



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-24-00729834-00CL

DATE: May 16, 2025

NO. ON LIST: 4

TITLE OF PROCEEDING: Canadian Western Bank v. 8438048 Canada Inc.

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Jennifer L. Caruso	BDO, Receiver	jcaruso@fasken.com
Dylan Chochla	BDO, Receiver	jcaruso@fasken.com
Jeremy Bornstein	Canadian Western Bank	jbornstein@cassels.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Guramrit Singh Lamba	BJS Transport	glamba@agllaw.ca
Patrick De Monte	Narinder Shoker and 8438048 Canada Inc.	patdimonte@on.aibn.com

ENDORSEMENT OF JUSTICE OSBORNE:

[1] The Receiver seeks an auction sale approval and lien discharge order, approving the agreement between Richie Bros. Auctioneers (Canada) Ltd., and the Receiver as appended to the Second Report dated May 7, 2025, together with the related lien relief. That lien relief would provide for the discharge of any Lien Claim registered against a Vehicle upon the closing of a sale, provided that the Receiver deposits Lien Security in a non-interest-bearing trust account with respect thereto.

[2] The Receiver also seeks a limited sealing order in respect of the Confidential Appendix to the Second report, which would keep confidential merely the compensation structure for the Auctioneer until completion of the auction or further order of the Court.

[3] The Receiver relies on the Second Report dated May 7, 2025, together with Appendices thereto. Importantly, those Appendices include the agreement with the Auctioneer, with only the compensation structure redacted. Defined terms in this Endorsement have the meaning given to them in the motion materials unless otherwise stated.

[4] The relief sought today is unopposed by any party, including, most particularly the Debtor. It is supported by CWB. No party has filed responding materials. Counsel for BJS Transport appeared to observe, but did not oppose, given that one vehicle in which that party apparently asserts an interest has been removed from the schedule of vehicles to be sold, pending further discussions with the Receiver. It may be added later. BJS is indirectly related to the Debtor in that it is controlled by the spouse of one of the principals of the company. The company is controlled by the sole director and Chief Executive Officer, Mr. Narinder Shoker.

[5] I am satisfied that the proposed relief should be granted.

[6] The Debtor is a privately held freight shipping and transport business. The company is incorporated under the *CBCA*. It operates a fleet of tractor-trailer trucks and trailers either owned or leased.

[7] The Debtor is indebted to CWB. Following defaults under the loan and security documentation, BDO was appointed as Receiver in December, 2024. As described in the materials, it has been challenging for the Receiver to fulfil its role. Contempt proceedings against the Debtor and Mr. Shoker are pending.

[8] As of May 7, 2025, the Receiver has recovered 25 vehicles, and recovery efforts remain ongoing with the assistance of Peel Regional Police who were conducting investigations into vehicles found at premises of the Debtor to which were different VIN numbers had been applied.

[9] Today, the Receiver seeks approval of a process to sell certain of the Repossessed Vehicles in order to begin realizing on value for the secured creditors in respect of these assets that continue to depreciate.

[10] I am satisfied that the proposed auction sale for the sale of Vehicles pursuant to the proposed Auction Agreement is appropriate and should be approved. Approval on a timely basis will allow the Vehicles to be sold at the annual Spring Auction scheduled to take place on May 21, 2025 and all parties are in agreement that such will maximize recoveries in respect of the vehicles. The mechanics of the proposed auction are fully set out in the materials.

[11] The proposed order provides for the discharge of liens on vehicles sold, with lien rights attaching to the Net Proceeds. Any dispute as to priority entitlement of the Net Proceeds can be determined at a later date, pending which they will be deposited into a trust account held by the Receiver. The proposed order provides a mechanism to discharge liens registered under the *Repair and Storage Liens Act*.

[12] The Court has jurisdiction under section 243(1)(c) of the *BIA* to appoint a receiver to take any action the court considers advisable. If it is just or convenient to do so. The Court of Appeal has confirmed that this statutory discretion includes the jurisdiction to approve a sale proposed by a receiver, including by way of a vesting order. Moreover, section 183(1)(a) of the *BIA* gives this Court the authority in law and equity to exercise original and auxiliary jurisdiction in bankruptcy. I am satisfied that there is authority to approve the auction sale approval and lien discharge order.

[13] I am further satisfied that in the particular circumstances of this case, the proposed auction process satisfies the *Soundair Principles* enunciated by the Court of Appeal as well as the factors to be considered by a court when reviewing a proposed sales and marketing process set out in *CCM Master Qualified Fund Ltd. v. blutip Power Technologies Ltd.* The basis for this determination is fully set out in the Second Report, which I accept. In short, the proposed auction optimizes the chances of securing the best possible recoveries for stakeholders. It will allow competitive bids for these Vehicles in a process facilitated by an experienced Auctioneer.

[14] I am further satisfied that the proposed lien discharge process is appropriate and ensures that the interests of the Lien Claimants are protected. The mechanics are fully set out in the Second Report.

[15] Finally, I am satisfied that the Confidential Appendix to the Second Report, containing the unredacted Auction Agreement, should be sealed pending completion of the auction or further order of the Court. The test set out by the Supreme Court of Canada in *Sierra Club* and refined in *Sherman Estate* is satisfied here.

[16] For all of these reasons, the motion is granted.

[17] Order to go in the form signed by me today which has immediate effect without the necessity of issuing and entering.

A handwritten signature in green ink, reading "Osborne J.", is positioned in the lower right area of the page. The signature is written in a cursive style with a large initial 'O' and a distinct 'J'.