

**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. as Administrator

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

ORDER

THIS MOTION, made by KSV Kofman Inc. in its capacity as Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of the Respondent, was heard this day virtually by Zoom videoconference due to the COVID-19 crisis.

ON READING the Notice of Motion and the Second Report of the Receiver dated August 4, 2020 (the “**Second Report**”) 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,

SERVICE

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

APPROVAL OF SECOND REPORT AND ACTIVITIES

2. **THIS COURT ORDERS** that the Second Report, and the conduct and activities of the Receiver described therein, be and are hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Second Report and the fee affidavits appended thereto, including the estimated accruals to be incurred to the completion of these receivership proceedings, are hereby approved. The Receiver is authorized to make payment of such fees and disbursements and accruals to the extent that they have otherwise not been paid to date.

DISTRIBUTION TO THE APPLICANT

4. **THIS COURT ORDERS** that, following the closing of the Transaction (as such term is defined in the Approval and Vesting Order dated August 11, 2020 (the “**Approval and Vesting Order**”)), the Receiver is authorized and directed to distribute the net sale proceeds of the Purchased Assets (as defined in the Approval and Vesting Order) and any other of the Respondent’s property and assets realized by the Receiver to the Applicant without further Order

of this Court, subject to the retention of certain holdbacks by the Receiver as detailed in the Second Report.

TERMINATION OF PRE-SALE AGREEMENT

5. **THIS COURT ORDERS** that the agreement of purchase and sale described in **Schedule “A”** hereto entered into by the Respondent and the purchaser (the **“Pre-Sale Agreement”**) is deemed to be terminated following the closing of the Transaction.

6. **THIS COURT ORDERS** that upon termination of the Pre-Sale Agreement, the Pre-Sale Agreement shall be of no force or effect.

DISCHARGE AND RELEASE

7. **THIS COURT ORDERS** that, upon the Receiver filing a certificate certifying that it has completed the administration of the estates, KSV Kofman Inc. shall be discharged as Receiver of the undertaking, property and assets of the Respondent, provided however that notwithstanding its discharge herein (a) KSV Kofman Inc. shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV Kofman Inc. in its capacity as Receiver.

8. **THIS COURT ORDERS AND DECLARES** that KSV Kofman Inc. is hereby released and discharged from any and all liability that KSV Kofman Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV Kofman Inc. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, KSV

Kofman Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

SEALING

9. **THIS COURT ORDERS** that the Confidential Appendices to the Second Report shall be sealed and shall not form part of the public record pending closing of the Transaction (as such term is defined in the Approval and Vesting Order dated August 11, 2020) or further Order of the Court.

GENERAL

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



SCHEDULE "A"

PRE-SALE AGREEMENT

Agreement of Purchase and Sale dated April 26, 2015 with Noguan Festus Atewe as purchaser of unit 135

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

ORDER

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