

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. 500-11-058942-208
500-11-058944-204
500-11-058943-206
500-11-058941-200
500-11-058946-209
500-11-058945-201

DATE: October 15, 2020

PRESIDING : THE HONOURABLE MR. JUSTICE GARY D. D. MORRISON, J.S.C.

IN THE MATTER OF THE RECEIVERSHIP OF:

G.I. SPORTZ INC.

-and-

TIPPMANN US HOLDCO INC.

-and-

GI SPORTZ DIRECT LLC

-and-

TIPPMANN SPORTS, LLC

-and-

MISSION LESS LETHAL LLC

-and-

TIPPMANN FINANCE LLC

TRUE COPY OF MY ORDER
Gary D.D. Morrison JSC
GARY D.D. MORRISON, J.S.C.
15 OCT. 2020

Debtors

-and-

GIS DEBT ACQUISITION PARTNERSHIP

Petitioner

-and-

KSV RESTRUCTURING INC.

Receiver

ORDER APPOINTING A RECEIVER
(Section 243 of the *Bankruptcy and Insolvency Act*)

- [1] **ON READING** the Petitioner's Motion to (i) Appoint a Receiver (the "**Appointment Motion**") pursuant to Article 243 of the *Bankruptcy and Insolvency Act* (the "**BIA**"), and for (ii) a Confidentiality and Sealing Order (the "**Sealing Order**", together with the Appointment Motion, the "**Motion**") the affidavit and the exhibits in support thereof and the Receiver's pre-filing report (the "**Pre-Filing Report**");
- [2] **SEEING** the service of the Motion;
- [3] **SEEING** that Petitioner sent the Debtors a notice pursuant to the terms of Article 244 of the BIA;
- [4] **SEEING** that it is appropriate to appoint a receiver to the Property (such as defined herein) of the Debtors;

WHEREFORE THE COURT:

- [5] **GRANTS** the Motion;

SERVICE

- [6] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof;

APPOINTMENT

- [7] **APPOINTS** KSV Restructuring Inc., trustee, to act as receiver (the "**Receiver**") to the Property of G.I. Sportz Inc., Tippmann US Holdco Inc., GI Sportz Direct LLC, Tippmann Sports, LLC, Mission Less Lethal LLC and Tippmann Finance LLC (collectively, the "**Debtors**" or individually, the "**Debtor**") until one of the following events comes to pass:
- (a) the sale of all the Property; or
 - (b) the issuance of any order by the Court terminating the mandate of the Receiver;
- [8] **DECLARES** that the order (the "**Order**") and its effects shall survive the filing by the Debtors of a notice of intention to make a proposal or of a proposal pursuant to the terms of the BIA, the issuance of an initial order in regard of the Debtors pursuant to the terms of the *Companies Creditors Arrangements Act* (the "**CCAA**") or the bankruptcy of the Debtors, unless the Court orders otherwise.

RECEIVER'S POWERS

- [9] **AUTHORIZES** the Receiver to exercise the following powers:

9.1 Powers related to the possession of the Property

AUTHORIZES the Receiver to take possession of the Debtors' Property described herein (the "**Property**") and to exercise the following powers listed hereinafter in the place and stead of any of the Debtors in respect of the Property:

- (a) All the property of each of the Debtors, of every nature and kind whatsoever, wherever situated, and regardless of whose possession it may be in;
- (b) All the inventory, accounts receivable, equipment, including certain specialized equipment and moulds, and claims of each of the Debtors, wherever situated, and regardless of whose possession they may be in;
- (c) All rights under certain material agreements, patents and trademarks registered in Canada and the U.S., as well as each of the Debtors' proprietary global distribution network, wherever situated, and regardless of whose possession it may be in;

9.2 Powers related to the preservation of the Property

- (d) all the powers necessary for the preservation and for the protection of the Property;
- (e) all the powers necessary to control the Property, the place of business and the premises occupied by each of the Debtors;

