

**APPROVAL AND VESTING ORDER**

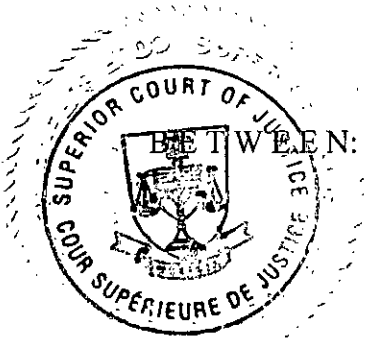
Court File No: CV-18-602596-00CL

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE HAINEY

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TUESDAY, THE 15<sup>TH</sup> DAY OF  
JANUARY, 2019



**FISGARD CAPITAL CORPORATION**

Applicant

- and -

**ISLAM JASSEM (aka ISLAM HAMMADI JASSEM) and ASIA KAZEM**

Respondents

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by **Albert Gelman Inc.** in its capacity as the Court-appointed receiver (the “**Receiver**”) of the lands and premises municipally known as 218 Jerseyville Road, Brantford, Ontario (the “**Real Property**”) and for all of the assets acquired for, or used in relation to, the Real Property, including all proceeds therefrom, for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and the Purchaser (as identified and defined in the Receiver’s First Confidential Report dated December 20, 2018 (the “**First Confidential Report**”) made as of November 21, 2018 and appended to the First Confidential Report, and vesting in the Purchaser the Respondent, Islam Jassem (the “**Debtor**”)’s right, title and interest

in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at Toronto, Ontario.

**ON READING** the First Report of the Receiver dated December 20, 2018 (the "**First Report**") and the First Confidential Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served:

1. **THIS COURT ORDERS AND DECLARES** that the First Confidential Report and the activities of the Receiver set out therein are hereby approved.
2. **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.
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 Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement 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 Penny dated October 10, 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 B 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 C) 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 Titles Division for the Land Registry Office of Brant (No.2) 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 D 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 B 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:

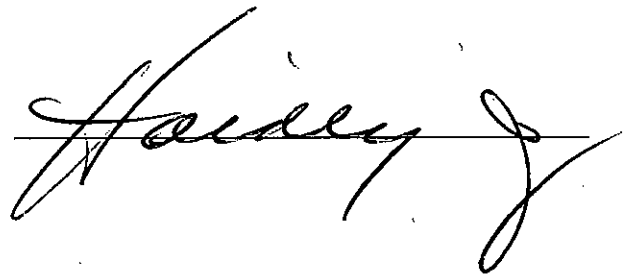
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of 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 ORDERS** that the First Confidential Report be sealed as confidential until the filing of the Receiver's Certificate.

9. **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:

JAN 15 2019

PER / PAR: 

**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-18-602596-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**FISGARD CAPITAL CORPORATION**

Applicant

- and -

**ISLAM JASSEM (aka ISLAM HAMMADI JASSEM) and ASIA KAZEM**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Penny dated October 10, 2018, Albert Gelman Inc. was appointed as the receiver (the “**Receiver**”) of the lands and premises municipally known as 218 Jerseyville Road, Brantford, Ontario (the “**Real Property**”) owned by Islam Jassem (the “**Debtor**”) including any assets acquired for, or used in relation to, the Real Property (collectively, the “**Property**”), including all proceeds therefrom.

B. Pursuant to an Order of the Court dated January 15, 2019, the Court approved the agreement of purchase and sale made as of November 21, 2018 (the “**Sale Agreement**”) between the Receiver and the Purchaser (as identified and defined in the Receiver’s First Confidential Report dated December 20, 2018) 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;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver on \_\_\_\_\_, 2019.

**Albert Gelman Inc., solely in its capacity as Court-appointed Receiver of the Property, and not in its personal or corporate capacity and without personal or corporate liability**

Per: \_\_\_\_\_

Name: **Bryan Gelman**

Title:

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

1. Charge registered as Instrument No. BC320787 on July 20, 2017 in favour of Fisgard Capital Corporation.
2. Notice of Assignment of Rents registered as Instrument No. BC321008 on July 24, 2017 in favour of Fisgard Capital Corporation.
3. Order of Justice Penny dated October 10, 2018 registered as Instrument No. BC347023

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

**(unaffected by the Vesting Order)**

None



**Schedule D – Legal Description**

**Property Identifier Number (PIN) 32226-D152 (LT)**

PT LT 53, CON 3 TWP BRANTFORD, PT 2, 2R6680; COUNTY OF BRANT

Municipally known as 218 Jerseyville Road, Brantford, Ontario

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**Figard Capital Corporation**

**Applicant**

**ISLAM JASSEM (AKA ISLAM HAMMADI  
JASSEM) et al.**  
**Respondent**

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**PROCEEDING COMMENCED AT  
TORONTO**

**APPROVAL AND VESTING 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 (LSUC# 44608D)**

Tel: 416.646.4330

jeff.larry@paliaroland.com

Lawyers for the Receiver