugliese o/a AUDAX Law
Barrister & Solicitor

3300 Bloor Street West, Suite 670
 West Tower
 Toronto, ON M8X 2X2

Phone: 416-862-8329

Fax: 416-862-8330

MNP Ltd.

May 21, 2021

111 Richmond Street West
 Suite 300

Toronto, ON M5H2G4 Canada

File #: 21-252

Attention: Jerry Henechowitz

Inv #: 3097

RE: MNP Ltd., solely in its capacity as court appointed receiver and manager of
 NAUSS PLUMBING & HEATING INC sale of 1330 North Road,
 Markstay-Warren, ON (Jennica Springs Property)

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Lawyer</u>
Mar-02-21	TO PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING:	0.30	ARP
	TO review APA and to discuss with M. Petrovic reviews to be performed;		
Apr-07-21	follow up with counsel to purchaser of 1330 North Road property remaining properties regarding draft APA and exchange of correspondence:	0.30	FS
Apr-16-21	correspondence from/to A. Dumas regarding 1330 North Road property	0.40	FS
Apr-21-21	exchange of correspondence with A. Dumas regarding 1330 North Road property; revise APA for 1330 North Road and circulate	1.10	FS
Apr-23-21	exchange of correspondence with agent for purchaser of 1330 North Road regarding APA	0.30	FS
Apr-26-21	exchange of correspondence with J. Henechowitz regarding 1330 North Road property	0.40	FS
Apr-27-21	exchange of correspondence with agent for Jennica Springs purchaser	0.40	FS
Apr-28-21	exchange of correspondence with counsel and with 1330 North Road property agent	0.40	FS
Apr-29-21	exchange of correspondence with agent for 1330 North Road purchaser	0.40	FS
Apr-30-21	call to J. Henechowitz regarding 1330 North Road deal;	0.40	FS

	correspondence to agent of 1330 North Road purchaser regarding deal	0.40	FS
May-05-21	exchange of correspondence with counsel to purchaser of 1330 North Road Property	0.70	FS
May-06-21	call with counsel to purchaser of 1330 North Road property;	0.60	FS
	call with J. Henechowicz regarding status of 1330 North Road Property transaction;	0.30	FS
May-07-21	discussion with M. Petrovic re statement of adjustments for 1330 North Road Property;	0.30	FS
	TO reviewing final APA; to preparing closing agenda and draft documents; to preparing draft statement of adjustments; TO correspondence with F.Spizzirri re: file;	1.20	MP
May-10-21	TO revising closing agenda, preparing draft Direction re Title; TO follow up with client re Statement of Adjustments; TO correspondence with purchaser solicitor;	1.20	MP
	TO finalizing signing package; TO finalizing trust ledger(s); TO correspondence with A.Pugliese and F.Spizzirri re: Trust Ledger; TO correspondence with purchaser solicitor re: closing; TO coordinating and conducting virtual signing appointment;	1.20	MP
	TO signing appointment with client;	0.25	MP
May-11-21	TO correspondence with F.Spizzirri and A.Pugliese re file; to correspondence with client re closing; TO correspondence with purchaser's solicitor re closing, documents and funds; TO reviewing closing documents of purchaser; TO coordinating signing of receiver's certificate and providing same to purchaser's lawyer; to correspondence with R. Wiley re: keys;	1.00	MP
	TO correspondence with A.Pugliese re file;	1.00	MP
	TO correspondence with client and R.Wiley and purchaser solicitor re: key pick up delivery/arrangement	0.20	MP
May-13-21	TO attend to the closing of the transaction; TO providing funds to the tax department, realtors and client; TO reporting to client.	0.70	ARP

Total Hours

13.45

Total Fees

\$5,520.00

HST on Fees

\$717.60

DISBURSEMENTS

	<u>Disbursements</u>	<u>Receipts</u>
May-12-21 Transfer Trust funds - General to Trust*	17.50	
Courier	33.18	
May-13-21 Photocopies, Faxes and Postage	30.00	
File Storage	50.00	
May-17-21 Bank Charges*	80.00	
Transaction Levy: Deed/Transfer (DT) for Transferor	65.00	
Total Disbursements	\$275.68	\$0.00
HST on Disbursements	\$23.16	
Total Fees, Disbursements & HST		\$6,536.44
 Balance Due Now		\$6,536.44

