

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**KEVIN D'AMORE**

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,  
SCOTT D'AMORE and ROYAL TIMBERS INC.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS  
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

**MOTION RECORD  
(RETURNABLE ON A DATE TO BE DETERMINED  
BY REGIONAL SENIOR JUSTICE THOMAS)**

(VOLUME 2 OF 4)

February 26, 2021

**MILLER THOMSON LLP**  
One London Place  
255 Queens Avenue, Suite 2010  
London, ON Canada N6A 5R8

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Lawyers for BDO Canada Limited, Court-  
Appointed Receiver of Banwell Development  
Corporation and Royal Timbers Inc.

## APPENDIX L

**ONTARIO SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE RECEIVERSHIP OF BANWELL DEVELOPMENT CORPORATION AND  
ROYAL TIMBERS INC.

**AFFIDAVIT OF STEPHEN N. CHERNIAK**

I, **Stephen N. Cherniak**, of the City of London, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Vice-President of BDO Canada Limited, the Receiver of Banwell Development Corporation and Royal Timbers Inc., (“Banwell” and “Royal Timbers”) and as such, I have knowledge of the matters hereinafter deposed to.
2. By Order dated June 5, 2013 BDO Canada Limited was appointed as Receiver of Banwell and Royal Timbers (the “Receiver”).
3. The Receiver’s First Report to the Court was approved by Justice Thomas on June 25, 2013.
4. The Receiver’s Second Report to the Court was approved by Justice Thomas on July 23, 2013. The first account of the Receiver for the period May 2, 2013 to July 5, 2013 was also approved by the Order of Justice Thomas on July 23, 2013.
5. The Receiver’s Third Report to the Court was approved by Justice Thomas on December 2, 2013. The second account of the Receiver for the period July 5, 2013 to November 5, 2013 was also approved by the Order of Justice Thomas on December 2, 2013.
6. The Receiver’s Fourth Report to the Court was approved by Justice Thomas on December 13, 2013.
7. The Receiver’s Fifth Report to the Court was approved by Justice Thomas on January 27, 2014. The third account of the Receiver for the period November 5, 2013 to January 15, 2014 was also approved by the Order of Justice Thomas on January 27, 2014.

8. The Receiver's Sixth Report to the Court was approved by Justice Thomas on March 3, 2015. The fourth account of the Receiver for the period January 15, 2014 to January 15, 2015 was also approved by the Order of Justice Thomas on March 3, 2015.
9. The Receiver's Seventh Report to the Court was approved by Justice Thomas on April 21, 2015.
10. The Receiver's Eighth Report to the Court was approved by Justice Thomas on June 24, 2015. The fifth account of the Receiver for the period January 15, 2015 to May 17, 2015 was also approved by the Order of Justice Thomas on June 24, 2015.
11. The Receiver's Ninth Report to the Court was approved by Justice Thomas on October 6, 2015. The sixth account of the Receiver for the period May 18, 2015 to August 14, 2015 was also approved by the Order of Justice Thomas on October 6, 2015.
12. The Receiver's Tenth Report to the Court was approved by Justice Thomas on May 29, 2017. The seventh account of the Receiver for the period August 15, 2015 to January 19, 2017 was also approved by the Order of Justice Thomas on May 29, 2017.
13. The Receiver's Eleventh Report to the Court was approved by Justice Thomas on February 13, 2018.
14. The Receiver's Twelfth Report to the Court was approved by Justice Thomas on June 18, 2019. The eighth account of the Receiver for the period January 19, 2017 to February 28, 2019 was also approved by the Order of Justice Thomas on June 18, 2019.
15. Since the date of the Receiver's last account the Receiver has been engaged in the following:
  - Continue re-configuration of Banwell Commercial Lands including applications to City Committee of Adjustment, and numerous telephone conference calls and review of draft documents with MGS Real Estate Consulting Inc. ("MGS"), Mr. G. Barlow of Royal LePage and Receiver's legal counsel regarding easements, Mutual Services Agreement, shared parking agreement, installation of services and other issues;
  - Correspond with MGS, representatives of 2248144 Ontario Limited ("2248144 Ontario") and 838605 Ontario Limited, and their respective counsel, regarding abandonment of original easement

and creation of new easements, shared parking and access, Mutual Services Agreement and sale of Part 24 to 2248144 Ontario.

- Review and execute amendments to Banwell Road Parcels 1-4 Agreement of Purchase and Sale between Receiver and Banwell Gardens Care Facility Inc. (“Banwell Gardens”);
- Prepare the Twelfth Report of the Receiver and Confidential Supplement to provide the Court with the Receiver’s recommendation, to obtain an Order to approve the sale of Banwell Road Parcels 1-4 to Banwell Gardens;
- Amend the sale to Banwell Gardens to include provision for buyer’s portion of estimated servicing costs and escrow agreement drafted by Receiver’s legal counsel;
- Resolve various pre-closing issues and complete the sale of Banwell Road Parcels 1-4 to Banwell Gardens on August 15, 2019;
- Prepare principal and interest calculations for payout of 3 mortgages held by Simba Group Developments Limited, provide notice to service list of intended distribution, and distribute funds on September 5, 2019;
- Convey certain parcels of land to City of Windsor (“City”) for future construction of Palmetto intersection;
- Review of offers received and negotiate sale of Banwell Road commercial Parcels 5-10 to 2186234 Ontario Limited and execute several amendments regarding buyer/seller conditions, closing date and installation of services by Receiver;
- Engage consulting engineer RC Spencer Associates Inc. (“RC Spencer”) to design and tender Banwell Road commercial lands servicing;
- Numerous calls and correspondence with RC Spencer and MGS and review of draft documents for the commercial land servicing project including site diagrams and the tender package;
- Review of tenders received, award letter and contract with successful bidder;
- Review 3<sup>rd</sup> party testing reports and reporting from RC Spencer and MGS during construction;

