

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

BETWEEN:

**TRUIST BANK, AS AGENT**

Applicant

- and -

**KEW MEDIA GROUP INC. and KEW MEDIA INTERNATIONAL (CANADA) INC.**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985 c. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C-43, AS AMENDED**

**FACTUM OF THE RECEIVER  
(Motion for Distribution and Fee Approval,  
returnable December 8, 2020)**

Date: December 4, 2020

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Lawyers for FTI Consulting Canada Inc., the  
Court-appointed Receiver and Manager of  
Kew Media Group Inc. and Kew Media  
International (Canada) Inc.

## PART I - OVERVIEW

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on February 28, 2020 (the “**Receivership Order**”), FTI Consulting Canada Inc. (“**FTI**”) was appointed receiver (in such capacity, the “**Receiver**”) of all of the undertaking, property and assets of Kew Media Group Inc. (“**KMG**”) and Kew Media International (Canada) Inc. (together with KMG, the “**Kew Group**”) acquired for, or used in relation to a business carried on by, the Kew Group.

2. This Factum is filed by the Receiver in connection with its motion returnable December 8, 2020, by which it seeks two orders of this Court:

(a) an Order, substantially in the form of the draft order included at Tab 3 of the Receiver’s Motion Record (the “**TCB Distribution Order**”), among other things, approving the distribution (the “**TCB Distribution**”) by the Receiver of the net proceeds—subject to the establishment of certain reserves—of the sale of certain shares of TCB Media Rights Ltd. (the “**TCB Shares**”) (which share sale was previously approved by this Court) to the Truist Bank (the “**Agent**”), as agent for and on behalf of a syndicate of lenders consisting of the Agent, Bank of Montreal and Toronto-Dominion Bank (the “**Syndicate**”);

(b) an Order, substantially in the form of the draft order included at Tab 4 of the Receiver’s Motion Record (the “**First Fee Approval Order**”), among other things, approving:

(i) the actions, conduct and activities of the Receiver, as described in the Receiver’s First Report dated April 6, 2020 (the “**First Report**”), the Receiver’s Confidential Second Report dated August 25, 2020 (the

“**Confidential Second Report**”) and the Receiver’s Third Report dated November 23, 2020 (the “**Third Report**”);

- (ii) the fees and disbursements of the Receiver for the period commencing February 28, 2020, through to and including October 31, 2020;
- (iii) the fees and disbursements of Dentons LLP, in its capacity as the Receiver’s legal counsel (“**Dentons**”), for the period commencing February 28, 2020, through to and including October 31, 2020; and
- (iv) the fees and disbursements of Torys LLP, in its capacity as the Receiver’s independent legal counsel (“**Torys**”), for the period commencing February 28, 2020, through to and including October 31, 2020.

3. Capitalized terms not otherwise defined herein have the meaning given to such terms in the Third Report. The Receiver has filed its Third Report to provide this Court with the background, basis for, and its request in respect of the relief requested herein. The Third Report is located at Tab 2 of the Receiver’s Motion Record. The Receiver requests issuance of the Orders for the factual and legal bases set forth herein and in the Third Report.

## **PART II - THE FACTS**

### **General Background**

4. The Kew Group was in the business of developing, producing and distributing multi-genre audiovisual content worldwide. KMG is the parent company of the Kew Group. In addition to the head office, through its subsidiaries, KMG had operations in Canada, the United States and the United Kingdom.

5. The Agent is the agent for the Syndicate, being the Kew Group's principal secured creditors. As of the date of the First Report, the Kew Group was indebted to the Syndicate for approximately US\$113.8 million.<sup>1</sup> Based on current estimates of potential distributions it is currently anticipated that the Syndicate will have a shortfall in excess of US\$100 million.<sup>2</sup>

6. On April 14, 2020, this Court granted an approval and vesting order which, among other things, approved the sale of the TCB Shares, and that sale was completed on the same date.<sup>3</sup> Also on April 14, 2020, this Court granted an order (the "**Repayment and Distribution Order**") authorizing, among other things: (i) the repayment, in full, of the Receiver's borrowings made by way of Receiver's Certificate; and (ii) the distribution of proceeds of realization, other than the proceeds of the sale of the TCB Shares and certain reserves to be established by the Receiver, to the Agent on account of the secured claims of the Syndicate.<sup>4</sup> Pursuant to the Repayment and Distribution Order, the Receiver made distributions on April 28 and April 30, 2020 in the aggregate amount of US\$967,734.13 to the Agent on account of the Syndicate's indebtedness.<sup>5</sup>