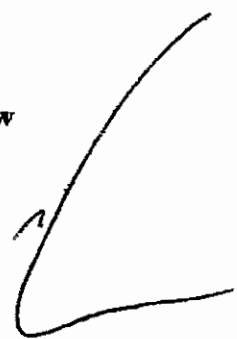
Total HST: \$740.76

HST #: 87666 6710 RT0001

* tax-exempt

E. & O.E.
AUDAX law

Per:



Arturo R. Pugliese

Accounts due when rendered. Interest will be charged at the rate of 2.50% per annum (or as otherwise permitted by the Courts of Justice Act, or at law) on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

TRUST STATEMENT

		<u>Disbursements</u>	<u>Receipts</u>
May-11-21	Received From: 11993330 Canada Inc.		193,279.21
	Funds Received on Account		
May-12-21	Received From: TD Canada Trust - Acct. Transfer		17.50
	Transfer Trust funds - General to Trust		
	Paid To: Re/Max Crown Realty (1989) Inc.	13,983.75	
	Funds Disbursed on Account		
	Paid To: Town of Markstay-Warren	9,013.73	
	Funds Disbursed on Account		
	Paid To: MNP Ltd.	170,299.23	
	Funds to Client		
	Total Trust	\$193,296.71	\$193,296.71
	<u>Trust Balance</u>		<u>\$0.00</u>

**THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF ARTURO PUGLIESE
SWORN BEFORE ME
THIS 15th DAY OF FEBRUARY, 2022**



A Commissioner, etc.

Arturo R. Pugliese o/a AUDAX Law
Barrister & Solicitor

3300 Bloor Street West, Suite 670
 West Tower
 Toronto, ON M8X 2X2

Phone: 416-862-8329

Fax: 416-862-8330

MNP Ltd.

May 21, 2021

111 Richmond Street West
 Suite 300
 Toronto, ON M5H2G4 Canada

File #: 21-215

Attention: Jerry Henechowicz

Inv #: 3096

RE: MNP LTD., solely in its capacity as court appointed receiver and manager
 of NAUSS PLUMBING & HEATING INC asset sale of 551 Centre Street,
 Espanola ON

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Lawyer</u>
Mar-02-21	TO PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING:	0.30	ARP
	TO review APA and to discuss with M. Petrovic reviews to be performed;		
Mar-03-21	TO review of APA and providing comments;	0.50	MP
Apr-07-21	follow up with counsel to purchaser of 551 Centre Street property remaining properties regarding draft APA and exchange of correspondence;	0.30	FS
Apr-13-21	correspondence to R. Patel counsel to Purchaser regarding APA;	0.20	FS
Apr-14-21	exchange of correspondence with counsel to 551 Centre Street purchaser regarding status of APA negotiations;	0.30	FS
Apr-16-21	correspondence from R. Patel regarding 551 Centre Street property:	0.20	FS
Apr-20-21	revise APA for 551 Centre Street property and circulate	0.80	FS
Apr-22-21	revise 551 Centre Street property APA	0.40	FS
Apr-23-21	exchange of correspondence with counsels for 551 Centre Street property regarding finalizing and signing APA;	0.30	FS
Apr-29-21	correspondence from counsel to 551 Centre Street property purchaser	0.40	FS

May-04-21	TO reviewing Purchase Agreement; TO preparing closing agenda; TO preparing draft closing documents;	1.20	MP
May-05-21	TO finalizing closing agenda and draft documents;	0.50	MP
May-07-21	TO arrange book of Authorities of the Receiver; TO correspondence to and from F. Spizzirri; TO arrange same to be sent to court; TO finalizing statement of adjustments (the "SOA"); TO correspondence with F.Spizzirri re: SOA; TO correspondence with Town re tax arrears; TO sending SOA to client for approval;	0.20	ARP
		0.40	MP
May-10-21	TO finalizing signing package; TO finalizing trust ledger(s); TO correspondence with A.Pugliese and F.Spizzirri re: Trust Ledger; TO correspondence with purchaser solicitor re: closing; TO coordinating virtual signing appointment;	1.20	MP
	TO signing appointment with client via Zoom	0.25	MP
May-11-21	TO correspondence with F.Spizzirri and A.Pugliese re: file; TO correspondence with client re: closing; TO correspondence with purchaser's solicitor re: closing, documents and funds; TO reviewing closing documents of purchaser; TO coordinating signing of receiver's certificate and providing same to purchaser's lawyer; TO correspondence with R. Wiley re: keys;	1.00	MP
	TO correspondence with A.Pugliese re file;	1.00	MP
May-12-21	TO correspondence with purchaser solicitor and R. Wiley re key pickup/delivery arrangements;	0.20	MP
May-13-21	TO attend to the closing of the transaction; TO providing funds to the tax department, realtors and client; TO reporting to client.	0.34	ARP

