

SUPERIOR COURT
(Commercial Division)

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

**Nos. 500-11-054154-188
 500-11-052942-170
 500-17-098780-177
 500-17-099716-170
 500-17-102553-180**

DATE: August 29, 2018

PRESIDING: THE HONOURABLE JUSTICE LOUIS J. GOUIN, J.C.S.

IN THE MATTER OF THE LIQUIDATION OF:

9143-5537 QUÉBEC INC.

Corporation

-and-

92906 CANADA INC.

Corporation

-and-

**THE ESTATE OF THE LATE RANI KHANNA (also known as Rani Prem and Rani
Sehgal)**

Estate

-and-

RICHTER ADVISORY GROUP INC. / RICHTER GROUPE CONSEIL INC.

Court Appointed Liquidator/Petitioner

ORDER

- [1] **THE COURT**, exercising its jurisdiction as the “court” as defined in each of the *Canada Business Corporations Act* (the “**CBCA**”) and the *Business Corporations Act* (Québec) (the “**QBCA**”), is seized with an “Application for Post-Appointment Orders” (the “**Application**”) seeking an order setting out powers of the herein defined “Liquidator” with respect to the liquidation of 9143-5537 Québec Inc. (“**Québec Co.**”), 92906 Canada Inc. (“**Canada Co.**” and Canada Co. and Québec Co. together, the “**Corporations**”) and the succession of Rani Khanna (the “**Estate**”) and setting forth a sale process for the sale of such parties’ property.
- [2] **CONSIDERING** the allegations contained in the Application, the exhibits produced therewith and the affidavit in support thereof.
- [3] **CONSIDERING** the submissions of counsel.
- [4] **CONSIDERING** the relevant provisions of the *CBCA*, the *QBCA* and the *Civil Code of Québec* (the “**CCQ**”).
- [5] **CONSIDERING** the Order issued by this Court on June 27, 2018 appointing Raymond Massi of Richter Advisory Group Inc. as liquidator to the Estate and to each of the Corporations.

THE COURT:

GENERAL

- [6] **GRANTS** the Application.
- [7] **DISPENSES** the Liquidator from giving notice of the present Application to any person other than the attorneys acting for the shareholders (or ultimate shareholders) of each of Québec Co., Canada Co. and the legatees of the Estate (collectively the “**Beneficiaries**”).
- [8] **CONFIRMS** that Québec Co. be liquidated pursuant to the relevant provisions of the *QBCA*.
- [9] **CONFIRMS** that Canada Co. be liquidated pursuant to the relevant provisions of the *CBCA*.
- [10] **CONFIRMS** that the Corporations shall continue in existence but shall, effective immediately, cease to carry on business except the business that is, in the opinion of the Liquidator, required for the liquidation of the Corporations.
- [11] **CONFIRMS** that the board of directors of each of the Corporations is dissolved.
- [12] **CONFIRMS** and **ORDERS** that the powers of the directors and shareholders of each of the Corporations cease and vest in the Liquidator, except as may hereafter be specifically authorized by this Court.

APPOINTMENT, DUTIES AND POWERS OF LIQUIDATOR

- [13] **CONFIRMS** the appointment of Richter Advisory Group Inc. (as opposed to Raymond Massi) (the “**Liquidator**”) as the liquidator of the Corporations and the Estate and all of the immovable properties owned by each of the Corporations and the Estate as well as all movable property related thereto (collectively the “**Properties**” and each a “**Property**”).
- [14] **ORDERS** that the appointment of the Liquidator shall be without security.
- [15] **ORDERS** that, with respect to the liquidation of:
- (a) Québec Co., the Liquidator shall have all of the duties and powers set forth in the relevant provisions of the *QBCA*;
 - (b) Canada Co., the Liquidator shall have all of the duties and powers set forth in the relevant provisions of the *CBCA*; and
 - (c) the Estate, the Liquidator shall have all of the duties and powers set forth in the relevant provisions of the *CCQ* and shall have the power to alienate the Estate’s Properties in accordance with the provisions of this Order.
- [16] **ORDERS** that, in addition to the powers set forth in paragraph [15] herein, the Liquidator shall have the power to:
- (a) exercise all rights, powers and authorities which the board of directors of any of the Corporations may exercise under the authority of the Corporations’ constating documents and by-laws and the laws governing the Corporations, all as amended from time to time;
 - (b) sign any agreements, documents or instruments, including, without limitation, leases, offers to lease and similar documents with respect to the Properties and contracts to be entered into between any of the Corporations and/or the Estate (collectively the “**Liquidating Parties**”) and any third parties, for and on behalf of such Liquidating Parties, and to do all acts and things and to sign and execute all other documents and instruments related to such agreements, documents or instruments;
 - (c) sign and execute any and all documents, agreements or instruments on behalf of and in the name of the Liquidating Parties with respect to any and all matters relating to the Liquidating Parties’ banking including, without limitation, any and all matters dealing with The Toronto-Dominion Bank, Canadian Imperial Bank of Commerce, Royal Bank of Canada and Caisse Desjardins, including, without limitation, Caisse Desjardins du Sud-Ouest de Montréal (each a “**Bank**” and collectively, the “**Banks**”);
 - (d) withdraw or order transfers of funds from the Liquidating Parties’ accounts with the Bank by any means including the making, drawing, accepting, endorsing or signing of cheques, promissory notes, bills of exchange,

