

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

B E T W E E N:

**DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY
AND 2098535 ALBERTA LTD.**

Applicants

-and-

MILL STREET VENTURES GP LTD.

Respondent

MOTION RECORD

**APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C.1985 c. B-3, as amended**

October 18, 2022

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Lawyers for the Court-appointed Receiver,
Rosen Goldberg Inc.

TO: SERVICE LIST

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TAB 1

Court File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY
and 2098535 ALBERTA LTD.

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985 c. B-3, as amended

NOTICE OF MOTION

ROSEN GOLDBERG INC., in its capacity as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the property municipally known as 305 Mill Street, Angus, Ontario (the “**Real Property**”), and all proceeds thereof, will make a Motion to a Judge presiding over the Commercial List on Monday, October 24, 2022, 2022 at 9:30 am by Zoom videoconference.

PROPOSED METHOD OF HEARING: The Motion is to be heard by videoconference

THE MOTION IS FOR an Order:

1. abridging the time for service and filing of this Notice of Motion and Motion Record, validating service of the Notice of Motion and Motion Record, and dispensing with further service thereof;
2. increasing the cap on the Receiver's borrowing powers from \$7 million to \$8.2 million and providing that all further borrowings drawn by the Receiver in connection therewith be secured under the Receiver's Borrowings Charge as defined in paragraph 10 of the Expanded Powers Order dated September 20, 2021 (the "**Expanded Powers Order**"), with the same priority as provided for in paragraphs 10 and 12 of the Expanded Powers Order;
3. approving the Ninth Report of the Receiver dated October 18, 2022 (the "**Ninth Report**") and the activities and proposed activities of the Receiver set out in the Ninth Report; and
4. such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE

- (a) The Real Property is a 5.3 acre lot in Angus, Ontario, in the Township of Essa;
- (b) The Receiver recently completed severances of the Real Property into 3 parcels, namely, the Restaurant Land, the Gas Station Land and the Phase 2 Land;
- (c) The restaurants on the Restaurant Land were substantially completed and occupancy was granted in December of 2021. The restaurants have been operating since the beginning of 2022. The Restaurant Land is currently under contract by

the Receiver to be sold, subject to the buyer waiving due diligence conditions, which are set to expire on October 24, 2022 at 5 pm;

- (d) Although there have been delays and cost increases over the original budget, the Receiver is in the final stages of construction a gas station and convenience store on the Restaurant Land and is taking steps to commence operations;
- (e) The delays have been attributable to, among other things, difficulties obtaining materials, the availability of trades, grading issues in relation the convenience store and slow approvals on the part of the Township;
- (f) The cost increases have resulted from, among other things, remedial work to the main sanitary line, engineering and legal fees incurred by the Township and passed on to the Debtor's estate, construction of a turnaround to satisfy fire route requirements, increases in costs of paving and landscaping, material and labour shortages, construction of a propane pad and air filling station and additional engineering and site work costs to obtain approvals;
- (g) The Receiver now expects that the cost to complete the gas station and convenience store and remaining infrastructure items will be \$708,784.40;
- (h) The \$1.2 million increased borrowings in respect which the Receiver seeks approval will be applied to pay the unanticipated added costs associated with completing construction and the ongoing expense of servicing monthly interest to DUCA, the first mortgagee of the Real Property, under it variable rate mortgage;

- (i) The Receiver's borrowings to date do not, and the increased borrowings will not, prime DUCA's security;
- (j) Since its Eighth Report dated April 21, 2022, the Receiver has, among other things, severed the Real Property into 3 parcels, implemented a marketing and sale process in respect of the Restaurant Land and the Gas Station Land, settled lease arrangements with 2 restaurant tenants, accepted offers to purchase the Restaurant Land and the Gas Station Land, dealt with the construction of the gas station and convenience store and obtained an opinion from its legal counsel confirming the validity and priority of the first-ranking security held by DUCA;
- (k) As a result of completing the turnaround during the week of October 10, 2022, the Receiver expects that the Township will imminently release \$405,000 in the letter of credit security it holds, all of which will reduce the indebtedness owing to DUCA;
- (l) On October 17, 2022, prior to the expiry of its due diligence period, the buyer of the Phase 2 Land terminated its agreement of purchase and sale with the Receiver. The Receiver is now assessing potential next steps with respect to the Phase 2 Land;
- (m) If the existing buyer of the Restaurant Land waives conditions, the Receiver will move quickly for approval of the transaction and authorization to distribute the available net proceeds to DUCA immediately upon closing;
- (n) To date the Receiver has only drawn \$62,500.00 on account of its fees and only paid \$23,925.00 on account of legal fees, notwithstanding the extensive

professional services involved in this administration. The time spent by the Receiver and by its primary legal counsel Dickinson Wright LLP has otherwise been accruing. Given, among other things, the absence of a liquidity event to date, the unanticipated added costs associated with completing construction, the ongoing expense of servicing monthly interest to DUCA and the turn in the real estate market, the Receiver and its counsel are deferring draws and passing their accounts until such time as DUCA is paid in full. Under the terms of the Receiver's appointment, its charge for fees and for the fees of its counsel, rank subordinate in priority to DUCA's security.

- (o) Sections 249 of the *Bankruptcy and Insolvency Act* and Rules 3.02(1), 16.08 and 41.05 of the *Rules of Civil Procedure*; and
- (p) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) The Ninth Report; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

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October 19, 2022

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Lawyers for the court-appointed Receiver, Rosen
Goldberg Inc.

TO: **SERVICE LIST**

DORR CAPITAL CORPORATION at al.
Applicants

-and- MILL STREET VENTURES GP LTD.
Respondent

Court File No. CV-21-00660056-00CL

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

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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TAB 2



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

**DORR CAPITAL CORPORATION,
COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

-and-

MILL STREET VENTURES GP LTD.

Respondent

**APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C.1985 c. B-3, as amended**

NINTH REPORT OF ROSEN GOLDBERG INC.

October 18, 2022

I. INTRODUCTION

1. By Order of Justice Pattillo dated April 20, 2021 (the “**IR Appointment Order**”), Rosen Goldberg Inc. was appointed non-possessory interim receiver (in such capacity, the “**Interim Receiver**”) of certain real property of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) municipally known as 305 Mill Street, in Angus, Ontario (the “**Real Property**”) pursuant to section 47 of the *Bankruptcy and Insolvency Act* (the “**BIA**”). A copy of the IR Appointment Order is attached as **Appendix A**.



2. By Order of Justice Pattillo dated May 14, 2021, a copy of which is attached **Appendix B**, the Interim Receiver's appointment was extended until further Order.
3. Pursuant to an Expanded Powers Order of Justice Pattillo dated September 20, 2021 (the "**Expanded Powers Order**"), the Interim Receiver's powers were expanded and it was appointed 'full blown' receiver and manager (in such capacity, the "**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, including the Real Property, and all proceeds thereof, pursuant to section 243 of the BIA and section 101 of the *Courts of Justice Act*. A copy of the Expanded Powers Order is attached as **Appendix C**. A copy of Justice Pattillo's endorsement dated September 9, 2021, pursuant to which the Expanded Powers Order was granted, is attached as **Appendix D**.

II. TERMS OF REFERENCE

4. In preparing this Ninth Report, the Receiver has relied upon information from third party sources (collectively, the "**Information**"). Certain information contained in this Ninth Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.



III. PURPOSE OF THIS REPORT

5. The purpose of this Ninth Report is to:
 - (a) recommend that the Receiver's borrowing power be increased from \$7 million to \$8.2 million; and
 - (b) provide an update regarding the Receiver's activities since the activities described in its Eighth Report dated April 21, 2022 (the "**Eighth Report**").
6. For ease of reference, a copy of the Eighth Report is attached (without appendices) as **Appendix E**.

