

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY PRODUCTS
INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.**

Respondents

**APPLICATION UNDER SUBSECTIONS 47(1) AND 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

MOTION RECORD

(returnable July 31, 2024)

July 29, 2024

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JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

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TAB 1

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

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.**

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**APPLICATION UNDER SUBSECTIONS 47(1) AND 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

NOTICE OF MOTION
(returnable July 31, 2024)

The Toronto-Dominion Bank (“**TD Bank**”) will make a motion to a judge presiding over the Commercial List on Wednesday, July 31, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard

- In writing under subrule 37.12.1 (1) because it is (*insert one of on consent, unopposed or made without notice*);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

By Zoom details to be provided by the Court

THE MOTION IS FOR:

TD Bank seeks an order, amongst other things:

- (a) if necessary, abridging the time for service and filing of this Notice of Motion and the Motion Record or, in the alternative, dispensing with and/or validating service of same, and declaring that this Motion is properly returnable before the Court;
- (b) appointing, pursuant to section 243 of the *Bankruptcy and Insolvency Act* (the “**BIA**”) and section 101 of the *Courts of Justice Act* (Ontario) (the “**CJA**”), Richter Inc. (“**Richter**”) as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, properties and undertakings (collectively, the “**Property**”) of (i) Buchh Holding Inc. (“**Holding**”), (ii) 2371561 Ontario Inc. (“**237 ON**”), (iii) Britman Specialty Products Inc. (“**Britman**”), (iv) Rotalec International Inc. (“**Rotalec International**”), and (v) Rotalec Canada Inc. (“**Rotalec Canada**” and collectively with Holding, 237 ON, Britman, and Rotalec International, the “**Debtors**” or the “**Respondents**”) acquired for or used in relation to a business or businesses carried on by the Debtors;
- (c) approving the first report of Richter in its capacity as interim receiver dated July 29 (the “**First Report**”) and the activities described therein; and
- (d) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) Holding, the parent company of each of the Debtors, is incorporated pursuant to the laws of Canada with its registered office at 21 Bywood Drive, Etobicoke, Ontario, M9A 1L6;

The remainder of the Debtors are incorporated pursuant to the laws of Ontario and Canada and operate business within Ontario and Quebec;

- b) the Debtors operate as a consolidation of multiple businesses, with their primary business operations involving the design and distribution of industrial automation products and customized robotics;
- c) Farhat Buchh (“**Mr. Buchh**”) is listed as the sole director of each of the Respondents pursuant to the Respondents’ corporate profiles, aside from Holding, where Ruhi Buchh is listed as an additional director;
- d) the Debtors are currently indebted to TD Bank with respect to certain credit facilities (the “**Credit Facilities**”) granted by TD Bank pursuant to a letter of agreement dated April 26, 2022, as amended by amending agreements dated October 27, 2022 and June 27, 2023 (as amended, replaced, restated or supplemented from time to time, collectively, the “**Credit Agreement**”);
- e) as security for the loans to be made by TD Bank, the Debtors delivered the following security documents in favour of TD Bank: (i) a general security agreement from Holding dated August 31, 2016; (ii) a general security agreement from 237 ON dated August 31, 2016; (iii) a general security agreement from Britman dated June 30, 2022; (iv) a general security agreement from Rotalec International dated September 30, 2016; and (v) a general security agreement from Rotalec Canada dated October 14, 2016 (collectively, the “**Security**”);
- f) registration of the Security was duly made pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”);

- g) the Security provides TD Bank with a contractual right to appoint a receiver over the Property;
- h) the Debtors have defaulted under the Credit Agreement with respect to, among other things, maintaining certain financial covenants and a borrowing base to support the credit limit available to the Debtors;
- i) TD Bank made formal written demand on the Debtors for payment of the indebtedness owing to TD Bank by letters dated July 4, 2024 (the “**Demand Letters**”), which were accompanied by Notices of Intention to Enforce Security pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”);
- j) the Debtors have failed to honour the demands or make alternative arrangements acceptable to TD Bank;
- k) TD Bank engaged Richter to act as a consultant to TD Bank and review the operations and financial position of the Respondents;
- l) since Richter’s engagement, Richter has had direct contact with certain representatives of the Debtors. However, financial information pertaining to Britman and 237 ON was not provided to Richter and could not form part of its review as consultant (the “**Missing Financial Information**”);
- m) both TD Bank and Richter have identified serious issues surrounding the business and operations of the Respondents, including potential material misrepresentations to TD Bank with respect to, among other things, accurate accounts receivable reporting and eligible inventory;

- n) TD Bank has serious concerns surrounding the ability of the Respondents to fulfill their obligations to TD Bank and the potential dissipation of the assets that form TD Bank's collateral;
- o) as at July 2, 2024, a total of \$3,646,998.79 for principal and interest (exclusive of legal fees, disbursements and accruing interest) was owing by the Debtors to TD Bank under the Credit Agreement;
- p) on July 19, 2024, the Court granted an order that, among other things, appointed Richter as the interim receiver over the Debtors (in such capacity, the "**Interim Receiver**") for the purposes of monitoring the business and operations of the Debtors;
- q) upon the Interim Receiver's review of the Debtors' operations and the books and records of the business, including the Missing Financial Information, additional concerns have materialized regarding the financial state of the Debtors;
- r) among other things, the Interim Receiver found that the estimated shortfall in the borrowing base calculation under the Credit Facilities declined from a deficiency that was estimated to be \$1,300,000 in April 2024, to a deficiency \$2,200,000 as at July 23, 2024;
- s) immediately after discovering the margin deficiency and the erosion of TD Bank's collateral, TD Bank took steps to reduce and cap the operating line available to the Debtors and cancelled the Debtors' VISA cards, as authorized pursuant to the Credit Agreement;
- t) resulting from this additional shortfall, and the additional concerns raised by the Interim Receiver in the First Report, it is critical that the interim receivership be converted to a receivership for the preservation and protection of the estates of the Debtors;

- u) the Debtors are insolvent and unable to fulfill their obligations to TD Bank;
- v) TD Bank wishes to take any and all steps necessary to protect its security and realize upon same;
- w) TD Bank has, at all times, acted in good faith towards the Respondents. At this time, however, it considers it reasonable and prudent for it to take steps in an effort to protect its ability to recover its outstanding loans to the Debtors, and it is within TD Bank's rights to do so;
- x) it is just and equitable that a receiver be appointed;
- y) in the circumstances described in the affidavit of Amanda Bezner sworn July 17, 2024 (the "**First Bezner Affidavit**") and the affidavit of Amanda Bezner sworn July 29, 2024 (the "**Second Bezner Affidavit**"), it is just and equitable that an interim receiver be appointed to protect the interests of TD Bank pending the appointment of a receiver in respect of the Debtors;
- z) Richter is a licensed trustee in bankruptcy and is familiar with the circumstances of the Respondents and their arrangements with TD Bank;
- aa) Richter has consented to act as interim receiver and receiver should the Court so appoint it;
- bb) the other grounds set out in the First Bezner Affidavit;
- cc) the other grounds set out in the Second Bezner Affidavit;
- dd) the other grounds set out in the First Report;

- ee) subsection 243(1) of the BIA, as amended;
- ff) section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- gg) rules 1.04, 2.03, 3.02 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- hh) such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a) the First Bezner Affidavit;
- b) the Second Bezner Affidavit;
- c) the First Report;
- d) the consent of Richter to act as receiver of the Respondents; and
- e) such other material as counsel may submit and this Court may permit.

