

**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

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*

**MOTION RECORD OF THE RESPONDENTS  
TRIGGER WHOLESALE, INC., THE EN CADRE GROUP INC.,  
MARK GDAK, AND JAIMAK REAL PROPERTIES INC.  
(Returnable October 10, 2023)**

September 8, 2023

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST**

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

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*

**NOTICE OF MOTION  
(RETURNABLE OCTOBER 10, 2023)**

The Respondents Trigger Wholesale, Inc., the En Cadre Group Inc., Mark Gdak and Jaimak Real Properties Inc. will make a motion to a judge, on October 10, 2023 at 10:00, via zoom conference.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ In writing under subrule 37.12.1(1) because it is
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location

Zoom information to be provided

THE MOTION IS FOR:

- (a) an Order for the payment to Lerner's LLP of \$178,285.90 from funds held by the Receiver pursuant to the Receivership Order and related orders in this proceeding;
- (b) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) By Order dated October 13, 2020, sought and granted without notice, Justice Gilmore appointed Grant Thornton LLP as Interim Receiver (the "IR Order") over the property and undertakings of Trigger Wholesale, Inc. That ex parte IR Order also granted Mareva relief as against Mark Gdak and his spouse Jaimee Gdak and their corporation Jaimak Real Properties Inc. as follows:

9. **THIS COURT ORDERS** that pending the return of the within Application, the Respondents Mark Gdak, Jaimee Gdak and Jaimak Real Properties Inc. shall not transfer, alienate, deplete or encumber any of their real or personal property with a value over \$5,000 in any one transaction and \$20,000 in the aggregate of all such transactions, except for the purpose of providing retainers to legal counsel.

- (b) Justice Gilmore's October 13, 2020 Endorsement indicates that the Applicant assured this Court that its intention was to ensure all enjoined respondents would have access to funds to pay legal counsel and for reasonable living expenses pending final determination of the very serious allegations made by the Applicant.
- (c) When the Mareva Order came to the attention of the Respondents Mark Gdak, Trigger Wholesale, Inc., the En Cadre Group Inc., and Jaimak Real Properties Inc., those parties (the "Mark Gdak Parties") arranged to retain Lerner's LLP as their counsel in these proceedings.

- (d) On October 22, 2020, the Applicant moved to convert the Interim Receivership into a Receivership, and to continue the Mareva terms as against the respondents, as well as other ancillary relief (the “Appointment Order”). Mark Gdak, Trigger and En Cadre had by then appointed Lerner’s LLP as counsel; Jaimee Gdak was by then in the process of retaining Cohen Highley LLP as counsel. The October 22, 2020 motion, before McEwen J., was unopposed. Lerner’s appeared on that motion; Cohen Highley did not.
- (e) Mark Gdak arranged for payment of \$15,000 to Lerner’s by way of retainer in October 2020. A further \$30,000 was ordered paid to Lerner’s by Justice McEwen in his October 22, 2020 Order; that amount was ultimately paid to Lerner’s by the Receiver following the closing of the sale of one of the Schedule “A” properties in December 2020.
- (f) Lerner’s LLP has continued its representation of the Mark Gdak Parties throughout the pendency of these proceedings, as described in the various reports of the Receiver.
- (g) In March 2021, the insurer for the corporate parties confirmed that it would pay defence costs for the Mark Gdak Parties related to this litigation. However, the insurer advised that certain legal services provided did not relate to covered claims, and the insurer would pay rates lower than provided for in the retainer arrangements between Lerner’s LLP and the Mark Gdak Parties.
- (h) After accounting for the retainer arranged by the Mark Gdak Parties (\$15,000) and the \$30,000 paid to date by the Receiver, the difference between Lerner’s LLP’s accounts to the Mark Gdak Parties and the amounts paid by the insurer totals \$178,285.98. Lerner’s is not seeking interest on that amount.
- (i) Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(a) Affidavit of Jolene McKenna, sworn September 7, 2023.

September 8, 2023

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CLEARFLOW COMMERCIAL FINANCE CORP.  
Applicant

and

TRIGGER WHOLESale, INC., et al  
Respondents

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST**

Proceeding commenced at Toronto.