Total Hours

9.99

Total Fees

\$3,595.00

HST on Fees

\$467.35

DISBURSEMENTS**Disbursements****Receipts**

Apr-21-21	Name Search	14.49	
	Name Search - Gov. Fee*	8.00	
Apr-27-21	Corporate Profile Report - Gov Searches*	16.00	
	Corporate Profile Report	14.49	
	Corporate Profile Report - Gov Searches*	16.00	
	Corporate Profile Report	14.49	
May-04-21	Title Searches - Stat. Fee*	29.40	
	Title Searches	71.55	
May-10-21	Courier	36.13	
May-12-21	Courier	26.19	
	Bank Charges	80.00	
	File Storage	50.00	
	Photocopies, Faxes and Postage	30.00	
	Transaction Levy: Deed/Transfer (DT) for Transferor	65.00	
	Total Disbursements	\$471.74	\$0.00
	HST on Disbursements	\$52.30	

Total Fees, Disbursements & HST

\$4,586.39

Balance Due Now

\$4,586.39

Total HST: \$519.65

HST #: 87666 6710 RT0001

* tax-exempt

E. & O.E.
AUDAX law

Per:



Arturo R. Pugliese

Accounts due when rendered. Interest will be charged at the rate of 2.50% per annum (or as otherwise permitted by the Courts of Justice Act, or at law) on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

TRUST STATEMENT

		<u>Disbursements</u>	<u>Receipts</u>
May-11-21	Received From: 2819163 Ontario Inc.		266,332.96
	Funds Received on Account		
May-12-21	Paid To: Re/Max Crown Realty (1989) Inc.	15,000.75	
	Funds Disbursed on Account		
	Paid To: Town of Espanola	25,541.61	
	Funds Disbursed on Account		
	Paid To: MNP Ltd.	225,790.60	
	Funds to Client		
	Total Trust	\$266,332.96	\$266,332.96
	<u>Trust Balance</u>		<u>\$0.00</u>

**THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF ARTURO PUGLIESE
SWORN BEFORE ME
THIS 15th DAY OF FEBRUARY, 2022**



A Commissioner, etc.

**Arturo R. Pugliese o/a AUDAX Law
Barrister & Solicitor**

3300 Bloor Street West, Suite 670
West Tower
Toronto, ON M8X 2X2

Phone: 416-862-8329

Fax: 416-862-8330

MNP Ltd.

Jul 30, 2021

111 Richmond Street West
Suite 300

Toronto, ON M5H2G4 Canada

File #: 21-255

Attention: Jerry Henechowicz

Inv #: 3125

RE: MNP Ltd. (solely in its capacity as court appointed receiver and manager of
NAUSS PLUMBING & HEATING INC.) sale of 7 Millichamp St,
Markstay-Warren

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Lawyer</u>
May-21-21	TO PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING: review correspondence from and exchange of correspondence with J. Henechowicz regarding secured creditor distributions	0.30	FS
May-27-21	review correspondence regarding waiver of conditions by purchaser of Arena property and exchange of correspondence with J. Henechowicz	0.40	FS
May-28-21	exchange of correspondence with J. Henechowicz regarding purchaser of 1330 North Road property and removal of equipment from 7 Millichamp property	0.60	FS
Jun-01-21	exchange of correspondence with J. Henechowicz regarding the purchaser of the 1330 North Road property failing to collect assets from 7 Millichamp property	0.40	FS
Jun-03-21	draft and serve letter to purchaser of 1330 North Road property regarding equipment at 7 Millichamp property and discussion with J. Henechowicz	0.80	FS
Jun-08-21	exchange of correspondence with respect to the pick up of the equipment at the Arena property and cube van with purchaser of 1330 North Road property and J. Henechowicz	0.90	FS
Jun-10-21	correspondence from purchaser of 1330 North Road Property regarding pick up of equipment	0.50	FS

