

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

THE HONOURABLE REGIONAL )  
)  
SENIOR JUSTICE MORAWETZ )

MONDAY, THE 16<sup>TH</sup>  
DAY OF JUNE, 2014

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE  
CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., TCS CASH STORE  
INC., INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., 1693926  
ALBERTA LTD. DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

**ORDER**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of William E. Aziz sworn June 12, 2014 and the Exhibits thereto (the "**Fourth Aziz Affidavit**") and the Fourth Report, the Fifth Report, the Sixth Report and the Seventh Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "**Monitor**"), and on hearing the submissions of counsel for the Chief Restructuring Officer (the "**CRO**"), the DIP Lenders, the Monitor, the Ad Hoc Committee, and such other counsel present, no other person appearing although duly served as appears from the affidavit of service of Karin Sachar sworn June 13, 2014,

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 Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that the Fourth Report of the Monitor dated May 15, 2014 and the Fifth Report of the Monitor dated June 2, 2014 be and are hereby approved and the actions of the Monitor described therein be and are hereby approved.


3. THIS COURT ORDERS that the Stay Period provided in the Amended and Restated Initial Order dated April 15, 2014 (the "**Initial Order**") in these proceedings be and is hereby extended until and including August 15, 2014, or such later date as this Court may order.

4. THIS COURT ORDERS that the sale process described in the Fourth Aziz Affidavit and attached hereto as Schedule "A" (the "**Sale Process**") and all marketing activities undertaken by the CRO and Rothschild Inc. prior to the date hereof described in the Fourth Aziz Affidavit and reports of the Monitor are hereby approved.

5. THIS COURT ORDERS that, in connection with the Sale Process and pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the CRO and the Monitor are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or bidders and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sale transactions (each, a "**Transaction**"). 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 Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the CRO or the Monitor; (ii) destroy all such information; or (iii) in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser of any Property (as defined in the Initial Order) 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 Applicants or the CRO, and shall return all other personal information to the CRO or the Monitor, or ensure that all other personal information is destroyed.

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## SCHEDULE "A"

### THE SALE PROCESS

#### Defined Terms

1. All capitalized terms used but not otherwise defined herein have the meaning given to them in the Amended and Restated Initial Order of the Ontario Superior Court of Justice (the "**Court**") dated April 15, 2014 (the "**Initial Order**") in respect of the Applicants' proceedings commenced under the Companies' Creditors Arrangement Act (the "**CCAA**").

#### Sale Process

2. The Sale Process set forth herein describes, among other things, (i) the Applicants' Property available for sale, (ii) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials, (iii) the manner in which bidders and bids become Qualified Bidders (as defined below) and Qualified Bids (as defined below), respectively, (iv) the receipt and negotiations of bids received, (v) the ultimate selection of a Successful Bidder (as defined below) and (vi) the Court's approval thereof.
3. The CRO and Rothschild, with the assistance and support of the Monitor (who will also monitor the process), and in consultation with Houlihan Lokey Capital, Inc. ("**Houlihan**"), will conduct the Sale Process whereby prospective purchasers will have the opportunity to submit a bid for the Applicants' Property.
4. Prospective bidders that have executed a non-disclosure agreement will be provided with an opportunity to review financial and other information in the Applicants' online data room and will also be provided with an opportunity to meet with the CRO, senior management of the Applicants and Rothschild, and with such other parties as the CRO or Rothschild may arrange.
5. The sale of the Applicants' Property will be made on an "as is, where is" basis without surviving representations or warranties of any kind, nature, or description by the Applicants, the CRO, Rothschild or the Monitor, except to the extent set forth in the definitive sale agreement with a Successful Bidder.