**NOTICE OF MOTION  
(Returnable October 10, 2023)**

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Jaimak Real Properties Inc., and  
Mark Gdak

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST**

BETWEEN:

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*

**AFFIDAVIT OF JOLENE MCKENNA  
(Sworn September 7, 2023)**

I, Jolene McKenna, of the Township of Tiny, in the County of Simcoe, Province of Ontario, MAKE OATH AND SAY:

1. I am the legal assistant to Jason Squire, counsel for Mark Gdak, Trigger Wholesale Inc., the En Cadre Group Inc., and Jaimak Real Properties Inc., and as such I have knowledge of the matters to which I hereinafter depose.
2. Attached and marked and **Exhibit "A"** to my Affidavit is a copy of the Interim Receivership Order of Justice Gilmore, which contains *Mareva* terms at paragraph 9. That Interim Order was obtained without notice, before Lerner's was retained.
3. Attached and marked and **Exhibit "B"** to my Affidavit is a copy of Justice Gilmore's Endorsement from October 13, 2020.
4. Lerner's was retained by Mark Gdak, Trigger Wholesale Inc., The En Cadre Group Inc. and Jaimak Real Properties Inc., (the "Mark Gdak Parties") in the days

following October 13, 2020. Mr. Gdak arranged for the deposit of \$15,000 with Lerner's, which was placed into trust.

5. Attached and marked and **Exhibit "C"** to my Affidavit is a copy of the Receivership Order of Justice McEwen dated October 22, 2020. The *Mareva* provisions of the Interim Receivership Order are continued at paragraph 11 of Justice McEwen's order. Paragraph 12 of the Receivership Order directed payment of \$30,000 to Lerner's from the proceeds of a then-anticipated future sale of a property.

6. Attached and marked and **Exhibit "D"** to my Affidavit is a copy of Justice Dietrich's Order dated December 1, 2020 approving the sale of one of the properties referred to at Schedule "A" of the Receivership Order. Justice McEwen's Order of October 22, 2022 contemplated the payment of \$30,000 to Lerner's following the sale ultimately effected by Justice Dietrich's December 1, 2020 Order. Those funds were released to Lerner's in December 2020, and applied to outstanding accounts on December 22, 2020.

7. The \$15,000 retainer amount in trust was applied to outstanding accounts on June 30, 2021.

8. Lerner's has continued its representation of Mark Gdak Parties throughout the pendency of these proceedings.

9. In the spring of 2021, the fidelity insurer for some of the Mark Gdak Parties advised that it would pay defence costs for the Mark Gdak Parties related to this litigation. However, the insurer advised that certain legal services provided did not relate to covered claims, and the insurer would pay rates lower than provided for in the retainer arrangement between Lerner's and the Mark Gdak Parties. His first payments for account rendered in this matter were made and applied in October 2021.

10. Mr. Squire advised counsel for Clearflow and the Receiver and his lawyer that Lerner's' accounts were by then subject to a shortfall and would be ongoing from November 2021. As noted in the reports of the Receiver on this issue, Mr. Squire estimated that shortfall as of November 2021 to be approximately \$130,000. Mr. Squire

advises that he and counsel worked out that they would address the issue once the issue would no longer be "prospective".

11. Work on the Receivership (including managing the Mareva terms), and settling the form and quantum of the Judgment to concluded the Application, is now substantially complete.

12. After accounting for the retainer arranged by the Mark Gdak Parties and the \$30,000 paid to date by the Receiver, the difference between Lerner's accounts to the Mark Gdak Parties and the amounts paid by the insurer totals \$178,285.98. Lerner is not seeking interest on that amount.

**SWORN BEFORE ME** at the City of  
Toronto, in the Province of Ontario on  
September 7, 2023.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

**JASON M. SQUIRE**

  
\_\_\_\_\_  
**JOLENE MCKENNA**



This is Exhibit "A" referred to in the Affidavit of Jolene McKenna sworn September 7, 2023.

