

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM)
JUSTICE DIETRICH ~~DIETRICH~~ *CONWAY*)

WEDNESDAY, THE 27TH
DAY OF NOVEMBER, 2019

B E T W E E N:

AUXLY CANNABIS GROUP INC.

Applicant/Moving Party

- and -



2368523 ONTARIO LIMITED D/B/A CURATIVE CANNABIS

Respondent

ORDER

THIS MOTION, made by applicant/moving party, Auxly Cannabis Group Inc. (**Auxly**), for an order under section 65(5) of the *Personal Property Security Act*, RSO 1990, c P-10 (the **PPSA**) that the objections to its proposal to accept certain shares in satisfaction of the secured debt owing to Auxly by 2368523 Ontario Limited d/b/a Curative Cannabis (the **Debtor**) are ineffective was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the motion record, supplementary motion record, and factum of Auxly, as well as the ~~First Report of the Receiver~~, filed, and on hearing the submissions of counsel to Auxly and to the Receiver, no one appearing for any other person on the service list, although duly served as appears from the affidavits of Alexander C. Payne sworn October 2, 2019, November 21, 2019, and November 25, 2019, filed:

*Consent of M Soberano and
689643 Ontario Inc dated
Nov 26, 2019 ✓ BC*

1. **THIS COURT ORDERS AND DECLARES** that the time for the service of Auxly's motion materials is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that pursuant to section 30.1(2) of the the PPSA, Auxly has a first-ranking security interest in the certificated 95 common shares of the Debtor owned by Mr. David Shpilt and Mr. Scott Fitzgerald (each of whom own 47.5 shares) (the **Share Collateral**).

3. **THIS COURT ORDERS AND DECLARES** that pursuant to section 65(5) of the PPSA, the objections to Auxly's proposal to accept the Share Collateral in satisfaction of the secured obligations owing by the 2368523 Ontario Limited d/b/a Curative Cannabis (the **Debtor**) to Auxly are ineffective.

4. **THIS COURT ORDERS AND DECLARES** that pursuant to section 65(6.1) of the PPSA, Auxly is entitled to the Share Collateral free from all rights and interests in it of any other person and all of the Debtor's right, title and interest in and to the Share Collateral shall vest absolutely in Auxly, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing all charges, security interests or claims evidenced by registrations pursuant to the PPSA or any other personal property registry system and, for greater certainty, this Court orders that all of the Claims affecting or relating to the Share Collateral are hereby expunged and discharged as against the Share Collateral.

5. **THIS COURT ORDERS AND DECLARES** that pursuant to section 63(9) of the PPSA, any security interest in the Share Collateral subordinate to that of Auxly is hereby discharged and the interests of the Debtor, Mr. Shpilt and Mr. Fitzgerald in the Share Collateral are hereby terminated.

6. **THIS COURT ORDERS AND DECLARES** that Auxly is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for

completion of the acceptance of the Share Collateral in satisfaction of the secured debt owing to Auxly by the Debtor and for conveyance of the Share Collateral to Auxly free from all rights and interests in it of any other person, including to discharge any security registrations.

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 Auxly all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. Auxly shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

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) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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

9. **THIS COURT ORDERS AND DECLARES** that the acceptance of the Share Collateral in satisfaction of the secured debt owing to Auxly by the Debtor is exempt from the application of the Bulk Sales Act (Ontario)

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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 27 2019

PER / PAR:

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Conway J.

AUXLY CANNABIS GROUP INC.
Applicant

-and-

2368523 ONTARIO INC. D/B/A CURATIVE CANNABIS
Respondent
Court File No.: CV-19-627308-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

ORDER

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