Court File No. CV-12-9930-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF First Leaside Wealth Management Inc. and the Applicants Listed on Schedule "A" (collectively, "**First Leaside**")

FACTUM
(Re: Final Distribution, Fee Approval and Discharge)
(Returnable July 31, 2019)

July 30, 2019

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PART I – OVERVIEW

1. Grant Thornton Limited ("**GTL**"), in its capacity as receiver of the First Leaside group of companies (in such capacity, the "**Receiver**"), is seeking this Court's approval to make a final distribution to investors and bring to a conclusion an insolvency proceeding that has been ongoing for over seven years.

2. These proceedings have, from their outset, been focussed on preserving and realizing value from an organization that took investor money with promises of high returns, but that was ultimately unable to sustain itself. Considerations of investor protection and remediation has always been at the core of these proceedings, which commenced shortly after the intervention by the Ontario Securities Commission (the "**OSC**") into First Leaside's operations.

3. Significant sanctions from the Ontario Securities Commission (the "**OSC**") and the Investment Industry Regulatory Organization of Canada ("**IIROC**") against the First Leaside former principals precipitated their personal bankruptcies, and the Receiver has at last realized on the final remaining claims against the estates of these former principals.

4. Over $12 million has already been distributed to creditors and investors of First Leaside. The Receiver is now holding the final remaining assets of the First Leaside group, and with the support of the OSC, IIROC and representative counsel to the First Leaside investors ("**Representative Counsel**"), seeking approval to make distribution to investors and seek its discharge.

PART II – THE FACTS

5. First Leaside was a group of companies that promoted and sold investments in various proprietary investment products, primarily investments in real estate projects. To facilitate its business model, one of the First Leaside entities, First Leaside Securities Inc. ("**FLSI**"), was an investment dealer under Ontario securities law, subject to the jurisdiction of the OSC.[1]

6. In March, 2011, in connection with an investigation by the OSC into the affairs of First Leaside, GTL was retained as a consultant by legal counsel to First Leaside to review, report and make recommendations regarding First Leaside's business, assets, affairs and operations. This precipitated a series of events that led to First Leaside obtaining protection under the *Companies' Creditors Arrangement Act* (Canada) and ultimately the appointment of GTL as receiver (in such capacity, the "**Receiver**").[2]

7. During the course of its CCAA and receivership proceedings, the assets of First Leaside were marketed and liquidated for the benefit of its stakeholders, including mortgagees, investors, and other creditors.[3]

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[1] Seventh Report of the Receiver, dated July 23, 2019 (the "**Seventh Report**") at para. 8.

[2] Seventh Report, at paras. 9-12.

[3] Seventh Report, at para. 13.

8. Concurrently with the liquidation, the Receiver ran a procedure for the determination and resolution of claims filed against First Leaside (the "**Claims Process**"), enabling it to call, assess and ultimately determine claims against the numerous First Leaside entities by creditors and investors.[4]

9. On July 24, 2013, the Court issued an order approving an interim distribution (the "**Interim Distribution**") of proceeds of realization to creditors and investors based on their claims identified in the Claims Process. The Interim Distribution was a complex accounting exercise requiring the Receiver to trace proceeds of assets to debt and equity claims throughout each of the 161 First Leaside entities.[5]

10. Following the Interim Distribution, the last material assets of the First Leaside estate that had not been liquidated consisted of First Leaside's claims against various related parties, including in particular claims against First Leaside principal David Phillips ("**Mr. Phillips**") and his wife, Margaret Davis ("**Ms. Davis**"), seeking damages on account of unpaid loans and improper payments of funds out of First Leaside.[6]

11. During the process of the Receiver pursuing its claim against Mr. Phillips, he was adjudged bankrupt on July 24, 2017, after a proposal to creditors was rejected. At the same time, another First Leaside principal, David Wilson ("**Mr. Wilson**") was also adjudged bankrupt. A. Farber & Partners Inc. was appointed as bankruptcy trustee of each estate (the "**Trustee**").[7]

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[4] Seventh Report, at para. 15.
[5] Seventh Report, at para. 17.
[6] Seventh Report, at para. 19.
[7] Seventh Report, at paras.21-22.