	and exchanges of correspondence with J. Henechowicz		
Jun-15-21	discussion with M. Petrovic regarding request to change the entity to take title and creating an assignment and assumption agreement	0.30	FS
	TO follow up with Tax Department re: outstanding taxes; TO follow up with F. Spizzirri re: Assignment and Assumption Agreement;	0.50	MP
Jun-18-21	discussion with M. Petrovic regarding purchaser questions regarding taking title via a vesting order	0.30	FS
	TO preparing draft Assignment and Assumption Agreement; TO call with F. Spizzirri re: Court Order; TO correspondence with Purchaser Solicitor re: title;	0.40	MP
Jun-21-21	review closing matters regarding payment of taxes and title transfer	0.30	FS
	TO correspondence with F. Spizzirri and A. Pugliese re: SOA, Trust Ledger, Tax Arrears and Undertaking re: Taxes; TO draft closing documents; TO correspondence with client re: closing;	2.00	MP
Jun-22-21	TO receipt and review email from M. Petrovic; TO review SOA and Trust Ledger and Undertaking; TO amendments to Undertaking; deal with HST registrant issue with purchaser; in house discussions with M. Petrovic regarding HST registration issue	0.20	ARP
	discussions with M. Petrovic regarding vesting order questions raised by Arena property purchaser's counsel; call with purchaser's counsel; deal with removal of remaining equipment at Arena property	0.40	FS
Jun-23-21	TO correspondence with Tax Department re: water/utility bill amounts owing;	0.70	FS
	TO correspondence with A. Pugliese and F. Spizzirri re: HST issue; TO review of case law and precedents re: HST issue; TO correspondence with Purchaser' solicitor re: same; TO coordinating and conducting virtual signing appointment with M. Lem;	1.00	MP
Jun-24-21	TO receipt and review email from M. Petrovic; TO correspondence with M. Petrovic and F. Spizzirri re: HST;	2.50	MP
	discussions with M. Petrovic regarding vesting order questions raised by Arena purchaser's counsel; call to Arena property purchaser's counsel; correspondence from Arena property purchaser's counsel; call to J. Henechowicz	1.20	FS

	and exchange of correspondence with J. Henechowitz		
	TO correspondence with Purchaser Solicitor re: closing documents and requirements; TO correspondence with F.Spizzirri and A. Pugliese re same;	2.00	MP
Jun-25-21	TO receipt and review email from M. Petrovic; TO correspondence with M. Petrovic and F. Spizzirri re: closing documents and requirements;	0.20	ARP
	TO receipt and review email from M. Petrovic; TO correspondence with M. Petrovic and F. Spizzirri re: closing the transaction; review closing and in house discussion regarding delivery of purchase price and keys	0.20	ARP
	TO arranging for the resigning of the Receiver's Certificate; TO final review of closing documents; TO correspondence with MNP re: arranging key delivery; TO facilitating closing of transaction; TO correspondence with F. Spizzirri and A. Pugliese re: same.	0.30	FS
		2.00	MP
Jul-16-21	Professional Courtesy Discount of \$2,090.00		FS

Total Hours 18.60

Total Fees \$5,000.00

HST on Fees \$650.00

DISBURSEMENTS

Disbursements

Receipts

Jul-05-21	File Storage	50.00
	Bank Charges*	95.00
	Photocopies, Postage and Faxes	30.00
	Courier	47.21
	Title and Execution Searches - Stat. Fee*	18.50
	Title and Execution Searches	44.60
	Transaction Levy: Deed/Transfer (DT) for Transferor	65.00

Total Disbursements	\$350.31	\$0.00
HST on Disbursements	\$30.79	
Total Fees, Disbursements & HST		\$6,031.10
Balance Due Now		\$6,031.10

Total HST: \$680.79

HST #: 87666 6710 RT0001

* tax-exempt

E. & O.E.
AUDAX law

Per:



Arturo R. Pugliese

Accounts due when rendered. Interest will be charged at the rate of 2.50% per annum (or as otherwise permitted by the Courts of Justice Act, or at law) on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

