

**SUPERIOR COURT**  
(Commercial Division)

**CANADA**  
**PROVINCE OF QUÉBEC**  
**DISTRICT OF MONTRÉAL**

**No. 500-11-056046-192**

**DATE: MARCH 8, 2019**

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**PRESIDING: THE HONOURABLE LUCIE FOURNIER, J.S.C.**

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**IN THE MATTER OF THE NOTICE OF INTENTION OF:**

**J. SLAWNER LTÉE**

Debtor-Petitioner

-and-

**MNP LTD.**

Trustee

-and-

**9216-0704 QUÉBEC INC.**

-and-

**IMMEUBLES MARCHÉ ST-LÉONARD INC.**

-and-

**COMPLEX JEAN-TALON WEST INC.**

-and-

**9155-4956 QUÉBEC INC.**

-and-

**THE SIR MORTIMER B. DAVIS JEWISH GENERAL HOSPITAL FOUNDATION**

Landlords / Respondents

-and-

**GAZ METRO PLUS SEC**

-and-

**MERIDIAN ONECAP LIMITED PARTNERSHIP, MERIDIAN ONECAP CREDIT CORP.**

-and-

**BANQUE ROYALE DU CANADA**

Secured creditors/Mises-en-cause

-and-

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS**

-and-

**CENTRE DE PHYSIOTHÉRAPIE DU SUD-OUEST INC. (ALSO KNOWN AS COMPLEXE  
DE RÉADAPTATION ET DE MÉDECINE SPORTIVE DU SUD-OUEST)**

Mises-en-cause

**JF 0937**

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**APPROVAL AND VESTING ORDER**

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[1] **ON READING** the *Motion by the Debtor Seeking an Authorization to Sell Assets of the Debtor, to assign certain leases and for a Vesting Order* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the Report of the Trustee dated March 5, 2019 (the "**Report**", Exhibit P-12 to the Motion (Appendix "C" of which is Under Seal));

[2] **SEEING** the service of the Motion;

[3] **SEEING** the submissions of the Debtor's attorneys, of the Trustee and of the attorney for the proposed Purchaser;

[4] **SEEING** that it is appropriate to issue an order approving the transaction(s) (the "**Transaction**") contemplated by the agreement entitled *Agreement of Purchase and Sale* (the "**Purchase Agreement**") by and between the Debtor (the "**Vendor**"), as vendor, and 9393-1681 Québec Inc. (the "**Purchaser**"), as purchaser, copy of which was filed as Exhibit P-3 (Under Seal) to the Motion, and vesting in the Purchaser the assets described in the Purchase Agreement (the "**Purchased Assets**");

[5] **WHEREFORE THE COURT:**

[6] **GRANTS** the Motion.

**SERVICE**

[7] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

[8] **PERMITS** service of this Order at any time and place and by any means whatsoever.

**SALE APPROVAL**

[9] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Vendor is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Trustee.

**EXECUTION OF DOCUMENTATION**

[10] **AUTHORIZES** the Vendor and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement (Exhibit P-3) and any other ancillary document which could be required or useful to give full and complete effect thereto.

**AUTHORIZATION**

[11] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

[12] **ORDERS** that the Trustee's Report (Exhibit P-12) is accepted and approved and that the actions of the Trustee described therein are approved.

**VESTING OF PURCHASED ASSETS**

[13] **ORDERS and DECLARES** that upon the issuance of a Trustee's certificate substantially in the form appended as Schedule "A" hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Property, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, or security evidenced by registration, publication or filing pursuant to the Civil Code of Québec in movable / immovable property, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.

[14] **ORDERS and DECLARES** that upon the issuance of the Certificate, the rights and obligations of the Vendor under the Agreements listed on Schedule "B" hereto (the "**Assigned Agreements**") are assigned to the Purchaser and **ORDERS** that all monetary defaults of the Debtor in relation to the Assigned Agreements, other than those arising by reason only of the insolvency of the Debtor, the commencement of proceedings under the BIA or the failure to perform non-monetary obligations, shall be remedied on or before five (5) business days after the issuance of the Trustee's Certificate.

[15] **ORDERS and DIRECTS** the Vendor and the Trustee to serve a copy of this Order to every party to the Assigned Agreements.

[16] **ORDERS and DIRECTS** the Trustee to file with the Court a copy of the Certificate, forthwith after issuance thereof.

**CANCELLATION OF SECURITY REGISTRATIONS**

[17] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to strike the following registrations in connection with the Purchased Assets in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations:

- i) 9216-0704 Québec Inc., on April 11, 2017, under number 17-0328067-0007,

- ii) Immeubles Marché St-Léonard Inc., on June 25, 2013, under number 13-0543340-0001, and
- iii) Royal Bank of Canada, on August 20, 2013, under number 13-0731414-0001.

### **NET PROCEEDS**

[18] **ORDERS** that the net proceeds from the sale of the Purchased Assets, being the gross proceeds minus the transaction costs as described in the Motion (the "**Net Proceeds**"), shall be remitted to the Trustee and shall be distributed in accordance with applicable legislation.