A handwritten signature in black ink, appearing to read 'J. Squire', is written over a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**JASON M. SQUIRE**

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

THE HONOURABLE  
  
JUSTICE GILMORE

)  
)  
)

TUESDAY, THE 13th DAY OF  
OCTOBER, 2020



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 Section 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*

**ORDER  
(Appointment of Interim Receiver)**

**THIS APPLICATION** made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Grant Thornton Limited as interim receiver (in such capacity the "**Interim Receiver**") without security, of all of the assets, undertakings and properties of Trigger Wholesale, Inc. and The En Cadre Group Inc. was heard, without-notice, this day via videoconference at Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Affidavits of Martin Rees (the "**Rees Affidavit**"), Sandy Kanichis and Glenn Petersen, each sworn October 9, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the proposed Interim Receiver and on reading the consent of Grant Thornton Limited to act as the Interim Receiver.

### **SERVICE**

1. **THIS COURT ORDERS** that service of the Notice of Application and the Application Record is hereby dispensed with and that this Application is properly returnable today.

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 47(1) of the BIA and section 101 of the CJA, Grant Thornton Limited is hereby appointed Interim Receiver, without security, of all of the assets, undertakings and properties (the "**Property**") of Trigger Wholesale, Inc. and The En Cadre Group Inc. (collectively, the "**Debtors**"), until November 12, 2020.

3. **THIS COURT ORDERS** that the balance of this Application be adjourned to a date to be set in conjunction with the Commercial List Office.

### **RECEIVER'S POWERS**

4. **THIS COURT ORDERS** that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent

security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Interim Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Interim Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (h) to register a copy of this Order and any other Orders in respect of the Property against title to any real property that forms part of the Property;
- (i) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and



on behalf of and, if thought desirable by the Receiver, in the name of the Debtors; and

- (j) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, including, but not limited to, the following members of the management team of Trigger: Mark Gdak, Jaimee Gdak, Philip Searles, Mike Nero and Brian Kelly, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Interim Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Interim Receiver, and shall deliver all such Property to the Interim Receiver upon the Interim Receiver's request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, or to the issues raised in the Application Record of the Applicant, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim

Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, including all such Records that are stored "in the cloud", all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **PRESERVATION OF EVIDENCE**

8. **THIS COURT ORDERS** that, without limiting the generality of the foregoing, no Person shall delete, spoil, erase or in any way alter any Records in their possession, care or control, which Records shall be preserved by any such Person in their native format without alteration.

#### **RESTRICTION OF TRANSFERS, ALIENATION OR ENCUMBRANCE OF ASSETS**

9. **THIS COURT ORDERS** that pending the return of the within Application, the Respondents Mark Gdak, Jaimee Gdak and Jaimak Real Properties Inc. shall not transfer, alienate, deplete or encumber any of their real or personal property with a value over \$5,000 in any one transaction and \$20,000 in the aggregate of all such transactions, except for the purpose of providing retainers to legal counsel.

10. **THIS COURT ORDERS** that any and all financial institutions, including banks, credit unions or any party holding assets of Mark Gdak, Jaimee Gdak and Jaimak Real Properties Inc. (the "Banks") forthwith prevent any removal or transfer of monies or assets of the Defendant held in any account or on credit on behalf of the Defendant, with the Banks, except as in accordance with this Order, until further Order of the Court

11. **THIS COURT ORDERS** that the Banks forthwith disclose and deliver up to the Interim Receiver or to the Applicant as may be the case any and all records held by the Banks concerning the Defendant's assets and accounts, including the existence, nature, value and location of any monies or assets or credit, wherever situate, held on behalf of the Defendant by the Banks.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

12. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

13. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

14. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or the Debtors to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Interim Receiver or the Debtors from compliance with statutory or regulatory provisions relating to



health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

15. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Interim Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

16. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Interim Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Interim Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **INTERIM RECEIVER TO HOLD FUNDS**

17. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Interim Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Interim Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any



disbursements provided for herein, shall be held by the Interim Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

18. **THIS COURT ORDERS** that all employees of the any of the Debtors of shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Interim Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Interim Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

19. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Interim Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

20. **THIS COURT ORDERS** that nothing herein contained shall require the Interim Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Interim Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Interim Receiver shall not, as a result of this Order or anything done in pursuance of the Interim Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE INTERIM RECEIVER'S LIABILITY**

21. **THIS COURT ORDERS** that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **INTERIM RECEIVER'S ACCOUNTS**

22. **THIS COURT ORDERS** that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "Interim Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. **THIS COURT ORDERS** that the Interim Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Interim Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

24. **THIS COURT ORDERS** that prior to the passing of its accounts, the Interim Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL [www.grantthornton.ca/twi](http://www.grantthornton.ca/twi).

