

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

ICICI BANK CANADA

Applicant

-and-

BAYSIDE MALL LIMITED

Respondent

SECOND REPORT OF THE COURT APPOINTED RECEIVER
OF BAYSIDE MALL LIMITED

Dated April 16, 2013

Introduction

Pursuant to a motion heard on December 5, 2012, the Honourable Mr. Justice Wilton-Siegel appointed A. John Page & Associates Inc. as receiver and manager ("**the Receiver**") of certain of the assets, undertakings and properties of Bayside Mall Limited ("**Bayside**") 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. 43, as amended. A copy of the Order of the Honourable Mr. Justice Wilton-Siegel dated December 5, 2012 (**the "Initial Order"**) is attached as *Exhibit "A"*.

The principal asset of Bayside is a 250,958 square foot shopping mall located at 150-202 Christina St. N., Sarnia, Ontario ("**the Bayside Mall**").

On January 28, 2013 the Receiver made its First Report to the Court ("**the First**

Report”).

On February 12, 2013 the Receiver made its Supplement to the First Report (**“the Supplement to the First Report”**).

On February 15, 2013 the Receiver issued a Notice of Motion asking, among other things, for an order directing SAMAK Management & Construction Inc. (**“SAMAK”**) to remit \$155,580.93 to the Receiver, being the amount of rent collected from tenants of the Bayside Mall by SAMAK for the month of December 2012 (**“the December Rents”**).

By order of the Honourable Mr. Justice Wilton-Siegel dated February 21, 2013 (**“the February 21, 2013 Order”**) the activities of the Receiver set down in the First Report and the Supplement to the First Report were approved. The fees and expenses of the Receiver and its primary counsel, Heath Whiteley, to January 31, 2013 were also approved. The fees and expenses of the Receiver’s independent counsel, Gardiner Roberts LLP, to December 31, 2012 were also approved.

On February 28, 2013 the Receiver made its Second Supplement to the First Report (**“the Second Supplement to the First Report”**) to provide the court with an updated of certain information relating to the December Rents matter.

In light of the bankruptcy of SAMAK (see later) the motion for an order directing SAMAK to remit the December Rents to the Receiver has been adjourned by the court to a date to be determined.

Notice to Reader

In preparing this Report and making some of the comments contained in the Report,

the Receiver has been provided with unaudited financial and other information from a variety of sources. While the Receiver has no reason to believe that such information not materially correct, readers should note that the Receiver has not formally audited or reviewed such information. In this Report nothing of a material nature is believed to turn on the information not otherwise audited or reviewed for accuracy.

Purpose of this Report

- To provide the court with information on the activities of the Receiver since our First Report
- To seek approval of the activities of the Receiver and its Statement of Receipts and Disbursements as described in this Report
- To authorize the Receiver to enter into a lease extension agreement with the County of Lambton
- To seek approval for the fees and disbursements of the Receiver and its primary legal counsel, Heath Whiteley, for February and March 2013 as set down in fee affidavits

Malik Khalid and the Khalid Entities

The principal of Bayside is/was Mr. Malik Khalid. As well as his interest in Bayside, Mr. Khalid appears to have an interest in and/or be the controlling mind over a number of other real estate and other ventures in Ontario and a property management company, SAMAK Collectively we will describe these business interests as the “**Khalid Entities**”.

The Khalid Entities include a company, 2058756 Ontario Limited (“205”), that

owns two properties, a 513,500 square foot industrial property at 100 Central Avenue West, Brockville (“**the Brockville Property**”) and a 515,000 industrial property at 700 Gardiner Road, Kingston (“**the Kingston Property**”). The Applicant has mortgage security over the Brockville Property and on June 21, 2012 A. John Page & Associates Inc. was appointed receiver of the assets of 205 except for the Kingston Property by order of the Honourable Mr. Justice Brown. The major asset covered by that appointment was the Brockville Property. The Applicant does not claim mortgage security over the Kingston Property. On October 10, 2012 Schwartz Levitsky Feldman Inc. was appointed receiver of the Kingston Property by order of the Honourable Mr. Justice Campbell.

On March 5, 2013 SAMAK filed an assignment in bankruptcy and Kunjar Sharma & Associates Inc. was named as Trustee of the Estate of SAMAK.