- (f) all the powers necessary to grant the Receiver access, at all times, to the place of business and to the premises of each of the Debtors, to the Property, and to change the locks granting access to such premises and places of business of each of the Debtors;
- (g) all the powers necessary to grant the Receiver access to all the accounting records of each of the Debtors, as well as to any document, contract, register of any nature or kind whatsoever, wherever they may be situated and regardless of the medium on which they may be recorded (the "Records"), as well as the powers necessary to make copies of all the Records necessary or useful to the execution of the Receiver's functions;
- (h) all the powers necessary to undertake an analysis of each of the Debtors' Records;

9.3 Powers related to the Debtors' operations

- (i) carry on, all or any part of any of the Debtors' operations;
- (j) all the powers necessary to control each of the Debtors' receipts and disbursements;
- (k) all the powers necessary to collect all the accounts receivable and all the other claims of each of the Debtors and to transact in respect of same, as well as to sign any document for this purpose;
- (l) all the powers necessary to open any required bank account, pursuant to the terms and conditions the Receiver may determine, with any chartered Canadian bank, or any other financial institution, the whole, in order to cash any item payable to any of the Debtors, and to issue any payment which, in the opinion of the Receiver, is necessary or useful to any of the Debtors' operations;
- (m) all the powers necessary to exercise the rights of any of the Debtors as shareholder with respect to any shares or equity interests held by any of the Debtors;

9.4 Powers related to the disposition or sale of the Property

- (n) all the powers necessary to carry out the sale or the disposition of the Property in the ordinary course of business of each of the Debtors, to transact in that regard, and to sign any document or any contract required or useful for these purposes or meant to give effect to any such sale or disposition;
- (o) all the powers necessary to interest or solicit one or several potential buyers of all or any part of the Property, including, without limitation, the right to carry out a public call for tenders or private solicitations in order to dispose of the Property;

[10] ORDERS the Receiver to petition the Court for authorization to sell all or any part of the Debtors' Property outside the ordinary course of business, upon finding a

purchaser and pursuant to conditions it deems reasonable in the circumstances including, without limitation, the Transaction (as defined in the Pre-Filing Report);

- [11] **GRANTS** the Receiver all the powers necessary to initiate, prosecute and continue the prosecution of any and all proceedings it considers appropriate, including for the purpose of Sections 34 and 249 of the BIA, within the performance of its duties regarding the Property;
- [12] **AUTHORIZES** the Receiver to retain the services of any lawyer, or of any person or business in order to appropriately fulfil its functions;
- [13] **DECLARES** that the Receiver may provide creditors and other relevant stakeholders with information in response to requests made by them in writing. A copy of such requests must be sent to the Petitioner's attorney. Where the Receiver has been advised by the Petitioner that information is confidential, proprietary or competitive, the Receiver shall not provide such information to any person without the consent of the Petitioner unless otherwise directed by this Court.

DEBTORS' DUTIES

- [14] **DECLARES** that each of the Debtors has the authority, subject to the oversight and direction of the Receiver, to continue to operate the Debtors' cash management system and to utilize each of the Debtors' existing bank accounts;
- [15] **ORDERS** each of the Debtors, their directors, officers, employees, agents and representatives to forthwith provide the Receiver with access to the Property, to the places of business and to the premises of the Debtors, as well as to the Records;
- [16] **ORDERS** each of the Debtors, their directors, officers, employees, agents and representatives to cooperate with the Receiver in the exercise of the powers that are granted pursuant to the terms of the Order;
- [17] **ORDERS** each of the Debtors not to dispose, alienate, encumber or otherwise transact in any manner whatsoever, with regard to the Property, other than in the ordinary course of business or with the authorization of the Receiver;

NON-INTERFERENCE WITH THE RECEIVER, THE DEBTORS AND THE PROPERTY

- [18] **ORDERS** that subject to any other order rendered by the Court, which may only be rendered after a prior notice has been duly sent to the Receiver and to the Petitioner, no proceeding, seizure, revendication, or any other enforcement process (each, a "**Proceeding**") shall be commenced or enforced against the Property;
- [19] **ORDERS** that no person shall interrupt, modify, terminate or fail to execute its obligations pursuant to any contract, agreement, license or permit entered into with any of the Debtors without the prior consent of the Receiver or without the authorization of the Court;

