

Estate/Court File No.: 31-2481648
Estate/Court File No.: 31-2481649

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP
ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES
LTD., A CORPORATION INCORPORATED IN THE PROVINCE OF ONTARIO**

Applicants

**MOTION RECORD OF THE RECEIVER
(Returnable September 25, 2019)**

September 19, 2019

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Elizabeth Pillon LSO#: 35638M
Tel: (416) 869-5623
E-mail: lpillon@stikeman.com

Sanja Sopic LSO#: 66487P
Tel: (416) 869-6825
E-mail: ssopic@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

TO: The Service List

INDEX

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP
ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES
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Applicants

I N D E X

TAB	DOCUMENT
1.	Notice of Motion, returnable September 25, 2019
2.	First Report of the Receiver, September 19, 2019
A	Appendix A – Receivership and Distribution Order
B	Appendix B – Third Report of Proposal Trustee
C	Appendix C – Certificate of Filing of Bankruptcy
D	Appendix D – Payroll Examination Statement of Account
E	Appendix E – Redacted Listing Agreement
1	Confidential Appendix 1 – Unredacted Listing Agreement
F	Appendix F – CBRE Marketing Materials
2	Confidential Appendix 2 – CBRE Building Tour Matrix
G	Appendix G – Redacted APS
3	Confidential Appendix 3 – Unredacted APS
4	Confidential Appendix 4 – First Mortgage

5	Confidential Appendix 5 - Appraisal
H	Appendix H – Redacted CBRE Opinion
6	Confidential Appendix 6 – Unredacted CBRE Opinion
I	Appendix I – Interim Statement of Receipts and Disbursements
J	Appendix J – Affidavit of Fees and Graeme Hamilton, sworn September 18, 2019
K	Appendix K – Affidavit of Fees of Elizabeth Pillon, sworn September 18, 2019
3.	Draft Approval and Vesting Order
4.	Draft Order (Re: Approval of Fees & Conduct, Interim Statement of Receipts & Disbursements and Sealing)

TAB 1

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

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE PROVINCE OF ONTARIO

Applicants

**NOTICE OF MOTION
(Returnable September 25, 2019)**

Crowe Soberman Inc., (“**Crowe**”) in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of each of Green Earth Stores Ltd. (“**GESL**”) and Green Earth Environmental Products (“**GEEP**”, and together with “**GESL**”, the “**Companies**”) will make a motion to a Judge presiding over the Commercial List on September 25, 2019 at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. an Order (the “**Ancillary Order**”), substantially in the form located at Tab 3 of the Receiver’s Motion Record:

- (a) abridging and validating the time for service of the Notice of Motion, such that this Motion is properly returnable and further service thereof is dispensed with;
- (b) approving the Frist Report of the Receiver dated September 19, 2019 (the “**First Report**”) and the activates of the Receiver described therein;
- (c) approving the Receiver’s statements of receipts and disbursements for each of GESL and GEEP, for the period from June 18, 2019 to September 17, 2019;

- (d) approving the fees of Crowe, in its capacity as Receiver, and the Receiver's legal counsel Stikeman Elliott LLP ("Stikeman"); and
- (e) sealing the confidential appendices to the First Report pending further order of the Court;

2. an Order (the "**Approval and Vesting Order**") substantially in the form located at Tab 4 of the Applicants' Motion Record:

- (a) approving the sale transaction (the "**Transaction**") contemplated by the Agreement of Purchase and Sale dated July 26, 2019, as amended, between Brian Vaughan, in trust for a company to be incorporated (the "**Purchaser**"), and the Receiver (the "**APS**"), which is appended to the First Report, and authorizing the Receiver to take such steps and execute such documents as may be necessary or desirable for the completion of the Transaction;
- (b) vesting in the Purchaser all of GESL's right, title and interest in and to the Real Property (as defined below), free and clear of all encumbrances; and

3. such further and other relief as the Court may deem just;

THE GROUNDS FOR THE MOTION ARE:

Background

4. On June 13, 2019, pursuant to an order of the Honourable Madam Justice Conway (the "**Receivership and Distribution Order**"), made on application by the Companies and their secured creditors, Matthew McBride Enterprises Corp. ("**McBride Enterprises**") and Beckstette Enterprises Corp. ("**Beckstette Enterprises**"), and together with McBride Enterprises, the "**Secured Creditors**"), Crowe was appointed as Receiver effective June 18, 2019 of all of the assets, undertakings and properties of the Companies acquired for, or used in relation to a business carried on by them (collectively the "**Property**"), including the property known municipally as 19-23 Buchanan Court, London, Ontario, N5Z 4P9 (the "**Real Property**"),

5. Prior to its appointment as Receiver, Crowe was appointed as Proposal Trustee when the Companies each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B.-3, as amended (the "**BIA**") on March 4, 2019 (the "**NOI Proceedings**");

6. The purpose of the NOI Proceedings was for the Companies to initiate a court supervised sale (“**Liquidation Sale**”) of their retail operations, including a sale of the Real Property, with a view to maximizing value for the stakeholders of the Companies and to allow the Companies to determine if it was possible to put forward a proposal to their creditors;

7. The Companies obtained certain relief via earlier Orders of the Court to initiate the Liquidation Sale, as well as certain charges for professionals, consultants, and employees;

8. Based on the amounts outstanding towards the Secured Creditors, and the results of the Liquidation Sale, it was determined that the Companies were not in a position to offer a viable proposal to unsecured creditors. As a result, the Secured Creditors sought and obtained the appointment of the Receiver effective June 18, 2019;

9. Due to the non-filing of a proposal, the Companies were deemed bankrupt on June 18, 2019. Crowe is also acting as the Bankruptcy Trustee in the bankruptcy proceedings for the Companies;

The Receivership Proceedings

10. The primary purpose of the receivership proceedings is to enable Crowe to continue the marketing and sale efforts with respect to the Real Property in a Court-supervised proceeding, and distribute the proceeds of the Liquidation Sale and other amounts via Court order;

11. GESL is the owner of the Real Property. Pursuant to a commercial listing agreement dated December 4, 2018 (“**Listing Agreement**”), GESL engaged CBRE Limited (“**CBRE**”) to publicly list the Real Property for sale via the Multiple Listing Service (“**MLS**”) for the amount of \$6.5 million. During the NOI Proceedings, there were no formal offers made to the Companies to purchase the Real Property;

12. Following the date of its appointment, the Receiver met with representatives from CBRE, the Secured Creditors, and the Companies in order to review the sale process and marketing efforts carried out by CBRE, with a view to determining whether the Receiver should continue to use CBRE in promoting the sale opportunity of the Real Property, or make other changes to the marketing of the Real Property including price adjustments;

Real Property Sale Process

13. The Receiver reviewed in detail the marketing efforts of CBRE since the date of the Listing Agreement and is satisfied that CBRE has done a significant amount of work to properly expose the Real Property to prospective purchasers, including placing prominent signage on the south side of the Real Property, marketing the opportunity on its own website and internal marketing campaigns, and sending multiple blast emails marketing the Real Property to CBRE's internal targeted buyer list comprised of over 440 parties;

14. Several interested parties toured the Real Property, and expressed interest in the opportunity;

15. Upon its appointment, the Receiver acknowledged that CBRE was in a unique position to continue to market the opportunity due to their expertise in the area, their extensive knowledge of the Real Property and the London real estate market, and the market momentum they have acquired since the Listing Agreement was finalized;

16. The Listing Agreement expired on June 30, 2019. On July 26, 2019, CBRE forwarded an offer to purchase the Real Property to the Receiver of GESL on behalf of the Purchaser (the "**Vaughan Offer**"). The Purchaser had toured the facility before the expiration of the Listing Agreement;

17. The Receiver determined that CBRE should continue to engage with the Purchaser regarding the Vaughan Offer, with a view to completing an acceptable sale transaction on or before September 30, 2019. On August 13, 2019, the Receiver, on behalf of GESL, and CBRE entered into a Commission Agreement, whereby CBRE agreed to continue its sale efforts in connection with the Vaughan Offer, with the aim of completing a transaction on or before September 30, 2019;

18. Following the submission of the Vaughan Offer, CBRE notified the Receiver that the Purchaser wished to enter into a short-term lease with respect to the Real Property until the terms of the potential Transaction could be finalized, and Court approval of the Transaction could be obtained. The Receiver was in favour of the short-term lease, as it would enable the Receiver to reduce the carrying costs with respect to the Real Property that would otherwise be borne by GESL;

19. The Receiver entered into negotiations on the terms of the Transaction with the Purchaser, as well as entered into a short-term lease with the Purchaser to allow the occupation of the Real Property for the months of August and September;

20. The Receiver reviewed the terms of the Vaughan Offer with its counsel, the Secured Creditors, and CBRE, and worked with the Purchaser and its counsel to narrow the conditions in the Vaughan Offer;

Approval of Sale and Vesting of Real Property

21. On August 30, 2019 following agreement on the conditions, the Receiver, on behalf of GESL, entered into the APS with the Purchaser;

22. The key terms of the APS are summarized in the First Report, as follows:

- (a) Purchased Assets: All of the Real Property is being acquired, and all assets related to the Real Property including certain fixtures and chattels;
- (b) Purchase Price: A portion of the purchase price is on a cash basis, and a portion is a mortgage granted by the Secured Creditors, the terms of which have been fully negotiated (“First Mortgage”);
- (c) A deposit of \$300,000 has been paid to CBRE, with a second deposit in the amount of \$475,000 due upon obtaining a Court Order approving the Transaction. The balance of the purchase price is being funded via the First Mortgage;
- (d) Conditions: Due diligence has been conducted, and following negotiations with the Receiver and the Secured Creditors, the Purchaser agreed to waive the conditions contained in the Vaughan Offer. The sale is on an as is- where is basis with the sole condition being the obtaining of a Court Order approving the Transaction; and
- (e) Closing Date: the closing of the Transaction is to occur on a date to be determined that is no later than September 30, 2019;

23. The Receiver believes that the sale process undertaken was appropriate for the type of property in question, used the market momentum generated by CBRE in their marketing efforts prior to the granting of the Receivership and Distribution Order, and resulted in the Receiver obtaining a commercially reasonable offer for the Real Property;

24. The Real Property was marketed extensively by CBRE for a period of 9 months prior to the acceptance of the offer by the Receiver, and the Real Property was toured by 25 parties during that time period;

25. The Receiver has obtained an opinion letter commissioned by CBRE which outlines their efforts in marketing the Real Property, recent comparable transactions for similarly sized property in the London area, and CBRE's recommendation that the Transaction be approved;

26. The Receiver has consulted with the Secured Creditors and has been advised that they support the Transaction;

27. The Receiver believes that, in light of the costs that would be incurred in extending the receivership and sale efforts, it is unlikely that an offer would be received that would produce a significantly greater recovery;

Sealing Order

28. The Receiver is seeking a sealing order in respect of (i) the unredacted copy of the CBRE Listing Agreement, (ii) the unredacted copy of the APS, (iii) the First Mortgage, (iv) the CBRE Building Tour Matrix; (v) the appraisal of the Real Property; and (vi) the unredacted copy of the CBRE report outlining the CBRE's recommendations regarding the sale of the Real Property, which are filed as confidential appendices "1" to "6" to the First Report, pending further order of the Court;

29. The documents to be sealed contain commercially sensitive information that could jeopardize the Receiver's efforts to complete a sale transaction if disclosed. The salutary effects of granting the sealing order outweigh any deleterious effect of restricting the accessibility of court proceedings;

General

30. Rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;

31. Sections 183 of the BIA and the other provisions of the BIA;

32. Section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. 43; and

33. Such further grounds as counsel may advise and this Court may see fit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

34. The First Report, and the appendices thereto; and

35. Such further and other materials as counsel may advise and this Court may permit.

September 19, 2019

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto ON M5L 1B9

Elizabeth Pillon LSO#: 35638M
Tel: (416) 869-5623
E-mail: lpillon@stikeman.com

Sanja Sopic LSO# :66487P
Tel: (416) 869-6825
E-mail: ssopic@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

TO: THE SERVICE LIST ATTACHED HERETO AS SCHEDULE "A"

SERVICE LIST
AS AT MARCH 4, 2019

TO:	<p>MILLER THOMSON LLP 40 King Street West, Suite 5800 Toronto, ON M5H 3S1 Fax: 416.595.8695</p> <p>Kyla Mahar Tel: 416.595.4303 Email: kmahar@millerthomson.com</p> <p>Stephanie De Caria Tel: 416.595.2652 Email: sdecaria@millerthomson.com</p> <p>Lawyers for Green Earth Stores Ltd. and Green Earth Environmental Products</p>
AND TO:	<p>CROWE SOBERMAN INC. 2 St. Clair Avenue East, Suite 1100 Toronto, ON M4T 2T5 Fax: 416.929.2555</p> <p>Hans Rizarri Tel: 416.963.7175 Email: hans.rizarri@crowesoberman.com</p> <p>Graeme Hamilton Tel: 416.963.7140 Email: graeme.hamilton@CroweSoberman.com</p> <p>Proposal Trustee</p>
AND TO:	<p>STIKEMAN ELLIOT LLP 199 Bay Street Toronto, ON M5L 1B9 Fax: 416.947.0866</p> <p>Elizabeth Pillon Tel: 416.869.5623 Email: lpillon@stikeman.com</p> <p>Sonja Sopic Tel: 416.869.6825 Email: ssopic@stikeman.com</p> <p>Lawyers for the Proposal Trustee, Crowe Soberman Inc.</p>