July 29, 2024

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Lawyers for The Toronto-Dominion Bank

THE TORONTO-DOMINION BANK

- and - **BUCHH HOLDING INC. et al .**

Applicant

Respondents

Court File No. CV-24-00723986-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto**

NOTICE OF MOTION
(returnable July 31, 2024)

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Lawyers for The Toronto-Dominion Bank

TAB 2

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

B E T W E E N :

THE TORONTO-DOMINION BANK

Applicant

- and -

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PRODUCTS INC., ROTALEC INTERNATIONAL INC., AND ROTALEC CANADA
INC.**

Respondents

**APPLICATION UNDER SUBSECTION 47(1) AND 243(1) OF THE *BANKRUPTCY AND
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COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**AFFIDAVIT OF AMANDA BEZNER
(Sworn July 29, 2024)**

I, **AMANDA BEZNER**, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am an account manager in the employ of The Toronto-Dominion Bank (“**TD Bank**”) in its Financial Restructuring Group. I am responsible for management of the credit facilities advanced to the Respondents, (i) Buchh Holding Inc. (“ **Holding**”), (ii) 2371561 Ontario Inc. (“**237 ON**”), (iii) Britman Specialty Products Inc. (“**Britman**”), (iv) Rotalec International Inc. (“**Rotalec**”)

International”), and (v) Rotalec Canada Inc. (“**Rotalec Canada**” and collectively with Holding, 237 ON, Britman, and Rotalec International, the “**Debtors**”) as further provided below.

2. I make this affidavit in good faith and based upon my information, knowledge and belief, or where indicated, based upon the information of others, which information I do believe.

3. Any capitalized terms used herein not otherwise defined have the definitions provided in my affidavit sworn July 18, 2024, which was filed in support of TD Bank’s application to appoint Richter Inc. (“**Richter**”) as interim receiver (in such capacity, the “**Interim Receiver**”) over the Debtors.

Appointment of a Receiver and Interim Receiver

4. Based on concerns regarding the potential dissipation of assets and the foreseeable irreparable harm to TD Bank, on July 19, 2024, the Honourable Justice Black granted an order that, among other things, appointed Richter as Interim Receiver (the “**Interim Receivership Order**”). Copies of the Interim Receivership Order and Endorsement are attached and marked as **Exhibit “A”**.

5. Shortly after the Interim Receivership Order was granted, I was informed by the Interim Receiver that based on their review, the estimated shortfall in the borrowing base calculation under the Credit Facilities declined from a deficiency of \$1,300,000 in April 2024, to a deficiency \$2,200,000 as at July 23, 2024. I understand that further details regarding this deficiency will be included in the First Report of the Interim Receiver, to be filed.

6. Immediately after discovering the margin deficiency and the erosion of TD Bank's collateral, TD Bank took steps to reduce and cap the operating line available to the Debtors and cancelled the Debtors' VISA cards, as authorized pursuant to the Credit Agreements.

7. The Debtors, in addition to their ordinary course operations, are the recipients of certain government grants and incentives, including Scientific Research and Experimental Development ("SRED") tax incentives. I understand that there is an incoming SRED payment to the Debtors, which may be dissipated if a receiver is not appointed immediately.

8. Lastly, TD Bank has very little visibility in status of this collateral and has lost all confidence in the Debtors' management and ownership. The rapid pace at which TD Bank's collateral is eroding by permitting the Debtors to continue to operate in the ordinary course is irreparable.

9. Based on initial feedback from the Interim Receiver review and observations, there appears to be no going concern business to preserve, and that the operations need to cease as soon as possible to contain the deterioration of the value of TD Bank's collateral.

10. A receiver should be appointed urgently, in light of, among other things: (i) the unreported deficiency in the collateral and borrowing base, and (ii) the lack of visibility on the Debtors' day-to-day activities, and receipt and possible dissipation of the SRED tax incentive.

11. Richter is a licensed insolvency trustee, which has experience in connection with the management and sales of commercial properties.

12. Richter is current the Interim Receiver, and is well positioned to act as Receiver, given its knowledge of the Debtors' respective business and assets.

13. Richter has consented to act as receiver should the court so appoint it, as set out in Richter’s consent attached as **Exhibit “B”**.

SWORN remotely by Amanda Bezner, stated as)
being in the City of Toronto, in the Province of)
Ontario, before me on July 29, 2024 in accordance)
with O. Reg. 431/20, Administering Oath or)
Declaration Remotely.)

DocuSigned by:)
Shaun Parsons)
3D90420171CB499...)

Commissioner (or as may be))

Signed by:)
Amanda Bezner)
6CB3EC0DD99F48B...)

AMANDA BEZNER

This is Exhibit "A" referred to in the Affidavit of Amanda Bezner sworn before me
at Toronto, Ontario, this 29th day of July, 2024

DocuSigned by:
Shawn Parsons
3D90420171CB499...

Commissioner for Taking Affidavits

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

THE HONOURABLE) FRIDAY, THE 19TH DAY
)
JUSTICE W.D. BLACK) OF JULY, 2024
)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

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**APPLICATION UNDER SUBSECTIONS 47(1) AND 243 OF THE *BANKRUPTCY AND
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COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER
(Appointing Interim Receiver)**

THIS APPLICATION, made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing Richter Inc. (“**Richter**”) as interim receiver (in such capacity, the “**Interim Receiver**”), without security, of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively,

the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Amanda Bezner sworn July 18, 2024 and the exhibits thereto, the consent of Richter to act as Interim Receiver, and on hearing the submissions of counsel for the Applicant and such other counsel as were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service,

APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to subsections 47(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Interim Receiver, without security, of all the assets, undertakings and properties of each of the Debtors acquired for, or used in relation to, a business carried on by the Debtors, including all proceeds thereof (the “**Property**”) for the purpose of and to the extent authorized by this Order until the earlier of:

- (a) the taking of possession of the Property by a receiver, within the meaning of subsection 243(2) of the BIA;
- (b) the taking of possession of the Property by a trustee in bankruptcy; or
- (c) August 16, 2024.

INTERIM RECEIVER’S POWERS

2. **THIS COURT ORDERS** that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to monitor and have access to the Debtors’ receipts and disbursements in any accounts at any financial institution (collectively, the “**Accounts**”), including, but not limited to, viewing access to all online banking relating to the Accounts;

- (b) to investigate and monitor the Debtors' affairs and Property, including, but not limited to, the Accounts;
- (c) to review and have access to any and all financial information pertaining to the Debtors and the Property, including bank statements, financial records and accounts at any financial institution, and data available through any accounting system or software;
- (d) to demand access to additional documents as the Interim Receiver sees fit;
- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Interim Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (f) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (g) to conduct examinations under oath of any Person concerning the management of known assets of the Debtors and the existence of any other assets; and
- (h) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

3. **THIS COURT ORDERS** that the Debtors shall continue to maintain, manage, operate and carry on their business in the ordinary course.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, and (iv) anyone acting on the instructions of anyone listed in this paragraph (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Interim Receiver of the existence of any Property in such Person’s possession or control.
5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided, however, that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such

assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Interim Receiver, except with the written consent of the Interim Receiver or with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. **THIS COURT ORDERS** that all rights and remedies against the Interim Receiver, or affecting the Accounts, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court.

EMPLOYEES

9. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors. The Interim Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Interim Receiver may specifically agree in writing to pay.

LIMITATION ON THE INTERIM RECEIVER’S LIABILITY

10. **THIS COURT ORDERS** that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

INTERIM RECEIVER'S ACCOUNTS

11. **THIS COURT ORDERS** that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the “**Interim Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver’s Charge shall form a first charge on the Accounts in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
12. **THIS COURT ORDERS** that the Interim Receiver and its legal counsel shall pass its accounts from time to time, and, for this purpose, the accounts of the Interim Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

SERVICE AND NOTICE

13. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein, and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.
14. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile

transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.


GENERAL

15. **THIS COURT ORDERS** that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
16. **THIS COURT ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a receiver or trustee in bankruptcy of the Debtors.
17. **THIS COURT ORDERS** that the Interim Receiver shall not be, or be deemed to be, a receiver within the meaning of subsection 243(2) of the BIA.
18. **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 Interim 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 Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.
19. **THIS COURT ORDERS** that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
20. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security

or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Interim Receiver from the proceeds from the Accounts with such priority and at such time as this Court may determine.

21. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

22. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from the date it is made and is enforceable without the need for entry or filing.



