

Tab “3”

**Confidential Appendix “1”
Subject to Sealing Request**

Tab "4"

Confidential Appendix "2"
Subject to Sealing Request

Tab 5

District of Toronto
Division No. 9
Court File No. 31-2104810
Estate File No. 31-2104810

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

THE HONOURABLE) FRIDAY THE 15TH DAY
)
JUSTICE) OF JULY, 2016

**IN THE MATTER OF THE BANKRUPTCY OF
1408998 ONTARIO INC. O/A PRODISPOSAL SERVICES
OF THE CITY OF ●, PROVINCE OF ONTARIO**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc. (“**RGI**”), in its capacity as the trustee in bankruptcy (in such capacity, the “**Trustee**”) of the estate of 1408998 Ontario Inc. o/a Prodisposal Services (the “**Debtor**”), for an order, amongst other things, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Trustee, as vendor, and 2227800 Ontario Limited (the “**Purchaser**”), as purchaser, dated July 8, 2016 (the “**Sale Agreement**”), a copy of which is attached as Confidential Appendix “1” to the First Report of the Trustee dated July 11, 2016 (the “**First Report**”), and vesting in the Purchaser, or as it may direct, all the right, title and interest of the Trustee and the Debtor, if any, in and to the property described as the “**Purchased Assets**” in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and appendices thereto, and on hearing the submissions of counsel for the Trustee and the Purchaser and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Jennifer Samuels sworn July 12, 2016, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby abridged and validated so that this motion is properly returnable today, and all further service is hereby disposed with.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Trustee is hereby authorized and approved, with such minor amendments as the Trustee may deem necessary. The Trustee is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Trustee's Certificate**"), all the right, title and interest of the Trustee and the Debtor in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, or as it may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of

the foregoing, all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Trustee's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a

fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT ORDERS** that Hulk Environmental Services Inc., its current and former directors, officers, employees, agents and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order shall forthwith upon request advise the Trustee of the existence of any assets, undertakings, or property of the Debtor (the "Property") in such Persons' possession or control, and shall grant immediate and continued access to and deliver possession of the Property to the Trustee, and if so directed by the Trustee, to the Purchaser, and its agents, and employees.

9. **THIS COURT ORDERS** that Confidential Appendices "1" and "2" to the First Report be and are hereby sealed pending completion of the Transaction contemplated by the Sale Agreement or further Order of this Court.

10. **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 Trustee 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 Trustee, as an officer of this Court, as

may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Trustee’s Certificate

District of Toronto
Division No. 9
Court File No. <*>
Estate File No. <*>

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

<*>) <*>, THE <*> DAY
)
<*>) OF <*>, 2016

IN THE MATTER OF THE BANKRUPTCY OF
1408998 ONTARIO INC. O/A PRODISPOSAL SERVICES
OF THE CITY OF <*>, PROVINCE OF ONTARIO

TRUSTEE’S CERTIFICATE

RECITALS

- I. Rosen Goldberg Inc. (“RGI”) was appointed as trustee in bankruptcy (in such capacity, the “Trustee”) of the estate of 1408998 Ontario o/a Prodisposal Services Inc. (the “Debtor”) on March 31, 2016.
- II. Pursuant to an Order of the Court dated <*>, 2016, the Court approved the agreement of purchase and sale between the Trustee, as vendor, and 2227800 Ontario Limited (the “Purchaser”), as purchaser, dated <*>, 2016 (the “Sale Agreement”), and provided for the vesting in the Purchaser, or as it may direct, of all the right, title and interest of the Trustee and the Debtor in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to

be effective with respect to the Purchased Assets upon the delivery by the Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Trustee.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE TRUSTEE CERTIFIES the following:

1. the Purchaser has paid and the Trustee has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser;
3. the Transaction has been completed to the satisfaction of the Trustee; and
4. this Certificate was delivered by the Trustee at _____ [TIME] on _____ [DATE].

ROSEN GOLDBERG INC., in its capacity as trustee in bankruptcy of 1408998 Ontario Inc. o/a Prodisposal Services

Per: _____
Name:
Title:

Tab 6

Defendant

**IN THE MATTER OF THE BANKRUPTCY OF
1408998 ONTARIO INC. O/A PRODISPOSAL SERVICES
OF THE CITY OF ●, PROVINCE OF ONTARIO**

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc. ("RGI"), in its capacity as the ~~Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor" trustee in bankruptcy (in such capacity, the "Trustee") of the estate of 1408998 Ontario Inc. o/a Prodisposal Services (the "Debtor"),~~ for an order, amongst other things, approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (~~the "Sale Agreement"~~) between the ~~Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver~~ Trustee, as vendor, and 2227800 Ontario Limited (the "Purchaser"), as purchaser, dated July 8, 2016 (the "Sale Agreement"), a copy of which is attached as Confidential Appendix "1" to the First Report of the Trustee dated [DATE] July 11, 2016 (the "First Report"), and vesting in the Purchaser, or as it may direct, all the Debtor's right, title and interest of the Trustee and the Debtor, if any, in and to the ~~assets~~ property described as the "Purchased Assets" in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and appendices thereto, and on hearing the submissions of counsel for the ~~Receiver, [NAMES OF OTHER PARTIES APPEARING]~~ Trustee and the Purchaser and such other counsel as were present, no one

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appearing for any other person on the service list, although properly served as appears from the affidavit of ~~{NAME}~~Jennifer Samuels sworn ~~{DATE}~~July 12, 2016, filed¹.

