



Court File No. 07-CL-7109

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)

JUSTICE CUMMING)

FRIDAY, THE 14TH DAY

OF DECEMBER, 2007

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SAPPHIRE TOWER DEVELOPMENT CORP.**

**APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C 1985, c. C-36, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Dunwoody Limited in its capacity as the Court Appointed Interim Receiver (the "Interim Receiver") appointed under the Order of Justice Cumming dated August 16th, 2007 (the "Appointment Order") of the undertaking, property and assets of Sapphire Tower Development Corp. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an Agreement of Purchase and Sale (the "Sale Agreement") between the Interim Receiver and Skyline International Development Inc. in trust for an entity to be established (the "Purchaser") made as of December 6th, 2007 and appended to the Fourth Report of the Interim Receiver dated December 12, 2007 (the "Fourth Report"), and vesting in the Purchaser, the Interim Receiver's, as well as the Debtor's, right, title and interest in and to the assets described in the Sale Agreement and set out in Schedule "B" annexed hereto (the "Purchase Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fourth Report and on hearing the submissions of counsel for the Interim Receiver, the Applicant, Stinson Financial Corporation, Graphic Arts Building Inc., the Substituted Trustee of the Stinson Financial Corporation Mortgage, Turner Fleischer Architects Inc., participants in the Stinson Financial Corporation Mortgage, the unsecured creditors and The Acquisitions Group appearing in person, for the Purchaser and for the Debtor, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Laura Bowles-Dove sworn December 13, 2007 filed:

1. **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 the Debtor and its stakeholders. The execution of the Sale Agreement by the Interim Receiver is hereby authorized and approved, and the Interim 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 Purchase Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of an Interim Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Interim Receiver's Certificate"), all of the Interim Receiver's and the Debtor's right, title and interest in and to the Purchase Assets described in the Sale Agreement, and listed on Schedule B hereto, shall vest absolutely in Skyline - 66 Temperance Inc., being the entity established by 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 Appointment Order or the Order of Justice Cumming dated July 20th, 2007 (the "Initial Order");
 - (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA") or any other

personal property registry system, including File No. 614841903 bearing registration No. 20050505 1435 1200 0924 and the Court authorizes the Interim Receiver to register a financing change statement under the PPSA discharging this registration; 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 Purchase Assets are hereby expunged and discharged as against the Purchase Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order in a form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter Skyline - 66 Temperance Inc. as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, as is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances 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 Purchase Assets shall stand in the place and stead of the Purchase Assets, and that from and after the delivery of the Interim Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchase Assets with the same priority as they had with respect to the Purchase Assets immediately prior to the sale as if the Purchase 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 Interim Receiver to file with the Court a copy of the Interim Receiver's Certificate, forthwith after delivery thereof.
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 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 Purchase Assets in Skyline - 66 Temperance Inc. pursuant to this Order shall not be void or voidable by creditors of the Debtor, 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.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).
8. **THIS COURT ORDERS AND DECLARES** that the Interim Receiver and the Debtor are not "non-residents" for the purposes of s.116 of the *Income Tax Act*.
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 Interim 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 Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

Dec. 14, 2007

Peter A. Cumming J.

Schedule A – Form of Receiver’s Certificate

Court File No. 07-CL-7109

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES’ CREDITORS ARRANGEMENT ACT,
R.S.C 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SAPPHIRE TOWER DEVELOPMENT CORP.**

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INTERIM RECEIVER’S CERTIFICATE

RECITALS

A. On August 16th, 2007 BDO Dunwoody Limited was appointed as the Interim Receiver (the “Interim Receiver”) of the undertaking, property and assets of Sapphire Tower Development Corp. (the “Debtor”).

