

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) MONDAY, THE 20<sup>th</sup>  
 )  
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

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**

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

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;

- (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

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:

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

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.



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.

  
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**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.

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**

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