IV. BACKGROUND

7. The Real Property is a 5.3 acre parcel located on a main thoroughfare in the neighbourhood of Angus, in the Township of Essa (the "**Township**").
8. When the IR Appointment Order was made, the Real Property was partially improved and being developed by the Debtor into a 45,600 square foot mixed-use office and retail plaza. The first phase ("**Phase 1**") of construction of a gas station, convenience store, and three other leased buildings, was nearing completion. Of the three leased buildings, one was to be occupied by Starbucks and Mucho Burrito. The other two buildings were to be occupied as standalone KFC and A & W restaurants. The gas station required considerably more work than the other three buildings. No definitive arrangements had been made with any end-user of the gas station.
9. The land upon which the three leased buildings and their appurtenant outdoor parking are



- located is hereinafter referred to as the “**Restaurant Land**”. The land upon which the gas station and convenience store is located is hereinafter to as the “**Gas Station Land**”.
10. The second phase of construction (“**Phase 2**”) was not fully planned, although some general infrastructure work had commenced. Completed improvements in respect of Phase 2 were limited to certain internal servicing, including storm-water receptors, sanitary pipes, and fire hydrants. Planners and consultants had been engaged by the Debtor to assist in seeking site plan approval. The land upon which Phase 2 is situated is at the northern rear of the Real Property (the “**Phase 2 Land**”).
 11. The Applicants are subordinate-ranking mortgagees of the Real Property. The Interim Receiver’s appointment was sought, in part, to overcome a halt in construction of Phase 1, which occurred when DUCA Financial Services Credit Union Ltd. (“**DUCA**”), the first-ranking secured creditor, ceased funding under its construction loan, and made demand for payment in full.
 12. The Interim Receiver’s primary mandate was to facilitate the resumption and completion of construction of Phase 1, although the IR Appointment Order prohibited it from taking possession of the Real Property without further Order of the Court.
 13. It became apparent to the Interim Receiver that the project’s delays and costs overruns arose due to a lack of supervision, poor work on the part of sub-contractors and liquidity issues facing the Debtor.
 14. The Interim Receiver engaged replacement trades, obtained topographical reports which identified deficiencies, and proceeded with remediating the deficiencies. As problems were uncovered below grade, dates to complete site services were pushed out and construction costs increased.
 15. The Expanded Powers Order was granted on September 20, 2021, after Justice Pattillo heard competing applications by DUCA, on one hand, and the Interim Receiver’s ‘DIP’ lender,



Rescom, who had been funding the completion of Phase 1, on the other hand.

16. As a condition of the Rosen Goldberg Inc.'s appointment, Rescom offered to pay \$2 million to DUCA in partial reduction of DUCA's indebtedness under its first mortgage. The payment of \$2 million to DUCA was made on September 20, 2021.
17. Rescom through the Receiver is also servicing monthly interest on the remaining indebtedness under the DUCA mortgage as a term of the Expanded Powers Order.
18. As reported in the Eighth Report, the restaurants on the Restaurant Land were substantially completed and occupancy was granted by the Township in December of 2021. The restaurants have been operating since the beginning of 2022.
19. By Order of Justice Cavanagh dated February 18, 2022, the cap on the Receiver's borrowing powers was increased, on an interim basis, from \$5 million to \$6 million. By Order of Justice Cavanagh dated March 7, 2022, the cap on Receiver's borrowing powers was further increased from \$6 million to \$7 million. Copies of the Orders are attached, respectively, as **Appendices F** and **G**. The purpose of the borrowing increase was to, among other things, fund construction of the gas station and convenience store, engineering and planning costs associated with the severing the Property into three parcels, added infrastructure costs associated with KFC's drive-through and service monthly interest payable to DUCA under its mortgage to the Debtor. All of the Receiver's borrowings rank subordinate in priority to DUCA.

V. RECEIVER'S ACTIVITIES

20. Since the Eighth Report, the Receiver has undertaken the following activities;



- Obtained an Order of Justice Conway dated April 28, 2022, approving the marketing and sale process in respect of the Restaurant Land and the Gas Station Land described in the Eighth Report;
- Listed the Restaurant Land and the Gas Station Land for sale with Colliers;
- Completed the severance of each of the Restaurant Land and the Gas Station Land from the Phase 2 Land, such that the Real Property now comprises three separate parcels;
- Completed the negotiation and settlement of a lease between the Receiver and Yogi BK Enterprise Inc. operating as Mucho Burrito Mexican Grill;
- Completed the negotiation and settlement of an amendment to the Debtor's lease with Starbucks Coffee Canada, Inc.;
- Had ongoing communications and dealings with Colliers in connection with the marketing and sale process and the results thereof;
- Received and reviewed offers to purchase the Restaurant Land and the Gas Station Land;
- Accepted offers to purchase the Restaurant Land and the Gas Station Land;
- Attended at the Real Property on multiple occasions;
- Dealt with the construction matters in relation to the gas station and convenience store;
- Had ongoing dealings with restaurant tenants;
- Had ongoing negotiations with A & W Food Services of Canada Inc. with a view to settling its lease with the Receiver;
- Communicated with the Receiver's property manager;
- Regularly communicated, directly or through the Receiver's counsel, with stakeholders or their counsel;
- Responded at length to concerns and criticisms levelled by DUCA following DUCA's change of counsel regarding the Receiver's activities and conduct;
- Had ongoing consultations with its legal counsel;



- Obtained an opinion from its legal counsel confirming the validity and priority of the first-ranking security held by DUCA;
- Prepared various analyses regarding cash flow requirements;
- Communicated with CRA regarding an HST audit;
- Approved payments;
- Had ongoing meetings and communications with the project's engineers, architects and with the Receiver's project manager;
- Communicated with unsecured creditors;
- Had ongoing communications with Parkland regarding the impending commencement of gas station and convenience store operations;
- Dealt with the Township regarding various matters;
- Dealt with banking and bookkeeping.

VI. CONSTRUCTION UPDATE

21. The gas station and convenience store are nearing completion. Although there have been delays and cost increases over the original budget, the Receiver is in the final stages of construction and is taking steps to arrange licensing, hire staff, open supplier accounts and install services required for operation.
22. The delays have been attributable to, among other things, difficulties obtaining materials, the availability of trades, grading issues in relation the convenience store and slow approvals on the part of the Township.
23. The cost increases have resulted from, among other things:
 - Significant remedial work to the main sanitary line, including reinstallation of certain piping, extensive flushing and videotaping of the affected section of piping and



additional back fill;

- Engineering and legal fees of approximately \$250,000 incurred by the Township and passed on to the Debtor's estate;
- Construction of a turnaround mandated by the Township to satisfy fire route requirements;
- Increases in costs of paving and landscaping;
- Increased costs in completing the gas station and convenience store due to material and labour shortages;
- Construction of a propane pad and air filling station on the Gas Station Land; and
- Additional engineering and site work costs to obtain approvals from Township.

24. The Receiver now expects that the cost to complete the gas station and convenience store and remaining infrastructure items will be \$708,784.40. A detailed cost to complete is attached as **Appendix H**.

VII. SECURITY HELD BY TOWNSHIP

25. As previously reported, the Receiver applied for a reduction of \$405,000 in the letter of credit security (the "LCs") held by the Township with the intention of reducing the indebtedness owing to DUCA under its security. The Receiver was initially advised that the reduction had been approved. However, upon following up with the Township, the Receiver was advised that the LCs would not be released until the turnaround for the fire route was completed. As the turnaround was completed during the week of October 10, 2022, the reduction should be confirmed imminently.



26. When construction of the gas station and convenience store is completed, the Receiver will enquire into the release of further security held by the Township with a view to further reducing the indebtedness owing to DUCA under its security.

VIII. RECEIPTS AND DISBURSEMENTS

27. The Receiver's statement of receipts and disbursements for the period of April 20, 2021 to September 30 2022, is attached as **Appendix I**.
28. The Receiver continues to draw on its borrowings on a periodic basis rather than in a lump sum.
29. As reflected in the statement of receipts and disbursements, to date the Receiver has only drawn \$62,500.00 on account of its fees and only paid \$23,925.00 on account of legal fees, notwithstanding the extensive professional services involved in this administration.¹ The time spent by the Receiver and by its primary legal counsel Dickinson Wright LLP has otherwise been accruing. Given, among other things, the absence of a liquidity event to date, the unanticipated added costs associated with completing construction, the ongoing expense of servicing monthly interest to DUCA and the turn in the real estate market, the Receiver and its counsel are deferring draws and passing their accounts until such time as DUCA is paid in full and the extent of the shortfall to the Applicants and possibly Rescom is ascertained.
30. The Receiver notes that under the terms of its appointment, its charge for fees and for the fees of its counsel, rank subordinate in priority to DUCA's security.

¹ The legal fees were paid to the law firm of Garfinkle Biderman LLP in connection with municipal legal services rendered to the Receiver.



IX. INCREASE IN RECEIVER'S BOWWINGS

31. The Receiver requests that its borrowing powers be increased from \$7 million to \$9.2 million. A schedule setting out cash requirements is attached as **Appendix J**.
32. The Receiver notes that apart from unanticipated added costs, cash flow has been negatively impacted by an HST audit conducted by CRA for several periods, which has delayed the inflow of approximately \$150,000. Moreover, the Receiver is to receive a \$350,000 contribution from Parkland upon the opening of the gas station and convenience store, which has been delayed.
33. On October 7, 2022, DUCA notified the Receiver that the monthly interest payments that were being made by the Receiver were insufficient to cover DUCA's interest charges because of an interest rate increase under DUCA's variable rate mortgage. Among other things, the Receiver's cash requirements provide for paying interest arrears to DUCA and for paying higher interest to DUCA going forward.

X. MARKETING AND SALES PROCESS

34. By Order of Justice Conway dated April 28, 2022, a marketing and sale process in respect of the Restaurant Land and the Phase 2 Land as described in the Eighth Report was approved. A copy of the Order is attached as **Appendix K**.
35. In connection with implementing the marketing and sale process, the Receiver entered into agreements of purchase and sale in respect of each of the Restaurant Land and the Phase 2 Land with separate buyers. Both agreements of purchase and sale were subject to due diligence conditions. On October 17, 2022 (yesterday), prior to the expiry of its due



diligence period, the buyer of the Phase 2 Land terminated its agreement of purchase and sale with the Receiver. The Receiver is now assessing potential next steps with respect to the Phase 2 Land.