12. The largest creditor in the bankruptcies of Mr. Phillips and Mr. Wilson is the OSC, on account of substantial amounts payable under a sanction order made on January 14, 2015. The Receiver is the second largest creditor of Mr. Phillips. The third largest creditor of Mr. Phillips and second of Mr. Wilson is IIROC, on account of a monetary penalty awarded against Mr. Philips and Mr. Wilson in respect of IIROC's regulatory proceedings.[8]

13. On February 24, 2017, the Court approved a settlement between the Receiver and the Trustee, in respect of claims by the Receiver against Mr. Phillips and by Mr. Phillips against the Receiver, which resulted in a net-payable of $4,847,132.67 to the Receiver. The Phillips Trustee accepted this amount as a proven claim in the bankruptcy proceedings.[9]

14. On July 10, 2019, the Court approved a global settlement among the estates of Mr. Phillips and Mr. Wilson, Ms. Davis, the Receiver, the OSC, and a number of other First Leaside parties (the "**July** Settlement"). The July Settlement fully and finally resolved the Receiver's claims against the First Leaside principals and related parties, as well as claims against them by the OSC.[10]

15. The July Settlement provided for the aggregate amount of $625,000 to be paid by Mr. Phillips, Mr. Wilson, Ms. Davis and certain other related parties to the Receiver, and the Trustee. This settlement payment was allocated $100,000 to the Receiver, and $525,000 to the Trustee.[11]

16. The OSC and IIROC are expected to receive net dividends from the Trustee in the amount of approximately $370,000 and $35,000, respectively, on account of their proven claims in the

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[8] Seventh Report, at paras. 48-49.

[9] Seventh Report, at para. 21.

[10] Seventh Report, at para. 23.

[11] Because the Receiver, the OSC and IIROC are the primary creditors of both Mr. Phillips and Mr. Wilson, a large proportion of the July Settlement proceeds directed to the Trustee will be distributed to the Receiver, the OSC and IIROC as distributions in the bankruptcies.

bankruptcies. After considerable discussions and negotiations, the OSC and IIROC have agreed to turn over their dividends to the Receiver (the "**OSC and IIROC Contribution**") and have directed the Receiver to pay the OSC and IIROC Contribution so that its is recovered by as many investors as possible.[12]

17. The July Settlement also provided for the granting of orders formally dismissing a civil action brought by First Leaside against Mr. Phillips and Mr. Wilson (among other related parties), and for the discharge from bankruptcy of Mr. Phillips and Mr. Wilson.[13]

18. With the Court approval of the July Settlement being granted, all of the material assets of First Leaside have been liquidated, and all that remains in this Receivership Proceeding is to make a final distribution, completed a number of administrative steps and discharge the Receiver. The Receiver is now seeking this relief.[14]

SUMMARY OF REALIZED ASSETS

19. The proceeds of the July Settlement represent the final material asset of the First Leaside estate that the Receiver has left to realize. The remaining assets held by the Receiver are as follows:[15]

(i) The proceeds of the July Settlement, in the amount of approximately $1,150,000;[16]

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[12] Seventh Report, at para. 50.
[13] Seventh Report, at para. 25.
[14] Seventh Report, at para. 26.
[15] Seventh Report, at para. 52.
[16] This includes certain holdbacks.

(ii) The Receiver's distribution in the bankruptcies of Mr. Phillips and Mr. Wilson, in the amount of approximately \$46,000;

(iii) The OSC and IIROC Contribution, in the amount of approximately \$400,000;[17]

(iv) A holdback, in the amount of approximately \$600,000, on account of the remaining amounts withheld from the Interim Distribution as a reserve to fund the Civil Action;

(v) Claims Holdbacks, in the amount of \$187,247, on account of holdbacks the Receiver was maintaining pending the settlement of investor loans (all of which have now been settled); and

(vi) Retainers, which were advanced by First Leaside to certain professional service firms during the CCAA Proceedings and will be returned to the Receiver for distribution to stakeholders.

