

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

THE HONOURABLE	)	WEDNESDAY, THE 17TH
	)	
MADAM JUSTICE DIETRICH	)	DAY OF MARCH, 2021

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

APPLICATION UNDER Sections 243(1) and 47(1) of the *Bankruptcy and Insolvency Act*,
R.S.C.1985, c. B-3, Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 and Rule
40.01 of the *Rules of Civil Procedure*

**APPROVAL AND VESTING ORDER
(Sea Ray)**

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**") and certain real property owned by each of Jaimak Real Properties Inc. or Jaimee Gdak, or certain personal property owned by Mark Gdak, for an order approving the sale transaction (the "**Sea Ray Transaction**") contemplated by an agreement of purchase and sale (the "**Sea Ray APS**") between the Receiver and Scott R. Boldt (the "**Sea Ray Purchaser**") dated February 11, 2021

and appended to the second report of the Receiver dated February 12, 2021 (the "**Second Report**"), and vesting in the Sea Ray Purchaser the Debtors', Mark Gdak's or Jaimee Gdak's right, title and interest in and to the assets described in the Sea Ray APS (the "**Sea Ray**"), was heard this day via Zoom videoconference due to the COVID-19 pandemic.

ON READING the Second Report and the supplemental report to the Second Report dated March 16, 2021 (the "**Supplemental Report**") and on hearing the submissions of counsel for the Receiver, counsel for Clearflow Commercial Finance Corp. and such other counsel as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Mariela Adriana Gasparini sworn February 12, 2021 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record 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 Sea Ray Transaction is hereby approved, and the execution of the Sea Ray APS 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 Sea Ray Transaction and for the conveyance of the Sea Ray to the Sea Ray Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Sea Ray Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtors', Mark Gdak's or Jaimee Gdak's right, title and interest in and to the Sea Ray described in the Sea Ray APS and listed on Schedule B hereto shall vest absolutely in the Sea Ray 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 (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 Sea Ray are hereby expunged and discharged as against the Sea Ray.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Sea Ray shall stand in the place and stead of the Sea Ray, 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 Sea Ray with the same priority as they had with respect to the Sea Ray immediately prior to the sale, as if the Sea Ray 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 Debtors, Mark Gdak or Jaimee Gdak and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors, Mark Gdak or Jaimee Gdak;

the vesting of the Sea Ray in the Sea Ray Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors, Mark Gdak or Jaimee Gdak and shall not be void or voidable by creditors of the Debtors, Mark Gdak or

Jaimee 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 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-20-00649154-00CL

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

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

RECEIVER’S CERTIFICATE

APPLICATION UNDER Sections 243(1) and 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C.1985, c. B-3, Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 and Rule 40.01 of the *Rules of Civil Procedure*

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (the "**Court**") dated October 13, 2020, Grant Thornton Limited ("**GTL**") was appointed as the interim receiver (the "**IR**") 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 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 Court dated March 17, 2021, the Court approved the sale transaction (the "**Sea Ray Transaction**") contemplated by the agreement of purchase and sale made as of February 11, 2021 (the "**Sea Ray APS**") between the Receiver and Scott R. Boldt (the "**Sea Ray Purchaser**") and provided for

the vesting in the Sea Ray Purchaser of the Debtors', Mark Gdak's or Jaimee Gdak's right, title and interest in and to the Sea Ray, which vesting is to be effective with respect to the Sea Ray upon the delivery by the Receiver to the Sea Ray Purchaser of a certificate confirming (i) the payment by the Sea Ray Purchaser of the Purchase Price for the Sea Ray; (ii) that the conditions to Closing as set out in sections 7, 8 and 9 of the Sea Ray APS have been satisfied or waived by the Receiver and the Sea Ray Purchaser; and (iii) the Sea Ray 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 Sea Ray APS.

THE RECEIVER CERTIFIES the following:

1. The Sea Ray Purchaser has paid and the Receiver has received the Purchase Price for the Sea Ray payable on the Closing Date pursuant to the Sea Ray APS;
2. The conditions to Closing as set out in sections 7, 8 and 9 of the Sea Ray APS have been satisfied or waived by the Receiver and the Sea Ray Purchaser; and
3. The Sea Ray 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 certain other real
property and not in its personal capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets
(Further Details Regarding the Sea Ray)

Make of Boat: Sea Ray
Year: 2018
Colour, Model, Size: SLX 400
Serial No.: SERV2597D818

Make of Motor: Mercury
Model: T.8.2 MAG HO SC
Port No.: 2A584426
Drive: 2A353188
Trans. PL No.: 2A565588

Make of Motor: Mercury
Model: T.8.2 MAG HO SC
Port No.: 2A584427
Drive: 2A353189
Trans. PL No.: 2A566291

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Applicant

-and- **TRIGGER WHOLESALE, INC. et al.**
Respondents

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PROCEEDING COMMENCED AT
TORONTO

**APPROVAL AND VESTING ORDER
(Sea Ray)**

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