

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 17TH
JUSTICE OSBORNE) DAY OF SEPTEMBER, 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 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**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Richter Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”), without security, of all of the assets, undertakings and properties of each of Buchh Holding Inc. (“**Buchh**”), 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, including all proceeds thereof (collectively, the “**Property**”), which Property includes, without limitation, the shares (the “**UGP Shares**”) held by Buchh in 2371561 Ontario Inc. (“**UGP**”), for an order approving the transaction contemplated by a share purchase agreement (the “**Sale Agreement**”) between the Receiver, as seller, and Pamposh Holdings Inc.

(in such capacity, the “**Purchaser**”), as purchaser, dated September 9, 2024 and appended to the first report of the Receiver dated September 9, 2024 (the “**First Report**”), the release of any and all debts owed by UGP to the Debtors, and vesting in the Purchaser Buchh’s right, title and interest in and to the UGP Shares (as set out in the Sale Agreement) (the “**Transaction**”), was heard this day by way of judicial teleconference via Zoom.

ON READING the Receiver’s Motion Record dated September 9, 2024, including the First Report and all appendices thereto and on hearing the submissions of counsel for the Receiver, counsel for the Purchaser, and counsel for those other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavits of Eliane Dupere-Tremblay sworn September 10, 2024 and of Connie Deng sworn September 10, 2024, filed:

DEFINITIONS & SERVICE

1. **THIS COURT ORDERS** that any capitalized terms used in this Order but not otherwise defined shall have the meaning ascribed thereto in the Sale Agreement.
2. **THIS COURT ORDERS** that the time and method for service of notice of this motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF TRANSACTION AND VESTING OF THE UGP SHARES

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized, ratified, and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction, for the conveyance of the UGP Shares to the Purchaser, and for the release of UGP from any debts owed to the Debtors.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver’s Certificate**”), UGP is released from any debts owed to the Debtors, and all of Buchh’s right, title and interest in and to the UGP Shares shall vest absolutely in the Purchaser,

free and clear of and from any and all right or entitlement under any outstanding or authorized purchase agreements, options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the UGP Shares or any shares in the capital of UGP or any security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Black dated July 19, 2024 and the Order of the Honourable Justice Kimmel dated July 31, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “B” hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the UGP Shares, are hereby cancelled, expunged and discharged as against the UGP Shares and shall be of no further force and effect.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the UGP Shares shall stand in the place and stead of the UGP Shares, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of UGP Shares with the same priority as they had with respect to the UGP Shares immediately prior to the sale, as if the UGP Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Buchh’s possession and records, if any, pertaining solely to any of UGP’s past and current employees.

The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Buchh and UGP.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of any Debtor or any bankruptcy order issued pursuant to any such applications;
- (c) the filing of any assignments in bankruptcy made or deemed made in respect of any Debtor pursuant to the BIA; and
- (d) the provisions of any federal or provincial statutes, including any such provisions pertaining to fraudulent preferences, assignments, fraudulent conveyances, transfers at undervalue, other reviewable transactions, or oppressive or unfairly prejudicial conduct.

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

MISCELLANEOUS

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

jurisdiction, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

10. **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.

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

Schedule A – Form of Receiver’s Certificate

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

**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 SECTION 243 OF THE *BANKRUPTCY AND
INSOLVENCY ACT* AND SECTION 101 OF THE *COURTS OF JUSTICE ACT***

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (the “**Court**”) dated July 31, 2024, Richter Inc. was appointed as the receiver (the “**Receiver**”) without security, of all of the assets, undertakings and properties of each of Buchh Holding Inc. (“**Buchh**”), 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, including all proceeds thereof (collectively, the “**Property**”), which Property includes, without limitation, the shares held by Buchh in 2371561 Ontario Inc. (the “**UGP Shares**”).

B. Pursuant to an Order of the Court dated September 17, 2024, the Court approved the share purchase agreement made as of September 9, 2024 (the “**Sale Agreement**”) between the Receiver and Pamposh Holdings Inc. (in such capacity, the “**Purchaser**”) and provided for the vesting in the Purchaser of Buchh’s right, title and interest in and to the UGP Shares, which vesting is to be effective with respect to the UGP Shares upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the satisfaction by the Purchaser of the Purchase Price for the UGP Shares; (ii) that the conditions to Closing as set out in Section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has satisfied the Purchase Price for the UGP Shares payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out Section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

RICHTER INC., in its capacity as Court-Appointed Receiver of all of the shares in the capital of BUCHH HOLDING INC., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Permitted Encumbrances (unaffected by the Vesting Order)

Nil

THE TORONTO DOMINION BANK

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

Applicant

Respondents

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

**Proceeding commenced at
Toronto**

APPROVAL AND VESTING ORDER

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