1. THIS COURT ORDERS that the time for service and filing of the Notice of Motion and Motion Record herein is hereby abridged and validated so that this motion is properly returnable today, and all further service is hereby disposed with.

2. 1.—THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the Sale Agreement by the ~~Receiver~~³Trustee is hereby authorized and approved, with such minor amendments as the ~~Receiver~~Trustee may deem necessary. The ~~Receiver~~Trustee is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.

3. 2.—THIS COURT ORDERS AND DECLARES that upon the delivery of a ~~Receiver~~Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "~~Receiver~~Trustee's Certificate"), ~~of the Debtor's~~ right, title and interest of the Trustee and the Debtor in and to the Purchased Assets described in the Sale Agreement

¹ ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

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~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, or as it may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims")⁵, including, without limiting the generality of the foregoing: ~~(i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] dated [DATE]; (ii)~~, all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.~~

3. ~~THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*~~⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B

⁴ To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

~~hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the **Receiver'Trustee's** Certificate all Claims ~~and Encumbrances~~ shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the **Receiver'Trustee** to file with the Court a copy of the **Receiver'Trustee's** Certificate, forthwith after delivery thereof.

~~6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

⁷ ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸ ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

6. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

~~(a)~~ (a) the pendency of these proceedings;

~~(b)~~ (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

~~(c)~~ (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy ~~that may be~~ appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. ~~8.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT ORDERS that Hulk Environmental Services Inc., its current and former directors, officers, employees, agents and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order shall forthwith upon request advise the Trustee of the existence of any assets, undertakings, or**

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property of the Debtor (the "Property") in such Persons' possession or control, and shall grant immediate and continued access to and deliver possession of the Property to the Trustee, and if so directed by the Trustee, to the Purchaser, and its agents, and employees.

9. THIS COURT ORDERS that Confidential Appendices "1" and "2" to the First Report be and are hereby sealed pending completion of the Transaction contemplated by the Sale Agreement or further Order of this Court.

10. ~~9.~~ 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~~Trustee 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~~Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Trustee and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver~~Trustee~~'s Certificate

District of Toronto

Division No. 9

Court File No. _____ <*>

Estate File No. <*>

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

COMMERCIAL LIST

<*>

)

<*>, THE <*> DAY

)

<*>

)

OF <*>, 2016

~~BETWEEN:~~

~~PLAINTIFF~~

Plaintiff

~~-and-~~

~~DEFENDANT~~

Defendant

IN THE MATTER OF THE BANKRUPTCY OF
1408998 ONTARIO INC. O/A PRODISPOSAL SERVICES
OF THE CITY OF <*>, PROVINCE OF ONTARIO

**RECEIVER
TRUSTEE'S CERTIFICATE**

RECITALS

I. A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor"). Rosen Goldberg Inc. ("RGI") was appointed as trustee in bankruptcy (in such capacity, the "Trustee") of the estate of 1408998 Ontario o/a Prodisposal Services Inc. (the "Debtor") on March 31, 2016.

II. B. Pursuant to an Order of the Court dated [DATE], ~~<*>~~, 2016, the Court approved the agreement of purchase and sale ~~made as of [DATE OF AGREEMENT]~~ (the "Sale Agreement") ~~between the Receiver [Debtor] and [NAME OF PURCHASER]~~ (the "between the Trustee, as vendor, and 2227800 Ontario Limited (the "Purchaser")"), as purchaser, dated ~~<*>~~, 2016 (the "Sale Agreement"), and provided for the vesting in the Purchaser, or as it may direct, of all the Debtor's right, title and interest of the Trustee and the Debtor in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the ~~P~~purchase Pprice for the Purchased Assets; (ii) that the conditions to ~~C~~closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~Trustee and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the ~~Receiver~~Trustee.

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III. C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER TRUSTEE CERTIFIES the following:

- 1.** ~~1.~~ ~~The~~ Purchaser has paid and the ~~Receiver~~ Trustee has received the ~~P~~urchase ~~P~~rice for the Purchased Assets payable on the ~~C~~losing ~~D~~ate pursuant to the Sale Agreement;
- 2.** ~~2.~~ ~~The~~ conditions to ~~C~~losing as set out in ~~section~~ ~~of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~ Trustee and the Purchaser; ~~and~~
- 3.** ~~3.~~ ~~The~~ Transaction has been completed to the satisfaction of the ~~Receiver~~ Trustee; ~~and~~
- 4.** ~~4.~~ ~~This~~ this Certificate was delivered by the ~~Receiver~~ Trustee at _____ [TIME] on _____ [DATE].

5.

~~[NAME OF RECEIVER], in its capacity as Receiver of the undertaking, property and assets of [DEBTOR], and not in its personal~~ ROSEN GOLDBERG INC., in its capacity as trustee in bankruptcy of 1408998 Ontario Inc. o/a Prodisposal Services

Per: _____

Name:

Title:

Schedule B—Purchased Assets

Schedule C—Claims to be deleted and expunged from title to Real Property

~~Schedule D — Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property~~

~~(unaffected by the Vesting Order)~~

TORONTO ~~99998-1478-1108675v1~~41225-145 1175827v2

IN THE MATTER OF SECTION 34(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, AS AMENDED,
AND IN THE MATTER OF THE BANKRUPTCY OF 1408998 ONTARIO INC.

Court File No. 31-2104810

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

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Lawyers for Rosen Goldberg Inc.