Court File No. CL-26-00000424-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

and

488 DUPONT STREET LTD. and 1140 DUPONT STREET LTD.

Respondents

APPLICATION UNDER SUBSECTION 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

FACTUM OF THE APPLICANT

(Application and Motion Returnable November 9, 2026)

November 2, 2026

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TO: **SERVICE LIST**

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PART I - OVERVIEW

1. The Applicant, Cameron Stephens Mortgage Capital Ltd. ("**Cameron Stephens**") brings this Application for, *inter alia*:

(a) the appointment of AlixPartners Restructuring, Inc. ("**AlixPartners**") as receiver and manager (in such capacity, the "**Receiver**"), without security, of all present and future property, assets, and undertakings (collectively, the "**Property**") of the Respondents, 488 Dupont Street Ltd. ("**448 Ltd.**") and 1140 Dupont Street Ltd. ("**1140 Ltd.**") (collectively, the "**Debtors**"), pursuant to subsection 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**");

(b) an Approval and Vesting Order, approving the Agreement of Purchase and Sale dated August 11, 2026 (the "**1140 Sale Agreement**"), between 2734098 Ontario Inc. ("**273**") and AlixPartners, in its capacity as the proposed court-appointed receiver and manager, without security, of 1140 Ltd. (in such capacity, the "**Proposed 1140 Receiver**"), and the transaction contemplated therein (the "**1140 Transaction**"); and

(c) an Order authorizing and directing the Receiver to file an assignment in bankruptcy on behalf of 1140 Ltd. upon completion of the 1140 Transaction.

2. Cameron Stephens has also brought a Motion for, *inter alia*:

(a) an Approval and Vesting Order, approving the Agreement of Purchase and Sale dated August 11, 2026 (the "**488 Sale Agreement**"), between SFM Holdings Inc. ("**SFM**") and AlixPartners, in its capacity as the proposed court-appointed receiver and manager, without security, of 488 Ltd. (in such capacity, the "**Proposed 488 Receiver**", and together with the Proposed 1140 Receiver, the "**Proposed Receiver**"), which shall be subsequently assigned by SFM in favour of 488 Dupont Street GP Inc. ("**488 GP**"), and the transaction contemplated therein (the "**488 Transaction**"); and

(b) an Order authorizing and directing the Receiver to file an assignment in bankruptcy on behalf of 488 Ltd. upon completion of the 488 Transaction.

3. The Application and the Motion are scheduled to be heard together on November 9, 2026.

4. Relief relating to the Approval and Vesting Orders, the sealing order and ancillary sale approval relief is addressed in the Receiver's factum. The Applicant's submissions are confined to the appointment of the Receiver, the proposed assignments in bankruptcy and the lifting of the stay of proceedings necessary to facilitate those assignments.

PART II - SUMMARY OF FACTS

The Parties and the Real Property

5. The Applicant, Cameron Stephens, among other things, is a commercial mortgage lender.[1]

[1] Application Record of the Applicant dated September 30, 2026 ["CS Application Record"], Tab 2, Affidavit of Mark O'Duffy sworn September 22, 2026 ["O'Duffy First Affidavit"], at para 3.

6. The Respondent, 488 Ltd. is an Ontario corporation[2] and the registered owner of the real properties municipally known as 488 Dupont Street, Toronto, Ontario ("**488 Dupont**") and 1120 Bathurst Street, Toronto, Ontario (collectively referred to as the "**488 Real Property**").[3]

7. The 488 Real Property consists of approximately 0.45 acres of land improved with a two-storey commercial building.[4]

8. The Respondent, 1140 Ltd. is an Ontario corporation[5] and the registered owner of the real property municipally known as 1140 Dupont Street, Toronto, Ontario (the "**1140 Real Property**").[6]

9. The 1140 Real Property consists of a commercial property improved with an approximately 15,561 square foot commercial building.[7]

The CS Loan and the CS Security

10. Pursuant to a Letter of Commitment dated June 29, 2020 (the "**Commitment Letter**"), Cameron Stephens advanced a first mortgage loan in the principal amount of $15,250,000.00 to the Debtors (the "**CS Loan**"). The proceeds of the CS Loan were used, among other purposes, to repay the existing indebtedness secured against the 488 Real Property and the 1140 Real Property (collectively, the "**Dupont Properties**")[8]

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[2] *Ibid*, at para 4.
[3] *Ibid*, at para 5.
[4] *Ibid*, at para 8.
[5] *Ibid*, at para 6.
[6] *Ibid*, at para 7.
[7] *Ibid,* at para 9.
[8] *Ibid,* at paras 10 and 11.