It is our understanding that the two major income earning assets in the Khalid Entities were the Brockville Property and the Bayside Mall. Both of these assets are no longer under the control of the Khalid Entities.

The Bayside Mall

Overview

The Bayside Mall comprises a 250,958 square foot enclosed shopping mall and office building together with close to 1,000 underground and over 300 surface parking spaces. It is located at 150-202 Christina St. N. in Sarnia, Ontario. The Bayside Mall is situated on approximately 8.72 acres of leased land owned by The City of Sarnia pursuant to a land lease (“**the Land Lease**”). At the date of our appointment the Bayside Mall had approximately 25 tenants collectively occupying approximately

44% of the available space. There has been no significant change in the level of occupancy since that time. The Receiver's property manager, Larlyn Property Management Ltd. ("**Larlyn**"), continues to handle day to day management issues at the Bayside Mall.

The Physical Condition of the Bayside Mall

Building Condition Report –

We engaged Halsall Associates ("**Halsall**") to prepare a building condition report ("**the BCR**") at the Bayside Mall. A BCR will help us assess the true condition of the Bayside Mall. In addition one of the realtors that we have had discussions with recommended that we have such a review in hand prior to listing the Bayside Mall in order to be able to address enquiries by potential purchasers regarding the building condition and the potential attendant future capital expenditures.

We have recently received a draft BCR from Halsall and are currently in the process of reviewing its contents.

Parking Garage –

We continue to maintain temporary shoring in an area of perceived concern and have that shoring and the parking garage inspected every two weeks by a professional engineer. To date no immediate matters of concern have been brought to our attention and we have no reason to believe there is any immediate potential health or safety issue. Larlyn have, at our request, performed a review of certain tendering that was set in progress prior to our appointment for repairs to the parking garage. Their findings were inconclusive

as they are not professional engineers. We are therefore in the process of engaging Halsall to perform a parking garage review. This was an unfulfilled requirement of a Notice of Compliance and an Order to Remedy issued by the Ministry of Labour and the City of Sarnia in August 2012. Once we have that review in hand we will be better able to assess the available options.

Wall Repair –

The work to repair about 3,200 square feet of stucco covered wall on the second floor of the Bayside Mall has been completed to the satisfaction of the affected tenant, the County of Lambton.

County of Lambton

The County of Lambton (“**Lambton**”) is the largest tenant at Bayside Mall pursuant to a lease dated August 17, 2000 as amended and extended (“**the Lease**”). Lambton currently occupies a total of 55,595 sf of office space and 895 sf of storage space. The Lease expires on May 15, 2014. Lambton have the right under the Lease to extend the term of the Lease for a further three years but have to give notice of their intention to extend on or before May 15, 2013.

Senior staff at Lambton approached us recently and indicated verbally that they would like to recommend to the appropriate elected officials that they approve an extension of the term of the Lease. They indicated that, because of the uncertainties surrounding who would end up purchasing Bayside Mall, they would prefer to recommend the renewal the Lease for between 18 months to two years, otherwise on the same terms and conditions including rental rates, rather than the three years provided for in the Lease.

It is our view that it would be beneficial if the Lease were to be extended by two years. This would provide a continuation of the significant annual financial contribution to the cash flow of the Bayside Mall and the traffic generated by the Lease, whether by staff or visitors, that provides revenue opportunities to other tenants. An impending vacancy in May 2014 would significantly dampen sales prospects whereas a guaranteed major tenant to 2016, with the prospect of a further extension/renewal at that time enhances the prospects for the Bayside Mall.

Lambton contribute over \$1 million each year, including HST, to the Bayside Mall. We have reviewed the gross rent being paid by Lambton and have compared it to the estimated actual common area costs, property taxes and likely market rents as obtained from the realtor proposals and the appraisal. The rent being paid, and therefore to be paid under the two year extension, seems competitive. In any event, given the vacancies at the Bayside Mall, finding an alternative tenant would not be quick and easy. So, on a number of levels we recommend this lease extension.

The Initial Order requires us to seek the approval of the court for us to undertake certain leasing. In the circumstances we are seeking the court's authorization for us to attempt to conclude a leasing extension for two years with Lambton generally otherwise on the same terms and conditions as the Lease.

