

10:00
COUNSEL SLIP

COURT FILE NO 19-81-615922-01

DATE TUES. APRIL 30th 19

NO ON LIST (12) 6

TITLE OF PROCEEDING

ROYAL BANK of CANADA vs. D.J. ROBICHAUD ASS. ET AL LTD.

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April 30/19

The Interim
receivership is
extended to May 1,
2019.

Hainey J

April 30, 2019

① The applicant, RBC, seeks
the appointment of BDO Canada
Limited ("BDO") as receiver
of D.N. Robichaud Associates Ltd.
("Robichaud"). On April 13, 2019

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Judges Endorsment Continued

I appointed BDO as
interim receiver of
Kobichand.

(2) RBC's application is
only opposed in one
respect, Triura Guarantee
Insurance Company ("Triura")
is the surety under
numerous labour and material
payment and performance

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bonds issued to Robichaud.

It opposes the proposed

receiver's charge and

borrowing charge that

would have priority,

over all amounts

owing on Trisura-bonded

projects because these

are all trust funds that

Trisura maintains are not

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Judges Endorsment Continued

The property of Robichaud.

③ Because the Receiver's
Fourth Report confirms
that there are significant
unpaid subcontractors on
every Trivusa - banded
Robichaud project, Trivusa
submits that Robichaud's
entitlement to receive
any accounts receivable

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Judges Endorsment Continued

or Holdback amounts are
Trust Funds.

④ Triviera further submits
that the costs of the
receivership should not
be borne by these
trust claimants. They
concede, however, that
I have discretionary
jurisdiction to make an

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Judges Endorsment Continued

order charging trust assets
for the costs of a
receivership They argue
that my direction should
be "sparely exercised".

⑤ The Supreme Court of
Canada made it clear
in Alberta (Attorney General)
v Holomey that the first
purpose of bankruptcy, the

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Judges Endorsment Continued

equitable distribution of assets,
is achieved through a
single proceeding model.
This avoids the "inefficiency
and chaos" that would
result if each creditor
initiated proceedings to
recover its debt. The
same "single proceeding"
principle applies to a

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Judges Endorsment Continued

receivership.

⑥ all counsel agreed that
the work of the Receiver
and its fees will not
be determined until
the allocation stage of
the receivership. Only
then will the receiver
be in a position to
allocate its fees and

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Judges Endorsment Continued

disbursements among all the
shareholders of Trustera,
or any other Trust
claimants, disagree with
the receiver's allocation
of its fees and disbursements.
They will be free to
request that the court
determine a fair and
reasonable allocation.

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Judges Endorsment Continued

⑦ In the interim, while
the receivership proceeds
neither Trinepa or any
other trust claimants are
in any way prejudiced
if I grant the receiver
a charge over all
Robichaud's property
including any trust
funds as the distributions

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Judges Endorsment Continued

of these funds will be
subject to court approval.

⑧ Accordingly, I have
concluded that I

will grant the receiver's
charge and borrowing

charge over all of Trustee's

property, including trust
funds as RBC has

proposed. However, this

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provision of my order
is entirely without
prejudice to Trineida's
and any other trust
claimant's position that
the receiver's fees
and disbursements should
not be allocated to them.

April 30, 2019 *Harvey J.*