36. On October 18, 2022 (today), in connection with the buyer of the Restaurant Land requesting a second, brief extension of its due diligence period, the Receiver agreed to grant the buyer an extension until 5 pm on Monday, October 24, 2022.
37. The Receiver will report in greater detail regarding the results of the marketing and sale process and recommend next steps at a later date. If the existing buyer of the Restaurant Land waives conditions, the Receiver will move quickly for approval of the transaction and authorization to distribute the available net proceeds to DUCA immediately upon closing.

XI. CRITICISMS OF THE RECEIVER RAISED BY DUCA

38. On August 16, 2022, the Receiver was notified that DUCA had changed counsel from Devry Smith Frank LLP to Borden Ladner Gervais LLP. Thereafter, in the course of the Receiver's efforts to assist DUCA's new counsel in getting up to speed, a number of concerns and criticisms were levied against the Receiver by DUCA through its new counsel regarding the Receiver's administration. The Receiver does not intend to preempt DUCA by addressing DUCA's criticisms in this Ninth Report and is only raising the issue as a marker. If and when the need arises, the Receiver will respond. The Receiver notes that Rescom, through its counsel, has cautioned DUCA that it may object to some of DUCA's counsel's fees associated with raising these concerns and seek to hold DUCA responsible for the Receiver's professional fees in responding to them.



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

XII. CONCLUSION

39. On the basis of the foregoing, the Receiver recommends that this Honourable Court grant the relief described in paragraph 5 of this Ninth Report.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 18th day of October, 2022.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF
THE PROPERTY, AND NOT IN A PERSONAL OR CORPORATE CAPACITY**

Appendix A

Court File No. CV-21-00660056-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

THE HONOURABLE	)	TUESDAY, THE 20 th
)	
JUSTICE PATTILLO	)	DAY OF APRIL, 2021

B E T W E E N:

**DORR CAPITAL CORPORATION,
COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C.1985 c. B-3, as amended

**APPOINTMENT ORDER
(Non-Possessory Interim Receiver)**

THIS APPLICATION made by Dorr Capital Corporation, Community Trust Company, and 2098535 Alberta Ltd. (collectively, the “**Applicants**”), for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) appointing Rosen Goldberg Inc. (“**Rosen Goldberg**”) as non-possessory interim receiver of certain property of Mill Street Ventures GP Ltd. (the “**Respondent**”) municipally known as 305 Mill Street, Angus, Ontario and legally described in Schedule “A” hereto (the “**Property**”), and sealing the

confidential exhibits (the “**Confidential Exhibits**”) to the Affidavit of Robert Shiller, sworn April 14, 2021, (the “**Shiller Affidavit**”) from the public record until further Order of the Court, was heard this day by Zoom videoconference due to the Covid-19 pandemic.

ON READING the Shiller Affidavit and the Exhibits thereto, including the Confidential Exhibits, on hearing submissions of counsel for the Applicants, the Respondent and DUCA Financial Services Credit Union Ltd. (“**DUCA**”), on being advised of the consent of the Respondent and that DUCA was not opposing the herein Order, and on reading the consent of Rosen Goldberg to act as the non-possessory interim receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record herein 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 47(1) of the *BIA*, Rosen Goldberg is hereby appointed non-possessory interim receiver (in such capacity, the “**Receiver**”) of the 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 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 engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage contractors, tradespersons, quantity surveyors, consultants, construction consultants, appraisers, agents, experts, auditors, accountants, managers, including a property manager and/or a construction manager, 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;
- (d) to undertake any renovations and make any repairs to the Property necessary to ensure the Property is well maintained and rentable and is in compliance with the applicable laws and building codes;
- (e) to undertake any construction at the Property necessary to complete construction of the Project (as that term is defined in the Shiller Affidavit) in compliance with applicable laws and building codes;
- (f) to market available rental units, and subject to Court approval or consent of the Respondent and DUCA enter into new rental agreements;

- (g) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Respondent or any part or parts thereof;
- (h) to receive and collect all monies and accounts now owed or hereafter owing to the Respondent in respect of the Property and to exercise all remedies of the Respondent in collecting such monies, including, without limitation, to enforce any security held by the Respondent in respect of the Property;
- (i) to settle, extend or compromise any indebtedness owing to the Respondent;
- (j) to deal with any lien claims, trust claims, and trust funds that have been or may be registered or which arise in respect of the Property, including any part or parts thereof, and, with approval of this Court, to make any required distribution(s) to any contractor or subcontractor of the Respondent or to or on behalf of any beneficiaries of any such trust funds pursuant to section 85 of the *Construction Act*;
- (k) to undertake environmental, geotechnical or worker's health and safety assessments of the Property and the operations of the Respondent;
- (l) 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 Respondent, for any purpose pursuant to this Order;
- (m) 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 Property and to settle or compromise any such proceedings, and 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;

- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property, against title to the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority in respect of the Property and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Respondent;
- (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 Respondent, and without interference from any other Person.

4. **THIS COURT ORDERS** that, without further Court Order, the Receiver shall not take possession of the Property, and shall not be deemed to have done so by reason of its appointment herein, and/or from exercising any of the rights and/or powers conferred in paragraph 3 above, or in any of the paragraphs below, including without limitation the retainer if necessary of one or

more contractors to enter on to the Property and provide materials or services to the Property. Notwithstanding that the Receiver shall not take possession, or be deemed to have taken possession, of the Property without further Court Order, the Respondent shall not after the appointment of the Receiver take any affirmative action in relation to the Property except at the direction of and with the written consent of the Receiver, or by way of Court Order.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) the Respondent, (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, upon notice of the herein Order, advise the Receiver of the existence of any aspect(s) or portion(s) of the 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.

6. **THIS COURT ORDERS** that all Persons having notice of the herein Order 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 Respondent in respect of the Property, 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 6 or in paragraph 7 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.

7. **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 having notice of the herein Order and 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 having notice of the herein Order 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.

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 RESPONDENT OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Respondent in relation to the Property or against the Property shall be commenced or 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 Respondent in relation to the Property or against the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Respondent and/or the Receiver 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 Respondent to carry on any business which the Respondent is not lawfully entitled to carry on, (ii) exempt the Receiver or the Respondent 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.

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 Respondent in respect of the Property, 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 Respondent 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 banking services, payroll services, insurance, transportation services, utility or other services to the Respondent in respect of the Property 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 Respondent's current telephone numbers, facsimile numbers, internet addresses and domain names in respect of the Property, 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 Respondent 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.

13. **THIS COURT ORDERS** that in the event that an account for the supply of goods and/or services is transferred from the Respondent to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that 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 collection of any accounts receivable in whole or in part in respect of the Property, 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.

EMPLOYEES

15. **THIS COURT ORDERS** that all employees of the Respondent shall remain the employees of the Respondent until such time as the Receiver, on the Respondent'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*.

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 the Receiver's Charge shall form a first charge on the Property, subject to any registered charge or security held by DUCA as of the date of this Order (the "**DUCA Security**"), in which case the Receiver's Charge will form a second charge on the Property subordinate in priority to the DUCA Security, but otherwise the Receiver's Charge will

be 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.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their 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 Commercial List of the Ontario Superior Court of Justice.

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 \$2,000,000.00 (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 DUCA Security, 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 the Term Sheet for Receiver's Borrowings marked as Exhibit "23" to the Shiller Affidavit, and the terms of and conditions of borrowings contained therein, be and are hereby approved.

23. **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.

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

25. **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

26. **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/eservice-commercial/>) 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.rosengoldberg.com/current-files.php'.

27. **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 Respondent's creditors or other interested parties at their respective addresses as last shown on the records of the Respondent 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

28. **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, and shall come back before this Court on May 14, 2021 at 9:30 am to report on the Property.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondent.

30. **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.

31. **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.

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

33. **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.

34. **THIS COURT ORDERS** that notwithstanding the commencement of the within Application and the appointment of the Receiver, the Applicants shall be deemed to be protecting their security, shall not be deemed to have resorted to realizing upon their security over the

Property, and the equitable right of redemption in respect of the Applicants' mortgages over the real property of the Respondent identified on the attached Schedule "A" shall not be triggered.

35. **THIS COURT ORDERS** that the Confidential Exhibits shall be sealed, kept confidential and not form part of the public record, but shall remain with counsel for the Applicants to be filed at a later date, and when so filed shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order.

36. **THIS COURT ORDERS** that the Confidential Exhibits shall remain under seal until further Order of the Court.



