

CALLIDUS CAPITAL CORPORATION
Applicant

- and -

CARCAP INC. AND CAR EQUITY LOANS CORP.
Respondents

APPLICATION UNDER Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C 1985, c. B-3, and Section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43.

May 8, 2012

The Receiver brings a Motion for distribution to TD Bank of a surplus from the sale of assets of the debtor, Carcap, now in bankruptcy. The Motion is unopposed. There are various deemed trust claims asserted.

Ss. 67 and 136 BIA govern the distribution of the property of the bankrupt.

In my view, the asserted TD security has priority over all of the asserted deemed trust claims in issue, being the CRA GST/HST deemed trust claim, the Ont. RST deemed trust claim and the Ont. Employment Standards Act vacation pay deemed trust claim.

Motion is granted. Order signed, to issue.

Pat. A. Cunningham J.

Court File No. CV-11-9498-00CL

May 8-12

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceeding commenced at TORONTO

MOTION RECORD
(returnable May 8, 2012)

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