



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

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

DATE: March 11, 2025

NO. ON LIST: 1

TITLE OF PROCEEDING: CANADIAN WESTERN BANK v. 8438048 CANADA INC.

BEFORE: JUSTICE PENNY

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Jeremy Bornstein	Counsel for the Applicant, Canadian Western Bank	<a href="mailto:jbornstein@cassels.com">jbornstein@cassels.com</a>

**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Dhanbir Jaswal	Counsel for the Respondent, 8438048 Canada Inc.	<a href="mailto:djaswal@jaswallaw.com">djaswal@jaswallaw.com</a>

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Jennifer L. Caruso Dylan Chochla	Counsel for the Receiver, BDO Canada Limited	<a href="mailto:jcaruso@fasken.com">jcaruso@fasken.com</a> <a href="mailto:dchochla@fasken.com">dchochla@fasken.com</a>

**ENDORSEMENT OF JUSTICE PENNY:**

- [1] The Receiver brings an omnibus motion for various heads of relief. The Receiver seeks orders: 1) finding that 8438048 Canada Inc. (the “Debtor”) and its principal, Narinder Shoker, have breached the Amended and Restated Receivership Order dated January 16,

2025 and, therefore, are in civil contempt of court; (2) granting the Receiver the authority to assign the debtor into bankruptcy; 3) enhancing the Receiver's authority to gain access to, and to seize certain property subject to the secured claims of the Canadian Western Bank; and 4) for the examination of, and production of documents from, third parties who would appear to have information relevant to fulfilling the Receiver's mandate under the Receivership Order.

- [2] The Debtor carried on business as a freight shipping, transport, and logistics management company. There are financing statement registrations by various creditors, including CWB and vehicle financing companies for approximately 109 unique Vehicle Identification Numbers relating to vehicle loans to the Debtor or equipment financing leases between the Debtor and various Financiers. The Debtor may have owned or financed up to 218 trucks and trailers.
- [3] Since this receivership began in December 2024, the Receiver has been stymied in its search for the Debtors assets. These efforts are detailed in the Receiver's reports and in the supporting affidavits. Suffice to say that the Receiver has not received the level of co-operation and forthright response one might reasonably expect to its enquiries from the Debtor and its principal, Mr. Shoker. Mr. Jaswal was acting for the Debtor but not for Mr. Shoker.
- [4] The material for this motion was served on the afternoon of February 28, 2025. Recently, Mr. Jaswal has been advised that he is being replaced; Mr. Dimonte is being retained by the Debtor and Mr. Shoker.
- [5] Mr. Dimonte submitted a letter indicating he is involved in a motion for summary judgment and is unable to attend. He asks for an adjournment of all of the relief sought on the motion today.
- [6] The request for an adjournment was strongly opposed by counsel for the Receiver and CWB. They submit that the recoveries of the Debtor's property have been actively thwarted by the conduct of Mr. Shoker and various others acting under his direction. They say that proper realizations cannot be pursued because of Mr. Shoker's prevarications and refusal to provide documents and other information. They further submit that the eleventh hour adjournment request is nothing more than a continuation of the delay tactics and obfuscation they have been experiencing to date.
- [7] The remedy of contempt is quasi-criminal in nature. A finding of contempt has serious consequences. Penalties for contempt can, and frequently do, involve terms of incarceration. Further, although I agree that time is of the essence, there is nothing particularly "urgent" about the contempt proceeding itself. This is especially so given that the Receiver itself is proposing, in the event of a finding of contempt, a subsequent period during which the Debtor and Mr. Shoker may purge their contempt.

- [8] It is for these reasons that I order the adjournment of the contempt portion of the motion to April 8, 2025 at 10:00 A.M. for half a day. This adjournment is peremptory on the Debtor and Mr. Shoker. The motion shall proceed, therefore, with or without counsel.
- [9] The respondents must provide all material in response to the contempt motion in a timely manner so as to ensure the motion proceeds, as scheduled, in an orderly manner.
- [10] The remaining relief is somewhat urgent. No excuse has been offered for why no material has been provided or for why these issues should not be decided today. The third parties were served with the material, filed no response and did not attend.
- [11] I am satisfied that the bankruptcy order is warranted in the circumstances. That order shall issue in the form signed by me this day.
- [12] I am likewise satisfied that the requested third party examinations and document production is appropriate and necessary in the circumstances. The order that Mr. Shoker answer undertakings within two weeks is also appropriate and necessary. Order to issue in the form signed by me this day.
- [13] Finally, and most importantly, I am satisfied that the Receiver must be granted immediate access to certain premises where, the evidence is, the Debtor's property has been located. If property subject to CWB's security is located, it must be preserved pending further proceedings to determine any disputes over priorities and/or entitlements. This order shall issue in the form signed by me this day.

A handwritten signature in blue ink, appearing to read "Penny J.", followed by a period.

Penny J.