- [20] **ORDERS** that all rights and remedies against any of the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien;

CONTINUATION OF SERVICES

- [21] **ORDERS** that any person having an oral or written agreement with any of the Debtors, as well as any supplier of goods or services to any of the Debtors is hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services, as may be required by the Receiver and that the Receiver shall be authorized to continue use of each of the Debtors' current premises, telephone numbers, facsimile numbers, internet addresses, domain names and other services, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver, in accordance with the normal payment practices of each of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court;

EMPLOYEES

- [22] **AUTHORIZES** the Receiver to continue to engage the services of each of the Debtors' employees until the Receiver, acting for and on behalf of the relevant Debtor, terminates the employment of such employees. The Receiver shall not be liable for any employee related liabilities, including any successor-employer liabilities as provided for in sections 14.06(1.2) of the *BIA* other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) and 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*;

PROTECTION OF PERSONAL INFORMATION

- [23] **DECLARES** that pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information on identifiable individuals, which information it has in its possession or under its responsibility, to interested parties or to investors, financiers, prospective purchasers or potential strategic partners, as well as to their advisors, but only to the extent desirable or required, and only upon condition that the persons to whom such personal information is disclosed shall undertake to maintain and protect the privacy

of such information and limit the use of such information pursuant to confidentiality agreements entered into with the Receiver.

LIMITATION OF LIABILITY

- [24] **DECLARES** that subject to the powers granted to the Receiver pursuant to the terms of paragraph 10 of the Order, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Property. The Receiver shall not, as a result of this Order, be deemed to be in possession of any of the Property within the meaning of environmental legislation, the whole pursuant to the terms of the *BIA*;
- [25] **DECLARES** that the powers of the Receiver shall be exercised pursuant to its sole discretion and judgment;
- [26] **DECLARES** that section 215 of the *BIA* applies *mutatis mutandis*, and hence that no action lies against the Receiver by reason of its appointment or the execution of the powers granted by the Court, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

FEES

- [27] **DECLARES** that as security for the professional fees and disbursements incurred in relation to these proceedings, both before and after the date of the Order, a charge and security over the Property is hereby constituted in favour of the Receiver, of the Receiver's attorneys and other advisors, to the extent of the aggregate amount of \$750,000.00 (the "**Administration Charge**");
- [28] **DECLARES** that the Administration Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Property charged by such Encumbrances other than the movable hypothec without delivery granted in favour of Bank of Montreal on September, 9 2020 and registered at the Register of personal and movable real rights on September 10, 2020 under number 20-0911050-0001 (the "**BMO Hypothec**");
- [29] **DECLARES** that the Administration Charge is effective and shall charge, as of 12:01 a.m. (Montreal time) the day of the Order (the "**Effective Time**"), all the Debtors' Property present and future;
- [30] **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any petition for a receiver order filed pursuant to the *BIA* in respect of any of the Debtors and any receiving order granting such petition or any assignment in bankruptcy made or deemed to be made in respect of any of the Debtors and (iii) the provisions of any federal or provincial statute, the payments or

disposition of Property made by the Receiver pursuant to the Order and the granting of the Administration Charge and the Borrowing Charge do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting a recourse for abuse under an applicable law, and shall be valid and enforceable as against any person, including any trustee in bankruptcy, and any receiver to the Property of any of the Debtors;

- [31] **AUTHORIZES** the Receiver to collect the payment of its fees and disbursements and those of its attorneys, with the consent of the Petitioner, the whole subject to taxation in conformity with the *B/A*, if applicable;

FUNDING OF THE RECEIVERSHIP

- [32] **DECLARES** that the Receiver is at liberty and it is hereby empowered to borrow money, including from the Petitioner, on such terms as it considers advisable and without personal liability, for the purpose of exercising the powers granted hereunder up to an aggregate amount of \$1,000,000.00, and that, as security therefore, the Property together with all other property and assets which may hereinafter be under the control of the Receiver be and it is hereby charged with the payment of the money borrowed (the "**Borrowing Charge**");