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next

business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

27. **THIS COURT ORDERS** that a copy of this Order, once issued and entered by the Court, shall be served forthwith by the Applicant, upon the Respondents, together with the Application Record herein, as well as the Demands and NITES as defined in the Rees Affidavit.

28. **THIS COURT ORDERS** that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy of the Debtors.

30. **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 Interim 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 Interim Receiver and its agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis



to be paid by the Interim Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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LE / DANS LE REGISTRE NO:

OCT 16 2020

PER / PAR: 

CLEARFLOW COMMERCIAL FINANCE CORP.  
Applicant

-and-

TRIGGER WHOLESale, INC. et al.  
Respondents

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

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

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Appointing Interim Receiver)**

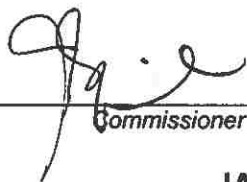
**TORKIN MANES LLP**

Barristers & Solicitors  
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Toronto ON M5C 2W7

Jeffrey J. Simpson (39663M)  
jsimpson@torkinmanes.com  
Tel: 416-777-5413  
Fax: 1-888-587-9143

Lawyers for the Applicant,  
ClearFlow Commercial Finance Corp.

This is Exhibit "B" referred to in the Affidavit of Jolene McKenna sworn September 7, 2023.

A handwritten signature in black ink, appearing to read "J. Squire", is written over a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**JASON M. SQUIRE**



Counsel: See my endorsement below.

### **Endorsement of Gilmore, J.**

The Applicant seeks appointment of an interim receiver on this *ex-parte* motion pursuant to s.47(1) of the *Bankruptcy and Insolvency Act* (“BIA”). The Receivership Order is intended to cover the assets of the Respondents Trigger Wholesale Inc. (“Trigger”) and The En Cadre Group (“En Cadre”).

Clearflow provides financing to medium-sized businesses typically through factoring of accounts receivable. The total credit facility owed by Trigger to Clearflow as of October 6, 2020 was \$48,625,279.75. Trigger is in the business of importing and distributing firearms and ammunition in Canada. Its customers include the military, Home Hardware and Canadian Tire.

The Respondents Jamiee and Mark Gdak are directors of Trigger and both are actively involved in the business.

The fraud perpetrated on Clearflow as outlined in the affidavits in support of this Application is significant and includes allegations of hundreds of falsified invoices as evidence of accounts receivable that did not exist, falsified purchase orders, a forged transfer of real property owned by Mark Gdak on behalf of En Cadre, fake email addresses of executives at Canadian and Home Hardware, verbal and email impersonations of executives employed by Canadian Tire and Home Hardware, and forged cheques made to look like payments by Canadian Tire and Home Hardware to Trigger for the alleged purchase of firearms.

Clearflow is necessarily concerned that it has advanced tens of millions of dollars to Trigger based on misrepresentations and falsified documentation. It is also concerned with a massive increase in 90 day accounts receivable and Trigger’s resistance to providing agreed upon financial information upon request.

I am satisfied pursuant to the principles set out in *2092280 Ontario Inc v. Voralto Group Inc.*, 2018 ONSC 2305 (CanLII) that where a strong *prima facie* case of fraud has been made out, “the law’s reluctance to allow prejudgment execution must yield to the more important goal of ensuring that the civil justice system provides a just and enforceable remedy against such serious conduct.” (para 28). There is substantial evidence of a significant fraud in this case that goes beyond simple manipulation but includes fake emails, documents and pre-meditated actions on the part of the Respondents to induce further advances from the Applicant.

