

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM JUSTICE
SWINTON

)
)
)

THURSDAY, THE 26th DAY
OF JULY, 2001

BETWEEN:

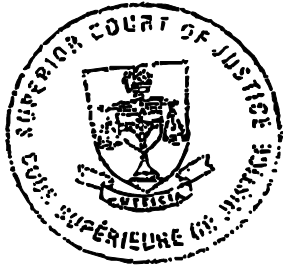
ONTARIO SECURITIES COMMISSION

Applicant

-AND-

BUCKINGHAM SECURITIES CORPORATION

Respondent



ORDER

THIS APPLICATION made by the Ontario Securities Commission (the "Commission"), the Applicant herein for an Order appointing BDO Dunwoody Limited as Receiver and Manager of all the present and future property, undertaking and assets of the Respondent held in the name of the Respondent, Buckingham Securities Corporation (referred to herein as "Buckingham" or the "Respondent"), whether in whole or in part, directly or indirectly, as principal or as agent, beneficially or otherwise, and all proceeds therefrom, and any other property, undertaking and assets of the Respondent which may be identified by the proposed Receiver (referred to herein as the "Property"), and for such other relief, was heard on Thursday, the 26th day of July, 2001 at 393 University Avenue, Toronto, Ontario.

ON READING the amended Notice of Application, the Application Record, the Supplementary Application Records, the Consent of BDO Dunwoody Limited, the proposed Receiver, and on hearing the submissions of counsel for the Commission, and submissions of counsel for the Respondent, the Respondent not opposing.

1. **THIS COURT ORDERS** that effective on Thursday, the 26th day of July 2001 BDO Dunwoody Limited (the "Receiver") be and is hereby appointed Receiver and Manager, without security, of the Property with power to receive, protect, dispose of and sell any of the Property and to act at once until further Order of this Court.
2. **THIS COURT ORDERS** The Bank of Nova Scotia (the "Bank") to immediately deliver to the Receiver all funds, securities or property held by the Bank in the name of the Respondent.
3. **THIS COURT ORDERS** that the Order made on July 12, 2001 by the Honourable Mr. Justice Lamek is varied to the extent necessary to carry out the provisions of this Order.
4. **THIS COURT ORDERS** that the Respondent, including its present and former officers, directors, shareholders, employees, servants, agents, solicitors, contractors and anyone acting on their instructions or on their behalf, or anyone having knowledge of this Order, do forthwith deliver over to the Receiver or to its agents, all of the Property of every kind, including all the property, chattels and assets which comprise the business and undertaking of the Respondent, any cash on hand, monies or funds in any bank accounts and any other deposit instruments and securities, and all books, documents, contracts, records, deeds and papers of every nature and kind relating thereto, including all financial books and records and Property information; all electronic and computer records, where relevant, account numbers or names under which such Property might be held by third parties; and all such persons and anyone having knowledge of this Order are hereby restrained and enjoined from dealing with the Property, altering or changing any financial book or records, or interfering with the Receiver in the exercise by the Receiver of its powers and the performance of its duties hereunder.

5. **THIS COURT ORDERS** that BDO Dunwoody Limited in its capacity as Receiver of the Property be and is hereby empowered but not obligated, from time to time to further do all or any of the following acts and things until further order of this Court:

- (a) to negotiate and do all things necessary and desirable to complete a sale of any and all securities comprising the Property and pay all commissions necessary for the sale of such Property;
- (b) to receive and collect all monies dividends or other amounts now or hereafter owing and payable to the Respondent relative to the Property;
- (c) to pay all debts and commissions which the Receiver deems necessary or advisable in order to sell the Property and all such payments shall be allowed in passing its accounts and shall form a charge on the Property in priority to the security held by any party;
- (d) to execute, assign, issue or endorse such deeds, bills of sale, transfers, powers of attorney, share certificates, bonds, debentures, securities, cheques, bills of lading or exchange, or other documents necessary or convenient for any purpose pursuant to this Order in the name of or on behalf of the Respondent;
- (e) to take all steps necessary to market and, if necessary, tender for sale the Property;
- (f) to enter into an agreement or agreements for the sale of the Property in whole or in part and to instruct any persons deemed appropriate by the Receiver to sell any of the Property through any dealers in securities on any securities exchange the Receiver deems appropriate;
- (g) to invest any of the Property or proceeds of sale of any of the Property with such persons and on such terms as the Receiver deems appropriate;

- (h) to take such other steps as the Receiver deems necessary or desirable to preserve and protect and realize upon the Property; and
- (i) to file an assignment in bankruptcy on behalf of the Respondent or to consent to a receiving order against the Respondent and to act as trustee of the Respondent's estate.