B. Pursuant to an Order of the Court dated December 14th, 2007, the Court approved the agreement of purchase and sale made as of December 6th, 2007 (the "Sale Agreement") between the Interim Receiver, and Skyline International Development Inc. in trust for an entity to be established (the "Purchaser") and provided for the vesting in Skyline - 66 Temperance Inc, of the Interim Receiver’s, and the Debtor’s, right, title and interest in and to the Purchase Assets, including the Real Property (legally described as PIN 21403-0099 (LT), Part of Town Lots 5 & 6, South Side of Richmond Street West, Town of York Plan, designated as Part 2, Plan 66R-

19771, City of Toronto; subject to an easement in favour of Rogers Cable Inc. as set out in CA749455; together with a right-of-way over the common elements of Toronto Standard Condominium Plan No.1509 as described in Instrument AT138798; the easterly limit of Sheppard Street has been confirmed by BA-1786 as Instrument CT431216), which vesting is to be effective with respect to the Purchase Assets upon the delivery by the Interim Receiver to the Purchaser of a certificate confirming:

- (i) the payment by the Purchaser of the Purchase Price for the Purchase Assets;
- (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Interim Receiver and the Purchaser; and
- (iii) the Transaction has been completed to the satisfaction of the Interim Receiver.

Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE INTERIM RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Interim Receiver has received the Purchase Price for the Purchase 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 Interim Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Interim Receiver.
4. This Certificate was delivered by the Interim Receiver at Toronto on January \diamond , 2008

BDO Dunwoody Limited, in its capacity as
Interim Receiver of the undertaking, property
and assets of Sapphire Tower Development
Corp. and not in its personal capacity

Per: _____

Name:

SCHEDULE B

Purchase Assets

1. Real Property

- a. Municipal address: 66 Temperance Street, Toronto, Ontario
- b. Legal description

PIN 21403-0099 (LT)

Part of Town Lots 5 & 6, South Side of Richmond Street West, Town of York Plan, designated as Part 2, Plan 66R-19771, City of Toronto; subject to an easement in favour of Rogers Cable Inc. as set out in CA749455; together with a right-of-way over the common elements of Toronto Standard Condominium Plan No.1509 as described in Instrument AT138798; the easterly limit of Sheppard Street has been confirmed by BA-1786 as Instrument CT431216.

2. The documents made available in the website of the Interim Receiver in respect of the sale hereof, including all environmental, traffic and other professional reports.
3. Parking lot lease to Canada Auto Parks..

SCHEDULE C

Encumbrances Discharged

- (a) Instrument AT795778 (Charge);
- (b) Instrument AT795779 (Charge);
- (c) Instrument AT795890 (General Assignment of Rents);
- (d) Instrument AT1015597 (Notice related to AT795778);
- (e) Instrument AT1355163 (Construction Lien);
- (f) Instrument AT1370658 (Certificate of Lien Action);
- (g) Instrument AT1422649 (Charge);
- (h) Instrument AT1444704 (Certificate of pending litigation);
- (i) Instrument AT1452500 (Charge);
- (j) Instrument AT1478783 (Charge);
- (k) Instrument AT1478784 (Charge); and
- (l) All other mortgages, charges, security interests and financial encumbrances affecting PIN 21403-0099 (LT).

SCHEDULE D

Permitted Encumbrances

1. Parking Lot Tenancy in favour of Canada Auto Parks;
2. Instrument CT425748 (bylaw);
3. Instrument CA749455 (Transfer of Easement);
4. Instrument CA761255 (certificate);
5. Instrument 66R19555 (Reference Plan);
6. Instrument 66R19641 (Reference Plan);
7. Instrument E538105 (Notice of Lease);
8. Instrument E538822 (Notice);
9. Instrument 66R19771 (Reference Plan); and
10. Instrument AT795777 (Transfer with Planning Act Statements).

IN THE MATTER OF the Companies' Creditors Arrangement Act, R.S.C. 1985, c.C-36, as amended
AND IN THE MATTER OF the Plan of Compromise and Arrangement of SAPPHIRE TOWER DEVELOPMENT CORP.
Interim Receiver
Court File No. 07-CL-7109

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced at Toronto

APPROVAL AND VESTING ORDER

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