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Court File No. CV-18-592103-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE DUNPHY)
FRIDAY, THE 1ST
DAY OF JUNE, 2018

BETWEEN:

**COMFORT CAPITAL INC., THE BANK OF NOVA SCOTIA TRUST COMPANY,
E. MANSON INVESTMENTS LTD., FENFAM HOLDINGS INC., 593651 ONTARIO
LTD., 1031436 ONTARIO INC., ALRAE INVESTMENTS INC., BARRY SPIEGEL,
SHARON NIGHTINGALE, DAVID SUGAR, PHYLLIS SUGAR, NATIONAL TIRE LTD.,
1119778 ONTARIO LIMITED, 1415976 ONTARIO LIMITED, ALRAE INVESTMENTS
INC., BAMBURGH HOLDINGS LTD., BEVERLEY GORDON, DIANE GRAFSTEIN,
RICHARD GRUNEIR, B. & M. HANDELMAN INVESTMENTS LTD., RIDGEWAY
OCCUPATIONAL CONSULTANTS INC., YERUSHA INVESTMENTS INC., MIHAL
TYLMAN, A. ELIEZER KIRSHBLUM, 593651 ONTARIO LIMITED, THE BANK OF
NOVA SCOTIA TRUST COMPANY IN TRUST FOR BAILEY LEVENSON, THE BANK
OF NOVA SCOTIA TRUST COMPANY IN TRUST FOR ROSEMONDE KELLY, ANNE
HANDELMAN, YERUSHA INVESTMENTS INC., CELMAR INVESTMENTS CORP.,
BEVERLEY GORDON, PHILGOR INVESTMENTS LTD., BRILLIANT INVESTCORP
INC., MAXOREN INVESTMENTS, 2227046 ONTARIO LIMITED, DAST PROPERTIES
LIMITED, TOVA MARKOVZKI, JOSEPH SUCKONIC and B. & M. HANDELMAN
INVESTMENTS LIMITED**

Applicants

- and -

**ANNIE YERETSIAN, TERRY WILSON, 2457674 ONTARIO INC.,
2399029 ONTARIO INC. and MOSS DEVELOPMENT LTD.**

Respondents

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as receiver and manager (in such capacity, the “**Receiver**”) without security, of certain assets, undertakings and properties of the Respondents (each Respondent individually hereinafter being referred to as a “**Debtor**” and collectively, the “**Debtors**”) for an order approving the sale transaction (the “**Transaction**”)

contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Mehrdad Barghian and Mojgan Massoudinia (collectively, the “**Purchasers**”) dated as of the 11th day of April, 2018 and appended to the First Report of the Receiver dated May 17, 2018 (the “**First Report**”), and vesting in the Purchasers the right, title and interest in and to the assets of the Debtor Annie Yeretsian described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and the Supplement to the First Report dated May 31, 2018, and on hearing the submissions of counsel for (i) the Receiver, (ii) the Applicants, (iii) 2399029 Ontario Inc., 2457674 Ontario Inc., Terry Wilson, Canada Investment Corporation and Canada Capital Corporation, (iv) Devry Smith Frank LLP, (v) Morteza (Ben) Katebian, and (vi) counsel for the Purchasers, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Patricia Keane sworn May 25, 2018, 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 Assets 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 the right, title and interest of the Debtor Annie Yeretsian in and to the Purchased Assets 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 McEwan dated February 28, 2018, as amended; (ii) all charges,

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the Affidavit of Terry Wilson, with appendices, sworn May 30, 2018

Filed

security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C hereto** (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Titles Division for the Land Registry Office of Toronto (no. 66) at Toronto of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchasers as the owners 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 Assets shall stand in the place and stead of the Purchased Assets, 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 Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets 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 Debtor Annie Yeretsian and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor Annie Yeretsian;

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor Annie Yeretsian and shall not be void or voidable by creditors of the Debtor Annie Yeretsian, 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 AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



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

JUN - 5 2018

PER / PAR:



Schedule A - Form of Receiver's Certificate

Court File No. CV-18-592103-00CL

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1031436 ONTARIO INC., ALRAE INVESTMENTS INC., BARRY SPIEGEL, SHARON
NIGHTINGALE, DAVID SUGAR, PHYLLIS SUGAR, NATIONAL TIRE LTD., 1119778
ONTARIO LIMITED, 1415976 ONTARIO LIMITED, ALRAE INVESTMENTS INC.,
BAMBURGH HOLDINGS LTD., BEVERLEY GORDON, DIANE GRAFSTEIN,
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OCCUPATIONAL CONSULTANTS INC., YERUSHA INVESTMENTS INC., MIHAL
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INC., MAXOREN INVESTMENTS, 2227046 ONTARIO LIMITED, DAST PROPERTIES
LIMITED, TOVA MARKOVZKI, JOSEPH SUCKONIC and B. & M. HANDELMAN
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Respondents

