

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) TUESDAY, THE 20TH DAY
)
JUSTICE MORAWETZ) OF MARCH, 2012



G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

APPROVAL AND VESTING ORDER

THIS MOTION, made by PricewaterhouseCoopers Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Northern Sawmills Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 2308703 Ontario Inc. (the "**Purchaser**") dated March 9, 2012 and appended to the Report of the Receiver dated March 9, 2012 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, G.E. Canada Equipment Financing G.P., the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Kathryn Esaw sworn March 16, 2012, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to 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 the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, 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) any encumbrances or charges created by the Order of the Honourable Justice Morawetz dated January 4, 2011; (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; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances

affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Registry Office for the Land Titles Division of Thunder Bay (No.55) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

4. **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 the delivery of the Receiver'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.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver 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. 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.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

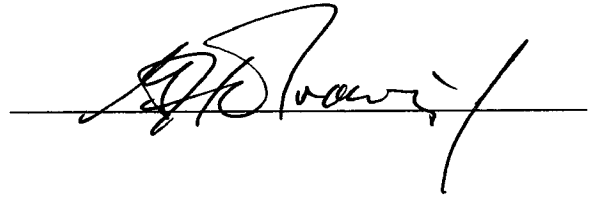
the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a ^{s32} ~~settlement~~, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **THIS COURT ORDERS** that, subject to further order of this Court, the un-redacted Sale Agreement shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court and not before the closing of the transaction contemplated in the Sale Agreement.

10. **THIS COURT ORDERS** that the fourth report of the Receiver dated March 9, 2012 and the activities of the Receiver described therein are hereby approved.

11. **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 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 or to assist the Receiver and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 20 2012



Schedule A – Form of Receiver’s Certificate

Court File No. CV10-9042-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

G.E. CANADA EQUIPMENT FINANCING G.P.

Plaintiff

- and -

NORTHERN SAWMILLS INC.

Defendant

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated January 4, 2011, PricewaterhouseCoopers Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Northern Sawmills Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated March 20, 2012, the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "**Sale Agreement**") between the Receiver and 2308703 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that

the conditions to Closing as set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**PRICEWATERHOUSECOOPERS INC., in
its capacity as Receiver of the undertaking,
property and assets of NORTHERN
SAWMILLS INC., and not in its personal
capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets

490 Maureen Street, Thunder Bay, Ontario

FIRSTLY: PIN 62264-0453 (LT) PT WATER LOT IN FRONT OF THE NE 1/4 OF SEC 51 MCINTYRE PT 7 55R11375 EXCEPT PT 1 55R11631 ; THUNDER BAY

SECONDLY: PIN: 62264-0233 (LT) PCL 25233 SEC TBF; PT WATER LOT IN FRONT OF THE SE SUDIVISION OF SEC 51 MCINTYRE PARTS 5,6 & 7, 55R9572; S/T F39878; THUNDER BAY

THIRDLY: PIN: 62264-0112 (LT) PT WATER LOT IN FRONT OF NORTH-EAST QUARTER OF SECTION 51 MCINTYRE; PT WATER LOT IN FRONT OF SOUTH-EAST SUBDIVISION OF SECTION 51 MCINTYRE; PT 66 FT RDAL MCINTYRE IN FRONT OF SE 1/4 SEC 51MCINTYRE (AKA ORIGINAL SHORE RDAL); PT SE1/4 SEC 51 MCINTYRE; PT UNNAMED ST PL 8 MCINTYRE BEING MAUREEN ST FORMERLY UNNAMED ST; PT BROKEN FRONT IN FRONT OF BLOCK 41 PL 8 MCINTYRE; LT 13-14 BLK 32 PL 8 MCINTYRE; PT LT 15-21 BLK 32 PL 8 MCINTYRE; PT LANE BLK 32 PL 8 MCINTYRE; LT 1-9, 13-21 BLK 41 PL 8 MCINTYRE; PT LT 10, 22-23 BLK 41 PL 8 MCINTYRE; PT LANE BLK 41 PL 8 MCINTYRE; PT THIRD AV, KING ST PL 8 MCINTYRE BEING KIRKLAND ST FORMERLY KING ST PARTS 1, 3, 4, 8 TO 14, 17, 18 & 19, 55R9572; S/T TBR352775; S/T TBR352729; THUNDER BAY

