



Court File No. CV-19-614593-00CL

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

THE HONOURABLE MR.)
JUSTICE MCEWEN)
MONDAY, THE 17th
DAY OF JUNE, 2019

BETWEEN:

CORNER FLAG LLC

Applicant

– and –

ERWIN HYMER GROUP NORTH AMERICA, INC.

Respondent

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43**

**ORDER
(Ancillary Administration)**

THIS MOTION made by Alvarez & Marsal Canada Inc., in its capacity as the court-appointed receiver and manager (the “**Receiver**”) without security of all of the assets, undertakings and properties of Erwin Hymer Group North America, Inc. (“**EHGNA**” or the “**Debtor**”), for an Order (i) approving certain payments to MBFS and MBFS US (each as defined below); (ii) approving the Second Report of the Receiver dated June 10, 2019 (the “**Second Report**”) and the activities set out therein; (iii) approving the fees and disbursements of the Receiver and its counsel, (iv) sealing the Confidential Appendices to the Second Report; and (v)

granting related relief was heard this day at the Court House, 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated March 20, 2019, the Second Report, the Affidavit of Alan J. Hutchens sworn June 10, 2019 (the “**Hutchens Affidavit**”), the Affidavit of Tracy C. Sandler sworn June 10, 2019 (the “**Sandler Affidavit**”) and on hearing the submissions of counsel for the Receiver, Corner Flag LLC (“**Corner Flag**”) and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Waleed Malik affirmed June 11, 2019 and the Affidavit of Service of Ana Chalupa sworn June 11, 2019, both filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record be and are hereby abridged and validated, and this motion is properly returnable today.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Second Report.

PAYMENTS TO MBFS AND MBFS US

3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized, *nunc pro tunc*, to make payments to Mercedes-Benz Financial Services Canada Corporation (“**MBFS**”) and Mercedes-Benz Financial Services USA LLC (“**MBFS US**”) for amounts owed to them for underlying Raw Chassis of any RV Inventory sold by the Receiver in the normal course following the Receivership Date, as such payments are described in Sections 15 and 16.1 of the Second Report.

4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to, in the Receiver's sole discretion, make the following payments to MBFS and MBFS US, as appropriate, without further order of this Court: (i) payments to MBFS and MBFS US in respect of amounts owed to them for the underlying Raw Chassis of any RV Inventory sold as part of the Roadtrek Transaction; (ii) payments to MBFS in respect of amounts owing for MBFS Financed Collateral sold to third parties where proceeds were received by EHGNA pre-receivership; and (iii) payments to MBFS and MBFS US, as applicable, in respect of amounts owing to them in respect of MBFS Financed Collateral or MBFS US Financed Collateral sold by the Receiver from and after the date of the Second Report, as such payments are described at Sections 15 and 16.1 of the Second Report.

CONSTRUCTION LIEN RESERVE

5. **THIS COURT ORDERS** that no amounts shall be distributed from the Construction Lien Reserve until each of the Construction Liens (as defined in the Order (Roadtrek Approval and Vesting) dated the date hereof in these proceedings (the "AVO")) is settled and discharged by (i) payment from the Construction Lien Reserve or otherwise to each Construction Lien Claimant (as defined in the AVO) of an amount sufficient to discharge each Construction Lien Claimant's Construction Lien, in such amount as agreed between the Receiver and the applicable Construction Lien Claimant; or (ii) further Order of this Court. For greater certainty, upon final settlement of each Construction Lien Claimant's Construction Lien, the balance of the Construction Lien Reserve shall be released and shall form part of the net proceeds realized from the Transactions (as defined in Second Report) available for distribution to creditors.

6. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;

- (b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) and any order issued pursuant to any such petition; or
- (c) any assignment in bankruptcy made in respect of the Debtor;

the payments contemplated in this Order are made free and clear of any Claims and Encumbrances (each as defined in the AVO), are binding on any trustee in bankruptcy that may be appointed in respect of the Debtor, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any applicable federal or provincial legislation and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

RECEIVER’S ACTIVITIES AND REPORT

7. **THIS COURT ORDERS** that the Second Report, and the activities and conduct of the Receiver described therein, be and are hereby approved.

FEES

8. **THIS COURT ORDERS** that the fees and disbursements of the Receiver in the amount of Cdn\$1,752,149.76 (for the period from February 7, 2019 to May 18, 2019 inclusive, and including Harmonized Sales Tax), as set out in the Hutchens Affidavit and the Second Report, are hereby approved.

9. **THIS COURT ORDERS** that the fees and disbursements of Osler, Hoskin & Harcourt LLP, in its capacity as counsel to the Receiver, in the amount of Cdn\$1,016,320.43 (for the period from February 10, 2019 to May 17, 2019 inclusive, and including Harmonized Sales Tax), as set out in the Sandler Affidavit and the Second Report, are hereby approved.

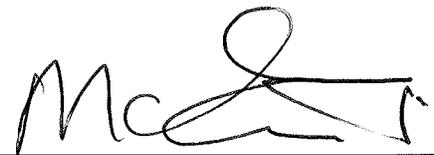
SEALING

10. **THIS COURT ORDERS** that Confidential Appendix “A”, Confidential Appendix “B” and Confidential Appendix “C” to the Second Report shall be and are hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

GENERAL

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 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.

12. **THIS COURT ORDERS** that any of the Construction Lien Claimants, Corner Flag, and the Receiver may seek directions from this Court in respect of any matter contemplated herein.



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

JUN 18 2019

PER / PAR:



CORNER FLAG LLC
Applicant

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ERWIN HYMER GROUP NORTH AMERICA, INC.
Respondent

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER
(Ancillary Administration)

OSLER, HOSKIN & HARCOURT LLP

Box 50
1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

Tracy C. Sandler (LSO# 32443N)
Tel: 416.862.5890

Jeremy Dacks (LSO# 41851R)
Tel: 416.862.4923
Fax: 416.862.6666

Counsel for the Receiver