

**COURT FILE NO.:** CV-24-00095337

**DATE:** 2024 11 05

**SUPERIOR COURT OF JUSTICE**

APPLICATION UNDER SUBSECTION 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, R.S.O. 1990, c. C.43, AS AMENDED

**Title of Proceedings:** DUCA Financial Services Credit Union Ltd, Applicant

-and –

Ashcroft Homes -101 Richmond Road Inc. Ashcroft homes - 108 Richmond Road Inc., and Ashcroft homes - 111 Richmond Road Inc., Respoidents

**Counsel:** Fraser Mackinnon Blair and John Salmas, for the Receiver  
Raymond Murray & Sarah DelVillano, for the Respondent Debtor  
Stephen Gaudreau and Timothy Dunn , for the Applicant Creditor

**Before:** Mr. Justice C. MacLeod

**ENDORSEMENT**

[1] Today I heard argument on a motion by the Ashcroft entities to discharge the receiver. Ashcroft has obtained a refinancing commitment and proposes to pay its indebtedness to DUCA. Ashcroft asks that the Receivership be terminated and there be an orderly process to put the corporations back in control of the business. For its part the Receiver asks for direction on the sale process it has undertaken but suspended.

[2] The Receiver states that there are priority creditors which must be paid before funds can be paid to DUCA (property taxes and HST) but in addition, there are other creditors to which the Receiver also has a duty under the terms of the court appointment. Not all of these amounts can be determined with certainty as the situation is not static. It is likely there may have to be reserves to cover some of those liabilities. In addition, of course, the fees and expenses of the Receiver must be calculated and approved by the court, subject to the right of the debtor to raise any objection.

[3] It is not clear if the refinancing is sufficient to clear the debts and permit the companies to resume operation but it is acknowledged that it is “in the ballpark”. It was proposed by the Receiver that the parties be given a few days to see if a consent order can be achieved.

[4] I have therefore adjourned the motion.

[5] The court orders as follows:

- a. The motion is adjourned to November 14, 2024 at 12:00 to continue by videoconference.
- b. The proposed sales process shall continue to be suspended pending completion of the motion and further direction from the court.
- c. The Receiver shall prepare an updated list of the debts and expenses the Receiver submits must be paid in order to justify a discharge and indicating the amount by which it calculates the refinancing will still leave a shortfall.

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Mr. Justice C. MacLeod

**Date:** November 5, 2024