At their request we wrote to Lambton on April 4, 2013 (copy attached as *Exhibit "B"*) indicating that we were prepared to extend the Lease by two years providing we had obtained court approval. We understand that that letter will form part of a request to the appropriate elected officials later in April that, if approved, would put Lambton in a position to formally agree to such an extension.

Property Taxes

It seems that the Bayside Mall property taxes in 2012 were about \$286,000. Unpaid property taxes to March 31, 2013, including interest and penalties, were \$416,608.75.

We have engaged the property tax division of Altus Group (“Altus”) to file certain appeals relating to current and future taxes.

The Receiver's Proposed Strategy with Respect to the Bayside Mall

It is the Receiver’s intention to list the Bayside Mall for sale. Prior to doing so it is important to have a reasonable understanding of the condition of the Bayside Mall and of the status of the tenant leases and annual operating costs.

In preparation for such a listing we have, as noted earlier, commissioned a BCR. We have also commissioned an appraisal from Altus. We have recently received a draft of that appraisal and we are currently reviewing that draft. We have also asked three realtors for proposals, including their recommendations for how the Bayside Mall should be marketed and whether any leasing should be undertaken prior to or in parallel to it being listed. As noted earlier we are attempting to extend the term of the Lambton lease. If successful, this should make the Bayside Mall more attractive to potential purchasers. We are also having discussions with the City of Sarnia regarding the Land Lease and its impact on our likely sales process. We are working with Larlyn to confirm all of the current lease arrangements and to estimate annualized operating costs so that a potential buyer will have a better picture of the current and potential financial position of the Bayside Mall.

We will report to the court further on our marketing plans in a later report.

Secured Creditors

We understand that the Applicant, ICICI Bank Canada, is owed in excess of \$12,000,000 secured by two mortgages for \$6,500,000 and \$5,000,000 registered against the Bayside Mall together with a General Security Agreement registered under the PPSA against Bayside. We have asked our independent legal counsel, Gardiner Roberts LLP, to review the Applicant's security.

Fees and Expenses of the Receiver and its Legal Counsel

The fees and expenses of the Receiver and its primary legal counsel, Heath Whiteley, relating to their activities for February and March 2013 were as follows:

A. John Page & Associates Inc.

Month	Hours	Fees	HST	Total
February 2013	120.91	\$37,237.32	\$4,840.85	\$42,078.17
March 2013	123.49	36,827.12	4,787.53	41,614.65
Total	244.40	\$74,064.44	\$9,628.38	\$83,692.82

Heath Whiteley

Month	Fees	Disbursements	HST	Total
February 2013	\$12,120.00	\$210.06	\$1,575.60	\$13,905.66
March 2013	9,240.00	0.00	1,201.20	10,441.20
Total	\$21,360.00	\$210.06	\$2,776.80	\$24,346.86

The Receiver and Mr. Whiteley are submitting fee affidavits to the court concurrent with the submission of this Report and are asking the court to approve these fees and disbursements.

The Receiver's independent counsel, Gardiner Roberts LLP has submitted and been paid \$115.75 plus HST for previously unbilled work prior to March 31, 2013. This billing will be included in a subsequent approval request.

Banking and the Receiver's Statement of Receipts and Disbursements

At the commencement of this assignment, we opened up receivership bank accounts at Royal Bank of Canada and at ICICI Bank Canada. Shortly after their appointment as property manager Larlyn opened up a separate account at Royal Bank of Canada ("**the Larlyn Royal Account**") for use in the management of the Bayside Mall. We have signing authority over this account jointly with Larlyn and all cheques over \$20,000 have to be signed by us. Attached as *Exhibit "C"* is a copy of the Receiver's Interim Statement of Receipts and Disbursement from December 5, 2012 to April 11, 2013 combining the three accounts ("**the R&D**"). The R&D does not include any transactions flowing through the Larlyn Royal Account after February 28, 2013 as these have yet to be reported to us. We are asking the court to approve the R&D.

The fees and disbursements of the Receiver for February and March 2013 are included as a disbursement in the R&D. The Receiver's fees totalling \$74,064.44 plus HST are more fully set out in the invoices attached to the Affidavit of A. John Page that is being filed separately with the Court in support of the application seeking their approval.

The fees and expenses of Mr. Whiteley for February and March 2013 totalling

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April 16, 2013

\$21,570.06 plus HST are also included as a disbursement in the R&D. They are more fully set out in the Affidavit that is also being filed with the Court in support of the application seeking their approval.

All of which is respectfully submitted this 16th day of April, 2013

A. JOHN PAGE & ASSOCIATES INC.
COURT APPOINTED RECEIVER OF BAYSIDE MALL LIMITED
per:

A handwritten signature in black ink, appearing to read 'A. John Page', with a stylized, cursive script.

A. John Page FCPA, FCA, CIRP
President

**Exhibits to the Second Report of A. John Page & Associates Inc.
as Court Appointed Receiver of Bayside Mall Limited
dated April 16, 2013**

Initial Order	A
April 4, 2013 Letter to Lambton	B
Statement of Receipts and Disbursements	C

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Exhibit "A"

**Second Report of A. John Page & Associates Inc.
Court Appointed Receiver of Bayside Mall Limited
Dated April 16, 2013**

Initial Order

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)	WEDNESDAY, THE 5 th DAY
)	
JUSTICE WILTON-SIEGEL)	OF DECEMBER, 2012

ICICI BANK CANADA

Applicant

- and -

BAYSIDE MALL LIMITED

Respondent

ORDER
(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order 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 (the "**CJA**") appointing A. John Page & Associates Inc. as receiver and manager (in such capacities, the "**Receiver**") without security, of certain of the assets, undertakings and properties of Bayside Mall Limited (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavits of Lionel Meunier sworn November 16 and December 4, 2012 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, the Debtor and SAMAK Management & Construction Inc. ("**SAMAK**"), on reading the consent of A. John Page & Associates Inc. to act as the Receiver and on

reading the proposed transition agreement dated December 5, 2012 to be executed by the Receiver and SAMAK,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. John Page & Associates Inc. is hereby appointed 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 all proceeds thereof (the "**Property**"), with such appointment being effective as of 10:00 a.m. on December 5, 2012.

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 the Property and 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 relocating of Property to safeguard it, 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 manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, 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 Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor, and nothing herein shall preclude the Receiver from appointing any party related to the Debtor as its agent for such purposes;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) 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 Debtor, for any purpose pursuant to this Order;
- (i) 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 Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. 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;

- (j) 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;
- (k) 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 \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; 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, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, 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 Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) 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 Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (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 advise the Receiver of the existence of any 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. All Persons shall inform the Receiver if any of the Records might contain information of third parties that were and remain subject to confidentiality

obligations and shall provide the Receiver with details of any such confidentiality obligations. The Receiver shall then keep any such information confidential.

5. THIS COURT ORDERS that all Persons 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 Debtor, 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 5 or in paragraph 6 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.

6. 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 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 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 OR PROPERTY MANAGER

7. 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 or its property manager except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

10. 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 Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with: (i) the Debtor; or (ii) SAMAK in respect of the Property; 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 Debtor 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 Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, 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 Debtor and/or SAMAK 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.

RECEIVER TO HOLD FUNDS

12. 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, 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

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. 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

16. 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

17. 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 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.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its 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.

19. 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

20. 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 \$750,000 (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, 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 Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. 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.

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

23. 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

24. THIS COURT ORDERS that the Receiver be at liberty to serve 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 electronic transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or notice by courier, personal delivery or electronic 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.

25. THIS COURT ORDERS that the Plaintiff, the Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Receiver may post a copy of any or all such materials on its website at www.ajohnpage.com.

GENERAL

26. 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.

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

28. 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.

29. 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.

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

31. 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.

32. THIS COURT ORDERS that the first report of the Receiver shall be served on counsel for the Debtor and counsel for SAMAK by no later than January 28, 2013, and that there shall be a motion in connection with such report scheduled for a date no later than 10 days following service.

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTEST QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU Sceau de la Cour Supérieure de Justice à Toronto, est une copie conforme du document conservé dans ce bureau

DATED AT TORONTO THIS
FAIT À TORONTO LE

5th DAY OF Dec 20 12

REGISTRAR

GREFFIER



W. / Hon - L.J.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

DEC 05 2012

MB

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that A. John Page & Associates Inc., the receiver (the "**Receiver**") of certain of the assets, undertakings and properties of Bayside Mall Limited (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, 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 _____, 20__ (the "**Order**") made in an action having Court file number ____-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 [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__.

A. John Page & Associates Inc., solely in its
capacity as Receiver of the Property, and
not in its personal capacity

Per: _____
Name:
Title:

B E T W E E N:

ICICI BANK CANADA
Applicant

- AND -

BAYSIDE MALL LIMITED
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

(PROCEEDING COMMENCED AT TORONTO)

ORDER
(appointing Receiver)

Heath P.L. Whiteley
(L.S.U.C. No. 38528P)

Tel: (905) 773-7700
Fax: (905) 773-7666
Email: heath@whiteleylitigation.com

310 Stouffville Road
Richmond Hill, Ontario
L4E 3P4

Lawyer for the Applicant



Exhibit "B"

**Second Report of A. John Page & Associates Inc.
Court Appointed Receiver of Bayside Mall Limited
Dated April 16, 2013**

April 4, 2013 Letter to Lambton

April 4, 2013

Mr. John R. Innes
General Manager Finances, Facilities & Court Services
County Treasurer
County of Lambton
789 Broadway St. Box 3000
Wyoming, ON
N0N 1T0

Dear Mr. Innes

Bayside Mall Limited ("Bayside")

As you know by order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) dated December 5, 2012 ("the Initial Order"), A. John Page & Associates Inc. was appointed as Receiver of Bayside. The major asset of Bayside is the mall located at 150 Christina St. N, Sarnia, Ontario ("the Bayside Mall") where you are the major tenant.

It is my understanding that your lease with Bayside with respect to your occupancy of the Bayside Mall dated August 17, 2000 as amended ("the Lease") expires on May 15, 2014 unless extended. I further understand that the Lease provides you with a right to renew the Lease for three years on the same terms and conditions, including base rent. In my conversation yesterday with your Mr. Cribbs he indicated that you might prefer to extend the Lease for two years to May 15, 2016.

I indicated that we, in our capacity as court appointed receiver of Bayside, were prepared to agree to such an extension providing we have court approval. I therefore formally confirm that we are prepared to extend the Lease of the County of Lambton by two years to May 15, 2016 on the same terms and conditions. This offer is subject to us obtaining court approval in accordance with paragraph 3(k) of the Initial Order. We will endeavour to make an application to the court later this month to obtain that approval.

I understand that you will be bringing this matter for approval at a meeting of the appropriate elected officials later this month. Could you please promptly advise me of the outcome of that meeting.



Page 2

Mr. John Innes
April 4, 2013

Please let me know if you require anything further from us at this time.

Yours very truly

A. JOHN PAGE & ASSOCIATES INC.
COURT APPOINTED RECEIVER OF BAYSIDE
per:

A handwritten signature in black ink, appearing to read "A. John Page", written over a horizontal line.

A. John Page FCPA, FCA
President

S:\DATA\WP\CLIENTS\SARNIA\LAMBT1A.WPD

cc David Cripps, Corporate Services Division General Manager, County Clerk and
County Solicitor



Exhibit "C"

**Second Report of A. John Page & Associates Inc.
Court Appointed Receiver of Bayside Mall Limited
Dated April 16, 2013**

Statement of Receipts and Disbursements

Bayside - Statement of Receipts and Disbursements:2

05/12/2012 through 11/04/2013 (in Canadian Dollars) (Cash Basis)

15/04/2013

Page 1

Category Description	05/12/2012- 11/04/2013
INCOME	
HST on Sales	11,307.89
Other Income	17,973.09
Receivables	4,873.91
Receiver's Certificate Borrowing	750,000.00
Rent	232,881.28
TOTAL INCOME	1,017,036.17
EXPENSES	
HST Input	37,397.12
Insurance	17,983.65
Larlyn	
Engineering Inspections	3,750.00
Management Fees	17,677.15
Other	9,162.97
Repairs & Maintenance	26,969.45
Snow Removal Services	10,400.00
Temporary Shoring	8,980.00
Utilities	75,957.35
Wages	102,716.55
TOTAL Larlyn	255,613.47
Legal Fees	39,980.31
Misc.	2,724.70
OSB Filing Fee	70.00
Receiver's Fees	163,814.59
TOTAL EXPENSES	517,583.84
OVERALL TOTAL	499,452.33