11. As security for the CS Loan, the Debtors granted, among other things (all of the below security collectively referred to as the "**CS Security**"):

(a) a first-ranking Charge/mortgage registered against title to the Dupont Properties on July 30, 2020 in favour of Cameron Stephens for the principal amount of $16,775,000.00 bearing Instrument No. AT5484560;

(b) a General Assignment of Rents and Leases dated July 22, 2020 together with a first-ranking Notice of Assignment of Rents registered on title as Instrument No. AT5484561;

(c) an Assignment of Rents and Leases respecting the lease of 488 Dupont to 4246551 Canada Inc., together with a specific Notice of Assignment of Rents registered as Instrument No. AT5484562;

(d) an Assignment of Rents and Leases respecting the lease of the 1140 Real Property to Next Plumbing & Hydronics Supply Inc. ("**Next Plumbing**"), together with a specific Notice of Assignment of Rents registered as Instrument No. AT5484563; and

(e) a General Security Agreement dated July 22, 2020 together with PPSA registrations registered and renewed by Cameron Stephens under Reference File No. 763997193.[9]

[9] *Ibid,* at para 12.

12. Pursuant to Guarantees and Postponements of Claim dated July 22, 2020, Odette Bitton and the Estate of Claude Bitton guaranteed the obligations of the Debtors under the CS Loan.[10]

Other Secured Creditors

13. PPSA searches disclose subsequent registrations in favour of The Toronto-Dominion Bank against both 488 Ltd. and 1140 Ltd.[11]

14. In or around April 2026, the Canada Revenue Agency (the "**CRA**") registered Goods and Services Tax ("**GST**") liens against title to both 488 Dupont and the 1140 Real Property in the amounts of approximately $307,449.48 and $274,874.32, respectively.[12]

The Debtors' Default

15. In March 2025, Cameron Stephens discovered that municipal property taxes remained outstanding for the 2023, 2024 and 2025 taxation years in respect of the Dupont Properties. Tax certificates obtained from the City of Toronto confirmed substantial tax arrears.[13]

16. The failure to pay municipal taxes constituted an event of default under the Commitment Letter. On May 13, 2025, Cameron Stephens issued demand letters and Notices of Intention to Enforce Security pursuant to section 244 of the BIA. The prescribed notice period expired on May 25, 2025.[14]

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[10] *Ibid*, at para 13.
[11] *Ibid*, at paras 14 and 15.
[12] *Ibid*, at paras 16 and 17.
[13] *Ibid*, at para 18.
[14] *Ibid*, at para 19.

17. On July 21, 2025, Cameron Stephens delivered Notices to Receive Rents to the tenants of the Dupont Properties and thereafter began collecting rents from the tenants.[15]

18. Since August 2025, Noble Corporation, the tenant of 488 Dupont, and Next Plumbing, the tenant of the 1140 Real Property have been remitting rents to Cameron Stephens. As of July 31, 2026, Cameron Stephens had collected rental payments totalling $1,294,750.32, which were applied toward the indebtedness and expenses relating to the Dupont Properties.[16]

19. However, the Debtors failed to cure their defaults and municipal property taxes continued to be in arrears. To protect its security, on April 8, 2026, Cameron Stephens paid $552,637.17 toward outstanding municipal property taxes then owing in respect of the Dupont Properties.[17]

20. In September 2026, Cameron Stephens made a further payment of $127,048.39 towards property tax arrears in respect of the Dupont Properties. In aggregate, Cameron Stephens advanced approximately $679,685.56 for payment of municipal tax arrears to protect the Dupont Properties.[18]

21. The Debtors further defaulted by failing to repay the CS Loan on its maturity date of August 1, 2025.[19] Other than rents collected pursuant to the assignments of rents, Cameron Stephens last received a payment from the Debtors on October 3, 2025 in the amount of $10,150.54.[20]

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[15] *Ibid*, at para 20.
[16] *Ibid*, at para 21.
[17] *Ibid*, at para 22.
[18] *Ibid*, at para 25.
[19] *Ibid*, at para 23.
[20] *Ibid*, at para 24.