THE TORONTO-DOMINION BANK

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC.,
BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.**

Applicant

Respondents

Court File No. CV-24-723986-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER
(Appointing Interim Receiver)

AIRD & BERLIS LLP
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Lawyers for The Toronto-Dominion Bank



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-723986-00CL DATE: July 19, 2024

NO. ON LIST: Added Matter

TITLE OF PROCEEDING: **THE TORONTO-DOMINION BANK v. BUCHH HOLDING INC. et al**

BEFORE JUSTICE: **JUSTICE W.D. BLACK**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Cristian Delfino Shaun Parsons Miranda Spence	The Toronto-Dominion Bank	cdelfino@airdberlis.com sparsons@airdberlis.com mspence@airdberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Farhat Buchh	Buchh Holding Inc. et al	Buchh@rotalec.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Andrew Adessky	Richter Inc.	AAdessky@richter.ca
Lyne Gaulin	BDC Capital Inc.	Lyne.Gaulin@bdc.ca

ENDORSEMENT OF JUSTICE W.D. BLACK:

- [1] The Toronto Dominion Bank (“TD”), moves for an order appointing Richter Inc. (“Richter”) as interim receiver (in such capacity, “Interim Receiver”), without security, of the assets, undertakings and properties acquired for, or used in relation to, the business carried out by each of the respondents (collectively, the “Debtors”), including all proceeds thereof (collectively, the “Property”).
- [2] The Debtors operate multiple businesses, primarily involving the design and distribution of industrial automation products and robotics.
- [3] The Debtors are indebted to TD with respect to certain credit facilities. Each of the Debtors has provided security in favour of TD, including general security agreements.
- [4] The Debtors defaulted under the credit agreement with respect to, among other things, failing to maintain a monthly borrowing base relative to the credit facilities.
- [5] As a result, TD engaged Richter to act as a consultant to review aspects of the Debtors’ financial circumstances, based on available books and records.
- [6] In this capacity, Richter identified concerning errors in the Debtors’ business records, including substantial overstatements of accounts receivable and inventory, and understatement of payables.
- [7] Management of the Debtors was made aware of the concerning findings, and has not disputed them.
- [8] In the circumstances, TD made formal written demand on the Debtors on July 4, 2024, for payment of amounts owing under the credit agreement, and provided a notice of intention to enforce its security (the “BIA Notice”), under subsection 244(1) of the BIA.
- [9] The 10-day period set out in the BIA Notice expired on July 15, 2024, and the indebtedness has not been repaid.
- [10] In addition, within the last two weeks, the Debtors have taken a number of steps outside the ordinary course of business including terminating employees, halting rent payments, and pushing customers for collection of accounts receivable. TD is concerned that there is significant risk to its collateral.
- [11] TD will be moving to appoint a receiver, and a date for that application has now been confirmed for August 15, 2024 at 11:00 a.m. (for one hour).
- [12] In the meantime, by way of today’s hearing, TD seeks to upgrade Richter from consultant to Interim Receiver immediately, to allow Richter to undertake more robust monitoring of the Debtors’ activities so as to avoid further deterioration of TD’s collateral.
- [13] I find that the proposed appointment of Richter as Interim Receiver is just and convenient, and necessary for the protection of TD’s interests. While evidence of dissipation of assets is not a precondition to this order, I do find that there is concerning evidence of material misrepresentations by the Debtors, breaches of the loan agreements, and defaults thereunder. The appointment of the Interim Receiver is appropriate here to safeguard the Property on a temporary basis, pending the full-blown receivership application.

[14] In the circumstances, I am granting the order sought by TD, and attach a signed copy of the order to this endorsement.



W.D. BLACK J.

DATE: JULY 19, 2024

This is Exhibit "B" referred to in the Affidavit of Amanda Bezner sworn before me
at Toronto, Ontario, this 29th day of July, 2024

DocuSigned by:
Shawn Parsons
3D90420171GB499...

Commissioner for Taking Affidavits

Court File No.

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.**

Respondents

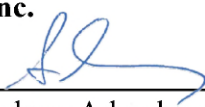
**APPLICATION UNDER SUBSECTION 47(1) AND 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

CONSENT

The undersigned, Richter Inc. (“**Richter**”), hereby consents to the appointment of Richter as: (i) interim receiver, without security, of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof (the “**Property**”), and (ii) receiver, without security, of the Property; all pursuant to the provisions of sections 47(1) and 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

DATED at Toronto, this 17 day of July, 2024.

Richter Inc.

Per: 
Name: Andrew Adessky, CPA, CIRP, LIT
Title: Vice President
I have authority to bind the corporation.

THE TORONTO-DOMINION BANK
Applicant

- and -

BUCHH HOLDING INC. ET AL
Respondents

Court File No. CV-24-00723986-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

AFFIDAVIT OF AMANDA BEZNER
(Sworn July 29, 2024)

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Lawyers for The Toronto-Dominion Bank

TAB 3

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

THE HONOURABLE)
JUSTICE KIMMEL)
)
)
)

WEDNESDAY, THE 31st
DAY OF JULY, 2024

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER
(appointing Receiver)**

THIS MOTION, made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing Richter Inc.

(“**Richter**”) as receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Amanda Bezner sworn July 17, 2024 and the exhibits thereto, the affidavit of Amanda Bezner sworn July 29, 2024 and the exhibits thereto, the First Report of Richter in its capacity as interim receiver (the “**Interim Receiver**”) dated July 29, 2024 (the “**First Report**”), and on hearing the submissions of counsel for the Applicant and such other counsel as were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service, filed, and on reading the consent of Richter to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF FIRST REPORT

2. **THIS COURT ORDERS** that the First Report and the activities of the Interim Receiver, as set out in the First Report, be and are hereby approved.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Receiver, without security, of all the assets, undertakings and properties of each of the Debtors acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof (the “**Property**”).

RECEIVER'S POWERS

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in

collecting such monies, including, without limitation, to enforce any security held by the Debtors;

- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$200,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,
- (s) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate

access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver or affecting the Property are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business

which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to

the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. **THIS COURT ORDERS** that all employees of the Debtors, if any, shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder 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 of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which 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.

17. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this

proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act* or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

19. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon,

in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

26. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

BANKRUPTCY OF THE DEBTORS

27. **THIS COURT ORDERS** that the Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors into bankruptcy, or to consent to the making of a bankruptcy order against the Debtors, pursuant to the provisions of Section 49 of the BIA, and that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

SERVICE AND NOTICE

28. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at [https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part III The E-Service List](https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List)) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in

accordance with the Protocol and shall be accessible by selecting the Debtors' name from the engagement list at the following URL: <https://www.richter.ca/insolvencycase/>.

29. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

30. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. **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.

32. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application against the Debtors, up to and including entry and service of this Order, provided for by the terms of Applicant's security or, if not so provided by Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

34. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

35. **THIS COURT ORDERS** that this Order and all of its provisions are effective as today's date and is enforceable without the need for entry or filing.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Richter Inc., the receiver (the "**Receiver**") of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof (collectively, the "**Property**"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 2024 (the "**Order**") made in an application having Court file number CV-24-00723986-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$300,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

Richter Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC.,
BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.**

Applicant

Respondents

Court File No. CV-24-00723986-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER
(Appointing Receiver)

AIRD & BERLIS LLP

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Lawyers for The Toronto-Dominion Bank

TAB 4

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ORDER
(appointing Receiver)

THIS MOTION, made by the ~~Plaintiff~~² Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA"), appointing ~~[RECEIVER'S NAME]~~ Richter Inc. ("Richter") as receiver ~~[and manager]~~ (in such ~~capacities~~ capacity, the "Receiver"), without security, of all ~~of~~ the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ (each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively, the "Debtor" "Debtors") acquired for, or used in relation to a business carried on by the ~~Debtor, Debtors and all proceeds thereof~~ was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by judicial videoconference via Zoom.

ON READING the affidavit of ~~[NAME]~~ Amanda Bezner sworn July 17, 2024 and the exhibits thereto, the affidavit of Amanda Bezner sworn [DATE] July 29, 2024 and the Exhibits exhibits thereto, the First Report of Richter in its capacity as interim receiver (the "Interim Receiver") dated July 29, 2024 (the "First Report"), and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant and such other counsel as were present, no one appearing for ~~[NAME]~~ any other stakeholder although duly served as appears from the affidavit of service ~~of [NAME] sworn [DATE], filed,~~ and on reading the consent of ~~[RECEIVER'S NAME]~~ Richter to act as the Receiver,

² ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

SERVICE

1. **THIS COURT ORDERS** that the time for service of the ~~Notice~~notice of ~~Motion~~motion and the ~~Motion~~motion record is hereby abridged and validated³ so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF FIRST REPORT

2. **THIS COURT ORDERS** that the First Report and the activities of the Interim Receiver, as set out in the First Report, be and are hereby approved.