7. Importantly, the share certificates representing the TCB Shares (the "**TCB Certificates**") were not locatable at the time of the Repayment and Distribution Order's entry. The inability to confirm that the share certificates were situated in Ontario (as opposed to other relevant jurisdictions in which KMG operated, including the U.K. and the United States of America) resulted in uncertainty as to perfection of the Syndicate's security interests in the TCB Shares and the Receiver's ability to distribute to the Agent the proceeds of realization from the sale of

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<sup>1</sup> Third Report, para 24.

<sup>2</sup> Third Report, para 28.

<sup>3</sup> Third Report, paras 2 and 3.

<sup>4</sup> Third Report, para 4.

<sup>5</sup> Third Report, para 25.

the TCB Shares. As a result, those proceeds were explicitly carved out from the distribution authorized by the Repayment and Distribution Order.<sup>6</sup>

8. In short, the security interests of the Agent on behalf of the Syndicate have been registered under the Ontario *Personal Property Security Act*. Those interests have not been registered or recorded in other jurisdictions, such as the U.K. or the United States of America. If the TCB Certificates are situated in Ontario, the Syndicate have perfected security interests in the TCB Shares (and the proceeds thereof). If the TCB Certificates are situated elsewhere, such as in the U.K. or in the United States of America, the Syndicate may not have perfected security interests in the TCB Shares (and the proceeds thereof).

9. As set out below, the Receiver has concluded that it is both reasonable and equitable, consistent with the expectations of KMG and its stakeholders, to conclude that the laws of Ontario should govern the perfection of the Agent's security interests in the TCB Shares.

### **TCB Distribution Order**

10. Since this Court entered the Repayment and Distribution Order, the Receiver has made considerable and extensive efforts to locate the TCB Certificates. As described in greater detail in the Third Report, these efforts include a review of certain books and records in the Receiver's possession and discussions with former employees and legal counsel of KMG. Ultimately, the Receiver was unable to locate the TCB Certificates and to confirm the jurisdiction in which the TCB Certificates are or were situated.<sup>7</sup>

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<sup>6</sup> [Endorsement of Koehnen J. dated April 14, 2020, \*Re Kew Media Group Inc. and Kew Media International \(Canada\) Inc.\*](#), para 9.

<sup>7</sup> Third Report, para 20.

11. Notwithstanding that the TCB Certificates have not been located, the evidence available to the Receiver from its investigations supports that the TCB Certificates were situated in Ontario prior to being lost or destroyed. To summarize this evidence:

(a) the Receiver has been advised that TCB Media Rights Ltd. is a wholly-owned subsidiary of the Kew Group;

(b) the Receiver has received information indicating that, on at least two separate occasions, the TCB Certificates were in existence in the city of Toronto, Ontario;

(c) the Receiver is not aware of any information indicating that the TCB Certificates were at any time definitively elsewhere other than in the city of Toronto, Ontario;

(d) the Agent has advised the Receiver that it is not currently, and to its knowledge has not at any time been, in control or possession of the TCB Certificates;

(e) the Receiver has not located the TCB Certificates among the books and records in its control or possession; and

(f) the Receiver has not otherwise been provided with the TCB Certificates or information regarding their whereabouts at the time of their sale by the Receiver.

12. The Receiver has not seen any evidence to suggest that the TCB Certificates, or any replacement certificates, were removed from Ontario or are, or ever were, in the possession of any person having a valid and enforceable security interest in the TCB Shares.<sup>8</sup>

13. As a result, the Receiver, in consultation with Torys, has concluded that it is reasonable to assume that the TCB Certificates existed, were last located in Ontario, have been lost or

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<sup>8</sup>Third Report, para 20.

destroyed, are not, and never were, in the possession of any person having any valid and enforceable security interest in the TCB Shares and, as such, that Ontario is the appropriate applicable jurisdiction for the purposes of determining the governing personal property security law and the validity of the Syndicate's security interests in the TCB Shares.<sup>9</sup>

