



Court File No. CV-20-00649154-00CL

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

THE HONOURABLE

MR. JUSTICE MCEWEN

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)

MONDAY, THE 18th

DAY OF JULY, 2022

B E T W E E N:

CLEARFLOW COMMERCIAL FINANCE CORP.

Applicant

-and-

**TRIGGER WHOLESALE, INC., THE EN CADRE GROUP INC.,
MARK GDAK, JAIMEE LYNN GDAK and JAIMAK REAL PROPERTIES INC.**

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Grant Thornton Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Trigger Wholesale, Inc. and The En Cadre Group Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale dated June 9, 2022 and an amendment to agreement of purchase and sale dated June 15, 2022 (the "**Sale Agreement**") between the Receiver and Li-Ling Chien (the "**Purchaser**") for the purchase and sale of a property located at 250 Lions Court, Waterloo, Ontario (the "**Purchased Property**") and appended to the eighth report of the Receiver dated July 11, 2022 (the "**Eighth Report**"), and vesting in the Purchaser, Jaimee Lynn Gdak's right, title and interest in and to the Purchased Property, was heard this day by Zoom videoconference due to the COVID-19 pandemic.

ON READING the Eighth Report, the affidavit of Jacob Wiebe sworn July 11, 2022 (the "**Wiebe Affidavit**"), the affidavit of Christine Mason sworn July 7, 2022 (the "**Mason Affidavit**") and on hearing the submissions of counsel for the Receiver, counsel for Clearflow Commercial Finance Corp, counsel for the Respondents and such other counsel as listed on the participant sheet, no one appearing for any other person on the service list, although properly served, as appears from the affidavit of Mariela Adriana Gasparini sworn July 11, 2022.

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 Property 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 Jaimee Lynn Gdak's right, title and interest in and to the Purchased Property 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 Justice Gilmore dated October 13, 2020; (ii) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated October 22, 2020; (iii) 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 Property are hereby expunged and discharged as against the Purchased Property.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Waterloo (LRO#58) 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 (the “**Real Property**”) 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 Purchased Property shall stand in the place and stead of the Purchased 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 Purchased Property with the same priority as they had with respect to the Purchased Property immediately prior to the sale, as if the Purchased 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 Jaimee Lynn Gdak, or any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of Jaimee Lynn Gdak;

the vesting of the Purchased Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Jaimee Lynn Gdak, and shall not be void or voidable by creditors of Jaimee Lynn Gdak, 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 ORDERS** that Confidential Appendices “1” and “2” to the Eighth Report be and are hereby sealed until the closing of the Transaction.

8. **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

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B E T W E E N:

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Applicant

-and-

**TRIGGER WHOLESALE, INC., THE EN CADRE GROUP INC.,
MARK GDAK, JAIMEE LYNN GDAK and JAIMAK REAL PROPERTIES INC.**

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 13, 2020, Grant Thornton Limited ("**GTL**") was appointed as the interim receiver of the undertaking, property and assets of Trigger Wholesale, Inc. and The En Cadre Group Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Honourable Mr. Justice McEwen of the Court dated October 22, 2020, GTL was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of the Debtors and certain real property owned by each of Jaimak Real Properties Inc. or Jaimee Lynn Gdak.

C. Pursuant to an Order of the Honourable Mr. Justice McEwen dated July 18, 2022, the Court approved the agreement of purchase and sale dated June 9, 2022 and an amendment to agreement of purchase and sale dated June 15, 2022 (the "**Sale Agreement**") between the

Receiver and Li-Ling Chien (the "**Purchaser**") and provided for the vesting in the Purchaser of Jaimee Lynn Gdak's right, title and interest in and to the property located at 250 Lions Court, Waterloo, Ontario (the "**Purchased Property**"), which vesting is to be effective with respect to the Purchased 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 Purchased Property; (ii) that the conditions to Closing as set out in section 2 of Schedule B 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.

D. 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 Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 2 of Schedule B 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].

**GRANT THORNTON LIMITED, in its
capacity as Receiver of the undertaking,
property and assets of the Debtors and not in
its personal capacity**

Per: _____

Name: _____

Title: _____

Schedule B – Purchased Property

1. Real Property

250 Lions Court, Waterloo, Ontario, legally described as LOT 46, PLAN 58M-166; SUBJECT TO EASEMENT NO. LT52777 IN FAVOR OF THE CORPORATION OF THE CITY OF WATERLOO AND UNION GAS LIMITED OVER PT 46 ON 58R-12696; TOGETHER WITH RIGHT OF WAY NO. 443531 OVER PTS 4 AND 5 ON 58R-12488; WATERLOO, being all of PIN 22389-0593 (LT).

2. Chattels

All chattels situate on the Real Property as of the acceptance date of the Sale Agreement for which the Receiver has the authority to sell, save and except for the following, which shall be excluded from the Purchased Property:

- a) Wine racks from the “Cold Room”;
- b) Microwave (not built in);
- c) Washer and dryer;
- d) All indoor and outdoor furniture; and
- e) The drapes in the office, dining room, second bedroom, and the primary bedroom.

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

1. Charge in the principal amount of \$540,936 registered on May 8, 2007 as Instrument Number WR294446 in favour of Bank of Montreal;
2. Application to Register a Court Order registered on October 23, 2020 as Instrument Number WR1292380 in favour of ClearFlow Commercial Finance Corp.;
3. Construction Lien registered on November 30, 2020 as Instrument Number WR1301369 by Ace Lawn Care Inc.; and
4. Certificate of Action registered on February 26, 2021 as Instrument Number WR1321472 by Ace Lawn Care Inc.

related to the Real Property

(unaffected by the Vesting Order)

1. any reservations, restrictions, rights of way, easements or covenants that run with the land, to the extent such reservations, restrictions, rights of way, easements or covenants are preserved by Section 44 of the Land Titles Act (Ontario);
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 laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Real Property;
4. any minor easements for the supply of utility service to the Real Property or adjacent properties;
5. encroachments disclosed by any errors or omissions in existing surveys of the Real Property or neighbouring properties, which surveys have been delivered to the Buyer prior to execution of the Sale Agreement, and any title defect, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Real Property 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. Notice of Subdivision Agreement registered on August 31, 2000 as Instrument Number LT50132; and
9. Application to Annex Restrictive Covenant registered on November 3, 2000 as Instrument Number LT53132.

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CLEARFLOW COMMERCIAL FINANCE CORP.

Applicant

-and-

TRIGGER WHOLESALE, INC. et al.

Respondents

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

**PROCEEDING COMMENCED AT
TORONTO**

APPROVAL AND VESTING ORDER

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Lawyers for Grant Thornton Limited, in its capacity as Coi
appointed Receiver of Trigger Wholesale, Inc. and The En Ca
Group Inc.