- [33] **DECLARES** that the Borrowing Charge shall rank in priority to any Encumbrance affecting the Property, other than the BMO Hypothec, but after the Administration Charge and any priority payables pursuant to sections 67(2) and 81.4 of the BIA;

- [34] **DECLARES** that the money authorized to be borrowed by this Order shall be evidenced by certificates substantially in the form of the draft certificate attached as Schedule "A" to this Order;

PROCEDURAL CONSOLIDATION

- [35] **ORDERS** the consolidation of these receivership proceedings (500-11-058942-208, 500-11-058944-204, 500-11-058943-206, 500-11-058941-200, 500-11-058946-209, and 500-11-058945-201) and consequently **DECLARES** that such consolidation shall be for administrative purposes only and shall not effect a consolidation of the assets and property of any of the Debtors;

SEALING ORDER

- [36] **ORDERS** that the confidential appendix (the "**Confidential Appendix**") to the Receiver's Pre-Filing Report be placed and kept under seal in the Court's records and that the Confidential Appendix shall not be part of the public record and shall not be disclosed, published or disseminated, directly or indirectly, to any person other than by order of this Court;

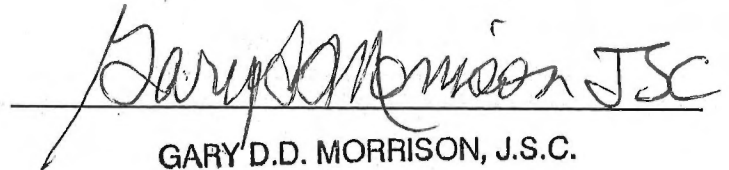
- [37] **ORDERS** that any person who has obtained access to the Confidential Appendix:

- (a) shall preserve the confidentiality of same and shall not disclose, publish or disseminate, directly or indirectly, the contents of same to any person and
- (b) shall not use, directly or indirectly, the contents of same for any purpose other than in connection with the present Court proceedings.

GENERAL

- [38]** **DECLARES** that the Order, the Motion and the affidavit do not, in and of themselves, constitute a default or failure to comply by any of the Debtors under any statute, regulation, license, permit, contract, permission, covenant, agreement, undertaking or any other written document or requirement;
- [39]** **DECLARES** that the Receiver is at liberty to serve any notice, circular or any other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to persons or other appropriate parties at their respective given address as last shown in the Records; the documents served in this manner shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three (3) business days after mailing if delivered by ordinary mail;
- [40]** **DECLARES** that the Receiver may serve any court materials in these proceedings on all represented parties, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that the Receiver shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter;
- [41]** **DECLARES** that any party interested in these proceedings may serve any court material in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that such party shall deliver a "hard copy" on paper of such PDF or electronic materials to the Petitioner's and the Receiver's counsel and to any other party who may request such delivery;
- [42]** **DECLARES** that, unless otherwise provided herein, ordered by this Court, or provided by the BIA, no document, order or other material needs to be served on any person in respect of these proceedings, unless such person has served a notice of appearance on the solicitors for the Petitioner and the Receiver and has filed such notice with the Court;
- [43]** **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the Receiver, the Petitioner and any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order;
- [44]** **DECLARES** that the present Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada;

- [45] **DECLARES** that the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Receiver shall be the foreign representative of each of the Debtors. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Receiver as may be deemed necessary or appropriate for that purpose;
- [46] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [47] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;


GARY D.D. MORRISON, J.S.C.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

- [1] THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "**Receiver**") to the Property (as defined in the Order) of GI Sportz Inc., Tippmann US Holdco Inc., GI Sportz Direct LLC, Tippmann Sports, LLC, Mission Less Lethal LLC and Tippmann Finance LLC appointed by Order of the Superior Court of Québec (Commercial Division) (the "**Court**") dated the ___ day of October, 2020 (the "**Order**") made in an action having Court file number 500-11-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
- [2] The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded daily not in advance after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
- [3] Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the Bankruptcy and Insolvency Act, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
- [4] All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
- [5] Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
- [6] The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
- [7] The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ___ day of _____, 2020.

KSV RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title: