

~~SCHEDULE A~~

Court File No.: CV-08-7714-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE *madam* )  
JUSTICE *Repall* )  
)  
)  
)

THURSDAY, THE 11<sup>TH</sup> DAY  
OF JUNE, 2009

ICICI BANK CANADA

Applicant

- and -

1539304 ONTARIO INC.

Respondent

APPLICATION UNDER s.47(1) of the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985 c. B-3, s. 101 of the *Courts of Justice Act*, R.S.O. c. C-43 and  
Rules 14.05(2) and (3) (d), (g) and (h) of the *Rules of Civil Procedure*.

ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc., in its capacity as court – appointed interim receiver and receiver and manager (the “Receiver”) of all the assets, undertaking and property of 1539304 Ontario Inc. (the “Debtor”), for an order, *inter alia*, approving the Second Report of the Receiver dated June 5, 2009, (the “Second Report”) and the actions and activities of the Receiver as detailed therein, and an order that the former solicitor for the Debtor return certain deposits to the proposed condominium unit purchasers under failed agreements of purchase and sale was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Receiver and the exhibits thereto, filed, and upon hearing the submissions of counsel for the Receiver, and no one appearing for the other

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parties served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of Sabrina Simone sworn June 8, 2009:

✓ **SERVICE**

~~1. THIS COURT ORDERS that the time for service of the Receiver's Notice of Motion and Receiver's Motion Record herein is abridged, that this motion is properly returnable today, the service, including the manner of service, of the Motion Record is hereby approved and that further service is dispensed with.~~ ✓

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**SECOND REPORT**

2. THIS COURT ORDERS that the Second Report and the actions of the Receiver as reported therein be and are hereby approved.

3. THIS COURT ORDERS that the Receiver's fees and disbursements from February 16, 2009 to May 31, 2009, and the fees and disbursements of its legal counsel, Lang Michener LLP, from February 2, 2009 to April 30, 2009, all as detailed in the Second Report, be and are hereby approved.

**RETURN OF DEPOSITS**

4. THIS COURT ORDERS that Burns Vasan Argiropoulos LLP ("Burns Vasan") return the deposits, together with the accrued interest, net of bank charges, reflected in the Burns Vasan trust ledger statement attached hereto as Appendix A, to the respective proposed condominium unit purchasers under failed agreements of purchase and sale;

**FUNDING OF THE RECEIVERSHIP**

5. THIS COURT ORDERS that the Receiver's authority to borrow monies for the purpose of funding the exercise of the powers and duties conferred upon it as interim receiver and

receiver and manager of the Debtor and the Receiver's Borrowing Charge, both as set out in paragraph 20 of the Order Appointing the Receiver dated November 12, 2008, are hereby amended to increase the Receiver's authority to borrow monies and the Receiver's Borrowing Charge to \$700,000.

- 6. This court orders that this order is: (a) without prejudice to the respondent to assert that the environmental cleanup costs + any costs arising from the delay in implementing the sales process approved in my order of Feb 26, 09 be borne by the applicant bank + that such issue be addressed at the date of any request for a distribution of sale proceeds to the bank; + (b) without prejudice to the City of Hamilton to take issue with the proposed expenses set forth on page 13 of the Receiver's 2nd report if it is dissatisfied with the particulars provided + that such issue be addressed when the Receiver seeks approval of these payments.

*Handwritten signature: K. Repall, J.*

APPENDIX "A"

TRINITY LANDING

<u>NAME</u>	<u>UNIT/SUITE</u>	<u>DEPOSIT</u>
Jeffrey Legris	Unit 2, Level 1, Suite 105	\$ 1,000.00
Deirdre Dixon	Unit 11, Level 4, Suite 402	\$11,000.00
Dennis Vachon	Unit 2, Level 2, Suite 205	\$ 1,000.00
Shirley Thai	Unit 4, Level 1, Suite 107	\$ 1,000.00
Praful/Hema Raythattha	Unit 7, Level 1, Suite 111	\$ 6,688.80
Bobby Turcotte	Unit 8, Level 4, Suite 411	\$11,000.00
Charlotte Hell	Unit 13, Level 2, Suite 203	\$ 1,000.00
		<hr/>
		\$32,688.80
		(interest) + \$ 168.79
		(service charge) - \$ 6.01
<b>TOTAL</b>		<b>\$32,851.58</b>

*SWP*