- Continue to correspond with the City, Receiver's legal counsel and RC Spencer regarding the storm water retention pond and City's demand for Receiver to undertake major modifications including review of technical reports prepared by RC Spencer and City consultants;
- Prepare portions of the Thirteenth Report of the Receiver;
- Prepare working papers and schedules for fiscal 2019, correspond with external accountants Grant Thornton LLP and review draft/final financial statements and income tax returns prepared by accountants;
- Various phone calls, correspondence and response to enquiries from the stakeholders and their respective accountants and legal counsel.

16. In the course of performing the duties pursuant to the Order and as set out above at paragraph 15, and since the date of the Twelfth Report the Receiver's staff expended 364.1 hours for the period of March 1, 2019 through July 31, 2020. Attached hereto and marked as Exhibit "A" to this my Affidavit are the accounts of the Receiver together with a summary sheet.
17. To the best of my knowledge, the rates charged by the Receiver throughout the course of these proceedings are comparable to the rates charged by other insolvency practitioners in the Ontario mid-market for providing similar insolvency and restructuring services.
18. The hourly billing rates outlined in Exhibit "A" to this my Affidavit are not more than the normal hourly rates charged by BDO Canada Limited for services rendered in relation to similar proceedings.
19. Although the assets of Banwell and Royal Timbers are located in Windsor and the Receiver's primary office is located in London the Receiver has not charged for travel time or travel expenses.
20. I verily believe that the fees and disbursements incurred by the Receiver are fair and reasonable in the circumstances.
21. This Affidavit is sworn in support of the motion for approval of the Receiver's fees and disbursements and for no other or improper purposes.

SWORN BEFORE ME at the City of  
London in the Province of Ontario  
on the 19<sup>th</sup> day of February, 2021



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STEPHEN N. CHERNIAK, CPA, CA, CIRP



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Commissioner for Taking Affidavits

**D**avid Randall Flett  
a Commissioner, etc., Province of Ontario,  
for BDO Canada Limited and BDO Canada LLP.  
Expires April 24, 2022

Attached is Exhibit A  
To the Affidavit of Stephen N. Cherniak  
Sworn the 19<sup>th</sup> day of February, 2021



A Commissioner, Etc

**David Randall Flett**  
a Commissioner, etc., Province of Ontario,  
for BDO Canada Limited and BDO Canada LLP.  
Expires April 24, 2022



**Summary of Receiver's Accounts for the period  
March 1, 2019 through July 31, 2020**

<b>Invoice Date</b>	<b>Hours Expended</b>	<b>Fees &amp; Disbursements</b>	<b>HST</b>	<b>Invoice Total</b>
July 24, 2019	155.70	\$63,510.80	\$8,256.40	\$71,767.20
October 29, 2019	79.90	33,000.00	4,290.00	37,290.00
August 5, 2020	128.50	53,500.00	6,955.00	60,455.00
	364.10	\$150,010.80	\$19,501.40	\$169,512.20



Invoice # 239945  
 Banwell Developments Corp  
 HST Reg # 101518124RT0001

Ontario Superior Court of Justice  
 245 Windsor Ave  
 Windsor, ON N9A 1J2

July 24, 2019

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**Re: Banwell Development Corporation and Royal Timbers Inc.**

For professional services rendered for the period February 28, 2019 through July 22, 2019 as per the attached detail:

Our Fee	63,510.80
Disbursements	<u>0.00</u>
Sub Total	63,510.80
HST	8,256.40
Total	<u>\$71,767.20</u>