APPOINTMENT

3. ~~2.~~ **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~Richter is hereby appointed Receiver, without security, of all ~~of~~ the assets, undertakings and properties of each of the Debtor~~Debtors~~ acquired for, or used in relation to a business carried on by the ~~Debtor, including~~Debtors and all proceeds thereof (the "Property").

RECEIVER'S POWERS

4. ~~3.~~ **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the

³ ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the ~~Debtor~~Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the ~~Debtor~~Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the ~~Debtor~~Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~Debtors and to exercise all remedies of the ~~Debtor~~Debtors in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the ~~Debtor~~Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the ~~Debtor~~Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to the ~~Debtor~~Debtors, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business~~;~~;

(i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~200,000.00; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*,~~†~~ or section 31 of the Ontario *Mortgages Act*, as the case may be,⁵ shall not be required,~~and in each case the Ontario Bulk Sales Act shall not apply.~~;

~~⁴ This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

~~⁵ If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the ~~Debtor~~Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (s) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the ~~Debtor~~Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. ~~4.~~ **THIS COURT ORDERS** that (i) the ~~Debtor~~Debtors, (ii) all of ~~its~~their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on ~~its~~their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons") and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. ~~5.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the ~~Debtor~~Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this

paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. ~~7.~~ **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE ~~DEBTOR~~DEBTORS OR THE PROPERTY

10. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the ~~Debtor~~Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the ~~Debtor~~Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the ~~Debtor~~Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written

consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the ~~Debtor~~Debtors to carry on any business which the ~~Debtor is~~Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the ~~Debtor~~Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Debtor~~Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. ~~12.~~ **THIS COURT ORDERS** that all Persons having oral or written agreements with the ~~Debtor~~Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the ~~Debtor~~Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the ~~Debtor's~~Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the ~~Debtor~~Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order

from any source whatsoever, including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. ~~14.~~ **THIS COURT ORDERS** that all employees of the ~~Debtor~~Debtors, if any, shall remain the employees of the ~~Debtor~~Debtors until such time as the Receiver, on the ~~Debtor's~~Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

16. ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder 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 of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Debtors, and shall

return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

17. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS)*.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “Possession”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “Environmental Legislation”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

19. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

21. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the

⁶ ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. ~~22.~~ **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

26. ~~24.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

BANKRUPTCY OF THE DEBTORS

27. THIS COURT ORDERS that the Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors into bankruptcy, or to consent to the making of a bankruptcy order against the Debtors, pursuant to the provisions of Section 49 of the BIA, and that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

SERVICE AND NOTICE

28. ~~25.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol>/[https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part III The E-Service List](https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List)) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the “Rules”) this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules ~~of Civil Procedure~~. Subject to Rule 3.01(d) of the Rules ~~of Civil Procedure~~ and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol ~~with~~ and shall be accessible by selecting the Debtors’ name from the engagement list at the following URL: ~~“<@>”~~ <https://www.richter.ca/insolvencycase/>.

29. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Debtor's~~ Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~ Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to

be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

30. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

~~28. — THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.~~

31. ~~29.~~ **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.

32. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application against the Debtors, up to and including entry and service of this Order, provided for by the terms of ~~the Plaintiff~~Applicant's security or, if not so provided by ~~the Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the ~~Debtor's~~Debtors' estate with such priority and at such time as this Court may determine.

34. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party

likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

35. **THIS COURT ORDERS** that this Order and all of its provisions are effective as today's date and is enforceable without the need for entry or filing.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Richter Inc., the receiver (the "Receiver") of all the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the ~~Debtor, including~~ Debtors and all proceeds thereof (collectively, the "Property"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20~~20~~2024 (the "Order") made in an ~~action~~ application having Court file number ~~—CV-24-00723986-00CL—~~, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ ~~_____~~ 300,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ Richter Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

THE TORONTO-DOMINION BANK

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC.,
BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.**

Applicant

Respondents

Court File No. CV-24-00723986-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto**

**ORDER
(Appointing Receiver)**

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Document comparison by Workshare Compare on July 29, 2024 2:06:05 PM

Input:	
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Document 2 ID	iManage://cloudimanager.com/cm/61109829/3
Description	#61109829v3<cloudimanager.com> - Receivership Order - Applicant - TD Bank - 29-JUL-2024
Rendering set	Standard

Legend:	
Insertion	
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Moved from	
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Moved deletion	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	254
Deletions	220
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Total changes	476

TAB 5

BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.

FIRST REPORT OF THE INTERIM RECEIVER

July 29, 2024

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

TD BANK

Applicant

- and -

BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY PRODUCTS INC.,
ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.

Respondents

APPLICATION UNDER subsections 47(1) and 243(1) of the Bankruptcy and Insolvency Act,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43, as amended

FIRST REPORT OF RICHTER INC.
IN ITS CAPACITY AS INTERIM RECEIVER OF
BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY PRODUCTS INC.,
ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.

July 29, 2024

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VI.	INTERIM RECEIVER'S FINDINGS.....	4
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APPENDICES

APPENDIX "A" – Interim Receivership Order Dated July 19, 2024

APPENDIX "B" – Endorsement of the Honourable Mr. W. D. Black, dated July 19, 2024

I. INTRODUCTION

1. Upon application by The Toronto-Dominion Bank (the "Bank" or the "Applicant"), on July 19, 2024, the Honourable Mr. Justice W. D. Black of the Superior Court of Justice (Commercial List) (the "Court") issued an Order (the "IR Order") appointing Richter Inc. ("Richter") as interim receiver (the "Interim Receiver") of all of the assets, undertakings and properties (the "Property") of Buchh Holding Inc. ("Buchh Holding"), 2371561 Ontario Inc. ("UGP"), Britman Specialty Products Inc. ("BSP"), Rotalec International Inc. ("Rotalec International") and Rotalec Canada Inc. ("Rotalec Canada", and collectively the "Company" or "Debtors") pursuant to subsection 47(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA"). A copy of the Interim Receivership Order is attached hereto as Appendix "A".
2. As noted in the endorsement of the Honourable Mr. W. D. Black, a copy of which is attached hereto as Appendix "B", the Interim Receivership Order was granted with a comeback hearing date of August 15, 2024 (the "Comeback Hearing").
3. The Interim Receiver understands that the Bank is bringing an emergency application on July 31, 2024 for an Order (the "Receivership Order") appointing Richter as receiver (in such capacity, the "Receiver") to exercise the powers and duties set out in the Receivership Order, pursuant to subsection 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA"), and section 101 of the Courts of Justice Act R.S.O. 1990 c. C.43, as amended, without security, of the Property of the Company.
4. Richter is a licensed trustee within the meaning of section 2 of the BIA and has consented to act as Receiver in these proceedings in the event that this Court grants the relief sought by the Bank. We are writing this report as Interim Receiver of the Company.

II. PURPOSE OF REPORT

5. The purpose of this report (the "Report") is to:
 - (a) Inform the Court of the activities of the Interim Receiver since the granting of the Interim Receivership Order; and
 - (b) Provide this Court with the Interim Receiver's preliminary observations and findings.

III. QUALIFICATIONS

6. In preparing this Report, Richter has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and discussions with management (collectively, the "Information"). Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided, and in consideration of the nature of the evidence provided to this Court, in relation to the relief sought therein.

Richter has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“GAAS”) pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information. An examination of the Company’s financial forecasts in accordance with the CPA Canada Handbook has not been performed. Future-oriented financial information reported on or relied upon in this Report is based on management’s assumptions regarding future events; actual results achieved may vary from forecast and such variations may be material.

