

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

THE HONOURABLE MR.) MONDAY, THE 11th
JUSTICE CAVANAGH) DAY OF SEPTEMBER, 2023

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

APPROVAL AND VESTING ORDER

THIS MOTION, made by Albert Gelman Inc. in its capacity as the Court-appointed liquidator (in such capacity, the “**Liquidator**”) of all the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Liquidator and 2117467 Ontario Inc. (the “**Purchaser**”) dated May 25, 2023, as amended, and appended to the Fourth Report of the Liquidator dated August 30, 2023 (the “**Fourth Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement including the real property municipally known as 888 Whitefield Drive in Peterborough, Ontario (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario, by videoconference.

ON READING the Fourth Report and the appendices thereto, and on reading the fee affidavits of Messrs. Brendan Bissell and Bryan Gelman respectively sworn August 30, 2023, and on hearing the submissions of counsel for the Liquidator and counsel for the Applicant, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Joel Turgeon, 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 hereby dispenses with further service thereof.

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

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery—as that term is used in the *Rules of Civil Procedure* (Ontario)—of a Liquidator’s certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the “**Liquidator’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets described in the Sale Agreement, including the real property described in **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, “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by order of this Court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or real 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.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office #45 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 real property identified in **Schedule B** hereto (the "**Real Property**") 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 Liquidator'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** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, if any, including personal information of those employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

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

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 Debtor and shall not be void or voidable by creditors of the Debtor, 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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

Schedule A – Form of Liquidator’s Certificate

Court File No. CV-22-00679109-00CL

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

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B.16

LIQUIDATOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (the “**Court**”) dated April 4, 2022, Albert Gelman Inc. was appointed as the Liquidator (in such capacity, the “**Liquidator**”) of all of the assets, undertakings and properties of 1950979 Ontario Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated September 11, 2023, the Court approved the agreement of purchase and sale made as of May 25, 2023 (the “**Sale Agreement**”) between the Liquidator and 2117467 Ontario Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Liquidator 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 Liquidator and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Liquidator.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE LIQUIDATOR CERTIFIES the following:

1. The Purchaser has paid and the Liquidator 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 Liquidator and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Liquidator.
4. This Certificate was delivered by the Liquidator at _____ on _____ .

ALBERT GELMAN INC., solely in its capacity as Court-appointed Liquidator of all the assets, undertakings and properties of 1950979 Ontario Inc., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Legal Description of Real Property

LAND REGISTRY OFFICE #45

PIN	LEGAL DESCRIPTION
28463-0470 (LT)	PT LTS 8 & 9 PL 22Q (NORTH MONAGHAN) AS IN R227329 LYING E OF WHITEFIELD DRIVE, EXCEPT R235039, S/T EASEMENT OVER PT LT 8 BEING PT 1 45R-12197 IN FAVOUR OF BELL CANADA AS IN LT91763; PETERBOROUGH; TOGETHER WITH AN EASEMENT OVER PART LOT 9, PLAN 22Q NORTH MONAGHAN, PART 1, 2 & 3 PLAN 45R16694 AS IN PE308340

Schedule C – Claims to be deleted and expunged from title to Real Property

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE376524	2022/04/06	APL COURT ORDER <i>REMARKS: APPOINTING LIQUIDATOR</i>	-	ONTARIO SUPERIOR COURT OF JUSTICE	ALBERT GELMAN INC.	C

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
LT91763	2001/12/07	TRANSFER EASEMENT	\$14,000	FALLER, STEPHANIE FALLER, HANS	BELL CANADA	C
PE314214	2019/07/23	NOTICE	\$1	THE CORPORATION OF THE CITY OF PETERBOROUGH	N/A	C
PE315066	2019/08/02	CHARGE	\$8,500,000	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATION	C
PE315067	2019/08/02	NO ASSGN RENT GEN	-	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATION	C

PAUL JOSEPH DIETRICH
Applicant

STEVEN ROBERT MCLAREN
Respondent

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

APPROVAL AND VESTING ORDER

RECONSTRUCT LLP

200 Bay Street, Suite 2305
Toronto, ON M5J 2J3
Fax: (416) 613-8290

R. Brendan Bissell (LSO No. 40354V)

Tel: (416) 613-0066
Email: rbissell@reconllp.com

Joel Turgeon (LSO No. 80984R)

Tel: (416) 613-8281
Email: jturgeon@reconllp.com

Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.