PROPOSED FINAL DISTRIBUTION

20. The Receiver is seeking authorization to make a final, equal distribution of the remaining proceeds it holds to all investors, irrespective of which First Leaside units they hold, and irrespective of the amount of their original investment or interim recoveries (the "**Final Distribution**"). The Receiver does not propose to make any distribution to creditors, nor to any transferees of First Leaside units, for the reasons set out below.[18]

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[17] While not technically realized assets of the estates, the OSC and IIROC Contribution will be disbursed to the Receiver for the explicit purposes of re-distributing it to the investors in an efficient manner concurrent with the Receiver's distributions.

[18] Seventh Report, at para. 55.

21. In the Receiver's view, the propose Final Distribution is the most reasonable, equitable, efficient and appropriate means of distributing the remaining First Leaside assets.

Rationale of the Final Distribution

22. All of the remaining funds are direct or indirect proceeds of litigation, which cannot be allocated to any one particular First Leaside entity. The proceeds represent damages and recoveries on a global basis. Therefore, unlike what was done in the Interim Distribution, these proceeds ought to be distributed to investors equally, without regard to the specific First Leaside entity in which they invested.[19]

23. This rationale applies to the balance of the proceeds to be distributed, which are indirectly proceeds of litigation or holdbacks reserved pending the resolution of litigation, and applies to the OSC and IIROC Contributions, which were given to the Receiver with the explicit instruction that they be paid equitably to investors.[20]

24. Distribution on a "head count" rather than a "*pari passu*" basis would result in approximately 1400[21] investors receiving an equal share of approximately $2,523,000[22] to be distributed, resulting in an estimated $1,775 - $1,825 distribution to each investor.[23]

25. Given the nature of the proceeds to be distributed, the Receiver is not proposing to make distribution to Creditors. Some Creditors were paid in full pursuant to the Interim Distribution, but

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[19] Seventh Report, at para. 61.

[20] Seventh Report, at para. 62.

[21] The Receiver has estimated the number of investors entitled to the Final Distribution. The actual number may change immaterially.

[22] This is an estimate and may chance subject to certain final calculations and the exact amounts that are distributed by the Trustee to the Receiver.

[23] Seventh Report, at para. 63.

there remain approximately sixty creditors with an aggregate of $1,000,000 in unpaid, unsecured creditor claims across all of the First Leaside entities. For scale, unpaid investor claims total approximately $275 million.[24]

26. A number of investors hold securities in accounts maintained by Fidelity Clearing Canada ULC ("**Fidelity**"), which arrangement was historically governed by a custodial agreement between First Leaside and Fidelity. This custodial agreement was terminated Court order on June 6, 2017. In the Receiver's view, it is prudent and efficient for the Receiver to make the Final Distribution directly to Fidelity account holders, as opposed to facilitating that distribution through Fidelity. This is consistent with how the Interim Distribution was made.[25]

Final Distribution Protocol & The Distribution Agent

27. The Receiver has had the last known addresses of First Leaside investors since its appointment. Any changes to such contact information that have been communicated to the Receiver are reflected in its records. These records were used to make the Interim Distribution.[26]

28. The administrative costs and expenses of making the Interim Distribution were considerable, and in the Receiver's view can be minimized for the purposes of the Final Distribution by out-sourcing the task to a third party.[27]

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[24] Seventh Report, at para. 66.

[25] Seventh Report, at para. 69.

[26] Seventh Report, at para. 71.

[27] Seventh Report, at para. 74.

29. The Receiver accordingly proposes to retain the Distribution Agent for the purposes of making the Final Distribution, on terms of the term sheet attached as Appendix A to the Seventh Report (the "**Term Sheet**"), subject to the approval of the Term Sheet by the Court.[28]

30. If approved by the Court, the Term Sheet would provide for three stages for the Final Distribution:[29]

(vii) First, a dividend cheque will be sent by the Distribution Agent to the last known address of each eligible investor;

(viii) Second, six months after the first round of cheques are sent, the Distribution Agent will cancel all uncashed cheques, and undertake an investigation to locate the intended recipients. The cost of the Distribution Agent's time and expenses will be deducted from the distribution payable to the investor being searched. A second round of cheques will then be sent to any investors discovered by the Distribution Agent.