SCHEDULE "A"**THE REAL PROPERTY**

PIN 58201-0239 LT in LRO #51

Description: PART OF LOT 21 CONCESSION 1 SUNNIDALE BEING PTS 4, 5 & 6 ON PL 51R39403; TOGETHER WITH AN EASEMENT OVER PT 2 ON PL 51R33560 AS IN SC322575; TOGETHER WITH AN EASEMENT OVER PTS 6 & 9 ON PL 51R34628 AS IN SC692338; TOGETHER WITH AN EASEMENT OVER PART LOT 21 CON 1 BEING PART 11, PLAN 51R34628 AS IN SC1630500; TOWNSHIP OF ESSA

SCHEDULE “B”
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the non-possessory interim receiver (the “**Receiver**”) of the real property of Mill Street Ventures GP Ltd. identified on Schedule “A” to the Appointment Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the ____ day of April, 2021__ (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__.

ROSEN GOLDBERG INC., solely in its capacity as non-possessory interim receiver of the Property, and not in its personal or corporate capacity

Per: _____
Name:
Title:

Per: _____
Name:
Title:

DORR CAPITAL CORPORATION et al

Applicants

MILL STREET VENTURES GP LTD.

Respondent

and

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

Proceeding commenced at Toronto

**APPOINTMENT ORDER
(Non-Possessory Interim Receiver)**

BLANEY MCMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
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Lawyers for the Applicants

Appendix B

Court File No. CV-21-00660056-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

THE HONOURABLE	)	FRIDAY, THE 14 th
)	
JUSTICE PATTILLO	)	DAY OF MAY, 2021

BETWEEN:

**DORR CAPITAL CORPORATION,
COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

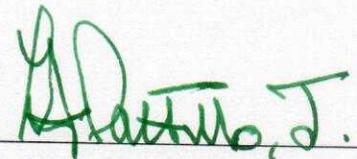
APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C. 1985, C. B-3, as amended

**ORDER
(Extending Interim Receivership)**

THIS MOTION, made by the Applicants and by Rosen Goldberg Inc., in its capacity as the Court-appointed non-possessory interim receiver (in this capacity, the “**Interim Receiver**”) of certain property held by the Respondent, Mill Street Ventures GP Ltd., (“**Mill Street Ventures**”), municipally known as 305 Mill Street, Angus, Ontario (the “**Real Property**”), for an order (i) abridging the time for service of the notice of motion and motion record, (ii) approving the First Report of the Receiver dated May 11, 2021 (the “**First Report**”) and the activities described therein, (iii) approving the Interim Receiver’s Interim Statement of Receipts and Disbursements for the period from April 20, 2021 to May 11, 2021, and (iv) extending the interim receivership until further Order of this Court, was heard this day by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis.

ON READING the First Report, on being advised that the Respondent and the first mortgagee DUCA Financial Services Credit Union Ltd. do not oppose the relief sought, and on hearing the submissions of counsel for the Receiver and the Applicants, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Chad Kopach sworn May 11, 2021, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the First Report, and the actions of the Interim Receiver described therein, be and are hereby approved.
3. **THIS COURT ORDERS** that the Interim Receiver's Interim Statement of Receipts and Disbursements for the period from April 20, 2021 to May 11, 2021 as set out in Appendix "C" to the First Report, be and is hereby accepted and approved.
4. **THIS COURT ORDERS** that the status and mandate of the Interim Receiver pursuant to the Appointment Order of Justice Pattillo dated April 20, 2021 (the "**Appointment Order**"), is hereby extended on the same terms as set out in the Appointment Order until further Order of this Court.
5. **THIS COURT ORDERS** that except as otherwise varied and amended by this Order, all other terms of the Appointment Order shall remain in full force and effect.



DORR CAPITAL CORPORATION et al
Applicants

and

Court File No. CV-21-00660056-00CL
MILL STREET VENTURES GP LTD.
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**
Proceeding commenced at Toronto

ORDER
(Extending Interim Receivership)

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Lawyers for the Applicants and
Rosen Goldberg Inc.

Appendix C

Court File No. CV-21-00660056-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	MONDAY, THE 20 th
)	
JUSTICE PATTILLO	)	DAY OF SEPTEMBER, 2021

B E T W E E N:

DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985 c3 B-3, as amended

EXPANDED POWERS ORDER

THIS MOTION, made by C & K Mortgage Services Inc., carrying on business as Rescom Capital (“**Rescom**”), was heard on September 9, 2021 by judicial videoconference due to the COVID-19 pandemic.

ON READING the Affidavit of Gary Gruneir sworn August 20, 2021, the Affidavit of Gary Gruneir sworn September 2, 2021, the Fourth Report of Rosen Goldberg Inc. dated August 20, 2021, the Fifth Report of Rosen Goldberg Inc. dated September 7, 2021 and upon hearing the submissions of counsel for Rescom, counsel for the Applicants Dorr Capital Corporation, Community Trust Company and 2098535 Alberta Ltd., counsel for counsel for Rosen Goldberg

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Inc., counsel for DUCA Financial Services Credit Union Ltd. (“**DUCA**”), counsel for the Respondent Mill Street Ventures GP Ltd. (the “**Respondent**”) and counsel for Parkland Fuels Inc., no one else appearing, although served,

APPOINTMENT

1. **THIS COURT ORDERS** the status and mandate of Rosen Goldberg Inc. as non-possessory interim receiver of certain property held by the Respondent, municipally known as 305 Mill Street, Angus, Ontario and legally described in Schedule A hereto (the “**Real Property**”), pursuant to the Appointment Order of Justice Pattillo dated April 20, 2021 (the “**Appointment Order**”), as extended by the Order of Justice Pattillo dated May 14, 2021, is hereby varied and amended as hereinafter set out.

2. **THIS COURT ORDERS** that pursuant to section 243 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, Rosen Goldberg Inc. is hereby appointed as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings, and properties of the Respondent acquired for, or used in relation to a business carried on by the Respondent, including the Real Property, and all proceeds thereof (collectively, the “**Property**”). For greater certainty, all references to the “**Receiver**” in the Appointment Order shall be deemed to refer to the “**Receiver**” as defined herein and all references to “**Property**” in the Appointment Order shall be deemed to refer to “**Property**” as defined herein.

RECEIVER’S POWERS

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3. **THIS COURT ORDERS** that in addition to the powers set out in paragraph 3 of the Appointment Order, 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;
- (b) to receive, preserve and protect the Property, or any part or parts thereof, including but not limited to the relocating of the Property or any part or parts thereof to safeguard it;
- (c) to manage, operate, and carry on the business of the Respondent, including the powers to enter into any agreements, continue with construction of Phase 1 on the Real Property (“**Phase 1**”), incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Respondent;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Respondent and to exercise all remedies of the Respondent in collecting such monies, including, without limitation, to enforce any security held by the Respondent;
- (e) 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 Respondent or the Receiver, and to settle or compromise any such proceedings, and the authority hereby conveyed shall extend to such appeals or applications for

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judicial review in respect of any order or judgment pronounced in any such proceeding;

- (f) 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;
- (g) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; 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;

- (h) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchasers or purchasers thereof, free and clear of any liens or encumbrances affecting the Property;

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- (i) to apply for any permits, licenses, 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 Respondent;
- (j) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondent, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondent; and
- (k) to exercise any shareholder, partnership, joint venture or other rights which the Respondent may have.

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 any other Person or Persons (as those terms are defined in the Appointment Order), including the Respondent, and without interference from any other Person.

4. **THIS COURT ORDERS** that paragraph 4 of the Appointment Order is hereby deleted.

PIPEDA

5. **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

-6-

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 Respondent, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

6. **THIS COURT ORDERS** that paragraph 9 of the Appointment Order is hereby amended and restated as follows:

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Respondent or the Property shall be commenced or 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 Respondent or the Property are hereby stayed and suspended pending further Order of this Court.

7. **THIS COURT ORDERS** that the commitment of Rescom to lend Rosen Goldberg Inc. funds in connection with its appointment pursuant this Order, for the purpose of paying down \$2,000,000.00 of principal under DUCA's mortgage and servicing monthly interest on the remainder of the DUCA mortgage on a go-forward basis (collectively, the "**Additional Borrowings**") is hereby approved.

8. **THIS COURT ORDERS** that paragraph 14 of the Appointment Order is hereby amended and restated as follows:

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14. **THIS COURT ORDERS** that 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 in respect of the Property, 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.

9. **THIS COURT ORDERS** that paragraph 18 of the Appointment Order is hereby amended and restated as follows:

18. **THIS COURT ORDERS** that 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 the Receiver's Charge shall form charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, including the Additional Borrowings, but subject to any registered charge or security held by DUCA as of the date of this Order (the “**DUCA Security**”) and to sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

10. **THIS COURT ORDERS** that paragraph 21 of the Appointment Order is hereby amended and restated as follows:

21. **THIS COURT ORDERS** that in addition to the Additional Borrowings, the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such further monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount of such further

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borrowings does not exceed \$1,000,000 (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, including the Additional Borrowings, 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, including the existing borrowings of Rosen Goldberg Inc. in its capacity as Court-appointed interim receiver of the Real Property pursuant to the Appointment Order, but subordinate in priority to the DUCA Security, 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*.

