ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00723897-00CL **DATE: September 03, 2026**

NO. ON LIST: 2

TITLE OF PROCEEDING: NATIONAL BANK OF CANADA v. COMMCACHE ASSET MANAGEMENT INC. et al

BEFORE: JUSTICE JANA STEELE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Derek Harland Puya Fesharaki	Counsel to National Bank Of Canada	dharland@tgf.ca PFesharaki@tgf.ca
Sara-Ann Wilson	Counsel to BDO Canada Limited, Receiver	Sara.wilson@dentons.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Adam Boettger	BDO Canada Limited, Receiver of Commcache Asset Management Inc.	aboettger@bdo.ca

ENDORSEMENT OF JUSTICE STEELE:

[1] The Receiver seeks two orders: (i) an Approval and Vesting order, among other things, approving the Transaction; and (ii) an Ancillary Order, among other things, approving the proposed interim distribution to National Bank, approving the Receiver's Fourth Report and activities, approving professional fees and disbursements, and sealing the Confidential Appendices to the Fourth Report.

[2] There is no opposition to the relief sought.

[3] National Bank, the senior secured lender, who will suffer a shortfall, supports the relief sought.

[4] Capitalized terms used in this endorsement that are not defined herein have the meaning set out in the Receiver's factum.

[5] The Receiver requests an Approval and Vesting Order pursuant to s. 243 of the *Bankruptcy and Insolvency Act* (Canada) and s. 100 of the *Courts of Justice Act* (Ontario) approving the Sale Agreement and vesting the Windsor Property in and to the Purchaser.

[6] The principles to be applied when determining whether to approve a sale transaction were articulated by the Ontario Court of Appeal in *Royal Bank of Canada v. Soundair Corp*., 1991 CanLII 2727 [***Soundair***]: (a) whether the receiver has made sufficient effort to obtain the best price and has not acted improvidently; (b) the efficacy and integrity of the process by which offers have been obtained; (c) whether the interests of all parties have been considered; and (d) whether there has been unfairness in the working out of the process. Further, as set out in *Soundair*, the Court should accept the recommendation of Receiver in respect of sale in all but exceptional circumstances.

[7] In considering the factors set out in *Soundair*, I am satisfied that the APS and the Transaction should be approved for the reasons set out at paras. 18-30 of the Receiver's factum. Among other things, the Windsor Property was widely marketed by the Listing Agent for about 18 months. The purchase price for the Transaction is superior to the other offers received and is supported by the appraisal. Further, there is no indication that additional market exposure will result in a superior offer.

[8] The Receiver is seeking authorization to make an interim distribution of $1,120,000 from the anticipated sale proceeds from the Transaction to National Bank, the first mortgagee. The Receiver notes that National Bank holds valid and enforceable security against the Windsor Property in the form of the National Bank Charge and GAR.

[9] In the circumstances the distribution is appropriate and is approved.

[10] The request to approve the Fourth Report is not unusual and there are good policy and practical reasons for doing so: see *Laurentian University of Sudbury*, 2022 ONSC 2927 at paras. 13-14. The observations in this case while made in the context of a *Companies' Creditors Arrangement Act* proceeding apply to the activities of a court appointed receiver: see *Triple-I Capital Partners Limited v 12411300 Canada Inc*, 2023 ONSC 3400 at para 66. No opposition to the approval of the Fourth Report has been raised and the approval of such is appropriate in the circumstances as the Receiver has acted reasonably and in good faith. The draft order provided contains the typical language that only the Receiver is entitled to rely on the approval.

[11] The Receiver also seeks approval of the fees and disbursements of itself and its legal counsel. The Receiver seeks approval of its fees and disbursements in the amount of $124,503.40 for the period from July 1, 2025 to July 31, 2026. The Receiver seeks approval of the fees and disbursements of its counsel (Dentons) for the same time period in the amount of $52,044.13. As the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer* 2014 ONCA 851 at paras 33 and 45, this Court does not undertake a line-by-line analysis of the invoices. Rather, the guiding principles on fee approvals of this nature are whether the fees are fair, reasonable, and proportionate given the value of the property and liabilities as well as the complexity of the proceeding. In considering these guiding principles, the fees of the Receiver and its counsel, supported by fee affidavits, are appropriate and are approved.

[12] I am satisfied that the time limited, and limited in scope, sealing order that is sought satisfies the test set out in *Sienna Club of Canada v. Canada (Minister of Finance)* as modified by *Sherman Estate v. Donovan*. It is common to temporarily seal commercially sensitive material when assets are to be sold under a court process. The Receiver seeks to temporarily seal unredacted versions of documents that would disclose the purchase price or estimated value (the unredacted APS, summary of offers, unredacted amendment to the purchase agreement, appraisal, proposed distribution of proceeds). It is appropriate to seal these documents to prevent any negative impact to realization efforts in the event that the proposed transaction does not close. The confidential appendices would be sealed until the earlier of the closing of the transaction or further Court Order. No stakeholder will be materially prejudiced by the required sealing order, which applies to only a limited amount of information for a short period of time.

[13] Orders to go in the form signed by me today, with immediate effect.

Date: Sep 03, 2026

Justice J. Steele