In terms of irreparable harm I find that there is an extreme risk of the destruction of documents if the Respondents are given notice of this proceeding which may impede their ability to collect on real invoices.

With respect to the balance of convenience, the interim receivership is only for a period of 30 days and a comeback date will be set for October 23, 2020. There is also provision for Jamiee and Mark Gdak to access funds for personal use.

I am also satisfied that the appointment of an interim receiver is necessary to protect the debtor's estate, enforce rights between the parties, and protect assets in the face of a serious apprehension about the safety of the assets.

Given all of the above, I make the following Orders:

1. The Order attached hereto is immediately in effect.
2. The Applicant to forthwith serve all material on the Respondents.
3. **The matter to return for a comeback hearing before any judge on October 23, 2020 at 9:30 a.m. or such other time on that date that the Trial Coordinator may set.**

*C. Gilmore, J.*

*October 13, 2020*

This is Exhibit "C" referred to in the Affidavit of Jolene McKenna sworn September 7, 2023.

A handwritten signature in black ink, appearing to read 'J. Squire', is written over a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**JASON M. SQUIRE**

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

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



THE HONOURABLE  
JUSTICE MCEWEN

) THURSDAY, THE 22ND DAY OF  
) OCTOBER, 2020  
)

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*

**ORDER  
(Appointing s.243 Receiver)**

**THIS MOTION** made by the Applicant for an Order, among other relief, converting the Interim Receivership Order granted by the Honourable Madam Justice Gilmore dated October 13, 2020 (the "**Interim Receivership Order**") to a national receiver, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), appointing Grant Thornton Limited as receiver (in such capacity the "**Receiver**") without security, of all of the assets, undertakings and properties of Trigger Wholesale, Inc. ("**Trigger**"), the En Cadre Group Inc. ("**En Cadre**"), and certain real property owned by each of Jaimak Real Properties

Inc. ("Jaimak") or Jaimee Lynn Gdak, as specified in the within Order (collectively, the "Debtors") was heard this day by Zoom videoconference due to the COVID-19 pandemic.

**ON READING** the Motion Record of the Applicant, filed, and the First Report of Grant Thornton Limited in its capacity as interim receiver dated October 21, 2020 (the "**First Report**"), filed, and the appendices thereto and on hearing the submissions of counsel for the Applicant, counsel for the Receiver and counsel for the Debtors Mark Gdak, Trigger, Jaimak Real Properties Inc. and En Cadre, and counsel for Brian Kelly, no one else appearing although it appears that they have been properly served as evidence by the Affidavit of Josset Johnson sworn October 21, 2020.

#### **SERVICE**

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.

#### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Grant Thornton Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors including all proceeds thereof, and certain real property owned by each of Jaimak or Jaimee Lynn Gdak, as set out in Schedule "A" to this Order (the "**Property**").

3. **THIS COURT ORDERS** that the Interim Receivership Order and the interim receivership proceedings, is hereby converted into a receivership pursuant to s. 243 of the BIA and s. 101 of the CJA.

4. **THIS COURT ORDERS** that notwithstanding paragraph 3 of this Order, all of the protections and benefits provided for in the Interim Receivership Order, shall continue, until further Order of the Court.

## RECEIVER'S POWERS

5. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized, but not obligated, to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in

collecting such monies, including, without limitation, to enforce any security held by the Debtors;

- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1 million in total; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;



- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, including the Property set out at Schedule "A" to this Order;
- (o) to register a copy of this Order against title to any of the Property set out at Schedule "A" to this Order and the Land Registry Office of Waterloo (No. 58) and the Land Registry Office of Bruce (No. 3) are hereby directed to effect the registration of this Order against title to the Property set out at Schedule "A" to this at the request of the Receiver;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.



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and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

6. **THIS COURT ORDERS** that the Receiver shall be empowered and authorized, but not obligated to:

- (a) file an assignment in bankruptcy on behalf of the Debtors, Trigger and En Cadre; and
- (b) if necessary, transfer funds to Grant Thornton Limited, as the proposed trustee in bankruptcy for each of Trigger and En Cadre, in the amount of \$30,000 for each estate, from the within receivership proceedings, to fund the administration of the bankruptcy estates of Trigger and En Cadre.

