



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

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

THE HONOURABLE MADAM

)

TUESDAY, THE 14TH

JUSTICE CONWAY

)

DAY OF JUNE, 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 STONEY 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

**APPROVAL AND VESTING ORDER
(CHIPPAWA)**

THIS MOTION, made by KSV Restructuring Inc., 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” of the Sale Agreement (as defined below) (the “**Specified Real Property**”) and all the other assets, undertakings and properties of each of the entities listed on Schedule “B” of the Sale Agreement (the “**Specified Receivership Respondents**”), including all the assets held in trust or required to be held in trust by or for any of the Specified Receivership Respondents, or by their lawyers, agents and/or any other person, and all proceeds thereof (together with the Specified Real Property, the “**Specified Property**”), for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and 1977678 Ontario Limited in trust (and subsequently assigned to 1000203133 Ontario Limited (the “**Purchaser**”), as purchaser, dated May 12, 2022 (the “**Sale Agreement**”), a copy of which is attached to the Report of the Receiver dated June 3, 2022 (the “**Report**”), and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day by judicial videoconference via Zoom.

ON READING the 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 Tamie Dolny sworn June 3, 2022, filed,

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

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 Purchased Assets described in the Sale Agreement, including, without limitation, all of the Specified Receivership Respondents' right, title and interest in and to the Specified Real Property listed on **Schedule "B"** hereto, 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, 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 Order of The Honourable Mr. Justice Pattillo made on December 10, 2021; (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 that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division 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 subject Specified Real Property identified in **Schedule “B”** hereto in fee simple, and is hereby directed to delete and expunge from title to the Specified Real Property all of the Claims listed in **Schedule “C”** hereto.

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

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 any of the Receivership Respondents and shall not be void or voidable by creditors of any of the Receivership Respondents, 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.

7. **THIS COURT ORDERS** that, upon the Receiver receiving a satisfactory payout statement, in the Receiver's sole discretion, the Receiver is authorized and directed to make the following distribution from the sale proceeds arising from the Transaction:

- (a) to Green Leaf Financial Limited, the outstanding secured indebtedness owing by the Specified Receivership Respondents to Green Life Financial Limited.

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.

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

A handwritten signature in blue ink is written over a horizontal black line. The signature appears to be 'Conway J.'.

Schedule “A” – Form of Receiver’s Certificate

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RECEIVER’S CERTIFICATE

RECITALS

- I. Pursuant to an Order of The Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on December 10, 2021, KSV Restructuring Inc. (“**KSV**”) was appointed as receiver and manager (in such capacity, the “**Receiver**”), without

security, of the real property listed on Schedule “A” of the Sale Agreement (as defined below) (the “**Specified Real Property**”) and all the other assets, undertakings and properties of each of the entities listed on Schedule “B” of the Sale Agreement (the “**Specified Receivership Respondents**”), including all the assets held in trust or required to be held in trust by or for any of the Specified Receivership Respondents, or by their lawyers, agents and/or any other person, and all proceeds thereof (together with the Specified Real Property, the “**Specified Property**”).

II. Pursuant to an Order of the Court dated June 14, 2022, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and 1977678 Ontario Limited in trust (and subsequently assigned to 1000203133 Ontario Limited (the “**Purchaser**”), as purchaser, dated May 12, 2022 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of 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 Receiver 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 and the Receiver has received 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 Receiver and the Purchaser;
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 the Court-appointed receiver and manager of the Specified Property, and not in its personal capacity or in any other capacity

Per:

Name: Bobby Kofman

Title: Licensed Insolvency Trustee

Schedule “B” – Legal Description of the Specified Real Property

PIN: 64258-0110 (LT)

PT LT 21 CON 3 WILLOUGHBY PT 2 & 3 59R8557 ; S/T WI5537 NIAGARA FALLS

PIN: 64258-0713 (LT)

PT LT 21 CON 3 WILLOUGHBY PT 1, 2, 3, 4, 5 & 6 59R2715 EXCEPT PARTS 1 & 2,
59R12626; S/T BB36690; NIAGARA FALLS

Schedule “C” – Instruments to Be Deleted from Title

PIN 64258-0110 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SN700928	2021/11/16	Charge by Partnership	\$2,425,000	Go-To Niagara Falls Chippawa Inc. Go-To Niagara Falls Chippawa LP	Green Leaf Financial Limited
SN700929	2021/11/16	Notice of Assignment of Rents General		Go-To Niagara Falls Chippawa Inc. Go-To Niagara Falls Chippawa LP	Green Leaf Financial Limited
SN705191	2021/12/14	Application Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
SN709670	2022/01/20	Construction Lien	\$300,830	Capital Build Construction Management Corp.	
SN716185	2022/03/04	Certificate relating to SN709670		Capital Build Construction Management Corp.	

PIN 64258-0713 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SN700928	2021/11/16	Charge by Partnership	\$2,425,000	Go-To Niagara Falls Chippawa Inc. Go-To Niagara Falls Chippawa LP	Green Leaf Financial Limited
SN700929	2021/11/16	Notice of Assignment of Rents General		Go-To Niagara Falls Chippawa Inc. Go-To Niagara Falls Chippawa LP	Green Leaf Financial Limited
SN705191	2021/12/14	Application Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
SN709670	2022/01/20	Construction Lien	\$300,830	Capital Build Construction Management Corp.	
SN716185	2022/03/04	Certificate relating to SN709670		Capital Build Construction Management Corp.	

Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants

PIN 64258-0110 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
WI5537	1946/09/16	Transfer of Easement			The Bell Telephone Company of Canada
AA36045	1960/03/02	Bylaw			
AA69374	1962/03/02	Bylaw			
RO479833	1986/08/22	Notice of Claim			
59R8557	1993/08/17	Plan Reference			
SN507777	2017/04/21	Transfer	\$330,000	Fisher, Shirley	2557815 Ontario Inc.
SN507788	2017/04/21	Transfer	\$3,000,000	2557815 Ontario Inc.	Go-To Niagara Falls Chippawa Inc.
SN517290	2017/07/04	Land Registrar's Order		Land Registrar, Niagara South Land Registry Office	
SN535882	2017/12/01	Land Registrar's Order		Land Registrar, Niagara South	

PIN 64258-0713 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
BB36690	1965/11/24	Transfer of Easement			Provincial Gas Company Limited
59R2715	1978/11/21	Plan Reference			
SN507778	2017/04/21	Transfer	\$870,000	Native Heritage Realty Ltd.	2557815 Ontario Inc.
SN507788	2017/04/21	Transfer	\$3,000,000	2557815 Ontario Inc.	Go-To Niagara Falls Chippawa Inc.

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-and-

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SUPERIOR COURT OF JUSTICE
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Proceedings commenced at Toronto

**APPROVAL AND VESTING ORDER
(CHIPPAWA)**

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