

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
 )  
JUSTICE MORAWETZ ) WEDNESDAY, THE 14TH  
 DAY OF SEPTEMBER, 2011

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 PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST,  
PRISZM INC. AND KIT FINANCE INC.

(the "**Applicants**")

**APPROVAL AND VESTING ORDER  
(Re Sale to 1844440 Ontario Inc.)**

**THIS MOTION**, made by Priszm Income Fund, Priszm Canadian Operating Trust, Priszm Inc., Priszm LP and Kit Finance Inc. (collectively, the "**Priszm Entities**") for an order approving the sale transaction (the "**184 Transaction**") contemplated by the Asset Purchase Agreement (the "**184 APA**") between Priszm LP (the "**Vendor**"), Priszm Inc. and 1844440 Ontario Inc. (the "**184 Purchaser**") dated September 7, 2011, as amended, appended to the Affidavit of Jim Robertson sworn September 8, 2011 (the "**Robertson Affidavit**") as Exhibit "L", and vesting in the 184 Purchaser the Vendor's right, title and interest in and to the Purchased Assets (as defined in the 184 APA), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Robertson Affidavit, the Fourth Report (the "**Fourth Report**") of FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Prizm Entities (the "**Monitor**"), the Supplement to the Fourth Report of the Monitor, and on hearing the submissions of counsel for the Prizm Entities; the Monitor; the 184 Purchaser; Yum! Restaurants International (Canada) Company (the "**Franchisor**"); Prudential Investment Management, Inc.; Scott's Real Estate Investment Trust, SR Operating Trust, Scott's Real Estate Limited Partnership, Scott's Trustee Corp. and Scott's GP Trust; The Cadillac Fairview Corporation Limited; 20 VIC Management Inc., Ivanhoe Cambridge Inc., Morguard Investments Limited, Retrocom Mid-Market REIT, Primaris Retail Real Estate Investment Trust and Oxford Properties Group Inc.; 2279549 Ontario Inc. and 2289500 Ontario Inc.; Olymel; Sysco Canada and Metro-Richelieu Inc., no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that any defined term used but not defined herein shall have the meaning ascribed to such term in the 184 APA.
  
2. **THIS COURT ORDERS AND DECLARES** that the 184 Transaction and the 184 APA are hereby approved. The Prizm Entities and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the 184 Transaction and for the conveyance of the Purchased Assets to the 184 Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the 184 Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets shall vest, without further instrument of transfer or assignment, absolutely in the 184 Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Amended and Restated Initial Order of the Honourable Madam Justice Mesbur dated April 29, 2011 (the "**Initial Order**"), or any subsequent charges that may be granted by the Court; (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and, for greater certainty, this Court orders that all of the encumbrances or charges affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the 184 Purchaser regarding fulfillment of conditions to closing under the 184 APA and shall have no liability with respect to delivery of the Monitor's Certificate.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Vendor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendor;

the vesting of the Purchased Assets in the 184 Purchaser pursuant to this Order and the obligations of the Vendor under the 184 APA shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendor and shall not be void or voidable by creditors of the Vendor, nor shall any of them constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall any of them constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the 184 Transaction is exempt from any requirement under any applicable federal or provincial law to obtain

unitholder or shareholder approval and is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **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 Vendor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.



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

SEP 15 2011

PER/PAR: 

**Schedule "A"**  
**Form of Monitor's Certificate**

Court File No. CV-11-9159-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
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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  
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(the "**Applicants**")

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated March 31, 2011, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of, *inter alia*, Priszm LP (the "**Vendor**").

B. Pursuant to an Order of the Court dated September ●, 2011, the Court approved the Asset Purchase Agreement (the "**184 APA**") between the Vendor, Priszm Inc. and 1844440 Ontario Inc. (the "**184 Purchaser**") dated September 7, 2011 and provided for the vesting in the 184 Purchaser of the Vendor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the 184 Purchaser of a certificate certifying receipt of confirmation from the Vendor and the 184 Purchaser that the conditions to Closing as

set out in section 5 of the 184 APA have been satisfied or waived by the Vendor and the 184 Purchaser, as applicable.

C. Unless otherwise indicated herein, defined terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the 184 APA.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received the Purchase Price for the Purchased Assets pursuant to the 184 APA;
2. The Monitor has received confirmation from the Vendor and the 184 Purchaser that the conditions to Closing as set out in section 5 of the 184 APA have been satisfied or waived by the Vendor and the 184 Purchaser, as applicable; and
3. This Certificate was delivered by the Monitor to the 184 Purchaser at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**FTI Consulting Canada Inc., in its capacity  
as the Court-appointed Monitor of the  
Prizm Entities and not in its personal  
capacity**

Per: \_\_\_\_\_  
Name:  
Title:

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

Court File No: CV-11-9159-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
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FINANCE INC.

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Proceeding commenced at Toronto

**ORDER  
(Re Sale Approval)**

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