6. **THIS COURT ORDERS** that if any information is stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, the Respondent and its present and former directors, officers, employees and/or agents shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to obtain access to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient. Further, for the purposes of this paragraph, the Respondent, its present and former directors, officers, employees and/or agents and all persons having notice of this provision of this Order shall provide the Receiver with all such assistance in gaining immediate access to the information as the Receiver, may in its discretion require including without limiting the generality of the foregoing, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that Internet service providers or persons, corporations or individuals who provide e-mail, World Wide Web, file transfer protocol or other Internet connection services to the Respondent and/or its present and former directors, officers, employees and agents to access the Internet or World Wide Web e-mail or other similar services, deliver to the Receiver documents, server files, archive files or any other information in any form in any way recording messages, e-mails or other information sent or received by the respondent and/or its present and former directors, officers, employees and agents in the course of their association and in conducting their duties related to the operations and affairs of the Respondent.

8. **THIS COURT ORDERS** that no person shall without the leave of this Honourable Court, discontinue, fail to renew, alter, interfere with or terminate any right, contract, arrangement, agreement, license or permit in favour of or held by the Respondent (a) as a result of any default or non-performance by the Respondent prior to the making of this Order, or (b) as a result of the making of this Order.

9. **THIS COURT ORDERS** that no legal actions, administrative proceedings, self help remedies or any other acts or proceedings, shall be asserted, taken or continued against the Respondent or the Receiver, or with respect to the Property or any part thereof, without leave of the Court first being obtained and upon motion made in this application after seven clear days' notice to the Receiver with the exception of the proceeding commenced against the Respondent and other respondents by Notice of Hearing issued by Staff of the Commission on July 6, 2001 under sections 127 and 127.1 of the *Securities Act* (the "Act") and any other proceeding which may be initiated or continued by Staff of the Commission or the Commission under the Act.

10. **THIS COURT ORDERS** that the Receiver be and is hereby fully authorized and empowered to institute, prosecute and defend all suits, proceedings, administrative hearings, cases and action at law as may in its judgment be necessary for the proper protection of the Property, and to appear in and conduct the prosecution or defense of any suits, proceedings, administrative hearings, cases and action in any court, tribunal or administrative body in Canada, or abroad, the prosecution or defense of which in the judgment of the Receiver, will be necessary or desirable for the proper protection of the Property and the authority hereby conveyed shall extend to such appeals or judicial review as the Receiver shall deem proper and advisable in respect of any order, ruling or judgment pronounced in any such suit or proceeding, administrative hearing, case or action and the authority hereby converted shall also extend to any settlement by the Receiver of any proceedings or any actions.

11. **THIS COURT ORDERS** that the Receiver as agent on behalf of the Respondent shall be at liberty to appoint, employ and retain agents, employees, counsel, auditors, accountants, consultants, dealers and other such assistance from time to time as it may consider necessary for the purpose of dealing with the Property or realizing upon the Property and that any commissions and other expenditures which shall be properly made or incurred by the Receiver in so doing shall be allowed in passing its account and shall form a charge on the Property.