22. As of September 17, 2026, the amount owing under the CS Loan was $13,923,625.08 together with continuing interest accruing at $1,257.49 per day and continuing costs and expenses.[21]

The Application to Appoint the Receiver

23. Cameron Stephens has lost confidence in the Debtors' ability to satisfy their obligations under the CS Loan.[22]

24. The Debtors have failed to pay municipal property taxes when due, failed to maintain the CS Loan in good standing and failed to repay the CS Loan upon maturity. The Debtors have not advanced any viable refinancing, repayment or restructuring proposal.[23]

25. The Guarantors have likewise failed to satisfy the obligations owing under the guarantees.[24]

26. AlixPartners has consented to act as Receiver.[25]

Marketing and Sale Process

27. Prior to commencement of these proceedings, Cameron Stephens retained CBRE Limited ("**CBRE**") to market the Dupont Properties for sale. CBRE conducted an extensive marketing and sale process which generated significant interest and ultimately resulted in the execution of agreements of purchase and sale for both the 488 Real Property and the 1140 Real Property.[26]

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[21] *Ibid*, at para 26.
[22] *Ibid*, at para 29.
[23] *Ibid*, at para 28.
[24] *Ibid*, at para 27.
[25] *Ibid*, at para 32.
[26] *Ibid*, at para 33.

28. Cameron Stephens is advised by the Proposed Receiver that CBRE's marketing process was commercially reasonable, provided adequate exposure to the marketplace and sufficiently canvassed the prospective purchasers.[27]

29. On August 11, 2026, agreements of purchase and sale were entered into with respect to both the 488 Real Property and the 1140 Real Property.[28]

30. The sale transaction relating to the 1140 Real Property has been recommended by the Proposed Receiver and Cameron Stephens supports approval of that transaction. Cameron Stephens is advised by the Proposed Receiver that the sale process was commercially reasonable, the purchase price was fair and reasonable and the transaction constituted the highest and best offer received.[29]

31. The 488 Sale Agreement became unconditional pursuant to a Waiver and Amending Agreement dated October 16, 2026, and the purchaser subsequently assigned its rights to 488 GP. Cameron Stephens likewise supports approval of that transaction.[30]

The Assignment into Bankruptcy

32. The Debtors are indebted to the CRA in respect of unremitted GST in the approximate aggregate amount of 582,323.80.[31] Cameron Stephens is advised by Wendy Greenspoon-Soer, counsel to Cameron Stephens, and verily believe that the CRA's claims in respect of unremitted

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[27] *Ibid*, at para 34.
[28] *Ibid*, at para 35; Motion Record of the Applicant dated October 28, 2026 ["CS Motion Record"], Tab 2, Supplementary Affidavit of Mark O'Duffy sworn September 28, 2026 ["O'Duffy Suppl. Affidavit"], at para 3(a).
[29] O'Duffy First Affidavit, *supra* note 1, at paras 35 and 36.
[30] O'Duffy Suppl. Affidavit, *supra* note 28, at paras 4-6.
[31] O'Duffy First Affidavit, *supra* note 1, at para 37; O'Duffy Suppl. Affidavit, *supra* note 28, at para 8.

GST may give rise to deemed trust issues under section 222 of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended (the "**ETA**").[32]

33. Cameron Stephens is further advised by Mrs. Greenspoon-Soer that upon a bankruptcy, the GST deemed trust regime ceases to apply pursuant to subsection 222(1.1) of the ETA and section 67(2) of the BIA, and creditor priorities are thereafter determined pursuant to the BIA.[33]

34. The net proceeds from sale of the Dupont Properties are expected to be insufficient to satisfy the indebtedness owing to Cameron Stephens in full. Cameron Stephens therefore supports the assignment of the Debtors into bankruptcy following completion of the two sale transactions.[34]

PART III - ISSUES, LAW AND ARGUMENT

35. The issues on this Application and the Motion are:

(a) Should this Court make an Order pursuant to subsection 243(1) of the BIA and section 101 of the CJA, appointing AlixPartners as the Receiver over the Property of the Debtors?

(b) Following completion of the 488 Transaction and the 1140 Transaction, is it appropriate for this Court to lift the stay of proceedings to allow the Receiver to make an assignment in bankruptcy on behalf of the Debtors?

