

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
JUSTICE HAINEY) WEDNESDAY, THE 12th DAY
OF FEBRUARY, 2020

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE WITH RESPECT TO CELADON GROUP, INC. AND THE AFFILIATED DEBTORS LISTED IN FOOTNOTE "1" HERETO¹

APPLICATION OF CELADON GROUP, INC. PURSUANT TO PART XIII OF THE *BANKRUPTCY AND INSOLVENCY ACT* AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. c.-43, AS AMENDED

APPROVAL AND VESTING ORDER
(Winnipeg Property)

THIS MOTION, made by KSV Kofman Inc., in its capacity as Court-appointed receiver (in such capacity, the "Receiver") of the Property (as defined in the Supplemental Order dated January 23, 2020, the "Supplemental Order") of Celadon Group Inc. and the affiliated debtors listed in footnote "1" hereto (the "Chapter 11 Debtors") for an order, *inter alia*, approving the sale transaction (the "Transaction") with respect to all of the lands and premises municipally described as 50 Omands Creek Boulevard, Winnipeg, Manitoba, Canada and all of the present and after-acquired assets, undertaking and properties of the Vendor (as defined below) related thereto contemplated by an agreement of purchase and sale, and an amendment thereto, between Hyndman Transport Limited (the "Vendor"), as vendor, and 2925924 Manitoba Ltd. (the

¹ In addition to Celadon, the Chapter 11 Debtors are AR Management Services, Inc., Bee Line, Inc., Celadon Canadian Holdings, Limited ("CCHL"), Celadon E-Commerce, Inc., Celadon International Corporation, Celadon Logistics Services, Inc., Celadon Mexicana, S.A. de C.V., Celadon Realty, LLC, Celadon Trucking Services, Inc., Distribution, Inc., Eagle Logistics Services Inc., Hyndman Transport Limited ("Hyndman"), Jaguar Logistics, S.A. de C.V., Leasing Servicios, S.A. de C.V., Osborn Transportation, Inc., Quality Companies LLC, Quality Equipment Leasing, LLC, Quality Insurance LLC, Servicios Corporativos Jaguar, S.C., Servicios de Transportacion Jaguar, S.A. de C.V., Stinger Logistics, Inc., Strategic Leasing, Inc., Taylor Express, Inc., Transportation Insurance Services Risk Retention Group, Inc., and Vorbas, LLC

"**Purchaser**"), as purchaser, dated January 16, 2020 and January 30, 2020 respectively (together, the "**Sale Agreement**"), copies of which are attached as Appendix "H" to the First Report of the Monitor dated February 5, 2020 (the "**First Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all of the Vendor's right, title and interest in and to the "Purchased Assets" as defined 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 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 Aiden Nelms sworn February 5, 2020, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendor is hereby authorized and approved, with such minor amendments as the Vendor, with the consent of the Receiver, may deem necessary. The Vendor, with the consent of the Receiver, is hereby authorized 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.

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 "A"** hereto (the "**Receiver's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets, including without limitation the subject real property identified in **Schedule "B"** hereto (the "**Real Property**"), 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, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), obligations, 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 Supplemental Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Manitoba) 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 and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

3. **THIS COURT ORDERS** that upon the registration in the Winnipeg Land Titles Office (the "**WLTO**") of a certified copy of this Order together with the Receiver's Certificate and a Request/Transmission in the form prescribed by *The Real Property Act* (Manitoba), duly executed by the Purchaser or its solicitor, the District Registrar of the WLTO is hereby directed to: (i) cancel Title No. 2954598/1 and issue a new title in the name of the Purchaser as the owner of the Real Property identified in **Schedule "B"** hereto in fee simple, free and clear of all Encumbrances, save and except the permitted encumbrances, easements and restrictive covenants listed in **Schedule "D"** hereto; and (ii) delete and expunge all Encumbrances listed in **Schedule "C"** hereto, notwithstanding that the time for appeal of this Order has not yet expired.

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 following the delivery of the Receiver's Certificate contemplated herein, the Receiver is authorized to cause the balance of the net proceeds from the Transaction to be distributed to the DIP Agent and the Prepetition Term Loan Agent (as defined in the Supplemental Order) subject to the terms of the US Winnipeg Sale Approval Order (as defined in the First Report).

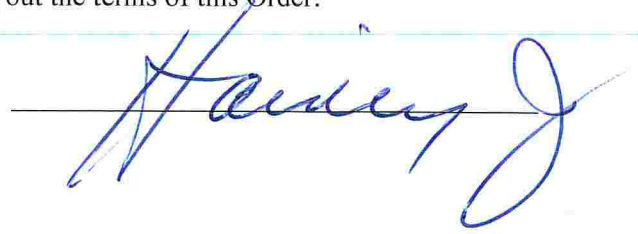
7. **THIS COURT ORDERS** that, notwithstanding:

- 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 Vendor and any bankruptcy order issued pursuant to any such applications; and
- c) any assignment in bankruptcy made in respect of the Vendor,

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 Vendor and shall not be void or voidable by creditors of the Vendor, 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.



