

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) THURSDAY, THE 26TH
JUSTICE KOEHNEN) DAY OF JUNE, 2023

B E T W E E N:

ROYNAT INC.

Applicant

- and -

2796996 ONTARIO INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of 2796996 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 Receiver and 14927524 Canada Inc. (the "Purchaser") dated April 5, 2023, as amended, and appended to the Report of the Receiver dated June 14, 2023 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets") and referenced in Schedule "B" hereto, which Purchased Assets include the real property municipally known as 88 Main Street, Grimsby, Ontario (the "Lands") as legally described at Schedule "B" hereto, was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Report, the Supplemental Report of the Receiver dated June 21, 2023, the Second Supplemental Report of the Receiver dated June 24, 2023, the Responding Motion Record of the Respondent dated June 15, 2023 and on hearing the submissions of counsel for the Receiver, counsel for the Applicant, counsel for the Respondent, and anyone else appearing for any other person on the service list, as properly served as appears from the affidavit of Lindsay Ferguson sworn June 15, 2023 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 Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and 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 Justice Dietrich dated August 5, 2022; (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 Land Titles Division of Niagara (North)(No. 30) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Lands identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Lands 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, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver 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. 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 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.



Justice, Ontario Superior Court of Justice

(Commercial List)

Schedule A – Form of Receiver’s Certificate

Court File No. CV-22-00683167-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

ROYNAT INC.

Applicant

- and -

2796996 ONTARIO INC.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Dietrich of the Ontario Superior Court of Justice (the "Court") dated August 5, 2022, msi Spergel inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of 2796996 Ontario Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated June 22, 2023, the Court approved the agreement of purchase and sale made as of April 5, 2023 (the "Sale Agreement") between the Receiver and 14927524 Canada 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 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.

C. 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; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

msi Spergel inc., in its capacity as Court-appointed Receiver of the undertaking, property and assets of 2796996 Ontario Inc., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Purchased Assets

Lands (forming a portion of the Purchased Assets)

The lands and premises municipally known as 88 Main Street, Grimsby, Ontario, and legally described as:

- a) PT MAIN ST CP PL 4 GRIMSBY CLOSED BY BY-LAW NR417367 BEING REGIONAL ROAD NO. 81, PART 3 30R14573; TOWN OF GRIMSBY {PIN46020-0217 LT}; and,
- b) PART LOT 389 CP PL 4 GRIMSBY DESIGNATED AS PART 1 PLAN 30R14573; TOWN OF GRIMSBY {PIN 46020-0220 LT}

Other Purchased Assets

The Debtor's interest in all additional Purchased Assets, as such Purchased Assets are described and defined in the Sale Agreement, including: The Buildings, the Gas and Convenience Business, the Personal Property, the Fuel Inventory, and the Rights.

Schedule C – Claims to be deleted and expunged from title to the Lands

PIN 46020-0217 LT

<u>Registration Number</u>	<u>Date</u>	<u>Instrument Type</u>
NR562320	2020/12/22	Certificate
NR591914	2021/10/06	Transfer
NR591915	2021/10/06	Charge
NR591916	2021/10/06	No Assgn Rent Gen
NR620676	2022/07/21	Construction Lien
NR625708	2022/09/20	Certificate
NR626039	2022/09/23	Apl Court Order

PIN 46020-0220 LT

<u>Registration Number</u>	<u>Date</u>	<u>Instrument Type</u>
NR562320	2020/12/22	Certificate
NR591914	2021/10/06	Transfer
NR591915	2021/10/06	Charge
NR591916	2021/10/06	No Assgn Rent Gen
NR592161	2022/10/08	Charge
NR620676	2022/07/21	Construction Lien
NR625708	2022/09/20	Certificate
NR626039	2022/09/23	Apl Court Order

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

(unaffected by the Vesting Order)

PIN 46020-0217 LT

<u>Registration Number</u>	<u>Date</u>	<u>Instrument Type</u>
30R14573	2015/07/22	Plan Reference
NR417367	2016/07/06	Bylaw
NR500529	2018/12/27	Notice

PIN 46020-0220 LT

<u>Registration Number</u>	<u>Date</u>	<u>Instrument Type</u>
NR354944	2014/06/18	Apl Annex Rest Cov
30R14573	2015/07/22	Plan Reference
NR500529	2018/12/27	Notice
NR566205	2021/02/05	Notice
NR592162	2021/10/08	Notice
NR622907	2022/08/17	LR's Order

ROYNAT INC.

v.

2796996 ONTARIO INC.

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Court File No. CV-22-00683167-00CL

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PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA ^{LLP}

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