[32] O'Duffy First Affidavit, *supra* note 1, at para 38; O'Duffy Suppl. Affidavit, *supra* note 28, at para 9.
[33] O'Duffy First Affidavit, *supra* note 1, at para 39; O'Duffy Suppl. Affidavit, *supra* note 28, at para 10.
[34] O'Duffy First Affidavit, *supra* note 1, at para 40; O'Duffy Suppl. Affidavit, *supra* note 28, at para 11.

ISSUE #1

A. THE TEST FOR THE APPOINTMENT OF A RECEIVER

36. This Court has jurisdiction to appoint a Receiver or a Receiver and Manager under subsection 243(1) of the BIA and section 101 of the CJA.[35]

37. Pursuant to subsection 243(1) of the BIA, the Court may appoint a Receiver whenever it considers such an appointment to be just or convenient. Subsection 243(1) of the BIA provides[36]:

> 243(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:
>
> > (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
> >
> > (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
> >
> > (c) take any other action that the court considers advisable.

38. Before appointing a receiver pursuant to section 243 of the BIA, the Court must be satisfied that the debtor received notice pursuant to section 244 of the BIA or that the statutory notice requirement has otherwise been satisfied.[37] Cameron Stephens delivered demands and Notices of Intention to Enforce Security pursuant to section 244 of the BIA on May 13, 2025, and the prescribed notice period expired on May 25, 2025.

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[35] *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ["BIA"], ss. 243(1); *Courts of Justice Acts*, R.S.O. 1990, c. C.43 ["CJA"], s. 101.
[36] BIA, *supra* note 35, ss. 243(1).
[37] *Ibid,* s. 243(1.1) and 244.

39. Similarly, the test for the appointment of a receiver under section 101 of the CJA is also whether such appointment would be just or convenient. Subsection 101(1) of the CJA provides as follows[38]:

> 101(1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted, or a Receiver or Receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

40. In determining whether it would be just, appropriate or convenient to appoint a receiver, Canadian courts have historically considered a number of factors, including, but not limited to, whether[39]:

(a) whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
(b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
(c) the nature of the property;
(d) the apprehended or actual waste of the debtor's assets;
(e) the preservation and protection of the property pending judicial resolution;
(f) the balance of convenience to the parties;
(g) the fact that the creditor has a right to appointment under the loan documentation;
(h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
(i) the principle that the appointment of a receiver should be granted cautiously;
(j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
(k) the effect of the order upon the parties;
(l) the conduct of the parties;
(m) the length of time that a receiver may be in place;
(n) the cost to the parties;
(o) the likelihood of maximizing return to the parties; and
(p) the goal of facilitating the duties of the receiver.

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[38] CJA, *supra* note 35, s. 101(1).
[39] *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039, at para 19.

41. In deciding whether to appoint a receiver, the court must consider all of the circumstances, but in particular to the nature of the property and the rights and interests of all parties in relation thereto. Typically, the issues for a court to determine on a receivership application include the following[40]:

(a) the existence of a debt and default;

(b) the quality of the security; and

(c) the need for the appointment of a receiver in view of alternate remedies available to the creditor, the nature of the property, the likelihood of maximizing the return to the parties, the costs associated with the appointment, and any need to preserve the property pending realization.

42. Additionally, the fact that the moving party has a right under its security documentation to appoint a receiver is an important factor to be considered. Where there is a contractual right to appoint a receiver, the issue is reduced to a consideration of whether it is in the interests of all stakeholders to have the receiver appointed by the court. This involves an examination of, *inter alia*, (i) the potential cost of the receivership, (ii) the relationship between the debtor and the creditors, (iii) the likelihood of maximizing the return on and preserving the subject property, and (iv) the best way of facilitating the work and duties of the receiver.[41]

43. Further, a secured creditor is not required to establish irreparable harm as a precondition to obtaining a receivership order. As Justice Ground observed in *Swiss Bank Corp (Canada) v Odyssey Industries Inc.*, once material defaults exist under the lending arrangements, those defaults

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[40] *Bank of Montreal v Carnival National Leasing Limited.*, 2011 ONSC 1007 (CanLII) ["*Carnival Leasing*"], at para 24; *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 (ON SC) ["*Freure Village*"], at para 10; *Central 1 Credit Union v. UM Financial Inc. and UM Capital Inc.*, 2011 ONSC 5612 (CanLII) ["*UM Financial*"], at para 22.

