



District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Bankruptcy Estate File No. 33-3025642

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

THE HONOURABLE)	WEDNESDAY, THE 3 rd
)	
JUSTICE KERSHMAN)	DAY OF APRIL, 2024

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM
AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.**

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of OEM Automotive Solutions Inc., OEM Automotive Cornwall Inc. and OEM Automotive Holdings Inc. (collectively, the “**Debtors**”), for an Order, *inter alia*, approving the sale transaction (the “**Transaction**”) that was selected by the Proposal Trustee under the sale and solicitation process (the “**SISP**”) granted by the Ontario Superior Court of Justice (In Bankruptcy and Insolvency) (the “**Court**”) on January 17, 2024 (the “**Sale Process Order**”), and as contemplated by an agreement of purchase and sale between the Proposal Trustee, as vendor, and Mark Motors of Ottawa (1987) Limited (“**Mark Motors**”) and Mrak Holdings Inc.

(“**Mrak Holdings**”), as purchasers, dated March 27, 2024 (the “**Sale Agreement**”), a final unredacted copy of which is attached to the Confidential Supplementary Report dated March 27, 2024 (the “**Confidential Supplementary Report**”) and a final redacted copy of which is attached to the third report of the Proposal Trustee dated March 27, 2024 (the “**Third Report**”), and vesting in Mark Motors the Debtors’ right, title and interest in and to the property described as the “Purchased Assets” (excluding the Real Property) in the Sale Agreement (the “**Business Assets**”), and vesting in Mrak Holdings the Debtors’ right, title and interest in and to the real property described as the “Real Property” in the Sale Agreement (the “**Real Property**”) (hereinafter, Mark Motors and Mrak Holdings are collectively referred to as the “**Purchaser**”, and the Business Assets and the Real Property are collectively referred to as the “**Purchased Assets**”), was heard this day by judicial videoconference.

ON READING the Third Report, the Confidential Supplementary Report and the appendices thereto, and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Companies, counsel for the Bank of Montreal and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Michelle Pham sworn March 28, 2024, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of this motion and the motion record of the Proposal Trustee is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved, and the execution of the Sale Agreement by the Proposal Trustee is hereby authorized and approved, with such minor amendments as the Proposal Trustee may deem necessary. The Debtors and the Proposal Trustee are 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 Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Proposal Trustee's Certificate**"), all of the Debtors' right, title and interest in and to the Business Assets shall vest absolutely in Mark Motors and all of the Debtors' right, title and interest in and to the Real Property shall vest absolutely in Mrak Holdings, or such other Person(s) (as defined in the Sale Agreement) that the Purchaser may direct or designate, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, 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 Sale Process Order; (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”**) 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 Registry Office for the Land Titles Division of Stormont (No. 52) 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 Mrak Holdings as the owner of the subject Real Property identified in **Schedule “B”** hereto 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 Proposal Trustee’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** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Proposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in

the Debtors' records pertaining to the Debtors' past and current employees, including personal information of those employees that will be employed by the Purchaser pursuant to the Sale Agreement. 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 Debtors.

7. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that, notwithstanding:

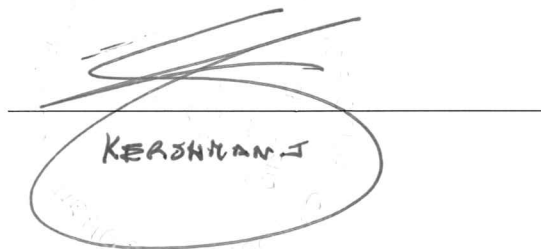
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors,

the vesting of the Business Assets in Mark Motors and the vesting of the Real Property in Mrak Holdings, or as it may direct, pursuant to this Order shall be binding on the Proposal Trustee and any other licensed insolvency trustee that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, 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.

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 Proposal Trustee 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 Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



KERSHMAN J.