<i>Secured Parties</i>	
AND TO:	ADVOCATES LLP 255 Queens Avenue, 16 th Floor London, ON N6A 5R8 Angelo C. D'Ascanio Tel: 519.858.8220 ext. 232 Fax: 519.858.0687 Email: A.Dascanio@AdvocatesLLP.com Lawyers for Secured Parties Matthew McBride Enterprises Corp. and Beckstette Enterprises Corp.
AND TO:	DE LAGE LANDEN FINANCIAL SERVICES CANADA INC. 3450 Superior Court, Unit 1 Oakville, ON L6L 0C4 Secured Party
<i>Federal and Provincial Offices</i>	
AND TO:	MINISTRY OF FINANCE Office of Legal Services 33 King Street West, 6th Floor Oshawa, ON L1H 8H5 Kevin J. O'Hara Tel: 905.433.6934 Fax: 905.436.4510 Email: kevin.ohara@fin.gov.on.ca
AND TO:	ATTORNEY GENERAL OF CANADA Department of Justice Canada Ontario Regional Office -Tax Law Section The Exchange Tower 130 King Street West Suite 3400, P.O. Box 36 Toronto, ON M5X 1K6 Diane Winters Tel: 416.973.3172 Fax: 416.973.0810 Email: diane.winters@justice.gc.ca Lawyers for the Minister of National Revenue

Landlords	Properties
AND TO: HOOPP REALTY INC. and GEORGETOWN MARKET PLACE CORP. c/o CUSHMAN & WAKEFIELD ASSET SERVICES INC. 1 Queen Street East, Suite 300 Toronto, ON M5C 2W5 Andrea McGowen Email: andrea.mcgowen@cushwake.com	Devonshire Mall (Windsor) Georgetown Market Place (Georgetown)
AND TO: HOOPP RELATY INC., OPB REALTY INC. AND LANSDOWNE PLACE INC. c/o CUSHMAN & WAKEFIELD ASSET SERVICES INC. 1 Queen Street East, Suite 300 Toronto, ON M5C 2W5 Jelena Pukli Email: jelena.pukli@cushwake.com	Quinte Mall (Belleville) Pen Centre Mall (St. Catherine's) Lansdowne Mall (Peterborough)
AND TO: HOOPP REALTY INC. c/o MORGUARD INVESTMENTS LIMITED 55 City Centre Drive, Suite 800 Toronto, ON L5B 1M3 Gilles Levesque Email: glevesque@morguard.com	Northgate Shopping Centre (North Bay) New Sudbury Centre (Sudbury)
AND TO: MIL ITF HOOPP REALTY INC. (INTERCITY) c/o MORGUARD INVESTMENTS LIMITED 100 Fort William Road, Suite 203 Thunder Bay, ON P7B 6B9 Rene Ragazzi Email: rragazzi@morguard.com	Intercity Shopping Centre (Thunder Bay)
AND TO: RIOCAN REAL ESTATE INVESTMENT TRUST 230 Yonge Street, Suite 500 Toronto, ON M4P 1E4 Jamie Nielsen Email: jnielsen@riocan.com	Georgian Mall (Barrie)
AND TO: WHITE OAKS MALL HOLDINGS LTD. c/o BENTALL KENNEDY (CANADA) LP 65 Port Street East, Unit 110 Mississauga, ON L5G 4V3 Garnet Peirson Email: gpeirson@bentallkennedy.com	White Oaks Mall (London)

AND TO:	CF/REALTY HOLDINGS INC. c/o CADILLAC FAIRVIEW CORPORATION LIMITED 20 Queen Street West, 5 th Floor Toronto, ON M5H 3R4 Michelle Carrie Email: michelle.carrie@cadillacfairview.com	Masonville Mall (London) Fairview Park Mall (Kitchener)
AND TO:	CF/REALTY HOLDINGS INC. c/o CADILLAC FAIRVIEW CORPORATION LIMITED 20 Queen Street West, 5 th Floor Toronto, ON M5H 3R4 Mark Palazzo Email: mark.palazzo@cadillacfairview.com	Lime Ridge Mall (Guelph)
AND TO:	OPB (EMTC) INC. c/o CUSHMAN & WAKEFIELD ASSET SERVICES INC. 1 Queen Street East, Suite 300 Toronto, ON M5C 2W5 Daniela Vicino Email: daniela.vicino@cushwake.com	Erin Mills Town Centre (Mississauga)
AND TO:	MORGUARD REAL ESTATE INVESTMENT TRUST 55 City Centre Drive, Suite 1000 Mississauga, ON L5B 1M3 Sonya Elwell Email: selwell@morguard.com	Cambridge Centre (Cambridge)
AND TO:	IVANHOE CAMBRIDGE II INC. 95 Wellington Street West, Suite 300 Toronto, ON M5J 2R2 Yves Bouchard Email: yves.bouchard@ivanhoecambridge.com	Conestoga Mall (Waterloo)
AND TO:	KS LAMBTON MALL INC. c/o CUSHMAN & WAKEFIELD ASSET SERVICES INC. 1 Queen Street East, Suite 300 Toronto, ON M5C 2W5 Jonathan Risorto Email: jonathan.risorto@cushwake.com	Lambton Mall (Lambton)

AND TO:	LYNDEN PARK MALL LIMITED c/o CENTRECORP MANAGEMENT SERVICES LIMITED Lynden Park Mall Management Office 84 Lynden Road Brantford, ON N3R 6B8 Tony Fazari Email: tfazari@centrecorp.com	Lynden Park Mall (Brantford)
AND TO:	LINDSAY SQUARE MALL INC. c/o DAVPART INC. 1200 Sheppard Avenue East, Suite 106 Toronto, ON M3J 2M7 London, ON N6N 1A9 Jennifer Huntley Email: huntleyj@davpart.com	Lindsay Square Mall (Lindsay)
AND TO:	ORANGEVILLE MALL PROPERTY HOLDINGS INC. 700 Applewood Crescent, Suite 100 Vaughan, ON L4K 5X3 Dana Schott Email: dschott@strathallen.com	Orangeville Mall (Orangeville)
AND TO:	OSHAWA CENTRE HOLDINGS c/o IVANHOE CAMBRIDGE INC. 95 Wellington Street West, Suite 300 Toronto, ON M5J 2R2 Stephanie Hannon Email: stephanie.hannon@ivanhoecambridge.com	Oshawa Centre (Oshawa)
AND TO:	MORGUARD CORPORATION AND BRAMALEA CITY CENTRE EQUITIES INC. c/o MORGUARD INVESTMENTS LIMITED 55 City Centre Drive, Suite 800 Mississauga, ON L5B 1M3 Rene Ragazzi Email: rrugazzi@morguard.com	Bramalea City Centre (Brampton)
AND TO:	CATARAQUI HOLDINGS INC. c/o PRIMARIS MANAGEMENT INC. 1 Adelaide Street East, Suite 900 Toronto, ON M5C 2V9 Leigh Murray Email: lmurray@primarisreit.com	Cataraqui Centre (Kingston) Stone Road Mall (Guelph)

AND TO:	TANURB (FESTIVAL MARKETPLACE) INC. 10 King Street East, Suite 800 Toronto, ON M5C 1C3 Alexia Bourelia Email: alexia@tanurb.com	Festival Marketplace (Startford)
AND TO:	713949 ONTARIO LIMITED c/o MORGUARD INVESTMENTS LIMITED 55 City Centre Drive, Suite 800 Mississauga, ON L5B 1M3 Jenny Schmoish Email: jschmoisch@morguard.com	St. Laurent Shopping Centre (Ottawa)
AND TO:	PLACE D'ORLEANS HOLDINGS INC. c/o PRIMARIS MANAGEMENT INC. 1 Adelaide Street East, Suite 900 Toronto, ON M5C 2V9 Gino Ranno Email: granno@primarisreit.com	Place d'Orleans (Orleans)
AND TO:	OXFORD PROPERTIES RETAIL HOLDINGS II INC. AND CPPIB UPPER CANADA MALL INC. 200 Bay Street, Suite 900 Toronto, ON M5J 2J2 Rita Mercado Email: rmercado@oxfordproperties.com	Upper Canada Mall (Newmarket)
AND TO:	BURLINGTON MALL HOLDINGS INC. c/o RIOCAN MANAGEMENT INC. 777 Guelph Line, Burlington, ON L7R 3N2 Jamie Nielsen Email: jnielsen@riocan.com	Burlington Mall (Burlington)

hans.rizarri@crowesoberman.com; graeme.hamilton@CroweSoberman.com;
lpillon@stikeman.com; ssopic@stikeman.com; A.Dascanio@AdvocatesLLP.com;
kevin.ohara@fin.gov.on.ca; diane.winters@justice.gc.ca; andrea.mcgowen@cushwake.com;
jelena.pukli@cushwake.com; jnielsen@riocan.com; gpeirson@bentallkennedy.com;
michelle.carrie@cadillacfairview.com; mark.palazzo@cadillacfairview.com;
Daniela.Vicino@cushwake.com; selwell@morguard.com;
yves.bouchard@ivanhoecambridge.com; jonathan.risorto@cushwake.com;
tfazari@centrecorp.com; huntleyj@davpart.com; dschott@strathallen.com;
stephanie.hannon@ivanhoecambridge.com; lmurray@primarisreit.com; alexia@tanurb.com;
jschmoisch@morguard.com; rmercado@oxfordproperties.com; glevesque@morguard.com;
rragazzi@morguard.com; granno@primarisreit.com

IN THE MATTER OF NOTICES OF INTENTION TO MAKE A PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS AND GREEN EARTH STORES LTD.

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

PROCEEDINGS COMMENCED AT TORONTO

**NOTICE OF MOTION
(Returnable September 25, 2019)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon LSO#: 35638M
Tel: (416) 869-5623
E-mail: lpillon@stikeman.com

Sanja Sopic LSO# :66487P
Tel: (416) 869-6825
E-mail: ssopic@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

TAB 2

**Estate File No. 31-2481648
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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
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PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND
GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE
PROVINCE OF ONTARIO**

**FIRST REPORT OF CROWE SOBERMAN INC.
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF GREEN EARTH STORES
LTD. AND GREEN EARTH ENVIRONMENTAL PRODUCTS**

September 19, 2019

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	PURPOSE.....	3
III.	TERMS OF REFERENCE.....	4
IV.	ACTIVITIES OF THE RECEIVER.....	6
V.	EMPLOYEES.....	7
VI.	THE SALE OF THE REAL PROPERTY.....	8
VII.	THE RECOMMENDED TRANSACTION.....	12
VIII.	APPROVAL OF SALE.....	14
IX.	REMAINING ASSETS.....	15
X.	INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	16
XI.	FEES AND DISBURSEMENTS OF RECEIVER AND LEGAL COUNSEL.....	17
XII.	DISTRIBUTION OF FUNDS HELD BY THE RECEIVER.....	18
XIII.	RECEIVER'S REQUEST TO THE COURT.....	23

APPENDICES

APPENDIX "A"- RECEIVERSHIP AND DISTRIBUTION ORDER
APPENDIX "B"- THIRD REPORT OF PROPOSAL TRUSTEE
APPENDIX "C"- CERTIFICATE OF FILING OF BANKRUPTCY
APPENDIX "D"- PAYROLL EXAMINATION STATEMENT OF ACCOUNT
APPENDIX "E"- REDACTED LISTING AGREEMENT
APPENDIX "F"- CBRE MARKETING MATERIALS
APPENDIX "G"- REDACTED APS
APPENDIX "H"- REDACTED CBRE OPINION
APPENDIX "I"- INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
APPENDIX "J"- AFFIDAVIT OF FEES OF GRAEME HAMILTON SWORN
SEPTEMBER 18, 2019
APPENDIX "K"- AFFIDAVIT OF FEES OF ELIZABETH PILLON SWORN SEPTEMBER
18, 2019
CONFIDENTIAL APPENDIX 1
CONFIDENTIAL APPENDIX 2
CONFIDENTIAL APPENDIX 3
CONFIDENTIAL APPENDIX 4
CONFIDENTIAL APPENDIX 5
CONFIDENTIAL APPENDIX 6

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL
PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND
GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE
PROVINCE OF ONTARIO

**FIRST REPORT OF CROWE SOBERMAN INC. IN ITS CAPACITY AS COURT
APPOINTED RECEIVER OF GREEN EARTH STORES LTD. AND GREEN EARTH
ENVIRONMENTAL PRODUCTS**

September 19, 2019

I. INTRODUCTION

1. On June 13, 2019, pursuant to an order of the Honourable Madam Justice Conway (the “**Receivership and Distribution Order**”), made on application by Green Earth Stores Ltd. (“**GESL**”) and Green Earth Environmental Products, a partnership (“**GEEP**”, and together with GESL the “**Companies**”), and the secured creditors, Matthew McBride Enterprises Corp. (“**McBride Enterprises**”) and Beckstette Enterprises Corp. (“**Beckstette Enterprises**”, and together with McBride Enterprises, the “**Secured Creditors**”), Crowe Soberman Inc. (“**Crowe**”) was appointed as Receiver (the “**Receiver**”) effective June 18, 2019 of all of the assets, undertakings and properties of the Companies acquired for, or used in relation to a business carried on by them (collectively the “**Property**”), including the property known municipally as 19-23 Buchanan Court, London, Ontario (the “**Real Property**”).
2. Pursuant to the Receivership and Distribution Order, the Receiver was also authorized to distribute monies held by the Receiver on behalf of each of GEEP and GESL, net of monies required to cover the costs of the administration of the Companies’ receivership proceedings, to pay the beneficiaries of certain court-

ordered charges and to pay certain amounts to reduce the indebtedness outstanding to the Secured Creditors of each of GEEP and GESL.

