

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) THURSDAY, THE 5<sup>th</sup> DAY  
 )  
JUSTICE DIETRICH ) OF NOVEMBER, 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" HERETO<sup>1</sup>

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  
(Wroxeter Property)

THIS MOTION, made by KSV Restructuring Inc.<sup>2</sup>, 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 (collectively, 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 1001 Belmore Line, Wroxeter, Ontario, 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 between Hyndman Transport Ltd. (being a subsidiary of Celadon Group, Inc.), as vendor (the "Vendor"), and Thalen

<sup>1</sup> 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

<sup>2</sup> KSV Kofman Inc. was the entity appointed as receiver in these proceedings. Effective August 31, 2020 KSV Kofman Inc. changed its name to KSV Restructuring Inc.

Bros. Properties Ltd., as purchaser (the "**Purchaser**"), dated October 1, 2020, as amended (the "**Sale Agreement**"), a copy of which is attached as Appendix "F" to the Sixth Report of the Receiver dated October 30, 2020 (the "**Sixth Report**"), and vesting in the Purchaser, all of the Vendor's right, title and interest in and to the "Property" as defined in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Sixth 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 November 2, 2020, filed,

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 that further service thereof is hereby dispensed with.
2. **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.
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 "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, 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* (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 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.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Huron (No. 22) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, as the owner of the Real Property identified in **Schedule "B"** hereto 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.

5. **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.

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 following the delivery of the Receiver's Certificate contemplated herein, the Receiver is authorized and directed to:


- a) first, cause a reserve in the amount of \$150,000 (the "**Reserve**") to be paid to the Receiver from the proceeds of the Transaction and held by the Receiver pending the outcome of a dispute between Representative Counsel (as defined in the Sixth Report) and the DIP Agent and the Prepetition Term Loan Agent (as defined in the Supplemental Order), which Reserve is not to be distributed by the Receiver without a further Order of the Court or an agreement among the Receiver, Representative Counsel and the DIP Agent and the Prepetition Term Loan Agent. The creation of the Reserve is without prejudice to any argument any person may make as to whether Representative Counsel and/or employees' costs and disbursements are entitled to any payment from the Reserve, and if so, in what amount; and
- b) second, cause the balance of the net proceeds from the Transaction to be distributed to the DIP Agent and the Prepetition Term Loan Agent subject to the terms of the US Wroxeter Sale Approval Order (as defined in the Sixth Report).

8. **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, 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.

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 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.

  
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**SCHEDULE "A"**  
**FORM OF RECEIVER'S 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" HERETO<sup>1</sup>**

**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 Restructuring Inc.<sup>2</sup> 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 November 5, 2020 (the "**Wroxeter Approval and Vesting Order**"), the Court approved the agreement of purchase and sale between Hyndman Transport Ltd. (being a subsidiary of Celadon Group, Inc.), as vendor (the "**Vendor**"), and Thalen Bros. Properties Ltd., as purchaser (the "**Purchaser**"), dated October 2, 2020 (the "**Sale Agreement**"), and provided for the vesting

<sup>1</sup> 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

<sup>2</sup> KSV Kofman Inc. was the entity appointed as receiver in these proceedings. Effective August 31, 2020 KSV Kofman Inc. changed its name to KSV Restructuring Inc.

in the Purchaser, of all of the Vendor's right, title and interest in and to the Purchased Assets (as defined in the Wroxeter Approval and Vesting Order), 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 RESTRUCTURING 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**

PIN NO.: 41029-0012 (LT)

PT LT 24 CON A HOWICK PT 2, 22R3335; PT LT 25 CON A HOWICK PT 1, 22R929,  
EXCEPT PT 1, 22R2881; HOWICK



**SCHEDULE "C"**  
**INSTRUMENTS TO BE DELETED FROM PIN NO. 41029-0012 (LT)**

<b>Reg. No.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Parties From</b>	<b>Parties To</b>
HC134178	2018/09/06	Charge	\$500,000,000.00	Hyndman Transport Limited	Bank of America, N.A.
HC141217	2019/07/31	Transfer of Charge		Bank of America, N.A.	Blue Torch Finance, LLC
HC141223	2019/08/01	Notice		Blue Torch Finance, LLC	Hyndman Transport Limited

**SCHEDULE "D"**  
**PERMITTED ENCUMBRANCES FROM PIN NO. 41029-0012 (LT)**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
22R929	1978/11/20	Plan Reference			
R170680	1978/11/24	Transfer	\$2.00		Hyndman Transport (1972) Limited
22R2881	1990/07/24	Plan Reference			
22R3335	1992/09/08	Plan Reference			
R311821	1996/09/13	Transfer	\$500		Hyndman Transport (1972) Limited
HC132017	2018/06/04	Application to Change Name-Owner		Hyndman Transport (1972) Limited	Hyndman Transport Limited

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**ONTARIO  
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Proceeding commenced at Toronto

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

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