

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

THE HONOURABLE

)

THURSDAY, THE 26th

)

JUSTICE BLACK

)

DAY OF SEPTEMBER, 2024

)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

**FLORENTINE FINANCIAL CORPORATION
and A&H ASSET AUCTIONS INC.**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

**ORDER
(DISCHARGE AND SUBSTITUTION)**

THIS MOTION made by 1000877740 Ontario Inc. ("**740**") for, among other things, an Order (i) discharging and replacing Grant Thornton Limited ("**GTL**") as the Court-appointed receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties (the "**Property**") of Florentine Financial Corporation ("**Florentine**") and A&H Asset Auctions Inc. ("**A&H**" and together with Florentine, the "**Debtors**"; (ii) substituting and appointing MNP Ltd. ("**MNP**") as the Receiver of the Property of the Debtors; and (iii) amending the style of cause in this

proceeding by deleting The Toronto-Dominion Bank as the Applicant and replacing 740 as the Applicant, was heard this day by Zoom videoconference.

ON READING the Notice of Motion of 740, the affidavit of William Hristovski sworn September 18, 2024, the Second Report of GTL dated September 12, 2024, the fee affidavit of Jacob Wiebe sworn September 9, 2024, 2024 (the “**GTL Fee Affidavit**”), the fee affidavit of Cristian Delfino sworn September 11, 2024 (the “**A&B Fee Affidavit**”), the affidavit of Sana Hussain sworn September 25, 2024, and on hearing the submissions of counsel for 740, counsel for GTL and counsel for Sana Hussain, counsel for MNP and counsel for Amir Durrani and 3283313 Canada Inc. appearing but not making submissions, no one else appearing for any other person on the Service List, as appears from the affidavit of service of Janet Nairne sworn September 18, 2024, and on reading the consent of MNP to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record of 740 is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

SECOND REPORT

2. **THIS COURT ORDERS** that the activities of GTL, as set out in the Second Report, are hereby approved.

3. **THIS COURT ORDERS** that only GTL, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Second Report detailed in paragraph 2 hereof.

4. **THIS COURT ORDERS** that the fees and disbursements of GTL and its counsel, as set out in the GTL Fee Affidavit and the A&B Fee Affidavit, are hereby approved.

5. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved and any reasonable additional fees and disbursements of GTL and its counsel

accruing after the date of this Order estimated to be \$17,500 in the aggregate, GTL shall pay the monies remaining in its hands, if any, to MNP.

DISCHARGE OF GTL AS RECEIVER

6. **THIS COURT ORDERS** that upon GTL filing a certificate certifying that it has completed the other activities described in the Second Report, GTL shall be discharged as Receiver of the Property of the Debtors (the “**Discharge Certificate**”), provided however that notwithstanding its discharge herein (a) GTL shall remain Receiver solely for the performance of such incidental duties as may be required to complete its administration of the receivership herein, and (b) GTL shall continue to have the benefit of the provisions of all Orders (the “**Prior Orders**”) made in the proceedings in Court File No. CV-23-0000347-000 (the “**Brampton Proceedings**”), including all approvals, protections and stays of proceedings in favour of GTL in its capacity as Receiver.

7. **THIS COURT ORDERS AND DECLARES** that GTL and is hereby released and discharged from any and all liability they now have or may hereafter have by reason of, or in any way arising out of, the acts or omissions of GTL while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on their part while so acting. Without limiting the generality of the foregoing, GTL is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Brampton Proceedings and the within receivership proceedings, save and except for any gross negligence or wilful misconduct on GTL’s part.

APPOINTMENT OF MNP AS RECEIVER

8. **THIS COURT ORDERS** that, following the filing of the Discharge Certificate, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, MNP is hereby appointed Receiver, without security, of the Property of the Debtors in the place and stead of GTL, and vested with the powers and protections granted to the Receiver under the BIA and the Prior Orders and for such purposes all

references to GTL in the Prior Orders, including, without limitation, the Order of Justice Daley dated November 23, 2023 appointing GTL as the Receiver (the “**Appointment Order**”), shall apply *mutatis mutandis* to MNP, including all approvals, protections and stays of proceedings in favour of the Receiver.