12. **THIS COURT ORDERS** that the employment of all employees of the Respondent including employees on maternity leave, disability leave and all other forms of approved absence is hereby terminated effective immediately prior to the appointment of the Receiver. Notwithstanding the appointment of the Receiver or the exercise of any of its powers or the performance of any of its duties hereunder or the use or employment by the Receiver of any person in connection with its appointment and the performance of its powers and duties hereunder, the Receiver is not and shall not be deemed or considered to be a successor employer, retired employer, sponsor or payer with respect to any of the employees of the Respondent or any former employees within the meaning of the *Labour Relations Act* (Ontario), the *Employment Standards Act* (Ontario), the *Pension Benefits Act* (Ontario), *Canada Labour Code*, *Pension Benefits Standards Act* (Canada) or any other provincial, federal or municipal legislation or common law governing employment or labour standards (the "Labour Laws") or any other statute, regulation or rule of law or equity for any purpose whatsoever or any collective agreement or other contract between the Respondent and any of its present or former employees. In particular, the Receiver shall not be liable to any of the employees of the Respondent for any wages (as "wages" are defined in the *Employment Standards Act*), including severance pay, termination pay and vacation pay, except for such wages as the Receiver may specifically agree to pay. The Receiver shall not be liable for any contribution or other payment to any pension or benefit fund. Further, by the granting of this Order, the business of the Respondent has not been and shall not be deemed to have been, nor treated as having been sold, but rather, such business will continue to be the business of the Respondent until sold, in whole or in part, to a purchaser other than the Receiver.

13. **THIS COURT ORDERS** that with the approval of this Court on service of a Notice of Motion and supporting material on the proposed examinee, the Receiver be authorized to conduct such examinations under oath as it deems necessary of persons having knowledge of any or all of the affairs of the Respondent on matters related to or concerning the Property.
14. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for direction and guidance in the discharge of its duties hereunder.
15. **THIS COURT ORDERS** that the Receiver do from time to time pass its accounts and pay the balance in its hands as this Court may direct, and for this purpose the accounts of the Receiver are hereby referred to the Superior Court of Ontario.
16. **THIS COURT ORDERS** that the Receiver shall be at liberty to pay itself out of the existing or future monies coming into its hands or as a result of the performance of its duties hereunder in respect of its services as Receiver a reasonable amount either monthly or at such longer intervals as it deems appropriate which amount shall constitute an advance against remuneration when determined by this Court and shall also be at liberty to pay its solicitors such monies at a reasonable amount on a solicitor and his own client basis either monthly or at such longer intervals as it deems appropriate which amount shall constitute an advance against remuneration when determined by this Court.
17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this Order save and except for any gross negligence or wilful misconduct on its part.
18. **THIS COURT ORDERS** that the liability of the Receiver which it may incur as a result of its appointment or as a result of the performance of its duties hereunder, including in respect of gross negligence or wilful misconduct, shall be limited in the aggregate to the net realized value of the Property and furthermore the Receiver shall cease to have any liability whatsoever upon

distribution of the Property or any proceeds thereof under its administration in accordance with this Order and any other Order of this Court. The net realized value of the Property shall be the cash proceeds realized by the Receiver from the disposition of the Property or part thereof after deducting the reasonable remuneration and expenses of the Receiver.

19. **THIS COURT ORDERS** that any expenditure or liability which shall properly be made or incurred by the Receiver in so doing, including the fees of the Receiver and the fees and disbursements of its legal counsel, on a solicitor and his own client basis shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to any charge, mortgage, lien, security interest or encumbrance on or in the Property (the "Receiver's Charge").

20. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any Court or administrative tribunal in any other jurisdiction, whether in Canada or elsewhere, for an Order recognizing the appointment of the Receiver by this Court and confirming the power of the Receiver in such other jurisdictions or to take such steps, actions or proceedings as may be necessary or desirable for the receipt, preservation, protection and maintenance of the Property, including acting as foreign representative of the Respondent. All courts and tribunals of all other jurisdictions are hereby respectfully requested to make such Orders and provide such other aid and assistance to the Receiver, as an officer of this Court, as they may deem necessary or appropriate in furtherance of this Order.

21. **THIS COURT ORDERS** that liberty be reserved to all or any persons or parties, including the Receiver, interested in applying for such further or other Order, including an order to vary this Order, as may be advised.

22. **THIS COURT ORDERS** that nothing herein authorizes the disclosure or obtaining of information subject to solicitor and client privilege to the Receiver or any other party or person.

ENTERED AT/INSCRIT À TORONTO
INDEX BOOK NO:
L'ÉTAT DU REGISTRE NO

JUL 26 2001

0201040

NB


D. ROSTI
LOCAL REGISTRAR