3. A copy of the Receivership and Distribution Order is attached hereto as **Appendix “A”**.
4. Prior to its appointment as Receiver, Crowe was appointed as Proposal Trustee when the Companies each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B.-3, as amended (the “**BIA**”) on March 4, 2019 (the “**NOI Proceedings**”).
5. The purpose of the NOI Proceedings was for the Companies to initiate a court supervised sale (“**Liquidation Sale**”) of their retail operations, including a sale of the Real Property with a view to maximizing value for the stakeholders of the Companies and to allow the Companies to determine if it was possible to put forward a proposal to their creditors.
6. The Companies obtained certain relief via earlier Orders of the Court to initiate the Liquidation Sale, as well as certain charges for professionals, consultants, and employees.
7. The Liquidation Sale commenced on March 9, 2019, and was conducted in accordance with the terms and guidelines established by the Court. The Liquidation Sale was concluded on May 29, 2019.
8. Crowe, in its capacity as Proposal Trustee, authored three separate reports on the NOI Proceedings, including reporting on the final financial results of the Liquidation Sale. A copy of Crowe’s Third Report in its capacity as Proposal Trustee, which includes a detailed description of the results of the Liquidation Sale, is attached hereto, without appendices as **Appendix “B”**.
9. Based on the amounts owing to the Secured Creditors, and the results of the Liquidation Sale, it was determined that the Companies were not in a position to

offer a viable proposal to unsecured creditors. As a result, the Secured Creditors sought and obtained the appointment of the Receiver on June 13, 2019.

10. Thereafter, due to the non-filing of a proposal, the Companies were each deemed to have filed an assignment in bankruptcy on June 18, 2019. Copies of the Certificates of Assignment for both Companies are attached hereto as **Appendix “C”**. Crowe is also acting as the Bankruptcy Trustee in the bankruptcy proceedings for the Companies.
11. The transition from the NOI Proceedings to a receivership allowed for the continued marketing and eventual sale of the Real Property in a Court supervised proceeding, and the distribution of proceeds of the Liquidation Sale, and other amounts, by the Receiver via a Court Order.
12. The orders and reports referred to in this First Report, together with related Court documents related to the NOI Proceedings and the Proposal Trustee’s reports, are posted on the Receiver’s website, which can be found at <https://www.crowesobermaninc.com/insolvency-cases/green-earth/>

II. PURPOSE

13. The purpose of this report (the “**First Report**”) is to provide information to the Court with respect to:
 - a) the results of the sales and marketing process and activities with respect to the Real Property owned by GESL, which culminated in the receipt of an offer to purchase the Real Property;
 - b) the activities of the Receiver since its appointment, including completing the wind down of the day to day operations of the Companies, other ancillary matters, and the Receiver’s Interim Statement of Receipts and Disbursements dated September 17, 2019 for each of GEEP and GESL (“**Interim SRD**”); and

- c) the distributions made by the Receiver to date from the funds held on behalf of GEEP and GESL in accordance with the Receivership and Distribution Order;

and to seek an order of the Court:

- d) approving the agreement of purchase and sale entered into between the Receiver and Brian Vaughan, in trust for a company to be incorporated (the “**Purchaser**”) dated July 26, 2019, as amended (the “**APS**”), in connection with the sale of the Real Property, together with any further minor amendments thereto deemed necessary, if any, and approving the transaction contemplated by the APS (the “**Transaction**”);
- e) vesting title to the Real Property in the Purchaser upon closing of the Transaction;
- f) sealing the Confidential Appendices to the First Report;
- g) authorizing the Receiver, upon the closing of the Transaction, to pay the proposed Interim Distribution as follows:

from the estate of GESL to:

- A. first, to Crowe, its counsel Stikeman Elliott LLP (“**Stikeman**”), and the Companies’ counsel Miller Thomson LLP (“**Miller Thomson**”) for amounts subject to the Administration Charge;
- B. next, to the Secured Creditors until paid in full in accordance with the Receivership and Distribution Order; and
- C. all further proceeds are to be retained pending further Order of the Court;

from the estate of GEEP to:

- A. first, to Crowe, Stikeman, and Miller Thomson for amounts subject to the Administration Charge;
- B. next, to the Secured Creditors until paid in full in accordance with the Receivership and Distribution Order; and
- C. all further proceeds are to be retained pending further Order of the Court;

- h) approving the Interim Statement of Receipts and Disbursements for each of GEEP and GESL from the date of the Receiver's appointment to September 17, 2019;
- i) approving the First Report and the Receiver's conduct and activities described therein; and
- j) approving the fees of the Receiver and its counsel, as set out in the Hamilton Affidavit and the Pillon Affidavit (as both of those terms are defined below).

III. TERMS OF REFERENCE

14. Unless otherwise noted, all monetary amounts contained in this First Report are expressed in Canadian dollars.

15. In preparing this First Report, the Receiver has relied upon certain unaudited internal financial information prepared by the Companies' representatives, the Companies' books and records and discussions with their management, staff, agents and consultants (collectively, the "**Information**"). The Receiver has not performed an audit or other verification of the Information in a manner that would comply with Generally Accepted Assurance Standards ("GAAS") pursuant to the Chartered Professional Accountant of Canada Handbook (the "**CPA Handbook**") and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

IV. ACTIVITIES OF THE RECEIVER

16. Since the date of its appointment, the Receiver has continued to work alongside the Secured Creditors and the materially affected stakeholders as it carried out one of its primary mandates of finding a purchaser for the Real Property. The Receiver's activities in that regard are described in greater detail below. In addition, the activities of the Receiver since the date of its appointment have included:

- i. opening new bank accounts under the Receiver's name and arranging for all funds in the Companies' accounts to be transferred to the Receiver's accounts;
- ii. sending to all creditors on record the Notice and Statement of Receiver required under sections 245(1) and 246(1) of the BIA;
- iii. responding to inquiries from stakeholders, including addressing questions or concerns of parties who contacted the Receiver;
- iv. coordinating a payroll trust examination with the CRA for both Companies;
- v. establishing new statutory accounts with the CRA for HST for both Companies;
- vi. coordinating the return of certain warehouse equipment leased by GESL on August 29, 2019;
- vii. coordinating the completion of final corporate tax returns and financial statements for both Companies with their accountants;
- viii. coordinating the collection of returned deposits, various HST refunds, and rent payments;
- ix. making final payments to suppliers for services received prior to the Receivership and Distribution Order in relation to the Liquidation Sale;

- x. making payments regarding payroll obligations and amounts owed to employees pursuant to the Key Employee Retention Agreement (“**KERA**”);
- xi. preparing this First Report; and
- xii. attending to other matters pertaining to the administration of the receivership proceedings of GESL and GEEP.

17. On July 10, 2019, the CRA conducted a payroll examination at the Real Property for the payroll account of both GESL and GEEP for the period from January 1, 2019 to June 15, 2019 (“**Examination Period**”). The CRA review was done to determine if any further obligations for source deductions were outstanding during the Examination Period, which would, in turn, form a first ranking priority amount to be paid in the receivership proceedings.

18. The examination resulted in no further amounts owing towards source deductions for the Examination Period, as those amounts had been properly calculated and paid by the Companies. Copies of the Payroll Examination Statement of Account for both Companies, showing no amount owing is attached hereto as **Appendix “D”**.

19. Since its appointment, the Receiver used the payroll company ADP towards making further payments to the necessary remaining employees, and has ensured that those payment amounts have included all statutory deductions.

20. As previously reported, the Receiver has established new statutory accounts with the CRA for reporting HST for the Companies. The Receiver is in the process of finalizing those returns for the period since its appointment, which is estimated to be in a refund position for both Companies.

21. The CRA did not conduct a review of the Companies’ HST accounts during the Examination Period, as the returns and remittances had been kept current by the Companies. The Receiver understands that the CRA does not intend to conduct an HST audit.

V. EMPLOYEES

22. As of the date of the Receivership Order, GEEP had one employee (Matthew McBride), and GESL had six employees. The Receiver identified certain key staff and management from GESL that would be retained for a short period of time to assist with the receivership and bankruptcy proceedings. Specifically the Receiver identified three employees of GESL whose assistance would be needed in communicating to the employees of the Companies on the existence of the *Wage Earner Protection Program*, and their rights to access potential payment via the bankruptcy proceedings, to assist in preparing for the CRA audit, to assist with finalizing the financial records of the Companies to complete final tax returns and financial statements, and other matters in the administration of the receivership and bankruptcy proceedings. Those employees were employed until the effective termination dates of June 28, 2019 and July 12, 2019 respectively. The Receiver can confirm that those employees were paid out the balance of their KERA payments on July 26, 2019 and all salary and accrued vacation pay to the effective date of their employment.

23. In addition, it was determined that both Matthew McBride and Petra Beckstette would remain as employees of GESL to assist with the sale of the Real Property, such as providing access to property tours, continuing the exit of the Companies' operations, cleaning offices, removing records, and other ancillary matters as they arose. These employees were employed until the effective termination date of September 6, 2019, and have been paid out all salary and accrued vacation pay to the effective date of their employment. Matthew McBride or Petra Beckstette did not receive any amounts under the KERA.

VI. THE SALE OF THE REAL PROPERTY

24. As previously reported in the NOI Proceedings, GESL is the owner of the Real Property. The Real Property is located outside the immediate downtown London area and is adjacent to Highway 401. The Real Property is comprised of mixed

warehouse and office space that totals 101,966 square feet on a lot approximately 41.14 acres in size. Pursuant to a commercial listing agreement dated December 4, 2018 (“**Listing Agreement**”), GESL engaged CBRE Limited (“**CBRE**”) to publicly list the Real Property for sale via the Multiple Listing Service (“**MLS**”) for the amount of \$6.5 million. A redacted copy of the Listing Agreement is attached hereto as **Appendix “E”**. The Receiver intends to file an unredacted copy with the Court as **Confidential Appendix “1”**. During the NOI Proceedings, there were no formal offers made to the Companies to purchase the Real Property.

25. Following the date of its appointment, the Receiver met with representatives from CBRE, the Secured Creditors, and the Companies in order to review the sale process and marketing efforts carried out by CBRE, with a view to determining whether the Receiver should continue to use CBRE in promoting the sale opportunity of the Real Property, or make other changes to the marketing of the Real Property including price adjustments.

Real Property Marketing Efforts of CBRE

26. A summary of the marketing efforts carried out by CBRE as of the date of the Listing Agreement is set out below:

- i. CBRE advertised the Real Property for sale via MLS commencing on January 7, 2019;
- ii. CBRE placed prominent signage on the south side of the Real Property facing Highway 401, with an annual average daily traffic count of 62,000 vehicles per day;
- iii. CBRE marketed the opportunity on its own website and internal marketing campaigns;
- iv. between January 8, 2019 to July 31, 2019, CBRE sent multiple blast emails marketing the Real Property to their internal targeted buyer list which was comprised of over 440 parties identified as manufacturing, warehousing, and office users. The blast mail was sent 13 times;

- v. between January 8, 2019 to July 31, 2019, CBRE sent multiple blast emails marketing the Real Property to their internal co-operating commercial broker list which was comprised of over 420 parties. The blast mail was sent 13 times;
- vi. a separate broker blast email featuring the Real Property was sent to over 540 industrial and specialty groups within CBRE Canada; and
- vii. CBRE identified the cannabis industry as a potential end user of the Real Property and created a micro-marketing campaign to 40 cannabis companies via blast mail and direct mail campaigns.

27. Copies of the MLS Listing and CBRE marketing materials are collectively attached hereto as **Appendix “F”**.

28. CBRE conducted 20 separate physical tours of the Real Property with interested parties during the period between January 14, 2019 to July 25, 2019. The Purchaser was one of the parties who toured the Real Property on July 12, 2019. CBRE prepared a detailed listing of the parties, dates, times, and tour notes following the attendances (the “**CBRE Building Tour Matrix**”). As the CBRE Building Tour Matrix contains commercially sensitive information, the Receiver intends to file it with the Court under seal as **Confidential Appendix “2”**.

Initial Feedback to the Real Property

29. CBRE advised the Receiver that the Real Property had several unique features that limited the pool of potential purchasers, namely a high square footage (101,000 SF) and proportion of office to warehouse space (27%), a large site coverage (56%,) and deferred maintenance, roof replacement and asphalt repair that would be required.

30. CBRE advised that there were several groups interested in purchasing the Real Property, but not at or close to the targeted price per square foot.

Receiver's Review of the Marketing Efforts

31. Based on discussions with CBRE and its own assessment of the Real Property, the Receiver is cognizant that the Real Property is a nuanced asset, with a smaller list of potential purchasers than other opportunities for sale in Ontario and the Greater London Area. The Receiver has reviewed in detail the marketing efforts of CBRE since the date of the Listing Agreement and is satisfied that CBRE has done a significant amount of work to properly expose the Real Property to prospective purchasers. Upon its appointment, the Receiver acknowledged that CBRE was in a unique position to continue to market the opportunity due to their expertise in the area, their extensive knowledge of the Real Property and the London real estate market, and the market momentum they have acquired since the Listing Agreement was finalized.
32. The Listing Agreement expired on June 30, 2019. As outlined further below, on July 26, 2019, CBRE forwarded an offer to purchase the Real Property to the Receiver on behalf of the Purchaser (the "**Vaughan Offer**"). The Purchaser had toured the facility before the expiration of the Listing Agreement.
33. The Receiver met with CBRE to discuss the Vaughan Offer. Following its meeting with CBRE, and its review of CBRE's marketing efforts since the date of the Listing Agreement, the Receiver determined that CBRE should continue to engage with the Purchaser regarding the Vaughan Offer, with a view to completing an acceptable sale transaction on or before September 30, 2019. As a result, on August 13, 2019, the Receiver, on behalf of GESL, and CBRE entered into a Commission Agreement, whereby CBRE agreed to continue its sale efforts in connection with the Vaughan Offer, with the aim of completing a transaction on or before September 30, 2019 (the "**Commission Agreement**"). The Commission Agreement provides that the CBRE would be paid a commission of a percentage of the sale price of the Real Property, arising from the successful completion of a sale transaction. This percentage was identical to that provided in the expired Listing Agreement and would have still been payable under the Commission

Agreement as the Purchaser was brought through the Real Property by CBRE under the timeline established by a holdover clause in the Listing Agreement.

Submission of Offer to Purchase

34. Following the submission of the Vaughan Offer, CBRE notified the Receiver that the Purchaser wished to enter into a short-term lease with respect to the Real Property until the terms of the potential Transaction could be finalized, and Court approval of the Transaction could be obtained. The Receiver was in favour of the short-term lease, as it would enable the Receiver to reduce the carrying costs with respect to the Real Property that would otherwise be borne by GESL.
35. The Receiver entered into negotiations on the terms of the Transaction with the Purchaser, and entered into a short-term lease with the Purchaser to allow the occupation of the Real Property for the months of August and September.
36. The Receiver reviewed the terms of the Vaughan Offer with its counsel, the Secured Creditors, and CBRE, and worked with the Purchaser and its counsel to narrow the conditions in the Vaughan Offer.
37. On August 30, 2019 following agreement on the terms of the APS, the Receiver, on behalf of GESL, entered into the APS with the Purchaser. A copy of the executed, redacted APS is attached hereto as **Appendix “G”**. The Receiver intends to file the unredacted APS with the Court under seal as **Confidential Appendix “3”**.
38. The Purchaser is an arm's length party and is not related to the Secured Creditors in any way.

VII. THE RECOMMENDED TRANSACTION

39. The key terms of the APS are summarized below:

Purchased Assets:

- All of the Real Property is being acquired, and all assets related to the Real Property including certain fixtures and chattels.

Purchase Price:

- A portion of the purchase price is on a cash basis, and a portion is to be financed by a mortgage granted by the Secured Creditors, the terms of which have been fully negotiated between the Purchaser and the Secured Creditors and reviewed by the Receiver (“**First Mortgage**”).
- A deposit of \$300,000 has been paid to CBRE, with a second deposit in the amount of \$475,000 due upon obtaining a Court Order approving the Transaction.
- The balance of the purchase price is being funded via the First Mortgage. The Receiver intends to file the First Mortgage with the Court under seal as **Confidential Appendix “4”**.

Conditions:

- The sale is on an “as is, where is” basis with the sole condition being the obtaining of a Court Order approving the Transaction. Due diligence has been conducted, and following negotiations with the Receiver and the Secured Creditors, the Purchaser agreed to waive the conditions contained in the Vaughan Offer.

40. Pursuant to the APS, the closing of the Transaction is to occur on a date to be determined that is no later than September 30, 2019, which is five days after the Approval and Vesting Order is obtained.

41. Following the execution of the APS, the Receiver was contacted by a sales representative from a competing London brokerage, who was familiar with the listing of the Real Property, but unclear on the next steps due to the receivership and bankruptcy proceedings.

42. On September 17, 2019, the sales representative submitted a non-binding Letter of Interest (“**LOI**”) to purchase the Real Property on behalf of a client.

43. The Receiver reviewed the LOI with the Receiver's counsel and the Secured Creditors, and was of the view that it could not engage with the party who submitted the LOI as it had already signed the APS.

VIII. APPROVAL OF SALE

44. The Receiver believes that the sale process undertaken was appropriate for the type of property in question, used the market momentum generated by CBRE in their marketing efforts prior to the granting of the Receivership and Distribution Order, and resulted in the Receiver obtaining a commercially reasonable offer for the Real Property for the following reasons:

- i. The Real Property was listed for sale via MLS and was widely exposed to the market;
- ii. CBRE has been marketing the Real Property for sale since the date of the Listing Agreement in December 2018;
- iii. The Real Property was marketed by CBRE for a period of 9 months prior to the acceptance of the offer by the Receiver;
- iv. The Real Property was toured by 25 parties; and
- v. The Transaction provides for a closing which is anticipated to take place before September 30, 2019.

45. The Receiver principally relies upon the market exposure in the sale process to conclude that the sale price in the Transaction is reasonable.

46. While the Receiver is aware of an appraisal obtained prior to its appointment, the Receiver believes the marketing of the Real Property is a better indicator of the true market value of the Real Property. In case it is of assistance to the Court, the completed appraisal was commissioned by Matt Telford and was dated May 12, 2015. The Receiver intends to file it with the Court under seal as **Confidential Appendix "5"**.

47. The Receiver has obtained an opinion letter commissioned by CBRE dated September 9, 2019 which outlines their efforts in marketing the Real Property, their opinion on the Transaction, and recent comparable transactions for similarly sized properties in the London area (the “**CBRE Opinion**”). A redacted version of the CBRE Opinion is attached hereto as **Appendix “H”**. The Receiver intends to file the unredacted CBRE Opinion with the Court under seal as **Confidential Appendix “6”**.

48. The CBRE Opinion is supportive of the Transaction on the basis that, among other factors:

- there is a limited buyer pool for a facility the size of the Real Property;
- the opportunity to purchase the Real Property was marketed and exposed effectively, which resulted in numerous tours with qualified prospective buyers;
- the purchase price is consistent with comments on potential purchase prices from other parties who visited the Real Property;
- the purchase price is consistent with other recent comparable property sales in the London area;
- there are no conditions and it is on “as-is, where-is” basis; and
- the quick closing contemplated by the Transaction eliminates further carrying costs.

49. For the reasons noted above, the Receiver recommends the approval by this Honourable Court of the APS. In reaching its recommendation in this regard, the Receiver believes that, in light of the costs that would be incurred in extending the receivership and sale efforts, it is unlikely that an offer would be received that would produce a significantly greater recovery.

50. The Receiver has consulted with the Secured Creditors and has been advised that those parties support the Transaction.

IX. REMAINING ASSETS

51. Following the sale of the Real Property, and following the conclusion of the Liquidation Sale, the Companies are left with limited (and primarily intangible) assets (the “**Remaining Assets**”).
52. The Remaining assets include certain HST refunds, a return of a deposit from Moneris which is estimated to be in the amount of \$30,000, which was held as a security deposit during the Liquidation Sale, internet domains, and customer lists.
53. The Receiver continues to realize on the Remaining assets, including the return of certain deposits and refunds.

VIII. INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

54. The Receiver’s Interim Statements of Receipts and Disbursements for GESL and for GEEP from the date of appointment to September 17, 2019 are summarized as follows:

GEEP- Interim SRD June 18- September 17, 2019	
Receipts	
Cash and GIC	1,890,498
Miscellaneous Receipts	13,234
Interest	954
TOTAL RECEIPTS	1,904,686
Disbursements	
Payroll	11,455
RBC Assigned Security	264,336
Miscellaneous Disbursements	6,103
Professional Fees (NOI Proceeding)	95,631
HST Paid	12,760
TOTAL DISBURSEMENTS	390,285

Net Cash on Hand	1,514,401
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GESL-Interim SRD June 18-September 17, 2019	
Receipts	
Cash and GIC	4,024,843
Miscellaneous Receipts	13,911
Rental Income	15,474
Interest on GIC	19,534
TOTAL RECEIPTS	4,073,762
Disbursements	
Payroll	151,583
Property Tax	33,222
RBC Assigned Security	3,039,175
Miscellaneous Disbursements	25,316
Professional Fees (NOI Proceeding)	251,826
HST Paid	14,421
TOTAL DISBURSEMENTS	3,515,543
Net Cash on Hand	558,219

55. Copies of the Receiver's Interim Statement of Receipts and Disbursements for each of GESL and GEEP are attached hereto as **Appendix "I"**.

56. As noted on the Interim Statement of Receipts and Disbursements for GESL, the funds held in the GIC were collapsed in order to pay out the RBC Assigned Security, which was assigned to the Secured Creditors prior to the NOI Proceedings. The interest earned on the GIC is reflected as a separate receipt line item.

57. As noted on the Interim Statement of Receipts and Disbursements for GEEP, the funds held in the GIC have not been collapsed. The final quantum of the interest earned will be known once it is collapsed. The cash on hand contributed to payout the RBC Assigned Security in accordance with the Receivership and Distribution Order.

X. FEES AND DISBURSEMENTS OF THE RECEIVER AND LEGAL COUNSEL

58. The Receiver and Stikeman have maintained detailed records of their professional time and costs, and have not previously applied to Court in the receivership proceedings for their approval. The Receiver is seeking the approval of its fees for the period from June 18, 2019, to September 13, 2019 and those of its counsel Stikeman for the period from June 24, 2019 to September 13, 2019 in connection with the performance of their duties in these proceedings.

59. The total fees of the Receiver for the Companies amounts to \$89,406.06 plus HST in the amount of \$11,633.19 (the “**Receiver’s Fees and Disbursements**”). The time spent by the Receiver’s personnel is more particularly described in the Affidavit of Graeme Hamilton, sworn September 18, 2019 in support hereof and attached as **Appendix “J”** to this First Report (the “**Hamilton Affidavit**”). The Hamilton Affidavit includes a summary of the personnel, hours, and hourly rates charged by the Receiver in respect of the proceedings.

60. The Stikeman Fees and Disbursements are detailed in the affidavit of Elizabeth Pillon, sworn September 18, 2019 in support hereof and attached as **Appendix “K”** to this First Report (the “**Pillon Affidavit**”). The total fees for services provided by Stikeman amounts to \$29,708.10 together with expenses and disbursements in the amount of \$3,933.28 (both amounts excluding HST) (collectively the “**Stikeman Fees and Disbursements**”). As noted above, the time spent by Stikeman’s personnel is more particularly described in the Pillon Affidavit (see **Appendix “K”**). Included in the Pillon Affidavit is a summary of the personnel, hours and hourly rates charged by Stikeman in respect of the proceedings.

61. The Receiver respectfully submits that the Receiver's Fees and Disbursements and the Stikeman Fees and Disbursements are fair and reasonable in the circumstances and have been properly incurred. Accordingly the Receiver is seeking approval of the Receiver Fees and Disbursements and the Stikeman Fees and Disbursements.