#### Bidding Procedures

6. The bidding procedures are as follows (the "**Bidding Procedures**"):
  - (a) all bids for purchase of all or any portion of the Property or another transaction in respect of the Applicants or the Property must be submitted in writing to Rothschild and the Monitor and received by them before 5:00 pm (Toronto time) on July 11, 2014 (the "**Bid Deadline**"), which Bid Deadline may be extended by the CRO, in consultation with Rothschild and Houlihan, and with the consent of the Monitor;

- (b) each potential bidder must submit, before the Bid Deadline, a bid including the identification of the bidder, evidence of corporate authority and proof of its financial ability to perform to the satisfaction of the CRO and the Monitor (in consultation with Rothschild and Houlihan);
- (c) a bid should, among other things,
  - (i) be submitted by a bidder who has been invited to participate in the process by Rothschild or the CRO prior to the date hereof or who is invited to participate in the process by Rothschild or the CRO, in consultation with the Monitor and Houlihan, after the date hereof, and
  - (ii) be in the form of a binding offer capable of acceptance by the CRO on behalf of the Applicants, irrevocable until one business day after closing of the Successful Bid (as defined below), and must be accompanied by:
    - (1) In the case of a purchase, (A) a duly authorized and executed purchase agreement based on the form of purchase agreement to be provided to bidders as part of the Sale Process (the “**Form of APA**”), (B) all exhibits and schedules thereto, and such ancillary agreements as may be required by the bidder with all exhibits and schedules thereto, (C) a mark-up of the Form of APA showing amendments and modifications made thereto, and (D) a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor) or such other form of deposit as is acceptable to the Monitor, payable to the order of the Monitor, in trust (the “**Deposit**”), in an amount equal to 10% of the purchase price contemplated therein, or
    - (2) in the case of any bid for the acquisition of the Applicant’s business that is not a purchase of the Applicant’s Property, (A) such duly authorized and executed documents as the CRO and the Monitor, in consultation with Rothschild and Houlihan, may accept, including all exhibits and schedules thereto, and (B) a Deposit acceptable to the CRO and the Monitor, in consultation with Rothschild and Houlihan

(each bid submitted in accordance with these Bidding Procedures a “**Qualified Bid**” and each such bidder a “**Qualified Bidder**”).

### **Qualified Bids**

- 7. A bid will be considered a Qualified Bid only if (i) it is submitted by a Qualified Bidder on or before the Bid Deadline, and (ii) the bid complies with, among other things, the following requirements:
  - (a) it includes a letter stating that the bidder’s offer is irrevocable until the business day after the closing of the Successful Bid;

- (b) it includes written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow Rothschild, the CRO and the Monitor, in consultation with Houlihan, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by its bid;
- (c) it includes a reasonably detailed listing and description of the Property to be included in the sale;
- (d) it includes details of the proposed number of employees of the Applicants who will become employees of the bidder and provisions setting out the terms and conditions of employment for continuing employees;
- (e) it includes details of any liabilities to be assumed by the Qualified Bidder;
- (f) it is not conditional upon, among other things:
  - (i) the outcome of unperformed due diligence by the Qualified Bidder; or
  - (ii) obtaining financing;
- (g) it fully discloses the identity of each person or entity that will be sponsoring or participating in the bid, and the complete terms of such participation;
- (h) it includes evidence, in form and substance satisfactory to Rothschild and the CRO, in consultation with the Monitor and Houlihan, of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the bid;
- (i) it outlines any anticipated regulatory and other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining any such approvals;
- (j) it identifies with particularity the contracts and leases the bidder wishes to acquire, contains full details of the bidder's proposal for the treatment of related cure costs (and provides adequate assurance of future performance thereunder); and it identifies with particularity any executory contract or unexpired lease the assumption and assignment of which is a condition to closing;
- (k) it provides a timeline to closing with critical milestones;
- (l) it contains other information reasonably requested by Rothschild, the CRO or the Monitor; and
- (m) it includes the following: an acknowledgement and representation that the bidder:
  - (a) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and
  - (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever,

whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement.

8. Rothschild and the CRO, with the consent of the Monitor and in consultation with Houlihan, may (i) waive compliance with any one or more of the requirements specified herein and deem such non-compliant bids to be Qualified Bids or (ii) aggregate separate bids to create one "Qualified Bid" from one or more "Qualified Bidders".

