

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

THE HONOURABLE) FRIDAY, THE 19TH DAY
JUSTICE W.D. BLACK) OF JULY, 2024

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.**

Respondents

**APPLICATION UNDER SUBSECTIONS 47(1) AND 243 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**

**ORDER
(Appointing 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 Richter Inc. (“**Richter**”) as interim receiver (in such capacity, the “**Interim Receiver**”), without security, of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively,

the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Amanda Bezner sworn July 18, 2024 and the exhibits thereto, the consent of Richter to act as Interim Receiver, and on hearing the submissions of counsel for the Applicant and such other counsel as were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service,

APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to subsections 47(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Interim Receiver, without security, of all the assets, undertakings and properties of each of the Debtors acquired for, or used in relation to, a business carried on by the Debtors, including all proceeds thereof (the “**Property**”) for the purpose of and to the extent authorized by this Order until the earlier of:

- (a) the taking of possession of the Property by a receiver, within the meaning of subsection 243(2) of the BIA;
- (b) the taking of possession of the Property by a trustee in bankruptcy; or
- (c) August 16, 2024.

INTERIM RECEIVER’S POWERS

2. **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 monitor and have access to the Debtors’ receipts and disbursements in any accounts at any financial institution (collectively, the “**Accounts**”), including, but not limited to, viewing access to all online banking relating to the Accounts;

- (b) to investigate and monitor the Debtors' affairs and Property, including, but not limited to, the Accounts;
- (c) to review and have access to any and all financial information pertaining to the Debtors and the Property, including bank statements, financial records and accounts at any financial institution, and data available through any accounting system or software;
- (d) to demand access to additional documents as the Interim Receiver sees fit;
- (e) 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;
- (f) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (g) to conduct examinations under oath of any Person concerning the management of known assets of the Debtors and the existence of any other assets; 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 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.

3. **THIS COURT ORDERS** that the Debtors shall continue to maintain, manage, operate and carry on their business in the ordinary course.

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

4. **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 their instructions or behalf, (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, and (iv) anyone acting on the instructions of anyone listed in this paragraph (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.
5. **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, 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.
6. **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 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 Interim 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.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

7. **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 EXERCISE OF RIGHTS OR REMEDIES

8. **THIS COURT ORDERS** that all rights and remedies against the Interim Receiver, or affecting the Accounts, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court.

EMPLOYEES

9. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors. 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.

LIMITATION ON THE INTERIM RECEIVER’S LIABILITY

10. **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. 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

11. **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 Accounts 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.
12. **THIS COURT ORDERS** that the Interim Receiver and its legal counsel shall pass its 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.

SERVICE AND NOTICE

13. **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 <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04. Subject to Rule 3.01(d) of the Rules 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.
14. **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

15. **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.
16. **THIS COURT ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a receiver or trustee in bankruptcy of the Debtors.
17. **THIS COURT ORDERS** that the Interim Receiver shall not be, or be deemed to be, a receiver within the meaning of subsection 243(2) of the BIA.
18. **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 Interim 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.
19. **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.
20. **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 proceeds from the Accounts with such priority and at such time as this Court may determine.

21. **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.

22. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from the date it is made and is enforceable without the need for entry or filing.



THE TORONTO-DOMINION BANK

- and -

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BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.**

Applicant

Respondents

Court File No. CV-24-723986-00CL

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Proceedings commenced at Toronto

ORDER
(Appointing Interim Receiver)

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