

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

THE HONOURABLE	)	FRIDAY, THE 3 <sup>RD</sup>
	)	
JUSTICE MCEWEN	)	DAY OF JULY, 2020

**IN THE MATTER OF s. 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.  
1985 and s. 101 of the Courts of Justice Act, R.S.O., 1990, c. C-43, as amended**

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**2305992 ONTARIO INC.**

Respondent

**ORDER  
(Final Distribution, Approval of Conduct and Fees of Receiver, Authorization to file  
Bankruptcy, and Discharge and Release of Receiver)**

**THIS MOTION**, made by RSM Canada Inc., in its capacity as the Court-appointed Receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of 2305992 Ontario Inc. (the “**Debtor**”) for an Order:

- (a) approving the Settlement Agreement entered into between MarshallZehr Group Inc. (“**MZ**”), 2704553 Ontario Inc. (“**2704553**”) and the Debtor dated June 26, 2020 annexed as an appendix to the Third Report (the “**Settlement Agreement**”);

- (b) approving the activities of the Receiver as set out in the Third Report of the Receiver dated June 26, 2020 (the “**Third Report**”);
- (c) approving the fees and disbursements of the Receiver and its counsel as set out in the fee affidavits annexed as appendices to the Third Report (the “**Fee Affidavits**”);
- (d) approving the Receiver’s Interim Statement of Receipts and Disbursements for the period November 28, 2019 to June 26, 2020 annexed as an Appendix to the Third Report (the “**R&D**”);
- (e) authorizing and directing the Receiver to file an assignment in bankruptcy by and on behalf of the Debtor;
- (f) approving the distribution of the remaining proceeds available in the estate of the Debtor;
- (g) discharging RSM Canada Inc. as Receiver of the undertaking, property and assets of the Debtor; and
- (h) releasing RSM Canada Inc. from any and all liability, as set out in paragraph 10 of this Order,

was heard this day by videoconference due to the COVID-19 crisis.

**ON READING** the Third Report of the Receiver, the Fee Affidavits and on hearing the submissions of counsel for the Receiver, MarshallZehr Group Inc., and on being advised that 2704553 and the Debtor consent to the relief being sought, no one else appearing although duly served as evidenced by the Affidavit of Service of Alina Stoica sworn June 30, 2020, filed;

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record herein shall be and hereby is abridged so that the motion is properly returnable today, and that any further service thereof is hereby dispensed with.

## **APPROVAL OF SETTLEMENT**

2. **THIS COURT ORDERS** that the Settlement Agreement be and is hereby approved.

#### **APPROVAL OF FEES AND DISBURSEMENTS**

3. **THIS COURT ORDERS** that the Third Report and the activities of the Receiver are hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Third Report and the Fees Affidavits, be and are hereby approved.

#### **APPROVAL OF R&D**

5. **THIS COURT ORDERS** that the R&D be and is hereby approved.

#### **AUTHORIZATION TO ASSIGN DEBTOR INTO BANKRUPTCY**

6. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to assign the Debtor into bankruptcy.

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

#### **FINAL DISTRIBUTIONS**

8. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands as follows:

- (a) first, to RSM Canada Inc., in its capacity as trustee in bankruptcy to fund the administrative cost of the bankruptcy of the Debtor in the amount of \$25,000 plus HST;
- (b) second, to MZ on account of its outstanding legal costs incurred in respect of the Debtor and these Receivership Proceedings to the date of distribution;
- (a) third, after payment of the amounts in (a) and (b) above,
  - i) the remaining funds to MZ except 25% of the remaining funds to a maximum of \$500,000; and

- ii) 25% of the remaining funds, to a maximum of \$500,000, to 2704553 or as it may otherwise direct.

### **RECEIVER'S DISCHARGE AND RELEASE**

9. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 8 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver 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 Inc. in its capacity as Receiver.

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

### **EFFECTIVENESS OF ORDER**

11. **THIS COURT ORDERS** that, due to the COVID-19 pandemic, this order is immediately effective and enforceable without the need for entry and filing until further direction from this Court.



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3 July 20

K Mahar  
D Baretto- in person

The Order shall go as per the draft filed and signed .

No one opposes , including Mr Baretto. The debtor and 2nd secured creditor consent.

The relief sought is fair and reasonable regarding the distribution.

The fees sought are also fair and reasonable as is the remaining relief.



**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**DISTRIBUTION AND DISCHARGE ORDER  
(DATED JULY 3, 2020)**

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as Court-appointed Receiver of 2305992 Ontario  
Inc.

