



Court File No. CV-21-00673521-00CL

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

THE HONOURABLE MADAM

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MONDAY, THE 22ND

JUSTICE CONWAY

DAY OF AUGUST, 2022

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant

- and -

**GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO
HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO
GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR
MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK
LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR
MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC.,
GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE
VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA
ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO
STONE CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST.
CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO
VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE
LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED**

Respondents

**APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended**

**ORDER
(Ancillary Relief)**

THIS MOTION, made by KSV Restructuring Inc. (“KSV”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the real property listed on Schedule “A” hereto (the “**Real Property**”) and all the other assets, undertakings and properties (together with the Real Property, the “**Property**”) of each of the parties listed on

Schedule “B” hereto (the “**Receivership Respondents**”), for an order, in substance: (i) approving the Fifth Report (as defined below) and the actions of the Receiver described therein; (ii) approving the fees and disbursement of the Receiver and its counsel to and including June 30, 2022; (iii) subject to the conditions described in the Fifth Report, authorizing and directing the Receiver to make certain distributions from the sale proceeds of the Eagle Valley Transaction and the Beard Transaction (as both terms are defined in the Fifth Report); (iv) approving, for the purposes of a stalking horse sale process by the Receiver (the “**Stalking Horse Sale Process**”), the agreement of purchase and sale dated August 8, 2022 (the “**Major Mackenzie APS**”) between the Receiver and 2357616 Ontario Inc. for the purchase and sale of the real property municipally known as 185, 191, 197, 203, 209 and 215 Major Mackenzie Drive East, Richmond Hill, ON, and legally described in PINs 03139-0047, 03139-0048, 03139-0049, 03139-0050, 03139-0051 and 03139-0052 (collectively, the “**Major Mackenzie Real Property**”), together with the Expense Reimbursement and the Bidding Procedures (both as defined and described in Schedule “C” hereto); (v) compelling Concorde Law Professional Corporation (“**Concorde Law**”), Louis Raffaghello and 2557815 Ontario Inc (“**255**”) to provide the information requested by the Receiver regarding the Flip Transactions (as defined in the Fifth Report) by no later than five business days from the date of the Ancillary Order; and (vi) sealing the confidential appendices to the Fifth Report, was heard this day via video-conference.

ON READING the Fifth Report of the Receiver dated August 11, 2022 (the “**Fifth Report**”), including, without limitation, the fee affidavits appended thereto in support of the fees and disbursements of the Receiver and its counsel (the “**Fee Affidavits**”), 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, as appears from the affidavit of service of Eunice Baltkois sworn August 12, 2022,

SERVICE

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

FIFTH REPORT AND APPROVAL OF FEES AND DISBURSEMENTS

2. **THIS COURT ORDERS** that the Fifth Report and the actions and activities of the Receiver and its counsel described therein be and are hereby approved.

3. **THIS COURT ORDERS** that approval of the fees and disbursements of the Receiver and its counsel to and including June 30, 2022, as described in the Fifth Report and supported by the Fee Affidavits, be and is hereby adjourned to September 13, 2022 at 10:30 a.m. for 15 minutes.

PRODUCTIONS

4. **THIS COURT ORDERS** that Concorde Law, Louis Raffaghello and 255 be and are hereby jointly and severally compelled to provide the information requested by the Receiver regarding the Flip Transactions, including, without limitation, the Trust Ledger Statements (as defined in the Fifth Report), to the Receiver by no later than five business days from the date of this Order.

STALKING HORSE SALE PROCESS

5. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to conduct the Stalking Horse Sale Process.

6. **THIS COURT ORDERS** that the Major Mackenzie APS be and is hereby approved for the purpose of conducting the Stalking Horse Sale Process.

7. **THIS COURT ORDERS** that the Expense Reimbursement and the Bidding Procedures be and are hereby approved, as attached as Schedule “C” to this Order.

DISTRIBUTIONS FROM THE SALE PROCEEDS OF CERTAIN PAST TRANSACTIONS

8. **THIS COURT ORDERS** that, upon the Receiver receiving a satisfactory payout statement (in the Receiver’s sole discretion), and provided that the productions from Concorde Law, Louis Raffaghello and 255 pursuant to paragraph 4 of this Order do not alter the Receiver’s

views described in section 4.2 of the Fifth Report (also in the Receiver's sole discretion), the Receiver be and is hereby authorized and directed to make the following distributions:

