

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST



THE HONOURABLE MR)
JUSTICE HAINEY)

THURSDAY, THE 30TH
DAY OF MARCH, 2017

BETWEEN:

JCF CAPITAL ULC

Applicants

- and -

**TALON INTERNATIONAL INC., MIDLAND DEVELOPMENT INC., 1456253
ONTARIO INC., 2025401 ONTARIO LIMITED, BARREL TOWER HOLDINGS
INC., HARVESTER DEVELOPMENTS INC., TALON INTERNATIONAL
DEVELOPMENT INC., TFB INC., 2263847 ONTARIO LIMITED AND 2270039
ONTARIO LIMITED**

Respondents

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

FEE APPROVAL AND DISCHARGE ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("FTI"), solely in its capacity as the Court-appointed receiver (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") and section 101 of the *Courts of Justice Act* (the "**CJA**") of certain of the undertakings, properties and assets and legal and beneficial ownership interests of Talon International Inc. ("**Talon**"), Midland Development Inc., 1456253 Ontario Inc., 2025401 Ontario Limited, Barrel Tower Holdings Inc., Harvester Developments

Inc., TFB Inc., 2263847 Ontario Limited, Talon International Development Inc., and 2270039 Ontario Limited (collectively, the “**Debtors**”) comprising, acquired for, or used in relation to the condominium residence and hotel branded as the Trump International Hotel & Tower and Trump Residences located at 311 and 325 Bay Street, Toronto, Ontario and any interest held by Harvester Developments Inc. to which the Crown may have rights, for an order (i) approving the third report of the Receiver dated March 8, 2017 (the “**Third Report**”), the fourth report of the Receiver dated March 16, 2017 (the “**Fourth Report**”) and the activities of the Receiver as set out in therein; (ii) approving the fees and disbursements of the Receiver and its counsel as set out in the Affidavit of Nigel Meakin sworn March 13, 2017 and the affidavit of R. Shayne Kukulowicz sworn March 10, 2017 (collectively, the “**Fee Affidavits**”) including without limitation the estimate of fees to complete the administration set out therein, (iii) upon the filing of both the Receiver’s Certificate – Hotel Transaction and Receiver’s Certificate – Residence Transaction as contemplated by Approval and Vesting Order – Hotel Transaction and the Approval and Vesting Order – Residence Transaction, respectively both made in this proceeding on March 30, 2017 (collectively, the “**Closing Certificates**”) amending the Order Appointing Receiver made by Mr. Justice Hailey dated November 1, 2016 as amended by the Order of Mr. Justice Hailey dated December 20, 2016 in these proceedings (collectively, the “**Receivership Order**”) as set out below; (iv) upon filing the Closing Certificates discharging Chaitons LLP (“**Chaitons**”) as Representative Counsel (“**Representative Counsel**”) as defined in the Order of Justice Mr. Hailey made in these proceedings dated November 9, 2016 and releasing and discharging Chaitons from any and all liability that it now has or may have by reason of, or in any way arising out of, the acts or omissions of Chaitons while acting in its capacity as Representative Counsel as set out below; (iv) releasing and discharging FTI from any and all liability that it now has or may have by reason of, or in any way arising out of, the acts or omissions of FTI while acting in its capacity as Receiver as set out below; and (v) upon filing the Discharge Certificate (as defined below), discharging FTI as Receiver was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report, the Fourth Report, and the Fee Affidavits, and on hearing the submissions of counsel for the Receiver, the Applicant, Representative Counsel, no one else appearing although served as evidenced by the Affidavit of Stephanie Waugh sworn March 17, 2017, filed;

1. THIS COURT ORDERS that the Third Report, the Fourth Report and activities of the Receiver, as set out therein be and are hereby approved.

2. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in the Fee Affidavits and the Fourth Report, including without limitation the estimated Subsequent Fees and Disbursements as defined in the Fourth Report, be and are hereby approved. No further Court approval of the Subsequent Fees and Disbursements shall be required unless (i) the actual Subsequent Fees and Disbursements exceed the estimated Subsequent Fees and Disbursements and (ii) Court approval of such excess amount of the Subsequent Fees and Disbursements is requested by the Applicant prior to the filing of the Discharge Certificate.