other orders for the payment of money or other instruments or the giving of other instructions;

- (e) withdraw and receive from a Bank any cash or any securities, instruments or other property of the Liquidating Parties held by a Bank and to sign and deliver receipts therefor, or to give instructions to a Bank for the delivery or other transfer of any such cash, securities, instruments or other property to any person named in those instructions;
 - (f) do any one or more of the following:
 - (i) to deposit with or negotiate or transfer to a Bank cash or any security, instrument or other property in the name of any of the Liquidating Parties, or any security or instrument;
 - (ii) to receive statements, instruments and other items (including paid cheques) and documents relating to the Liquidating Parties' accounts with or any service of a Bank; and
 - (iii) to use a card or client identification number, together in certain instances with a security code, to make transactions on accounts;
 - (g) receive from the Banks any software and any security devices, including security cards, codes, and passwords (collectively the "**Security Devices**"), relating to electronic banking services or electronic communications between the Liquidating Parties and the Banks; and
 - (h) be granted access to the Banks' electronic banking services, software and modules and to use the Security Devices in order to gain full access to the Liquidating Parties' accounts and make transactions on any such accounts.
- [17] **ORDERS** that no legal proceedings, enforcement process or extra-judicial proceedings in any court or other tribunal shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.
- [18] **ORDERS** that the Liquidator shall incur no liability or obligation as a result of its appointment or fulfillment of its duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on the Liquidator's part.
- [19] **DECLARES** that the Liquidator shall not be considered as operating or continuing the businesses or enterprises of the Corporations for any purposes whatsoever and that the Liquidator shall not be deemed to be a director of the Corporations.
- [20] **ORDERS** that the Liquidator shall not incur any liability whatsoever regarding third parties for any act done under this Order.

- [21] **ORDERS** that the Liquidator shall not be deemed or considered to be a successor employer, related employer, sponsor or payer to any of the current or former employers of the Corporations within the meaning of any provincial, federal or municipal legislation, civil law or common law governing employment or labour standards (the “**Labour Laws**”) or any other statute, regulation or rule of law or equity for any purpose whatsoever, or any collective agreement or any agreement or any other contract between the Corporations and any other contract between the Corporations and any of the Corporations’ current or former employees. In particular, the Liquidator shall not be liable to any of the current or former employees of the Corporations for any wages under any applicable Labour Laws, including severance pay, termination pay and vacation pay. The Liquidator shall not be liable for any contribution or any payment to any pension or benefit fund.
- [22] **ORDERS** that the Liquidator shall not, as a result of this Order, or anything done in pursuance of the Liquidator’s duties and powers hereunder, be deemed to be in possession of the Properties within the meaning of any federal, provincial or other legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or any other contamination and regulations thereunder.
- [23] **ORDERS** that, in marketing or selling any Property, the Liquidator be acting in place of the Liquidating Parties and not as a real estate broker.
- [24] **ORDERS** that any person, including any advisor, accountant, bookkeeper, or other professional person or organization, acting for any of the Liquidating Parties (collectively the “**Interested Parties**”) release and provide to the Liquidator any and all documents and information (both in hardcopy and electronic form) requested by the Liquidator in their possession or control pertaining to the Liquidating Parties, without the need for the approval of any shareholder, director or legatee, including, without limitation, the following:
- (a) general ledgers and trial balances;
 - (b) financial statements;
 - (c) tax returns and assessments;
 - (d) bank statements;
 - (e) title deeds and other title documents related to the Properties;
 - (f) any and all leases or similar agreements related to the Properties; and
 - (g) municipal and school tax bills and documents related to the Properties.

- [25] **ORDERS** the Interested Parties to cooperate with requests made by the Liquidator for documents and information in their possession or control pertaining to the Liquidating Parties.

