

Court File No. CV-22-00690376-00CL

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

THE HONOURABLE ) WEDNESDAY, THE 15<sup>th</sup> DAY OF  
JUSTICE STEELE ) MARCH, 2023  
)

B E T W E E N:

DAVID ROBERTSON

Applicant

- and -

PAIDIEM PAYMENT SOLUTIONS INC.

Respondent

**APPLICATION UNDER** section 207 of the *Business Corporations Act*,  
R.S.O. 1990, c.B16

**APPROVAL AND VESTING ORDER**

**THIS MOTION** made by MNP Ltd. (the “**Liquidator**”) in its capacity as the court appointed liquidator of the respondent Paidiem Payment Solutions Inc. (“**Paidiem**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by a stalking horse agreement dated December 21, 2022 as amended (the “**145CAN APA**”) between MNP Ltd. (solely in its capacity in its capacity as the court appointed liquidator of the respondent Paidiem) as vendor and 14546865 Canada Inc. (“**145CAN**”) as purchaser, vesting in 145CAN all of Paidiem’s right, title and interest in and to the assets described in the 145CAN APA (the “**Purchased Assets**”), was heard this day via videoconference.

**ON READING** the First Report of the Liquidator dated March 10, 2023 and on hearing submissions of counsel for the parties and for the Liquidator, no one appearing for any

other person on the service list, although served as appears from the affidavit of Linda Galessiere sworn on March 10, 2023.

1. **THIS COURT ORDERS** that the time for services of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the 145CAN APA by the Liquidator is hereby authorized and approved with a minor amendment concerning the payment of the balance of purchase price by secured promissory note on the terms as the Liquidator and 145CAN may agree but which will include the following basic terms:

- (1) that it be payable in full on the earlier of i) the distribution to the Pref S/Hs pursuant to an Order of this Court, and ii) six months from the date of Closing;
- (2) that it be secured in full by a first ranking charge/security over all of the property, assets and undertakings of 145CAN; and
- (3) that no principal or interest payments to be made during period that the promissory note is outstanding

3. **THIS COURT ORDERS AND DIRECTS** that the Liquidator, 145CAN and Paidiem 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 145CAN.

4. **THIS COURT ORDERS AND DECLARES** that upon delivery of a Liquidator's certificate to 145CAN substantially in the form attached as Schedule A hereto (the "**Liquidator's Certificate**"), all of Paidiem's right, title and interest in and to the Purchased Assets described in the 145CAN APA shall vest absolutely in 145CAN, 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) encumbrances or charges created by the order of the Honourable Mr. Justice Cavanagh dated November 23, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act (Ontario)* or any other personal property registry system (all of which are collectively referred to as “**Encumbrances**” and, for greater certainty, this court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged against the Purchased Assets.

5. **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 delivery of the Liquidator’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.

6. **THIS COURT ORDERS AND DIRECTS** the Liquidator to file with the court a copy of the Liquidator’s Certificate forthwith after delivery thereof.

7. **THIS COURT ORDERS** that pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator and Paidiem is authorized and permitted to disclose and transfer to 145CAN all human resources and payroll information in Paidiem’s records pertaining to Paidiem’s past and current employees. 145CAN 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 respect identical to the prior use of such information by Paidiem.

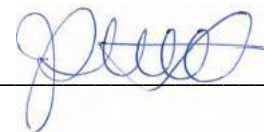
8. **THIS COURT ORDERS** that notwithstanding:

- (1) the pendency of these proceedings;

- (2) the pendency of an application commenced by David Robertson against Paidiem (and others) in the Ontario Superior Court of Justice at Toronto and bearing court file number CV-22-00688249-0000;
- (3) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of Paidiem and any bankruptcy order issued pursuant to any such applications; and
- (4) any assignment in bankruptcy made in respect of Paidiem

the vesting of the Purchased Assets in 145CAN pursuant to this order shall be binding on any trustee in bankruptcy that may be appointed in respect of Paidiem and shall not be void or voidable by creditors of Paidiem, nor shall it constitute not be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to applicable federal or provincial legislation.

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



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**SCHEDULE A – FORM OF LIQUIDATOR’S CERTIFICATE**

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- and -

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**LIQUIDATOR’S CERTIFICATE**

**RECITALS**

A. David Robertson commenced these proceedings under part XVI of the Ontario *Business Corporations Act* by way of a Notice of Application issued on November 17, 2022 and obtained an order of the Honourable Mr. Justice Cavanagh dated November 23, 2022, which ordered, *inter alia*, that the respondent be wound up (the “**Liquidation Order**”);

B. MNP Ltd. (the “**Liquidator**”) was appointed as liquidator of the respondent Paidiem Payment Solutions Inc. (“**Paidiem**”) pursuant to the Liquidation Order;

C. Pursuant to the order of the court dated March 15, 2023 (the “**Approval and Vesting Order**”), the court approved the agreement of purchase and sale dated December 21, 2022 as amended (the “**145CAN APA**”) between MNP Ltd. (solely in its capacity as the court-appointed liquidator of Paidiem) as vendor and 14546865 Canada Inc.

(“145CAN”) as purchaser and provided for the vesting in 145CAN of Paidiem’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon delivery by the Liquidator to 145CAN of a certificate confirming: (i) the payment by 145CAN of the Purchase Price for the Purchased Assets; (ii) that the conditions of Closing set out in the 145CAN APA have been satisfied or waived by the parties (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Liquidator.

D. Unless otherwise indicated herein, capitalized terms shall have the same meaning as set out in the 145CAN APA.

**THE LIQUIDATOR CERTIFIES** the following:

1. The conditions of Closing applicable under the 145CAN APA have been satisfied and/or waived, as applicable;
2. The Liquidator received the required promissory note and security from 145CAN to satisfy the payment of the purchase price under the 145CAN APA;
3. The Transaction has been completed to the satisfaction of the Liquidator.
4. This Certificate was delivered by the Liquidator at \_\_\_\_\_(time) on \_\_\_\_\_ (date).

**MNP Ltd, solely in its capacity as court  
appointed liquidator of Paidiem Payment  
Solutions Inc. and not in its personal  
capacity**

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Name:

Title:

I have authority to bind the corporation

**DAVID ROBERTSON**

and

**PAIDIEM PAYMENT SOLUTIONS INC.**

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