7. **THIS COURT ORDERS** that Grant Thornton Limited is hereby authorized to act as the trustee in bankruptcy for each of Trigger and En Cadre.

#### **POWER TO EXAMINE THIRD PARTIES AND OBTAIN INFORMATION**

8. **THIS COURT ORDERS** that the Receiver shall have the power to conduct examinations of each of Mark Gdak, Jaimee Lynn Gdak, Brian Kelly, Mike Nero and Phil Searles, in respect of the Property and in the discharge of the duties of the Receiver in these proceedings.

9. **THIS COURT ORDERS** that Brian R. Kelly shall provide documents and information which is not otherwise subject to lawyer-client privilege to the Receiver to aid in the Receiver's efforts to take control of the Property and discharge its duties in these proceedings, including the provision of a copy of any fully signed Agreements of Purchase and Sale in Mr. Kelly's possession which have not closed and in which any of the Respondents are named as a vendor or purchaser.

10. **THIS COURT ORDERS** that the issue of payment by the Receiver from the assets of the Respondents of the legal expenses incurred by Brian R. Kelly regarding these matters is adjourned and to be heard on request of the lawyer for Mr. Kelly on notice to the parties.

**CONTINUATION OF MAREVA INJUNCTION**

11. **THIS COURT ORDERS** that paragraphs 8, 9, 10 and 11 of the Interim Receivership Order are hereby continued until further Order of this Court.

12. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to pay Lerner's LLP the sum of \$30,000, as a retainer in respect of Lerner's representation of the Respondents (with the exception of the Respondent Jaimee Gdak) in these proceedings, when: (1) any one of the properties listed on Schedule "A" to this Order is sold; and (2) the Receiver is in receipt of the net proceeds of sale of any such property listed on Schedule "A" to this Order.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

13. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

14. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, including, without limitation, any such information etc. relating to the affairs of the Respondent Jamie Gdak, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 12 or in paragraph 13 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or

provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

15. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

16. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

17. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.



**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

18. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

19. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

20. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

21. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

22. **THIS COURT ORDERS** that, except as expressly provided for in this Order, all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

23. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

24. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to

whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

25. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

26. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

27. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

28. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

29. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

30. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and



is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

31. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

32. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

33. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

34. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL [www.grantthornton.ca/twi](http://www.grantthornton.ca/twi).

35. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any



other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

36. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

37. **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.

38. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

39. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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40. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

NOV 12 2020

PER / PAR:



**SCHEDULE "A"**

| <u>Properties</u>                               | <u>Owner</u>                | <u>Legal Description</u>                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 652 Colby Dr, Waterloo, ON<br>N2V 1A2           | Jaimak Real Properties Inc. | LT 66 PL 1405 City Of<br>Waterloo; City Of Waterloo                                                                                                                                                                                                                                                                            |
| 250 Lions Ct, Waterloo, ON<br>N2L 6M8           | Jaimee Gdak                 | Lot 46, Plan 58M-166; Subject<br>To Easement N0. LT52777 In<br>Favor Of The Corporation Of<br>The City Of Waterloo And<br>Union Gas Limited Over PT 46<br>ON 58R-12696; Together With<br>Right Of Way N0. 443531<br>Over PTS 4 And 5 ON 58R-<br>12488; Waterloo.                                                               |
| 157 Saugeen Beach Rd.<br>Port Elgin, ON N0H 2C5 | Jaimee Lynn Gdak            | LT 1 PL 416; Saugeen Shores                                                                                                                                                                                                                                                                                                    |
| 43 Baker Rd, Port Elgin, ON<br>N0H 2C5          | Jaimee Gdak                 | LT 14 PL 497; Saugeen Shores                                                                                                                                                                                                                                                                                                   |
| 265 Old Post Rd. Waterloo,<br>ON                | Jaimee Gdak                 | Unit 3, Level 1, Waterloo<br>North Condominium Plan No.<br>9 ; BLK A PL 1292; PTS 1 &<br>2 CTA 903 As More Fully<br>Described In Schedule 'A' Of<br>Declaration 486152 ; S/T Right<br>Of Way Over PTS 4 & 5<br>58R12488 As In LT61266;<br>Release Of Ease 443531 As In<br>LT61267; T/W Right Of Way<br>As In LT61268; Waterloo |

