

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 18th DAY
)
JUSTICE CONWAY) OF APRIL, 2019

BETWEEN:

CAMERON STEPHENS FINANCIAL CORPORATION

Applicant

- and -

2492167 ONTARIO LTD.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by RSM Canada Limited in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertaking and properties of 2492167 Ontario Ltd. ("**2492167**"), including the free standing gas bar, convenience store, and commercial buildings (collectively, the "**Property**") located on lands known municipally as 5810-5818 Sheppard Avenue East, Toronto, Ontario and further identified in **Schedule B** hereto (the "**Real Property**"), for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 2647766 Ontario Inc. (the "**Purchaser**") made as of the 19th day of March, 2019 and appended to the Second Report of the Receiver dated April 5, 2019 (the "**Second Report**"), and vesting in and to the Purchaser all of 2492167's right, title and interest in and to the assets



described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record and the Second Report of the Receiver, and upon hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavits of Cathy Garbig sworn on April 9 and April 17th 2019, the affidavits of Robert MacDonald, Timothy P. Fagan, and Maurice Fleming, each sworn April 17th 2019, filed:

SERVICE:

1. **THIS COURT ORDERS AND DECLARES** that the timing and method for service of this Motion and the Motion Record herein are properly returnable today and hereby dispenses with further service thereof.

SALE APPROVAL AND VESTING

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of 2492167 and its stakeholders. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and 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.

3. **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 Receiver's and all of 2492167's right, title and interest in and to the Purchased Assets described in the Sale Agreement and summarized 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, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances, licences, leaseholds, or

charges created by the Order of the Honourable Justice McEwan dated July 26, 2018; (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** hereto) 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 for the Land Titles Division of Scarborough, in the City of Toronto 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 authorised and directed to enter the Purchaser as the owner of the Real Property in fee simple, and is hereby further 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 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.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

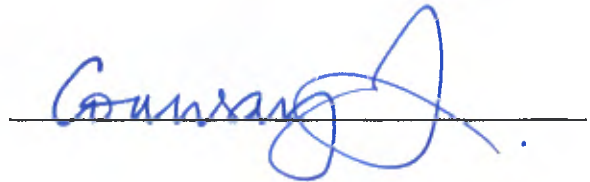
7. **THIS COURT ORDERS** that, notwithstanding:

- (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 2492167 and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of 2492167;

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 2492167 and shall not be void or voidable by creditors of 2492167, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance 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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 18 2019

PER/PAR: *RW*

Schedule A – Form of Receiver’s Certificate

Court File No. CV-18-601116-00CL

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

B E T W E E N:

CAMERON STEPHENS FINANCIAL CORPORATION

Applicant

- and -

2492167 ONTARIO LTD.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwan of the Ontario Superior Court of Justice (the "**Court**") dated July 26, 2018, RSM Canada Limited was appointed as the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of 2492167 Ontario Ltd. ("**2492167**" or the "**Company**"), including all proceeds thereof (collectively, the "**Property**").

B. Pursuant to an Order of the Court dated [DATE] (the "Vesting Order"), the Court approved the agreement of purchase and sale made as of March 19, 2019 (the "**Sale Agreement**") between the Receiver and 2647766 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Receiver’s and 2492167’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 section 16 of 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 or the Vesting Order.

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 Date of Closing pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 16 of 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].

**RSM Canada Limited, solely in its capacity as
Court-appointed Receiver and Manager of 2492167
Ontario Ltd. and not in its personal or corporate
capacity and without personal or corporate liability**

Per:

Name: ► _____

Title: ►

Schedule B – Purchased Assets

All of the Receiver's (if any) and the Company's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement) including, without limitation, the following Real Property:

MUNICIPAL ADDRESS: 5810-5818 Sheppard Avenue East, City of Toronto, Ontario

PIN 06074-0198 LT

PCL BLK 95-1, SEC M2168 BLK 95, PLAN 66M2168, SUBJ TO EASE OVER PT BLK 95, 66M2168 AS SHOWN IN BROKEN OUTLINE FORMERLY INCLUDED WITHIN THE LIMITS OF PTS 5 & 7 66R14060 AS IN TB162935, SC545197 (C151519 & C151520) SCARBOROUGH, CITY OF TORONTO

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

The following Instruments are to be discharged upon registration of the Approval and Vesting Order:

- i) Instrument AT4808931, dated February 23, 2018, being a charge/mortgage to Vida Parsi in the amount of \$400,000
- ii) Instrument AT4808932, dated February 23, 2018, being a notice of assignment of rents to Vida Parsi
- iii) Instrument AT4294665 dated July 19, 2016, being a charge/mortgage to Cameron Stephens Financial Corporation in the amount of \$6,240,000

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

(unaffected by the Approval and Vesting Order)

Permitted Encumbrances with respect to the Real Property (as defined in the Sales Agreement) means:

1. The exceptions and qualifications set out in the *Land Titles Act* (Ontario) and/or on the parcel register for the Real Property;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements, servitudes, rights-of-way, licences, restrictions that run with the land and other encumbrances and/or agreements with respect thereto (including, without limiting the generality of the foregoing, easements, rights-of-way and agreements for sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables);
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due or liens for same which are due but the validity of which are being contested in good faith by the Vendor provided that the Vendor has provided security which in the opinion of the Vendor, acting reasonably, is necessary to avoid any lien, charge or encumbrance arising with respect thereto;
5. Any encroachments, minor defects or irregularities indicated on any survey of the Real Property or which may be disclosed on an up-to-date survey of the Real Property;
6. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
7. Any breaches of any applicable laws, including, without limitation, outstanding building permits, work orders and deficiency notices;
8. Any subdivision agreements, site plan agreements, development agreements and any other agreements with the municipality, region, publicly regulated utilities or other governmental authorities having jurisdiction;
9. Defects or irregularities in title to the Real Property;
10. The following instruments registered on title to the Real Property: Instrument #AT4944645, being the Appointment Order.

CAMERON STEPHENS FINANCIAL
CORPORATION
Applicant

and

2492167 ONTARIO LTD.
Respondent

Court File No. CV-18-601116-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

Maurice V. Fleming (LSO# 200450)

mfleming@foglers.com

Tel: 416.941.8812

Fax: 416.941.8852

Lawyers for the Receiver,
RSM Canada Limited