

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**CAISSE DESJARDINS ONTARIO CREDIT UNION INC.**

Applicant

- and -

**FERME D'ÉDUCATION ET DE RECHERCHE DU CAMPUS D'ALFRED**

Respondent

**FINAL REPORT OF THE RECEIVER**

**DATED JUNE 12, 2024**

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## **EXHIBITS**

- A** Appointment Order of the Honourable Justice Carey of the Ontario Superior Court of Justice dated April 28, 2023
- B** Notice and Statement of the Receiver dated May 5, 2023
- C** First Report to Court dated November 21, 2023 (without exhibits)
- D** Approval and Vesting Order of the Honourable Justice Ryan Bell of the Ontario Superior Court of Justice dated December 6, 2023
- E** Ancillary Order of the Honourable Justice Ryan Bell of the Ontario Superior Court of Justice dated December 6, 2023
- F** ARIO Participation Agreement dated May 10, 2018
- G** RCGT audit report dated March 26, 2024
- H** Email from Cassels Brock & Blackwell LLP dated April 25, 2024
- I** Receiver's Final Projected Statement of Receipts and Disbursements at June 5, 2024
- J** Affidavit of Stanley Loisel, sworn June 6, 2024
- K** Affidavit of Roxanne Chapman, sworn June 12, 2024
- L** Receiver's Discharge Certificate

## INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (the “**Court**”) dated April 28, 2023 (the “**Appointment Order**”), Raymond Chabot Inc. (“**RCI**”) was appointed as receiver (the “**Receiver**”) of the assets, undertakings and properties, including the real property (the “**Real Property**”) and, collectively with the foregoing, the “**Property**”) owned by the Respondent, Ferme d’Éducation et de Recherche du Campus d’Alfred (“**FERCA**” or the “**Debtor**”), acquired for or used in relation to a non-profit business carried on by the Debtor. The Appointment Order is attached hereto as **Exhibit A**.
2. The Appointment Order authorizes the Receiver to, among other things, take possession of, and exercise control over, the Property, and all proceeds, receipts, and disbursements, arising out of, or from, the Property. In addition, the Receiver is authorized to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - a. without the approval of the Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$400,000; and
  - b. with the approval of the Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds foregoing amounts.
3. Shortly following the issuance of the Appointment Order, the Receiver issued a Notice and Statement of the Receiver (the “**Notice to Creditors**”) pursuant to subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of the Debtor. The Notice to Creditors is attached hereto as **Exhibit B**.
4. The Appointment Order, together with the Notice to Creditors, the First Report and this Receiver’s final report to the court (the “**Final Report**”) have been posted on the Receiver’s website at <https://www.raymondchabot.com/public-records/>.

## PURPOSE OF REPORT

5. The purpose of this Report is to:
  - a. Report on and request approval of the Receiver's activities since the First Report;
  - b. Report on and request the approval and payment of the professional fees and disbursements of the Receiver and its legal counsel as set out herein (the "**Professional Fees**");
  - c. Report on and request approval of the Receiver's Final Statement of Receipts and Disbursements as set out herein (the "**Final SRD**");
  - d. Request approval for the Receiver to make final distributions from available receivership funds as follows (the "**Proposed Distributions**"):
    - i. To the Agricultural Research Institute of Ontario ("**ARIO**"), a distribution in the amount of \$65,770.53 on account of its priority claim pursuant to its participation agreement dated May 10, 2018 registered on and encumbering title to the Real Property (the "**Participation Agreement**"); and
    - ii. To Caisse Ontario Desjardins Credit Union Inc. ("**Desjardins**"), a distribution in the amount of \$532,648.62 on account of its first-ranking secured claim;
  - e. Request the Receiver's discharge and release.

## TERMS OF REFERENCE

6. In preparing this Report, the Receiver has been provided with, and has relied upon, unaudited, draft and/or internal financial information, the Debtor's books and records, discussions with management of FERCA, and information from third-party sources (collectively, the "**Information**"). Except as described in this Report:
  - a. the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information; and
  - b. the Receiver has prepared this Report in its capacity as a Court-appointed officer to support the Court's approval of the sale of the Property of the Debtor and the other relief being sought. Parties using the Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.

7. Unless otherwise stated, all dollar amounts contained in the Report are expressed in Canadian dollars.
8. Unless otherwise provided, all other capitalized terms not otherwise defined in this Report are as defined in the Appointment Order.

## COMPLETION OF SALE OF THE PROPERTY

9. The Receiver filed its first report with the Court on November 21, 2023 (the “**First Report**”) a copy of which is attached hereto as **Exhibit C** (without exhibits). The purpose of the First Report was to, among other things, obtain the Court’s approval of the sale of the Property used by FERCA in its business operations (the “**Sale**”).
10. By an approval and vesting order of the Court dated December 6, 2023, (the “**Vesting Order**”), a copy of which is attached hereto as **Exhibit D**, the Sale of the Property by the Receiver was approved by the Court.
11. The Sale was completed on December 21, 2023 and an interim distribution in the amount of \$2,000,000.00 was paid to the Debtor’s first-ranking secured creditor, Desjardins. This distribution was paid by the Receiver to Desjardins from the proceeds of the Sale pursuant and in accordance with the ancillary order issued by the Court on December 6, 2023 (the “**Ancillary Order**”), a copy of which is attached hereto as **Exhibit E**.