[41] *Carnival Leasing*, *supra* note 40 at para 27; *Freure Village*, *supra* note 40 at para 13.

may themselves provide ample justification for the appointment of a receiver. Justice Ground further held that there is "no authority for the proposition that a creditor must establish irreparable harm if the appointment of a receiver is not granted by the court.[42]

B. IT IS JUST AND CONVENIENT TO APPOINT ALIXPARTNERS AS THE RECEIVER

44. The appointment of AlixPartners as Receiver is just and convenient in the circumstances of this case.

45. Cameron Stephens is the first ranking secured creditor of the Debtors pursuant to the CS Security, which includes first-ranking mortgages, assignments of rents and leases, notices of assignment of rents and a General Security Agreement.

46. The CS Security expressly entitles Cameron Stephens to seek the appointment of a receiver following the occurrence of an event of default.

47. The Debtors have committed multiple and continuing events of default under the Commitment Letter and the CS Security. Among other defaults:

(a) the Debtors failed to pay municipal property taxes for multiple taxation years;

(b) Cameron Stephens was required to advance approximately $679,685.56 to satisfy municipal tax arrears and preserve the Dupont Properties;

(c) the Debtors failed to repay the CS Loan upon maturity on August 1, 2025;

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[42] *Carnival Leasing*, at para 28; *Swiss Bank Corp. (Canada) v. Odyssey Industries Inc.*, 1995 CarswellOnt 39 (Ont. Gen. Div. [Commercial List]) [the "*Swiss Bank*"], at paras 27 & 28;

(d) the Debtors failed to satisfy Cameron Stephens' demands for payment; and

(e) the indebtedness under the CS Loan remains owing and outstanding.

48. As of September 17, 2026, the indebtedness owing to Cameron Stephens exceeded $13.9 million together with continuing interest, fees and costs.

49. The Debtors have not cured their defaults, nor have they advanced any viable proposal for refinancing, repayment or restructuring despite having had more than a year to do so.

50. The circumstances are analogous to those considered by the Court in *Swiss Bank*, where substantial tax arrears, continuing payment defaults and failure to repay indebtedness provided ample justification for the appointment of a receiver.[43]

51. In addition, the appointment of a court-appointed Receiver will facilitate the orderly completion of the 488 Transaction and the 1140 Transaction and ensure that the realizations from the Dupont Properties are maximized in the interests of all stakeholders.

52. In all of the circumstances, it is just and convenient that AlixPartners be appointed Receiver over the Property of the Debtors.

[43] *Swiss Bank*, *supra* note 42 at para 38.

ISSUE #2:

SOUND REASONS EXIST TO LIFT THE STAY OF PROCEEDINGS

53. Cameron Stephens seeks an order lifting the stay of proceedings contained in the Receivership Order to permit the Receiver, upon completion of the 488 Transaction and the 1140 Transaction, to make an assignment in bankruptcy on behalf of the Debtors.

54. The purpose of the requested assignment is to effect the operation of sections 222(1.1) of the ETA and section 67(2) of the BIA, which eliminate the CRA's deemed trust in respect of unremitted GST upon bankruptcy and restore priority to secured creditors in accordance with the BIA distribution scheme.

55. On a motion to lift the stay of proceedings that has been imposed by an order appointing of a Court-appointed receiver, the Court has broad discretion to determine whether the order sought is appropriate.[44]

56. In making this determination, the Court may rely upon jurisprudence under section 69.4 of the BIA which governs motions to lift the statutory stay of proceedings that takes effects upon a debtor filing a notice of intention to make a proposal.[45]

57. On a motion pursuant to section 69.4 of the BIA, the Court must be satisfied that the moving party has "established sound reasons" for the stay to be lifted and must consider the impact of lift-stay upon other stakeholders' interests.[46]

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[44] *Unity Health Toronto v. 2442931 Ontario Inc.*, 2024 ONSC 1333 ["*Unity Health*"] at para 43.
[45] BIA, *supra* note 35, s. 69.4; *Romspen Investment Corporation v. Courtice Auto Wreckers Limited*, 2017 ONCA 301 at para 30.
[46] BIA, *supra* note 35, s. 69.4.

