

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE RECEIVERSHIP OF 1414614 ONTARIO INC.

BETWEEN:

THE MANUFACTURERS LIFE INSURANCE COMPANY

Applicant

And

1414614 ONTARIO INC.

Respondent

SUPPLEMENTAL REPORT TO THE FIRST REPORT OF THE RECEIVER

July 8, 2024



Grant Thornton Limited
200 King Street, 11th Floor
Toronto, Ontario
M5H 3T4

TABLE OF CONTENTS

INTRODUCTION 2

PURPOSE OF THIS REPORT..... 3

RESTRICTIONS 3

BACKGROUND..... 4

CLAIM REVIEW 4

RECEIVER’S ACTIVITIES..... 7

STATEMENT OF RECEIPTS AND DISBURSEMENTS 8

PROFESSIONAL FEES 9

DISCHARGE AND REMAINING ACTIVITIES 10

RECOMMENDATION 11

INDEX OF APPENDICES

- Appendix A** – Receivership Order dated June 4, 2024
- Appendix B** – Receiver’s R&D dated July 4, 2024
- Appendix C** – Wootton Affidavit dated July 5, 2024
- Appendix D** – Nowina Affidavit dated July 8, 2024

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE RECEIVERSHIP OF 1414614 ONTARIO INC.

BETWEEN:

THE MANUFACTURERS LIFE INSURANCE COMPANY

Applicant

And

1414614 ONTARIO INC.

Respondent

SUPPLEMENTAL REPORT TO THE FIRST REPORT OF THE RECEIVER

July 8, 2024

INTRODUCTION

1. This supplemental report (the “**Supplemental Report**”) to the first report of the Receiver dated July 4, 2024 is filed by Grant Thornton Limited (“**GTL**”) in its capacity as court-appointed receiver (the “**Receiver**”) of 1414614 Ontario Inc., which owns a large shopping centre known as the Ottawa Train Yards (the “**Debtor**”). The Debtor is the owner of a property known municipally as 100, 140 & 150 Trainyards Drive, 515 & 525 Industrial Avenue and 500 & 550 Terminal Avenue (the “**Property**”) in Ottawa, Ontario.
2. The Supplemental Report should be read in conjunction with the Receiver's First Report and defined terms that are not specifically defined in this Supplemental Report shall have the meanings as defined in the First Report.

PURPOSE OF THIS REPORT

3. The purpose of this Supplemental Report is to update the Court on the receivership proceedings and to provide information to the Court to support the Receiver's request for an order, *inter alia*:
 - (a) approving this Supplemental Report and the activities of the Receiver as described herein;
 - (b) approving the Receiver's statement of receipts and disbursements dated July 4, 2024;
 - (c) approving the fees and disbursements of the Receiver and its legal counsel, Baker McKenzie LLP.
 - (d) approving the Receiver's and the Receiver's counsel's Final Fees (as described and defined herein);
 - (e) discharging the Receiver upon the filing of a certificate confirming that the Receiver has completed all Remaining Matters (as defined herein); and, releasing the Receiver from any claims which have been raised or which could have been raised in these proceedings against the Receiver, and any and all liability in respect of any act done or default made by GTL, or any acts or omission of GTL in respect of the Properties and its conduct as the Receiver, except for gross negligence and willful misconduct; and,
 - (f) such other relief as the Court determines.

RESTRICTIONS

4. In preparing this Supplemental Report, the Receiver has relied upon unaudited financial information, the Debtors' books and records, and the documents provided by the Applicant and the Debtor and discussions with the stakeholders and other parties. The Receiver's work does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Receiver expresses no opinion or other form of assurance pursuant to GAAP or IFRS with respect to such information.

5. This Supplemental Report has been prepared for the use of this Court in support of the relief described herein. This Supplemental Report should not be relied on for any other purpose.
6. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND

7. As described in the First Report, the Principal arranged for the payment to the Applicant for approximately \$39 million to settle the Debtor's indebtedness with the Applicant. The Receiver has recognized the Principal's intention to satisfy the Debtor's liabilities and her request that the Receiver conclude these receivership proceedings. The Receiver has worked closely with the Principal, via their counsel, to request the Debtor's records to determine what other claims exist as at the date of receivership to determine the nature and extent of other creditor claims against the Debtor.
8. As described further in this Supplemental Report, and subject to a few of the Receiver's remaining enquires (which the Receiver anticipates resolving with the Principal by July 12, 2024), the Receiver is generally satisfied that the Debtor's creditors are being paid in the normal course and that there is no longer a need for these receivership proceedings to continue. As a result, the Receiver has prepared this Supplemental Report to seek a conclusion to the receivership proceedings and to seek approval of all final matters.
9. The Receiver has commenced the process to transition control of the Debtor's operations back to Controlex, the related party property manager of the Debtor's Property. The Receiver anticipates that the transition of control will be completed by July 12, 2024.