(ix) Third, six months after the second round of cheques are sent, the Distribution Agent will cancel any uncashed cheques and, (i) if the aggregate remaining proceeds exceed $100,000, the Distribution Agent will make a third distribution in equal amounts to those investors who cashed a first-round or second-round cheque, or (ii) if the aggregate remaining proceeds do not exceed $100,000, the Distribution Agent will pay the amount to charity.

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[28] Seventh Report, at para. 74.

[29] Seventh Report, at para. 74.

DISMISSAL OF CIVIL ACTION

31. The Minutes of Settlement that set out the terms of the July Settlement require that the Receiver seek an order dismissing the Civil Action, and an order discharging the CPL, each on a consent basis. The Receiver has obtained the signed consents of each applicable party, in accordance with the terms of the July Settlement, and consistent with its obligations thereunder, is seeking orders dismissing the Civil Action and discharging the CPL.[30]

BOOKS AND RECORDS

32. During the course of the Receivership Proceedings, the Receiver has obtained certain books and records of First Leaside (the "**Books and Records**"), comprised of approximately 1,000 boxes of hard copy records plus certain computer equipment and electronic data that are currently stored or maintained in a third-party storage facility.[31]

33. The cost of the third-party maintenance of First Leaside server and electronic data has been significant as it is maintained on an old server and operating system that cannot be easily duplicated or replaced. The Receiver anticipates that it will no longer require access to the server or information stored thereon.[32]

34. Unless Mr. Phillips, the CRA (who will be served with the Receiver's motion) or another entity with a legitimate interest in the Books and Records requests from the Receiver possession of the Books and Records in their entirety, at their cost, the Receiver is seeking the Court's

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[30] Seventh Report, at para. 79.
[31] Seventh Report, at para. 81.
[32] Seventh Report, at para. 82.

authorization to destroy the Books and Records within 60 days of the order authorizing such destruction.[33]

35. If any party with a legitimate interest in the Books and Records reasonably objects to the destruction of the Books and Records, the Receiver will work with them to resolve the issue, failing which the Receiver may seek the advice and direction of the Court.[34]

RECEIVER'S FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS

36. A copy of the Receiver's final statement of receipts and disbursements dated July 17, 2019 (the "**July 2019 R&D**") is attached as Appendix D to the Seventh Report. The July 2019 R&D reflects the Final Distribution, various settlement amounts paid or received, and the Fee Accrual, as discussed further below. The Receiver respectfully seeks the Court's approval of the July 2019 R&D.[35]

REMAINING ACTIVITIES

37. The Receiver has substantially completed its duties as set out in the BIA, the Receivership Order and the subsequent Orders of the Court made in these Receivership Proceedings, except for the following outstanding matters (collectively, the "**Remaining Activities**"):[36]

(x) coordinating the payment of the Final Distribution, in cooperation with the Distribution Agent, subject to Order of this Court;

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[33] Seventh Report, at para. 85.

[34] Seventh Report, at para. 87.

[35] Seventh Report, at para. 88.

[36] Seventh Report, at para. 89.

(xi) arranging for the destruction of any Books and Records or facilitating their transfer, at the cost of the requesting party;

(xii) preparing the final report of the Receiver pursuant to section 246(3) of the BIA;

(xiii) preparing final tax forms on behalf of the First Leaside entities;

(xiv) other administrative matters incidental to GTL's appointment as Receiver; and

(xv) filing the Certificate (as defined below).

38. The Receiver is of the view that it is appropriate at this time to seek an order of this Court discharging the Receiver, subject to the Receiver filing a certificate (the "**Certificate**") with this Court confirming that the Remaining Activities have been completed. The Receiver proposes that the discharge of the Receiver be operative on the filing of the Certificate.[37]

39. The Receiver is furthermore of the view that the releases sought by the Receiver and its counsel are reasonable and appropriate in the circumstances.