LIQUIDATOR'S CHARGE AND PAYMENT OF FEES AND EXPENSES

- [26] **DECLARES** that each Property is hereby charged by and subject to a security and charge to the extent of the aggregate principal amount of \$150,000 in favour of the Liquidator and the Liquidator's legal counsel, Kugler Kandestin LLP (the "**Liquidator's Counsel**"), as continuing and collateral security for the professional fees, expenses, charges and disbursements incurred both before and after the making of this Order and directly related to these liquidation proceedings (the "**Liquidator's Charge**"), having the priority established by paragraph [27] hereof.
- [27] **ORDERS** and **DECLARES** that the Liquidator's Charge shall rank junior to and after all hypothecs, mortgages, security interests, trusts, liens, charges, encumbrances and third party rights, other rights or security (statutory or otherwise) of any nature, source or kind, existing over and/or on each Property as of the date hereof, without any requirement of publication, registration, recording, filing or perfection in any jurisdiction whatsoever.
- [28] **ORDERS** that all fees and disbursements of the Liquidator and the Liquidator's Counsel (inclusive of applicable taxes) and all expenses (inclusive of applicable taxes) incurred by the Liquidator and the Liquidator's Counsel in their performance of their duties hereunder (collectively the "**Fees and Expenses**") may be paid by the Liquidator out of first available proceeds of liquidation of any Property or any other available funds (collectively the "**Liquidation Proceeds**") prior to the distribution of any funds to the shareholders and legatees of the Liquidating Parties.
- [29] **ORDERS** that, subject to paragraph [28] hereof, the Fees and Expenses will, in the Liquidator's final accounts, be allocated against the Liquidating Parties and/or one or more Property as shall be determined by the Liquidator in its sole discretion.

SALE PROCESS

- [30] **ORDERS** that once the Liquidator obtains written appraisals of all of the Properties from such appraiser(s) designated by the Liquidator (collectively the "**Values**"), the Liquidator shall communicate the Values to the Beneficiaries and their attorneys.
- [31] **ORDERS** that the Beneficiaries will have 30 days from their receipt of the Values (or such greater period as the Liquidator may allow) to submit to the Liquidator one or more written agreements between all of the Beneficiaries with respect to the division of some or all of the Properties between them (collectively, the "**Division Agreement**").


- [32] **ORDERS** that the Division Agreement will be valid only once approved by both the Liquidator and this Court.
- [33] **ORDERS** that, with respect to any Properties which do not form the object of a Division Agreement submitted to the Liquidator within the delay set forth in paragraph [31] hereof and approved by the Liquidator and the Court, the Liquidator is hereby authorized to implement and carry out a sale process to market and sell such remaining Properties pursuant to the terms and conditions set forth in each of the "Sale Procedure Rules" in respect of each of the Liquidating Parties produced in support of the Application en liasse, under seal, as **Exhibits P-3, P-4 and P-5** (collectively, the "**Sale Procedure Rules**").
- [34] **APPROVES** and **AUTHORIZES** the Sale Procedure Rules.
- [35] **ORDERS** that the Sale Procedure Rules be kept confidential and under seal until further order of this Court.
- [36] **ORDERS** that, with respect to any right of first refusal, right of first offer, right to match offer or other similar right existing with respect to the sale of any Property (each a "**First Refusal Right**"), unless otherwise set forth in the document granting a First Refusal Right, a First Refusal Right must be exercised within seven (7) days of receipt by the beneficiary of a First Refusal Right of a written notice to such effect from the Liquidator by bailiff, registered mail or courier.
- [37] **AUTHORIZES** the Liquidator to:
- (a) sign, execute and deliver any and all offers, counter-offers, promises of sale, agreements of purchase and sale, deeds of sale, listing agreements, other agreements, other deeds or other documents; and
 - (b) do and perform all things and acts,
- which the Liquidator may determine to be necessary or useful in order to implement and carry out the Sale Procedure Rules and effect, consummate and complete sales of the Properties in accordance with the Sale Procedure Rules.

MISCELLANEOUS

- [38] **ORDERS** that the Liquidator may, from time to time, apply to this Court for advice and directions as to any matter pertaining to this Order, the Corporations and/or the Estate.
- [39] **ORDERS** that the filing and presentation of the Application and the issuance of this Order shall not constitute any event of default, default or breach under or pursuant to any and all agreements, undertakings or engagements to which the Corporations or the Estate is a party.
- [40] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

- [41] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- [42] **ORDERS** that the Liquidator be entitled, authorized and empowered to apply to any court, tribunal, regulatory body or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
- [43] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

THE WHOLE WITHOUT COSTS.



Gerald F. Kandestin J.S.C.

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