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**REMITTANCE ADVICE**

Cheque Payments to:  
 100-633 Colborne Street  
 London, ON N6B 2V3

Invoice #	239945
Amount	\$71,767.20

## Banwell Development Corporation and Royal Timbers Inc.

July 24, 2019

For professional services rendered

Staff	Date	Time	Narrative
Cherniak, S	02/28/2019	0.2	Review of correspondence to Miller Thomson and Stamp.
Finnegan, M	03/01/2019	0.2	Bill payment.
Flett, D	03/04/2019	0.2	Call with B. Ropat re status of stormwater pond, phase 4 Robinet cost sharing and commercial land servicing costs.
Cherniak, S	03/05/2019	0.2	Review of correspondence from Stamp re Bell lien and update on March 7 COA meeting.
Flett, D	03/06/2019	0.9	Review part 24 status with SC and emails with Miller Thomson re extension of closing; email to G. Barlow re part 24 closing, outstanding issues; review Barlow recommendation with SC; review correspondence, map re Bell easement and comments; review T. Van Klink email re B. Sasso, P. Greene commercial land enquiries and review reply with SC.
Cherniak, S	03/06/2019	0.6	Email to G. Barlow re extend masse closing. Call with G. Barlow. Email from T. Van Klink re update for Sasso and Green. Respond.
Finnegan, M	03/07/2019	0.5	File HST returns.
Flett, D	03/08/2019	0.2	Review M. Stamp email re committee of adjustment, easement revisions; review monthly reporting R&D and edit.
Finnegan, M	03/11/2019	0.5	Monthly report.
Cherniak, S	03/11/2019	0.1	Review update from Stamp.
Flett, D	03/12/2019	0.2	Email with G Barlow and Miller Thomson re part 24 sale to Dr. Masse.
Cherniak, S	03/12/2019	0.3	Review of emails re Masse closing.
Cherniak, S	03/14/2019	0.1	Respond to G. Barlow.
Finnegan, M	03/14/2019	0.1	Bank statement reconciliation.
Flett, D	03/15/2019	0.1	Email with Miller Thomson re part 24 closing date, G. Barlow re Banwell Gardens sale.
Flett, D	03/18/2019	0.4	Review Banwell Gardens amendment and return signed amendment to G. Barlow; review RC Spencer invoices and update receiver interco accounting; review M. Stamp email re committee of adjustment; email to M. Stamp, A. Roth re call on commercial and review status with SC.
Cherniak, S	03/18/2019	0.2	Execute extension re nursing home deal.
Cherniak, S	03/19/2019	0.3	Updated plan from M. Stamp. Executed amendment from G. Barlow.
Flett, D	03/19/2019	0.6	Review draft mutual services and shared parking and email with M. Stamp, A. Roth, G. Barlow re conference call; review revised draft 12 R and M. Stamp email re Bell easement; received executed Banwell Gardens amendment from G. Barlow.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	03/20/2019	1.6	Lengthy call with M. Stamp, G. Barlow and A. Roth to review easements, amended mutual services and shared parking agreements, revisions , finalizing and deposit of new 12R and related issues; email to A. Roth with old block 200 APS; email with G. Barlow re signs, city Windsor by-law issue; review monthly reporting.
Cherniak, S	03/20/2019	1.6	Prepare for and have long call re going through MSA and shared parking agreement. Send monthly reporting. Respond to D'Amore email.
Flett, D	03/21/2019	1.8	Review shared parking and mutual services agreements revised by Miller Thomson and prepare detailed email to M. Stamp, A. Roth on revisions and questions; email with G. Barlow re signage.
Flett, D	03/22/2019	0.4	Send email to A. Roth, M. Stamp re comments and queries on revised agreements; email with G. Barlow and City Windsor re signs; review M. Stamp email to Bell re easement and pedestal location.
Finnegan, M	03/25/2019	0.4	Receipt of HST refund cheques and deposit. Receipt of letter of credit fee, post to banking account.
Flett, D	03/25/2019	0.9	Review M. Stamp revisions and comments to shared parking and mutual services agreements; email with SC re revisions, next steps; email to M .Stamp, A. Roth re agreements and conference call to finalize.
Flett, D	03/26/2019	1.5	Email to M .Stamp, A. Roth re conference call to review mutual services and parking agreements; review draft 12R and prepare schedule for allocation of commercial land cost sharing by parcel size and schedule to mutual service agreement; email to M. Stamp, G. Barlow with cost sharing allocation schedule and comments re driveway and part 24 share allocation.
Cherniak, S	03/26/2019	0.6	Emails re edits to MSA. Review of revised schedule re allocation of parcels.
Flett, D	03/27/2019	1.8	Review M. Stamp revisions to draft mutual service agreement; call with M. Stamp, A. Roth re mutual services agreement, part 26 access, exclusion of 2248144 from cost sharing, parcel 1-4 rear access road; revise and format lot size proportionate share schedule as Schedule C to mutual services and forward to A. Roth with comments.
Hooper, L	03/27/2019	0.1	Banking
Cherniak, S	03/27/2019	1.2	Conference call re edits to agreement. Review of agreement prior to call.
Finnegan, M	03/28/2019	0.3	Pay bills
Cherniak, S	03/28/2019	0.5	Review of revised MSA. Discuss edits with D. Flett
Flett, D	03/28/2019	1.1	Review revised mutual services agreement; discuss revised agreement with SC and email to A. Roth, M. Stamp with revisions, queries
Cherniak, S	04/02/2019	0.9	Review of Stamp edits. Discuss with D. Flett. Emails to/from G. Barlow re amendments.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	04/02/2019	1.4	Reviewed M Stamp revisions to mutual services agreement and blacklined version; email to M Stamp, A. Roth re owners vs parcel owners; review G. Barlow emails re list prices, servicing and review with SC; revise servicing cost allocation by parcel and forward to A. Roth and G. Barlow with clarification of Parcel 1-4 share; email to all parties re conference call to finalize.
Cherniak, S	04/03/2019	1.1	Review Stamp changes in prep for call. Conference call re final edits to report. Further call with G. Barlow re list prices.
Flett, D	04/03/2019	1.3	Conference call with M. Stamp, G. Barlow, A. Roth to finalize mutual services agreement and plan re reference plan, easements; call with B. Barlow re Banwell Gardens, servicing, list price, parcel 5 interest; email to G. Barlow re alexander daycare; review revised commercial list prices and email to G. Barlow to confirm.
Flett, D	04/04/2019	0.7	Review amendment to Banwell Gardens APS prepared by G. Barlow and review with SC; review M. Stamp email re easements; review listing amendments for servicing included list prices for commercial parcels.
Cherniak, S	04/04/2019	1.2	Emails from G. Barlow re amendments and revised list prices. Review and edit amendment and send back. Execute revised list prices. Review A. Roth edits to MSA.
