

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)

TUESDAY, THE 28th

JUSTICE

KIRK W. MONTROSE

DAY OF FEBRUARY, 2017

BETWEEN:

2502461 ONTARIO LTD.

Applicant

- and -

PORTOFINO CORPORATION

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C-43, as amended

ORDER

THIS MOTION, made by BDO Canada Limited ("BDO"), in its capacity as court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Portofino Corporation ("Portofino") pursuant to the Order of the Honourable Mr. Justice Thomas dated October 29, 2013 for an order:

- (a) if necessary, abridging the time for service and filing and validating the method of service of all motion confirmation forms, the Motion Record, including the Notice of Motion and the Seventh Report of the Receiver dated February 8, 2017 and all appendices thereto (the "Seventh Report"), and directing that any further service of same be dispensed with such that this motion is properly returnable on February 28, 2017;
- (b) approving the Seventh Report and the activities and conduct of the Receiver described therein;

- (c) approving the Receiver's interim Statement of Receipts and Disbursements for the period October 29, 2013 to January 31, 2017 (the "Statement of Receipts and Disbursements");
- (d) authorizing the Receiver to take no further steps with respect to certain litigation involving Portofino and authorizing the Receiver to make such actions available to any creditors who wish to pursue same at their own risk and expense;
- (e) approving the professional fees and disbursements of the Receiver and its legal counsel (the "Professional Fees"); and
- (f) such further and other relief as counsel may advise and this Honourable Court deems just.

was heard this day at 245 Windsor Avenue, Windsor, Ontario.

ON READING the Seventh Report and on hearing the submissions of counsel for the Receiver, no one else appearing from the service list, although duly served as appears from the affidavit of Julie Los sworn February 10, 2017, filed:

1. **THIS COURT ORDERS** that the time for and method of service of all motion confirmation forms, the motion record, including the notice of motion and the Seventh Report, are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Seventh Report and the activities and conduct of the Receiver described in the Seventh Report are hereby approved.
3. **THIS COURT ORDERS** that the Statement of Receipts and Disbursements be and the same is hereby approved.
4. **THIS COURT ORDERS** that the professional fees of the Receiver and its legal counsel, Miller Thomson LLP and Sutts Strosberg LLP, as described in the fee affidavits of Stephen N. Cherniak sworn February 7, 2017, Sherry A. Kettle sworn February 8, 2017 and William V. Sasso sworn February 8, 2017 be and the same are hereby approved.
5. **THIS COURT ORDERS** that the Receiver shall give written notice (the "Notice") to all known creditors (the "Creditors") of Portofino of the existence of the actions (the "Actions") described in paragraph 6.5 of the Seventh Report.

6. **THIS COURT ORDERS** that the Notice may be sent by e-mail or registered mail. If sent by e-mail, the Notice shall be deemed to be given on the date the e-mail is successfully transmitted or, if sent by mail, on the fifth day after mailing.
7. **THIS COURT ORDERS** that the Receiver is authorized to assign the Actions to any Creditors who within 10 days after the service of the Notice on them notify the Receiver, in writing, of their intention to take an assignment of the Actions to enable such Creditors to continue to prosecute the Actions in their own name and at their own expense and risk.
8. **THIS COURT ORDERS** that all benefits to be derived from the Actions so assigned by the Receiver, together with the costs of same, shall belong exclusively to the Creditors to whom such actions have been assigned.
9. **THIS COURT ORDERS** that in case there shall be a surplus after paying the claims and costs of the Creditors to whom the Actions have been assigned, such surplus shall be paid to the Receiver in augmentation of the receivership estate.
10. **THIS COURT ORDERS** that any Creditors who fail to notify the Receiver, in writing, of their intention to take an assignment of the Actions within 10 days after the service of the Notice on them shall be thereafter excluded from participating in the benefits to be derived from the Actions.
11. **THIS COURT ORDERS** that any Actions not assigned by the Receiver may be abandoned by the Receiver.



Justice, Ontario Superior Court of Justice

ENTERED AT WINDSOR	
In Book No.	28
re Document No.	221
on	Feb 28 2017
by	SL

2502461 ONTARIO LTD.

Applicant

and

PORTOFINO CORPORATION

Respondent

Court File No: CV-13-19866

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT WINDSOR

ORDER

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Appointed Receiver of Portofino Corporation