11. **THIS COURT ORDERS** that paragraph 24 of the Appointment Order is hereby amended

and restated as follows:

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule B hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order, including the Additional Borrowings.

12. **THIS COURT ORDERS** that paragraph 25 of the Appointment Order is hereby amended

and restated as follows:

25. **THIS COURT ORDERS** that monies from time to time borrowed by the Receiver pursuant to this Order, including the Additional Borrowings, 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.

13. **THIS COURT ORDERS** that paragraph 34 of the Appointment Order is hereby deleted.

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14. **THIS COURT ORDERS** that Schedule B in the form annexed to the Appointment Order is hereby amended and restated in the form annexed hereto.

CONTINUING EFFECT OF APPOINTMENT ORDER

15. **THIS COURT ORDERS** that except as otherwise varied and amended by this Order, all other terms of the Appointment Order shall remain in full force and effect. In the event of any conflict between the provision of this Order and the provisions of the Appointment Order, the provisions of this Order shall govern.

DISPENSING WITH ENTRY AND FILING

16. **THIS COURT ORDERS** that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.



**SCHEDULE A
THE REAL PROPERTY**

PIN: 58201-0239 LT in LRO #51

Description: PART OF LOT 21 CONCESSION 1 SUNNIDALE BEING PTS 4, 5 & 6 ON PL 51R39403; TOGETHER WITH AN EASEMENT OVER PT 2 ON PL 51R33560 AS IN SC322575; TOGETHER WITH AN EASEMENT OVER PTS 6 & 9 ON PL 51R34628 AS IN SC692338; TOGETHER WITH AN EASEMENT OVER PART LOT 21 CON 1 BEING PART 11, PLAN 51R34628 AS IN SC1630500; TOWNSHIP OF ESSA

**SCHEDULE B
RECEIVER'S CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Mill Street Ventures GP Ltd. (the "Respondent") acquired for, or used in relation to a business carried on by the Respondent, including the property including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ● day of ●, 2021 (the "Order") made in an application having Court file number CV-21-00660056-00-CL, 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 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.

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.

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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 ●, 2021.

Rosen Goldberg Inc., solely in its capacity as
Receiver of the Property, and not in its personal
capacity

Per: _____
Name:
Title:

DORR CAPITAL CORPORATION et al.
Applicants

-and- MILL STREET VENTURES GP LTD.
Respondent

Court File No. CV-21-00660056-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

EXPANDED POWERS ORDER

LAX O'SULLIVAN LISUS GOTTLIEB LLP

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Lawyers for C&K Mortgage Services Inc. o/a Rescom
Capital

Appendix D

Court File Number: CV-21- 00660056-00CL
CV-21-00667752-00CL

Superior Court of Justice
 Commercial List

FILE/DIRECTION/ORDER

DORR CAPITAL CORPORATION et al.

Applicants

AND

MILL STREET VENTURES GP LTD.

Respondent

Case Management Yes No by Judge: L.A. Pattillo J.

Counsel	Telephone No:	Email/Facsimile No:
See Attached App. "A"		

ENDORSEMENT

Date Heard: SEPTEMBER 9, 2021

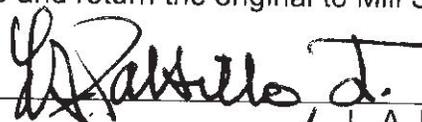
1. On April 20, 2021, I appointed Rosen Goldberg Inc. as non-possessory interim receiver of the respondent's, Mill Street Ventures GP Inc. (Mill Street), property at 305 Mill Street in Angus, Ontario pursuant to s. 47 of the BIA. The Property was being developed into a retail plaza by the respondent who was in default to its first ranking secured creditor, DUCA Financial Services Credit Union Ltd. (DUCA), who holds a first mortgage as well as other security. As a result, construction had ground to a halt.
2. The applicants also financed Mill Street's construction and hold security subordinate to DUCA's. Its loans were also in default. Their application was commenced to preempt DUCA's intention to appoint a receiver in order to complete the construction of Phase 1 of the development. DUCA consented to the application on the agreement by the applicants, as reflected in my endorsement, that the appointment order was without prejudice to DUCA and its security and its rights thereunder including, among other things, its right to bring a motion to lift the stay after 30 days and, if DUCA is granted leave to lift the stay, to appoint a receiver, the applicants would not oppose MSI Spergel Inc. (Spergel) being appointed as receiver.

3. The interim receiver's mandate was to complete the construction of Phase 1 which consists of a gas station, convenience store and three buildings to be occupied by fast food restaurants and a coffee shop pursuant to long term leases. In its first report dated May 11, 2021, the interim receiver noted that at the date of the appointment, Phase 1 was nearly complete. The appointment order authorized the interim receiver, among other things, to borrow up to \$2 million in DIP financing to complete the construction. It expected to complete construction by the end of May.
4. The DIP lender is C&K Mortgage Services Inc., carrying on business as Rescom Capital (Rescom).
5. Subsequently, delays resulting from various issues has resulted in Phase 1 still not being completed. In the fifth report dated September 7, 2021, the interim receiver estimates 4 weeks to complete which does not include the gas station or convenience store. Further, it estimates the cost to complete the construction to be an additional \$300,000 over and above the \$2 million authorized.
6. In early August, I was advised that the intention of the Applicants was to expand the interim receivership to a full receivership, and they expected to pay out DUCA by August 23rd. As DUCA indicated that in the absence of being paid out, it wanted to bring an application to appoint its receiver and Mill Street was not sure of its position, I set September 9, 2021, to decide the matter and August 23, 2021 for a status update.
7. On August 20, 2021, the applicants commenced a motion to amend the appointment order to convert and expand the status and mandate of the interim receiver to a receiver and manager appointed pursuant to s. 243 of the BIA and s.101 of the *Courts of Justice Act*. The material indicated that Rescom was to pay out DUCA conditional, among other things, on the motion being granted.
8. On August 23, 2021, having still not been paid out, DUCA indicated that it intended to commence an application to appoint its receiver. Mill Street was not sure of its position. A timetable was set for materials in advance of September 9, 2021.
9. On August 26, 2021, DUCA commenced its application (Ct. file CV-21-00667752-00CL) seeking leave to lift the stay arising from my appointment order and appointing Spergel as receiver of Mill Street.
10. In light of DUCA's application and their undertaking not to oppose, the applicants relinquished carriage of their motion to convert the interim receivership to Rescom. They support Rescom's conversion motion.
11. Mill Street filed an affidavit from Blake Larsen, its sole officer and director, which opposed both applications for receivership. Mr. Larsen indicated that Mill Street had entered into conditional agreements to sell both Phase 1 and 2, subject to approval of the court and that the monies from the sales would be sufficient to pay off each of DUCA, the applicants and Rescom. Mr. Larsen indicated he was attempting to get financing to complete Phase 1 and asked for time to complete the construction and the agreements.
12. At the commencement of the hearing, Mill Street's counsel advised that the proposed sale agreements were no longer in place and Mill Street was unable to raise any

- financing to complete the construction or pay out its creditors. If a receiver was to be appointed, it opposed DUCA's application and supported Rescom's motion.
13. All the secured creditors agree that it is both just and convenient that a receiver be appointed. There is no issue that both proposed receivers are qualified to undertake to job. The issue is which proposed receiver should be appointed.
 14. DUCA submits that it should be entitled to its choice of receiver as the first ranking secured creditor. It has indicated its intention to appoint a receiver since default and only consented to the appointment of the interim receiver on the basis it was without prejudice to its rights to seek the appointment of its own receiver. Notwithstanding various statements by the applicants and Rescom, its debt remains in default.
 15. DUCA further submits that Rescom is effectively a proxy for the applicants who agreed not to oppose its application. It denies Rescom and Mill Street's allegation that it simply wants to sell the property, as is, without completing the construction. While it has not put forward a plan, it submits that once its receiver takes possession and assesses the situation, it will return to court with a plan.
 16. Rescom submits that its motion should be allowed. As the DIP lender, it is a stakeholder and is not bound by the applicants' undertaking. It submits that it is more economical and efficient to appoint the interim receiver based on its familiarity with the project. The appointment of DUCA's receiver will increase costs and delay construction of the project. Further, DUCA has very little risk in being fully paid out. It is the applicants and Rescom whose debt ranks behind DUCCA who have the real risk. Further, Rescom has offered to "de-risk" DUCCA by paying it \$2 million towards its debt, continuing to service the debt and continuing it to rank as the first secured creditor.
 17. While I agree both proposed receivers are qualified, I lean towards extending the interim receiver. The objective is to finish Phase 1 to maximize the value of the property. There is not much left to complete. The interim receiver clearly has familiarity with the project which is important in finishing Phase 1 as quickly and as economically as possible, particularly given there are potential tenant issues that could arise with delay. Substituting Spergel at the present time will necessarily lead to increased costs and delay. While I am concerned with the delays that have occurred to date, the fact that the applicants, Rescom and Mill Street, the parties that have the most at risk, all support the interim receiver's appointment to finish Phase 1 in a timely manner negates that concern.
 18. While DUCA has not been paid out, it is and will; remain the first ranking secured creditor. Further, based on Rescom's commitments to "de-risk" it, it will not be prejudiced by the appointment of the interim receiver. Nor do I consider that Rescom is bound by the applicants undertaking not to oppose DUCA's application.
 19. For the above reasons therefore, I allow DUCA's motion to lift the stay to enable it to bring its application but dismiss the application. Further, I allow Rescom's motion and appoint Rosen Goldberg as receiver and manager, without security, of all assets, undertakings, and properties of Mill Street in accordance with the terms set forth in Rescom's revised draft order uploaded to Caselines on September 9, 2021, save and except that the authorization for further borrowings in paragraph 11 should not exceed

\$1,000,000 over and above the initial \$2 million already authorized based on the estimated costs to complete Phase 1. If further funds are required, they can be authorized.

