



Court File No. CV-18-00596068-00CL

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

THE HONOURABLE)
JUSTICE CONWAY)
TUESDAY, THE 16TH
DAY OF JANUARY, 2024

B E T W E E N:

(Court Seal)

EQUITABLE BANK

Applicant

and

JAMES GAULT HOLDINGS INC. and 1606077 ONTARIO INC.

Respondents

**ORDER
(Sale Process Approval)**

THIS MOTION, made by MNP Ltd., the court-appointed receiver (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of James Gault Holdings Inc. (“**Gault**”) and 1606077 Ontario Inc. (“**160**” and collectively, with Gault, the “**Debtors**”) pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act* for an order, among other things, approving a sale process, was heard this day by judicial teleconference via Zoom;

ON READING the Order of Justice Cavanagh dated August 8, 2023 (the “**Appointment Order**”), the Notice of Motion dated January 5, 2024, and the first report of the Receiver dated January 5, 2024 and the appendices thereto (the “**First Report**”), and on hearing the submissions

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of counsel for the Receiver and counsel for such other parties in attendance at the hearing, all properly served, as it appears from the affidavit of service, filed,

SERVICE

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

CAPITALIZED TERMS

2. **THIS COURT ORDERS** that capitalized terms not defined herein, shall have the meanings ascribed thereto in the First Report or the Appointment Order, as applicable.

SALE PROCESS

3. **THIS COURT ORDERS** that the Sale Process, as defined and described in the First Report is hereby approved, including, without limitation, the draft template Agreement of Purchase and Sale and draft Non-Disclosure Agreement attached as Appendices “E” and “F” to the First Report respectively, in each case with such amendments as the Receiver may deem necessary and appropriate.

4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to execute a listing agreement (the “**Listing Agreement**”) between the Receiver and Colliers International (“**Colliers**”) and to take such steps as it deems necessary or advisable to carry out the terms of the Listing Agreement.

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5. **THIS COURT ORDERS** that the Receiver is authorized and directed to carry out the Sale Process and to take such steps and to execute such documentation as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction under the Sale Process.

6. **THIS COURT ORDERS** that the Receiver and its affiliates, partners, directors, employees, advisers, agents, counsel and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the Sale Process, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or willful misconduct of the Receiver, as determined by this Court.

BORROWING CHARGE

7. **THIS COURT ORDERS** that Receiver's Borrowings Charge (as defined in paragraph 21 of the Appointment Order) be increased from a principal amount of \$500,000 to a principal amount of \$900,000, and the Receiver's Borrowings Charge hereby applies and extends to any increased borrowings of the Receiver.

REPORT AND ACTIVITIES OF THE RECEIVER

8. **THIS COURT ORDERS** that the First Report and the activities of the Receiver, as set out in the First Report, be and are hereby approved; provided, however, that only the Receiver, in its personal capacity only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

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FEE APPROVAL AND STATEMENT OF RECEIPTS AND DISBURSEMENTS

9. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, in the total amount of \$132,651.49 including HST as set out in the Affidavit of Deborah Hornbostel sworn January 4, 2024 and attached as Appendix “H” to the First Report, are hereby approved.

10. **THIS COURT ORDERS** that the fees and disbursements of the Receiver’s counsel, Miller Thomson LLP, in the total amount of \$281,738.26 including HST, as set out in the Affidavit of Shallon Garrafa, sworn January 3, 2024 and attached as Appendix “I” to the First Report, are hereby approved.

11. **THIS COURT ORDERS** that the Interim Statement of Receipts and Disbursements as at December 31, 2023 be and is hereby approved.

SEALING

12. **THIS COURT ORDERS** that the Confidential Appendices to the First Report shall be sealed and kept confidential pending the closing of a transaction in respect of the Real Property, or until further Order of the Court.

PIPEDA

13. **THIS COURT ORDERS** that that, pursuant to clause 7(3)(c) of the Personal Information Protection and Electronic Documents Act (Canada), the Receiver and its Assistants are hereby authorized and permitted to disclose and deliver for review personal information of identifiable individuals to prospective purchasers or bidders for the Property and their advisors,

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but only to the extent desirable or required to carry out the Sale Process and to negotiate or attempt to complete a transaction pursuant to the Sale Process (a “**Transaction**”). Each prospective purchaser or bidder (and their respective advisors) to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Receiver, or in the alternative destroy all such information and provide confirmation of its destruction if required by the Receiver. The purchaser(s) of any of the Property shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) to which any such purchaser is a party, shall be entitled to use the personal information provided to it that is related to the Property acquired pursuant to the Sale Process in a manner that is in all material respects identical to the prior use of such information by the Debtors and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Receiver.

GENERAL

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or any other jurisdiction, 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, to grant

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representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

15. **THIS COURT ORDERS** that the Receiver may apply to this Court to amend, vary or supplement this Order, or for advice and directions with respect to the discharge of its powers and duties under this Order, or under the Sale Process, at any time during the term of the Sale Process.

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order, and this Order is enforceable without the need for entry and filing.



(Signature of judge, officer or registrar)

RCP-E 59A (September 1, 2020)

EQUITABLE BANK

Applicant

and

JAMES GAULT HOLDINGS INC. et al.

Respondents

COURT FILE NO. CV-23-00700642-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**ORDER
(Approving Sale Process)**

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