14. The Receiver obtained a supplemental opinion of Torys, dated November 6, 2020 (the "**TCB Opinion**"), on the validity and enforceability of the security held by the Agent on behalf of the Syndicate in the TCB Shares. In addition to the customary assumptions and qualifications, Torys included certain additional assumptions in respect of the lost or destroyed TCB Certificates (the "**Additional Assumptions**"). The Additional Assumptions are not customary in opinions of this nature and were made to reflect the unusual circumstances of this matter. The Additional Assumptions are:

- (a) the TCB Certificates are either located in whereabouts unknown within the Province of Ontario or have been destroyed; and
- (b) the TCB Certificates are not in the control or possession of any person having a valid and enforceable security interest in the TCB Shares under the laws of the Province of Ontario and the federal laws of Canada applicable therein, in effect as at the date of the TCB Opinion ("**Applicable Law**").

15. Torys noted that, based on the Additional Assumptions, Applicable Law is made applicable to the opinions expressed in the TCB Opinion with respect to the TCB Shares. In the hypothetical circumstances where the Additional Assumptions are demonstrated to be untrue, the laws of other jurisdictions might apply, with the principal consequence being that the Agent's security interests may not be properly perfected under the laws of such other jurisdictions.

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<sup>9</sup> Third Report, para 21.

Furthermore, the Additional Assumptions foreclose the possibility that would otherwise exist that any person other than the Agent might hold a valid security interest that is perfected by control in the TCB Shares by virtue of having control of the TCB Certificates.

16. Subject to the qualifications and assumptions set out therein, including the Additional Assumptions, the TCB Opinion confirms the validity, enforceability and perfection of the Agent's security over the TCB Shares and the proceeds arising from the sale of the TCB Shares.<sup>10</sup>

17. The Receiver is of the view that, in light of its extensive efforts to locate the TCB Certificates, the Additional Assumptions are reasonable in the circumstances.<sup>11</sup> It is therefore appropriate at this time to make the distributions contemplated by the TCB Distribution Order.

18. The Receiver is now seeking authority to make distributions from time to time from the proceeds of the sale of the TCB Shares to the Agent on account of the Syndicate's indebtedness, subject to the establishment of reserves in the discretion of the Receiver to fund ongoing receivership costs, including professional fees, and to satisfy any priority claims.

### **First Fee Approval Order**

19. The fees and disbursements of the Receiver, Dentons and Torys, in each case for the period from February 28, 2020 through to and including October 31, 2020, are summarized in the Third Report. Detailed invoices are appended to the report.

20. Dentons is Agent's counsel. As is common in receivership proceedings of this nature, the Receiver utilized the Agent's counsel to provide certain legal services where there was no risk of

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<sup>10</sup> Third Report, para 11.

<sup>11</sup> Third Report, para 21.



a conflict of interest, or perception of conflict of interest, between the Receiver and the Agent. Specifically, The Receiver utilized Dentons for the preparation of transaction documentation for the sale of the various assets in the Receivership. The Receiver utilized Torys as its independent counsel for all other matters.<sup>12</sup>

21. The fees of the Receiver, Dentons and Torys were incurred in connection with the administration of the receivership. The Receiver is of the view that the hourly rates charged by Dentons and Torys are consistent with the rates charged by downtown Toronto law firms practicing in the areas of insolvency, restructuring and transactional law in the Toronto market, and that the fees charged are reasonable in the circumstances.

### **PART III - THE ISSUES**

22. With respect to the TCB Distribution Order, the issue before this Court, and addressed below, is whether this Court should approve the distribution to the Agent?

23. With respect to the First Fee Approval Order, the issues before this Court, and addressed below, are:

(a) Should this Court approve the fees and disbursements, for the period commencing February 28, 2020, through to and including October 31, 2020, of the Receiver, Dentons and Torys?

(b) Should this Court approve the Receiver's First Report, Confidential Second Report and Third Report and the actions, conduct and activities of the Receiver described therein?

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<sup>12</sup> Third Report, para 33.

## PART IV - LAW AND ARGUMENT

### **TCB Distribution Order**

24. This is an appropriate time in these proceedings to make the TCB Distribution. Orders granting interim distributions with a reserve or holdback are routinely granted by courts in insolvency proceedings and receiverships.<sup>13</sup> Notwithstanding the unusual circumstances of the lost or destroyed TCB Certificates, the TCB Distribution Order should be granted.