Cherniak, S	04/05/2019	0.4	Review of correspondence from Miller Thomson re revised easements. Execute and send revised amendment re Banwell Gardens.
Flett, D	04/05/2019	0.4	Sign and forward Banwell gardens amendment to G. Barlow; review revised mutual services agreement and email to M. Stamp, A. Roth; review A. Roth emails re easements.
Cherniak, S	04/08/2019	0.3	Emails from Mike and Andrew re changes to MSA. Discuss with D. Flett.
Flett, D	04/08/2019	1.1	Review M. Stamp, A. Roth emails re mutual services agreement; review further M. Stamp further revisions and queries; detailed email to M. Stamp, A. Roth re input to finalize.
Cherniak, S	04/09/2019	0.6	Review of D. Flett analysis. Discuss with D. Flett. Respond to G. Barlow email. Email to Roth and Stamp re finalizing. Review of Miller Thomson invoice.
Flett, D	04/09/2019	0.4	Review mutual services agreement status, remaining issues with SC; review emails from A. Roth; review G. Barlow emails re Banwell gardens sale, Part 24.
Flett, D	04/10/2019	1.7	Review revised versions to mutual services agreement and several emails with M. Stamp A. Roth re outstanding items, revisions to 3.1, Bell easements, part 41, 42 services, 12R registration and other issues; review email from B. Ropat / MNSI re permit request to City Windsor.
Cherniak, S	04/10/2019	1.1	Review of emails re MSA. Discuss final changes with D. Flett review of correspondence from MSN re cable routing.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Cherniak, S	04/11/2019	0.6	Email and call with G. Barlow re ownership of Palmetto. Review of final MSA and emails from Miller Thomson. Email re lien releases.
Flett, D	04/11/2019	1.3	Review final mutual services agreement; review emails from G. Barlow re lot 5; review further emails from M. Stamp, re easement documents, mutual services; call with B. Ropat re phase 4 Robinet cost sharing, and permits in phase 2,4, commercial land servicing.
Cherniak, S	04/12/2019	0.6	Execute and send acknowledgement and direction. Discuss and review emails re Cogeco and internet provider. Call with G. Barlow.
Flett, D	04/12/2019	1.3	Review easement abandonment documents and emails from M Stamp, J Cook; review emails from MNSI, Cogeco re installation plans, permits and call with B. Ropat to review; review permit, City Windsor assumption issues with SC; email to B. Ropat outlining receiver position relative to MNSI, Cogeco requests for permits, permission to proceed.
Cherniak, S	04/15/2019	0.4	Review of emails Stamp/Miller Thomson re easement registration and removal.
Flett, D	04/15/2019	0.2	Review emails from Miller Thomson and M. Stamp re easement registrations; review email from B. Ropat re City of Windsor.
Flett, D	04/16/2019	1.6	Review Banwell Gardens amendment; call with SC re Banwell Gardens amendment, servicing timing and completion considerations; call with G. Barlow re amendment issues and revisions; emails with SC re amendment; call with B. Ropat re commercial land servicing, time required to prepare tender; prepare revisions to Banwell gardens amendment re mutual cost servicing, closing and forward to SC for review.
Finnegan, M	04/16/2019	0.2	File HST return.
Cherniak, S	04/16/2019	1	Review of nursing home amendment from G. Barlow. Discuss with D. Flett. Review edits.
Cherniak, S	04/17/2019	0.6	Review discuss and execute amendment. Review email to B. Ropat. Review and respond to email from G. Barlow.
Flett, D	04/17/2019	1.1	Email / phone call with B. Ropat re commercial land tender process; revise Banwell gardens amendment, sign and forward to B. Barlow with comments; review subsequent emails from G. Barlow, L. Lansink.
Flett, D	04/18/2019	0.3	Review Banwell gardens servicing and conditional sale issues with SC; review G Barlow emails re Banwell gardens.
Cherniak, S	04/18/2019	1.2	Review of emails from G. Barlow re Colliers realtor. Call with G. Barlow. Call with Lisa Lansink. Call with Greg Bowman re amendment and deal.
Cherniak, S	04/22/2019	0.4	Review of accepted amendment. Discuss report.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	04/22/2019	2.7	Review Banwell Gardens amendment; email with G. Barlow re amendment, signage; review 12th report and exclusion of fee approval from 11th report with SC; review February 2018 orders; commence 12th report of Receiver - background and orders.
Hooper, L	04/23/2019	0.05	Banking.
Flett, D	04/23/2019	3	Review emails from M. Stamp, J. Cook, A. Roth re easement, registration, new 12 R registration; review transfer and release document; continue with 12th report - Receiver activities, Royal Timbers subdivision.
Finnegan, M	04/23/2019	0.3	Pay bill
Cherniak, S	04/23/2019	0.3	Review of emails from Stamp and Miller Thomson re lien removal and deposit of 12R plan.
Cherniak, S	04/24/2019	0.2	Review of email from Simone re non removal of some easements.
Flett, D	04/24/2019	4	Review email, draft 12R from R. Verhaegen; Continue with 12th report - Receiver activities, Banwell parcel 1-4 sale; R&D narrative.
Cherniak, S	04/25/2019	0.4	Review of emails from Stamp to Roth re change in removal of easements. Review of email to cow re cost recovery in phase 4.
Flett, D	04/25/2019	3	Review 11th report statement of receipts and disbursements, receiver's accounting and update lot sale summary; review activity since 11th report with MF; continue preparation of 12th court report and review draft R&D's prepared by MF; review M. Stamp and R. Simone emails re commercial lands.
Cherniak, S	04/26/2019	0.4	Emails to/from Simone/Stamp re easements. Discussion re report.
Flett, D	04/26/2019	4.7	Update receiver inter company accounting re property taxes, professional fees; revisions to draft R&D's; email to A. Roth, J. Cook with Banwell Gardens sale documents and comments; continue with 12th report; review of Metrix appraisal and start confidential supplement to 12th report.
Flett, D	04/27/2019	1.7	Continue confidential supplement to 12th report - appraisal, prior offers, basis for recommendation.
Hooper, L	04/29/2019	0.1	Banking
Cherniak, S	04/29/2019	0.9	Email to Roth re status of easements. Review and execute transfer and abandonment doc. Review of emails BDO/Stamp. Call with G. Barlow re list prices. Execute amendments.
Flett, D	04/29/2019	4	Review draft R&D receiver accounting with MF; review and revisions to 12th report and confidential supplement; update Simba mortgage balances and receiver estimated realization schedule to April 30; email to J Cook of Miller Thomson with Banwell Gardens sale amendments; further review of receiver accounting to balance R&D; review G Barlow email, list price amendments.
Finnegan, M	04/29/2019	0.5	Pay property taxes