20. If a revised order can be sent to me in Word format, I will arrange to have it signed and circulated to all parties.
21. In Mill Street's original motion record, it included as an exhibit a copy of a draft lease from an intended fuel supplier. No agreement was reached and the fuel supplier considers its draft lease confidential. Mill Street and the fuel supplier have agreed that the draft lease will be removed from its motion record and the motion record will be refiled. That has occurred on Caselines. In order to ensure it also occurs in the court file, I direct court staff to replace Mill Street's original motion record with the replacement record excluding the fuel lease and return the original to Mill Street.



L. A. Pattillo J.

September 10, 2021

App 'A'

COUNSEL SLIP**Court File Number:** CV-21-00660056-00CL**Date:** Thursday Sep. 9, 2021 – 10:00 a.m.
via Zoom**Title of Proceeding:** Dorr Capital Corporation et al v. Mill Street Ventures GP Ltd.

Counsel	Party	Contact
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Brahm Rosen (NB – Not Counsel)	The Non-Possessory Interim Receiver	Tel: 416.224.4200 Fax: 416.224.4330 Email: brosen@rosengoldberg.com
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Andrew Winton Carter Liebzeit Lax O'Sullivan Lisus Gottlieb LLP	Counsel for the DIP Lender, C&K Mortgages Services Inc. c.o.b. Rescom	Tel: 416 598 1744 Fax: 416 598 3730 Email: awinton@lolg.ca cliebzeit@lolg.ca



AT. Sept 10/21

Appendix E



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

**DORR CAPITAL CORPORATION,
COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

-and-

MILL STREET VENTURES GP LTD.

Respondent

**APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C.1985 c. B-3, as amended**

EIGHTH REPORT OF ROSEN GOLDBERG INC.

April 21, 2022

I INTRODUCTION

1. By Order of Justice Pattillo dated April 20, 2021 (the “**IR Appointment Order**”), Rosen Goldberg Inc. was appointed non-possessory interim receiver (in such capacity, the “**Interim Receiver**”) of certain real property of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) municipally known as 305 Mill Street, in Angus, Ontario (the “**Real Property**”) pursuant to section 47 of the *Bankruptcy and Insolvency Act* (the “**BIA**”). A copy of the IR Appointment Order is attached as **Appendix A**.



2. By Order of Justice Pattillo dated May 14, 2021, a copy of which is attached **Appendix B**, the term of the Interim Receiver's appointment was extended until further Order of this Court.

3. Pursuant to an Expanded Powers Order of Justice Pattillo dated September 20, 2021 (the "**Expanded Powers Order**"), the Interim Receiver's powers were expanded and it was appointed 'full blown' receiver and manager (in such capacity, the "**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, including the Real Property, and all proceeds thereof (collectively, the "**Property**"), pursuant to section 243 of the BIA and section 101 of the *Courts of Justice Act* (the "**CJA**"). A copy of the Expanded Powers Order is attached as **Appendix C**. A copy of Justice Pattillo's endorsement dated September 9, 2021, pursuant to which the Expanded Powers Order was granted, is attached as **Appendix D**.

II TERMS OF REFERENCE

4. In preparing this Eighth Report, the Receiver has relied upon information from third party sources (collectively, the "**Information**"). Certain information contained in this Eighth Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.



III PURPOSE OF THIS REPORT

5. The purpose of this Eighth Report is to:
- (a) provide an update regarding the Receiver's administration and activities since its Seventh Report dated February 16, 2022 (the "**Seventh Report**");
 - (b) seek approval of the Receiver's activities described herein;
 - (c) recommend and seek approval of a marketing and sale process in relation to the Restaurant Land (hereinafter defined) and the Phase 2 Land (hereinafter defined); and
 - (d) seek an Order sealing the unredacted summary of marketing proposals which the Receiver obtained from real estate brokers, a copy of which is attached Confidential **Appendix 1**.

IV BACKGROUND

6. The Real Property is a 5.3 acre parcel located on a main thoroughfare in the neighbourhood of Angus in the Township of Essa (the "**Township**").
7. When the IR Appointment Order was made, the Real Property was partially improved and being developed by the Debtor into a 45,600 square foot mixed-use office and retail plaza. The first phase of construction ("**Phase 1**") of a gas station, convenience store, and three other leased buildings, was nearing completion. Of the three leased buildings, one was to be occupied by Starbucks and Mucho Burrito. The other two buildings were to be occupied as standalone KFC and A & W restaurants. The gas station required considerably more work than the other three buildings. No definitive arrangements had been made with any end-user



- of the gas station.
8. The second phase of construction (“**Phase 2**”) was not fully planned, although some general infrastructure work had commenced. Completed improvements in respect of Phase 2 were limited to certain internal servicing, including storm-water receptors, sanitary pipes, and fire hydrants. Planners and consultants had been engaged by the Debtor to assist in seeking site plan approval. The land upon which Phase 2 is situated is at the northern rear of the Real Property (the “**Phase 2 Land**”).
 9. The Applicants are subordinate-ranking mortgagees of the Real Property. The Interim Receiver’s appointment was sought by, in part, to overcome a halt in construction of Phase 1, which occurred when DUCA Financial Services Credit Union Ltd. (“**DUCA**”), the first-ranking secured creditor, ceased funding under its construction loan, and made demand for payment in full.
 10. The Interim Receiver’s primary mandate was to facilitate the resumption and completion of construction of Phase 1, although the IR Appointment Order prohibited it from taking possession of the Real Property without further Order of the Court.
 11. It became apparent to the Interim Receiver that the project’s delays and costs overruns arose due to a lack of supervision, poor work on the part of sub-contractors and liquidity issues facing the Debtor.
 12. The Interim Receiver engaged replacement trades, obtained topographical reports which identified deficiencies, and proceeded with remediating the deficiencies. As problems were uncovered below grade, dates to complete site services were pushed out and construction costs increased.
 13. The Expanded Powers Order was granted on September 20, 2021, after Justice Pattillo heard competing applications by DUCA, on one hand, and the Interim Receiver’s ‘DIP’ lender, Rescom, who had been funding the completion of Phase 1, on the other hand.



14. As a condition of the Rosen Goldberg Inc.'s appointment, Rescom offered to pay \$2 million to DUCA in partial reduction of DUCA's indebtedness under its first mortgage. The payment of \$2 million to DUCA was made on September 20, 2021.

V RECEIVER'S ACTIVITIES

15. Since its Seventh Report, the Receiver has undertaken the following activities;
- Prepared a Supplementary Report to the Seventh Report. The Supplementary Report provided a granular explanation to support the Receiver's recommendation that the letters of intent (the "LOIs") which the Receiver had entered into with Parkland Corporation ("Parkland") in relation to the gas station and convenience store were commercially reasonable;
 - Obtained an Order of Justice Cavanagh dated February 18, 2022, authorizing the Receiver to enter into long forms of agreement with Parkland on terms consistent with the LOIs and further authorizing a \$2M increase in the Receiver's borrowing powers;
 - Attended at the Real Property on multiple occasions;
 - Dealt with the construction matters in relation to the gas station and convenience store;
 - Had ongoing dealing with the restaurants tenants;
 - Communicated with the Receiver's property manager;
 - Dealt with prospective listing brokers and reviewed their marketing proposals;
 - Regularly met and other communicated with stakeholders;
 - Had ongoing consultations with its legal counsel;
 - Prepared various analyses regarding cash flow requirements;
 - Prepared and filed HST returns and had follow up communications with CRA;
 - Dealing with matters relating to the severance of the Real Property;
 - Approved payments;



- Had ongoing meetings and communications with the project’s engineers, architects and with the Receiver’s project manager;
- Communicated with unsecured creditors;
- Had ongoing communications with Parkland regarding finalization of agreements respecting the gas station and convenience store and operating issues;
- Dealt with banking and bookkeeping.