TRUST STATEMENT

		<u>Disbursements</u>	<u>Receipts</u>
Jun-25-21	Received From: Deane Ewart Law		630,032.18
	Funds Received on Account		
Jul-02-21	Paid To: Re/Max Crown Realty (1989) Inc.	35,595.00	
	Funds Disbursed on Account		
	Paid To: Town of Markstay-Warren	114,704.68	
	Funds Disbursed on Account		
	Paid To: Town of Markstay-Warren	3,360.89	
	Funds Disbursed on Account		
	Paid To: MNP Ltd.	476,371.61	
	Funds to Client		
	Total Trust	<u>\$630,032.18</u>	<u>\$630,032.18</u>
	<u>Trust Balance</u>		<u>\$0.00</u>

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING AND HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**AFFIDAVIT OF ARTURO
PUGLIESE
(SWORN FEBRUARY 15, 2022)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330
frank.spizzirri@audaxlaw.com

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

APPENDIX L



Canada Revenue Agency
Agence du revenu du Canada

London-Window for TSO (London)
London ON N6A 5E5

February 08, 2022

NAUSS PLUMBING AND HEATING INC.
C/O MNP LTD
300-111 RICHMOND ST W
TORONTO ON M5H 2G4

Dear Jerry Henechowicz

Subject: NAUSS PLUMBING & HEATING INC.
Account number: 10383 9965 RP0001

We were told that you have been appointed as receiver for the above-named. There is a debt owed to the Canada Revenue Agency for source deductions amounting to \$430,963.65 for income tax and Canada Pension Plan (CPP) contributions, as well as employment insurance (EI) premiums.

Details of the debt are as follows:

Tax deductions:	\$218,087.81
CPP:	\$ 45,599.20
EI:	\$ 26,835.97
Penalties and interest:	\$140,449.67
Total:	\$430,963.65

Further to the Income Tax Act, the Canada Pension Plan, and the Employment Insurance Act, the following amounts, which are included in the above totals, are trust funds and form no part of the property, business, or estate of NAUSS PLUMBING & HEATING INC. in receivership.

Federal income tax:	\$155,229.05
Provincial income tax:	\$ 53,039.42
CPP employee part:	\$ 22,672.85
EI employee part:	\$ 15,974.09
Total:	\$246,915.41

Payment for the total amount of this trust, namely \$246,915.41, must be made to the Receiver General for Canada out of the realization of any property that is subject to these statutory trusts in priority to all other creditors.

.../2

Canada

National Insolvency Office
461 Talbot Street
London ON N6A 5E5

Local : 416-779-5018
Toll Free : 1-888-229-9171
Fax : 519-675-3188
Web site : canada.ca/taxes

FEB. 8. 2022 11:19AM

- 2 -

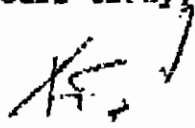
Please let us know when payment of this trust amount and the remaining balance of \$184,048.24 will be made.

This letter also serves as notice that should payment be made for any amount described in subsection 153(1) of the Income Tax Act for periods before or after your appointment, you must withhold tax deductions and remit payments in accordance with that subsection and sections 101 and 108 of the Income Tax Regulations.

Also, see section 5 of the Employment Insurance Act and section 8 of the Canada Pension Plan Regulations.

For more information or clarification, please call me at 416-779-1018.

Yours truly,



fi L. Nielsen (1217)
Complex Case Officer

Enclosure(s)

APPENDIX M

ATTACHMENT PAGE 1

Subject: NAUSS PLUMBING & HEATING INC.
Account number: 10383 9965 RP0001

We understand that you are the legal representative of the above-named employer and have, or are preparing to sell, liquidate, dispose of, or distribute property of this employer.

NAUSS PLUMBING & HEATING INC. owes amounts that were deducted from the wages of its employees but not paid to the Canada Revenue Agency (CRA).

As stated in subsections 227(4) and (4.1) of the Income Tax Act; subsections 23(3) and (4) of the Canada Pension Plan, and subsections 86(2) and (2.1) of the Employment Insurance Act; the following amounts are deemed to be held in trust until they are paid to the CRA.

Deemed trust claim:

Deemed trust date	Federal income tax	Provincial income tax	CPP contributions	EI premiums
10/FEB/2017	\$ 9,956.82	\$ 3,647.24	\$0	\$0
25/SEP/2017	\$51,441.36	\$17,489.93	\$0	\$4,584.82

Total deemed trust claim: \$87,120.17
(amount incurred prior to September 30, 2017)

When an employer does not pay an amount deemed to be held in trust, the CRA becomes the beneficial owner of, and has a priority interest over, all of the employer's property, even if there are registered or unregistered interests of other creditors. The CRA is not legally required to register a deemed trust debt against the employer's property.