58. Sound reasons exist in the present case. The proposed assignment in bankruptcy will permit the orderly administration of the Debtors' estates in accordance with the priority regime established by Parliament and will maximize recoveries available to Cameron Stephens, the first-ranking secured creditor, as the net sale proceeds from 488 Transaction and the 1140 Transaction are insufficient to repay the indebtedness in full.

REVERSAL OF THE CRA'S GST PRIORITY IS A LEGITIMATE BASIS FOR LIFTING THE STAY

59. Section 222(1) of the ETA establishes a deemed trust in favour of the CRA for all amounts collected or on account of tax under Division II, including GST.[47] Section 222(1) of the ETA provides:

> *Subject to subsection (1.1), every person who collects an amount as or on account of tax under Division II is deemed, for all purposes and despite any security interest in the amount, to hold the amount in trust for Her Majesty in right of Canada, separate and apart from the property of the person and from property held by any secured creditor of the person that, but for a security interest, would be property of the person, until the amount is remitted to the Receiver General or withdrawn under subsection (2).*

60. The Debtors are in arrears of their GST obligations to the CRA. Absent bankruptcy, pursuant to section 222(1) of the ETA, the CRA has a priority claim in the amount of the Debtors' GST arrears which ranks ahead of Cameron Stephens' secured claim.

61. Parliament, however, expressly limited the operation of that deemed trust in insolvency proceedings. Section 222(1.1) of the ETA provides that the deemed trust created by section 222(1) does not apply from and after bankruptcy with respect to amounts collected or collectible before the bankruptcy. Section 67(2) of the BIA further confirms that property held by a bankrupt is no

[47] *Excise Tax Act*, RSC 1985, c E-15 ["*ETA*"], s. 222(1).

longer subject to deemed trusts in favour of the Crown, except for certain source deduction claims specifically preserved by Parliament.

62. Accordingly, upon an assignment into bankruptcy, the CRA's deemed trust claim in respect of GST arrears ceases to exist and the resulting distribution is governed by the priority scheme under the BIA.

63. Canadian Courts have lifted a stay of proceedings to facilitate an assignment in bankruptcy for the purpose of reversing statutory priorities on several occasions. For example, in *Ivaco,* the Court of Appeal for Ontario upheld an order lifting the stay in a proceeding under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended. The Court opined that the "[secured creditors'] desire to use the BIA to alter priorities [was] a legitimate reason to seek a bankruptcy order.[48]

64. In *Bank of Nova Scotia v. Huronia Precision Plastics Inc.*, Justice Morawetz (as he then was) applied the reasoning in *Ivaco* in the context of a receivership. Justice Morawetz granted the creditor's lift-stay motion, holding that it was not improper for a creditor to seek a bankruptcy for the purpose of reversing the CRA's statutory priority pursuant to section 222(1.1) of the ETA.[49]

65. In *Callidus Capital Corp. v. Canada*, the Supreme Court confirmed that the ETA deemed trust does not survive bankruptcy. The Court held that section 222(1.1) of the ETA and section 67(2) of the BIA eliminate the deemed trust upon bankruptcy and demonstrate Parliament's

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[48] *Ivaco Inc., Re*, 2006, CanLII 34551 (Ont. C.A.) ["*Ivoca*"] at para 76.
[49] *Bank of Nova Scotia v. Huronia Precision Plastics Inc.*, 2009 CanLII 2319 (Ont. Sup. Ct.) at para 13; see also *CIBC v. 1340182 Ontario Limited et al.*, 2024 ONSC 3658 at paras 13-14.

intention that, unlike source deduction claims, GST claims should no longer enjoy a super-priority once bankruptcy occurs.[50]

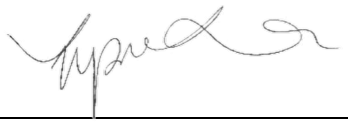
66. Cameron Stephens seeks an assignment into bankruptcy for the very purpose recognized as legitimate in the above-noted cases: namely, to permit the statutory reordering of priorities expressly contemplated by Parliament.

67. For the foregoing reasons, Cameron Stephens submits that the stay of proceedings should be lifted on the basis that (i) the reversal of priorities constitutes a legitimate purpose for the relief sought, and (ii) no stakeholder's interests will be unduly prejudiced by the lift-stay.

