



Court File No. CV-23-0070033-00CL

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

THE HONOURABLE MR.) THURSDAY, THE 21ST DAY
JUSTICE CAVANAGH) OF SEPTEMBER, 2023

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

7132221 CANADA INC.

Respondent

APPLICATION UNDER SECTION 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 BDO Canada Limited in its capacity as the Court-appointed receiver (the "Receiver") of the assets, undertakings, and properties of 7132221 Canada Inc. (the "Debtor"), for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Acme United Limited (the "Purchaser") dated August 29, 2023 and appended as Confidential Appendix "C" to the First Report of the Receiver dated September 7, 2023 (the "Report"), and vesting in the Purchaser the Debtor's right, title

and interest, if any, in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day by zoom videoconference.

ON READING the Report and the appendices attached to the Report, including the Confidential Appendices, and on hearing the submissions of counsel for the Receiver and such other counsel that were present as listed on the participant information sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, 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 Debtor's right, title and interest, if any, in and to the Purchased Assets described in the Sale Agreement and 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 Mr. Justice Cavanagh dated June 11, 2023 and signed July 11, 2023; 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 (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, 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.

6. 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.

7. THIS COURT ORDERS that, notwithstanding Rule 59.05, this order is effective from the date that it is issued, and is enforceable without any need for entry and filing.



Digitally signed by
Peter Cavanagh

Justice, Ontario Superior Court of Justice

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00700033-00CL

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RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated June 11, 2023 and signed July 11, 2023, BDO Canada Limited was appointed as the receiver (the "Receiver") of the assets, undertakings and properties of 7132221 Canada Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated September 21, 2023, the Court approved the agreement of purchase and sale made as of August 29, 2023 (the "Sale Agreement") between the Receiver and Acme United Limited (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest, if any, 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 Article 4 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.

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 Article 4 of 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.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**BDO CANADA LIMITED, in its capacity as
Receiver of the assets, undertakings and
properties of 7132221 CANADA INC. and
not in its personal capacity**

Per: _____
Name:

Schedule B – Purchased Assets

1. Inventory - All new, merchantable inventories of every kind and nature pertaining to the Business (as defined in the Sale Agreement) and described on the attached listing, but not including PPE Inventory and inventory that is within 12 months of its expiration date unless otherwise indicated on the attached listing
2. Assumed Contracts – the following contracts to be assumed by the Purchaser:
 - (a) Canadian Red Cross Society Contract – Supply Management, Distribution and License Agreement dated February 1, 2021
 - (b) Shopify Inc. Agreement – Shopify Plus Agreement dated June 9, 2021
 - (c) Oracle Netsuite Agreement – Payment Plan Agreement date April 26, 2023
3. Intellectual Property and Goodwill - all intellectual property and goodwill of the Business and all information and documents relating thereto, including customer lists, supplier relationships, and transferable rights relating to telephone numbers, eShop, enterprise resource planning, website, links, internet addresses, and any other means of communicating with the Business, together with the right of the Purchaser to represent itself as carrying on the Business in succession to the Debtor

BANK OF MONTREAL 7132221 CANADA INC.

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Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

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undertakings and properties of 7132221
Canada Inc.**