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	04/30/2019	4.7	Review R Simone email re 12R; revisions to 12th report and confidential supplement; review R&D's with MF, revisions and finalize; prepare fee affidavit for 12th report.
Cherniak, S	04/30/2019	0.7	Review of price amendments by G. Barlow. Execute. Review of emails re site plan deposit.
Cherniak, S	05/01/2019	1.2	Review of report and supplement. Review of email to Miller Thomson re same. Review of updated security schedules.
Flett, D	05/01/2019	1.8	Review 12th court report with SC and revisions; compile appendices for confidential supplement; review parcel 8-10 listing; finalize draft estimated realization, review June 2018 letter to stakeholders and review with SC; forward draft 12th report, supplement, appendices to T. Van Klink with comments.
Flett, D	05/02/2019	0.5	Email with G. Barlow, review approve payment re sign work; review and revise fee affidavit for 12th report.
Flett, D	05/03/2019	0.4	Review R. Simone, J. Cook emails, documents re easements, new parcel register; review R&D's for 12th report and interco accounting.
Hooper, L	05/03/2019	0.2	Banking
Flett, D	05/08/2019	0.2	Emails with City Windsor re Robinet Phase 4 cost sharing.
Flett, D	05/09/2019	0.1	Email with B. Barlow re commercial land marketing; email from A. Olsen of City Windsor re phase 4.
Cherniak, S	05/12/2019	0.5	Review of emails from G. Barlow re various. Review of emails re getting reference plan approved. Review of email from City of Windsor.
Cherniak, S	05/14/2019	0.4	Call from G. Barlow re timing of Court. Call with TVK re same. Review of emails re deposit of plan.
Cherniak, S	05/15/2019	0.7	Email from G. Barlow re timeline. Execute amendments. Final reference plan.
Flett, D	05/15/2019	0.5	Review emails from R. Simone and deposited 12R for commercial lands; review Banwell Gardens amendment and G. Barlow emails; emails with J. Cook re Banwell Gardens sale.
Flett, D	05/16/2019	0.2	Receive signed Banwell Gardens amendment from G. Barlow and email with J. Cook.
Hooper, L	05/21/2019	0.1	Banking
Cherniak, S	05/21/2019	0.2	Update on timing of Court date. Discuss deposit of 12R plan.
Flett, D	05/21/2019	0.2	Review emails from T. Van Klink re Court date; review new commercial 12R status and next steps with SC; email from M. Mailoux of Cedar Hill Homes.
Finnegan, M	05/22/2019	0.3	Bill payment.
Cherniak, S	05/22/2019	0.2	Discuss finalizing MSA. Review of email to Miller Thomson and Barlow.
Flett, D	05/22/2019	0.5	Email to A. Roth re revisions to mutual services agreement for deposited 12R; emails with G. Barlow re revisions to agreements; email to M. Mailoux, Cedar Hill Homes re enquiry on builder lot deposits.
Cherniak, S	05/23/2019	0.2	Emails re finalized MSA.



## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	05/23/2019	0.3	Email with J. Cook and review revised mutual services agreement; email from G. Barlow.
Cherniak, S	05/24/2019	0.1	Email from G. Barlow. Respond.
Hooper, L	05/27/2019	0.05	Banking
Finnegan, M	05/27/2019	0.3	Pay bills
Flett, D	05/27/2019	2.7	Email with J. Cook re shared parking agreement and review; review revised mutual services, shared parking and draft email to Miller Thomson re revisions, corrections; prepare Schedule C cost allocation for inclusion in mutual services; review M. Stamp email and forward to A. Roth of with comments re conveyance of parcels to City; email with M. Mailloux of Cedar Hill re pre receivership deposits and update summary schedule; email to R. Simone of Verhaegen re outlined plan of shared roads for schedule E; email with T. Van Klink re 12th report, new 12R for commercial lands.
Cherniak, S	05/27/2019	0.9	Emails re putting together MSA. Discussion re missing items. Emails to from Miller Thomson re report. Review of emails stamp/G. Barlow and email to Simone.
Flett, D	05/28/2019	3.1	Review mutual services an shared parking agreement; email from R. Simone, review Verhaegen invoice and update intercompany schedule; several emails with M. Stamp re revisions and corrections to mutual services agreement, mechanics of severance of commercial parcels when sold, marked-up plan for Schedule F to mutual services; update draft email to A. Roth, J. Cook re corrections to mutual services; email from M. Stamp re Palmetto intersection construction; emails with J. Cook and T. Van Klink re issues and need for vesting order on conveyance of parts 31, 39 and 40 to City; review most recent Receiver Schedule C for commercial land sales; review status, timing, process of registrations on new 12R with SC; update draft email to Miller Thomson re revisions to mutual services, shared parking agreements; email with T. Van Klink re new 12 R reference plan and deposit date; review 10th report re conveyance to City of reserve blocks.
Cherniak, S	05/28/2019	1.7	Various emails and discussions re changes to MSA re edits, emails from Simone and stamp re final requirements. Emails from Miller Thomson re edits to the agreements and dealing with City of Windsor re gratuitous conveyance. Discuss revised Receiver schedule.
Cherniak, S	05/29/2019	1.7	Email from Stamp re update on signal intersection from City of Windsor. Internal discussion re impact on project. Execute AVO re gratuitous conveyances to City of Windsor. Call with TVK re Banwell issues. Call from Scott D'Amore re update. Update on Ropat conversation re Union Gas request. Call with G. Barlow re signalized intersection and Receivers schedule.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	05/29/2019	2.3	Review emails from M. Stamp re Palmetto intersection and review issues with SC; review highlighted 12R for schedule F to mutual services prepared by R. Simone and update draft email to J. Cook re revisions to mutual services, shared parking agreement; review Schedule B to mutual services and email to M. Stamp re legal descriptions; call with B. Ropat re 3134 Robinet union gas service, pond status, palmetto intersection, commercial land road and sewers.
Flett, D	05/30/2019	0.8	Review emails from M. Stamp and F. Tunks, City Windsor re Palmetto intersection; email with J. Cook and forward signed acknowledgement and direction re conveyance of parcels to City; review G. Barlow email; review T. Van Klink email and revised 12th report.
Cherniak, S	05/30/2019	0.5	Review of emails between Stamp and City of Windsor re intersection. Email from G. Barlow re same.
Cherniak, S	05/31/2019	0.4	Review of emails from stamp re edits to MSA. Review of emails to Miller Thomson re same. Discussion re report.
Flett, D	05/31/2019	4.8	Review detailed email from M. Stamp re review of mutual services agreement; review M. Stamp comments, legal descriptions and 12R; update and issue detailed memo to J. Cook re revisions and edits to mutual services agreement; revision to cost share allocation for Schedule C; review committee of adjustment decision; revisions to 12th report for conveyance of land for Palmetto intersection and updates re part 24, palmetto intersection timetable; review Miller Thomson revisions to mutual services and emails with J. Cook.
Flett, D	06/03/2019	2.3	Review revised mutual services agreement from Miller Thomson; emails with M. Stamp re revisions and query re Part 27; email to J. Cook with revisions and corrections; review and edits to revised 12th report and email with SC re Banwell Gardens; review updated professional fees for 12th report; review further revised mutual services and shared parking agreement.
Cherniak, S	06/03/2019	0.3	Review emails on Banwell.
Finnegan, M	06/03/2019	0.3	HST refund.
Flett, D	06/04/2019	3.5	Email with M. Stamp re mutual services agreement; review and finalize pdf versions of mutual services and shared parking for G. Barlow use; revisions to 12th report and forward to T Van Klink; further revisions and emails with T. Van Klink re report, confidential supplement; finalize receiver fee affidavit; email with T. Van Klink re draft notice of motion, approval and vesting orders, Banwell Gardens and L. Masse lawyer details; review G. Barlow and SC emails re Parcel 1-4 closing date; further T. Van Klink email to City Windsor, Gardiner Roberts LLP.
Cherniak, S	06/04/2019	1.9	Final review of report. Various emails re serving report from Miller Thomson. Review of emails re finalized MSA. Email from realtor re closing date. Respond. Email to Miller Thomson re letter to service list.
Finnegan, M	06/04/2019	0.1	Pay bill.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	06/05/2019	0.3	Finalize 12th report and instructions to MF to forward fee affidavit and signature pages to T. Van Klink; review emails from T. Van Klink, Banwell Gardens' counsel.
Cherniak, S	06/05/2019	0.4	Email from Banwell Gardens counsel. Review changes to draft vesting order. Email from Miller Thomson re report served.
Finnegan, M	06/05/2019	0.3	Assemble fee affidavit package for court report.
Flett, D	06/06/2019	0.2	Brief review and file motion record for 12th report; review by-law notice and action re Banwell road with MF.
Finnegan, M	06/06/2019	0.2	Receipt of City of Windsor clean up notice and email to landscaper requesting service.
Flett, D	06/07/2019	0.1	Review Banwell Road commercial clean up and email from landscaper with MF.
Cherniak, S	06/10/2019	0.4	Email re disclosure of purchase price to Sasso. Review of file and respond.
Cherniak, S	06/11/2019	0.7	Call with G. Barlow. Send MSA. Email to TVK re sending materials to Thomas. Review email from Sasso and respond.
Flett, D	06/11/2019	0.1	Review emails from SC, T Van Klink re motion record, court approval of 12th report.
Hooper, L	06/11/2019	0.1	Banking
Cherniak, S	06/12/2019	0.5	Review of TVK email re changes to AVO and purchaser counsel response. Review of Sasso response re review of Confidential Supplement. Review of email to Janet Ford.
Flett, D	06/12/2019	0.1	Brief review of T. Van Klink and T Katz, Gardiner Roberts emails re Banwell gardens purchase, approval and vesting order.
Cherniak, S	06/13/2019	0.5	Review of emails from purchaser counsel re AVO. Emails from Lansink. Respond.
Finnegan, M	06/13/2019	0.4	HST returns
Cherniak, S	06/14/2019	0.3	Execute amendment. Review of emails to/from trial coordinator.
Flett, D	06/17/2019	2.4	Review T. Van Klink emails re Banwell Gardens Vesting Order and brief review of draft approval and vesting; review email from City Windsor re planned conveyance by Receiver, committee of adjustment order; review new reference plan re part 40, review issues with SC, and several emails with M. Stamp, A. Roth and R. Simone re Committee of Adjustment order conditions, clarification of parts to be conveyed and requirements to fulfill committee order; review T. Van Klink letter re 12th report, proposed orders.