25. In *Re Abitibowater Inc.*, Justice Gascon considered a number of factors in deciding whether to approve an interim distribution under the CCAA that are equally applicable to a receivership proceeding, including whether the payee's security is valid and enforceable, whether the distribution would result in significant interest savings to the estate and whether the distribution will leave the estate with sufficient liquidity.<sup>14</sup> Each of these factors is discussed in turn, along with reasons why the TCB Distribution is not otherwise inequitable.

### ***The Agent's security is valid***

26. The Agent's security has been reviewed by Torys. Subject to the standard assumptions and qualifications, along with the Additional Assumptions regarding the lost or destroyed TCB Certificates, contained in the TCB Opinion, Torys is of the opinion that the security granted by Kew Media Group Inc. in favour of the Agent creates a valid and perfected security interest in the TCB Shares.

27. The Additional Assumptions, which underlie the perfection of the Agent's security interest, are reasonable in the circumstances. The Receiver conducted extensive, diligent efforts

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<sup>13</sup> [Re Windsor Machine & Stamping Ltd., 2009 CanLII 39772 \(ON SC\)](#), paras 8, 13; [Re Abitibowater Inc., 2009 QCCS 6461 \(CanLII\) \(QC SC\)](#), paras 70-75.

<sup>14</sup> [Re Abitibowater Inc., 2009 QCCS 6461 \(CanLII\) \(QC SC\)](#), para 75.

to locate the TCB Certificates, as detailed in the Third Report. The Receiver does not believe that further efforts are likely to result in the TCB Certificates being located. Given the evidence available to the Receiver, it is reasonable to conclude that the TCB Certificates are either located in Ontario or have been destroyed, and that the TCB Certificates are not in the control or possession of any person having a valid and enforceable security interest in the TCB Shares under Applicable Law.

28. It is therefore reasonable in the circumstances to conclude that the Agent's security interest in the TCB Shares has been perfected in accordance with Ontario law.

***The TCB Distribution will result in significant interest savings***

29. A distribution to the Agent at this time will pay down a portion of the indebtedness owed to the Agent and limit the accrual of additional fees and interest in respect thereof. This will result in significant interest savings. This factor must be viewed in light of the expected shortfall to be suffered by the Syndicate and the relative positions of other creditors.

***There will be sufficient liquidity after the TCB Distribution is made***

30. The Receiver will establish reserves, in its discretion, to fund ongoing receivership costs, including, without limitation, any priority claims and the Receiver's present and anticipated future costs of administration, as described in greater detail in the Third Report. This is an appropriate time in these proceedings to make the TCB Distribution, and the estate has sufficient funds to permit the Receiver to do so.

***The TCB Distribution is not inequitable***

31. In addition to the above factors, the TCB Distribution is not otherwise inequitable or contrary to the reasonable expectations of KMG or its stakeholders. It was known or knowable by KMG and its stakeholders that the Syndicate are the Kew Group's principal secured lenders having "blanket" security interests over all of the property of KMG. Furthermore, no stakeholders have raised any issue with, or challenged, the Additional Assumptions or the adequateness of the Receiver's investigatory efforts underlying those assumptions.

32. It is therefore reasonable and fair that the Agent, on behalf of the Syndicate, be allowed to recover proceeds from the sale of the TCB Shares at this time. The Syndicate is expected to suffer a significant shortfall in the within receivership proceedings, and the expenditure of further time and costs by the Receiver seeking to locate the TCB Certificates will only further diminish the proceeds available to the Syndicate on account of its claims.

33. Accordingly, the TCB Distribution should be approved, and the Receiver respectfully requests that this Court grant the TCB Distribution Order.

**First Fee Approval Order**

***This Court should approve the fees and disbursements***

34. Pursuant to the Receivership Order, the fees and disbursements of the Receiver and its legal counsel are authorized to be paid on a periodic basis subject to any final approval as ordered by the Court.<sup>15</sup>

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<sup>15</sup> [Order of Koehnen J. dated February 28, 2020, Re Kew Media Group Inc. and Kew Media International \(Canada\) Inc.](#), sections 18-20.

35. The Receiver is seeking the approval of the Court for the fees and disbursements, in each case for the period commencing February 28, 2020, through to and including October 31, 2020, of the Receiver, Dentons and Torys.