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED**

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the "**Court**") dated February 28, 2018, as amended, Rosen Goldberg Inc. was appointed receiver and manager (in such capacity, the "**Receiver**") without security, of certain assets, undertakings and properties of the Respondents (each Respondent individually hereinafter being referred to as a "**Debtor**" and collectively, the "**Debtors**")

B. Pursuant to an Order of the Court dated June 1, 2018, the Court approved the agreement of purchase and sale made as of the 11th day of April, 2018 (the “**Sale Agreement**”) between the Receiver and Mehrdad Barghlan and Mojgan Massoudinia. (collectively, the “**Purchasers**”) and provided for the vesting in the Purchasers of the right, title and interest of the Debtor Annie Yeretsian in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets 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 Assets; (ii) that the conditions to Closing as set out in sections 17,18 and 19 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. 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 Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 17, 18 and 19 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 2018.

ROSEN GOLDBERG INC., in its capacity as Court-Appointed Receiver and manager (in such capacity, the “Receiver”) without security, of certain assets, undertakings and properties of Annie Yeretsian, and not in its personal or corporate capacity

Per:

Name: Brahm Rosen

Title: President

SCHEDULE "B" - Purchased Assets

PIN 10126-0383 (LT)

PART OF LOT 13-14 PLAN 2801 NORTH YORK AS IN TR91353; TORONTO
(N YORK), CITY OF TORONTO

SCHEDULE "C"

Claims to be deleted and expunged from title to real property from PIN 10126-0383 (LT)

1. Instrument No. E598953 registered 2002/09/12 being a Transfer in favour of Annie Yeretsian.
2. Instrument No. AT1405966 registered 2007/03/27 being a Charge in favour of Foremost Financial Corporation, Ralph Edson, 697350 Ontario Limited, Ralph Edson, Tina Partnot, Susan Muller, Dorothy Kushner, Willi Karpel, Dinapet Holdings Limited, Sam Goldman, Wendy Switzer Cocomile, Susan Herman, 614 Ontario Limited, Bess Marmer, Beverly Newman, Antonio Savio, Edda Savio, Lucy Safianuk, Remo Bacci, Elda Bacci, Lisa Yakobi, John Colacino, Anna Colacino, Frank Goodman, Lillian Goodman, Lewis John Rumack Viki Rumack, Bernard Tanner, John Savio, Erich Hartman, Claire Weinberg, Freya Morrison, Victor Latchman, Rosalie Latchman, Juliana Zamengo, John Ratelle, David Mesiano and Community Trust Company.
3. Instrument No. AT1405989 registered 2007/03/27 being a Notice of Assignment of Rents in favour of Foremost Financial Corporation, Ralph Edson, 697350 Ontario Limited, Ralph Edson, Tina Partnot, Susan Muller, Dorothy Kushner, Willi Karpel, Dinapet Holdings Limited, Sam Goldman, Wendy Switzer Cocomile, Susan Herman, 614 Ontario Limited, Bess Marmer, Beverly Newman, Antonio Savio, Edda Savio, Lucy Safianuk, Remo Bacci, Elda Bacci, Lisa Yakobi, John Colacino, Anna Colacino, Frank Goodman, Lillian Goodman, Lewis John Rumack Viki Rumack, Bernard Tanner, John Savio, Erich Hartman, Claire Weinberg, Freya Morrison, Victor Latchman, Rosalie Latchman, Juliana Zamengo, John Ratelle, David Mesiano and Community Trust Company.
4. Instrument No. AT2051205 registered 2009/04/20 being a Transmission Charge (Instrument No. AT1405966) in favour of Ruby Silvertorn, Rodney Karpel, Dorothy Kushner and The Estate of Willi Karpel.
5. Instrument No. AT2437554 registered 2010/07/05 being a Charge in favour of 1567934 Ontario Inc.
6. Instrument No. AT2596259 registered 2011/01/12 being a Construction Lien registered by Nu. Fair-Green Sod Farms Limited.
7. Instrument No. AT2626761 registered 2011/02/22 being a Certificate of Action in respect of Instrument No. AT2596259.
8. Instrument No. AT2649466 registered 2011/03/24 being a Charge in favour of Barry Bilyk.
9. Instrument No. AT2800955 registered 2011/08/31 being a Transfer of Charge (Instrument No. AT2649466) in favour of Moshum Capital Inc.