PART IV - ORDER REQUESTED

68. Cameron Stephens respectfully requests that this Court grant the Orders substantially in the form of the draft Orders contained in the Application Record and the Motion Record for the relief sought therein.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 2nd day of November 2026.



Yupei (Summer) Xia

[50] *Callidus Capital Corp. v. Canada*, 2018 SCC 47.

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SCHEDULE "A" – LIST OF AUTHORITIES

1. *Bank of Montreal v Carnival National Leasing Limited.*, 2011 ONSC 1007 (CanLII)
2. *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 (ON SC)
3. *Bank of Nova Scotia v. Huronia Precision Plastics Inc.*, 2009 CanLII 2319 (Ont. Sup. Ct.)
4. *Callidus Capital Corp. v. Canada*, 2018 SCC 47
5. *Central 1 Credit Union v. UM Financial Inc. and UM Capital Inc.*, 2011 ONSC 5612 (CanLII)
6. *CIBC v. 1340182 Ontario Limited et al.*, 2024 ONSC 3658
7. *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039
8. *Ivaco Inc., Re*, 2006 CanLII 34551 (Ont. C.A.)
9. *Romspen Investment Corporation v. Courtice Auto Wreckers Limited*, 2017 ONCA 301
10. *Swiss Bank Corp. (Canada) v. Odyssey Industries Inc.*,1995 CarswellOnt 39 (Ont. Gen. Div. [Commercial List])
11. *Unity Health Toronto v. 2442931 Ontario Inc.*, 2024 ONSC 1333

I certify that I am satisfied as to the authenticity of every authority.

Date November 2, 2026

Signature

SCHEDULE B – TEXT OF STATUTES, REGULATIONS & BY-LAWS

***Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended**

Property of bankrupt

67 (1) The property of a bankrupt divisible among his creditors shall not comprise

(a) property held by the bankrupt in trust for any other person;

(b) any property that as against the bankrupt is exempt from execution or seizure under any laws applicable in the province within which the property is situated and within which the bankrupt resides;

(b.1) goods and services tax credit payments that are made in prescribed circumstances to the bankrupt and that are not property referred to in paragraph (a) or (b);

(b.2) prescribed payments relating to the essential needs of an individual that are made in prescribed circumstances to the bankrupt and that are not property referred to in paragraph (a) or (b); or

(b.3) without restricting the generality of paragraph (b), property in a *registered retirement savings plan*, a *registered retirement income fund* or a *registered disability savings plan*, as those expressions are defined in the *Income Tax Act*, or in any prescribed plan, other than property contributed to any such plan or fund in the 12 months before the date of bankruptcy,

but it shall comprise

(c) all property wherever situated of the bankrupt at the date of the bankruptcy or that may be acquired by or devolve on the bankrupt before their discharge, including any refund owing to the bankrupt under the *Income Tax Act* in respect of the calendar year — or the fiscal year of the bankrupt if it is different from the calendar year — in which the bankrupt became a bankrupt, except the portion that

(i) is not subject to the operation of this Act, or

(ii) in the case of a bankrupt who is the judgment debtor named in a garnishee summons served on Her Majesty under the *Family Orders and Agreements Enforcement Assistance Act*, is garnishable money that is payable to the bankrupt and is to be paid under the garnishee summons, and

(d) such powers in or over or in respect of the property as might have been exercised by the bankrupt for his own benefit.

Deemed trusts

(2) Subject to subsection (3), notwithstanding any provision in federal or provincial legislation that has the effect of deeming property to be held in trust for Her Majesty, property of a bankrupt shall not be regarded as held in trust for Her Majesty for the purpose of paragraph (1)(a) unless it would be so regarded in the absence of that statutory provision.