XI. DISTRIBUTION OF FUNDS HELD BY THE RECEIVER

62. Below is an updated estimated realization analysis through to the closing of the Transaction and the proposed termination of the receivership proceedings:

GEEP- Estimated Realization Analysis		<u>Low</u>	<u>High</u>
Cash Balance as at September 17, 2019		\$ 1,514,400	\$ 1,514,400
Estimated Remaining Receipts		\$ 25,000	\$ 50,000
Estimated remaining operational disbursements		(\$ 10,000)	(\$ 25,000)
Professional Fees (Receivership)		(\$ 26,112)	(\$ 26,112)
Professional Fees (Bankruptcy)		(\$ 19,201)	(\$ 19,201)
Estimated remaining professional fees for the receivership and bankruptcy proceedings		(\$ 15,000)	(\$ 30,000)
		\$ 1,469,087	\$ 1,464,087
Midpoint- rounded			\$ 1,466,587
Secured Debt			

RBC Assigned Indebtedness	\$	NIL ¹
Beckstette Enterprises	(\$	734,867)
McBride Enterprises	(\$	734,798)
Estimated Legal Fees	(\$	16,950)
		<hr/>
	(\$	1,486,615)
Surplus/(Shortfall)	(\$	20,028)

GESL- Estimated Realization Analysis

	<u>Low</u>	<u>High</u>
Cash Balance as at September 17, 2019	\$ 558,218	\$ 558,218
Estimated Remaining Receipts	\$ 12,500	\$ 20,000
Cash Deposit from Sale of Real Property	\$ 750,000	\$ 750,000
Estimated remaining operational disbursements	(\$ 35,000)	(\$ 50,000)
Real Estate Commission	(\$ 213,570)	(\$ 213,570)
Professional Fees (Receivership)	(\$ 108,647)	(\$ 108,647)
Professional Fees (Bankruptcy)	(\$ 9,893)	(\$ 9,893)
Estimated remaining professional fees	(\$ 30,000)	(\$ 50,000)
	<hr/>	
	\$ 923,608	\$ 896,108
Midpoint- rounded		\$ 909,858

¹ The RBC Assigned Indebtedness was paid out on August 23, 2019, in the amount of \$264,336 plus interest to the date of payment.

Secured Debt (Balance Outstanding After Application of First Mortgage²)	
RBC Assigned Indebtedness	\$ NIL ³
Beckstette Enterprises	(\$ 436,077)
McBride Enterprises	(\$ 449,777)
Estimated Legal Fees	(\$ 22,600)
	<hr/>
	(\$ 908,454)
 Surplus/ (Shortfall)	 \$ 1,404

63. As set out in the Receiver's Interim Statement of Receipts and Disbursements, in accordance with the Receivership and Distribution Order, the amounts owing to the Secured Creditors pursuant to the RBC Assigned Security were paid out in full on August 23, 2019.

64. The Secured Creditors were first ranking secured creditors of both GEEP and GESL pursuant to the RBC Assigned Security. As described in the Third Report of the Proposal Trustee, a copy of which is attached hereto as Appendix "B", the RBC debt was a secured obligation of both GEEP and GESL, and RBC could have looked to either entity to recover on the debt. The Receiver paid out \$263,336 from the GEEP estate and \$3,053,930 from the GESL estate. The result of allocating the funds this way was that there were no additional proceeds available beyond secured debt and priority payables at GEEP. As noted in the Third Report of the Proposal Trustee, given the nature of the debt and secured lenders, had additional debt been notionally allocated to GEEP, this would have resulted in further outstanding debt to the second secured creditors at GEEP. The unsecured creditors would not have received any additional recovery at the time at either

² In accordance with the terms of the Transaction, the Secured Lenders have accepted the First Mortgage in partial satisfaction of their secured debt. The balance remaining to the Secured Creditors after application of the First Mortgage is noted here.

³ The RBC Assigned Indebtedness was paid out on August 23, 2019, in the amount of \$3,039,175 plus interest to the date of payment.

GESL or GEEP. The Receiver understands that the rights of subrogation and marshalling were considered by the Companies' counsel in determining this allocation, which was approved by the Court as set out in the Receivership and Distribution Order.

65. Crowe received an opinion, from its independent counsel, Stikeman, confirming that the RBC Assigned Security was valid and enforceable in the Province of Ontario.

66. The Secured Creditors are also second-ranking secured creditors of both GESL and GEEP pursuant to the Enterprises Security (as defined and described in the Third Report of the Proposal Trustee). Crowe received an opinion, from its independent counsel, Stikeman, confirming that the Enterprises Security was valid and enforceable in the Province of Ontario.

67. Accordingly the Receiver intends to distribute the following amounts to the Secured Creditors plus fees and expenses incurred by the Secured Creditors in accordance with the Secured Creditor's security, subject to having sufficient funds to do so:

from the estate of GEEP

- Beckstette Enterprises Corp - \$734,867
- Matthew McBride Enterprises Corp - \$734,798

from the estate of GESL

- Beckstette Enterprises Corp - \$436,077
- Matthew McBride Enterprises Corp - \$449,777

68. The Receiver intends to distribute the funds received from the cash deposit portion from the sale of the Real Property to the Secured Creditors. The Receiver has reviewed the terms of the First Mortgage and the amount of the Secured Creditors have agreed to accept the First Mortgage in partial satisfaction of the amount owing to them by GESL. The result being that the combination of the distribution set out above and the amount accepted by the Secured Creditors and the face

amount of the First Mortgage will repay the Secured Creditors in full. Thereafter, any default under the First Mortgage will be the Secured Creditors risk.

XI. RECEIVER'S REQUEST TO THE COURT

69. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court issue orders;

- a) approving the APS, together with any further minor amendments thereto deemed necessary, if any, and approving the Transaction;
- b) vesting title to the Real Property in the Purchaser upon closing of the Transaction;
- c) sealing the Confidential Appendices to the First Report;
- d) authorizing the Receiver, upon the closing of the Transaction, to pay the proposed Interim Distribution as follows:
from the estate of GESL:
 - A. first, to Crowe, Stikeman and Miller Thomson for professional fees;
 - B. next, to the Secured Creditors until they are paid in full;
 - C. all further proceeds are to be retained pending further Order of the Court;
from the estate of GEEP:
 - A. first, to Crowe, Stikeman and Miller Thomson for professional fees;
 - B. next, to the Secured Creditors until they are paid in full;
 - C. all further proceeds are to be retained pending further Order of the Court;

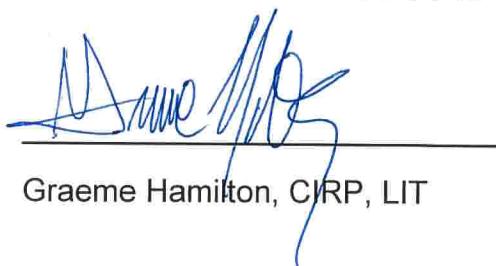
- e) approving the Interim Statement of Receipts and Disbursements for each of GEEP and GESL from the date of the Receiver's appointment to September 17, 2019;
- f) approving the First Report and the Receiver's conduct and activities described therein; and
- g) approving the fees of the Receiver and its counsel, as set out in the Hamilton Affidavit and the Pillon Affidavit.

All of which is respectfully submitted this 19th day of September, 2019

CROWE SOBERMAN INC.

**IN ITS CAPACITY
AS COURT APPOINTED RECEIVER OF GREEN
EARTH STORES LTD. AND GREEN EARTH
ENVIRONMENTAL PRODUCTS**

Per:

A handwritten signature in blue ink, appearing to read "Graeme Hamilton", is written over a solid blue horizontal line.

Graeme Hamilton, CIRP, LIT

APPENDIX

‘A’



Estate/Court File No. 31-2481648
Estate/Court File No. 31-2481649

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM

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JUSTICE CONWAY

Thursday
WEDNESDAY, THE 13th
DAY OF JUNE, 2019

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP
ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES
LTD., A CORPORATION INCORPORATED IN THE PROVINCE OF ONTARIO**

Applicants

ORDER

(Appointing Receiver and Distribution of Monies)

THIS MOTION, made jointly by the Applicants, Green Earth Environmental Products (“GEEP”) and Green Earth Stores Ltd. (“GESL”), and the secured creditors, Matthew McBride Enterprises Corp. (“McBride Enterprises”) and Beckstette Enterprises Corp. (“Beckstette Enterprises”), and together with the McBride Enterprises, the “Secured Creditors”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing Crowe Soberman Inc. as receiver (in such capacities, the “Receiver”) without security, of all of the assets, undertakings and properties of each of GEEP and GESL (collectively, the “Debtors”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Matthew McBride sworn June 7, 2019 and exhibits thereto (the “**McBride Affidavit**”), the Third Report (the “**Third Report**”) of Crowe Soberman Inc., in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”), on hearing the submissions of counsel for the Applicants, Secured Creditors, the Proposal Trustee, and such other counsel as were present as indicated on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Alina Stoica sworn June 11, 2019, filed, and on reading the consent of Crowe Soberman Inc. to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and Third Report is hereby abridged and validated so that this Motion is properly returnable today and further service of the Notice of Motion, Motion Record and Third Report is hereby dispensed with.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Crowe Soberman Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to the business carried on by the Debtors, including all proceeds thereof (the “**Property**”), with such appointment effective June 18, 2019.

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to instruct existing and engage additional consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or

applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- (r) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use

of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “Proceeding”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors’ behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all

material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER’S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless

otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

DISTRIBUTIONS ON BEHALF OF GEEP

20. **THIS COURT AUTHORIZES AND DIRECTS** the Receiver to distribute the monies held by the Receiver on behalf of GEEP after the date of the deemed bankruptcy of GEEP, net of any monies the Receiver determines are required for the administration of the receivership of GEEP and to pay any other obligations of GEEP that rank ahead of the Assigned Indebtedness (as defined in the McBride Affidavit), and the GEEP Enterprise Indebtedness (as defined in the McBride Affidavit) (collectively, the “**Priority Claims**”), in order of priority as follows:

- (a) first to pay any amounts owing to the beneficiaries under the Administration Charge (as defined in the Administration Order dated March 7, 2019 (the “**Administration Order**”));
- (b) second to pay any amounts owing to the beneficiaries of the KERA Charge (as defined in the Administration Order);

- (c) third to pay any amounts owing by GEEP for source deductions, which are subject to the super priority deemed trust, if any;
- (d) fourth to repay an amount to the Secured Creditors in respect of the secured indebtedness assigned by Royal Bank of Canada, which when combined with the amount repaid by the Receiver from the monies held by GESL to the Secured Creditors in respect of the Assigned Indebtedness results in the Assigned Indebtedness being repaid in full; and
- (e) fifth to repay amounts to the Secured Creditors on a *pro rata* basis until \$734,798 owing by GEEP is repaid in full to McBride Enterprises and \$734,867 owing by GEEP is repaid in full to Beckstette Enterprises.

DISTRIBUTIONS ON BEHALF OF GESL

21. **THIS COURT AUTHORIZES AND DIRECTS** the Receiver to distribute the monies held by the Receiver on behalf of GESL after the date of the deemed bankruptcy of GESL, net of any monies the Receiver determines are required for the administration of the receivership of GESL, and to pay any other obligations of GESL that rank ahead of the Assigned Indebtedness, and the GESL Enterprises Indebtedness (as defined in the McBride Affidavit), including any Priority Claims , in order of priority as follows:

- (a) first to pay any amounts owing to the beneficiaries of the Administration Charge;
- (b) second to pay any amounts owing to the beneficiaries of the KERA Charge;
- (c) third to pay any amounts owing by GESL for source deductions, which are subject to the super priority deemed trust, if any;
- (d) fourth to repay the Assigned Indebtedness less the amount available to be paid by monies held by the Receiver from GEEP which results in the Assigned Indebtedness being repaid in full to the Secured Creditors; and

(e) fifth to repay amounts owing to the Secured Creditors on a *pro rata* basis until \$2,424,777 owing by GESL is repaid in full to McBride Enterprises and \$2,411,077 owing by GESL is repaid in full to Beckstette Enterprises.

22. **THIS COURT ORDERS THAT** notwithstanding any other provision of this Order and without in any way limiting the protections for the Receiver set forth in this Order or the BIA, the Receiver shall have no obligation to distribute any monies to any party unless the Receiver is holding sufficient funds adequate to effect any such distribution.

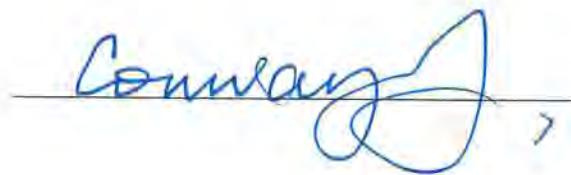
SERVICE AND NOTICE

23. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://crowesoverman.com/insolvency/engagements/green-earth-stores-ltd-green-earth-environmental-products>.

24. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

25. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.
27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
28. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
29. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
GREEN EARTH ENVIRONMENTAL PRODUCTS AND GREEN EARTH STORE LTD

Estate/Court File No. 31-2481648
Estate/Court File No. 31-2481649

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

(Appointing Receiver and Distribution of Monies)
(Returnable June 13, 2019)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSO#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695
kmahar@millerthomson.com

Stephanie De Caria LSO#: 68055L
Tel: 416.597.2652 / Fax: 416.595.8695
sdecaria@millerthomson.com

Lawyers for the Applicants, Matthew McBride
Enterprises Corp. and Beckstette Enterprises
Corp.

