ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CL-26-00000046-0000 **DATE: February 18, 2026**

NO. ON LIST: 3

TITLE OF PROCEEDING: NATIONAL BANK OF CANADA v. DANZOR INVESTMENTS INC.

BEFORE: JUSTICE FL MYERS

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Dylan Chochla	Lawyers for the Applicant, National Bank of Canada	dchochla@fasken.com
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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Carmine Scalzi	Lawyer for the Respondent, Danzor Investments	carmine@sclawpartners.com
Jeremy Bornstein	Lawyer for the proposed receiver, BDO Canada Limited	jbornstein@cassels.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Shaz Rouzbeh	Lawyer for subsequent lender-	info@aprlawyers.ca

ENDORSEMENT OF JUSTICE:

[1] The court is not bound by the debtor's consent to the appointment of a receiver. The court needs to consider whether the appointment is just and convenient taking into account all relevant factors.

[2] But the debtor is bound by its consent. The consent was specifically sought by the bank as part of its willingness to grant a fourth forbearance period to the debtor. The debtor acknowledges that the bank was patient with it. The consent was not obtained at the outset as a means to limit the debtor's access to justice. Rather, it was a *bona fide* term that exhibited the bank's unwillingness to incur further costs of delay and the engagement of fees that delay necessarily brings. The debtor was effectively told that if you want this one last forbearance period to try to refinance or sell the property yourself, then the price is that if, for the fourth time, you are unable to reach a deal that sees the bank paid out in full, you have to agree to a receiver being appointed without contestation.

[3] The debtor weighed it options and agreed by contract for consideration.

[4] Absent a basis to rescind or avoid the contract, it is bound.

[5] I agree with Kimmel J. in *JBT Transport Inc.(Re)*, 2025 ONSC 1436 (CanLII), in which she wrote:

> [53] However, where a creditor has a contractual right to appoint a receiver upon the debtor's default, has already agreed to forbear and defer exercising its enforcement remedies and, in exchange, has received further confirmation of the Debtors' consent to the appointment of a receiver if the forbearance did not lead to the promised refinancing of the debt: "Commercial certainty for all stakeholders dictates that parties should expect that courts will hold them to their bargains, absent further agreement or circumstances that would make it appropriate to nullify or remove the order": see *ATB Financial v. Mayfield Investments Ltd.*, 2024 ABKB 635, at para 40.

[6] Mr. Scalzi makes a creative and persuasive case however for a different outcome. He submits that the debtor does consent to the order as agreed. It has offered to pay $250,000 to have the order stayed for thirty days to give it one last chance to conclude a deal to see the bank paid out in full.

[7] The $250,000 offered is almost double the interest that will accrue in the next thirty days. Economically then, the bank, and, ostensibly, those behind it, will be better off with this money than with the Receiver being appointed today.

[8] Mr. Scalzi also notes that it is almost impossible to pull a debtor out of receivership once a receiver is appointed. Receivership all but ends refinancing efforts therefore. Then he submits that receiver sales are not considered value-maximizing in the marketplace. He submits there is no prejudice to any stakeholder to let the debtor try to make a deal that will necessarily be a more lucrative deal outside of receivership than will likely be available in a receivership.

[9] Mr. Scalzi also notes that there is no pressing need for enforcement today. There is no urgency. His client is not alleged to have dissipated assets or committed waste. There are no funds leaking out of the debtor. In fact, the debtor has added four tenants and thereby improved the cash flow (and hence the fair market value) of the property.

[10] Mr. Scalzi submit that if the court considers the issue of what is just and convenient holistically, from the perspective of *all* stakeholders, then a brief stay is a very appropriate outcome.

[11] These arguments would hold more weight had the debtor not had more than a year and four forbearance periods already in which to try to conclude a transaction. The two letters of intent in the record provide no basis to think that a deal is any closer today than previously. They are completely conditional expressions of interest only. They are from tire kickers not buyers.

[12] The debtor's proposal is desperation; a last gasp.

[13] Moreover, while submitting that the debtor consents and merely seeks a brief stay, Mr. Scalzi's legal argument is that it is not just and convenient to grant the order sought in light of the offer made by the debtor. That is not a consent to a receivership being just and convenient as agreed. The stay is no different in outcome or effect than an adjournment request. Mr. Scalzi has uses clever semantics to try to accept his client's consent while undermining its very intent.

[14] I agree with Mr. Chocla who submits that if I accept the debtor's position today, nothing prevents it from coming in again in thirty days and making the same points again. The bank is being forced to incur costs and legal time fighting a receivership application when the very thing it bargained for in the last forbearance was the agreement of the debtor that it would not do that.

[15] In addition, I am not to be taken to have accepted the correctness of all of Mr. Scalzi's submissions. I am very dubious that the payment of $250,000 assists anyone behind the bank in the order of priority. Moreover, I am not prepared to accept without empirical evidence that sales of commercial property in a comprehensive sales auction process in a court-supervised receivership necessarily

yields any poorer an outcome than a sale by the owner in the marketplace. The debtor has not been able to land a sale that would see it retain any equity for over a year. The Receiver will retain professionals whose sale process will be closely scrutinized for fairness, comprehensiveness, and integrity as proxies for, or contributors to, value-maximization.

[16] There will be no fire sale.

[17] The question of what is just and convenient is affected by all relevant factors. The property has about 20 tenants. It requires professional management. The debtor is hopelessly in default despite more than fair and ample time to try to find a way to meet its obligations. The proposed refinancing term sheets are so conditional as to provide no basis for belief that a deal that will see the bank paid in full is near complete or even possibly doable within thirty days. In all those circumstances, holding the debtor to its contractual commitment is indeed just and convenient.

[18] I do not doubt the sincerity of the debtor and its owners. They want to do a deal and they are optimistic that a deal is just around the corner. Eternal optimism and unending commitment are the backbones of entrepreneurship. But, as honest and in good faith as they may all be, they also acknowledge that the bank has legal rights that they granted themselves. They are currently violating their obligations to the bank and the bank has been more than fair in allowing them time to try to right the ship.

[19] There comes a point when optimism fueled good faith must yield to the cold light of legal and financial reality. The debtor has advanced no realistic basis to argue that it can cure its default in the foreseeable future. It agreed to a receivership remedy being available to the bank in its loan documents and in each forbearance agreement. It agreed most recently not to oppose the receivership as it has done today.

[20] Mr. Scalzi discounts the prejudice of delay and the ongoing investment of executive time, in addition to lawyer time, in continuing to come to court and deferring moving on to the next phase of enforcement. The bank is not prepared to take the $250,000 offered to defray further engagement and to invite yet another contested motion next month and then the month after.

[21] Despite Mr. Scalzi's excellent submissions, I find that it is just and convenient to appoint a receiver as asked. I have signed the order provided by the applicant.

Date: Feb 18, 2026

Justice FL Myers

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