## PRE-RECEIVERSHIP AGREEMENT OF PURCHASE AND SALE DEPOSIT REFUND

12. As provided for in the Ancillary Order, Remax Centre City Realty Inc., Brokerage (“**Remax**”) was directed to remit to the Receiver the \$50,000 deposit held by Remax on account of an aborted real estate transaction, as damages payable by the purchaser to the Debtor’s estate.
13. The \$50,000 deposit was received by the Receiver on January 8, 2024.

## ARIO PENALTY

14. As outlined in the First Report, the Receiver kept sufficient funds from the Sale of the Real Property with respect to ARIO’s potential claim pursuant to the Participation Agreement so to allow the

parties to quantify ARIO's claim. A copy of the Participation Agreement is attached hereto as **Exhibit F**.

15. The Debtor's previous external accountants did not respond to any of the Receiver's communications to assist in quantifying ARIO's claim pursuant to the Participation Agreement. As such, the Receiver, with the consent of ARIO, retained Raymond Chabot Grant Thornton LLP to conduct an audit in order to quantify ARIO's claim pursuant to the Participation Agreement for the period of January 1, 2018 to December 31, 2023. A copy of this audit is attached hereto as **Exhibit G**.

16. Based on this audit report, the Receiver and ARIO agreed that the amount payable to ARIO pursuant to the Participation Agreement following the Sale is \$65,770.53. An email confirmation of same from legal counsel for ARIO, Cassels Brock & Blackwell LLP, is attached hereto as **Exhibit H**.

17. As such and as detailed below, the Receiver is requesting that the Court approve a distribution of \$65,770.53 to ARIO on account of its priority claim pursuant to the Participation Agreement.

## STATEMENT OF RECEIPTS AND DISBURSEMENTS

18. Attached as **Exhibit I** is the Final SRD for the receivership of the Debtor.

19. Total receipts of \$3,024,082.94 are comprised of:

- a. \$129,543.39 in advances from the secured creditor, Desjardins;
- b. \$169,539.55 in net proceeds from the equipment sold at auction;
- c. \$2,675,000.00 in proceeds from the Sale of the Property; and
- d. \$50,000.00 from the deposit on the aborted real estate sale.

20. Total disbursements are primarily comprised of:

- a. \$7,542.50 for advertising;
- b. \$5,288.70 for stocktaking and possession;
- c. \$129,543.99 reimbursement of advances to Desjardins;
- d. \$16,549.76 for insurance;
- e. \$6,489.80 for real estate appraisal;

- f. \$10,737.16 for utilities;
- g. \$7,350.00 for audit fees related to the schedule of tangible capital assets;
- h. \$13,182.69 for water charges arrears;
- i. \$12,718.08 for property tax arrears;
- j. \$131,871.20 in Receiver fees;
- k. \$49,382.81 in legal fees and disbursements; and
- l. \$29,228.56 in sales taxes.

## PROFESSIONAL FEES

21. The Receiver, and its legal counsel, Soloway Wright LLP, have maintained detailed records of their Professional Fees since the issuance of the Appointment Order. Pursuant to paragraph 19 of the Appointment Order, the Receiver and its legal counsel were directed to pass their accounts from time to time before this Honourable Court and were granted a Receiver's Charge over the Property.
22. The total fees of the Receiver for the period from October 22, 2023 to April 30, 2024 amount to \$32,269.20 plus HST totalling \$36,464.20. The time spent by the Receiver is more particularly described in the Affidavit of Stanley Loiselle, sworn June 6, 2024 in support hereof and attached hereto as **Exhibit J**. The Receiver estimates that its provisional fees and disbursements to finalize the receivership will total \$16,950.00, inclusive of harmonized sales tax, which will be in addition to the amounts set out above (the "**Final Receiver's Fees**").
23. The total legal fees incurred by the Receiver during the period from October 5, 2023 to June 6, 2024 for services provided by SW together with disbursements amount to \$28,321.06 plus HST of \$3,637.68, for a total amount of \$31,958.74. The time spent by SW personnel is more particularly described in the Affidavit of Roxanne Chapman, sworn June 12, 2024 in support hereof and attached hereto as **Exhibit K**. Counsel for the Receiver estimates that its provisional fees and disbursements to finalize the receivership will total \$12,995.00, inclusive of harmonized sales tax, which will be in addition to the amounts set out above (the foregoing estimated amount, collectively with the Final Receiver's Fees, are hereinafter collectively referred to as the "**Final Fees**").
24. The Receiver is of the view that the Final Fees and the Professional Fees and disbursements set out in the fee affidavits are reasonable in the circumstances.