7. Unless otherwise noted, all monetary amounts contained in this Report are expressed in Canadian dollars (“CAD”).

IV. BACKGROUND

8. Reference is made to the Affidavit of Amanda Bezner, sworn July 18, 2024 (the “Bezner Affidavit”) filed in support of the Bank’s application for the Interim Receivership Order, appended as Tab 2 of the Applicant’s Motion Record, as well as to the additional Affidavit of Amanda Bezner (the “Additional Bezner Affidavit”), sworn July 29, 2024 in support of the Bank’s application for the Receivership Order. While this Report summarizes some of the information set out in the Bezner Affidavit and the Additional Bezner Affidavit (together, the “Affidavits”), for context, readers are directed to the Affidavits for a more detailed explanation of the grounds for the Bank’s motion. In addition, reference is made to the Pre-Filing Report of the Proposed Interim Receiver dated July 17, 2024, as filed in support of the IR Order.

Company Overview

9. The Company is a privately-owned corporation which is a consolidation of multiple businesses, with Rotalec Canada being the primary operating company. The Respondents have operations in Ontario, Quebec and Minnesota, and operate as follows:
 - Buchh Holding is a management company with no operations. It owns 100% of each of Rotalec International and BSP and 50% of UGP;
 - Rotalec specializes in the distribution of industrial automation products and customized robotics for numerous industries including aerospace, aluminum, packaging and general manufacturing;
 - BSP specializes in the sale of locking devices to companies in the furniture industry; and
 - UGP specializes in custom plastic injection molding.
10. The principal of the Company is Mr. Farhat Buchh.

11. On May 15, 2024, Richter was engaged by the Bank to review and assess the assets, financial position, business and operations of the Company. Credit facilities advanced by the Bank to the Company at the time totaled approximately \$3.6M.
12. More specifically the scope of Richter's engagement included the following elements:
 - Review of the Company's monthly borrowing base calculation ("BBC");
 - Review of the Company's current financial situation; and
 - Any other matters as required by the Bank.
13. The Company has incurred losses in two of the last three fiscal years. The year-to-date sales through April 30, 2024 for Rotalec (which represents approximately 85% of Company revenue) reflect a 50% sales decline versus April 30, 2023. This sales decline significantly eroded the Company's collateral and liquidity.
14. Prior to the appointment of Richter as Interim Receiver, based on our review of the BBC as at April 30, 2024, we noted significant errors as follows:
 - Eligible accounts receivable were overstated by approximately \$809,000;
 - Eligible inventory was overstated by approximately \$917,000; and
 - Priority payables were understated by approximately \$201,000.

As a result of these errors, the reported margin deficit of approximately \$60,000 as of April 30, 2024, was in fact adjusted to a margin deficit of \$1,298,000. Management was made aware of our findings and had not disputed them.
15. In addition, the Company's serious liquidity issues resulted in their two largest suppliers refusing further shipments to the Company although we were subsequently advised that arrangements were being made to receive further inventory on a COD basis amongst other conditions.

V. ACTIVITIES OF THE INTERIM RECEIVER

16. In the afternoon of July 19, 2024, following the granting of the Interim Receivership Order, the Interim Receiver arrived at the premises of Rotalec Canada located at 5000, Thimens, St-Laurent, Québec, Canada, H4R 2B2 (the "Rotalec Premises"), and was granted access by Mr. Mamdouh Boulos, the financial controller. A representative of the Interim Receiver also attended at the premises of UGP located at 85 Chambers Drive (units 6 & 7) and 400 Monarch Avenue (units 9 & 10) in Ajax, Ontario and at BSP located at 400 Monarch Avenue (units 9 & 10) in Ajax, Ontario (the "UGP and BSP Premises"). Mr. Farhat Buchh provided access to the UGP and BSP Premises.

17. The Interim Receiver explained the terms of the IR Order, and obtained the full cooperation of both Mr. Boulos and Mr. Buchh. The IR Order did not provide for the Interim Receiver to take possession of the Company's premises nor to take control of receipts and disbursements. Nonetheless, the Interim Receiver has maintained a full-time presence at the Rotalec Premises during normal business hours. Given the limited value of assets at the UGP and BSP Premises, the Interim Receiver is not present at these premises on a full-time basis.
18. The Interim Receiver then completed the following activities up to and including the date of this Report:
 - a) Photographed certain machinery/equipment and inventory;
 - b) Performed test counts of the inventory at the Company's various premises mentioned in paragraph 16 above;
 - c) Confirmed with Management that valid insurance was in place;
 - d) Gained access to the Company's computer system, and performed a full back up of the Company's financial information;
 - e) Reviewed the Company's books and records in an effort to gain an understanding of the Company's financial position;
 - f) Obtained daily reporting of bank activity from the Bank and reviewed same for reasonableness;
 - g) Prepared an updated BBC for the Bank dated July 23, 2024;
 - h) Communicated with interested parties regarding the operations of Rotalec Canada and UGP;
 - i) Reviewed the Company's daily funding requests;
 - j) Attended update calls with the Bank and its counsel; and
 - k) Prepared this Report;

VI. INTERIM RECEIVER'S FINDINGS

19. As at the date of the Report, the Interim Receiver has made these findings:
 - Since our appointment on July 19, 2024 the Company incurred negative net cash flows totaling approximately - \$26,000 in the one week ending July 26, 2024. During this period, receipts from customers were ~ \$141,000, while disbursements were ~ \$167,000;
 - The updated BBC as of July 23, 2024 now reflects a margin deficit of \$2.2M, as compared to the \$1.3M shortfall calculated as at April 30, 2024. This represents a further \$900K deterioration in the Bank's collateral, primarily due to the significant reduction of the Company's accounts receivable and inventory position;
 - The Company has insufficient liquidity to operate its business;

- UGP and BSP's books and records are not updated on a timely basis. In fact, Mr. Buchh advised us that the inventory for UGP had not been updated in many months. In April, UGP incorrectly reported to the Bank an inventory balance of \$1.1M in their BBC, while on July 23, 2024, the inventory balance had diminished to \$381K. Per Mr. Buchh, the significant reduction of inventory is not due to sales but rather, to the fact that the April 30, 2024 balance reported to the Bank was not updated since its December 31st year-end and was thus incorrect;
 - Many of the Company's employees have expressed significant concern as to the Company's future and their ongoing employment. Several key employees have discussed their concerns with Richter; and
 - Sales for Rotalec (which represents approximately 85% of Company revenue) have decreased by 54% in May 2024 and by 56% in June 2024 compared to 2023. A more significant decline is expected for July 2024.
20. During our test counts of the Company's inventory, we noted material overstatements/missing inventory of approximately \$755,000. Mr. Buchh was unable to explain these overstatements.
21. A third-party potential investor, Mr. Bob Claeys, who has been in discussions with Mr. Buchh for several weeks to acquire Rotalec Canada, has made several offers to the Bank to acquire their security over the assets of Rotalec Canada, all of which were deemed unacceptable by the Bank. These offers included multiple conditions, including the need to secure financing. The offers represented significant risk to the Bank, as the Bank would have been required to continue funding operations while Mr. Claeys attempts to obtain financing and fulfill his numerous conditions. In addition, it appears that Mr. Claeys offer would not improve the Bank's realization as compared to a liquidation of Rotalec Canada.
22. Similarly, Mr. Buchh provided an offer to the Bank to acquire their security over the assets of UGP. The Bank deemed this offer to be unacceptable, however, further discussions are being held.

VII. APPOINTMENT OF RICHTER AS RECEIVER

23. Richter believes that the appointment of a Receiver is urgent, due to the following:
- The significant and ongoing deterioration of the Bank's collateral from April 30, 2024 to July 23, 2024. In fact, as mentioned above, the BBC as of July 23, 2024 reflects a significant margin deficit of \$2.2M which in our view, is likely to grow with continuing operations due to the low level of sales and ongoing level of overhead and operating expenses;
 - As explained in the Affidavits, the Company has no liquidity to continue operating as a going concern including meeting ongoing payroll obligations. In addition, the realization value of the assets indicates that the Bank will likely incur a significant loss; and

- In our current capacity as Interim Receiver, Richter is not in a position to halt the ongoing deterioration of the Bank's collateral. Given the significant shortfall for the Bank, and the lack of liquidity to operate, appointing a Receiver to take control of the Company to protect the collateral of the Bank is both urgent and necessary.

All of which is respectfully submitted on the 29th day of July, 2024.