APPENDIX

‘B’

Estate File No. 31-2481648
Estate File No. 31-2481649

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL
PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND
GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE
PROVINCE OF ONTARIO

THIRD REPORT OF CROWE SOBERMAN INC.
IN ITS CAPACITY AS TRUSTEE UNDER THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF GREEN EARTH STORES LTD. AND GREEN EARTH
ENVIRONMENTAL PRODUCTS

June 11, 2019

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	TERMS OF REFERENCE.....	4
III.	ACTIVITIES OF THE COMPANIES.....	4
IV.	THE PROPOSAL TRUSTEE'S ACTIVITIES.....	5
V.	THE LIQUIDATION SALE.....	6
VI.	REMAINING ASSETS.....	8
VII.	REAL PROPERTY MARKETING PROCESS.....	8
VIII.	EMPLOYEES.....	8
IX.	CASH FLOWS FOR THE PERIOD FROM MARCH 4 TO MAY 31 2019.....	10
X.	STATUS OF FILING OF A PROPOSAL.....	13
XI.	APPOINTMENT OF A RECIEVER AND DEEMED BANKRUPTCY.....	14
XII.	REALIZATION ANALYSIS AND PROPOSED DISTRIBUTION.....	15
XIII.	PROPOSAL TRUSTEE AND ITS COUNSEL'S FEES.....	18
XIV.	CONCLUSION.....	19

APPENDICES

- APPENDIX "A"- FIRST REPORT OF THE PROPOSAL TRUSTEE
- APPENDIX "B"- SECOND REPORT OF THE PROPOSAL TRUSTEE
- APPENDIX "C"- CASH FLOW FORECAST
- APPENDIX "D"- SUMMARY OF PROPOSED DISTRIBUTION
- APPENDIX "E"- AFFIDAVIT OF FEES OF HANS RIZARRI SWORN JUNE 10, 2019
- APPENDIX "F"- AFFIDAVIT OF FEES OF ELIZABETH PILLON SWORN JUNE 10, 2019

Estate File No. 31-2481648
Estate File No. 31-2481649

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL
PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND
GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE
PROVINCE OF ONTARIO

SECOND REPORT OF CROWE SOBERMAN INC. IN ITS CAPACITY AS TRUSTEE
UNDER THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF GREEN EARTH
STORES LTD. AND GREEN EARTH ENVIRONMENTAL PRODUCTS

June 11, 2019

I. INTRODUCTION

1. This report (the “**Third Report**”) is filed by Crowe Soberman Inc. (“**Crowe**”), in its capacity as proposal trustee (the “**Proposal Trustee**”) in connection with the Notices of Intention to Make a Proposal (“**NOIs**”) filed by each of Green Earth Stores Ltd. (“**GESL**”) and Green Earth Environmental Products, a partnership (“**GEEP**”, and together with GESL the “**Companies**”).
2. On March 4, 2019 (the “**Filing Date**”), the Companies each filed an NOI pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B.-3, as amended (the “**BIA**”) and Crowe was appointed as Proposal Trustee under each NOI (the “**NOI Proceedings**”).
3. On March 7, 2019, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Administration Order**”) which, among other things:
 - i. approved the administrative consolidation of the NOI Proceedings;
 - ii. approved the key employee retention agreement (the “**KERA**”);

- iii. approved certain charges sought by the Companies; and
- iv. granted an extension of time within which the Companies are required to file a proposal (the “**Proposal Period**”) to May 3, 2019.

A copy of the Administration Order is attached to the Affidavit of Matthew McBride sworn June 7, 2019 (the “**June 7th Affidavit**”) as Appendix “C”.

4. On March 7, 2019, the Court also issued an order (the “**Liquidation Process Order**”) which, among other things.
 - i. approved the engagement of FAAN Advisors Group Inc. (“**FAAN**”) as Chief Restructuring Advisors (in such capacity the “**CRA**”) and the key terms of the FAAN engagement letter (the “**CRA Engagement Letter**”);
 - ii. approved the consulting agreement (the “**Consulting Agreement**”) between the Companies’ and Shawn Parkin as liquidation consultant (“**Consultant**”), pursuant to which the Consultant is to assist with the liquidation process proposed to be undertaken by the Companies in respect of the Companies’ inventory and owned furniture, fixtures, and equipment (“**FF&E**”) at the Companies’ retail locations and warehouse (the “**Liquidation Sale**”) in accordance with the sale guidelines (the “**Sale Guidelines**”) appended to the Liquidation Process Order; and
 - iii. authorized the Companies, with the assistance of the Consultant and the CRA to conduct the Liquidation Sale.

A copy of the Liquidation Process Order is attached to the June 7th Affidavit as Appendix “D”.

5. On April 29, 2019, the Court issued an Order (the “**Proposal Period Extension Order**”) which, among other things, granted an extension of the Proposal Period to June 17, 2019. A copy of the Proposal Period Extension Order is attached to the June 7th Affidavit as Appendix “E”.

6. The Proposal Trustee prepared its First Report dated March 5, 2019 (the “**First Report**”) and its Second Report dated April 24, 2019 (the “**Second Report**”) which were both approved pursuant to the Proposal Period Extension Order. The First Report (without appendices) is attached hereto as **Appendix “A”**. The Second Report (without appendices) is attached hereto as **Appendix “B”**.
7. The purpose of this Third Report is to provide the Court with information pertaining to the following:
 - i. the activities of the Companies and the Proposal Trustee since April 24, 2019 (the date of the Proposal Trustee’s Second Report) to the date of this Third Report;
 - ii. the status of the Liquidation Sale;
 - iii. the status of the KERA;
 - iv. the Companies’ reported receipts and disbursements for the period from March 4 to May 31, 2019 including a comparison of reported to forecast results;
 - v. the Companies’ motion for the appointment of Crowe as Receiver in order to finalize the marketing and sale of the Real Property and to finalize all outstanding administrative matters involving the Companies, including distributing certain funds from the Liquidation Sale;
 - vi. the Companies’ Realization Analysis and anticipated funds available for distribution to creditors of GESL and GEEP; and
 - vii. the Proposal Trustee’s recommendation that this Court make an order as requested by the Companies:
 - a. approving the Proposal Trustee’s fees and disbursements for the period from January 2, 2019 to June 7, 2019 and those of the Proposal Trustee’s counsel, Stikeman Elliot LLP (“**Stikeman**”), for the period from January 31, 2019 to June 7, 2019;

- b. approving the Third Report, as well as the activities, actions and conduct of the Proposal Trustee set out therein and herein; and
- c. appointing Crowe as Receiver of the Companies and ordering the Receiver to make the proposed distributions on account of GESL and GEEP.

II. TERMS OF REFERENCE

- 8. Unless otherwise noted, all monetary amounts contained in this Second Report are expressed in Canadian dollars.
- 9. In preparing this Third Report, the Proposal Trustee has relied upon certain unaudited internal financial information prepared by the Companies' representatives, the Companies' books and records and discussions with their management, staff, agents and consultants (collectively, the "**Information**"). The Proposal Trustee has not performed an audit or other verification of the Information in a manner that would comply with Generally Accepted Assurance Standards ("GAAS") pursuant to the Chartered Professional Accountant of Canada Handbook (the "**CPA Handbook**") and, as such, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

III. ACTIVITIES OF THE COMPANIES

- 10. Since the date of the Second Report, the activities of the Companies have included:
 - i. meeting and communicating with the Companies' employees regarding the NOI Proceedings;
 - ii. responding to calls and enquiries from creditors and stakeholders regarding the NOI Proceedings;
 - iii. making payments to suppliers for goods and services received following the Filing Date;

- iv. making payments regarding payroll obligations;
- v. reporting receipts and disbursements;
- vi. collaborating with the Consultant and the CRA regarding the Liquidation Sale, and the sale of the FF&E located at the retail locations;
- vii. finalizing the Liquidation Sale at all of the Companies retail locations;
- viii. vacating the Companies' retail store locations in accordance with the Liquidation Process Order. The Proposal Trustee previously reported in the Second Report that all 29 retail store leases were disclaimed. The last store was returned to the landlord on May 30, 2019;
- ix. administering the KERA and Stay Bonus and Incentive Program and terminating certain head office and retail store employees in connection with the planned wind-down of the Companies operations. As of the date of this Third Report, the Proposal Trustee understands that with the exception of 7 employees necessary to conclude the wind-down of operations, all other retail and head office employees have been terminated.
- x. consulting with the Proposal Trustee in connection with the preparation of the Realization Analysis; and
- xi. corresponding and communicating with the Proposal Trustee and the Companies' legal counsel on various matters in connection with the NOI Proceedings, including proposal considerations.

IV. THE PROPOSAL TRUSTEE'S ACTIVITIES

11. The Proposal Trustee's activities since the Filing Date have included:

- i. establishing and maintaining a website at <https://crowesoberman.com/insolvency/engagements/green-earth-stores-ltd-green-earth-environmental-products>, where all materials filed with the

Court and all orders made by the Court, in connection with the NOI Proceedings, are available in electronic form;

- ii. ongoing monitoring of the Companies' cash flows with the CRA, and the ongoing reporting of any variances to the cash flow forecasts;
- iii. ongoing monitoring of the Companies' daily banking;
- iv. meeting with the CRA, the Consultant, and the Companies' management to discuss the Companies' operations, the conduct of the Liquidation Sale, and the NOI Proceedings;
- v. corresponding and communicating extensively with the CRA regarding the progress and results of the Liquidation Sale;
- vi. responding to calls and enquiries from creditors and other stakeholders regarding the NOI Proceedings;
- vii. reviewing and approving disclaimers of retail leases;
- viii. consulting with the CRA and Management in connection with the preparation of the cash flow variances;
- ix. consulting with the CRA and Management in connection with the preparation of the Realization Analysis; and
- x. preparing this Third Report.

V. THE LIQUIDATION SALE

12. The Liquidation Sale commenced on March 9, 2019, and has been conducted in accordance with the terms of the Consulting Agreement and the Sale Guidelines, and was concluded on May 29, 2019. The final monetary results of the Liquidation Sale are discussed later in this Third Report.

13. In accordance with the terms of the Liquidation Process Order (and Sale Guidelines), any additional merchandise to be added to the goods located in the

retail locations which were to be sold during the Liquidation Sale, was limited to goods which were located at the warehouse/distribution center located in London, Ontario (the "**Distribution Center**"). The Proposal Trustee understands that all of the Companies' owned inventory was allocated to various retail stores and sold in the Liquidation Sale.

14. The Proposal Trustee was advised of and approved disclaimers of retail leases during the course of the Liquidation Sale. Disclaimer Notices were sent by the Companies in March and April to all Landlords. The effective dates of the disclaimer notices were in April for three (3) locations, May for twenty-five (25) locations, and June for one location. The Proposal Trustee understands the last location was vacated on May 30, 2019, and there were no disputes filed in respect of the Companies' disclaimer notices.
15. The Proposal Trustee understands that the Companies, with the assistance of the Consultant, have vacated all retail locations, left them in a broom-swept condition, and turned over the keys to the Landlords' representatives.

FF&E

16. In accordance with the Consulting Agreement, the Consultant assisted the Companies in selling the FF&E located at the retail locations for a fee of twenty percent (20%) of gross proceeds realized therefrom. The Proposal Trustee understands that approximately \$102,645 was realized from the sale of the Companies FF&E.

Consultant and the CRA

17. Since the commencement of the Liquidation Sale, the Consultant and the CRA have been paid their fees and reimbursable costs on a weekly basis.
18. The Consultant was provided with notice of termination, in accordance with the Consultant Agreement, on May 15th. Effective on May 20, 2019, the CRA moved from a weekly fee agreement to an hourly arrangement given that the Liquidation Sale was winding down and was given notice that the CRA would be terminated

effective on the earlier of the bankruptcy of the Companies or the appointment of a receiver in respect of the Companies.

19. As of the date of this Third Report, the final settlement of the Consultant's fees and reimbursable costs has been completed and agreed to by the Companies with final payment to be made prior to the effective date of the Receivership.

20. The CRA Engagement Letter contemplated that a success fee/bonus structure would be earned and determined. The CRA and the Companies have now agreed upon the economics of the bonus structure, which was in line with the range contemplated in the CRA Engagement Letter. The Debtor will be filing, under seal, the details of the final fee structure. The CRA's role will terminate as at the deemed bankruptcy date and the Applicants are seeking an order to discharge the CRA.

VI. REMAINING ASSETS

21. As of the date of the Third Report, and following the conclusion of the Liquidation Sale, the Companies are left with limited (and primarily intangible) assets (the "**Remaining Assets**"), outside of the Real Property and racking included therein, and the return of certain deposits, these include internet domains, and customer lists.

22. The Companies, in consultation with the Proposal Trustee, are currently considering their options to monetize the Remaining Assets.

VII. REAL PROPERTY AND CONTINUED MARKETING PROCESS

23. As outlined in the Second Report, in December 2018 GESL entered into a Listing Agreement with CBRE Limited for the sale of the Distribution Center, which is owned by GESL, at a listing price of \$6.5 million. As of the date of the Third Report the Proposal Trustee understands that while interest has been shown regarding the Property, no offers or letters of intent have been received.

