



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL SLIP/ENDORSEMENT**

COURT FILE NO.: CV-24-00727540-00CL DATE: May 05, 2025

NO. ON LIST: 4

TITLE OF PROCEEDING: BANK OF MONTREAL et al v 1000000152 ONTARIO  
INC et al

BEFORE JUSTICE: Madam Justice Steele

**PARTICIPANT INFORMATION**

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

Name of Person Appearing	Name of Party	Contact Info
Danish Afroz Laura Culleton	Receiver -BDO	dafroz@chaitons.com laurac@chaitons.com

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

Name of Person Appearing	Name of Party	Contact Info
Peter Gee	Respondents-1000000152 Ontario Inc	petergee@pictureperfectrentals.ca
Stewart Thom	Bank of Montreal	sthom@torkinmanes.com

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Bruce Darlington	Counsel to Creditor-DEM Properties Group Inc	bruce.darlington@dlapiper.com

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**ENDORSEMENT OF JUSTICE STEELE:**

1. BDO Canada Limited, the Receiver of the assets and property of 1000000152 Ontario Inc., 2661656 Ontario Inc., 2485238 Ontario Inc., and 1000098231 Ontario Inc. (the “Debtors”), including the properties municipally known as 381 and 373 Mosley Street, Wasaga Beach (the “Real Property”) seeks:
  - a. A Sales Process Order: (i) approving the Receiver’s First Report; (ii) approving the Sale Process for the Real Property; (iii) approving the Listing Agreement; (iv) granting a sealing order over the confidential appendices to the First Report; (v) approving the professional fees of the Receiver and its counsel; and
  - b. A Writ of Possession Order: (i) ordering that the Receiver is entitled to vacant possession of Unit 924 and Unit 925; (ii) ordering that Kennedy, Teat, Delorme and any other occupant of Unit 924 or Unit 925 vacate the units by 4 pm on May 15, 2025; (iii) granting leave to the Receiver to issue a writ of possession against Unit 924 and Unit 925; and (iv) ordering that the Occupants are prohibited from trespassing on the Real Property after vacant possession of Unit 924 and Unit 925 is delivered.
2. Capitalized terms used in this endorsement that are not defined herein, have the meaning set out in the Receiver’s factum.
3. The Bank of Montreal supports the relief sought by the Receiver.
4. The motion is unopposed.
5. Chris Gee indicated that they were still trying to obtain financing for the Real Property. However, at this time there is no firm financing commitment in place.

**Background**

6. 152 is the registered owner of the Real Property.
7. The Real Property has fallen into a state of disrepair. The event facilities are not capable of use without significant repairs. The motel facilities consist of 38 rental units, 22 of which were occupied when the Receiver was appointed.
8. 231 was principally involved in management of the occupied units on the Real Property.
9. 656 and 238 operated a yacht rental business, which has ceased operations.
10. The directors of 152, 656 and 238 were Peter Gee and Kim Nguyen. Peter Gee is the sole officer and director of 231. Chris Gee, Peter and Kim’s son, was responsible for the day-to-day operations of the businesses.

11. The Companies are indebted to BMO in the combined amount of more than \$7.3 million as of July 7, 2024. The BMO Indebtedness is secured by, among other things, a collateral mortgage registered against 381 Mosley.
12. Upon appointment, among other things, the Receiver provided a First Notice to occupants to advise them of the receivership proceedings.
13. On or about January 27, 2025 the Receiver delivered a Second Notice to all occupants requesting that all occupants deliver a copy of any agreement between themselves and the Companies for their use or occupancy of the unit and proof of payment of the most recent applicable installment due.
14. Neither Kennedy nor Teat have provided any information to the Receiver evidencing any lawful right to occupy Unit 924. The Receiver understands from Chris Gee that there was never any verbal agreement between any of the Occupants of Unit 924 or Unit 925 regarding the occupancy of those units.
15. Unit 925 was not occupied when the Receiver was appointed. In February 2025, the Receiver states that video footage from security cameras on the Real Property shows Kennedy breaking into the vacant Unit 925 using a crowbar.
16. On April 17, 2025, the process server delivered a Notice Demanding Possession to the occupants of Unit 924 and Unit 925.
17. The Receiver obtained appraisals of the Real Property from Colliers and Avison Young.
18. The Receiver obtained listing proposals from three commercial realtors. From those three proposals, the Receiver proposes to engage Royal Le Page as the Listing Broker for the Real Property.

### **Analysis**

*Should the Sale Process be approved, including the listing agreement with Royal LePage?*

19. The court has jurisdiction to approve the Sale process under s. 243(1)(c) of the *Bankruptcy and Insolvency Act*.
20. In the seminal case of *Royal Bank of Canada v. Soundair Corp.*, (1991), 4 O.R. (3d) 1 (ONCA), at para. 16, the Court of Appeal set out the factors for the court to consider when deciding whether to approve the sale of a property under receivership:
  - a. Whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
  - b. The efficacy and integrity of the process by which offers are obtained;
  - c. Whether there has been unfairness in the working out of the process; and
  - d. The interests of all parties.

