

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

THE HONOURABLE)
JUSTICE CONWAY) TUESDAY THE 22nd DAY
OF OCTOBER, 2024

BETWEEN:

FIRST SOURCE FINANCIAL MANAGEMENT INC.

Applicant

- and -

2807823 ONTARIO INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by TDB Restructuring Limited (“**TDB**”) in its capacity as the receiver (the “**Receiver**”), without security, of the property municipally known as 142 Queenston Street, St. Catharines, Ontario and legally described in **Schedule B** (the “**Real Property**”) owned by the Respondent (the “**Debtor**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Vive Development Corporation (“**Vive**”) dated as of April 29, 2024, and accepted on June 3, 2024, as amended by a Revival Waiver and Amending Agreement dated as of September 11, 2024 (collectively, the “**Sale Agreement**”) as appended to the First Report of the Receiver dated October 11, 2024 (the “**First Report**”), and vesting in 1001038236 Ontario Inc. (the “**Purchaser**”) in its capacity as the assignee of Vive, the Debtor’s right, title and interest in and to the Real Property, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and the Supplement to the First Report dated October 18, 2024 and on hearing the submissions of counsel for the Receiver, and those other parties

appearing on the counsel slip, no one else appearing for any other party although duly served as appears from the affidavit of service of Alma Cano sworn October 16, 2024:

1. **THIS COURT ORDERS** 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 Real Property to the Purchaser.

2. **THIS COURT ORDERS** 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 Real Property 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 this Court made on November 1, 2023 in these proceedings; (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 Real Property are hereby expunged and discharged as against the Real Property.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for appropriate Land Titles Division 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 "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.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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 Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

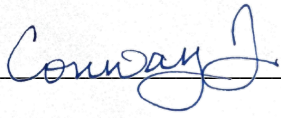
6. **THIS COURT ORDERS** that, notwithstanding:

- (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 Real Property 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.

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.



Schedule A – Form of Receiver’s Certificate

Court File No.: CV-23-00705617-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

FIRST SOURCE FINANCIAL MANAGEMENT INC.

Plaintiff

- and –

2807823 ONTARIO INC.

Defendant

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 1, 2023 (and effective November 27, 2023) (the “**Receivership Order**”), RSM Canada Limited was appointed receiver of the property municipally known as 142 Queenston Street, St. Catharines, Ontario (the “**Real Property**”). On March 1, 2024, the Court granted an order substituting TDB Restructuring Limited in place of RSM Canada Limited as receiver (in such capacity, the “**Receiver**”).

B. Pursuant to an Order of the Court dated October 22, 2024 the Court approved the agreement of purchase and sale dated as of April 29, 2024, and accepted on June 3, 2024, as amended by a Revival Waiver and Amending Agreement dated as of September 11, 2024 (the “**Sale Agreement**”) between the Receiver and Vive Development Corporation (“**Vive**”) and provided for the vesting in 1001038236 Ontario Inc. (the “**Purchaser**”) in its capacity as the assignee of Vive of the Debtor’s right, title and interest in and to the Real Property, which

vesting is to be effective with respect to the Real Property 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 Real Property; (ii) that the conditions to closing as set out in sections 20 and 21 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 Real Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to closing as set out in sections 20 and 21 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].

**TDB RESTRUCTURING LIMITED,
SOLELY IN ITS CAPACITY AS
RECEIVER OF THE PROPERTY, AND
NOT IN ITS PERSONAL CAPACITY**

Per: _____
Name:
Title:

Schedule B – Real Property Legal Description

46267-0101 (LT) LT 3500 CP PL 2 GRANTHAM; LT 3473-3487, 3494-3499, 3501-3504 CP PL 2 GRANTHAM EXCEPT VALLEYVIEW RD; PT LT 3488, 3506-3510 CP PL 2 GRANTHAM; PT VINE ST CP PL 2 GRANTHAM CLOSED BY NC4350 AS IN RO12400, RO16696, RO30189, RO10700, RO11444, RO321759, SCE18090; PT 1 30R1484; LTS 3490-3493 CP2 EXCEPT PTS 1 & 2 30R12073; S/T RO535289, RO713328;; CITY OF ST. CATHARINES

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

1. Instrument No. NR603718 – Charge in the principal amount of \$10,500,000 in favour of First Source Financial Management Inc.
2. Instrument No. NR603719 – Notice Assignment of Rents General in favour of First Source Financial Management Inc.
3. Instrument No. – NR664632 – APL Court Order

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

(unaffected by the Vesting Order)

1. any registered reservations, restrictions, rights of way, easements or covenants that run with the Lands;
2. any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service;
3. all Applicable Laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Lands;
4. any minor easements for the supply of utility service to the Lands or adjacent properties;
5. encroachments disclosed by any errors or omissions in existing surveys of the Lands or neighbouring properties and any title defect, encroachment or breach of a zoning or building bylaws or any other Applicable Law, by-laws or regulations which might be disclosed by a more up to date survey of the land and survey matters generally;
6. the exceptions and qualifications set forth in the Land Titles Act (Ontario);
7. the reservations contained in the original grant from the Crown;
8. the reservations contained in the original grant from the Crown;
9. Instrument No. RO256100 being an agreement registered on November 8, 1972;
10. Instrument No. 30R1327 being a reference plan registered on September 12, 1975
11. Instrument No. 30R1484 being a reference plan registered on January 12, 1976;
12. Instrument No. RO493091 being a notice (zoning regulations) registered on March 4, 1985;
13. Instrument No. 30R4455 being a reference plan registered on May 12, 1986;
14. Instrument No. RO535289 being an easement registered on February 25, 1987;
15. Instrument No. 30R8539 being a reference plan registered on May 22, 1996;
16. Instrument No. RO713328 being an easement registered on July 29, 1996l;
17. Instrument No. NR284845 being an application to consolidate registered on November 23, 2011;
18. Instrument No. 30R15952 being a reference plan registered on June 6, 2022; and
19. Instrument No. 30R11563 being a reference plan registered on August 23, 2025.

FIRST SOURCE FINANCIAL MANAGEMENT INC.

Applicant

- and -

2807823 ONTARIO INC.

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT TORONTO**

APPROVAL AND VESTING ORDER

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*Lawyers for TDB Restructuring Limited, in its
capacity as court-appointed receiver of the property
municipally known as 142 Queenston Street,
St. Catharines, Ontario*