PROFESSIONAL FEES AND DISBURSEMENTS

40. The Receiver, the Receiver's legal counsel, and Representative Counsel have maintained detailed records of their professional time and costs since the Initial Order (as amended) and the Receivership Order were granted, and have continued to do so in these receivership proceedings.[38]

41. The fees and disbursements of the Receiver, its counsel and Representative Counsel have been filed with the Court and posted on the Receiver's website, as well as summarized in the Seventh Report. The Receiver estimates that it will require a further $100,000 to facilitate the Final

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[37] Seventh Report, at para. 90.

[38] Seventh Report, at para. 92.

Distribution and complete the remaining outstanding tasks, and its counsel Blake, Cassels & Graydon LLP ("**Blakes**") estimates that it will incur a further $50,000 for the same time period (such additional amounts, the "**Fee Accrual**"). The Receiver and Blakes currently hold their respect portions of the Fee Accrual as retainers.[39]

42. The Receiver is of the view that the fees and disbursements incurred by it and its counsel (including the Fee Accrual in each case), and by Representative Counsel, are fair and reasonable. Accordingly, the Receiver respectfully requests this Court's approval of such fees and disbursements, as more particularly set out in the Fee Affidavits.[40]

PART III – ISSUES AND THE LAW

43. This Factum addresses the following issues:

(a) Should this Court approve the Final Distribution?

(b) Should this Court approve the destruction of the Books and Records?

(c) Should this Court approve the fees and disbursements of the Receiver, its counsel and Representative Counsel that were incurred in connection with the administration of the Receivership Proceedings?

(d) Should this Court discharge the Receiver and Representative Counsel?

(e) Should this Court grant the releases sought by the Receiver, its counsel and Representative Counsel in connection with their discharge?

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[39] Seventh Report, at paras. 95-98.

[40] Seventh Report, at para. 104.

The Court should approve the Final Distribution

44. As described above and in the Seventh Report, the Receiver proposes to make a final, equal distribution of the remaining proceeds it holds to all investors, irrespective of which First Leaside units they hold, and irrespective of the amount of their original investment or interim recoveries.

45. This Receiver's proposed distribution is justified, and indeed prudent, due to the nature of the proceeds being distributed. The remaining assets are proceeds of litigation, either directly or indirectly, and cannot be attributed to any one of the 161 First Leaside entities. Because the remaining proceeds are not discrete assets of any one estate, they cannot be reasonably distributed to creditors or investors of any particular estate fairly or equitably.

46. If applied to the Final Distribution, the methodology of the Interim Distribution – which provided for distributions on an entity-by-entity basis – would result in unfair results.

47. A significant objective of the BIA is to provide for practical, efficient and relatively inexpensive mechanisms for asset recovery, determination of the validity of claims and distribution on behalf of the estate.[41]

48. Non-ratable allocation among stakeholders where proceeds cannot be attributed to individual estates has been done before. In the recent *Crystal Wealth* case, where costs of a receivership were not specifically allocable to a particular fund, this Court endorsed the allocation

[41] *Residential Warranty Co. of Canada Re* 2006 ABQB 236 at para 25, Receiver's Book of Authorities ("**BOA**") at Tab 1.

of the receiver's fees and legal fees on the basis of the number of investors in each fund rather than on the basis of the units held by each individual investor.[42]

49. The Quebec Court has consolidated classes of creditors for the purposes of distribution where a distribution to stakeholders based on claims against individual debtor entities was impractical and would serve only to increase expenses of administration. In doing so, the court held that practical business considerations should not be disregarded in the context of bankruptcy and insolvency matters.[43]

50. In the present case, all of the remaining proceeds of the First Leaside group are direct or indirect proceeds of litigation. These proceeds cannot be fairly allocated to any one of the 161 First Leaside entities, an accordingly cannot be fairly allocated to any of the creditors or investors of those 161 First Leaside entities. Rather, the proceeds represent damages and recoveries on a global basis.