The CRA also has a priority claim over the proceeds from selling, liquidating, distributing, or disposing of the employer's property. This is the case even if you received the proceeds because the employer voluntarily sold the property or if your interests in the employer's property occurred before the deemed trust date.

If you have a voluntary mortgage that was registered on the land or on a building owned by the employer before a deemed trust debt arose, part of your security interest may have priority over the amounts deemed to be held in trust. This is considered a prescribed security interest and is defined in Section 2201 of the Income Tax Regulations.

ATTACHMENT PAGE 2

If you have a mortgage that was registered before the deemed trust date(s) noted above, please call me at 416-779-5018. The CRA will need to determine the value of any prescribed security interest you have.

If there is no prescribed security interest, you must pay the total deemed trust claim in the amount of \$246,915.41 from the proceeds of the sale, liquidation, disposal or distribution of any property of the employer, minus the costs that you incurred to enforce recovery.

Your payment must be made payable to the Receiver General for Canada. Please write account number 10383 9965 RP0001 on the front of your cheque or money order and mail the payment to:

Canada Revenue Agency
PO Box 3800 STN A
Sudbury ON P3A 0C3

If you do not comply with this deemed trust claim, the CRA may have to start proceedings against you to recover these amounts.

For more information on deemed trust and prescribed security interest, go to canada.ca/cra-deemed-trust.

If you want more information or clarification about the CRA's deemed trust claim, please call me at 416-779-5018.

APPENDIX N



DEBT STATEMENT BY
Gowling WLG (Canada) LLP
("Gowling WLG")

TO: MNP Ltd., as receiver and manager of Nauss Plumbing & Heating Inc.

RE: Canadian Imperial Bank of Commerce ("CIBC" or the "Bank") loans to Nauss Plumbing & Heating Inc. (the "Debtor") pursuant to a credit agreement dated August 18, 2017 between CIBC, as lender, and the Debtor, as borrower (as amended, restated, replaced, renewed, extended, supplemented or otherwise modified from time to time, the "Credit Agreement")

Loan (#3892/5645050)	
Principal outstanding	\$131,075.80
Business Term Loan (#3892/2548054)	
Principal outstanding	\$66,052.59
Accrued interest to February 25, 2022	\$1,460.94
Interest accrues at CIBC's prime rate of interest plus 1.000% per year (per diem \$6.24)	
Total as at February 25, 2022	\$198,589.33
Legal fees	\$7,500.00
Taxes	\$ 975.00
Total costs as at February 25, 2022	\$8,475.00
TOTAL OUTSTANDING AS AT FEBRUARY 25, 2022	\$207,064.33

The debt statement set out herein is provided for informational purposes only. Payment instructions and undertakings relating to the discharge and release of registrations and security relating to the above-noted amounts are available on request.

Dom Glavota
Gowling WLG (Canada) LLP
Counsel to and agent for
Canadian Imperial Bank of Commerce

I have authority to bind the Bank.
e. & o.e.

**CANADIAN IMPERIAL BANK OF
COMMERCE**

NAUSS PLUMBING & HEATING INC.

- and -

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**THIRD REPORT OF THE
RECEIVER**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330
frank.spizzirri@audaxlaw.com

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

Court File No. CV-19-00008866-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE JUSTICE	)	FRIDAY, THE 25TH DAY OF
	)	FEBRUARY, 2022
)	

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

DISCHARGE ORDER

(February 25, 2022)

THIS MOTION, made by MNP Ltd., in its capacity as court appointed receiver and manager (the “**Receiver**”) of Nauss Plumbing & Heating Inc. (the “**Debtor/Bankrupt**”), for: i) an order approving the Third Report of the Receiver dated February 16, 2022 (the “**Third Report**”) as well as the conduct, decisions, and activities of the Receiver set out in the Third Report; ii) an order approving of the fees and disbursements of the Receiver and of its counsel; iii) an order approving the distribution of the remaining proceeds available in the estate of the Debtor/Bankrupt on the terms set out in the Third Report; and iii) an order discharging MNP Ltd. as Receiver of the undertaking, property and assets of the Debtor/Bankrupt and releasing it from any duties pursuant to the Order (appointing Receiver) dated November 13, 2020 (the “**Appointment Order**”), was heard this day, via videoconference, due to the COVID-19 pandemic.

