

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

THE HONOURABLE MADAM) THURSDAY, THE 13TH
)
JUSTICE CONWAY) DAY OF AUGUST, 2020

IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

MARS FREIGHT LTD., ALL LINK FREIGHT SERVICES LTD., 11675443 CANADA INC. and SKYLAND CARRIERS INC.

Respondents

ORDER

(Discharging Receiver of Skyland Carriers Inc. and Authorizing Interim Distribution)

THIS MOTION made by BDO Canada Limited (“**BDO**”) in its capacity as the Court-appointed Receiver (the “**Receiver**”) of all of the assets, undertakings and properties of Mars Freight Ltd., All Link Freight Services Ltd., 11675443 Canada Inc. and Skyland Carriers Inc. (“**Skyland**”) for an Order (i) discharging BDO as Receiver of Skyland; (ii) approving an interim distribution to HSBC Bank Canada (the “**Bank**”), and (iii) approving the Receiver’s fees and disbursements, was heard this day in Toronto, Ontario by way of judicial teleconference due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated August 6, 2020 (the “**Second Report**”), the fee affidavit of Gary Cerrato sworn August 6, 2020 (the “**Cerrato Affidavit**”) and on hearing the submissions of counsel for the Applicant and the Receiver, and on consent of Skyland, no one else appearing although duly served as appears from the affidavit of service of Rachel Bengino sworn August 7, 2020, ~~to be~~^{B.C} filed;

SERVICE

1. THIS COURT ORDERS that the service of the Notice of Motion and the Motion is hereby validated so that this motion is properly returnable today.

APPROVAL OF RECEIVER’S ACTIVITIES AND FEES

2. THIS COURT ORDERS that the Second Report and the activities of the Receiver as set out in the Second Report are hereby authorized and approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

3. THIS COURT ORDERS that the fees and disbursements of the Receiver for the period from January 14, 2020 to July 31, 2020 as set out in the Second Report and the Cerrato Affidavit are hereby approved and the Receiver is authorized and directed to pay all such fees and disbursements.

DISCHARGE OF RECEIVER OF SKYLAND CARRIERS INC.

4. THIS COURT ORDERS that upon payment of the amount set out in paragraph 7 hereof and upon the Receiver filing a certificate in the form of Schedule “A” attached hereto (the “**Receiver’s Discharge Certificate**”), the Receiver shall be discharged as Receiver of the assets, property and undertakings of Skyland, provided, however, that notwithstanding its discharge

herein, the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Receiver.

5. THIS COURT ORDERS AND DECLARES that upon filing of the Receiver's Discharge Certificate, BDO is hereby released and discharged from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Receiver of Skyland herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings with respect to Skyland, save and except for any gross negligence or wilful misconduct on the Receiver's part.

6. THIS COURT ORDERS that the style of cause of the within proceedings shall be amended to remove Skyland as a Respondent.

INTERIM DISTRIBUTION TO HSBC BANK CANADA

7. THIS COURT ORDERS that the Receiver is hereby authorized and directed to distribute to the Bank the Skyland Volvo Trucks Proceeds (as defined in the Second Report).

8. THIS COURT ORDERS that payments made and received pursuant to this Order are effective and final for all purposes, including notwithstanding any subsequent bankruptcy or other proceeding or any claim that may be asserted at any time by any person, party or entity having notice of this Motion.

GENERAL

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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.

10. THIS COURT ORDERS that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.



Schedule "A" – Form of Receiver's Discharge Certificate

Court File No.: CV-20-00636836-00CL

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IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended

HSBC BANK CANADA

Applicant

- and -

MARS FREIGHT LTD., ALL LINK FREIGHT SERVICES LTD., 11675443 CANADA INC. and SKYLAND CARRIERS INC.

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RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

1. Pursuant to an application by HSBC Bank Canada under section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, and an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated April 16, 2020, BDO Canada Limited was appointed as Receiver of the assets, undertakings and properties of Skyland Carriers Inc. ("**Skyland**").
2. Pursuant to an Order of the Court dated August 13, 2020 (the "**Discharge Order**"), BDO Canada Limited was to be discharged as Receiver of Skyland to be effective upon the filing by the Receiver with the Court of a certificate confirming that all matters to be attended to in connection with the receivership have been completed to the satisfaction of the Receiver.

THE RECEIVER CERTIFIES the following:

- A. All matters, if any, to be attended to in connection with the receivership of Skyland have been completed to the satisfaction of the Receiver.
- B. The Receiver has made the payments outlined in paragraph 7 of the Discharge Order.
- C. This Certificate was filed by the Receiver with the Court on the ___ day of ____, 2020 at _____.

BDO CANADA LIMITED solely in its capacity as Receiver of Skyland Carriers Inc. and not in its personal or corporate capacity.

IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

HSBC BANK CANADA

and
Applicant

MARS FREIGHT LTD., ALL LINK FREIGHT
SERVICES LTD., 11675443 CANADA INC. and
SKYLAND CARRIERS INC.

Respondents

Court File No.: CV-20-00636836-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(Discharging Receiver of Skyland Carriers Inc. and
Authorizing Interim Distribution)

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