Cherniak, S	06/17/2019	1.6	Emails from TVK to City of Windsor re changes to AVO. Emails to/from Miller Thomson and BDO. Email to Stamp. Review response and email to City of Windsor. Review of emails from TVK re materials served on Justice Thomas. Review letter to Thomas. Emails from service list.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	06/18/2019	1.8	Review Alexander Daycare background, G. Barlow enquiry, mutual services with SC; review block 200 APS and emails with J. Cook re block 200 parcel register, 838605 Ontario status; review City Windsor by-law notice re: pond; review J. Cook email and 838605 corporate profile; voice mail for City Windsor by-law officer.
Cherniak, S	06/18/2019	0.7	Call with G. Barlow re Alexander Daycare. Discuss with D. Flett. Review emails to Miller Thomson re legal description and ownership.
Flett, D	06/19/2019	0.2	Review 838605 Ontario ownership, legal description change with SC and approach to mutual services agreement; review SC, B. Barlow email.
Hooper, L	06/19/2019	0.1	Banking
Cherniak, S	06/19/2019	0.7	Review of email from Miller Thomson re subsearch and company search on Daycare. Email to G. Barlow re same. Call with G. Barlow. Email from Lansink. Discuss with Barlow.
Flett, D	06/20/2019	0.4	Emails with M. Stamp and review of emails from City of Windsor re conveyance to lands to City re: committee of adjustment order, palmetto intersection; G. Barlow email re Alexander Daycare.
Cherniak, S	06/20/2019	0.3	Email from G. Barlow re response to Lansink and deal with MSA. Emails from stamp re update from the City of Windsor on conveyances.
Flett, D	06/21/2019	0.2	Email from K. Morgan re conveyance of parts 31, 39 and 40; review J. Cook email, documents from Miller Thomson re conveyance to City of Windsor.
Flett, D	06/24/2019	0.2	Review 2019 final tax bills for commercial land and forward to MF
Flett, D	06/25/2019	2.3	Review email from Court re signed orders; review Alexander Daycare mutual services agreement issues, G. Barlow email with SC; review April 18 Banwell gardens amendment; emails with J. Cook, A. Roth re Banwell Gardens closing date, status, property tax adjustment; emails with G. Barlow re closing date; review mutual services agreement and prepare memo to G. Barlow re benefit to 838605 Ontario and exclusion from future operating and capital costs; review property 2019 property taxes for Banwell Gardens sale based on old and new reference plans; review letter from City Windsor counsel re proposed stormwater pond modifications; email to T. Van Klink with preliminary comments.
Flett, D	06/26/2019	0.9	Review emails from G. Barlow re Alexander Daycare, Banwell Gardens closing date; call with B. Ropat re Banwell Gardens closing, servicing, letter from City Windsor and proposed plan for storm water pond; further review of Dillon summary; email from J. Cook re Banwell gardens closing; discuss storm water pond and proposed plan with SC.
Finnegan, M	06/26/2019	0.4	Update property tax schedule for final 2019 payments.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	06/27/2019	2.2	Emails with J. Cook and A. Roth of Miller Thomson re; removal of seller conditions, closing date, City of Windsor consent certificates and other closing issues; review Banwell Gardens closing issues and timing with SC and email reply to A. Roth; review storm water pond issue, Receiver's probable approach with SC; email to G. Barlow to forward Miller Thomson comments, issues re Banwell Gardens closing date; revise property tax calculation for 3 Banwell Gardens account and forward summary to J. Cook for adjustment calculation.
Cherniak, S	06/27/2019	2.4	Numerous emails re closing and AVO for Banwell Gardens sale. Emails re Woodall not understanding MSA. Execute closing extension documents.
Flett, D	06/28/2019	1.1	Emails with B. Ropat re storm water pond and forward Dillon report, Xylem invoices and quotations for pump; emails with J. Cook re Banwell gardens closing, property tax adjustment and forward further amendment to J. Cook re closing date; call with B. Ropat re storm water pond; further email with J. Cook re Banwell gardens closing; review email from S. Lafontaine to City of Windsor.
Cherniak, S	06/28/2019	0.8	Deal with closing extension. Review of letter re pond from City of Windsor. Review of email to T. Van Klink re pond repairs. Review of email from Spencer re pond report.
Flett, D	07/02/2019	0.1	Email from P. Winter of City Windsor.
Cherniak, S	07/02/2019	0.1	Response from City of Windsor re additional info for Spencer.
Flett, D	07/03/2019	0.9	Review amendments to listing agreements for Banwell commercial land; review orders of Justice Thomas received from T. Van Klink; email with J. Cook re orders, conveyance to City Windsor, Part 24.
Cherniak, S	07/03/2019	0.6	Execute amendments to listings. Review of orders. Call with Miller Thomson re pond issue.
Flett, D	07/04/2019	2.2	Review approach to storm water pond issues with City Windsor and T. Van Klink input with SC; email from G. Barlow re new Receiver's schedule; review Receiver's schedule 'C' for commercial lands, recent approval and vesting order and correspondence with City Windsor re discharge of site plan registrations; review list of permitted encumbrances for revised Receiver Schedule C; review several June 18, 2019 vesting orders and identify file names for posting to web site; review changes in permitted encumbrances and other considerations for commercial land Receiver's schedule with SC; email with S. Kettle of Miller Thomson re Receiver's schedule for Banwell road commercial.
Cherniak, S	07/04/2019	0.6	Email from G. Barlow re Schedule B. Internal discussion re approach to revising. Response from City of Windsor re pond issue.
Finnegan, M	07/04/2019	0.3	Orders to website, Receiver certificates to Miller Thomson.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	07/05/2019	2.7	Prepare updated Receiver's schedule for remainder of Banwell commercial lots based on current and encumbrances to be registered; email to A. Roth and J. Cook of Miller Thomson with comments and updated Receiver's schedule for review; email from J. Cook re Parts 31, 39 & 40.
Cherniak, S	07/05/2019	0.3	Email from Miller Thomson re registration of AVO. Review of email to Miller Thomson re new Receivers schedule.
Flett, D	07/08/2019	0.8	Review email from G. Barlow; review 838605 Ontario's counsel comments re mutual services agreement, compare to final version of agreement and review with SC; email to G. Barlow re Mutual services agreement comments to be reviewed and document revised by A. Roth; memo to SC re preamble E to agreement; email to G. Barlow re P. Layfield comments on mutual services agreement.
Cherniak, S	07/08/2019	0.3	Review of email from Barlow re legal review of MSA. Discuss with D. Flett.
Cherniak, S	07/09/2019	0.2	Review response to G. Barlow.
Flett, D	07/09/2019	2.6	Prepare detailed email to A. Roth of Miller Thomson with P. Layfield queries on mutual services agreement and Receiver's comments and suggestions; various emails with G. Barlow on revised receiver's schedule; status of mutual services agreement and inclusion of documents in MLS listing; review prior year summary reports for financial statements, update Simba mortgage schedule to May 31, 2019 and prepare Banwell due from related companies schedule at May 31, 2019; review preparation of R&D's with MF.
Hooper, L	07/09/2019	0.1	Banking
Finnegan, M	07/09/2019	0.2	HST deposits
Hooper, L	07/10/2019	0.1	Banking
Cherniak, S	07/10/2019	0.1	Discuss timing of Miller Thomson response re MSA.
Flett, D	07/10/2019	1.3	Review 2018 financial statements, trial balances and notes for 2019; prepare Simba mortgage and intercompany schedule for financial statements; review 4th property tax installment payment and sign cheque; update intercompany summary for taxes.
Finnegan, M	07/10/2019	0.3	Pay property tax installment.
Cherniak, S	07/15/2019	0.2	Email from TVK re Sasso and Greene. Respond.
Cherniak, S	07/16/2019	0.3	Email from G. Barlow re MSA. Discuss and review City of Windsor response on Phase 4 cost sharing.
Flett, D	07/16/2019	1.5	Email with G. Barlow, A. Roth re mutual services agreement and review status with SC; review City of Windsor Robinet phase 4 cost sharing calculation and 12M-546 map; review phase 2 cost sharing calculation and compare; review March 2017 vesting order for phase 4 reserve blocks; email to B. Ropat with comments re phase 4 cost sharing.