## PROPOSED DISTRIBUTIONS AND DISCHARGE OF RECEIVER

### *Legal Opinion*

25. As indicated in the First Report, the proceeds resulting from the sale of the Real Property subject to the sale agreement together with the sale of the Debtor's personal property will result in a shortfall to Desjardins and subsequent secured creditors.
26. The search results of the *Personal Property Security Act* (the "**PPSA**") registry in respect of the Debtor confirmed PPSA registrations by the following creditors:
  - a. Desjardins;
  - b. Prescott-Russell Community Development Corporation ("**PRCDC**");
  - c. La Coopérative Agricole d'Embrun Limitée ("**CAEL**"); and
  - d. Meridian Onecap Credit Corp. (PPSA registration now discharged).
27. With respect to the remaining secured claims of Desjardins, PRCDC and CAEL pursuant to the PPSA, legal counsel for the Receiver has prepared and provided to the Receiver a legal opinion (the "**Opinion**") regarding the validity and enforceability of their secured personal property claims.
28. The Opinion provides that, subject to the customary assumptions and qualifications, the PPSA security held by Desjardins, PRCDC and CAEL is valid and enforceable.
29. Title searches in respect of the Real Property, current to October 30, 2023, confirmed registrations by the following creditors:
  - a. ARIO;
  - b. Desjardins;
  - c. PRCDC; and
  - d. CAEL.
30. The Opinion provides that, subject to the customary assumptions and qualifications, the encumbrances and charges held by ARIO, Desjardins, PRCDC and CAEL are valid and enforceable.

31. The Receiver has previously received payout statements from each of Desjardins, PRCDC and CAEL confirming the indebtedness owing to them by the Debtor and, as authorized by the Ancillary Order, the Receiver has made an interim distribution to Desjardins in the amount of \$2,000,000.00

32. An amount of \$679,849.65 remains outstanding to Desjardins further to the interim distribution.

#### *Proposed Distribution*

33. As outlined above, the Receiver and ARIO have agreed to the payment of a distribution to ARIO in the amount of \$65,770.53 on account of its claim pursuant to the Participation Agreement.

34. The Receiver is satisfied that the Desjardins indebtedness, as set out above, is a correct accounting of the amount owing to Desjardins by the Debtor.

35. The Receiver will be required to pay the Final Fees subsequent to the Proposed Distributions, as well as other final expenses incidental to the completion of the Receivership. The Receiver states that a reserve (the “**Reserve**”) should be held back from the Proposed Distributions in order to pay such fees and expenses, not exceeding the sum of \$29,945.00 (inclusive of HST).

#### *Discharge*

36. Upon payment of the Proposed Distributions and payment of the Professional Fees and the Final Fees, the Receiver will have essentially completed the administration of the Receivership, subject to completion of the further matters set out below.

37. The Receiver therefore respectfully requests that the receivership proceedings be terminated and the Receiver be discharged and release subject to the Receiver performing the following:

- a. Payment of the Professional Fees and the Final Fees of the Receiver and SW from the funds held in the Reserve;
- b. Payment of the Proposed Distributions to ARIO and Desjardins as described above;
- c. Issuing the Receiver’s final report and statement of receipts and disbursements pursuant to section 246(3) of the BIA; and
- d. Such further and other administrative and ancillary matters as may be necessary to complete the administration of the Receivership estate.

38. Upon completion of the above noted items (collectively defined as the “**Outstanding Matters**”), the Receiver will file a certificate with the Court confirming same (the “**Receiver’s Discharge Certificate**”), whereupon the termination of the receivership proceedings and the discharge of the Receiver, and the accompanying release of the Receiver, would become effective. A copy of the proposed Receiver’s Discharge Certificate is attached hereto as **Exhibit L**.

## RECEIVER’S RECOMMENDATIONS

39. For the reasons set out above, the Receiver recommends that the Court make an Order:

- a. approving the activities of the Receiver and its counsel as described in this Final Report;
- b. approving the Receiver’s Final SRD and approving the Professional Fees and the Final Fees of the Receiver and its legal counsel set out herein, and authorizing the Receiver to pay all such fees and disbursements from available receivership funds and the Reserve;
- c. authorizing the Receiver to issue the Proposed Distributions to ARIO and Desjardins in the amounts of \$65,770.53 and \$532,878.09 respectively; and
- d. effective upon the filing of a Certificate of Completion by the Receiver certifying that all Outstanding Matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, discharging RCI as the Receiver and releasing RCI from any and all liability that RCI has or may hereafter have by reason of, or in any way arising out of, the act or omissions of RCI while acting in its capacity as the Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver’s part.

All of which is respectfully submitted at Ottawa, Ontario this 12<sup>th</sup> day of June 2024.

### **RAYMOND CHABOT INC.**

Receiver of the assets, undertakings and property of  
Ferme d’Éducation et de Recherche du Campus d’Alfred,  
and not in its personal capacity.



Per:

Stanley Loïselle, CIRP, LIT