III. Pursuant to an Order of the Court dated April 3, 2024, the Court approved the agreement of purchase and sale between the Proposal Trustee, as vendor, pursuant to the Sale Process Order, and Mark Motors of Ottawa (1987) Limited (**“Mark Motors”**) and Mrak Holdings Inc. (**“Mrak Holdings”**), as purchasers, dated March 27, 2024 (the **“Sale Agreement”**), and provided for the vesting in Mark Motors the Debtors’ right, title and interest in and to the property described as the **“Purchased Assets”** (excluding the Real Property) in the Sale Agreement (the **“Business Assets”**), and vesting in Mrak Holdings the Debtors’ right, title and interest in and to the real property described as the **“Real Property”** in the Sale Agreement (the **“Real Property”**) (hereinafter, Mark Motors and Mrak Holdings are collectively referred to as the **“Purchaser”**, and the Business Assets and the Real Property are collectively referred to as the **“Purchased Assets”**), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee 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 Proposal Trustee and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the Proposal Trustee.

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

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Proposal Trustee 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 Proposal Trustee and the Purchaser;

3. The Transaction has been completed to the satisfaction of the Proposal Trustee; and
4. This Proposal Trustee's Certificate was delivered by the Proposal Trustee at _____ [TIME] on _____ [DATE].

BDO CANADA LIMITED, solely in its capacity
as the proposal trustee of the Debtors, and not in its
personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"

LEGAL DESCRIPTION

Owned by OEM Automotive Cornwall Inc.

PIN 60180 - 0067 (LT)

PT LT 16 S/S SEVENTH ST PL CORNWALL PT 2 52R2252; CORNWALL

(municipally known as 628 Pitt Street, Cornwall, Ontario)

Owned by OEM Automotive Holdings Inc.

PIN 60180 - 0282 (LT)

PART LOT 16 SOUTH SIDE SEVENTH STREET PLAN CORNWALL, PARTS 1 AND 2,
52R4375; CITY OF CORNWALL

(municipally known as 632 Pitt Street, Cornwall, Ontario)

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM TITLE

(1) PIN 60180 - 0067 (LT) (municipally known as 628 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
ST109060	2019/11/12	Transfer	\$742,145	Macdonell Family Holdings Inc.	OEM Automotive Cornwall Inc.
ST109061	2019/11/12	Charge	\$560,000	OEM Automotive Cornwall Inc.	Bank of Montreal
ST109062	2019/11/12	Notice of Assignment of Rents General		OEM Automotive Cornwall Inc.	Bank of Montreal
ST109067	2019/11/12	Charge	\$1,000,000	OEM Automotive Cornwall Inc.	Macdonell, Glenn Joseph
ST149429	2024/01/19	Application to Register Court Order		Ontario Superior Court of Justice	BDO Canada Limited

(2) PIN 60180 - 0282 (LT) (municipally known as 632 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
ST109063	2019/11/12	Transfer	\$1,378,270	Macdonell, Michael Allan / Macdonell, Glenn Joseph	OEM Automotive Holdings Inc.
ST109064	2019/11/12	Charge	\$1,040,000	OEM Automotive Holdings Inc.	Bank of Montreal
ST109065	2019/11/12	Notice of Assignment of Rents General		OEM Automotive Holdings Inc.	Bank of Montreal
ST109066	2019/11/12	Charge	\$1,000,000	OEM Automotive Holdings Inc.	Macdonell, Glenn Joseph
ST149429	2024/01/19	Application to Register Court Order		Ontario Superior Court of Justice	BDO Canada Limited

SCHEDULE "D"
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS

(1) PIN 60180 - 0067 (LT) (municipally known as 628 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
PLCornwall1	1847/10/01	Plan Subdivision			
52R2252	1984/08/22	Plan Reference			

(2) PIN 60180 - 0282 (LT) (municipally known as 632 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
52R4375	1991/09/10	Plan Reference			

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF OEM AUTOMOTIVE SOLUTIONS
INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM AUTOMOTIVE HOLDINGS INC.

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ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

Proceedings commenced at Ottawa

APPROVAL AND VESTING ORDER

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