

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

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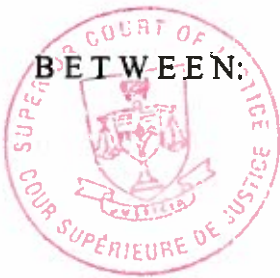
MONDAY, THE 15TH DAY

JUSTICE HAINEY

)

OF MAY, 2017

)



BETWEEN:

THE BANK OF NOVA SCOTIA

Applicant

and

BUTCHER INDUSTRIAL FINISHINGS INC., BUTCHER SPECIALITY COATINGS INC., BUTCHER SOLUTIONS GROUP INC., BUTCH INDUSTRIES INC. and SB ASSETCO INC.

Respondents

APPLICATION UNDER 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

THIS MOTION, made by Zeifman Partners Inc. in its capacity as the Court-appointed receiver of the undertaking, property and assets of the Respondents (the “Receiver”) for an order approving the sale transaction (the “Transaction”) contemplated by an agreement of purchase and sale between the Receiver and A.G. Simpson Automotive Inc. (“AGS”) dated April 20, 2017 (the “Sale Agreement”), a copy of which is attached as a Confidential Appendix to the First

Report of the Receiver dated May 4, 2017 (the “**First Report**”), and vesting in AGS or its assignee (the “**Purchaser**”) the Respondents’ right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, the Purchaser, and such other counsel listed on the Counsel Slip, no one else from the service list appearing although duly served as appears from the affidavit of service of Lynn Lee sworn May 5, 2017, 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 Respondents’ right, title and interest in and to the Purchased Assets as defined 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, including, without limitation, any claims under the *Bulk Sales Act* (Ontario), 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 this Court made March 13, 2017; and (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, including the registrations listed in **Schedule “B”** hereto (all of which are collectively referred to as the “**Encumbrances**”) 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 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.

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

5. **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 Respondents’ records pertaining to the Respondents’ 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 Respondents.

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

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 Respondents and shall not be void or voidable by creditors of the Respondents, 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.

7. **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.

A handwritten signature in blue ink, appearing to read "Hawley J", written over a horizontal line.

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

MAY 15 2017

PER / PAR: 

Schedule A

Court File No. CV-17-11722-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE BANK OF NOVA SCOTIA

Applicant

and

**BUTCHER INDUSTRIAL FINISHINGS INC., BUTCHER SPECIALITY COATINGS
INC., BUTCHER SOLUTIONS GROUP INC., BUTCH INDUSTRIES INC. and SB
ASSETCO INC.**

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**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
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RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of The Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the "Court") dated March 13, 2017, Zeifman Partners Inc. was appointed as the receiver of the undertaking, property and assets of the Respondents (the "Receiver").

B. Pursuant to an Order of the Court dated May 15, 2017, the Court approved the agreement of purchase and sale made as of April 20, 2017 between the Receiver and A.G. Simpson Automotive Inc. ("AGS") (the "Sale Agreement") and provided for the vesting in AGS or its nominee (the "Purchaser") of the Respondents' 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.

This Certificate was delivered by the Receiver at _____ [TIME] on May __, 2017 [DATE].

**ZEIFMAN PARTNERS INC., in its capacity as
Receiver of the undertaking, property and
assets of the Respondents, and not in its
personal capacity**

Per: _____

Name: Allan Rutman

Title: President

SCHEDULE "B"

<i>Secured Party</i>	<i>PPSA File Number(s) (Ontario)</i>
ADCO LOGISTICS	726417711 726417729
GEMA USA INC.	723566448
RPG RECEIVABLES PURCHASE GROUP INC.	723324537 723324942
MARK CAMICK	714851892
NATIONAL LEASING GROUP INC.	713681325 691915365
THE BANK OF NOVA SCOTIA	711257616 705386034 705386016 705385998 706152078 706151412
LIFTCAPITAL CORPORATION	703964889 681845022
ROYNAT CAPITAL INC.	702384165 702384201 702384183 706264965 706265019
FORD CREDIT CANADA LIMITED	687667518
DUPONT PERFORMANCE COATINGS CANADA COMPANY	683274456
792794 ONTARIO LIMITED	677672631
MARILYN JUNE SWARTZ	677672649
POWDER TECH LIMITED	684436257

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Applicant

-and-

BUTCHER INDUSTRIAL FINISHINGS INC. *et al.*
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Court File No. CV-17-11722-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

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Lawyers for Zeifman Partners Inc.,
Court-appointed Receiver