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

FEB 14 2020

PER / PAR: 

SCHEDULE "A"
FORM OF RECEIVER CERTIFICATE

Court File No.: CV-20-00634911-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS
AMENDED**

**AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES
BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE WITH RESPECT TO
CELADON GROUP, INC. AND THE AFFILIATED DEBTORS LISTED IN FOOTNOTE "1"
HERETO²**

**APPLICATION OF CELADON GROUP, INC. PURSUANT TO PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. c.-43, AS AMENDED**

RECEIVER'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 23, 2020 (as amended, the "**Supplemental Order**"), KSV Kofman Inc. was appointed as Receiver (in such capacity, the "**Receiver**") of the Property (as defined in the Supplemental Order).

II. Pursuant to an Order of the Court dated February 12, 2020, the Court approved the agreement of purchase and sale, and the amendment thereto, between Hyndman Transport Limited, as vendor (the "**Vendor**"), and 2925924 Manitoba Ltd. (the "**Purchaser**"), as purchaser, dated January 16, 2020 and January 30, 2020 respectively (together, the "**Sale Agreement**"), and provided for the vesting in the

² In addition to Celadon, the Chapter 11 Debtors are AR Management Services, Inc., Bee Line, Inc., Celadon Canadian Holdings, Limited ("CCHL"), Celadon E-Commerce, Inc., Celadon International Corporation, Celadon Logistics Services, Inc., Celadon Mexicana, S.A. de C.V., Celadon Realty, LLC, Celadon Trucking Services, Inc., Distribution, Inc., Eagle Logistics Services Inc., Hyndman Transport Limited ("Hyndman"), Jaguar Logistics, S.A. de C.V., Leasing Servicios, S.A. de C.V., Osborn Transportation, Inc., Quality Companies LLC, Quality Equipment Leasing, LLC, Quality Insurance LLC, Servicios Corporativos Jaguar, S.C., Servicios de Transportacion Jaguar, S.A. de C.V., Stinger Logistics, Inc., Strategic Leasing, Inc., Taylor Express, Inc., Transportation Insurance Services Risk Retention Group, Inc., and Vorbas, LLC

Purchaser, or as it may direct in accordance with the Sale Agreement, of all of the Vendor's right, title and interest 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 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 Vendor and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver.

III. 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 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 Vendor and the Purchaser in accordance with their terms;
3. The transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., solely in its capacity as court appointed receiver, and not in its personal capacity or in any other capacity

Per: _____
Name:
Title:

SCHEDULE "B"
LEGAL DESCRIPTION OF THE REAL PROPERTY

Title No. 2954598/1
PARCEL "A" PLAN 48046 WLTO
IN NW 1/4 OF 14-11-2 EPM

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM TITLE NO. 2954598/1

Reg. No.	Date	Instrument Type	Amount	Parties From/By	Parties To
4995406/1	2018-09-06	Mortgage	\$500,000,000.00	Hyndman Transport Limited	Bank of America, National Association
5093632/1	2019-08-06	Transfer of Mortgage	\$1.00	Bank of America	Blue Torch Finance, LLC
5096429/1	2019-08-14	Amending Agreement	N/A	Blue Torch Finance, LLC	Hyndman Transport Limited

SCHEDULE "D"
PERMITTED ENCUMBRANCES FROM TITLE NO. 2954598/1

Reg. No.	Date	Instrument Type	Amount	Parties From/By	Parties To
262334/1	1979-07-03	Caveat	N/A	MAN. HYDRO ELECTRIC BOARD/MAN. TELEPHONE SYSTEM	
265696/1	1979-10-26	Caveat	N/A	THE CITY OF WINNIPEG	
81-10253/1	1981-02-17	Caveat	N/A	MAN. HYDRO ELECTRIC BOARD/ MANITOBA TELEPHONE SYSTEM	
3066090/1	2004-11-19	Caveat	N/A	THE CITY OF WINNIPEG	BY AGENT: LEONARD EDWARD STRIJACK
3157625/1	2005-07-11	Caveat	N/A	MANITOBA HYDRO, MTS ALLSTREAM AND SHAW CABLESYSTEMS	
3705888/1	2008-11-20	Caveat	N/A	THE CITY OF WINNIPEG	LEONARD EDWARD STRIJACK AS AGENT
3705891/1	2008-11-20	Caveat	N/A	THE CITY OF WINNIPEG	JAMES CARTER AS AGENT

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Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Winnipeg Property)**

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Counsel to KSV Kofman Inc., solely in its capacity as Court-appointed receiver and not in its personal capacity