[19] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds 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.

### **PROTECTION OF PERSONAL INFORMATION**

[20] **ORDERS** that, pursuant to sub-section 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act or any similar provision of any applicable provincial legislation, the Debtor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on the Purchase Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

### **VALIDITY OF THE TRANSACTION**

[21] **ORDERS** that notwithstanding:

- i) the pendency of these proceedings;
- ii) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
- iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a

preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendor, the Purchaser or the Trustee.

**LIMITATION OF LIABILITY**

[22] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Trustee to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Trustee shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the BIA.

[23] **DECLARES** that no action lies against the Trustee by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Trustee or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

**GENERAL**

[24] **ORDERS** that the Purchaser or the Trustee shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

[25] **ORDERS** that the Purchase Agreement (Exhibit P-3 to the Motion) and Appendix "C" to the Trustee's Report (Exhibit P-12 to the Motion) be kept confidential and under seal until the earlier of a) the closing of the Transaction; or b) further order of this Court.

[26] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

[27] **DECLARES** that the Trustee shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Trustee shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Trustee as may be deemed necessary or appropriate for that purpose.

[28] **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 or 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 the Order.

[29] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

[30] **THE WHOLE** without costs.

  
  
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**LUCIE FOURNIER, J.S.C.**

Nicholas Scheib  
**SCHEIB LEGAL/ ÉTUDE LÉGALE**  
Attorneys for Debtor-Petitioner

Roger P. Simard  
**DENTONS CANADA LLP**  
Attorneys for Purchaser

**SCHEDULE "A"**

**DRAFT CERTIFICATE OF TRUSTEE**

**TRUSTEE'S CLOSING CERTIFICATE**

**CANADA**

**PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT  
(Commercial Division)**

**No.: 500-11-056046-192**

**IN THE MATTER OF THE NOTICE OF  
INTENTION OF:**

**J. SLAWNER LTÉE.**, a corporation existing  
under the laws of Québec, having its head  
office at 4980, Jean-Talon West, Montréal,  
QC H4P 1W9

Debtor- Petitioner

and

**MNP LTD.** in its capacity as trustee to the  
notice of intention of J. Slawner Ltée

Trustee

**TO:** The Superior Court of Québec and The Registrar of the Register of Personal and Movable Real Rights (the "**Registrar of the RPMRR**")

This certificate is addressed to you in accordance with the judgment dated \_\_\_\_\_, 2019 rendered by \_\_\_\_\_ of the Superior Court, in the Court file bearing number **500-11-056046-192**, sitting in Commercial Division, in and for the District of Montréal (the "**Vesting Order**"), a certified copy of which is attached.

**WHEREAS** the Vesting Order contemplates the issuance of this Certificate of the Trustee once the (a) the Purchase Agreement has been executed and delivered; and (b) the Purchase Price (as defined in the Purchase Agreement) has been paid by the Purchaser; and (c) and all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

**THE TRUSTEE CERTIFIES THAT IT HAS BEEN ADVISED BY THE VENDOR AND THE PURCHASER AS TO THE FOLLOWING:**

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Purchase Price (as defined in the Purchase Agreement) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

The Trustee hereby requests the Registrar of the RPMRR to strike the following Encumbrances with respect to the Purchased Assets:

- (a) 9216-0704 Québec Inc., on April 11, 2017, Fiche 001 of Exhibit P-4 (at pages 5 and 6 of 54), under number 17-0328067-0007, for an amount of \$143,008.32, on the universality of movable property limited to property located in the Chateauguay Location;
- (b) Immeubles Marché St-Léonard Inc., on June 25, 2013, Fiche 006 of Exhibit P-4 (at pages 44 and 45 of 54), under number 13-0543340-0001, for an amount of \$100,000.00, on the universality of the Debtor's present and future movable property; and
- (c) Royal Bank of Canada, on August 20, 2013, Fiche 004 of Exhibit P-4 (at pages 34 and 35 of 54), under number 13-0731414-0001, for an amount of \$30,360.00 for the Ford T-Connect vehicle described therein.

**MNP LTD.,**  
in its capacity as trustee to the  
notice of intention of J. Slawner Ltée

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Sheri Aberback, CIRP, LIT, CFE



**SCHEDULE "B"**  
**ASSIGNED AGREEMENTS**

- [1] lease dated March 27, 2018 with COMPLEX JEAN-TALON WEST INC., for 4980, Jean-Talon West, Montréal (and for clarity, regarding the leased premises originally designated therein as being unit #90 of 5000, Jean-Talon West, Montréal);
- [2] lease with 9155-4956 QUÉBEC INC., for 2377, Principale Street, Suite 200, Magog;
- [3] lease with THE SIR MORTIMER B. DAVIS JEWISH GENERAL HOSPITAL FOUNDATION for 3755 Cote Ste-Catherine, Montréal;
- [4] lease dated July 8, 2016 with 9216-0704 QUÉBEC INC. for 230, Boul Brisebois, Local 1, Chateauguay.