ON READING the Third Report, and on hearing the submissions of counsel for the Receiver, and any such other counsel as present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Angela Makris, sworn May 16, 2022, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and of the Motion Record herein, be and is hereby validated and abridged so that this Motion is properly returnable today and hereby dispenses with any further service hereof.
2. **THIS COURT ORDERS AND DECLARES** that the Third Report and the decisions, conduct, and activities set out therein be and are hereby approved.
3. **THIS COURT ORDERS AND DECLARES** that the Receiver's Final Statement of Receipts and Disbursements as set out in the Third Report be and are hereby approved.
4. **THIS COURT ORDERS AND DECLARES** that the fees and disbursements of the Receiver and its counsel Audaxlaw PC as set out in the Third Report be and are hereby approved.
5. **THIS COURT ORDERS AND DECLARES** that after payment of the fees and disbursements herein approved, and reserving the amounts recommended by the Receiver in the Third Report for completing this matter, including fees, the Receiver is authorized and directed to distribute the monies remaining in its hands: first, to the Canada Revenue Agency; and second, to the extent any funds remain available, to the Applicant as shown in the payout statement(s) provided to the Receiver.
6. **THIS COURT ORDERS AND DECLARES** that upon payment of the amounts set out in paragraph 5 hereof (the "**Final Distribution**") and upon the Receiver filing a Discharge Certificate certifying that it has completed the other activities described in the Third Report in the form attached as Schedule "A" hereto, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor/Bankrupt, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the

provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of MNP Ltd. in its capacity as Receiver.

7. **THIS COURT ORDERS AND DELCARES** that, upon the filing of the Discharge Certificate, MNP Ltd. is hereby released and discharged from all duties and responsibilities pursuant to the Appointment Order, as well as any and all liability that MNP Ltd. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of MNP Ltd. while acting in its capacity as Receiver herein, save and except for any gross negligence or willful misconduct on the Receiver's part. Without limiting the generality of the foregoing, MNP Ltd. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or willful misconduct on the Receiver's part.
-

Court File No. CV-19-00008866-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

NAUSS PLUMBING & HEATING INC.

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hennessey of the Ontario Superior Court of Justice (the "**Court**") dated November 13, 2020, MNP Ltd. was appointed as receiver and manager (the "**Receiver**") of the assets, undertakings and properties of Nauss Plumbing & Heating Inc. ("**Nauss**").

B. Pursuant to an Order of the Court dated February 25, 2022 (the "**Discharge Order**"), MNP Ltd. was discharged as Receiver, in such capacity as set out above, to be effective upon the filing by the Receiver with the Court of a certificate confirming that the Receiver has made the Final Distribution as defined in the Third Report of the receiver dated February 16, 2022.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Receiver has made the Final Distribution;
2. The Receiver has completed all remaining tasks as set out in the Third Report and completed the administration of the estate of the Debtor, and no tasks remain to be completed by the Receiver pursuant to the Appointment Order; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MNP LTD. solely in its capacity as receiver and manager of NAUSS HEATING & PLUMBING INC., and not in any other capacity

Per:

Name:

Title:

**CANADIAN IMPERIAL BANK OF
COMMERCE**

NAUSS PLUMBING & HEATING INC.

- and -

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**DISCHARGE ORDER
(FEBRUARY 25, 2022)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330
frank.spizzirri@audaxlaw.com

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**

**CANADIAN IMPERIAL BANK OF
COMMERCE**

- and -

NAUSS PLUMBING & HEATING INC.

Court File No: CV-19-8866-0000

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at:
SUDBURY

**MOTION RECORD
(FEBRUARY 25, 2022)**

AUDAXLAW PC
Barristers and Solicitors
300 Bloor Street West
Suite 670 West Tower
Toronto, Ontario, M8X 2X2

Frank Spizzirri, CS
LSO No. 37327F
Tel: (416) 862-8329
Fax: (416) 597-8330
frank.spizzirri@audaxlaw.com

**Lawyers for the Court-Appointed
Receiver, MNP Ltd.**