10. Instrument No. AT2891031 registered 2011/12/08 being an Application for Survival of a Charge (Instrument No. AT1405966) in favour of Viki Rumack.
11. Instrument No. AT2891758 registered 2011/12/08 being a Transfer of Charge (Instrument Nos. AT1405966 and AT2051205) in favour of Canada Capital Corporation Inc.
12. Instrument No. AT2891759 registered 2011/12/08 being a Notice of Assignment of Rents (Instrument No. AT1405989) in favor of Canada Capital Corporation Inc.
13. Instrument No. AT2891822 registered 2011/12/08 being a Notice registered by Annie Yeretsian.
14. Instrument No. AT2891823 registered 2011/12/08 being a Transfer of Charge (Instrument Nos. AT1405966, AT2051205, and AT2891758) in favour of Comfort Capital Inc., The Bank of Nova Scotia Trust Company, E. Manson Investments Ltd., Fenfam Holdings Inc., 593651 Ontario Ltd., 1449859 Ontario Limited, B&M Handelman Investments Limited, 1031436 Ontario Inc., Alrae Investments Inc., Barry Spiegel, Sharon Nightingale, David Sugar and Phyllis Sugar.
15. Instrument No. AT2891824 registered 2011/12/08 being a Notice of Assignment of Rents (Instrument Nos. AT1405989 and AT2891759) in favour of Comfort Capital Inc., The Bank of Nova Scotia Trust Company, E. Manson Investments Ltd., Fenfam Holdings Inc., 593651 Ontario Ltd., 1449859 Ontario Limited, B&M Handelman Investments Limited, 1031436 Ontario Inc., Alrae Investments Inc., Barry Spiegel, Sharon Nightingale, David Sugar and Phyllis Sugar.
16. Instrument No. AT2900165 registered 2011/12/19 being an Application for Survival of a Charge (Instrument Nos. AT1405966) in favor of Dorothy Kushner.
17. Instrument No. AT3139148 registered on 2012/09/28 being a Transfer in favor of 2339545 Ontario Inc., together with the executions registered against Annie Yeretsian, including but not limited to Writ Nos. 12-0002098, 12-0004347 and 12-0005705.
18. Instrument No. AT3197551 registered 2012/12/13 being a Transfer of Charge (Instrument Nos. AT1405966, AT2891758 and AT2891823) in favour of Comfort Capital Inc.
19. Instrument No. AT3197552 registered 2013/12/13 being a Notice of Assignment of Rents (Instrument Nos. AT1405989, AT2891759 and AT2891824) in favour of Comfort Capital Inc.
20. Instrument No. AT3622376 registered 2014/07/02 being an Application to Amend and Order in favor of Annie Yeretsian to reinstate Instrument No. E598953 and delete Instrument Nos. AT3139148, AT3146021, AT3146022 and AT3183902.

21. Instrument No. AT3625688 registered 2014/07/04 being a Transfer of Charge (Instrument No. AT2437554) in favor of 2399194 Ontario Corporation.
22. Instrument No. AT3641908 registered 2014/07/23 being a Notice registered by 2399194 Ontario Corporation.
23. Instrument No. AT4477984 registered 2017/02/02 being a Transfer of Charge (Instrument No. AT2437554) in favor of Curah Capital Corporation.
24. Instrument No. AT4641685 registered 2017/07/31 being a Transfer of Charge (Instrument No. AT2891823) in favor of Perdy Building Corporation and 1118390 Ontario Limited.
25. Instrument No. AT4641686 registered 2017/07/31 being a Notice of Assignment of Rents in favor of Perdy Building Corporation and 1118390 Ontario Limited.
26. Instrument No. AT3139148 being execution nos. 12-0002098, 12-0004347, 12-0005704 registered as against Annie Yeretsian.
27. Instrument No. AT4848741 registered 2018/04/25 being an Application to Register Court Order by Rosen Goldberg Inc.

SCHEDULE "D"

Permitted Encumbrances, Easements and Restrictive Covenants related to Real Property

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines) hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid vendors of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act* (Ontario).
11. Instrument No. 64BA1531 registered 1979/10/25 being a Building Act plan.

COMFORT CAPITAL INC., ET AL.

Applicants

and **ANNIE YERETSJIAN, TERRY WILSON, ET AL.**

Respondents

Court File No. CV-18-592103-00CL

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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