

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 8<sup>th</sup> DAY  
JUSTICE NEWBOULD ) OF OCTOBER, 2015



**IN THE MATTER OF THE RECEIVERSHIP OF SILVERSTONE CONSTRUCTION  
MANAGEMENT GROUP INC.**

**AND IN THE MATTER OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS  
AMENDED**

**ORDER**  
(Appointing Receiver)

THIS APPLICATION made by Riotrin Properties (Weston) Inc. ("**Riotrin**" or the "**Applicant**"), for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Rosen Goldberg Inc. as receiver (the "**Receiver**") without security, of certain funds of Silverstone Construction Management Group Inc. ("**Silverstone**") held or possessed by Riotrin (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the Affidavit of Kyle Camarro sworn September 17, 2015 and the Exhibits thereto, the Affidavit of Michelle Pham sworn September 23, 2015 and the Exhibits thereto and on hearing the submissions of counsel for Riotrin and any counsel appearing for those other parties listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Michelle Pham sworn September 24, 2015, and on reading the Consent of Rosen Goldberg Inc. to act as the Receiver:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for and manner of 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 101 of the CJA, Rosen Goldberg Inc. is hereby appointed Receiver, without security, of the Silverstone funds in the possession of the Applicant in the amount of \$62,210.46 inclusive of HST ("**Silverstone's HomeSense Funds**") and in the amount of \$84,610.56 inclusive of HST ("**Silverstone's Winners Funds**") (collectively, the "**Funds**") regarding the construction work of Silverstone at the leased premises of HomeSense and Winners at 75 Gunns Road, Toronto, Ontario (the "**Projects**").

## **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Funds;
- (b) to receive, preserve, and protect the Funds;
- (c) to engage consultants, agents, 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;

- (d) to settle, extend or compromise any claims, liens or demands regarding or related to the Funds, including without limitation pursuant to a claims process;
- (e) to execute, assign, issue and endorse documents of whatever nature in respect of the Funds, whether in the Receiver's name or in the name and on behalf of the Applicant, for any purpose pursuant to this Order;
- (f) 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 Funds, 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;
- (g) 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 Funds, subject to solicitor and client privilege, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable; and
- (h) 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 Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Applicant, and without interference from any other Person.

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

4. **THIS COURT ORDERS** that (i) the Applicant, (ii) all of its 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 grant immediate and continued access to the Funds to the Receiver.

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

5. **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 regarding the Funds except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE FUNDS**

6. **THIS COURT ORDERS** that, subject to the provisions of paragraph 7, no Proceeding, including, without limiting the foregoing, any garnishment, related to the Funds against or in respect of the Applicant or any party related to the Applicant shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all such Proceedings currently underway are hereby stayed and suspended pending further Order of this Court. Any request by claimants or alleged claimants regarding the Funds for particulars or information with respect to the Funds shall be directed to, and responded by, as best possible, the Receiver upon receipt of the request for information.

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

7. **THIS COURT ORDERS** that all rights and remedies related to the Funds against the Applicant, the Receiver, or affecting the Funds, are hereby stayed and suspended, except with the written consent of the Receiver or leave of this Court, provided that nothing in this paragraph shall prevent the registration of eligible claims for lien, the issuance of statements of claim and the registration of certificates of action by construction lien claimants, provided that no further steps to enforce the liens may be taken by the lien claimants without consent of the Applicant and Receiver or leave of this Court.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

8. **THIS COURT ORDERS** that no Proceeding may be commenced or continued regarding the Funds against any of the former or current directors, officers or management of the Applicant, and any person, including an employee or agent of the Applicant, who had effective control of the Applicant or its relevant activities, with respect to any claim regarding the Funds against such persons that arose before the date hereof and whereby such persons are alleged under any law to be liable, except with the prior written consent of the Receiver or leave of this Court.

## **RECEIVER TO HOLD SILVERSTONE'S HOMESENSE FUNDS AND SILVERSTONE'S WINNERS FUNDS**

9. **THIS COURT ORDERS** that Silverstone's HomeSense Funds and Silverstone's Winners Funds in the possession of the Applicant shall be transferred to and held separately by the Receiver from and after the making of this Order and shall be deposited into separate or two new accounts for each of the Funds to be opened by the Receiver (the "**Post Receiver Fund Accounts**") and the monies standing to the credit of each Post Receiver Fund 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.

10. **THIS COURT ORDERS** that upon the Applicant's transfer of the Funds to the Receiver in compliance with paragraph 9 of this Order, the liability of the Applicant and any party related to the Applicant, in respect of the Funds is extinguished.

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

11. **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. Nothing in this Order shall derogate from the protections afforded the Receiver by any applicable legislation.

#### **ACCOUNTS**

12. **THIS COURT ORDERS** that the Receiver, counsel to the Receiver and counsel to the Applicant 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, counsel to the Receiver and counsel to the Applicant shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Funds or Post Receiver Fund Accounts, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Administration Charge shall form a First Charge on the Funds or Post Receiver Fund Accounts in priority to all any and all existing and future security interests (whether contractual, statutory, or otherwise), mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, construction liens, encumbrances, claims of secured creditors (whether contractual, statutory or otherwise),

executions, or charges, whether or not they have attached or been perfected, registered or filed (collectively, the "**Claims**") in favour of any Person.

13. **THIS COURT ORDERS** that the Administration Charge on the Funds or Post Receiver Fund Accounts shall be limited to the following maximum amounts: (i) the Applicant's costs of this Application are limited to \$7,500 plus HST and disbursements; (ii) the Receiver's fees are limited to \$7,500 plus HST and disbursements subject to any further Order of this Court; and (iii) the fees of Receiver's counsel are limited to \$5,000 plus HST and disbursements.

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

15. **THIS COURT ORDERS** that 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, its counsel, and counsel to the Applicant, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **RETENTION OF LAWYERS**

16. **THIS COURT ORDERS** that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order. Such solicitors may include Fogler, Rubinoff LLP, solicitors for the Applicant herein, in respect of any matter where there is no

conflict of interest. The Receiver shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists, or may exist.

#### **SERVICE AND NOTICE**

17. **THIS COURT ORDERS** that 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 creditors, any lien claimants or other interested parties regarding the Funds at their respective addresses as last shown on the records of the Applicant 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.

18. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any Notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors, any lien claimants or other interested parties and their advisors regarding the Funds. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation.

#### **GENERAL**

19. **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.

20. **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.

Dei T.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.: 35

OCT 8 - 2015

IN THE MATTER OF THE RECEIVERSHIP OF SILVERSTONE CONSTRUCTION MANAGEMENT GROUP INC.  
AND IN THE MATTER OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-15-11115-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDINGS COMMENCED AT TORONTO

**ORDER**  
(Appointing Receiver)

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West, TD Centre  
Suite 3000, North Tower  
Toronto, Ontario M5K 1G8

**Vern W. DaRe** (32591E 1D)

Tel: 416 941-8842

Fax: 416 941-8852

Email: [vdare@foglers.com](mailto:vdare@foglers.com)

Lawyers for the Applicant, Riotrin Properties (Weston) Inc.