### **Post-Bidding Procedures**

9. If one or more Qualified Bids are received in accordance with the Bidding Procedures, Rothschild and the CRO, with the consent of the Monitor and in consultation with Houlihan, may choose to:
  - (a) accept one Qualified Bid (the "**Successful Bid**" and the Qualified Bidder making the Successful Bid being the "**Successful Bidder**") and take such steps as are necessary to finalize and complete an agreement for the Successful Bid with the selected bidder; or
  - (b) continue negotiations with a selected number of Qualified Bidders (collectively, "**Selected Bidders**") with a view to finalizing an agreement with one of the Selected Bidders such that such Selected Bidder becomes the Successful Bidder.
10. Evaluation criteria for the Successful Bid may include, but are not limited to such items as:
  - (a) the purchase price and net value (including all assumed liabilities and other obligations to be performed by the bidder);
  - (b) the firm, irrevocable commitment for financing the transaction or other evidence of ability to consummate the proposed transaction;
  - (c) the claims likely to be created by such bid in relation to other bids;
  - (d) the counterparties to the transaction;
  - (e) the terms of the transaction documents;
  - (f) other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals and other conditions required to close the transaction);
  - (g) planned treatment of stakeholders;
  - (h) the assets included or excluded from the bid;
  - (i) the proposed treatment of the employees, including any employees currently on temporary layoff;

- (j) any transition services required from the Applicants post-closing and any related restructuring costs; and
  - (k) the likelihood and timing of the consummation of the transaction.
11. Rothschild and the CRO shall be under no obligation to accept the highest or any other offer, and the selection of the Selected Bids and the Successful Bid shall be in the discretion of Rothschild and the CRO, in consultation with Houlihan and subject to the consent of the Monitor. Rothschild and the CRO shall have no obligation to select a Successful Bid and reserves the right, in consultation with Houlihan and subject to the consent of the Monitor, to reject any or all Qualified Bids.

### **Other Terms**

12. All Deposits will be retained by the Monitor and invested in an interest bearing trust account. If there is a Successful Bid, the Deposit (plus accrued interest) paid by the Successful Bidder whose bid is approved by the Court will be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposits (plus applicable interest) of Qualified Bidders not selected as the Successful Bidder will be returned to such bidders within 10 business days of the date upon which the Successful Bid is approved by the Court. If there is no Successful Bid, subject to the following paragraph, all Deposits (plus applicable interest) will be returned to the bidders within 10 business days of the date upon which the Sale Process is terminated.
13. If a Successful Bidder breaches its obligations under the terms of the Sale Process, its Deposit shall be forfeited as liquidated damages and not as a penalty.
14. The CRO will apply to the Court (the “**Approval Motion**”) for an order approving the Successful Bid and authorizing the Applicants to enter into any and all necessary agreements with respect to the Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid or for an order approving such alternative process as the CRO, in consultation with Rothschild and Houlihan, and with the consent of the Monitor, deem appropriate in the circumstances.
15. The Approval Motion will be held on a date to be scheduled by the Court upon application by the CRO. The Approval Motion may be adjourned or rescheduled by the CRO or the Monitor without further notice by an announcement of the adjourned date at the Approval Motion or by notice to the Service List maintained by the Monitor.
16. All Qualified Bids (other than the Successful Bid) will be deemed rejected one business day after the closing of the Successful Bid by the Court.
17. For the avoidance of doubt, (i) the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute or as otherwise required at law in order to implement a Successful Bid and (ii) in the event that a Successful Bid is not obtained, nothing in this Sale Process or in any Order prejudices the rights of secured creditors of the Applicants to credit bid for any assets of the Applicants subject to any such secured creditors’ security interests.

18. There will be no amendments to this Sale Process without the consent of the CRO, the Monitor and Houlihan, or in the absence of such consent, the approval of the Court.
19. This Sale Process does not, and will not be interpreted to, create any contractual or other legal relationship between the Applicants, the CRO and any bidder, other than as specifically set forth in a definitive agreement that any such bidder may enter into with the Applicants. At any time during the Sale Process, the Monitor may, upon reasonable prior notice to the CRO, the DIP Lenders and the Ad Hoc Committee, apply to the Court for advice and directions with respect to the discharge of its power and duties hereunder.



IN THE MATTER OF the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended

Court File No: CV-14-10518-00CL

AND IN THE MATTER OF a plan of compromise or arrangement of The Cash Store Financial Services Inc., The Cash Store Inc., TCS Cash Store Inc., 7252331 Canada Inc., 5515433 Manitoba Inc., 1693926 Alberta Ltd. doing business as "The Title Store"

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**

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