



TIERNEY STAUFFER LLP

BARRISTERS & SOLICITORS

Securitizing Loans to Owner Managed Businesses

Presented By:
Stephen Tierney

Key Components of Value:

- Income – profits needed to repay the loan
- Property - if loan payments ceased- Liquidation Value
- Both - sale as a going concern

Income

“The ability to generate profit on a consistent year over year basis”

Components:

- People- good will - often goes home at night
- Intellectual Property - licensed or owned
- Stability of Market Place - consistent value or trendy product
- Facilities - new or old
- Suppliers - few or many
- Customers - few or many

Property

“Saleable property owned free of encumbrance”

Components:

- Real Property- owned or leased real estate,
- Personal Property- chattels, accounts receivable, customer lists, orders and transit, equity in leased assets, employees, and contractual rights;
- Intellectual Property- patents, trade marks

Tools for Security

- Real Property Security Documents and Registrations
- Personal Property Security Documents and Registrations
- Comprehensive Security Documents and Registrations

Real Property Security Documents

- Charge/ Mortgage
- Charge of Lease
- Assignment of Rents
- Assignment of Leases

Personal Property

- General Security Agreement
- Leases
- Chattel Mortgages
- Purchase Money Security Interests
- Intellectual Property Security
- Assignment of Shareholder Loans

Joint Real Property and Personal Property Securities

- Debentures
- Other Common Debt Related Documentation
- Personal Collateral Security
- Personal Guarantees
- Cash Security
- Postponement of Debt

Land Registry System

Ontario has two systems- Registry (which is the old system) and Land Titles (which is the new system)

Land Titles:

- All properties in Ontario are being converted to Land Titles
- Government guarantees the Title
- Electronic access for searching
- Electronic registration of documents
- Every property in Ontario has a Property Identification Number (PIN)

Sample PIN Abstract



Ministry
of Government
Services

LAND
REGISTRY
OFFICE #4

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04161-0032 (LT)

PAGE 1 OF 4
PREPARED FOR Shelley
ON 2008/03/17 AT 16:18:52

* CERTIFIED BY LAND REGISTRAR IN ACCORDANCE WITH LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PT LT 4 CON 6RF GLOUCESTER PART 26, 27, 28, 29, & 30 , 5R9508 ; S/T NS49000 GLOUCESTER

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
RE-ENTRY FROM 04161-0094

PIN CREATION DATE:
1999/10/22

OWNERS' NAMES
SUN SERVE HOLDINGS INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
<p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/05/26 ON THIS PIN** **WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/10/22** ** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 1999/10/22 ** **SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO: ** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * ** AND ESCHEATS OR FORFEITURE TO THE CROWN. ** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF ** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY ** CONVENTION. ** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES. **DATE OF CONVERSION TO LAND TITLES: 1999/10/25 **</p>						
OT54451	1963/01/22	BYLAW REMARKS: SUBDIVISION CONTROL, MULTI				C
GL75632	1964/11/12	BYLAW REMARKS: MULTI				C
5R303	1972/05/12	PLAN REFERENCE				C
5R1187	1974/03/22	PLAN REFERENCE				C
CT191918	1974/05/06	AGREEMENT REMARKS: SEE LT531464			THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON	C
CT193484	1974/06/04	AGREEMENT REMARKS: SEE LT531465			THE CORPORATION OF THE TOWNSHIP OF GLOUCESTER	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

Personal Property Security Act (PPSA)

The PPSA records the existence of *security interests in personal property* in Ontario

“Security Interest” means an interest in personal property that secures payment or performance of an obligation, and includes, whether or not the interest secures payment or performance of an obligation,

- a) the interest of a transferee of an account or chattel paper, and
- b) the interest of a lessor of goods under a lease for a term of more than one year;

“Personal Property” means chattel paper, documents of title, goods, instruments, intangibles, money and investment property, and includes fixtures but does not include building materials that have been affixed to real property.

Key Components to PPSA

- You need a signed Security Agreement
- You can register before or after the execution of the security Agreement
- Priority is by registration date or based on Agreement between registered holders

Issues Arising from PPSA

- No guarantee of ownership
- Appropriate priorities
- Description of goods
- Accounts receivable and inventory
- Sharing of security with other lenders
- Risk factors with priority agreements
- Not proof of corporate existence
- Proper name
- Jurisdiction

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: ██████████ CANADA INC.