- (a) from the sale proceeds arising from the Eagle Valley Transaction:
 - (i) first, to Queen Properties Inc., the outstanding secured indebtedness owing to it as of the distribution date pursuant to the mortgage that was registered in its favour on title to the Eagle Valley Real Property (as defined in the Fifth Report) immediately prior to the closing of the Eagle Valley Transaction; and
 - (ii) second, to Gabriele Fischer and Imperio SA Holdings Inc. (collectively, **"Imperio"**), a partial amount of the outstanding secured indebtedness owing to Imperio as of the distribution date pursuant to the mortgage that was registered in Imperio's favour on title to the Eagle Valley Real Property immediately prior to the closing of the Eagle Valley Transaction, but only after the Receiver takes a sufficient reserve, in its sole discretion, for: (1) its professional fees and disbursements and those of its counsel; and (2) the Eagle Valley Construction Lien Holdback, as defined in the Fifth Report; and
- (b) from the sale proceeds arising from the Beard Transaction:
 - (i) to Imperio, a partial amount of the outstanding secured indebtedness owing to Imperio as of the distribution date pursuant to the mortgage that was registered in Imperio's favour on title to the Beard Real Property (as defined in the Fifth Report) immediately prior to the closing of the Beard Transaction, but only after the Receiver takes a sufficient reserve, in its sole discretion, for its professional fees and disbursements and those of its counsel.

SEALING

9. **THIS COURT ORDERS** that the Stoney Creek Confidential Appendices (as defined in the Fifth Report) be and are hereby sealed and shall not form part of the public record until the closing of the Stoney Creek Transaction (as defined in the Fifth Report) or further Order of this Court.

10. **THIS COURT ORDERS** that the Major Mackenzie Confidential Appendices (as defined in the Fifth Report) be and are hereby sealed and shall not form part of the public record until the closing by the Receiver of a transaction in respect of the Major Mackenzie Real Property (as defined in the Fifth Report) or further Order of this Court.

GENERAL

11. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any other Canadian and foreign court, tribunal, regulatory or administrative body (“**Judicial Bodies**”) to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its respective agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that this Order is effective from today’s date and is enforceable without the need for entry or filing.



SCHEDULE "A"
REAL PROPERTY

1. 527 Glendale Avenue
St. Catharines, ON
PIN: 46415-0949
2. 185 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0047
3. 197 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0049
4. 209 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0051
5. 191 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0048
6. 203 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0050
7. 215 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0052
8. 4210 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0110
9. 4248 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0713

10. 2334 St. Paul Avenue

Niagara Falls, ON

PIN: 64269-0559

11. 355 Adelaide Street West

Toronto, ON

PIN: 21412-0150

12. 46 Charlotte Street

Toronto, ON

PIN: 21412-0151

13. Highland Road

Hamilton, ON

PIN: 17376-0025

14. Upper Centennial Parkway

Hamilton, ON

PIN: 17376-0111

15. 19 Beard Place

St. Catharines, ON

PIN: 46265-0022

16. 7386 Islington Avenue

Vaughan, ON

PIN: 03222-0909

17. 4951 Aurora Road

Stouffville, ON

PIN: 03691-0193

**SCHEDULE “B”
RECEIVERSHIP RESPONDENTS**

1. GO-TO DEVELOPMENTS HOLDINGS INC.
2. FURTADO HOLDINGS INC.
3. GO-TO DEVELOPMENTS ACQUISITIONS INC.
4. GO-TO GLENDALE AVENUE INC.
5. GO-TO GLENDALE AVENUE LP
6. GO-TO MAJOR MACKENZIE SOUTH BLOCK INC.
7. GO-TO MAJOR MACKENZIE SOUTH BLOCK LP
8. GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC.
9. GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP
10. GO-TO NIAGARA FALLS CHIPPAWA INC.
11. GO-TO NIAGARA FALLS CHIPPAWA LP
12. GO-TO NIAGARA FALLS EAGLE VALLEY INC.
13. GO-TO NIAGARA FALLS EAGLE VALLEY LP
14. GO-TO SPADINA ADELAIDE SQUARE INC.
15. GO-TO SPADINA ADELAIDE SQUARE LP
16. GO-TO STONEY CREEK ELFRIDA INC.
17. GO-TO STONEY CREEK ELFRIDA LP
18. GO-TO ST. CATHARINES BEARD INC.
19. GO-TO ST. CATHARINES BEARD LP
20. GO-TO VAUGHAN ISLINGTON AVENUE INC.
21. GO-TO VAUGHAN ISLINGTON AVENUE LP
22. AURORA ROAD LIMITED PARTNERSHIP
23. 2506039 ONTARIO LIMITED

SCHEDULE “C” “Bidding Procedures”

On August 22, 2022, the Court issued an order (the “**Stalking Horse Order**”) approving and accepting for the purpose of conducting a “stalking horse” solicitation process (the “**Stalking Horse Process**”) in accordance with these Bidding Procedures that certain asset purchase agreement dated August 8, 2022 (the “**Stalking Horse Bid**”) between the Receiver and 2357616 Ontario Inc. (the “**Stalking Horse Bidder**”), the payment of the Expense Reimbursement (as defined in the Stalking Horse Bid) by the Receiver to the Stalking Horse Bidder in accordance with the provisions of the Stalking Horse Bid, and approving these Bidding Procedures.