36. The accounts of all three parties meet the technical requirements established by prior case law:<sup>16</sup>

(a) the accounts disclose in detail the name of each person who rendered services, the rate charged, the total charges for each of the categories of services rendered and, in some cases, the date on which the services were rendered and the time expended each day;

(b) the accounts are in a form that can be easily understood by those affected by the receivership or by the judicial officer required to assess the accounts; and

(c) each of the Receiver's, Dentons' and Torys' accounts are verified by an affidavit.

37. A Receiver is entitled to be paid its fees and disbursements, along with those of its counsel, where the amount charged is fair and reasonable in the circumstances. Courts will consider the following factors in making this determination:<sup>17</sup>

(a) the nature, extent and value of the assets handled;

(b) the complications and difficulties encountered;

(c) the degree of assistance provided by the company, its officers or its employees and the time spent;

(d) the receiver's knowledge, expertise and skill;

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<sup>16</sup> [Confectionately Yours Inc., Re, 2002 CarswellOnt 3002 \(C.A.\)](#), paras 37-38.

<sup>17</sup> [Confectionately Yours Inc., Re, 2002 CarswellOnt 3002 \(C.A.\)](#), para 42; [Belyea v. Federal Business Development Bank, 1983 CarswellNB 27 \(C.A.\)](#), para 9.

- (e) the diligence and thoroughness displayed;
- (f) the responsibilities assumed;
- (g) the results of the receiver's efforts; and
- (h) the cost of comparable services when performed in a prudent and economical manner.

38. Any assessment of whether the Receiver's account is fair and reasonable must focus on the circumstances as they existed at the time the fees and disbursements were incurred, and not with the benefit of hindsight.<sup>18</sup>

39. These have not been simple receivership proceedings. As highlighted in the Third Report and the prior court reports, among other things, the Receiver has been:

- (a) engaging in various sale processes, including the negotiation and closing of various complicated asset sales;
- (b) protecting the interests of the estate by taking steps to recover outstanding accounts receivable and investigating potential estate claims;
- (c) communicating with stakeholders in connection with the Kew Group's various activities and the receivership proceedings;
- (d) communicating with the Agent and other creditors in respect of their various claims against the assets that are subject to the receivership;
- (e) preparing motion materials and court reports; and

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<sup>18</sup> [\*BT-PR Realty Holdings Inc. v. Coopers & Lybrand\*, 1997 CarswellOnt 1246 \(Sup. Ct. \(Commercial List\)\), para 22.](#)

(f) generally administering the estate.

40. This list of activities is not exhaustive, but is meant to be indicative of the complexity of the Receiver's mandate. The Receiver has acted in good faith and in the interest of the creditors. Over the course of these receivership proceedings, the Receiver has exercised the reasonable care, supervision and control that an ordinary person would have given to the Kew Group if they were his or her own companies.<sup>19</sup>

41. The fees and disbursements of each of the Receiver, Dentons and Torys reflect the firms' standard billing rates and were validly incurred in accordance with the provisions of the Receivership Order. In light of the circumstances of these receivership proceedings, as set out further in the Third Report and the prior court reports, this Court should approve the payment of the fees and disbursements incurred by the Receiver, Dentons and Torys.

***This Court should approve the First Report, Confidential Second Report and Third Report and the actions and activities of the Receiver described therein***

42. Justice Morawetz, in *Target Canada Co. (Re)*, found that a request to approve a monitor's report "is not unusual. A practice has developed in proceedings under the [CCAA] whereby the Monitor will routinely bring a motion for such approval. In most cases, there is no opposition to such requests, and the relief is routinely granted."<sup>20</sup>

43. The practice of approving court reports extends to all officers of the Court, including receivers. The approval of a receiver's report takes on an added importance because there is rarely an affidavit from a representative of the debtor company to provide additional evidence or

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<sup>19</sup> [BT-PR Realty Holdings Inc. v. Coopers & Lybrand, 1997 CarswellOnt 1246 \(Sup. Ct. \(Commercial List\)\), para 22.](#)

<sup>20</sup> [Re Target Canada Co. \(Re\), 2015 ONSC 7574 \(Ont. S.C.J. \[Comm. List\]\), para 2.](#)

the Court. In this case, the contents of the First Report, Confidential Second Report and Third Report inform the relief sought in this motion.

