

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

THE HONOURABLE)
JUSTICE STEELE) TUESDAY THE 19TH DAY
OF JULY, 2022

**2046245 ONTARIO INC., 2222228 ONTARIO INC., 2473560 ONTARIO INC. and
2473441 ONTARIO INC.**

Applicants

- and -

2244039 ONTARIO INC. and 1526400 ONTARIO INC.

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985 c. B-3, AS AMENDED AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

(12016 Airport Road, Caledon, ON)

THIS MOTION, made by **ALBERT GELMAN INC.** in its capacity as the receiver and manager (the "**Receiver**"), without security, of all of the assets, undertakings and properties of 2244039 Ontario Inc. ("**224Co.**") and 1526400 Ontario Inc. ("**152Co.**") for an order, among other things, approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement between the Receiver and 2484460 Ontario Inc. (the "**Purchaser**") dated June 14, 2023 (the "**Purchase Agreement**") and vesting in the Purchaser all of 152 Co.'s right, title and interest in and to the assets described in the Purchase Agreement (the "**Purchased Assets**"), was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated July 7, 2023 and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved.
2. **THIS COURT ORDERS AND DECLARES** that the execution of the Purchase Agreement by the Receiver is 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 152Co.'s right, title and interest in and to the Purchased Assets described in the Purchase Agreement including those 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 Kimmel dated December 1, 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" 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 applicable Land Registry Office 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 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 the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of 152Co.;

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 152Co., 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.

Schedule A – Form of Receiver’s Certificate

Court File No.: CV-22-00690513-00CL

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

**2046245 ONTARIO INC., 2222228 ONTARIO INC., 2473560 ONTARIO INC. and
2473441 ONTARIO INC.**

Applicants

- and -

2244039 ONTARIO INC. and 1526400 ONTARIO INC.

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985 c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (the "**Court**") dated December 1, 2022, Albert Gelman Inc. was appointed as the receiver (the "**Receiver**") without security, of all of the assets, undertakings and properties of 2244039 Ontario Inc. ("**224Co.**") and 1526400 Ontario Inc. ("**152Co.**").

B. Pursuant to an Order of the Court dated July 19, 2023 (the "**Vesting Order**"), the Court approved the agreement of purchase and sale between the Receiver and 2484460 Ontario Inc. (the "**Purchaser**") dated June 14, 2023 (the "**Purchase Agreement**") and vesting in the Purchaser all of 152Co.’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 in accordance with the Purchase Agreement; (ii) that the conditions of Closing as set out in the Purchase 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 Purchase 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 Closing Date pursuant to the Purchase Agreement;
2. The conditions to Closing as set out in the Purchase 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]**.

Albert Gelman Inc., solely in its capacity as receiver and manager of 152Co. and not in its personal or corporate capacity

Per:

Name
Title

Schedule B – Purchased Assets

All of the 152Co.'s right, title and interest in and to the Property (as defined in the Purchase Agreement) including, without limitation, the following real property:

Municipal Address:

12016 Airport Road, Caledon, Ontario

Legal Description:

PART LOT 18 CON 6 EHS CHING DES PTS 1, 6 PL 43R-31661; CALEDON; S/T EASEMNT OVER PT LT 18 CON 6 EHS DES PT 6 PL 43R-31661, AS IN PR 1409645; T/W EASEMENT OVER PT LT 18 CON 6 EHS DES PT 7 PL 43R-31661, AS IN PR 1409649; S/T EASEMENT

PIN 14347-0314 (LT)

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

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

Instrument No.	Registration Date	Instrument Type	Party To
PR4009538	2022/03/09	Charge	2046245 Ontario Inc. 2222228 Ontario Inc. 2473441 Ontario Inc.
PR4009539	2022/03/09	No Assgn Rent Gen	2046245 Ontario Inc. 2222228 Ontario Inc. 2473441 Ontario Inc.
PR4035001	2022/04/20	Charge	2046245 Ontario Inc. 2473560 Ontario Inc. 2222228 Ontario Inc.
PR4035005	2022/04/20	No Assgn Rent Gen	1526400 Ontario Inc.
PR4035006	2022/04/20	Postponement	2473560 Ontario Inc. 2046245 Ontario Inc. 2222228 Ontario Inc.
PR4171356	2023/02/15	APL Court Order	Albert Gelman Inc.

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

(unaffected by the Vesting Order)

Registration No.	Registration Date (Y/M./D)	Document Type	Party To
LT2057426	2000/03/27	Notice of Airport Zoning Regulations	Her Majesty The Queen in Right of The Department of Transport Canada
PR265430	2002/06/24	Transfer	1526400 Ontario Inc.
PR895287	2005/07/28	Notice of Lease	The TDL Group Corp.
PR1180882	2006/12/06	Notice of Lease	Shell Canada Products Limited
43R31661	2007/08/03	Reference Plan	
PR1370295	2007/11/13	Notice of Site Plan Control Agreement	The Regional Municipality of Peel
PR1370295	2017/11/13	Postponement	The Regional Municipality of Peel
PR1370298	2017/11/13	Postponement	The Regional Municipality of Peel
PR1393666	2007/12/21	Notice of Site Plan Control Amending Agreement	The Regional Municipality of Peel
PR1401718	2008/01/15	Notice of Agreement	The Corporation of the Town of Caledon
PR1409645	2008/01/31	Transfer Easement	Orchard Garden Markets Ltd.
PR1409646	2008/01/31	Postponement	Orchard Garden Markets Ltd.

PR1409648	2008/01/31	Postponement	Orchard Garden Markets Ltd.
PR1413426	2008/02/08	Application to Instrument	Shell Canada Limited
PR1531547	2008/09/12	Transfer Easement	The Corporation of the Town of Caledon

2046245 ONTARIO INC., et al.
Applicants

-and-

2244039 ONTARIO INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 Wellington Street West

35th Floor

Toronto, ON M5V 3H1

Tel: 416.646.4300

Fax: 416.646.4301

Jeffrey Larry (LSO# 44608D)

Tel: 416.646.4330

jeff.larry@paliareroland.com

Lawyers for the Receiver