51. An equal, rather than rateable, distribution is appropriate in the circumstances because:

(a) *The Nature of the Proceeds*: The proceeds being distributed in the proposed Final Distribution are in most cases not allocable to individual investors and not allocable to specific investments. It is therefore necessary and appropriate that each investor should receive the same amount;

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[42] Ontario Securities Commission v Crystal Wealth Management System Limited et al. (CV-17-11779-00CL), Second Report of the Receiver dated November 24, 2017 at paras 57-61 and Order dated December 11, 2017 at section 16, BOA at Tab 2.

[43] *A&F Baillargeon Express Inc., Re*, 1993 CarswellQue 49 (QSC, Bankruptcy and Insolvency Division) at paras 17-19 and 23, BOA at Tab 3.

(b) *Proportional Distribution Has Been Made*: In the Interim Distribution, the Receiver distributed $13.7 million to creditors and investors,[44] based on their respective claims against individual First Leaside entities, and based on the amount of their claim. Only $2.5 million is being proposed to be distributed in the Final Distribution. Accordingly, the vast majority of claims against the First Leaside entities have been paid ratably.

(c) *Maximum Recoveries*. The proposed Final Distribution will ensure that as many investors as possible receive some recovery, whereas a distribution based on amounts invested or based on which units were owned would result in some investors being entitled to nothing, or being entitled to an amount too small to efficiently and effectively distribute;

(d) *Logistical Efficiency*. For the reasons set out in (c), the proposed Final Distribution will result in fewer un-cashed cheques for the Distribution Agent to follow up on, because there will be fewer small cheques – this will increase the net amount available to investors by reducing costs;

(e) *Stakeholder Support*. Representative Counsel, the OSC and IIROC support the proposed Final Distribution, and the Receiver has given considerable weight to their views; and

(f) *No Windfalls*. No investor will receive more than it invested, because the Receiver does not intend to include in the Final Distribution investors who previously received 100% return of their principal investment through the CCAA Proceedings or Receivership Proceedings.

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[44] Third Report of the Receiver, dated July 17, 2013, at paragraph 79.

52. Because the remaining funds cannot be attributed to individual First Leaside entities, distributions to creditors also cannot reasonably be made. It is not clear to the Receiver how the funds would be allocated to debt claims. Moreover, the OSC and IIROC Contributions are not assets of any of the First Leaside entities, and are only available to the Receiver to distribute because the OSC and IIROC have directed the Receiver to pay them over to investors (and not creditors). Creditors would, in any event, never have recourse to the OSC and IIROC Contributions.

53. Accordingly, in the Receiver's respectful view, the only fair and efficient means for distributing the remaining proceeds is to each investor, equally.

This Court should approve the destruction of the Books and Records

54. The Receiver no longer requires the Books and Records to undertake its duties, and there is a material cost to the estate to maintaining them. In the Receiver's view, it's request for authorization to destroy the Books and Records 60 days following the granting of an order to do so is fair and reasonable. If any party with a legitimate interest in the Books and Records wishes to take the Books and Records, the 60 day period will enable the Receiver to facilitate the transfer.

Approval of the fees and disbursements of the Receiver, its counsel and Representative Counsel is fair and reasonable in the circumstances

55. Pursuant to the Receivership Order, the fees and disbursements of the Receiver and its legal counsel and Representative Counsel are authorized to be paid on a periodic basis subject to any final approval as ordered by the Court.[45]

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[45] Receivership Order at paras 24 and 29 and 30-32.

56. The Receiver is seeking approval of the Court for the fees and disbursements of the Receiver, its legal counsel and Representative Counsel.

57. The accounts meet the technical requirements established by case law:

(a) The accounts disclose the name of each person who rendered services, the rate charged and the total charges for each of the categories of services rendered;

(b) The accounts are in a form that can be easily understood by those affected by the receivership or by the judicial officer required to assess the accounts; and

(c) The accounts of the Receiver, its counsel and Representative Counsel are verified by affidavits.[46]

58. A Receiver is entitled to be paid its fees and disbursements, along with those of its counsel, where the amount charged is fair and reasonable in the circumstances. Court will consider the following factors in making a determination to approve fees:

(a) the nature, extent and value of the assets handled;

(b) the complications and difficulties encountered;

(c) the degree of assistance provided by the debtor company;

(d) the receiver's knowledge, experience and skill;

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[46] *Confectionately Yours Inc., Re*, 2002 CarswellOnt 3002 (ONCA) at paras 37-38, BOA at Tab 4 [*Confectionately Yours*].