44. In *Target*, Justice Morawetz recognized that there are “good policy and practical reasons for the court to approve of Monitor’s activities and providing a level of protection for Monitors during the CCAA process.”<sup>21</sup>

45. In the context of the CCAA, Justice Morawetz cited specific purposes served by Court approval of reports and activities, finding that Court approval:<sup>22</sup>

- (a) allows the Monitor to move forward with the next steps in the CCAA proceedings;
- (b) brings the Monitor’s activities before the Court;
- (c) allows an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified,
- (d) enables the Court to satisfy itself that the Monitor’s activities have been conducted in prudent and diligent manners;
- (e) provides protection for the Monitor not otherwise provided by the CCAA; and
- (f) protects the creditors from the delay and distribution that would be caused by:
  - (i) re-litigation of steps taken to date, and
  - (ii) potential indemnity claims by the Monitor.

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<sup>21</sup> [Re Target Canada Co. \(Re\)](#), 2015 ONSC 7574 (Ont. S.C.J. [Comm. List]), para 22.

<sup>22</sup> [Re Target Canada Co. \(Re\)](#), 2015 ONSC 7574 (Ont. S.C.J. [Comm. List]), para 23.



46. These purposes apply equally to receiverships. In this case, the First Report, Confidential Second Report and Third Report, each of which was prepared in a manner consistent with the Receiver's powers and duties under the Receivership Order and in accordance with the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, should be approved.

#### **PART V - ORDER REQUESTED**

47. For the reasons set forth herein and in the Third Report, the Receiver respectfully requests the granting of the Orders in the forms contained in the Receiver's Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of December, 2020.

Torys LLP

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Torys LLP

Lawyers for FTI Consulting Canada Inc., the  
Court-appointed Receiver and Manager of Kew  
Media Group Inc. and Kew Media International  
(Canada) Inc.

**SCHEDULE “A”  
LIST OF AUTHORITIES**

1. [Endorsement of Koehnen J. dated April 14, 2020, \*Re Kew Media Group Inc. and Kew Media International \(Canada\) Inc.\*](#)
2. [Order of Koehnen J. dated February 28, 2020, \*Re Kew Media Group Inc. and Kew Media International \(Canada\) Inc.\*](#)
3. [\*Re Windsor Machine & Stamping Ltd.\*, 2009 CanLII 39772 \(ON SC\)](#)
4. [\*Re Abitibiwater Inc.\*, 2009 QCCS 6461 \(CanLII\) \(QC SC\)](#)
5. [\*Confectionately Yours Inc., Re\*, 2002 CarswellOnt 3002 \(C.A.\)](#)
6. [\*Belyea v. Federal Business Development Bank\*, 1983 CarswellNB 27 \(C.A.\)](#)
7. [\*BT-PR Realty Holdings Inc. v. Coopers & Lybrand\*, 1997 CarswellOnt 1246 \(Sup. Ct. \(Commercial List\)\)](#)
8. [\*Re Target Canada Co. \(Re\)\*, 2015 ONSC 7574 \(Ont. S.C.J. \[Comm. List\]\)](#)

<p>TRUIST BANK, AS AGENT</p> <p>-and- KEW MEDIA GROUP INC. and KEW MEDIA INTERNATIONAL (CANADA) INC.</p> <p style="text-align: right;">Applicant Respondents</p>	<p style="text-align: center;">Court File No.: CV-20-00637081-00CL</p>
<p style="text-align: center;"><i>ONTARIO</i> <b>SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</b></p> <p style="text-align: center;"><b>FACTUM OF THE RECEIVER</b> <b>(Motion for Distribution and Fee Approval, returnable December 8, 2020)</b></p>	<p><b>TORYS LLP</b> 79 Wellington St. W., Suite 3000 Box 270, TD Centre Toronto, Ontario M5K 1N2 Canada</p> <p><b>David Bish</b> (LSUC#: 41629A) Tel: 416.865.7353 Fax: 416.865.7380 Email: <a href="mailto:dbish@torys.com">dbish@torys.com</a></p> <p><b>Tony DeMarinis</b> (LSUC#: 29451Q) Tel: 416.865.8162 Fax: 416.865.7380 Email: <a href="mailto:tdemarinis@torys.com">tdemarinis@torys.com</a></p> <p><b>Adam Slavens</b> (LSO#:54433J) Tel: 416.865.7333 Email: <a href="mailto:aslavens@torys.com">aslavens@torys.com</a></p> <p>Lawyers for FTI Consulting Canada Inc., the Court-appointed Receiver and Manager of Kew Media Group Inc. and Kew Media International (Canada) Inc.</p>