

COURT OF APPEAL FOR ONTARIO

B E T W E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant
(Respondent in appeal)

- and -

OSCAR BOLD INC.

Respondent
(Appellant)

NOTICE OF APPEAL

THE RESPONDENT, OSCAR BOLD INC., APPEALS to the Court of Appeal for Ontario from the Endorsement and Order of Honourable Justice Bordin released on October 23 2025, heard on October 23, 2025, appointing *BDO Canada Limited* as receiver of all of the Appellant's assets, undertakings and properties pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. at Hamilton Superior Court of Justice, 45 Main St East, Hamilton, Ontario L8N 2B7.

THE APPELLANT ASKS the court for an order:

1. That the appeal be allowed; and
2. The Endorsement/Order be set aside, and the Application be remitted back for a hearing of all issues to the Superior Court of Justice; and

3. An Order staying the operations of the Receivership Order pending determination of this Appeal pursuant to Rule 63.02 of the *Rules of Civil Procedure*.
4. The costs of this Appeal be awarded to the Appellant; and
5. Such further and other relief as the Honourable Justice deems just.

THE GROUNDS OF APPEAL are as follows:

OVERVIEW AND BACKGROUND

1. This appeal is brought as of right to the Ontario Court of Appeal pursuant to section 6(1)(b) of the *Courts of Justice Act*, as the Order appealed from is a final order disposing of the substantive rights of the Appellant by transferring control of all assets to a court-appointed receiver.
2. The Appellant retained counsel on the matter and at the time of proceeding for a brief adjournment the Application Judge refused the same even though counsel had only been recently retained and refused to address the merits of the hearing.

THE GROUNDS FOR THE APPEAL ARE AS FOLLOWS:

3. The Appellant attended the matter before Justice Bordin whereby an interim Order was entered to have the matter heard on October 23, 2025.
4. The Appellant diligently retained counsel, Sumit Tangri of Sumit Tangri Law Group however the Honourable Justice Bordin refused to allow counsel to make

submissions or an opportunity submit material.

5. A director and/or officer was in attendance at the hearing and though questions were asked by the Honourable Justice evidence was not allowed to address any concerns.
6. The matter proceeded without an ability the Appellant to make submissions on the matter.
7. The Honourable Justice made an error in fact and/or law in regard to not allowing a brief adjournment to submit submissions of the Appellant when there was a brief notice was provided.
8. The Honourable Justice made an error in fact and/or law denial of procedural fairness and natural justice:
 - a. The application judge erred in law by refusing the Appellant's request for a brief adjournment despite counsel having been retained only the night before the hearing, thereby depriving the Appellant of any meaningful opportunity to review the record, prepare evidence, or make full submissions.
9. The Honourable Justice made an error in fact and/or law error in principle in appointing a receiver:
 - a. The application judge failed to properly exercise discretion under section 243(1) of the BIA and section 101 of the CJA, by treating the existence of a contractual receivership clause as determinative and not considering the equitable and discretionary factors that govern such appointments.

- b. The judge adopted the applicant's submissions wholesale ("I accept the law as set out in the applicant's factum") without independent analysis or reasons.
 - c. The Honourable Justice failed to accept or hear evidence of the Appellant when there had been an opportunity to do so.
 - d. The Honourable Justice did not consider evidence of the communication and discussions between the Appellant and Respondent or communication regarding what was the intention of the parties in relation to ongoing discussions.
 - e. The Honourable Justice failed to provide an opportunity to make submissions to address the forbearance agreement and ongoing discussion of what the parties agreed.
10. The Honourable Justice made an error in fact and/or law for failure to consider alternatives and the factors of prejudice.
- a. The judge failed to consider less intrusive alternatives to receivership, such as allowing time for refinancing, particularly where the respondent had expressed willingness to negotiate forbearance.
 - b. The Honourable Justice failed to address an adjournment for brief adjournment to make submissions regarding prejudice as there was issues regarding prejudice for an adjournment.
11. The Honourable Justice made an error in fact and/or law in appointing a receiver under Bankruptcy and Insolvency Act s. 243(1) or Court of Justice Act s. 101.

12. The Honourable Justice made an error to consider factors in relation to the appointment of a receiver and/or allow submissions in this regard by the Appellant.
13. The Honourable Justice made an error in fact and/or law to consider or receive submissions if there was a default of the alleged mortgage or alternative remedies that maybe available.
14. The Honourable Justice made an error in fact and/or law regarding not allowing or addressing whether there was an urgency and factors in relation to other equitable and discretionary remedies available in relation to appointing a receiver.
15. The Honourable Justice made an error in fact and/or law regarding addressing the entire evidentiary record or failing to allow submissions to address those matters.
16. The Honourable Justice made an error in fact and/or law in regards to providing sufficient reason for the decision to appoint a receiver in the Application.
17. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION is as follows:

18. The Endorsement of Justice Bordin released October 23, 2025 is final order/judgment; and

19. Rule 61 and 63 of the *Rules of Civil Procedure*; and
20. Section 31 of the *Court of Justice Act*, R.S.O. 1990 C.C43;
21. Section 243(1) of the Bankruptcy and Insolvency Act
22. The Order of Justice Bordin dated October 23, 2025;
23. The Endorsement of Justice Bordin dated October 23, 2025
Endorsement of Justice Bordin;
24. Such further material as may be included in the Appellant's Appeal Book and
Factum. and
25. Leave for appeal is not required.

November 3, 2025

SUMIT TANGRI LAW GROUP
500-20 Hughson St South
Hamilton, Ontario L8N 2A1

Sumit Tangri (LSO# 64258E)
Tel: (905) 577-8294
Email: sumit.tangri@stlaw.ca

Solicitor for the Appellant

TO: Aird & Berlis LLP

181 Bay Street, Suite 1800
Toronto, Ontario M5J 2T9
Attn: Kyle B. Plunkett LSO #61044N

kplunkett@airberlis.com

Attn: Matilda Lici LSO 79621D
mlici@airberlis.com

Lawyers for the Respondent, Tandia Financial Credit Union Limited

TANDIA FINANCIAL CREDIT UNION LIMITED
Applicant
(Respondent in appeal)

And

OSCAR BOLD INC.

Respondent
(Appellant)

Court File No.: CV-25-00092187-0000

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ONTARIO**

Proceeding commenced at
HAMILTON

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Hamilton, ON L8N 2A1

Sumit Tangri (LSO# 64258E)
Tel: (905) 577-8294
Email: sumit.tangri@stlaw.ca

Solicitors for the Appellant