Schedule C – Claims to be deleted and expunged from title to Real Property

1. Instrument No. F108142 registered January 11, 2002 being a charge in the original principal amount of \$15,000,000 in favour of Lucky Star Holdings Inc. ("**Lucky Star**") in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
2. Instrument No. TBR421827 registered January 11, 2002 being a charge in the original principal amount of \$15,000,000 in favour of Lucky Star in respect of PIN: 62264-0112 (LT);
3. Instrument No. TY42208 registered March 22, 2007 being a charge in the original principal amount of \$13,500,000 in favour of General Electric Canada Real Estate Finance Inc. ("**GE**");
4. Instrument No. TY42210 registered March 22, 2007 being a postponement by Lucky Star of F108142 to GE in TY42208 in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
5. Instrument No. TY42212 registered March 22, 2007 being a postponement by Lucky Star of TBR421827 to GE of TY42208 in respect of PIN: 62264-0112(LT);
6. Instrument No. TY58262 registered January 22, 2008 being a charge in the original principal amount of \$5,000,000 in favour of Buchanan Lumber Sales Inc. ("**Lumber**");
7. Instrument No. TY60980 registered March 31, 2008 being an application to change name whereby Lumber changed its name to Buchanan Sales Inc. ("**Buchanan**");
8. Instrument No. TY74960 registered November 28, 2008 being a charge in the original principal amount of \$5,000,000 in favour of Lucky Star;
9. Instrument No. TY80063 registered March 30, 2009 being a notice of agreement amending charge between GE and Northern Sawmills Inc. ("**Northern**");
10. Instrument No. TY80064 registered March 30, 2009 being a postponement by Lucky Star of F108142 to GE of TY42208 in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
11. Instrument No. TY80065 registered March 30, 2009 being a postponement by Buchanan of TY58262 to GE of TY42208;
12. Instrument No. TY80066 registered March 30, 2009 being a postponement by Lucky Star of TY74960 to GE of TY42208;
13. Instrument No. TY80067 registered March 30, 2009 being a postponement by Lucky Star of TBR421827 to GE of TY42208.

14. Writ of Execution issued August 12, 2009 and filed with the Sheriff of the Territorial District of Thunder Bay as No. 09-0000376 in favour of Workplace Safety and Insurance Board, as creditor, for the amount of \$1,389,314.10 plus costs and interest.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

A. General Encumbrances

1. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including (without limitation) subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements.
2. Easements and servitudes (collectively, the “Easements”), including those registered on title, provided that:
 - (a) the Easements do not materially and adversely impair the use of the subject Property for the purpose for which it is presently held or used;
or
 - (b) the Vendors have made satisfactory arrangements for relocation so that the Easements will not materially and adversely impair the use of the subject Property for the purpose for which it is presently held or used.
3. Registered easements for the supply of utilities or telephone services to the properties and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services and all licences, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto not registered on title to the properties, including without limitation, agreements, easements, licences, rights-of-way and interests in the nature of easements for sidewalks, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone telegraphic conduits, poles, wires and cables.
4. Registered easements or rights-of-way for the passage, ingress and egress of persons and vehicles over parts of any Property.
5. Any easements or rights of way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner.
6. Minor encroachments and illegal views by the Lands over neighbouring lands which do not materially and adversely impair the use of the subject Property.
7. Any statutory liens or levies.

8. Title defects or irregularities which are of a minor nature and either individually or in aggregate do not and will not materially impair the value, use or marketability of any Property.
9. Any minor title defects, irregularities or encroachments, rights of way or other discrepancies in title or possession relating to any Property, as would be disclosed by any up-to-date plan of survey of such Property and the improvements noted thereon.
10. Any rights of expropriation, access or user or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.
11. The reservations, limitations, provisos, conditions, restrictions and exceptions (including, without limitation, royalties, reservation of mines, mineral rights, access to navigable waters and similar rights) expressed in the letters patent or grant from the Crown, as varied by statute, of the lands of which the properties form a part and any statutory limitations, exceptions, reservations and qualifications.
12. With respect to instruments registered via Teraview Electronic Registration System ("TER System"), any error or omission in the receipt, transmission or recording of such instrument, or of any of the particulars contained in such instruments, subsequent to creation and electronic delivery of same to Teranet Land Information Services Inc. via the TER System.
13. Zoning, land use and building restrictions, bylaws, regulations and ordinances of federal, provincial, municipal or other governmental bodies or regulatory authorities, including, without limitation, municipal by-laws and regulations and airport zoning regulations.

B. Applicable to Ontario Land Titles Absolute Properties

1. Those additional matters constituting statutory exceptions or reservations pursuant to the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (*Planning Act*)).

C. Applicable to Ontario Land Titles Qualified Conversion Properties

1. On first registration, those additional matters constituting statutory exceptions or reservations pursuant to Subsection 44 (1) of the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (*Planning Act*), paragraph 14 (*Dower Rights*), Provincial succession duties and escheats or forfeiture to the Crown); the rights of any person who, but for the *Land Titles Act* (Ontario), would be entitled to the land or any part of it through length of possession, prescription, misdescription or boundaries settled by convention; and any lease to which Subsection 70 (2) of the *Registry Act* (Ontario) applies.

D. Specific Encumbrances

1. Provincial Officer's Order, issued pursuant to section 157.1 of the *Environmental Protection Act* relating to the Land, and associated Certificate of Requirement.

PIN: 62264-0453 (LT)

1. Instrument No. F397999 registered October 7, 1998 being an agreement.

PIN: 62264-0233 (LT)

1. Instrument No. F39878 registered October 25, 1993 being an easement in favour of The Corporation of the City of Thunder Bay;

PIN: 62264-0112 (LT)

1. Instrument No. TBR352729 registered October 25, 1993 being an easement in favour of The Corporation of the City of Thunder Bay;
2. Instrument No. TBR352775 registered October 26, 1993 being a transfer containing easements and rights-of-way;
3. Instrument No. TBR400496 registered February 9, 1999 being a notice of claim of easements in favour of The Corporation of the City of Thunder Bay;
4. Instrument No. RY97903 registered March 9, 2010 being a certificate of requirement under s. 197(2) of the *Environmental Protection Act*.

G.E. Canada Equipment Financing G.P.

and

Northern Sawmills Inc.

Court File No: CV10-9042-00CL

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon LSUC#: 35638M
Tel: (416) 869-5623
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicant