

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE *MADAM*)
)
JUSTICE *DIETRICH*)

MONDAY, THE 4TH
DAY OF NOVEMBER, 2019



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

B E T W E E N:

4055845 CANADA INC., 95211 CANADA INC., BAMBURGH HOLDINGS LTD., CANDID OPINION LTD., 1656917 ONTARIO LTD., HYLAMYSH HOLDINGS INC., 593651 ONTARIO LTD., BEVERLEY GORDON, CAROLINE BOKAR, AMANDA SALEM, BEATRICE SPIEGEL, STACEY SPIEGEL, RANDY SPIEGEL, SEAN TEPERMAN, AURELIA OSTRO, EITAN OSTRO, MIHAL TYLMAN, JEFFREY GERTNER, CAROL HANDELMAN, BARI HANDELMAN, RUSSELL HANDELMAN, GEOFFREY HANDELMAN, MAX HANDELMAN AND COMFORT CAPITAL INC.

Applicants

- and -

2547357 ONTARIO INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as receiver (the “Receiver”) of the assets, undertakings and properties of 2547357 Ontario Inc. (the “Debtor”), acquired for or used in relation to a business carried on by the Debtor, including the lands and premises municipally known as 365 Bayly Street West, Ajax, Ontario and legally described in Schedule “A” hereto (the “Property”), for an order approving the sale transaction (the

“**Transaction**”) contemplated by an offer to purchase (the “**Sale Agreement**”) made by CCR Investments Inc. (the “**Purchaser**”) and accepted by the Receiver on September 23, 2019 and vesting in the Purchaser the Debtor’s right, title and interest in and to the Property, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated October 31, 2019 (the “**First Report**”) and on hearing the submissions of counsel for the Receiver, counsel for ATE Contracting Company Ltd., and counsel for Jayashankar Muthukumarasamy, Sutharsan Gopalasundaram and Ramesan Gopalasundaram, no one appearing for any other person on the service list, although served as appears from the affidavit of service of Janet Nairne sworn October 31, 2019,

1. THIS COURT ORDERS AND DECLARES that the time for service of the Notice of Motion and the First Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver 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 Property to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “B” hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Property shall vest absolutely in the Purchaser 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: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated August 7, 2019; (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" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon the registration in the Land Titles Division for the Land Registry Office of Durham (No. 40) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule "C" hereto.

5. THIS COURT ORDERS that after ~~paying~~ ^{making payment to the Applicants} from the proceeds of sale of the Property, ~~such amount as is necessary to fully satisfy~~ ^{on account of} the first mortgage registered on title to the Property in favour of the Applicants as Instrument No. DR1776467, for the purposes of determining the nature and priority of Claims, the net proceeds shall stand in the place and stead of the Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. ^{which shall be no less than \$215,923.13,}

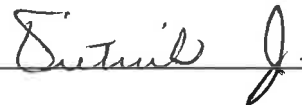
6. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. 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 Property in the Purchaser 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.

8. 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.

A handwritten signature in cursive script, appearing to read "Daniel J.", is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 04 2019

PER / PAR: Handwritten initials "RW" in cursive script.

Schedule "A" – Legal Description of the Property

Legal Description

Land Title Division for the Land Registry Office of Durham

PIN 26463-0029 (LT)

Description PCL A-16 SEC M26; PT BLK A PL M26 PT 2, 3, 4 & 5 40R9315; S/T
PT 2, 40R8873 IN FAVOUR OF PT 1, 40R8873 AS IN LT254474; S/T
LT289255; S/T PTS 2, 3, 4 & 5, 40R9315 AS IN D22 ; S/T
LT268480,LTC28372; TOWN OF AJAX

Schedule "B" – Form of Receiver's Certificate

Court File No. CV-19-623590-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

B E T W E E N:

4055845 CANADA INC., 95211 CANADA INC., BAMBURGH HOLDINGS LTD., CANDID OPINION LTD., 1656917 ONTARIO LTD., HYLAMYSH HOLDINGS INC., 593651 ONTARIO LTD., BEVERLEY GORDON, CAROLINE BOKAR, AMANDA SALEM, BEATRYCE SPIEGEL, STACEY SPIEGEL, RANDY SPIEGEL, SEAN TEPERMAN, AURELIA OSTRO, EITAN OSTRO, MIHAL TYLMAN, JEFFREY GERTNER, CAROL HANDELMAN, BARI HANDELMAN, RUSSELL HANDELMAN, GEOFFREY HANDELMAN, MAX HANDELMAN AND COMFORT CAPITAL INC.

Applicants

- and -

2547357 ONTARIO INC.

Respondent

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the "**Superior Court**") dated August 7, 2019, Rosen Goldberg Inc. was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of 2547357 Ontario Inc. (the "**Debtor**"), acquired for or used in relation to a business carried on by the Debtor, including the lands and premises municipally known as 365 Bayly Street West, Ajax, Ontario (the "**Property**").

B. Pursuant to an Order of the Superior Court dated November 4, 2019, the Superior Court approved the offer to purchase made by CCR Investments Inc. (the “**Purchaser**”) and accepted by the Receiver on September 23, 2019 (the “**Sale Agreement**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Property, which vesting is to be effective with respect to the Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Property; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Property 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 Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 2019.

**ROSEN GOLDBERG INC., in its capacity as
Court-appointed Receiver of the assets,
undertakings and properties 2547357 Ontario
Inc., and not in its personal or corporate
capacity**

Per: _____

Name: Brahm Rosen

Title: President

Schedule "C" – Claims to be deleted and expunged from title to the Property

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
DR1581488	2017/04/03	TRANSFER (RE: <i>PLANNING ACT STATEMENTS</i>)	\$3,600,000	WILTSHIRE CAPITAL INC.	2547357 ONTARIO INC.
DR1776467	2019/02/28	CHARGE	\$2,500,000	2547357 ONTARIO INC.	4055845 CANADA INC. 95211 CANADA INC. BAMBURGH HOLDINGS LTD. CANDID OPINION LTD. 1656917 ONTARIO LTD. HYLAMYSH HOLDINGS INC. 593651 ONTARIO LTD. GORDON, BEVERLEY BOKAR, CAROLINE SALEM, AMANDA SPIEGEL, BEATRYCE SPIEGEL, STACEY SPIEGEL, RANDY TEPERMAN, SEAN OSTRO, AURELIA OSTRO, EITAN TYLMAN, MIHAL GERTNER, JEFFREY HANDELMAN, CAROL HANDELMAN, BARI HANDELMAN, RUSSELL HANDELMAN, GEOFFREY HANDELMAN, MAX COMFORT CAPITAL INC.
DR1776468	2019/02/28	NO ASSGN RENT GEN (RE: DR1776467)		2547357 ONTARIO INC.	4055845 CANADA INC. 95211 CANADA INC. BAMBURGH HOLDINGS LTD. CANDID OPINION LTD. 1656917 ONTARIO LTD. HYLAMYSH HOLDINGS INC. 593651 ONTARIO LTD. GORDON, BEVERLEY BOKAR, CAROLINE SALEM, AMANDA SPIEGEL, BEATRYCE SPIEGEL, STACEY SPIEGEL, RANDY TEPERMAN, SEAN OSTRO, AURELIA OSTRO, EITAN TYLMAN, MIHAL GERTNER, JEFFREY HANDELMAN, CAROL HANDELMAN, BARI HANDELMAN, RUSSELL HANDELMAN, GEOFFREY HANDELMAN, MAX COMFORT CAPITAL INC.
DR1788720	2019/04/25	CERTIFICATE OF PENDING LITIGATION		MUTHUKUMARASAMY JAYASHANKAR GOPALASUNDARAM, SUTHARSAN GOPALASUNDARAM, RAMESAN	

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
DR1830062	2019/09/23	CONSTRUCTION LIEN	\$172,722	ATE CONTRACTING COMPANY LTD.	
DR1843381	2019/11/04	CERTIFICATE OF ACTION		ATE CONTRACTING COMPANY LTD.	

**Schedule "D" – Permitted Encumbrances, Easements
and Restrictive Covenants related to the Property**

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
LTC3716	1961/09/29	BYLAW (RE: <i>PLANNING ACT</i>)			
LTC28372	1971/03/31	TRANSFER EASEMENT			THE CORPORATION OF THE TOWN OF AJAX
40R8873	1985/07/07	PLAN REFERENCE			
40R9315	1986/03/10	PLAN REFERENCE			
LT266744	1986/04/11	NOTICE AGREEMENT			THE CORPORATION OF THE TOWN OF AJAX
LT268480	1986/04/30	TRANSFER EASEMENT			THE REGIONAL MUNICIPALITY OF DURHAM
DR930740	2010/08/27	NOTICE		THE CORPORATION OF THE TOWN OF AJAX	
DR1817304	2019/08/08	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

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Lawyers for Rosen Goldberg Inc.,
in its capacity as Court-appointed Receiver