(e) the diligence and thoroughness displayed;

(f) the responsibilities assumed;

(g) the results of the receiver's efforts; and

(h) the cost of comparable services when performed in a prudent and economical manner.[47]

59. In the Receiver's respectful submission, the fees and disbursements for which approval is sought are appropriate and the above judicial considerations support their approval.

This Court should approve the discharge of the Receiver and Representative Counsel

60. The activities of the Receiver to date are described in detail in the Seventh Report. The Receiver has substantially completed its mandate as contemplated by the Appointment Order and the BIA and respectfully submits that it is appropriate to discharge the Receiver upon filing of the Certificate.

61. Prior to filing the Certificate, the Receiver will complete its duties and responsibilities by (i) coordinating the payment of the Final Distribution, in cooperation with he Distribution Agent, subject to Order of this Court, (ii) arranging for the destruction of any Books and Records or facilitating their transfer at the cost of the requesting party, (iii) preparing the final report of the Receiver pursuant to section 246(3) of the BIA, (iv) preparing final tax forms on behalf of First

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[47] *Confectionately Yours* at para 42.

Leaside entities; and (v) other administrative matters incidental to GTL's appointment as Receiver.[48]

62. Upon completion of the Final Distribution, there will be no remaining material assets subject to this Receivership Proceedings.

The Court should approve the release of the Receiver, its counsel and Representative Counsel

63. The Receiver respectfully submits that it is appropriate to grant a release in favour of it, its counsel and Representative Counsel.

64. In *Pinnacle v Kraus*, a decision granting the discharge of a court-appointed receiver and a release, the Court noted that a release is a standard term in the Commercial List model order of discharge and that in the absence of improper or negligent conduct on the part of the Receiver, the release should be granted.[49]

65. The release of Representative Counsel is also appropriate. Representative Counsel was appointed by this Court to assist investors, and deserves the protection of the Court in carrying out its duties.

PART IV – RELIEF REQUESTED

66. For the reasons set out above and in the Seventh Report, the Receiver respectfully requests that the Court grant the relief sought, and (a) approve the Final Distribution, (b) authorize the

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[48] Seventh Report at para 89.

[49] *Pinnacle v Kraus*, 2012 ONSC 6376 at para 47, BOA at Tab 5.

Receiver to cause the Final Distribution to occur pursuant to the terms of the Term Sheet, (c) authorize the Receiver to destroy the Books & Records, (d) approve the activities of the Receiver set out in the Seventh Report, (e) approve the July R&D, (f) approve the professional fees and disbursements of the Receiver, its counsel and Representative Counsel, (g) discharge the Receiver and Representative Counsel effective upon the filing of the Certificate and (h) release the Receiver, its counsel and Representative Counsel.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of July, 2019

CHRISTOPHER BURR.

SCHEDULE A

Table of Cases

Tab	Description
1.	*Residential Warranty Co. of Canada Re* 2006 ABQB 236
2.	Ontario Securities Commission v Crystal Wealth Management System Limited et al. (CV-17-11779-00CL), Second Report of the Receiver dated November 24, 2017 at paras 57-61 and Order dated December 11, 2017
3.	*A&F Baillargeon Express Inc., Re*, 1993 CarswellQue 49
4.	*Confectionately Yours Inc., Re*, 2002 CarswellOnt 3002 (ONCA)
5.	*Pinnacle v Kraus*, 2012 ONSC 6376 at para 47

Court File No.: CV-12-9930-00CL

IN THE MATTER OF THE RECEIVERSHIP OF FIRST LEASIDE WEALTH MANAGEMENT INC. et al.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

FACTUM
(Returnable July 31, 2019)

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