VIII. EMPLOYEES

24. As of the Filing Date, GEEP employed 202 individuals across its retail store locations, 179 of which were on a part-time basis, and GESL employed 13 full-time head office and warehouse employees, all of which are non-unionized.
25. The Proposal Trustee was sent a copy of the Notice of Termination that was registered with the Ministry of Labour on March 28, 2019, notifying the Ministry that the Companies were terminating more than 50 employees in the same four-week period. The Proposal Trustee has been advised that employees have also received individual letters of termination.
26. The Proposal Trustee understands that all of GEEP's employees have either resigned or been terminated, with the exception of Matthew McBride, and that those employees have been paid, or will be paid, their wages and accrued vacation pay to the date their employment ended. The Proposal Trustee understands that all but 6 of GESL's employees have either resigned or been terminated. Those employees are assisting with the accounting, administration, and clean up at the Real Property. The Proposal Trustee has been advised that those employees have been paid, or will be paid, their wages and accrued vacation pay to the date their employment ceases.
27. For the 6 remaining employees, their wages and accrued vacation pay to the deemed bankruptcy date will be paid. The Receiver, if appointed, and BIA Trustee will determine whether it is necessary to retain the assistance of any of these individuals to assist with the Receivership and/or Bankruptcy Proceedings.

KERA and Stay Bonus and Incentive Program

28. As detailed in the First Report, given the planned short timeframe to complete the Liquidation Sale, the KERA was developed to ensure the retention of key office personnel and certain staff at the Distribution Centre through the completion of the Liquidation Sale and the NOI Proceedings (the "**KERA Beneficiaries**"). As outlined in the First Report, the KERA is secured over the Companies' property through a charge in the maximum aggregate amount of \$100,000.

29. The KERA provides for retention payments to be paid to each of the KERA Beneficiaries at specific dates during the NOI Proceedings. In order for the KERA Beneficiaries to receive payments under the KERA, among other things, the KERA Beneficiaries cannot have: (a) disclosed the term of the KERA (other than to legal, financial and tax advisors or as required by law); or (b) at any time on or before the date any portion of the funds contemplated under the KERA is paid (i) resign or (ii) be terminated for cause.

30. The Proposal Trustee understands that the Companies have made payments to the KERA Beneficiaries who have been terminated, and those payments were paid out on their payroll. In respect of KERA Beneficiaries that have not yet been terminated or were terminated on the last store closure date on May 30, 2019, the amount payable to each of them under the KERA will be paid on their final payroll, June 14, 2019.

31. To the extent that employees are entitled to a KERA and have not been paid, the Receiver shall pay the amounts secured by the KERA Charge.

32. In addition to the KERA, the Proposal Trustee worked with the Companies, the CRA and the Consultant to create a stay bonus program for certain store employees, with an estimated value of between \$80,000-\$120,000 based on the performance of the Liquidation Sales at the store level (the "**Stay Bonus and Incentive Program**"). A copy of the Stay Bonus and Incentive Program was included as a confidential appendix to the First Report. The Proposal Trustee understands that, in light of the strong recoveries from the Liquidation Sale, nearly all store level employees who were eligible to participate in the Stay Bonus and Incentive Program have been paid or/ will be eligible to receive payments on their final payroll, June 14, 2019.

IX. CASH FLOWS FOR THE PERIOD FROM MARCH 4, 2019 TO MAY 31, 2019

33. In support of the Companies' request for the initial extension of the Proposal Period to May 3, 2019, the Companies, with the assistance of the CRA and the Proposal Trustee, prepared individual forecasts of the Companies' receipts and

disbursements for the period March 4, 2019 to May 3, 2019 (the “**First Cash Flow Forecasts**”). A copy of the First Cash Flow Forecasts was included as Appendix “C” to the First Report.

34. In support of the Companies’ request for its subsequent stay extension to June 17, 2019, the Companies, with the assistance of the CRA and the Proposal Trustee, prepared individual forecasts of the Companies’ receipts and disbursements for the period April 3, 2019 to June 21, 2019 (the “**Second Cash Flow Forecasts**”). A copy of the Second Cash Flow Forecasts was included as Appendix “C” to the Second Report.

35. A comparison of the Cash Flow Forecast to the Companies’ reported results for the period March 4, to May 31, 2019 is attached as **Appendix “C”** and is summarized below:

GESL-Cash Flow- Variance Analysis For the twelve week period to May 31, 2019			
Receipts	Actual	Budget	Variance
Receipts from Sale of Inventory	2,993,434	2,405,807	587,627
Miscellaneous Receipts	653,745	-	653,745
Accounts Receivable Collections	177,427	72,000	105,427
Online Sales	3,055	5,400	-2,345
	3,827,661	2,483,207	1,344,454
Disbursements			
Payroll	222,014	311,914	89,901
Rent, Utilities, Repairs & Insurance	66,070	44,395	-21,503
HST (Accrual), WSIB	55,791	297,271	241,480
Sales and Shipping Costs	120,061	145,735	25,674
Professional Fees	172,012	383,123	211,111
Contingency, Office & Other	15,612	71,699	56,087
	651,560	1,254,677	603,117

Net Cash Flow	3,176,102	1,228,530	1,947,571
Opening Cash	4,170,657	3,967,067	203,590
Closing Cash	4,056,361	3,914,607	141,754

36. As noted in the table above, GESL reported positive net cash flow of approximately \$3.1 million, which was approximately \$1.9 million higher than anticipated. One of the main contributors to the positive variance is that GESL received a corporate tax refund in the amount of \$617,170. The timing of receipt of this tax refund was assumed to be outside of the period encompassed in the Cash Flow Forecasts. As well, the receipts from the sale of the inventory at the Green Earth Stores, which was purchased and is owned by GESL, has been greater than anticipated.

GEEP-Cash Flow- Variance Analysis			
	Actual	Budget	Variance
Receipts			
Retail Sales	5,863,279	4,763,973	1,099,306
Fixture Sales	105,912	31,507	74,405
Gift Card Redemption and Other Receipts	-5,643	-19,600	13,957
	5,963,548	4,775,880	1,187,668
Disbursements			
Payroll	1,143,605	1,152,192	8,587
Rent, Utilities, Repairs & Insurance	571,814	587,252	15,439
HST, WSIB	7,199	214,569	207,371
Sales and Shipping Costs	68,170	84,307	16,137
Payment to GESL to Inventory	2,993,434	2,405,807	-587,627
Professional Fees	164,446	383,123	218,676

Contingency, Office & Other	26,679	107,050	80,371
	4,975,347	4,934,299	-41,048
Net Cash Flow	988,202	-158,419	1,146,620
Opening Cash	2,343,378	2,098,928	244,450
Closing Cash	2,138,123	1,914,717	223,406

37. As noted above, GEEP reported positive net cash flow of approximately \$988,202, which is approximately \$1.1 million higher than anticipated. The variance was due to an increase in sales against the Cash Flow Forecasts.

X. STATUS OF PROPOSAL FILING

38. In the First Report the Proposal Trustee reported that it received an opinion, from its independent counsel Stikeman, confirming that the RBC Security was valid and enforceable in the Province of Ontario. The RBC Security was assigned to McBride Enterprises and Beckstette Enterprises who took an assignment of the indebtedness owing by GESL to RBC. The Proposal Trustee understands that as of the date of this report the amount outstanding is \$3,288,265.

39. Also in the First Report, the Proposal Trustee reported on certain advances made to the Companies by the Enterprises via Promissory Notes. As security for the Companies' obligations to the Enterprises under the Promissory Notes, the Companies each provided general security agreements to the Enterprises.

40. The Proposal Trustee confirmed that it received an opinion, from its independent counsel, Stikeman, confirming that the Enterprises Security is valid and enforceable in the Province of Ontario. The Proposal Trustee understands that as of the date of this report the amounts outstanding are as follows;

- GEEP-Beckstette Enterprises Corp- \$734,867
- GEEP-Matthew McBride Enterprises Corp- \$734,798

- GESL- Beckstette Enterprises Corp- \$2,411,077
- GESL-Matthew McBride Enterprises Corp- \$2,424,777

41. Based on the amounts outstanding towards the Enterprises Security, the assignment of the RBC security, and the results of the Liquidation Sale, it was determined that the Companies are not in a position to offer a viable proposal to unsecured creditors.

XI. APPOINTMENT OF A RECEIVER AND DEEMED BANKRUPTCY

42. The Companies (and the Enterprises), have brought an application for the appointment of a Receiver over the Companies. The Effective Date of the Receivership is proposed to be on the deemed bankruptcy date of June 18, 2019. The purpose of the Receivership is to complete the following;

- i. to continue to market and sell the Real Property;
- ii. to distribute the proceeds from the Liquidation Sale, and any future proceeds from the sale of the Real Property and Remaining Assets;
- iii. to schedule and complete a payroll audit with the Canada Revenue Agency;
- iv. to administer the Wage Earner Protection Program;
- v. to deal with the realization of the Remaining Assets; and
- vi. any other ancillary matters that involve the Companies.

43. Crowe has consented to act as the Receiver in order to complete the sale of the Companies' remaining assets, distribute the proceeds from the Liquidation Sale, and any future proceeds, and other administrative matters as they arise.

44. The Companies received an extension of time to file a Proposal to June 17, 2019 pursuant to the Proposal Period Extension Order. As no proposals will be filed by the Companies, both Companies will be deemed bankrupt as of June 18, 2019.

Crowe will also be acting concurrently as the Trustee in Bankruptcy to the date of the First Meeting of Creditors where its appointment will be confirmed or substituted in the normal course based on resolutions passed.

XII. REALIZATION ANALYSIS AND PROPOSED DISTRIBUTION BY RECEIVER

45. Based on current estimates, it is expected that there will be between approximately \$1,600,000 to \$1,800,000 available to be distributed in GEEP.

46. Based on current estimates, it is expected that there will be between approximately \$3,500,000 to \$3,600,000 available to be distributed in GESL.

47. The Companies have prepared the Realization Analysis which is attached hereto as Appendix "D". Below is a summary of the proposed distributions from the monies that are anticipated to be available for distribution by each of the Companies.

GEEP- Estimated Realization Analysis		
	<u>Low</u>	<u>High</u>
Cash Balance as at May 31, 2019	\$ 2,108,123.00	\$ 2,108,123.00
Estimated Remaining Receipts	\$ -	\$ 30,000.00
Estimated Remaining Payroll, KERA, bonus	\$ 85,000.00	\$ 75,000.00
Estimated net HST	\$ 30,000.00	\$ 10,000.00
Estimated remaining operational disb.	\$ 75,000.00	\$ 30,000.00
Estimated remaining professional fees	\$ 291,000.00	\$ 242,500.00
Projected cash balance June 14, 2019	\$ 1,627,123.00	\$ 1,780,623.00
Midpoint- rounded		\$ 1,704,000.00 *

*less costs of Receivership and Bankruptcy

Secured Debt

RBC Assigned Debt (Beckstette & McBride)	\$	264,336.00
Beckstette Enterprises	\$	734,867.00
McBride Enterprises	\$	734,798.00
Total Secured Debt	\$	1,704,001.00

GESL- Estimated Realization Analysis

	<u>GESL</u>	
	<u>Low</u>	<u>High</u>
Cash Balance as at May 31, 2019	\$ 4,056,361.00	\$4,056,361.00
Estimated Remaining Receipts	TBD	TBD
Estimated Remaining Payroll,KERA,bonus	\$ 150,000.00	\$140,000.00
Estimated net HST	\$ 45,000.00	\$35,000.00
Estimated remaining operational disbursements	\$ 50,000.00	\$25,000.00
Estimated remaining professional fees	\$ 291,000.00	\$242,500.00
Projected cash balance June 14, 2019	\$ 3,520,361.00	\$3,613,861.00
Midpoint- rounded		\$3,567,000.00*
*less costs of Receivership and Bankruptcy, and carrying costs of Real Property		
Secured Debt		
RBC Assignment of Debt (Beckstette & McBride)		\$3,053,930.00
Beckstette Enterprises		\$2,411,077.00
McBride Enterprises		\$2,424,777.00

Total Secured Debt	\$7,889,783.00
Shortfall prior to the sale of Real Property	(\$4,322,783.00)

48. As set out in the Liquidation Analysis, the cash balances as of May 31, 2019 take into account the amounts currently being held in the Companies' bank accounts as well as two separate GIC accounts. The remaining receipt of \$30,000 in GEEP relates to a security deposit being held by Moneris to protect against potential chargebacks by customers. The Companies' post NOI filing obligations are to be paid when due. The estimated balance of professional fees includes arrears for part of the months of April and May and anticipated costs to the date of bankruptcy. The amounts for the CRA and Consultant factor in completion bonuses payable. The amount payable under the RBC Assignment takes into account interest payable under the agreement.

49. The Proposal Trustee notes that the Applicants seek to have a distribution order issued upon the appointment of the Receiver to permit the payment of amounts to secured creditors and priority payables identified during the NOI Proceedings, including KERA and Administration Charge obligations. The Receiver, if appointed, will assist with the computation of any WEPA claims, priority or unsecured, which may be owing for GESL or GEEP; and will seek to have a payroll audit concluded in respect of GESL and GEEP. The Companies and the Receiver are not aware of any other potential Priority Payables however the draft distribution terms permit the Receiver the opportunity to maintain a reserve for potential priority payables. The Receiver will report to the Court during the course of the Receivership Proceedings should any such priority payables be identified. The Proposal Trustee notes that the Realization Analysis shall also be subject to payment of;

- The professional fees of the Receiver and its counsel for administering the receivership estate including the sale of the Distribution Center;

- The professional fees of the Bankruptcy Trustee and its counsel for administering the bankruptcy estate, including administering WEPA; and
- The monthly carrying costs of the Distribution Center.
- Costs of any GESL or GEEP employees retained to assist in the Receivership or BIA Proceedings.

