

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 21ST
JUSTICE *CONWAY*) DAY OF JULY, 2017

BETWEEN:



2292912 ONTARIO INC. Applicant

-and-

2380009 ONTARIO LIMITED Respondent

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

ORDER

THIS MOTION, brought by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**"), without security of all of the assets, undertakings and properties of 2380009 Ontario Limited ("**238**") for an Order, *inter alia*, confirming termination of a lease agreement (the "**Lease**") dated January 15, 2014 between 238 and BuiltRite Technologies Inc. ("**BuiltRite**") respecting the property located at 2370 South Sheridan Way, Mississauga, Ontario (the "**Premises**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Receiver, the Third Report of the Receiver, the Supplemental Report to the Third Report of the Receiver and on hearing the submissions of

counsel for the Receiver and counsel for 238 and BuiltRite, and on being advised of the consent of BuiltRite and 238,

1. **THIS COURT ORDERS** that the time for service of this Motion is hereby abridged and validated so that this Motion is properly returnable in Toronto today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Notice of Termination of Lease issued by the Receiver on June 22, 2017 respecting the Lease has been properly issued upon BuiltRite and 238 and that the Lease is terminated effective as of August 8, 2017 (the "**Termination Date**").

3. **THIS COURT ORDERS** that BuiltRite and 238 are required to deliver vacant possession of the Premises to the Receiver in a proper state of cleanliness and repair on the Termination Date.

4. **THIS COURT ORDERS** that upon the Termination Date:

(a) BuiltRite and 238 shall provide the Receiver with all necessary keys to the Premises and, upon the Receiver's request, such other information as may be required by the Receiver for the purposes of ingress and egress to and from the Premises;

(b) BuiltRite, 238, ~~Elias Mancebo and Marcelo Hernandez~~ shall provide the Receiver with the names and contact information of any parties who have, claim or are likely to claim an interest in any property located at the Premises;

(c) the Receiver is authorized to:

- (i) enter and take possession of the Premises;
- (ii) change any locks at the Premises;
- (iii) ~~take possession and control of all property located within the Premises and~~
Be ✓ ~~remove or dispose of any property located on the Premises, subject to the~~
rights of any secured parties or other third parties; ✓
- (iv) enlist the assistance of any local authorities or the Peel Regional police in carrying out the terms of the Order and that such persons are hereby directed to assist the Receiver in facilitating the peaceful removal of the tenant, BuiltRite, from the Premises, as necessary; and
- (v) exclude BuiltRite from the Premises.

5. **THIS COURT ORDERS AND CONFIRMS** that the rights of the Receiver to undertake those steps set out as paragraph 4 herein are, upon the Termination Date, unconditional and may be exercised at the sole and absolute discretion of the Receiver unless otherwise ordered by the Court prior to the Termination Date.

6. **THIS COURT ORDERS** that the Receiver and its agents are authorized to place signage on the Premises advertising the Premises for sale, provided such signage complies with all applicable municipal by-laws and does not physically interfere with BuiltRite's business operations.

7. **THIS COURT ORDERS** that 238, BuiltRite and any persons with notice of this Order shall cooperate with the Receiver and comply with the terms of this Order.

8. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel, Torkin Manes LLP, as set out in the Supplemental Report to the Receiver's Third Report, are approved.

9. **THIS COURT ORDERS** that the activities of the Receiver as set out in the Receiver's Second Report dated July 4, 2017, Third Report dated July 17, 2017 and Supplemental Report to the Third Report dated July 20, 2017 (collectively, the "Reports") are approved and the Reports are approved.

10. **THIS COURT ORDERS** that notwithstanding the foregoing, the Receiver may either extend the Termination Date by such period as it deems appropriate or withdraw the Notice of Termination by delivering written and signed notice of same to BuiltRite and 238 prior to the Termination Date, and that:

- (a) in the case of extension, all aspects of this Order which relate to the obligations of BuiltRite and 238 or authorizations granted to the Receiver upon the Termination Date apply equally to the extended Termination Date; and
- (b) in the case of withdrawal of the Notice of Termination, paragraphs 2, 3, 4 and 5 of this Order shall be inoperative;

✓ 11. THIS COURT ORDERS that notwithstanding the above, in the event Builtrite pays the August 2017 rent (\$18,000 plus HST) on or before August 1, 2017, Builtrite may in the month of August 2017

on 24 hours notice to
during regular business hours or as otherwise agreed with the Receiver have access to

the Premises to remove or dispose of any of Builtrite's property located on the Premises, and the

for the purpose of removing

Receiver shall be entitled to supervise the removal of any such property.

Conway

✓ 12. THIS COURT ORDERS that the Receiver is authorized to take possession and control of all property located within the Premises and remove and dispose of any property located on the Premises, subject to the rights of any secured parties or other third parties, including BuiltRite, on

(A) August 8, 2017, in the event that August 2017 rent has not been paid by certified cheque or bank draft to the Receiver by BuiltRite; or

(B) August 30, 2017. ✓

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

JUL 21 2017

PER / PAR:



2292912 ONTARIO INC.
Applicant

-and- 2380009 ONTARIO LIMITED
Respondent

Court File No. CV-16-011354-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

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Lawyers for the Receiver, Collins Barrow Toronto Limited

RCP-E 4C (May 1, 2016)