3. THIS COURT ORDERS that upon filing with the Court of the Closing Certificates, the Receivership Order shall be amended as follows:

- (a) the definition of Property shall be amended to mean solely (i) the Remaining Residence Assets or the portion thereof that have not been transferred by the Receiver in accordance with the provisions of the Approval and Vesting Order – Residence Transaction; (ii) any cash or funds held by the Receiver from time to time;
- (b) Paragraphs 3(c), 3(i) shall be deleted in their entirety ;
- (c) Para 6, 6A, 6B, 6C shall be deleted in their entirety; and
- (d) Para 9 shall be amended as follows:

9. THIS COURT ORDERS that no Proceeding against or in respect of (i) any Debtor in connection with or related to the Property or (ii) 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 (i) any Debtor in connection with or related to the Property or (ii) the Property are hereby stayed and suspended, subject to written consent

of the Receiver to a lifting of the stay or further Order of this Court.

- (e) Paragraphs 9A, 10, 12, 12A, 13, 14 and 15 shall be deleted in its entirety;

4. THIS COURT ORDERS that upon the Receiver filing a certificate certifying that it has completed the Remaining Activities described in the Fourth Report (the "**Discharge Certificate**"), the Receiver shall be discharged as Receiver of the Property, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

5. THIS COURT ORDERS AND DECLARES that FTI is hereby released and discharged from any and all liability that it now has or may have by reason of, or in any way arising out of, the acts or omissions of FTI while acting in its capacity as Receiver herein up to and including the date hereof (the "**Order Date**"), including without limitation, any liability in relation to the activities described in the first report of the Receiver dated December 14, 2016, the second report of the Receiver dated December 21, 2016, the Third Report, or the Fourth Report. Without limiting the generality of the foregoing, FTI is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings up to and including the Order Date.

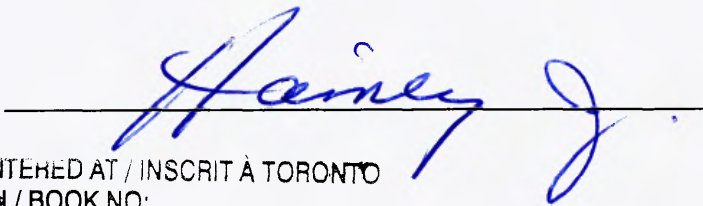
6. THIS COURT ORDERS that the Receiver shall, at least fourteen (14) days prior to proposed date of filing the Discharge Certificate (the "**Filing Date**"), provide notice to the Service List in the receivership proceeding: (i) of the Receiver's intention to file the Discharge Certificate; and (ii) that, upon the filing of the Discharge Certificate, the release and discharge from liability set out in

paragraph 5 hereof shall be automatically deemed to be effective up to and including the Filing Date (the "**Release Extension**");

7. THIS COURT ORDERS that in the event that any person objects to the Release Extension, that person must send a written notice of the objection, and the grounds therefore, to the fax, email address or mailing address of the Receiver and its counsel as set out on the Service List, such that the objection is received by the Receiver prior to the proposed Filing Date. If no objection is received by the Receiver prior to the proposed Filing Date, the Receiver shall file the Discharge Certificate on the proposed Filing Date and the Release Extension shall be deemed to have occurred, without further Order of the Court.

8. THIS COURT ORDERS that if an objection is received by the Receiver in accordance with paragraph 7 hereof, the Receiver shall only file the Discharge Certificate: (i) if the objection is resolved, whereupon the Release Extension shall be deemed to have occurred, or (ii) on further Order of the Court; and

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.


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

MAR 30 2017

PER / PAR: 

JCF CAPITAL ULC

- and -

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<p>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST PROCEEDINGS COMMENCED AT TORONTO</p>
<p>FEE APPROVAL AND DISCHARGE ORDER</p>
<p>CASSELS BROCK & BLACKWELL LLP Scotia Plaza 2100 - 40 King Street West Toronto, ON M5H 3C2</p>
<p>R. Shayne Kukulowicz LSUC No.: 30729S Tel: 416.860-6463 Fax: 416.640-3176 Email: skukulowicz@casselsbrock.com</p>
<p>Jane Dietrich LSUC No.: 49302U Tel: 416.860.5223 Fax: 416.640.3144 Email: jdietrich@casselsbrock.com</p>
<p><i>Lawyers for Receiver</i></p>