9. **THIS COURT ORDERS** that GTL shall deliver to MNP, whether in paper form or otherwise contained on a computer or other electric system of information storage: (a) all Records (as defined in paragraph 5 of the Appointment Order) in its possession, (b) copies of its communications with third parties, which, for greater certainty, shall not include any solicitor-client privileged information, and (c) files and work product specifically dealing with the administration, assessment and valuation of the Property (collectively, the “**File**”).

10. **THIS COURT ORDERS** that immediately following MNP’s receipt of the File, GTL shall file the Discharge Certificate and Dickinson Wright LLP shall pay from the funds it is holding in trust (the “**Trust Funds**”), the outstanding fees and disbursements of GTL and its counsel approved by this Court and the reasonable additional fees and disbursements of GTL and its counsel accruing after the date of this Order.

11. **THIS COURT ORDERS** that until receipt by GTL of the Trust Funds, GTL and its counsel shall continue to receive the full benefit of the Receiver’s Charge (as defined in paragraph 18 of the Appointment Order).

12. **THIS COURT ORDERS** that subject to GTL’s receipt of the Trust Funds, any funds which may be received hereafter by GTL in connection with its administration of the Property, including, without limitation, any HST refunds, shall be paid to MNP.

13. **THIS COURT ORDERS** that a Case Website shall be established by MNP in accordance with the Protocol (as defined in paragraph 25 of the Appointment Order) with the following URL www.mnpdebt.ca/florentine.

RECEIVER’S BORROWINGS

14. **THIS COURT ORDERS** that the Receiver's borrowing limit in paragraph 7 of the Order of Justice McSweeney dated April 23, 2024 be and is hereby increased from the maximum principal amount of \$200,000 to \$500,000 (or such greater amount as this Court may by further Order authorize). For greater certainty, the whole of the Property shall continue to be charged by the Receiver's Borrowings Charge (as defined in paragraph 21 of the Appointment Order) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 4.06(7), 81.4(4) and 81.6(2) of the BIA.

15. **THIS COURT ORDERS** that 740 is hereby subrogated to the rights of The Toronto Dominion Bank in connection with all borrowings by GTL as the Receiver from The Toronto-Dominion Bank under the Receiver's Borrowings Charge.

16. **THIS COURT ORDERS** that all amounts paid to GTL and its counsel pursuant to paragraph 11 of this Order shall be secured under the Receiver's Borrowings Charge.

CRA GEMSTONES

17. **THIS COURT ORDERS** that following its appointment, MNP shall develop a recommendation and move for directions with respect to the CRA Gemstones (as defined in the Second Report).

AMENDMENT TO STYLE OF CAUSE

18. **THIS COURT ORDERS** that the style of cause in the within receivership proceedings be and is hereby amended by deleting The Toronto-Dominion Bank as the Applicant and replacing and substituting 1000877740 Ontario Inc. as the Applicant.

19. **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.

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any other Canadian and foreign court, tribunal, regulatory or administrative body ("**Judicial Bodies**") to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its respective agents in carrying out the terms of this Order.

21. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order, and this Order is enforceable without the need for entry and filing.

A handwritten signature in blue ink is positioned above a horizontal line. The signature is stylized and appears to be "M. D. R. B. S. H."

THE TORONTO-DOMINION BANK

- and - **FLORENTINE FINANCIAL CORPORATION et al.**

Applicant

Respondents

Court File No. CV-24-727009-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

(PROCEEDING TRANSFERRED
TO COMMERCIAL LIST FROM BRAMPTON)

ORDER (DISCHARGE AND SUBSTITUTION)

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street, Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

DAVID P. PREGER (36870L)
Email: dpreger@dickinsonwright.com
Tel: 416-646-4606

TALYA R. BERTLER (90315H)
Email: tbertler@dickinsonwright.com
Tel: 416-777-2394

Lawyers for 1000877740 Ontario Inc.