21. In *CCM Master Qualified Fund Ltd. v. blutip Power Technologies Ltd.*, 2012 ONSC 1750, at para. 6, the court determined that the *Soundair* criteria informed the determination of whether the court should approve a receiver's proposed sale process. The court is to assess:
- a. The fairness, transparency and integrity of the proposed process;
  - b. The commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and
  - c. Whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.
22. The key terms of the recommended Sale Process are set out at para. 31 of the First Report, which include: The Real Property will have an initial listing price of \$5,999,000. The Receiver proposes that the Listing Broker will canvass the market for expressions of interest for an initial 30-day period. Following the initial period, parties that have submitted expressions of interest will be given another 30 days to conduct due diligence. The Receiver retains the discretion to modify the Sale Process as it deems necessary.
23. For the reasons set out at para. 39 of the Receiver's factum, I am satisfied that the court should approve the Listing Agreement with Royal LePage.
24. For the reasons set out at para. 40 of the Receiver's factum, I am satisfied that the court should approve the Sale Process. The proposed Sale Process appears transparent, reasonable and fair. Based on the record before me, there is no reason to delay the commencement of the Sale Process. As noted above, although Chris Gee and his parents are attempting to obtain financing, there is no binding commitment.

*Should the Sealing Order be granted?*

25. The Receiver seeks a sealing order over the confidential appendices to the First Report. The confidential appendices contain the Colliers Appraisal, the Avison Young Appraisal, and a summary of listing proposals.
26. Subsection 137(2) of the *Courts of Justice Act* provides that the Court may order that any document filed in a civil proceeding be treated as confidential, sealed, and not form part of the public record.
27. It is common to temporarily seal commercially sensitive material when assets are to be sold under a court process. Courts have acknowledged that there is a public interest in the "general commercial interest of preserving confidential information" and in maximizing recoveries in an insolvency: *Sherman Estate v. Donovan*, 2021 SCC 25, at para. 41.
28. The requested sealing order is limited in scope and in time. The proposed sealing order balances the open court principle and legitimate commercial requirements for confidentiality in the circumstances. In my view, the benefits of the requested sealing order outweigh the negative impact on the "open court" principle. As noted, the confidential appendices contain details regarding the potential value of the property, including appraisals. I agree with the Receiver that the disclosure of the confidential appendices could have a detrimental impact on any future sale process. No stakeholder will be

materially prejudiced by the requested sealing order, which applies to only a limited amount of information.

29. As stated by this Court in *GE Canada Real Estate Financing Business Property Co. v. 1262354 Ontario Inc.*, 2014 ONSC 1173, at para. 34, the “integrity of the sales process necessitates keeping all bids confidential until a final sale of the assets has taken place.”
  30. I am satisfied that the limited nature and scope of the proposed sealing order is appropriate and satisfies the *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, at para. 53, requirements, as modified in *Sherman Estate*, at para. 38.
  31. The Receiver is directed to provide the sealed confidential appendices to the Court clerk at the filing office in an envelope with a copy of this endorsement and the signed order (with the relevant provisions highlighted) so that the confidential appendices can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.
- Should the Court order vacant possession and leave to issue a writ of possession in respect of Unit 924 and Unit 925?*
32. Pursuant to the Appointment Order, the Receiver is entitled to take possession of and exercise control over the Property.
  33. Although the eviction of residential tenants is subject to the jurisdiction of the Landlord and Tenant Board, in this case there is no lawful “tenant” of either Unit 924 or Unit 925 within the meaning of the *Residential Tenancies Act*. This is because the Occupant of 924 and the Occupants of 925 have never paid any rent, nor are they party to a tenancy agreement. As noted above, the Receiver understands that there was also never a verbal agreement between the Companies and any of the Occupants of Unit 924 and Unit 925.
  34. In seeking the order for vacant possession, the Receiver also points to the conduct of Kennedy including the forced entry into Unit 925 with a crowbar, as well as the Occupants’ refusal to engage with the receiver.
  35. For similar reasons the Receiver also seeks an order prohibiting the Occupants from trespassing on the Real Property after vacant possession of the two units is delivered.
  36. I am satisfied that the court should grant the order for vacant possession in respect of Unit 924 and Unit 925 and the order prohibiting the Occupants from trespassing on the Real Property after vacant possession is delivered.
  37. The Receiver also seeks leave to issue a writ of possession in respect of these units.
  38. Rule 60.03 provides that an order for the recovery or delivery of the possession of land may be enforced by a writ of possession.
  39. Under Rule 60.10, a writ of possession may only be issued with leave of the court. Rule 60.10(2) provides:

The court may grant leave to issue a writ of possession only where it is satisfied that all persons in actual possession of any part of the land have received sufficient notice of the proceeding in which the order was obtained to have enabled them to apply to the court for relief.

40. I am satisfied that the requirements set out in Rule 60.10(2) have been met. On April 17, 2025, a Notice Demanding Vacant Possession was delivered to the Occupants of Unit 924 and Unit 925. The notices advised the recipients (i) of these proceedings and the Appointment Order; (ii) to vacate and deliver up possession to the Receiver; (iii) that the Receiver may bring a motion seeking leave to issue a writ of possession; and (iv) they may bring a motion in these proceedings to dispute the Receiver's entitlement to possession of the Property.
41. None of the Occupants have responded to the Receiver, filed materials, or appeared asking to bring a motion.
42. I am satisfied that in the circumstances it is appropriate to grant leave to issue a writ of possession in respect of Unit 924 and Unit 925.
43. I am satisfied that the professional fees are fair and reasonable and should be approved. Fee affidavits have been filed. I am also satisfied that the activities of the Receiver set out in the First Report and the Supplementary Report were reasonable and necessary and should be approved.
44. Orders attached.



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Justice Steele

Date: May 5, 2025