The Receiver shall bring a motion (the “**Approval and Vesting Order Motion**”) seeking the granting of an order by the Court authorizing the Receiver to proceed with the sale of the Purchased Assets to the Successful Bidder (as defined below) (such order, as approved, the “**Approval and Vesting Order**”).

Requirements for Qualified Bids

A “**Qualified Bidder**” is a bidder acceptable to the Receiver who, by no later than 5:00 p.m. (Toronto time) on Friday, September 30, 2022 (the “**Bid Deadline**”), submits a bid acceptable to the Receiver for further consideration, which bid must include the following features at a minimum (such bid being a “**Qualified Bid**”, provided, however, that the Stalking Horse Bid shall be deemed to be a Qualified Bid and the Stalking Horse Bidder shall be deemed to be a Qualified Bidder):

- (a) A base purchase price equal to or greater than: (i) the Purchase Price (as defined at section 4.1 of the Stalking Horse Bid), including, without limitation, the incremental commission of the Receiver’s agent provided at section 4.6 of the Stalking Horse Bid; plus (ii) the Expense Reimbursement; plus (iii) a \$100,000 bid increment.
- (b) A provision stating that the bidder’s offer is irrevocably open for acceptance until the earlier of (i) the date the Purchased Assets have been sold pursuant to the closing of the sale approved by the Court; and (i) December 15, 2022.
- (c) An executed copy of an asset purchase agreement (“**APA**”), together with and a redline of the bidder’s proposed variations against the Stalking Horse Bid.
- (d) A cash deposit in the amount of not less than \$500,000 in the form of a wire transfer, certified cheque or other such form of immediately available funds as may be acceptable to the Receiver, which shall be held in the trust account of Receiver’s counsel (the “**Deposit Amount**”). The Deposit Amount shall be held in escrow and disbursed only if the Qualified Bidder is selected as the Successful Bidder and shall be applied without interest on closing to the purchase price payable under the bid.

- (e) If the Qualified Bidder is not the Successful Bidder, then the Deposit Amount shall be returned without interest following the expiration or rejection of the Qualified Bidder's offer, as the case may be.

If no Qualified Bids are submitted by the Bid Deadline other than the Stalking Horse Bid, the Stalking Horse Bid shall be deemed to be the Successful Bid. If one or more Qualified Bid are submitted by the Bid Deadline, other than the Stalking Horse Bid, the Receiver may engage with such Qualified Bidder(s) improve their offers. The Receiver may invite Qualified Bidders to participate in as many rounds of bidding, whether via an auction or the submission of further bids, as is required to maximize the consideration and minimize closing risk. The Receiver may also seek to clarify terms of the offers submitted and to negotiate such terms. The Receiver will select the successful bidder (the "**Successful Bidder**", and such bid being the "**Successful Bid**"), having regards to, among other things: (i) the total consideration (cash and assumed liabilities); (ii) third-party approvals required if any; (iii) conditions, if any; and (iv) other factors affecting the speed and certainty of closing and the value of the Qualified Bids.

Expense Reimbursement

To provide an incentive and to compensate the Stalking Horse Bidder for performing the substantial due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the sale and bidding process, the Receiver has agreed to pay the Stalking Horse Bidder, under the conditions outlined herein and in the Stalking Horse Bid, an Expense Reimbursement in the amount of \$60,000 (as defined in the Stalking Horse Bid), in the event that the Stalking Horse Bidder is not selected or deemed to be selected as the Successful Bidder.

The Expense Reimbursement is a material inducement for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Expense Reimbursement, if payable in accordance with the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Sale Process Order.

Acceptance of Successful Bid

The sale of the Purchased Assets to any Successful Bidder by the Receiver is expressly conditional upon the approval of the Successful Bid by the Court at the hearing of the Approval and Vesting Order Motion. The Receiver will be deemed to have accepted a bid only when the bid has been approved by the Court at the hearing of the Approval and Vesting Order Motion.

ONTARIO SECURITIES COMMISSION

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., et al.

Applicant

Respondents

CV-21-00673521-00CL

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

Proceedings commenced at Toronto

**ORDER
(Ancillary Relief)**

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