

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

MONDAY, THE 10th DAY

MADAM JUSTICE PEPALL

OF NOVEMBER, 2008

**IN THE MATTER OF THE PROPOSAL OF
TPS SPORTS GROUP CORPORATION
OF THE CITY OF CHATHAM-KENT, IN THE PROVINCE OF ONTARIO**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Shiner Kideckel Zweig Inc., in its capacity as the proposal trustee (the “Trustee”) of TPS Sports Group Corporation (the “Debtor”) for an order approving the sale transaction (the “Transaction”) contemplated by an agreement of purchase and sale (the “Sale Agreement”) between the Trustee and Sher-Wood Hockey Inc. (the “Purchaser”) made as of October 31, 2008 and appended to the Report of the Trustee dated November 3, 2008 (the “Report”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Trustee, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aimee Nikmard sworn November 5, 2008 filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Sale Agreement by the Trustee is hereby authorized and approved, with payment of the deposit to the Debtor, and the Trustee is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS** that the unredacted version of the Sale Agreement and the Confidential Appendix 1 to the Report be sealed until the completion of the Transaction or until further order of this Court.

3. **THIS COURT ORDERS** that the Report be and hereby is approved and the actions of the Trustee described therein be and hereby are approved.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Trustee's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedules "B-1" and "B-2" hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal

property registry system; and (ii) those Claims listed on Schedule “C” hereto and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Chatham-Kent of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule “B-2” hereto (the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule “C” hereto.

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

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

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Trustee and Debtor are each authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company’s records pertaining to the Debtor’s past and current

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

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

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance 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.

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

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

effect to this Order and to assist the Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Debtor have an extension of forty-five days in which to file a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada), so that it must file a proposal by Friday, January 9, 2009.

13. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than 2 days service to the Proposal Trustee and to any other party likely to be affected by the order sought, such application to be made within 7 days of service of this Order or within 7 days of this Order and my endorsement being posted on the Proposal Trustee's website skz.ca.



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

NOV 10 2008

PER/PAR: JSN

Joanne Nicoara
Registrar, Superior Court of Justice

Schedule "A" – Form of Trustee's Certificate

Court File No. 08-CL-7783

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**IN THE MATTER OF THE PROPOSAL OF
TPS SPORTS GROUP CORPORATION
OF THE CITY OF CHATHAM-KENT, IN THE PROVINCE OF ONTARIO**

TRUSTEE'S CERTIFICATE

RECITALS

(A) Pursuant to the filing of a Notice of Intention to file a Proposal under the *Bankruptcy and Insolvency Act* dated September 11, 2008, Shiner Kideckel Zweig Inc. was appointed as the proposal trustee (the "Trustee") of TPS Sports Group Corporation.

(B) Pursuant to an Order of the Court dated October __, 2008, the Court approved the agreement of purchase and sale made as of October 31, 2008 (the "Sale Agreement") between the Trustee and Sher-Wood Hockey Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Trustee.

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

THE TRUSTEE CERTIFIES the following:

14. The Purchaser has paid and the Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

15. The conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and

16. The Transaction has been completed to the satisfaction of the Trustee.

17. This Certificate was delivered by the Trustee at _____ on _____, 2008.

**SHINER KIDECKEL ZWEIG INC., in its
capacity as Proposal Trustee of TPS Sports
Group Corporation and not in its personal
capacity**

Per: _____

Name:

Title:

Schedule “B-1” – Purchased Assets - Non Real Property

A) Personal Property Assets

All assets, undertakings and properties of TPS consisting of personal property of every nature and kind whatsoever, and wherever situate, including without limitation the following:

- (a) all furniture, fixtures, machinery, equipment and computer equipment of TPS, including those listed in schedule 1.1(e-1) hereto;
- (b) all goods that are held for sale, lease or rental (whether such goods are saleable, obsolete or damaged) in relation to the business carried on by TPS including, without limitation all inventories, materials and supplies;
- (c) all trade accounts receivable and other accounts receivable;
- (d) all customer lists and lists of prospective customers and marketing and sales materials and databases;
- (e) the benefit of all unfulfilled orders received by and in favour of TPS;
- (f) the benefit of all Contracts, including those listed in schedule “1.1(j)” hereto, any restrictive agreements and negative covenant agreements with employees, past or present, related to the Business, to the extent they are transferable;
- (g) any order, permit, approval, waiver, licence or similar authorization of any governmental entity owned, held or used by TPS in connection with the Business, to the extent that they are transferable;
- (h) all claims of TPS relating to the Business or the Purchased Assets, whether choate or inchoate, known or unknown, contingent or otherwise;
- (i) the interest of TPS in all existing telephone and facsimile numbers and any domain and internet websites and email addresses for the Business;
- (j) All warranties and warranty rights (implied, express or otherwise) against manufacturers or sellers which apply to any of the Purchased Assets;
- (k) any and all intellectual property interests of TPS including those more specifically set out at Schedule 1.1(p);
- (l) all books and records relating to the business carried on by TPS, subject to the right of the Proposal Trustee to access and to copy such books and records for the purpose of administering the business and affairs and/or estate of TPS; and
- (m) all other tangible and intangible personal property used in connection with the business.

B) Fixtures and Equipment

Specific Inclusions:

See attached list; and

All of TPS's other fixtures and equipment, of any nature whatsoever and wherever situated, which exists as at Closing, including, without limitation, all rights of TPS to enjoy the use of equipment under any agreement or other Contract, excepting always the exclusions described below.

Specific Exclusions:

Fixtures and equipment under lease or similar arrangement; and

Attached.

C) Leased Premises

ARTICLE I Lease dated July 1, 2007 with Canadian Filtration System Ltd. as landlord in respect of 5 Industrial Road, Strathroy, Ontario

ARTICLE II The foregoing being "**Acquired Leases**" as herein defined.

D) Contracts

The Acquired Leases herein described;

The Intellectual Property Agreements described in Schedule 1.1(p) hereto; and

Agreements with individual NHL hockey players.

E) Intellectual Property

Any and all goodwill and trademarks in whatever format, including without limitation, registered and unregistered trademarks, trade names, brand names, service marks, logos, copyrights, certification marks, drawings, permits, internet and electronic email addresses, URLs, telephone, telex and facsimile numbers, content of websites and domain names related to or connected with the business carried on by TPS, all related software and electronic code to the extent assignable and other similar intellectual property or intangibles of TPS including, without limitation, the Intellectual Property.

The following Intellectual Property Agreements and all rights and licences therein provided:

Intellectual Property Licence Agreement with Hillerich & Bradsby Co. dated November 1, 2005;

Intellectual Property Licence Agreement with Hillerich & Bradsby Co. dated November 1, 2005;

Settlement and Amending Agreement with Hillerich & Bradsby Co. dated November 1, 2005.

Schedule "B - 2" – Purchased Assets - Real Property

The lands and premises municipally known as 14 Arnold Street, Wallaceburg, Ontario N8A 3P4, and briefly legally described as:

FIRSTLY: Part of Lot 108 and 117, Plan 414, as in 119549, except Part 1 on Plan 24R-6958, Chatham-Kent; and

SECONDLY: Part of Lots 115-116, Plan 414, as in 154750, Chatham-Kent,

currently bearing PINs **00578-0279 (LT)** and **00578-0203 (LT)**.

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

The following registered interests existing as of the date hereof are agreed to be required to be vested out and deleted from registered title by the Approval and Vesting Order upon Closing:

1. A transfer from Cohen, Melvin S. and Halpern, Samuel A. (Trustees) to Wally Enterprises Limited, dated March 13, 1961 and bearing Instrument No. 119549;
2. A transfer from the Town of Wallaceburg to Wally Enterprises Limited, dated October 19, 1964 and bearing Instrument No. 154750;
3. A change of name from Wally Enterprises Limited to Hillerich & Bradsby of Canada Limited, dated September 12, 2007 and bearing Instrument No. CK17793;
4. A Charge from Hillerich & Bradsby of Canada Limited to Callidus Capital Corporation, dated September 26, 2007 and bearing Instrument No. CK18245;
5. A change of name from Hillerich & Bradsby of Canada Limited to TPS Sports Group Corporation, dated January 21, 2008 and bearing Instrument No. CK21981;
6. A transfer of charge from Callidus Capital Corporation to Asset Engineering LP, dated October 22, 2008 and bearing Instrument No. CK30772; and
7. Writ of Execution file No. 07-0000260 whereby the Minister of Revenue, Retail Sales Tax, Collections and Compliance Branch claimed the sum of \$35,246.31 together with interest at 9.0%. Note that the execution is registered against Hillerich & Bradsby of Canada Limited and Hillerich and Bradsby of Canada Limited.