## Banwell Development Corporation and Royal Timbers Inc.

Staff	Date	Time	Narrative
Flett, D	07/17/2019	1.9	Email with A. Roth and J. Cook re status of revised mutual services agreement, P. Layfield comments, Receiver's schedule; review Receiver schedule C revised by Miller Thomson and permitted encumbrances added; email to J. Cook re Royal Timbers \$1 transfers from 2007, new mutual services and shared parking; call with B. Ropat re Robinet phase 4 cost sharing, costing of City storm water pond recommendations.
Cherniak, S	07/17/2019	0.5	Review of email re changes to MSA re Layfield. Review of edits to Receiver's schedule and emails re same.
Flett, D	07/18/2019	1.4	Several emails with O. Skliarova of Grant Thornton re 2019 financial statements; review revisions to Receiver Schedule C with SC and finalize; email to G. Barlow with Receiver's Schedule, update on mutual services agreement; instructions to MF items for financial statements.
Cherniak, S	07/18/2019	0.2	Email to G. Barlow re receivers schedule.
Flett, D	07/19/2019	0.4	Review emails from J Cook, G. Barlow and review committee of adjustment consents re Banwell gardens, Dr. Masse transactions, closing date extension; review Receiver prepared schedules for 2019 financial statements.
Cherniak, S	07/19/2019	0.3	Emails re closing delay due to City of Windsor.
Cherniak, S	07/22/2019	0.7	Numerous emails Stamp/Miller Thomson re problems with easement re up coming closing.
		<b>155.7</b>	<b>Total Time</b>

Staff	Position	Location	Hourly Rate	Time
Cherniak, S	Sr. Vice President	London	\$525	43.8
Finnegan, M	Administrative	London	\$175	6.1
Flett, D	Vice President	London	\$375	104.8
Hooper, L	Administrative	London	\$175	1.0
				<b>155.7</b>

KEVIN D'AMORE

and

Applicant

BANWELL DEVELOPMENT CORPORATION,  
928579 ONTARIO LIMITED, SCOTT D'AMORE  
and ROYAL TIMBERS INC.  
Respondents

Court File No: CV-11-17088

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**MOTION RECORD**  
**(RETURNABLE ON A DATE TO BE DETERMINED BY**  
**REGIONAL SENIOR JUSTICE THOMAS)**  
(VOLUME 2 OF 4)

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