CLAIM REVIEW

10. In reviewing the nature and extent of other claims in addition to the Applicant's claim, the Receiver requested, received and reviewed the following information:
 - (a) general ledger of the Debtor from August 1, 2023 to July 2, 2024;

- (b) list of outstanding invoices as at June 26, 2024 and evidence to support payments made by the Principal on June 27 and 28, 2024;
 - (c) a current accounts payable ledger;
 - (d) the Debtor's most recent HST filing and a summary of HST returns and assessments the past 12 months;
 - (e) a declaration of trust executed by the Debtor on November 25, 2005 declaring that the Debtor holds the Property in trust for the sole benefit of S and C Holdings Inc., a related company;
 - (f) the Debtor's nil income tax return and notice of assessment issued by the CRA for the year ending May 31, 2019 with zero income tax payable; and,
 - (g) confirmation that the Debtor has no employees and any employee-related obligations.
11. In addition, the Receiver has carried out the following activities to identify and assess potential priority claims and other claims:
- (a) obtained a tax certificate from the City of Ottawa, which confirmed that there were no outstanding orders or property tax arrears;
 - (b) instructed Baker to conduct a litigation search and confirm the status of outstanding litigation with the Debtor's counsel;
 - (c) corresponded with various parties who contacted the Receiver regarding potential claims against the Debtor, and assessed such claims;
 - (d) corresponded with counsel to the BMO Bank of Montreal, who holds a secured interest as against the Debtor under a guarantee, to confirm that BMO does not have a claim on the guarantee.
12. Based on the information received to date (including support for recent payments made to creditors by the Principal), and subject to the responses to the Receiver's outstanding enquiries, the Receiver is satisfied that there are no outstanding

claims aside from a related party debt to the Guarantor, and current expenses incurred in the normal course of business.

Canada Revenue Agency (“CRA”)

13. The Receiver understands that the Debtor is only a property holding company and has no business operations that generate taxable income. Because of the declaration of trust, S and C Holdings Inc. is the beneficial owner of the Property owned by 141 and is entitled to the income generated from the Property. Historically, the Debtor filed nil income tax returns whereas S and C Holdings Inc. were assessed and liable for any income tax payable with respect to the rental income generated from the Property.
14. The information provided to the Receiver demonstrates that the Debtor’s HST returns are filed and current. The Debtor files combined HST returns with a related party, 1663321 Ontario Inc., and where the most recent of May 2024 was filed and received by CRA on June 28, 2024. The next return is due July 31, 2024. According to the Debtor’s general ledger, the HST remittance for May 2024 was made on May 31, 2024. HST payable (but not yet due) for June 2024 is \$82,276.66.

Unsecured Creditors

15. The Receiver obtained an accounts payable ledger (as at June 26, 2024) which had an aggregate balance due to creditors of \$74,104.3. Certain creditors had aged arrears and with notes suggesting that such amounts were in dispute. On July 2, 2024, the Receiver was advised by the Principal’s legal counsel that all of the outstanding invoices had been paid, including the aged arrears and those which may have been in dispute. The Receiver was provided with evidence that such payments were in fact made on July 27 and 28, 2024.
16. The Receiver also inquired into the status of an aged "A/P holdback" liability with a balance of \$20,810 which appeared in the general ledger. The Receiver reviewed an internal note to file provided by the Debtor which dated back to the year 2010 and explained that the amount represented an outstanding tenant allowance and the non-payment was due to the tenant’s failure to pass certain

plumbing inspection. As this claim is outside the statutory limitation period of 2 years, the Receiver determined that it is unlikely to be a valid claim.

17. The Receiver also received inquiries from two parties regarding potential claims against the Debtor. Upon the Receiver's view, it was determined that such claims were against related parties, and not the Debtor. Such parties have been added to the Receiver's Service List and where the Receiver has been advised that one such party was paid in full on July 4, 2024 and the other party will be paid by July 12, 2024.

RECEIVER'S ACTIVITIES

18. In addition to the activities described in the First Report, the Receiver has performed the following activities:
 - (a) corresponding with the tenants of the Debtor to advise of these receivership proceedings, request copies of lease agreements, contact information, and the collection of rent for the month of July, 2024;
 - (b) drafting of communications to tenants, service providers, utilities, the City of Ottawa, BMO Bank of Montreal, property managers, real estate brokers, and other creditors and interested parties in regard to the Receiver's intention to transition control to the Debtor (or Controlex as the Debtor's agent);
 - (c) corresponding with the Principal's counsel to share draft communications in an effort to coordinate consistent messaging to stakeholders referenced above;
 - (d) corresponding with the Principal's counsel to coordinate the receipt of records and other information to determine claims, verify payments to creditors, and otherwise identify pre-receivership creditors of the Debtor;
 - (e) arranging for current litigation, land title, and PPSA searches to confirm that no new registrations or related claims exist that have not already been addressed by the Receiver and the Debtor;