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

D. Robb English (#19862F1B)

Tel: 416.863.1500

Fax: 416.863.1515

Solicitors for the Proposal Trustee,
Shiner Kideckel Zweig Inc.

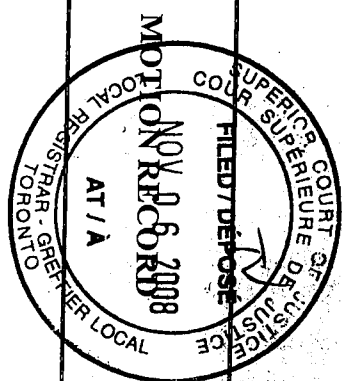
Nov 10/08

The Proposal Trustee seeks an order that
other things, approves a sales transaction
fruits a vesting order. Counsel for the
Trustee advises that all parties are
interested in the proceedings have
served. One, Hillerich + Brudsky Co
appeared + advised the court that
supports the relief requested

On Sept 22, 08, Wilton-Siegel J granted
an order authorizing the Proposal Trustee
to conduct a marketing process on
terms + to return to court for approval
the sale

The proposal trustee has followed the
process + has obtained an offer the value
which is stated to be less than the
of the secured debt. Following the sale
the debtor will have approximately
million of tax losses. The proposal
or the debtor has attempted to pay
company since Nov, 2007. Counsel for
Proposal Trustee advises that no one
precluded as a result of the relief
requested + that the outcome is the
possible - the circumstances
on the materials before me, I agree
this latter observation, however, given
rather unusual procedure adopted, I

SUPERIOR COURT OF JUSTICE
PROCEEDINGS COMMENCED AT TORONTO



AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

D. Robb English (#19862F1B)
Tel: 416.863.1500
Fax: 416.863.1515
Solicitors for the Proposal Trustee,
Shiner Kideckel Zweig Inc.

granting the order amended by me +
providing that any interested party may
apply to this court to vary or amend
this order within 7 days of being
provided with notice of same + on 2 days
notice to the Proposal Trustee + to any
other party likely to be affected by
the order. The Trustee will not deliver
a certificate as contemplated by para 4
of the proposed order until after the
expiry of the aforesaid 7 day period.
Anyone being ^{interested party} ~~claimant~~ as that term
is described in paragraph 4 is to
be provided with notice of the
amended order forthwith along
with a copy of this endorsement in
typed form. In addition, the
Proposal Trustee is to forthwith post
the amended order + a typed
version of this endorsement on
its website skz.ca.

(Slyall,)

Nov 10/08

The Proposal Trustee seeks an order that, amongst other things, approves a sales transaction and grants a vesting order. Counsel for the Proposal Trustee advises that all parties with an interest in the proceedings have been served. One, Hillerich & Bradsby Co appeared and advised the court that it supports the relief requested.

On Sept 22, 08, Wilton-Siegel J. granted an Order authorizing the Proposal Trustee to conduct a marketing process on certain terms & to return to court for approval of the sale.

The proposal trustee has followed that process and has obtained an offer the value of which is stated to be less than the amount of the secured debt. Following the sale, the debtor will have approximately \$14 million of tax losses. The Proposal Trustee or the debtor has attempted to sell the company since Nov, 2007. Counsel for the Proposal Trustee advises that no one is prejudiced as a result of the relief requested and that the outcome is the best possible in the circumstances. Based on the materials before me, I agree with this latter observation, however, given their rather unusual procedure adopted, I am granting the order amended by me & providing that any interested party may apply to this court to vary or amend this order within 7 days of being provided with notice of same & on 2 days notice to the Proposal Trustee & to any other party likely to be affected by the order. The Trustee will not deliver a certificate as contemplated by para 4 of the proposed order until after the expiry of the aforesaid 7 day period. Any interested party is to be provided with notice of the amended order forthwith along with a copy of this endorsement in typed form. In addition, the Proposal Trustee is to forthwith post the amended order & typed version of this endorsement on its website skz.ca.

Pepall, J.