**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Grant Thornton Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties of Trigger Wholesale, Inc., The En Cadre Group, Inc. acquired for, or used in relation, including all proceeds thereof, and certain real property owned by each of Jaimak Real Properties Inc. or Jaimee Lynn Gdak (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number CV-20-00649154-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

- 2 -

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**GRANT THORNTON LIMITED** solely in its  
capacity as Receiver of the Property, and not in  
its personal capacity

Per: \_\_\_\_\_

Name:

Title:

34656.0004/17622659\_1

CLEARFLOW COMMERCIAL FINANCE CORP.  
Applicant

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

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

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

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Appointing s.243 Receiver)**

**TORKIN MANES LLP**  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7

Jeffrey J. Simpson (39663M)  
jsimpson@torkinmanes.com  
Tel: 416-777-5413  
Fax: 1-888-587-9143

Lawyers for the Applicant,  
ClearFlow Commercial Finance Corp.

RCP-E 4C (May 1, 2016)



This is Exhibit "D" referred to in the Affidavit of Jolene McKenna sworn September 7, 2023.

  
\_\_\_\_\_  
*Commissioner for Taking Affidavits (or as may be)*

**JASON M. SQUIRE**

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

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

|                        |   |                              |
|------------------------|---|------------------------------|
| THE HONOURABLE         | ) | TUESDAY, THE 1 <sup>st</sup> |
|                        | ) |                              |
| MADAM JUSTICE DIETRICH | ) | DAY OF DECEMBER, 2020        |

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**

**THIS MOTION**, made by Grant Thornton Limited (“GTL”) 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 Lynn Gdak, for an order approving the sale transaction (the “**Transaction**”) contemplated by agreement of purchase and sale dated October 9, 2020, as amended by an amending agreement dated October 30, 2020, and as further amended by a second amending agreement dated November 6, 2020 (the “**Sale Agreement**”), between the Receiver and Paul German and Julie German (the “**Purchasers**”) for the purchase and sale of a property located at 43 Baker Rd., Port Elgin, Ontario (the “**Purchased**”

**Property**") and appended to the first report of the Receiver dated November 20, 2020 (the "**First Report**"), the affidavit of Jacob Wiebe sworn November 20, 2020 (the "**Wiebe Affidavit**"), the affidavit of Christine Mason sworn November 20, 2020 (the "**Mason Affidavit**") and vesting in the Purchasers, 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 First 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 November 23, 2020, filed:

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 Purchasers.
2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchasers 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 Purchasers, 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 (iv) 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 Land Titles Division of Bruce 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 Purchasers 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 the Debtors or Jaimee Lynn Gdak and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of the Debtors or Jaimee Lynn Gdak;

the vesting of the Purchased Property in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors or Jaimee Lynn Gdak and shall not be void or voidable by creditors of the Debtors or 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 the first report of GTL in its capacity as interim receiver (“IR”) dated October 21, 2020 (the “**First Report of the IR**”) and the activities of the IR, as described in the First Report of the IR, be and are hereby approved; provided, however that only the IR, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

8. **THIS COURT ORDERS** that the First Report of the Receiver and the activities of the Receiver, as described in the First Report, be and are hereby approved; provided, however that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

9. **THIS COURT ORDERS** that the fees and disbursements of the IR and the Receiver, as described in the First Report and as set out in the Wiebe Affidavit, be and are hereby approved.

10. **THIS COURT ORDERS** that the fees and disbursements of the Receiver’s legal counsel, Borden Ladner Gervais LLP (“**BLG**”), as described in the First Report and as set out in the Mason Affidavit, be and are hereby approved.