Richter Inc.
as Interim Receiver of
Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc.,
Rotalec International Inc. and Rotalec Canada Inc. and not in its personal capacity



Andrew Adessky, CPA, CIRP, LIT



Olivier Benchaya, CPA, CIRP, LIT

APPENDIX A

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 19TH DAY
JUSTICE W.D. BLACK) OF JULY, 2024

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC. and ROTALEC CANADA INC.

Respondents

APPLICATION UNDER SUBSECTIONS 47(1) AND 243 OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

ORDER
(Appointing Interim Receiver)

THIS APPLICATION, made by the Applicant for an Order pursuant to section 47(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA"), and section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43, as amended (the "CJA"), appointing Richter Inc. ("Richter") as interim receiver (in such capacity, the "Interim Receiver"), without security, of all the assets, undertakings and properties of each of Buchh Holding Inc., 2371561 Ontario Inc., Britman Specialty Products Inc., Rotalec International Inc. and Rotalec Canada Inc. (collectively,

the “Debtors”) acquired for, or used in relation to a business carried on by the Debtors and all proceeds thereof was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Amanda Bezner sworn July 18, 2024 and the exhibits thereto, the consent of Richter to act as Interim Receiver, and on hearing the submissions of counsel for the Applicant and such other counsel as were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service,

APPOINTMENT

1. THIS COURT ORDERS that pursuant to subsections 47(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Interim Receiver, without security, of all the assets, undertakings and properties of each of the Debtors acquired for, or used in relation to, a business carried on by the Debtors, including all proceeds thereof (the “Property”) for the purpose of and to the extent authorized by this Order until the earlier of:

- (a) the taking of possession of the Property by a receiver, within the meaning of subsection 243(2) of the BIA;
- (b) the taking of possession of the Property by a trustee in bankruptcy; or
- (c) August 16, 2024.

INTERIM RECEIVER’S POWERS

2. THIS COURT ORDERS that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to monitor and have access to the Debtors’ receipts and disbursements in any accounts at any financial institution (collectively, the “Accounts”), including, but not limited to, viewing access to all online banking relating to the Accounts;

- (b) to investigate and monitor the Debtors' affairs and Property, including, but not limited to, the Accounts;
- (c) to review and have access to any and all financial information pertaining to the Debtors and the Property, including bank statements, financial records and accounts at any financial institution, and data available through any accounting system or software;
- (d) to demand access to additional documents as the Interim Receiver sees fit;
- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Interim Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (f) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (g) to conduct examinations under oath of any Person concerning the management of known assets of the Debtors and the existence of any other assets; and
- (h) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

3. THIS COURT ORDERS that the Debtors shall continue to maintain, manage, operate and carry on their business in the ordinary course.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, and (iv) anyone acting on the instructions of anyone listed in this paragraph (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Interim Receiver of the existence of any Property in such Person's possession or control.
5. THIS COURT ORDERS that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided, however, that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such

assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Interim Receiver, except with the written consent of the Interim Receiver or with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. THIS COURT ORDERS that all rights and remedies against the Interim Receiver, or affecting the Accounts, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court.

EMPLOYEES

9. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors. The Interim Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Interim Receiver may specifically agree in writing to pay.

LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

10. THIS COURT ORDERS that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

INTERIM RECEIVER'S ACCOUNTS

11. THIS COURT ORDERS that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "Interim Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Accounts in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
12. THIS COURT ORDERS that the Interim Receiver and its legal counsel shall pass its accounts from time to time, and, for this purpose, the accounts of the Interim Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

SERVICE AND NOTICE

13. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein, and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.
14. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile

transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

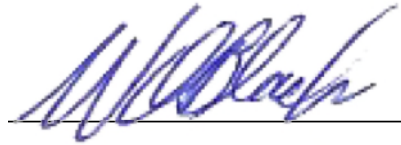
GENERAL

15. THIS COURT ORDERS that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
16. THIS COURT ORDERS that nothing in this Order shall prevent the Interim Receiver from acting as a receiver or trustee in bankruptcy of the Debtors.
17. THIS COURT ORDERS that the Interim Receiver shall not be, or be deemed to be, a receiver within the meaning of subsection 243(2) of the BIA.
18. 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 Interim 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 Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.
19. THIS COURT ORDERS that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
20. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security

or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Interim Receiver from the proceeds from the Accounts with such priority and at such time as this Court may determine.

21. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

22. THIS COURT ORDERS that this Order is effective as of 12:01 a.m. from the date it is made and is enforceable without the need for entry or filing.

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to read 'M. Black'. The line is a simple horizontal stroke.

THE TORONTO-DOMINION BANK

- and -

BUCHH HOLDING INC., 2371561 ONTARIO INC.,
BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.

Applicant

Respondents

Court File No. CV-24-723986-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER
(Appointing Interim Receiver)

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Lawyers for The Toronto-Dominion Bank

APPENDIX B



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-723986-00CL DATE: July 19, 2024

NO. ON LIST: Added Matter

TITLE OF PROCEEDING: THE TORONTO-DOMINION BANK v. BUCHH HOLDING INC. et al

BEFORE JUSTICE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Cristian Delfino Shaun Parsons Miranda Spence	The Toronto-Dominion Bank	cdelfino@airdberlis.com sparsons@airdberlis.com mspence@airdberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Farhat Buchh	Buchh Holding Inc. et al	Buchh@rotalec.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Andrew Adessky	Richter Inc.	AAdessky@richter.ca
Lyne Gaulin	BDC Capital Inc.	Lyne.Gaulin@bdc.ca

ENDORSEMENT OF JUSTICE W.D. BLACK:

- [1] The Toronto Dominion Bank (“TD”), moves for an order appointing Richter Inc. (“Richter”) as interim receiver (in such capacity, “Interim Receiver”), without security, of the assets, undertakings and properties acquired for, or used in relation to, the business carried out by each of the respondents (collectively, the “Debtors”), including all proceeds thereof (collectively, the “Property”).
- [2] The Debtors operate multiple businesses, primarily involving the design and distribution of industrial automation products and robotics.
- [3] The Debtors are indebted to TD with respect to certain credit facilities. Each of the Debtors has provided security in favour of TD, including general security agreements.
- [4] The Debtors defaulted under the credit agreement with respect to, among other things, failing to maintain a monthly borrowing base relative to the credit facilities.
- [5] As a result, TD engaged Richter to act as a consultant to review aspects of the Debtors’ financial circumstances, based on available books and records.
- [6] In this capacity, Richter identified concerning errors in the Debtors’ business records, including substantial overstatements of accounts receivable and inventory, and understatement of payables.
- [7] Management of the Debtors was made aware of the concerning findings, and has not disputed them.
- [8] In the circumstances, TD made formal written demand on the Debtors on July 4, 2024, for payment of amounts owing under the credit agreement, and provided a notice of intention to enforce its security (the “BIA Notice”), under subsection 244(1) of the BIA.
- [9] The 10-day period set out in the BIA Notice expired on July 15, 2024, and the indebtedness has not been repaid.
- [10] In addition, within the last two weeks, the Debtors have taken a number of steps outside the ordinary course of business including terminating employees, halting rent payments, and pushing customers for collection of accounts receivable. TD is concerned that there is significant risk to its collateral.
- [11] TD will be moving to appoint a receiver, and a date for that application has now been confirmed for August 15, 2024 at 11:00 a.m. (for one hour).
- [12] In the meantime, by way of today’s hearing, TD seeks to upgrade Richter from consultant to Interim Receiver immediately, to allow Richter to undertake more robust monitoring of the Debtors’ activities so as to avoid further deterioration of TD’s collateral.
- [13] I find that the proposed appointment of Richter as Interim Receiver is just and convenient, and necessary for the protection of TD’s interests. While evidence of dissipation of assets is not a precondition to this order, I do find that there is concerning evidence of material misrepresentations by the Debtors, breaches of the loan agreements, and defaults thereunder. The appointment of the Interim Receiver is appropriate here to safeguard the Property on a temporary basis, pending the full-blown receivership application.

[14] In the circumstances, I am granting the order sought by TD, and attach a signed copy of the order to this endorsement.



W.D. BLACK J.

DATE: JULY 19, 2024

TAB 6

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

B E T W E E N :

THE TORONTO-DOMINION BANK

Applicant

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC., BRITMAN SPECIALTY
PRODUCTS INC., ROTALEC INTERNATIONAL INC., AND ROTALEC CANADA
INC.**

Respondents

**APPLICATION UNDER SUBSECTION 47(1) AND 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

AFFIDAVIT OF AMANDA BEZNER
(Sworn July 18, 2024)

I, **AMANDA BEZNER**, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am an account manager in the employ of The Toronto-Dominion Bank (“**TD Bank**”) in its Financial Restructuring Group. I am responsible for management of the credit facilities advanced to the Respondents, (i) Buchh Holding Inc. (“ **Holding**”), (ii) 2371561 Ontario Inc. (“**237 ON**”), (iii) Britman Specialty Products Inc. (“**Britman**”), (iv) Rotalec International Inc. (“**Rotalec**”)

International”), and (v) Rotalec Canada Inc. (“**Rotalec Canada**” and collectively with Holding, 237 ON, Britman, and Rotalec International, the “**Debtors**”) as further provided below.

2. I make this affidavit (“**Affidavit**”) in good faith and based upon my information, knowledge and belief, or where indicated, based upon the information of others, which information I do believe.

Background

3. The corporate information for each of the Debtors is as follows:

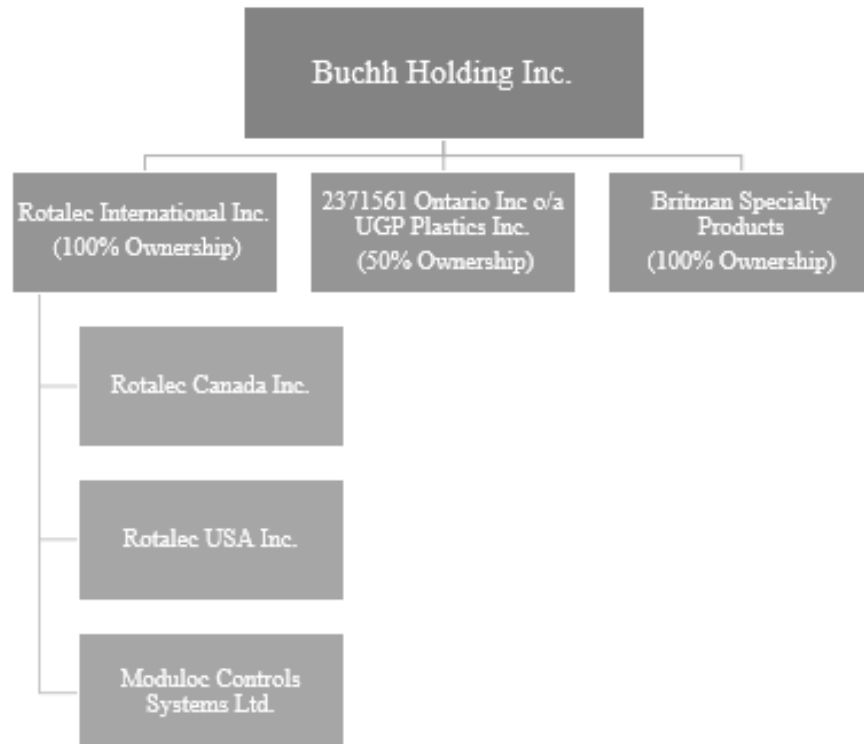
- (a) Holding is a company incorporated on January 2, 2006 pursuant to the laws of Canada, with its registered office at 21 Bywood Drive, Etobicoke, Ontario, M9A 1L6. Farhat Buchh (“**Mr. Buchh**” and together with Rotalec USA Inc, the “**Guarantors**”) and Ruhi Buchh are the directors of Holding;
- (b) 237 ON is a company incorporated on May 2, 2013 pursuant to the laws of Ontario, with its registered office at 85 Chambers Drive, Units 6 & 7, Ajax, Ontario, L1Z 1E2. Mr. Buchh is the sole director of Holding;
- (c) Britman is a company incorporated on July 11, 2019 pursuant to the laws of Canada, with its registered office at 21 Bywood Drive, Etobicoke, Ontario, M9A 1L6. Mr. Buchh is the sole director of Britman;
- (d) Rotalec International is a company incorporated by amalgamation on October 21, 2016 pursuant to the laws of Canada, with its registered office at 5000 Thimens,

Montreal, Quebec, H4R 2B2. Mr. Buchh is the sole director of Rotalec International; and

- (e) Rotalec Canada is a company incorporated on April 26, 1996 pursuant to the laws of Canada, with its registered office at 900 McCaffrey Street, St-Laurent Quebec, H4T 2C7. Mr. Buchh is the sole director of Rotalec Canada;

4. Copies of the Debtors' Corporation Profile Reports are attached collectively as **Exhibit "A"** to my Affidavit.

5. A corporate organization chart is reproduced below, which provides that Holding owns 100% of Rotalec International, 50% of 237 ON and 100% of Britman:



6. As highlighted in the organization chart reproduced above, Holding is the direct or indirect parent entity of all the Debtors in this proceeding, either directly or through subsidiaries. Holding is a management entity with no direct operations.

7. The Debtors operate as a consolidation of multiple businesses, with the primary business operations involving the design and distribution of industrial automation products and customized robotics.

The Loan and Guarantees

8. In 2022, the Debtors sold a division of their business, resulting in new financing arrangements with TD Bank. This ultimately resulted in the establishment of credit facilities by TD Bank pursuant to a letter of agreement dated April 26, 2022 (as amended, replaced, restated or supplemented from time to time, collectively, the “**Credit Agreement**”), a copy of which, with account numbers redacted, is attached as **Exhibit “B”**.

9. Pursuant to the Credit Agreement, certain credit facilities were extended by TD Bank to the Debtors, including, operating loans and visa card facilities extended to: (i) Holding; (ii) 237 ON; (iii) Rotalec International; (iv) Rotalec Canada; and (v) Britman (collectively, the “**Credit Facilities**”). In addition to the Credit Facilities, TD Bank extended Canada Emergency Business Account loans to Holding and 237 ON.

10. Mr. Buchh guaranteed the obligations of the Debtors pursuant to a guarantee limited to the amount of \$500,000, dated June 20, 2022 (the “**Personal Guarantee**”). A copy of the Personal Guarantee is attached as **Exhibit “C”**.

11. Further, each of the Debtors and Rotalec USA Inc. (together in such capacity, the “**Cross-Guarantors**”) provided an unlimited guarantee for the obligations of each of the other Cross-Guarantors pursuant to a suite of guarantees (the “**Cross-Guarantees**”). A copy of the Cross-Guarantees are attached collectively as **Exhibit “D”**.

The Security

12. As security for the loans to be made by TD Bank, the Debtors delivered the following security documents in favour of TD Bank: (i) a general security agreement from Holding dated August 31, 2016; (ii) a general security agreement from 237 ON dated August 31, 2016; (iii) a general security agreement from Britman dated June 30, 2022; (iv) a general security agreement from Rotalec International dated September 30, 2016; and (v) a general security agreement from Rotalec Canada dated October 14, 2016 (collectively, the “**Security**”). Copies of the Security are attached collectively as **Exhibit “E”** to my Affidavit.

13. The Security was perfected through registration under the *Personal Property Security Act* (Ontario) (the “**PPSA**”), which registrations are reflected on certified PPSA search reports with a file currency of July 16, 2024. The PPSA search reports are attached collectively as **Exhibit “F”**.

The Other Secured Creditors

14. The PPSA certified search results show that TD Bank is the only registered general secured creditor, other than registrations made by BDC Capital Inc. (“**BDC**”) and His Majesty in Right of Ontario Represented by The Minister of Finance (“**MOF**”) in the amount of \$4,728.00, both of which were registered after TD Bank.

15. I understand that TD Bank, Holding and BDC entered into a priority agreement dated October 25, 2018 (the “**Intercreditor Agreement**”), where the parties agreed that BDC’s security interest in Holding would be postponed and subordinated to TD Bank’s interests constituted by the Security. A copy of the Intercreditor Agreement is attached as **Exhibit “G”** to this Affidavit.

16. All registrants under the PPSA across all the Debtors will be served with a copy of the within application.

The Draft Forbearance

17. The Credit Agreement sets out certain financial covenants and a credit limit available to the Debtors, including that outstanding advances under the Credit Facilities are capped at the lesser of: (i) \$3,750,000, and (ii) the total of: (a) 80% of Accounts Receivables, net of over 90 day accounts, related receivables, contra accounts, customer deposits, and (b) 50% of the inventory value, less related 30-day trade payables, up to a maximum amount of \$1,600,000 (the “**Credit Limit**”). On May 2, 2024, TD Bank sent a letter to the Holding setting out a default of the Credit Limit (the “**Default Letter**”). A copy of the Default Letter is attached as **Exhibit “H”** to this Affidavit .

18. The Credit Agreement provides that the credit facilities are repayable upon demand.

19. On May 8, 2024, counsel for TD Bank presented counsel to the Debtors with a draft forbearance agreement (the “**Draft Forbearance**”), in a good faith attempt to allow the Debtors to restructure their operations. The Draft Forbearance provided that TD Bank would forbear from exercising its rights and remedies under the Credit Agreement, the PPSA and other applicable law.

20. Beginning on May 8, 2024, counsel for TD Bank circulated the Draft Forbearance to counsel for the Debtors in order to receive an executed copy of the document, as well as certain deliverables as condition precedents detailed therein. Counsel for TD Bank followed up with counsel for the Debtors on May 13, May 14, May 27, June 6, and June 7 2024. A copy of this email thread is attached as **Exhibit “I”**.

21. On June 7, 2024, TD Bank received a signed copy of the Draft Forbearance, a copy of which is attached as **Exhibit “J”**.

22. For the Draft Forbearance to be effective, there is a condition precedent that the Debtors provide TD Bank with evidence or confirmation that all arrears owed to the MOF in respect of the PPSA registration registered in favour of the MOF have been paid, among other conditions precedent (the “**Condition Precedent**”).

23. On June 6, June 7, and June 11, 2024, counsel for TD Bank followed up with counsel for the Debtor regarding confirmation that the PPSA registration registered in favour of the MOF has been paid. A copy of this email thread is attached as **Exhibit “K”**.

24. I am advised by Kyle Plunkett, counsel for TD Bank, and I verily believe, the Debtors have not provided confirmation that the registration registered in favour of the MOF has been paid. As of the date of this Affidavit, the registration registered in favour of the MOF remains as against Rotalec Canada. As such, the Draft Forbearance is not effective on its terms.

25. Additionally, the Draft Forbearance contains certain intervening events which cause the agreement to forthwith terminate, including:

- (a) In the Lender's sole opinion, a material adverse change occurs in the business, affairs, financial condition, operation or ownership of any of the Credit Parties arising for any reason whatsoever;
- (b) Any representation, warranty or statement made by any of the Credit Parties in this Agreement or any other agreement with the Lender was untrue or incorrect when made or becomes untrue or incorrect in any material respect; and
- (c) any change of control in the ownership, or management of any of the Credit Parties, as applicable, without the Lender's prior written consent. (each as defined therein).

The Demands

26. TD Bank retained Richter Inc. ("**Richter**") to act as a consultant to, among other things, review the Debtors' monthly borrowing base calculation and current financial situation, based on the available books and records. In early June, Richter began its review of the Debtors' books and records.

27. After the circulation of the Draft Forbearance, the repeated follow up with the Debtors' counsel regarding the fulfillment of the Condition Precedent and the findings of Richter (as further discussed below), TD Bank determined that it was in its best interest to issue demands.

28. On July 4, 2024, TD Bank made formal written demand on the Debtors and the Guarantors for the payment of the amounts owed to TD Bank under the Credit Agreement (the "**Demand Letters**"). A notice of intention to enforce security (the "**BIA Notice**") pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) accompanied the Demand Letters sent to the Debtors and Rotalec USA. Copies of the Demand Letters and the BIA Notice are attached collectively as **Exhibit "L"**.

29. As set out in the Demand Letters, a total of \$3,646,998.79 for principal and interest (exclusive of legal fees, disbursements and accruing interest) was owing by the Debtors to TD

Bank under the Credit Facilities as of July 2, 2024 (the “**Indebtedness**”). None of the Indebtedness has been repaid, and interest and legal fees and disbursements continue to accrue on the Credit Facilities.

TD Bank’s Concerns regarding the Potential Dissipation of Assets

30. I am advised by Richter, in conducting its investigation into the current financial situation of the Debtors, that it identified overstatements of: (i) eligible accounts receivable amounting to \$809,000, and (ii) eligible inventory amounting to \$917,000. Financial information pertaining to Britman and 237 ON was not provided to Richter and could not form part of its review.

31. Further, I am advised by Richter that the two largest suppliers of inventory to the Debtors have stopped shipping.

32. Shortly following the issuance of the Demand Letters, TD Bank was advised that the Debtors had retained Bob Claeys (“**Mr. Claeys**”) to act as an investor for the refinancing of the Debtors.

33. On July 8, 2024, I had a meeting with Mr. Claeys, Mr. Farhat and Richter, among other attendees, during which I became aware that Mr. Claeys appeared to be acting in more of a restructuring capacity rather than as a third-party investor as he had presented a “turnaround plan” for the Debtors (the “**July 8 Meeting**”).

34. On July 16, 2024, Mr. Claeys advised me and a representative of Richter of certain steps taken to address cash flow issues of the Debtors, which were contemplated at the July 8 Meeting, including: (i) terminating ten employees to reduce payroll; (ii) halting rent payments; and (iii) contacting customers to push collection efforts. Further, notwithstanding that it appears that Mr.

Claeys is exercising control of the business of the Debtors, he is looking to purchase assets owned by certain of the Debtors. A copy of this email is attached as **Exhibit “M”**.

35. Also on July 16, 2024, Mr. Buchh wrote to Mr. Claeys advising, among other things, that “Just to be clear, at this stage ,you are not unilaterally authorized to alter existing legal relationships that Rotolec has, such as with its employees. Once you reach an agreement with the Bank in principal ,we can revisit this to implement the plan. [*sic*].” A copy of this email is attached as **Exhibit “N”**.

36. Based on the correspondence received by Mr. Claeys and Mr. Buchh, I am concerned that the Debtors are not being managed effectively, which may erode the going-concern value of the property of the Debtors (the “**Property**”).

Appointment of a Receiver and Interim Receiver

37. In the circumstances set out above, I believe that it is just and equitable that a receiver be appointed. A receiver is necessary for the protection of the Property and the interests of TD Bank and all stakeholders. TD Bank believes that the appointment of a receiver would enhance the prospect of recovery and protect all stakeholders.

38. In light of the concerns regarding the potential dissipation of assets and the foreseeable irreparable harm to the Debtors, I believe that it is just and equitable that an interim receiver be appointed. As explained above, I understand that several significant management decisions have been made since July 8, 2024, some of which may imperil the value of the Property.

39. In light of its position as consultant, TD Bank proposes that Richter be appointed as the receiver of the Property.

40. Richter is a licensed insolvency trustee, which has experience in connection with management and sales of commercial properties.

41. Richter has consented to act as receiver should the court so appoint it, as set out in Richter's consent attached as **Exhibit "O"**.

SWORN remotely by Amanda Bezner, stated as)
being in the City of Toronto, in the Province of)
Ontario, before me on July 18, 2024 in accordance)
with O. Reg. 431/20, Administering Oath or)
Declaration Remotely.)

DocuSigned by:)
Shawn Parsons)
3D90420171CB499...)

Commissioner (or as may be))

Signed by:)
Amanda Bezner)
6CB3EC0DD00E48B)

AMANDA BEZNER

THE TORONTO-DOMINION BANK

- and -

**BUCHH HOLDING INC., 2371561 ONTARIO INC.,
BRITMAN SPECIALTY PRODUCTS INC., ROTALEC
INTERNATIONAL INC. and ROTALEC CANADA INC.**

Applicant

Respondents

Court File No. CV-24-00723986-00CL

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

Proceedings commenced at Toronto

MOTION RECORD
(returnable July 31, 2024)

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Lawyers for The Toronto-Dominion Bank