



Court File No. CV15-10843-00CL

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

THE HONOURABLE MR.) TUESDAY, THE 9th DAY
)
JUSTICE OSBORNE) OF AUGUST, 2022

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

ORDER

THIS MOTION, made by RSM Canada Limited, in its capacity as the Court-appointed trustee over the lands and premises owned by 144 Park Ltd. pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "**Trustee**"), was heard this day virtually by Zoom videoconference.

ON READING the Twenty-Fourth and Final Report of the Trustee dated July 29, 2022 (the "**Final Report**") and the appendices thereto, and on hearing the submissions of counsel for the Trustee, no one else appearing for any other person on the service list, although served as evidenced by the affidavit of service of Lynda Christodoulou sworn July 29, 2022 and filed with the Court,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Trustee's notice of motion and motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF REPORT AND ACTIVITIES

2. **THIS COURT ORDERS** that the Final Report, and the conduct and activities of the Trustee as set out therein, be and are hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the fees and disbursements of the Trustee and its counsel, including the estimated fees to complete the administration of the proceeding, as set out in the Final Report, the Affidavit of Arif Dhanani sworn July 29, 2022, and the Affidavit of Sam Rappos sworn July 29, 2022, be and are hereby approved.

APPROVAL OF STATEMENT OF RECEIPTS AND DISBURSEMENTS

4. **THIS COURT ORDERS** that the Trustee's Statement of Receipts and Disbursements attached as Appendix "J" to the Final Report be and is hereby approved.

BOOKS AND RECORDS

5. **THIS COURT ORDERS** that the Trustee is hereby authorized to dispose of the books and records of 144 Park Ltd. in the possession, power or control of the Trustee, on or after September 13, 2022, provided that it has not received any request from any affected party to retain the records and provided that this Order is final and not subject to appeal.

DISTRIBUTION

6. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Trustee shall pay the monies remaining in its hands to MarshallZehr Group Inc.

DISCHARGE AND RELEASE

7. **THIS COURT ORDERS** that upon payment of the amounts herein approved, and upon the Trustee filing a certificate certifying that it has completed the Remaining Duties (as defined in the Final Report), RSM Canada Limited shall be discharged as Trustee of the undertaking, property and assets of 144 Park Ltd., provided however that notwithstanding its discharge herein (a) RSM Canada Limited shall remain Trustee for the performance of such incidental duties as may be required to complete the administration of the proceeding herein, and (b) the Trustee shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of RSM Canada Limited in its capacity as Trustee.

8. **THIS COURT ORDERS AND DECLARES** that RSM Canada Limited is hereby released and discharged from any and all liability that RSM Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of RSM Canada Limited while acting in its capacity as Trustee herein, save and except for any gross negligence or wilful misconduct on the Trustee's part. Without limiting the generality of the foregoing, RSM Canada Limited 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 within proceeding, save and except for any gross negligence or wilful misconduct on the Trustee's part.

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Proceedings commenced at Toronto

ORDER

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