

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

THE HONOURABLE MADAM) TUESDAY, THE 11th
)
JUSTICE CONWAY) DAY OF AUGUST, 2020

B E T W E E N:

MARSHALLZEHR GROUP INC.

Applicant

- and -

9265988 CANADA CORP.

Respondent

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

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc. in its capacity as Court-appointed receiver (the “**Receiver**”) of the undertaking, property, and assets of the Respondent, for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Bridlepath Capital Corporation and City Core Consortia Limited on behalf of a company to be incorporated, as purchaser, dated April 30 2020, as amended (the “**APS**”), and vesting in 12252856 Canada Inc. (the “**Purchaser**”) the Respondent’s right, title and interest in and to the Purchased Assets (as defined in the APS)

including, without limitation, the real property described in Schedule “A” hereto (the “**Real Property**”), was heard this day virtually by Zoom videoconference due to the COVID-19 crisis.

ON READING the Notice of Motion and Second Report of the Receiver dated August 4, 2020 and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel listed on the Counsel Slip, no one else from the service list appearing,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, with such minor amendments as the Receiver and the Purchaser may agree to in writing. 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 Purchased Assets to the Purchaser.

2. **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 Respondent’s right, title and interest in and to the Purchased Assets 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 February 12, 2020; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Land Titles Act* (Ontario), or any other personal or real 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 Claims and 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 Land Titles Division of York Region (No. 65) 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 Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances listed in Schedule “C” hereto.

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 Receiver’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 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 Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

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

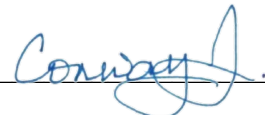
(a) the pendency of these proceedings;

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Respondent and shall not be void or voidable by creditors of the Respondent, 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 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.

8. **THIS COURT ORDERS** that this order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read 'Conway', is written over a horizontal line.

Schedule A – Legal Description of the Real Property

PIN 03196-0037: LT 16 PL 136 KING EXCEPT PT 11 EXPROP PL B87881B ;
RICHMOND HILL

PIN 03196-0038 LT 15 PL 136 KING EXCEPT PT 10 EXPROP PL B87881B ;
RICHMOND HILL

PIN 03196-0039 PT LT 13 PL 136 KING; PT LT 14 PL 136 KING AS IN R533264 ;;
TOWN OF RICHMOND HILL

Schedule “B” – Form of Receiver’s Certificate

Court File No. CV-20-00635650-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
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B E T W E E N:

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- and -

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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

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the “**Court**”) dated February 12, 2020, KSV Kofman Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondent.

B. Pursuant to an Order of the Court dated August 11, 2020 (the “**Order**”), the Court approved the agreement of purchase and sale between the Receiver and Bridlepath Capital Corporation and City Core Consortia Limited on behalf of a company to be incorporated dated April 30 2020, as amended (the “**APS**”), and provided for the vesting in 12252856 Canada Inc. (the “**Purchaser**”) of the Respondent’s right, title and interest in and to the Purchased Assets,

which vesting is to be effective with respect to the Purchased Assets 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 Purchased Assets; (ii) that the conditions to Closing as set out in the APS 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 APS or the Order.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid the and the Receiver has received Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APS;
2. The conditions of Closing as set out in the APS have been satisfied or waived by the Receiver and the Purchaser, as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**KSV KOFMAN INC., in its capacity as
Receiver of the undertaking, property and
assets of 9265988 Canada Corp., and not in its
personal capacity or in any other capacity**

Per: _____
Name:
Title:

Schedule C - Encumbrances

Instrument No.	Date	Type of Instrument	Amount	Party From	Party To
YR2271146	2015/03/26	Transfer	\$4,130,000	King South-East Developments 201 Inc.	9183183 Canada Corp.
YR2275941	2015/04/08	Charge	\$3,500,000	9183183 Canada Corp.	Trisura Guarantee Insurance Company
YR2357687	2015/09/17	Transfer	\$3,000,000	Burlew, Edward Lloyd Burlew, Heather Sharron	9265988 Canada Corp.
Yr2357716	2015/09/18	Transfer	\$3,000,000	Curtis, Betty	9265988 Canada Corp.
Yr2851437	2018/07/19	Charge	\$18,000,000	9183183 Canada Corp. 9265988 Canada Corp.	Vector Financial Services Limited Olympia Trust Company
Yr2851438	2018/07/19	No Assgn Rent Gen	N/A	9183183 Canada Corp. 9265988 Canada Corp.	Vector Financial Services Limited Olympia Trust Company
Yr2851784	2018/07/19	Charge	\$3,500,000	9265988 Canada Corp.	Trisura Guarantee Insurance Company
Yr2855122	2018/07/27	Postponement	N/A	Trisura Guarantee Insurance Company	Vector Financial Services

Instrument No.	Date	Type of Instrument	Amount	Party From	Party To
					Limited Olympia Trust Company
Yr2859428	2018/08/09	Notice		Vector Financial Services Limited Olympia Trust Company	9183183 Canada Corp. 9265988 Canada Corp.
Yr2897232	2018/11/14	Transfer of Charge	N/A	Vector Financial Services Limited Olympia Trust Company	Vector Financial Services Limited Olympia Trust Company
Yr3022210	2019/10/18	Charge	\$6,861,827	9265988 Canada Corp.	9439676 Canada Inc. 10855278 Canada Inc. 2592536 Ontario Inc.
Yr3036607	2019/11/20	Notice	N/A	Vector Financial Services Limited Olympia Trust Company	9265988 Canada Corp.
Yr3068308	2020/02/18	APL Court Order Superior Court of Justice Commercial List	N/A	KSV Kofman Inc.	N/A

Instrument No.	Date	Type of Instrument	Amount	Party From	Party To
YR3091920	2020/04/23	APL CH Name Owner	N/A	9183183 Canada Corp.	KSV Kofman Inc.

**Schedule D – Permitted Encumbrances
(unaffected by the Approval and Vesting Order)**

Instrument IF351 registered on 1951/02/19 is a Bylaw

Instrument IF367 registered on 1952/04/28 is a Bylaw registered by The Corporation of The Township of King

Instrument 65R420 registered on 1971/01/14 is a Plan Reference

MARSHALLZEHR GROUP INC.

-and-

9265988 CANADA CORP.

Applicant

Respondent

Court File No. CV-20-00635650-0000

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

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

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Lawyers for KSV Kofman Inc.

Court-appointed Receiver