Exceptions

(3) Subsection (2) does not apply in respect of amounts deemed to be held in trust under subsection 227(4) or (4.1) of the *Income Tax Act*, subsection 23(3) or (4) of the *Canada Pension Plan* or subsection 86(2) or (2.1) of the *Employment Insurance Act* (each of which is in this subsection referred to as a "federal provision") nor in respect of amounts deemed to be held in trust under any law of a province that creates a deemed trust the sole purpose of which is to ensure remittance to

Her Majesty in right of the province of amounts deducted or withheld under a law of the province where

(a) that law of the province imposes a tax similar in nature to the tax imposed under the *Income Tax Act* and the amounts deducted or withheld under that law of the province are of the same nature as the amounts referred to in subsection 227(4) or (4.1) of the *Income Tax Act*, or

(b) the province is a ***province providing a comprehensive pension plan*** as defined in subsection 3(1) of the *Canada Pension Plan*, that law of the province establishes a ***provincial pension plan*** as defined in that subsection and the amounts deducted or withheld under that law of the province are of the same nature as amounts referred to in subsection 23(3) or (4) of the *Canada Pension Plan*,

and for the purpose of this subsection, any provision of a law of a province that creates a deemed trust is, notwithstanding any Act of Canada or of a province or any other law, deemed to have the same effect and scope against any creditor, however secured, as the corresponding federal provision.

Court may declare that stays, etc., cease

69.4 A creditor who is affected by the operation of sections 69 to 69.31 or any other person affected by the operation of section 69.31 may apply to the court for a declaration that those sections no longer operate in respect of that creditor or person, and the court may make such a declaration, subject to any qualifications that the court considers proper, if it is satisfied

(a) that the creditor or person is likely to be materially prejudiced by the continued operation of those sections; or

(b) that it is equitable on other grounds to make such a declaration.

Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or

(c) take any other action that the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

(a) the insolvent person consents to an earlier enforcement under subsection 244(2); or

(b) the court considers it appropriate to appoint a receiver before then.

Definition of *receiver*

(2) Subject to subsections (3) and (4), in this Part, ***receiver*** means a person who

(a) is appointed under subsection (1); or
(b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
(i) an agreement under which property becomes subject to a security (in this Part referred to as a "security agreement"), or
(ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

Definition of *receiver* — subsection 248(2)
(3) For the purposes of subsection 248(2), the definition ***receiver*** in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

Trustee to be appointed
(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

Place of filing
(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

Orders respecting fees and disbursements
(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

Meaning of *disbursements*
(7) In subsection (6), ***disbursements*** does not include payments made in the operation of a business of the insolvent person or bankrupt.

Advance notice
244 (1) A secured creditor who intends to enforce a security on all or substantially all of
(a) the inventory,
(b) the accounts receivable, or
(c) the other property
of an insolvent person that was acquired for, or is used in relation to, a business carried on by the insolvent person shall send to that insolvent person, in the prescribed form and manner, a notice of that intention.

Period of notice
(2) Where a notice is required to be sent under subsection (1), the secured creditor shall not enforce the security in respect of which the notice is required until the expiry of ten days after sending that notice, unless the insolvent person consents to an earlier enforcement of the security.
No advance consent
(2.1) For the purposes of subsection (2), consent to earlier enforcement of a security may not be obtained by a secured creditor prior to the sending of the notice referred to in subsection (1).

Exception
(3) This section does not apply, or ceases to apply, in respect of a secured creditor
(a) whose right to realize or otherwise deal with his security is protected by subsection 69.1(5) or (6); or
(b) in respect of whom a stay under sections 69 to 69.2 has been lifted pursuant to section 69.4.
Idem
(4) This section does not apply where there is a receiver in respect of the insolvent person.

***Court of Justice Acts*, R.S.O. 1990, c. C.43**
Injunctions and receivers
101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms
(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2).

***Excise Tax Act*, RSC 1985, c E-15**
Trust for amounts collected
222 (1) Subject to subsection (1.1), every person who collects an amount as or on account of tax under Division II is deemed, for all purposes and despite any security interest in the amount, to hold the amount in trust for Her Majesty in right of Canada, separate and apart from the property of the person and from property held by any secured creditor of the person that, but for a security interest, would be property of the person, until the amount is remitted to the Receiver General or withdrawn under subsection (2).

Amounts collected before bankruptcy
(1.1) Subsection (1) does not apply, at or after the time a person becomes a bankrupt (within the meaning of the *Bankruptcy and Insolvency Act*), to any amounts that, before that time, were collected or became collectible by the person as or on account of tax under Division II.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

and

488 DUPONT STREET LTD. et al.
Respondents

Court File No. CL-26-00000424-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
APPLICATION UNDER SUBSECTION 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

Proceeding commenced at Toronto

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(Application and Motion Returnable November 9, 2026)

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