11. **THIS COURT ORDERS** that Confidential Appendices “1”, “2”, “3” and “4” to the First Report be and is hereby sealed until the closing of the Transaction.

12. **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. \_\_\_\_\_

**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

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*

**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 (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 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 Court dated December 1, 2020, the Court approved the agreement of purchase and sale dated October 9, 2020, as amended by an amending agreement dated October 30, 2020 and as further amended by a second amending agreement dated November 6, 2020 (the "**November 6 Amendment**") (collectively, the "**Sale Agreement**") between the Receiver and Paul German and Julie German (the "**Purchasers**") and provided for the vesting in the Purchasers of Jaimee Lynn Gdak's right, title and interest in and to the property located at 43 Baker Rd., Port Elgin, Ontario (the "**Purchased Property**"), which vesting is to be effective with respect to the Purchased Property upon the delivery by the Receiver to the Purchasers of a certificate confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Property; (ii) that the conditions to Closing as set out in section 3 of the November 6 Amendment have been satisfied or waived by the Receiver; 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 Purchasers have 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 3 of the November 6 Amendment have been satisfied or waived by the Receiver; 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  
certain other real property and not in its  
personal capacity**

Per: \_\_\_\_\_

Name:

Title:

## **Schedule B – Purchased Property**

### **1. Real Property**

43 Baker Road, Saugean Shores, Ontario, legally described as LT 14 PL 497; SAUGEEN SHORES, being all of PIN 33274-0137 (LT)

### **2. Chattels**

- Fridge;
- Stove;
- Microwave;
- Toaster;
- Coffee maker;
- Lagostina pots and pans;
- King bed and mattress, duvet cover, pillow covers and decorative pillows;
- Side table in the king bedroom and all artwork and curtains;
- Queen bed and mattress, duvet cover, pillow covers and decorative pillows;
- Side table and lamp in the queen bedroom and all artwork and curtains;
- Bunk bed and mattress, duvet cover, pillow covers and decorative pillows;
- Mirror, hooks, artwork and curtains in the bunk bedroom;
- Shower curtain and rings in bathroom;
- Soap dispenser, soap dish for bathroom;
- Kitchen table, bench and chairs;
- Coat hooks, artwork and Port Elgin sign in foyer;
- Barbecue on back porch and cover;
- NEST thermostat;
- All outdoor hoses;
- Lumber in the shed that was planned for use in the Bunkie;
- Garbage bin;
- Washer and dryer;
- Security camera system;
- All curtains and curtain rods;
- Large framed picture in family room (world map);
- Ceiling fans and light fixtures;
- TV wall bracket in family room;
- Fire extinguisher;



- Water heater and water softener;
- Survey to be provided by seller; and
- Installation of 30AMP RV outlet on West-facing side of the house.

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

1. Application to Register a Court Order registered on October 23, 2020 as Instrument Number BR161116 in favour of Clearflow Commercial Finance Corp.



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

**(unaffected by the Vesting Order)**

1. Application to Annex Restrictive Covenant registered on 1968/07/23 as Instrument Number R62863Z.
2. Any registered restrictions or covenants that run with the land providing that such are complied with.
3. Any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility.
4. Any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties.
5. Any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property.

**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**  
**(Returnable December 1, 2020)**

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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.

CLEARFLOW COMMERCIAL FINANCE CORP.  
Applicant

and

TRIGGER WHOLESale, INC., et al  
Respondent

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST**

Proceeding commenced at Toronto.

**AFFIDAVIT OF JOLENE MCKENNA  
(Sworn September 7, 2023)**

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Inc., Jaimak Real Properties Inc., and Mark  
Gdak

CLEARFLOW COMMERCIAL FINANCE CORP.  
Applicant and

TRIGGER WHOLESale, INC., et al  
Respondents

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST**

Proceeding commenced at Toronto.

**MOTION RECORD OF THE RESPONDENTS  
TRIGGER WHOLESale, INC., THE EN  
CADRE GROUP INC., MARK GDAK, AND  
JAIMAK REAL PROPERTIES INC.  
(Returnable October 10, 2023)**

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