FILE CURRENCY: Sunday, March 16, 2008

RESPONSE CONTAINS: APPROXIMATELY 1 FAMILIES and 5 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR
CONDUCTED ON: [REDACTED]
FILE CURRENCY: Sunday, March 16, 2008

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 1 OF 5

SEARCH : BD : 2932733 CANADA INC.

00 FILE NUMBER: 083058105 EXPIRY DATE : 14FEB 2012 STATUS :
01 CAUTION FILING : PAGE : 001 OF 002 MV SCHEDULE ATTACHED : X
REG NUM : 20000214 1106 0028 2288 REG TYP: P PPSA REG PERIOD: 8
02 IND DOB : IND NAME:
03 BUS NAME: [REDACTED]
OCN :
04 ADDRESS : 4070 BELGREEN DRIVE PROV: ONT POSTAL CODE: K1G 3N2
CITY : OTTAWA
05 IND DOB : IND NAME:
06 BUS NAME: [REDACTED]
OCN :
07 ADDRESS : PROV: POSTAL CODE:
CITY :

08 SECURED PARTY/LIEN CLAIMANT :
BUSINESS DEVELOPMENT BANK OF CANADA

09 ADDRESS : 55 METCALFE STREET
CITY : OTTAWA

CONS.	GOODS	INVTRY.	EQUIP	ACCTS	OTHER	INCL	AMOUNT	MATURITY	DATE OF	OR NO	FIXED
	10	X	X	X	X	X					X
	11										
	12										

YEAR MAKE	MODEL	V.I.N.
11 1987 MACK [SWEEPER]	250	VG6M114B8HB084189
12 1987 FORD [SWEEPER]	7000	9BFXH70P3HDM02831

GENERAL COLLATERAL DESCRIPTION

13

14

15

16 AGENT: CHARTRAND, COLONNIER & O'CONNOR

17 ADDRESS : 100-214 MONTREAL ROAD

CITY : OTTAWA

PROV: ONT

POSTAL CODE: K1L 8L8

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR
CONDUCTED ON: [REDACTED]
FILE CURRENCY: Sunday, March 16, 2008

FAMILY : 1 OF 1 ENQUIRY PAGE : 2 OF 5

00 REF: 083658105 01 PAGE: 2 OF 2 REG NUM: 20000214 1106 0028 2288
YEAR [----- MAKE -----] [----- MODEL -----] [----- V.I.N. -----]
41 1984 INTERNATIONAL [SWEEPER] CO 2HTNPFHYN8ECB11100
42 1990 MACK [SWEEPER] 250 VG6M114BXLB200596
43 1988 MACK [SWEEPER] 200 VG6M111B2JB028330
44
45 1987 MACK [SWEEPER] 200 VG6M111B6HB026229
46 1983 FORD [FLUSHER] L8000 1FDXK80U3DVA08058
47 1978 INTERNATIONAL [FLUSHER] CO D1045HCA26071
48 1987 INTERNATIONAL [FLUSHER] S2500 1HTZMKCR9HH489693
49 1984 FORD [FLUSHER] F8000 1FDPK87VXEVA32153
50 1981 INTERNATIONAL [FLUSHER] CO 2HTD103B0BCA17276
51 1986 FORD [FLUSHER] 7000 9BFXH70P4G0M02951
52
53
54
55 1984 FREIGHTLINER [FLUSHER] 2FUPY6YB9EV230682
56

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

Other Lending Concerns

- Intellectual Property
- People leaving
- Succession
- Insurance

Corporations

Creative Documents:

- Articles of Incorporation
- Articles of Amalgamation
- Dangers of dissolution
- Revival

Summary

How we securitize the components that make up the value of the borrower

Income:

- People- good will with feet; personal guarantee
- Intellectual Property- trade secrets licensed or owned; GSA (PPSA) and Federal security
- Stability of Market Place- general value or consistent value or trend; GSA (PPSA)
- Facilities- new or old; realty charge, GSA (PPSA)
- Suppliers- few or many; GSA (PPSA)
- Customers (PPSA)

Summary

How we securitize the components that make up the value of the borrower

Property:

- Real Property- owned or leased real estate, charge of mortgage or charge of lease
- Personal Property- chattels, accounts receivable, customer lists, orders and transit, equity in leased assets, employees, and contractual rights; GSA, PPSA registration, Federal security
- Intellectual Property; patents, trade marks, GSA, PPSA registration, Federal security

Off Titles Issues Regarding Realty Mortgages

- Insurance
- Taxes
- Appropriate use of property
- Corporate existence of borrower