50. The Distribution Order provides for an initial allocation of debt obligations relating to the RBC indebtedness, which has now been assigned pursuant to the RBC Assignment. The RBC debt was a secured obligation of both GEEP and GESL and RBC could therefore arguably look to either entity to recover on the debt. The Debtors have allocated \$264,336 of the \$3.3 million debt to be paid by GEEP, the result of which there would be no additional proceeds available beyond secured debt and priority payables at GEEP. Given the nature of the debt and secured lenders, had additional RBC debt been notionally allocated to GEEP, this would have resulted in further outstanding debt to the second secured creditors at GESL and GEEP. The unsecured creditors would not have received any additional recovery at this time at either GESL or GEEP.

XIII. PROPOSAL TRUSTEE'S AND ITS COUNSEL'S FEES AND DISBURSEMENTS

51. The Proposal Trustee has reported on the status of the Companies' NOI Proceedings, including the activities and actions of the Proposal Trustee in connection thereto, from time to time, in multiple reports to this Court. As detailed in the Proposal Trustee's reports (copies of which are available on the Proposal Trustee's website) to the best of the Proposal Trustee's knowledge, the Proposal Trustee has carried out its duties, as set out in the BIA and the various Orders issued by the Court in respect of the Companies NOI Proceedings.

52. The Proposal Trustee and Stikeman have maintained detailed records of their professional time and costs, and have not previously applied to Court for their approval. The Proposal Trustee is seeking the approval of its fees for the period

from January 2, 2019, 2018 to June 7, 2019 (the “**Proposal Trustee Period**”) and those of Stikeman for the period from January 31, 2019 to June 7, 2019 (the “**Stikeman Period**”) in connection with the performance of their duties in these NOI proceedings.

53. The total fees of the Proposal Trustee during the Proposal Trustee Period on a consolidated basis amounts to \$203,094.75 plus HST in the amount of \$26,402.32 (the “**Proposal Trustee Fees and Disbursements**”). The time spent by the Proposal Trustee’s personnel during the Proposal Trustee Period is more particularly described in the Affidavit of Hans Rizarri, sworn June 10, 2019 in support hereof and attached as **Appendix “E”** to this Third Report (the “**Rizarri Affidavit**”). The Rizarri Affidavit includes a summary of the personnel, hours, and hourly rates charged by the Proposal Trustee in respect of the NOI Proceedings for the Proposal Trustee Period.
54. The Stikeman Fees and Disbursements are detailed in the affidavit of Elizabeth Pillon, sworn June 10, 2019 in support hereof and attached as **Appendix “F”** to this Third Report (the “**Pillon Affidavit**”). The total fees for services provided by Stikeman amounts to \$97,039 together with expenses and disbursements in the amount of \$1,096 (both amounts excluding HST) (collectively the “**Stikeman Fees and Disbursements**”). As noted above, the time spent by Stikeman’s personnel during the Stikeman Period is more particularly described in the Pillon Affidavit (see Appendix “F”). Included in the Pillon Affidavit is a summary of the personnel, hours and hourly rates charged by Stikeman in respect of the NOI Proceedings for the Stikeman Period.
55. The Proposal Trustee respectfully submits that the Proposal Trustee Fees and Disbursements and the Stikeman Fees and Disbursements are fair and reasonable in the circumstances and have been properly incurred. Accordingly the Proposal Trustee is seeking approval of the Proposal Trustee Fees and Disbursements and the Stikeman Fees and Disbursements.

XIV. CONCLUSION AND RECOMMENDATION

56. Based on all the foregoing, the Proposal Trustee respectfully recommends that this Court issue the orders, as requested by the Companies and moving parties, granting the appointment of a Receiver and approving the Third Report, as well as the fees, activities, actions and conduct of the Proposal Trustee set out therein

All of which is respectfully submitted this 11th day of June, 2019

CROWE SOBERMAN INC.

**IN ITS CAPACITY AS TRUSTEE UNDER THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF GREEN EARTH STORES LTD. AND GREEN EARTH
ENVIRONMENTAL PRODUCTS**

Per:



Hans Rizarri, CIRP, LIT

APPENDIX

‘C’



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of: Ontario
Division No.: 09 - Toronto
Court No.: 31-2481648
Estate No.: 31-2481648

In the Matter of the Bankruptcy of:

GREEN EARTH ENVIRONMENTAL PRODUCTS
Debtor

CROWE SOBERMAN INC.
Licensed Insolvency Trustee
Ordinary Administration

Date of bankruptcy:	June 18, 2019	Security: \$0.00
Meeting of creditors:	July 09, 2019, 14:00 1100 - 2 St. Clair Avenue East Toronto, Ontario Canada,	
Chair:	Trustee	Designated person: Matthew McBride Holdings Inc. McBride

CERTIFICATE OF ASSIGNMENT - Paragraph 50.4(8)(b.1) of the Act

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- a notice of intention in respect of the aforesigned debtor was filed under section 50.4 of the *Bankruptcy and Insolvency Act*;
- the debtor has failed to file a cash-flow statement or a proposal within the provided period following the filing of the notice of intention or within any Court-granted extension and is thereupon deemed to have made an assignment.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 19, 2019

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of: Ontario
Division No.: 09 - Toronto
Court No.: 31-2481649
Estate No.: 31-2481649

In the Matter of the Bankruptcy of:

GREEN EARTH STORES LTD.
Debtor

CROWE SOBERMAN INC.
Licensed Insolvency Trustee
Ordinary Administration

Date of bankruptcy: Security: \$0.00

Meeting of creditors: July 09, 2019, 14:00
1100 - 2 St. Clair Avenue East
Toronto, Ontario
Canada,

Chair: Trustee Designated person: Matthew McBride

CERTIFICATE OF ASSIGNMENT - Paragraph 50.4(8)(b.1) of the Act

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- a notice of intention in respect of the aforementioned debtor was filed under section 50.4 of the *Bankruptcy and Insolvency Act*;
- the debtor has failed to file a cash-flow statement or a proposal within the provided period following the filing of the notice of intention or within any Court-granted extension and is thereupon deemed to have made an assignment.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 19, 2019

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

APPENDIX

‘D’



Payroll Examination Statement of Account

Taxpayer's Name GREEN EARTH ENVIRONMENTAL PRODUCTS		Date 2019-07-10	
Taxpayer's Address C O CROWE SOBERMAN TRUSTEE 1100 - 2 ST. CLAIR AVE. E. TORONTO, ON M4T 2T5		Collections Section Contact ACCOUNTS RECEIVABLE	
		Collections Section Telephone (800)675-6183	
Account Number 890979032RP0001		Tax Services Office 1217 London-Windsor	
An examination of your payroll records performed on 2019-07-10		covering the period(s) from 2019-01-01 to 2019-06-15	
discloses discrepancies in your remittances as follows:			
Details	Current Year	Previous Year	Previous Year(s)
	2019 \$	\$	\$
Total deductions and taxpayer's obligation	424,558.14		
Total credits to date	424,558.09		
Adjustments	0.00		
Difference	0.05		
Corrections re EI and/or CPP (See PD86 attached)	0.00		
Balance	0.05		
Failure to remit penalty	0.00		
Interest	0.00		
Late remitting penalty	0.00		
Failure to deduct penalty	0.00		
Late filing penalty	0.00		
Mandatory electronic filing penalty	0.00		
Total owing	0.00		
Total arrears disclosed during examination		0.00	
Previous arrears		0.00	
Adjustments (Previous arrears)		0.00	
Interest to date on previous arrears		0.00	
Sub total		0.00	
Less. Current payment		0.00	
Balance due		0.00	

A notice of assessment will follow shortly. However, the amount owing is due and payable immediately and you are therefore required to provide the examination officer with the appropriate payment. Failure to do so may result in legal proceedings either by way of garnishee or action in the Federal Court which could result in seizure and sale of your assets.

<i>M. McMillan</i>	MARIAN MCMILLAN	2019-07-10
►	For Assistant Director, Revenue Collections Division	Date
<i>- A. M. McMillan</i>		
Signature for receipt only of this statement		



Payroll Examination Statement of Account

Taxpayer's Name GREEN EARTH STORES LTD.			Date 2019-07-10	
Taxpayer's Address C O CROWE SOBERMAN TRUSTEE 1100 - 2 ST. CLAIR AVE. E. TORONTO, ON M4T 2T5			Collections Section Contact ACCOUNTS RECEIVABLE	
			Collections Section Telephone (800)675-6183	
Account Number 886244417RP0001			Tax Services Office 1217 London-Windsor	
An examination of your payroll records performed on 2019-07-10			covering the period(s) from 2019-01-01 to 2019-06-15	
discloses discrepancies in your remittances as follows:				
Details		Current Year 2019	Previous Year \$	Previous Year(s) \$
Total deductions and taxpayer's obligation		156,369.51		
Total credits to date		156,369.58		
Adjustments		0.00		
Difference		-0.07		
Corrections re EI and/or CPP (See PD86 attached)		0.00		
Balance		-0.07		
Failure to remit penalty		0.00		
Interest		0.00		
Late remitting penalty		0.00		
Failure to deduct penalty		0.00		
Late filing penalty		0.00		
Mandatory electronic filing penalty		0.00		
Total owing		0.00		
Total arrears disclosed during examination			0.00	
Previous arrears			0.00	
Adjustments (Previous arrears)			0.00	
Interest to date on previous arrears			0.00	
Sub total			0.00	
Less: Current payment			0.00	
Balance due			0.00	

A notice of assessment will follow shortly. However, the amount owing is due and payable immediately and you are therefore required to provide the examination officer with the appropriate payment. Failure to do so may result in legal proceedings either by way of garnishee or action in the Federal Court which could result in seizure and sale of your assets.

Marian McMillan **MARIAN MCMILLAN** **2019-07-10**

► For Assistant Director, Revenue Collections Division Date

A. M. McBride

Signature for receipt only of this statement

APPENDIX

‘E’

**Listing Agreement – Commercial
Seller Representation Agreement
Authority to Offer for Sale**

This is a Multiple Listing Service® Agreement



(Seller's Initials)

OR

This Listing is Exclusive



(Seller's Initials)

BETWEEN:

BROKERAGE: CBRE LIMITED, BROKERAGE

30-380 WELLINGTON STREET

LONDON

(the "Listing Brokerage")

SELLER(S): GREEN EARTH STORES LTD. (the "Seller")

In consideration of the Listing Brokerage listing the real property **for sale** known as 19-23 Buchanan Court,

London ON

NSZ 4P9

(the "Property")

the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,

commencing at 12:01 a.m. on the 4 day of December 2018, 2018,

until 11:59 p.m. on the 31 day of December JUNE, 2019 (the "Listing Period"),

{ Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if an MLS® listing, may be subject to minimum requirements of the real estate board, however, in accordance with the Real Estate and Business Brokers Act of Ontario (2002), if the Listing Period exceeds six months, the Listing Brokerage must obtain the Seller's initials. }

(Seller's Initials)

to offer the Property **for sale** at a price of:

Six Million Five Hundred Thousand

Dollars (\$Cdn 6,500,000.00)

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the property.

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):

"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised, or an agreement to sell or transfer shares or assets. "Real property" includes real estate as defined in the Real Estate and Business Brokers Act (2002). The "Property" shall be deemed to include any part thereof or interest therein. A "real estate board" includes a real estate association. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission

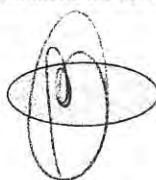
of % of the sale price of the Property or

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement **OR** such other terms and conditions as the Seller may accept.

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



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The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of [REDACTED] % of the sole price of the Property or

..... out of the commission the Seller pays the Listing Brokerage. The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on

the Seller's behalf within 120 [REDACTED] days after the expiration of the Listing Period (**Holdover Period**), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.

Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.

In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller.

All amounts set out as commission are to be paid plus applicable taxes on such commission.

3. REPRESENTATION: The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining agency relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Customer Service. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage acting as an agent for more than one seller without any claim by the Seller of conflict of interest. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage.

The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practical opportunity and in all cases prior to any offer to purchase being submitted or presented.

The Seller understand and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
- the price the buyer should offer or the price the Seller should accept; and
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer.

However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the Property will be disclosed to both Seller and buyer to assist them to come to their own conclusions.

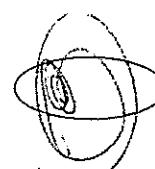
Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be entitled or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.

MULTIPLE REPRESENTATION AND CUSTOMER SERVICE: The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Listing Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Listing Brokerage's relationship to each seller and buyer.

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



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