VI PHASE 1 CONSTRUCTION

Site Services

16. As previously reported, site services are substantially complete, with the exception of the second coat of paving and the construction of an alternative fire route that the Township required when occupancy of the restaurants was granted by the Township.
17. A revised site plan was recently submitted to the Township reflecting the alternative fire route. In connection with its submission, the Receiver expects to receive the return of \$404,723 of cash security from the Township imminently. When received, the funds will be distributed to DUCA to reduce the indebtedness owing under its security.

Restaurant Buildings

18. As previously reported, the four restaurants were substantially completed and occupancy was granted by the Township in December of 2021. The restaurants have been operating since the beginning of 2022. The portion of the Real Property upon which the restaurants situated is hereinafter referred to as the “**Restaurant Land**”.
19. The Receiver and its counsel are in the process of papering amended lease arrangements with the restaurant tenants. Commercial terms reflecting compromised rent-free periods and



compromised tenant allowances having been settled with three of the four tenants, subject to final written leases or lease amendments being executed. Drafts have been circulated and should be finalised and signed within the next two weeks. In view of the foregoing, the Receiver does not consider embarking of a marketing and sale process of the Restaurant Land to be premature.

Gas Station and Convenience Store

20. By Order of Justice Cavanagh dated February 18, 2022, a copy of which is attached as **Appendix E**, the Receiver was authorized to borrow a further \$2 million. As a result, construction of the gas station and convenience store has progressed significantly.
21. The Receiver and its general contractor, Shayona Construction Inc., in respect of the convenience store, are working with Parkland to ensure that the store is built to required specifications.

Severances

22. As previously reported, Notices of Decisions were issued on November 27, 2020 by the Township's Committee of Adjustments granting provisional consent to sever the Real Property into three parcels, namely the parcel upon which the gas station and convenience are under construction (the "**Gas Station Land**"), the Restaurant Land and the Phase 2 Land. In connection therewith, by Order of Justice Cavanagh dated November 15, 2021, the Receiver was authorized to take such steps as may be necessary to complete the severance.
23. The severance process is now on the verge of completion. The Township has registered the easements it requires over the Real Property and the Receiver's real estate counsel has arranged to have postponements signed by all mortgagees, postponing their rights to the easements. The severance deeds should be registered within the next two weeks.



24. The Receiver's real estate counsel also is in the process of preparing a cost sharing agreement between the severed parcels, which will be required to make each of the separate parcels marketable to buyers.

VII RECEIPTS AND DISBURSEMENTS

25. The Receiver's statement of receipts and disbursements for the period from April 20, 2021 to April 10, 2022 is attached as **Appendix F**.
26. The Receiver has drawn on its borrowings periodically as required, rather than in a lump sum.

VIII PROPOSED MARKETING AND SALES PROCESS

27. As foreshadowed in the Seventh Report, the Receiver proposes a two stage process to market and sell the Real Property. In the initial stage, it proposes to market and sell the Restaurant Land and the Phase 2 Land. The second stage will be to market and sell the Gas Station Land, at an appropriate time after the gas station and convenience store are operating.
28. In weighing whether to conduct a Receiver's sale by tender or to engage a listing broker, the Receiver determined that engaging a listing broker would be the more effective in terms of widely exposing the Restaurant Land and the Phase 2 Land to the market.
29. The Receiver obtained listing proposals from CBRE, Colliers and Cushman Wakefield, all of whom submitted detailed proposals outlining their qualifications, marketing plans, opinions of value and fee structures. A summary of their opinions of value and fee structures, with the opinions of value redacted, is attached as **Appendix G**. The unredacted summary is attached as **Confidential Appendix 1**.
30. Based on the proposals submitted, and the Receiver's discussions with the brokers, the Receiver recommends that it be authorized to engage Colliers to list the Restaurant Land and



the Phase 2 Land for sale. The commission payable to Colliers will be 2.5% and the properties will be marketed on an unpriced modified tender basis.

31. Colliers proposes to implement the following process according to the following timelines:

Week 1	Obtain third party reports Create marketing materials Populate data room Prepare template APS Prepare video Prepare detailed offering memorandum
Week 2 – 6	Launch and undertake marketing Media advertising Contact targeted investors Call campaign
Week 7	Evaluation, selection and acceptance of offers
Week 7 – 9	Due diligence
Closing	30 – 45 days after offer waiver of conditions

IX CONCLUSION

32. On the basis of the foregoing, the Receiver recommends that this Honourable Court grant the relief described in paragraph 5.

All of which is respectfully submitted.



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Dated at Toronto, Ontario, this 21st day of April, 2022.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF
THE PROPERTY, AND NOT IN A PERSONAL OR CORPORATE CAPACITY**

Rosen Goldberg Inc.

Appendix F

Court File No. CV-21-00660056-00CL

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

THE HONOURABLE	)	FRIDAY, THE 18th
)	
JUSTICE CAVANAGH	)	DAY OF FEBRUARY, 2022

BETWEEN:

**DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C. 1985, C. B-3, as amended

ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) all of the assets, undertakings and properties of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the property municipally known as 305 Mill Street, Angus, Ontario and legally described in Schedule “A” hereto (the “**Real Property**”), and all proceeds thereof, was heard this day by judicial videoconference due to the COVID-19 pandemic.

ON READING the Seventh Report of the Receiver dated February 16, 2022 (the “**Seventh Report**”), and upon hearing the submissions of counsel for the Receiver, counsel for DUCA Financial Services Credit Union Ltd. and counsel for Blake Larsen, no one else appearing, although served as set out in the affidavit of service of Janet Nairne sworn February 16, 2022, filed,

1. **THIS COURT ORDERS**, on an interim basis, that the cap on the Receiver’s borrowing powers be and is hereby increased from \$5,000,000 to \$6,000,000 and that all further borrowings drawn by the Receiver in connection therewith shall be secured under the Receiver’s Borrowings Charge as defined in paragraph 10 of the Expanded Powers Order dated September 20, 2021 (the “**Expanded Powers Order**”), with same priority as provided for in paragraphs 10 and 12 of the Expanded Powers Order.
2. **THIS COURT ORDERS** that the balance of the relief sought in the Seventh Report be and is hereby adjourned for hearing at 12:30 pm on March 7, 2022 before Justice Cavanagh.
3. **THIS COURT ORDERS** that on or before February 28, 2022 the Receiver shall serve a supplemental report to address concerns raised by stakeholders in relation to the Seventh Report.
4. **THIS COURT ORDERS** that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

-3-

A handwritten signature in blue ink, appearing to read 'Cavanagh', is positioned to the left of the digital signature text.

Digitally signed by
Mr. Justice Cavanagh



**SCHEDULE A
THE REAL PROPERTY**

PIN: 58201-0239 LT in LRO #51

Description: PART OF LOT 21 CONCESSION 1 SUNNIDALE BEING PTS 4, 5 & 6 ON PL 51R39403; TOGETHER WITH AN EASEMENT OVER PT 2 ON PL 51R33560 AS IN SC322575; TOGETHER WITH AN EASEMENT OVER PTS 6 & 9 ON PL 51R34628 AS IN SC692338; TOGETHER WITH AN EASEMENT OVER PART LOT 21 CON 1 BEING PART

DORR CAPITAL CORPORATION et al.
Applicants

- and - **MILL STREET VENTURES GP LTD.**
Respondent

Court File No. CV-21-00660056-00CL

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

PROCEEDING COMMENCED AT
TORONTO

ORDER

DICKINSON WRIGHT LLP

Barristers & Solicitors
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Tel: 416-777-0101

Lawyers for the Court-appointed Receiver, Rosen Goldberg Inc.

Appendix G



Electronically issued : 08-Mar-2022
 Délivré par voie électronique : 08-Mar-2022
 Toronto

Court File No. CV-21-00660056-00CL

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

THE HONOURABLE)

MONDAY, THE 7th

JUSTICE CAVANAGH)

DAY OF MARCH, 2022

BETWEEN:

**DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY and
 2098535 ALBERTA LTD.**

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
 R.S.C. 1985, C. B-3, as amended

ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) all of the assets, undertakings and properties of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the property municipally known as 305 Mill Street, Angus, Ontario and legally described in Schedule “A” hereto (the “**Real Property**”), and all proceeds thereof, was heard this day by judicial videoconference due to the COVID-19 pandemic.

ON READING the Seventh Report of the Receiver dated February 16, 2022 (the “**Seventh Report**”) and the Supplemental Report to the Seventh Report dated February 28, 2022 (the “**Supplemental Report**”), and upon hearing the submissions of counsel for the Receiver, counsel for DUCA Financial Services Credit Union Ltd. and counsel for the Applicants, and upon being advised that the Debtor takes no position on the within motion, no other counsel appearing on behalf of any parties named in the service list, although served, as appears from the affidavits of service of Janet Nairne sworn February 16, 2022 and February 28, 2022, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, Motion Record and the Supplemental Report is hereby abridged and validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Seventh Report and the Supplemental Report and the activities of the Receiver set out in the Seventh Report and the Supplemental Report be and are hereby approved.
3. **THIS COURT ORDERS** that the Receiver’s statement of receipts and disbursements for the period from April 20, 2021 to February 11, 2022 contained in the Seventh Report be and is hereby approved.
4. **THIS COURT ORDERS** the cap on the Receiver’s borrowing powers be and is hereby increased from \$6,000,000 to \$7,000,000 and that all further borrowings drawn by the Receiver in connection therewith shall be secured under the Receiver’s Borrowings Charge as defined in paragraph 10 of the Expanded Powers Order dated September 20, 2021 (the “**Expanded Powers Order**”), with same priority as provided for in paragraphs 10 and 12 of the Expanded Powers Order.

5. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed, *nunc pro tunc*, to redact from the Seventh Report served on the parties named in the service list Confidential Appendices 1 and 2.
6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed, *nunc pro tunc*, to redact from the Supplemental Report those portions redacted from the Supplemental Report served on the parties named in the service list, including Confidential Appendix 1.
7. **THIS COURT ORDERS** that the unredacted version of the Seventh Report, including Confidential Appendices 1 and 2, and the unredacted version of the Supplemental Report, including Confidential Appendix 1, shall be sealed, kept confidential, and shall not form part of the public record, but shall rather be placed separate and apart from all other contents of the Court File in a separately sealed envelope on which is affixed a notice setting out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be unsealed upon the earlier of the sale of the Real Property, or further Order of the Court.
8. **THIS COURT ORDERS** that the Receiver be and is hereby authorised to enter into a long form of fuel supply agreement with Parkland Corporation (“**Parkland**”) on terms substantially similar to the terms contained in the letter of intent attached as Confidential Appendix 1 to the Seventh Report.
9. **THIS COURT ORDERS** that the Receiver be and is hereby authorised to enter into a long form of convenience store agreement with Parkland on terms substantially similar to the terms contained in the letter of intent attached as Confidential Appendix 2 to the Seventh Report

10. **THIS COURT ORDERS** that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.



Digitally signed by
Mr. Justice Cavanagh

**SCHEDULE A
THE REAL PROPERTY**

PIN: 58201-0239 LT in LRO #51

Description: PART OF LOT 21 CONCESSION 1 SUNNIDALE BEING PTS 4, 5 & 6 ON PL 51R39403; TOGETHER WITH AN EASEMENT OVER PT 2 ON PL 51R33560 AS IN SC322575; TOGETHER WITH AN EASEMENT OVER PTS 6 & 9 ON PL 51R34628 AS IN SC692338; TOGETHER WITH AN EASEMENT OVER PART LOT 21 CON 1 BEING PART

DORR CAPITAL CORPORATION et al.
Applicants

- and -

MILL STREET VENTURES GP LTD.
Respondent

Court File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

ORDER

DICKINSON WRIGHT LLP

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Lawyers for the Court-appointed Receiver, Rosen Goldberg Inc.

Appendix H

Rosen Goldberg Inc.; in its capacity of Receiver and Manager of
Mill Street Ventures GP Ltd.

Estimated cost to complete

Prepared October 14, 2022

ITEM	Contractor	Budget
Asphalt Removal - base repairs		\$14,000.00
Fire Hydrant adjustment	DHL	\$7,000.00
Sanitary M/H Adjustment Turnbull	DHL	\$5,000.00
FLUSH AND VIDEO SEWERS	Trisan	\$12,000.00
install new storm header line @ Gbar	DHL	\$16,000.00
Internal Curb and sidewalk @Gbar	AquaTech	\$64,000.00
External Sidewalk @ Turnbull	AquaTech	\$25,000.00
Base Course Asphalt	GIPI	\$56,000.00
Generator Rental	Xylem	\$38,984.40
Line painting (refresh) & Gbar	Precision	\$4,800.00
Generator Purchase	Xylem	\$64,000.00
Retaining Wall	Matt	\$80,000.00
Landscaping	Matt	\$50,000.00
Parking Lot Lighting	Antec	\$18,000.00
Propane pad and Air station	Propane Co	\$32,000.00
Prepare Fire Truck Turn around	DHL	\$40,000.00
Grade and prep asphalt & concrete	DHL	\$45,000.00
Install gravel access road to SPS Tank	DHL	\$6,000.00
Re & Re concrete ramps at stores	AquaTech	\$11,000.00
Top asphalt & Line painting (2023)	Gipi	\$120,000.00
		<u><u>\$708,784.40</u></u>

Appendix I

Rosen Goldberg Inc.; Court Appointed Receiver of:
Mill Street Ventures GP Ltd.
 For the period April 20, 2021 to September 30, 2022

Receipts

Receiver's borrowings:	7,000,000
Deposit on sale of assets	1,251,250
HST refund	280,305
Rental income	148,969
	<u>8,680,524</u>

Disbursements

Principal repayment to DUCA	2,000,000
Construction costs of gas bar and convenience store	1,650,343
Construction costs	1,590,789
Interest paid on first mortgage	689,350
HST paid	448,552
Engineering, planning and architectural services	141,925
Payment to Township of Essa on account of professional fees	225,000
Interest on receiver's borrowings	87,232
Construction management fees	74,500
Property management and maintenance	73,413
Receiver's fees	62,500
Insurance	60,996
Realty taxes	46,878
Fees and costs on interim receiver's borrowings	42,526
Legal fees	23,925
Consulting fees	15,949
Other	4,710
	<u>7,238,588</u>
Excess of receipts over disbursements	<u><u>1,441,936</u></u>

The schedule is prepared on a cash basis and does not include the obligations of the Receiver.

Appendix J

Rosen Goldberg Inc.; in its capacity of Receiver and Manager of
Mill Street Ventures GP Ltd.

Cash requirements

Prepared October 14, 2022

Amounts owing to Trisan	400,000
Amounts owing to Shayona	160,000
Cost to complete	570,000
Mercandising costs	100,000
Interest to Duca	120,000
Other amounts	90,000
	<hr/>
	1,440,000
Less:	
Cash on hand	(150,000)
HST refunds outstanding	(100,000)
	<hr/>
	(250,000)
Amount required	
	<hr/> <hr/>
	1,190,000

Appendix K

Court File No. CV-21-00660056-00CL

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

THE HONOURABLE	)	THURSDAY, THE 28 th
)	
JUSTICE CONWAY	)	DAY OF APRIL, 2022

B E T W E E N:

**DORR CAPITAL CORPORATION, COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

- and -

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C. 1985, C. B-3, as amended

ORDER

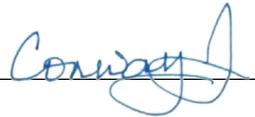
THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) all of the assets, undertakings and properties of the Respondent Mill Street Ventures GP Ltd. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the property municipally known as 305 Mill Street, Angus, Ontario and legally described in Schedule “A” hereto (the “**Real Property**”), and all proceeds thereof, was heard this day by judicial videoconference due to the COVID-19 pandemic.

ON READING the Eighth Report of the Receiver dated April 21, 2022 (the “**Eighth Report**”), and upon hearing the submissions of counsel for the Receiver, and upon being advised that neither DUCA Financial Services Credit Union Ltd., the Applicants, nor the Debtor, oppose the relief sought, no other counsel appearing on behalf of any parties named in the service list, although served, as appears from the affidavit of service of Janet Nairne sworn April 21, 2022, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, Motion Record, including the Eighth Report, is hereby abridged and validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Eighth Report and the activities of the Receiver set out in the Eighth Report be and are hereby approved.
3. **THIS COURT ORDERS** that the marketing and sale process described in the Eighth report in relation to the Restaurant Land (as defined in the Eighth Report) and the Phase 2 Land (as defined in the Eighth Report) be and is hereby approved.
4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed, *nunc pro tunc*, to redact from the Eighth Report served on the parties named in the service list those portions redacted in Appendix G to the Eighth Report and Confidential Appendix 1.
5. **THIS COURT ORDERS** that the unredacted version of the Eighth Report, including Appendix G and Confidential Appendix 1, shall be sealed, kept confidential, and shall not form part of the public record, but shall rather be placed separate and apart from all other contents of the Court File in a separately sealed envelope on which is affixed a notice setting out the title of

these proceedings and a statement that the contents are subject to a sealing order and shall only be unsealed upon the earlier of the sale of the Real Property, or further Order of the Court.

6. **THIS COURT ORDERS** that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

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**SCHEDULE A
THE REAL PROPERTY**

PIN: 58201-0239 LT in LRO #51

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DORR CAPITAL CORPORATION et al.
Applicants

- and - **MILL STREET VENTURES GP LTD.**
Respondent

Court File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
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Lawyers for the Court-appointed Receiver, Rosen Goldberg Inc.

**DORR CAPITAL CORPORATION, COMMUNITY TRUST
COMPANY AND 2098535 ALBERTA LTD.**

Applicants

-and-

MILL STREET VENTURES GP LTD.

Respondents

Court File No. CV-21-00660056-00CL

ONTARIO

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

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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Rosen Goldberg Inc.