- (f) corresponding with the legal counsel to Controlex to advise of the Receiver's intent to conclude the receivership proceedings and confirm if there are any outstanding claims or issues that the Receiver should be made aware of;
- (g) corresponding with creditors to address general enquiries and a review of support to determine claims;
- (h) reviewing outstanding litigation claims against the Debtor and corresponding with Debtor's counsel to assess the status of those claims;
- (i) providing updates to the Applicant on the Receiver's intention to transition control of the Debtor's operations and proceed to conclude these receivership proceedings; and
- (j) preparing this Supplemental Report and related appendices.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

19. Attached as **Appendix B** is the Receiver's statement of receipts and disbursements covering the period from its appointment as Receiver to July 5, 2024 (the "**Receiver's R&D**"). As at July 8, 2024, the balance in the receivership account was \$40,000,366.98
20. The Receiver notes that certain tenants of the Debtor have yet to remit payment for rent due on July 1st, 2024, and where the Receiver expects certain additional receipts for rent after July 4, 2024. The Receiver has maintained a rent roll for July rent and will share such details with the Debtor to assist in transitioning control and the continuity of the Debtor's records.
21. The Receiver respectfully requests that the Court approve the Receiver's R&D.

PROFESSIONAL FEES

22. The Receiver and its legal counsel have maintained detailed records of their professional time and costs since the Receivership Order was granted. Paragraph 18 of the Receivership Order provides that the Receiver and its legal counsel shall be paid their reasonable fees and disbursements. In addition, the Receiver and its legal counsel were granted a first charge on the Property of the Debtor as security for such fees and disbursements as they relate to these proceedings both before and after the issuance of the Receivership Order.
23. The total fees and disbursements of the Receiver to July 5, 2024 amount to \$81,946.49, plus HST in the amount of \$10,653.07, totalling \$92,599.75 (“**Receiver’s Fees**”). The total fees and disbursements of the Receiver for time spent is more particularly described in the Wootton Affidavit, a copy of which is attached hereto as **Appendix C**.
24. The total legal fees incurred by the Receiver for services provided to it by its independent legal counsel, Baker McKenzie LLP, to July 4, 2024, amount to \$79,919.50 and \$33.00 in disbursements plus applicable HST in the amount of \$10,392.79, for a total of \$90,345.29 (“**Counsel Fees**”). The details of the time spent and services provided by Baker are more particularly described in the Affidavit of Michael Nowina sworn July 8, 2024 (the “**Nowina Affidavit**”), a copy of which is attached hereto as **Appendix D**.
25. The Receiver and its legal counsel expect to incur certain additional fees and disbursements in order to finalize the receivership proceedings and transition control of the Property back to the Debtor (the “**Final Fees**”). The Receiver has estimated that such additional time would not exceed \$50,000 (exclusive of disbursements and taxes). In addition, certain charges and disbursements relating to searches conducted by the Receiver and its counsel have not been received yet. These charges and disbursements are expected to be less than \$5,000. The Receiver notes that the estimate for Final Fees may appear high but it takes into consideration any unforeseen work required to finalize these proceedings on an expedited basis.

26. The Receiver respectfully requests that its fees and disbursements, and those of Baker, in addition to the Final Fees be approved.
27. The Receiver has provided both Manulife and the Debtor (via the Principal's counsel) with details of the fee amounts referenced above.

DISCHARGE AND REMAINING ACTIVITIES

28. The Receiver respectfully requests that the Court grant an order discharging GTL as Receiver of the Debtor, and releasing GTL from any and all liability in its capacity as Receiver, subject only to the Receiver completing the following remaining items (the "**Remaining Matters**"), and the filing of its discharge certificate with the Court:
 - (a) completion of final statutory reporting and other administrative obligations of the Receiver;
 - (b) completion of the review of any residual pre-receivership creditor amounts owing to the Receiver's satisfaction where such amounts are either paid by the Debtor, or assumed by the Debtor, and on a case by case basis;
 - (c) communications to service providers, stakeholders, and interested parties with respect to the transition of control of the Property to the Debtor (or Controlex as agent of the Debtor);
 - (d) receipt of sufficient funds (from July rent collections and/or from the Principal (on behalf of the Debtor)) for such amount required to pay the Debtor's approved indebtedness to the Applicant, and the approved Receiver's Fees, Counsel Fees, and the Final Fees;
 - (e) remittance of net HST collected by the Receiver;
 - (f) remittance of approved Receiver's Fees and Counsel Fees, and the Final Fees;
 - (g) distribution of the \$40,035,499.46 (plus any per diem interest at \$3,626.49 should a distribution not be made on July 12, 2024) in order to pay the

Applicant in full satisfaction of the Debtor's indebtedness to the Applicant;
and,

- (h) remittance to the Debtor (or Controlex as agent for the Debtor) of any surplus receipts after the remittance/distribution to the Applicant, the Receiver and Baker for approved distributions, Receiver's Fees, Counsel Fees and Final Fees.

RECOMMENDATION

- 29. Based on the foregoing, the Receiver respectfully requests that the Court grant the relief requested herein.

Respectfully submitted,

GRANT THORNTON LIMITED

In its capacity as Receiver of 1414614 Ontario Inc.

Per



Daniel Wootton, CIRP, LIT
Senior Vice President