



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ENDORSEMENT

COURT FILE NO.: CV-23-00707172-00CL

DATE: FEBRUARY 7, 2024

REGISTRAR: C. FERNANDEZ

NO. ON LIST: 3

TITLE OF PROCEEDING: **TANDIA FINANCIAL CREDIT UNION LTD v 1557113
ONTARIO INC et al**

BEFORE JUSTICE: **P. OSBORNE**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Matilda Lici	Tandia Financial Credit Union Ltd	mlici@airdberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
David Seifer	Court-appointed Receiver, BDO Canada Limited	dseifer@dickinson-wright.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. BDO, in its capacity as Receiver, seeks an order:
 - a. approving a SISP;
 - b. authorizing the Receiver to enter into listing agreements with Colliers in respect of the Gas Stations;

- c. approving the First Report of the Receiver dated January 31, 2024 and the activities of the Receiver described therein;
 - d. approving the request of the Receiver to increase its borrowing maximum from \$200,000 to \$500,000;
 - e. sealing Confidential Appendix 1 to the First Report until the earlier of the closing of the transactions for the sale of the Gas Stations or further order; and
 - f. approving the fees and disbursements of the Receiver and its counsel.
2. Defined terms in this Endorsement have the meaning given to them in the motion materials unless otherwise stated.
 3. The relief sought today is fully supported by the Applicant. No other party appears today and nor has any other party filed any materials to oppose the relief sought. The Service List was served with the materials.
 4. The background to and context for this motion is fully set out in the First Report and in my Endorsement appointing the Receiver dated November 17, 2023 in this proceeding.
 5. The business of the Debtors includes operating four Shell Gas Stations in Eastern Ontario.
 6. Since its appointment, the Receiver has engaged a third-party manager to assist with the day-to-day operations of the Gas Stations and related matters.
 7. The Receiver invited four real estate brokers to make listing proposals for the sale of the Gas Stations, including the underlying real properties owned by the Debtors. Having reviewed the various proposals, the Receiver recommends entering into listing agreements with Colliers, which had the lowest commission, to list and market the Gas stations.
 8. The terms of the proposed SISP, including the mechanics of the proposed sale process and timelines, are fully set out in the First Report. I am satisfied that they are reasonable, appropriate, and that the proposed sale process should maximize the recovery for stakeholders. The process contemplates a successful bid are being selected by May, 2024.
 9. The order appointing the Receiver authorized it to engage real estate brokers and to market any and all of the Property for sale. I am satisfied that the *Soundair* Principles are satisfied by the terms of the proposed SISP. The proposed process is fair and transparent and will optimize the chances of securing the best possible price for the assets to be sold. The proposed SISP is approved.
 10. Confidential Appendix 1 to the First Report includes the four brokerage proposals received. I am satisfied that this should be sealed, pending closing of the transaction or transactions, or further order of the court. To decline to seal this document could and likely would impair the proposed sales process, negatively affect the integrity of the process, and adversely affect the objective of maximizing the outcome of the sales process and related recoveries. The order sought is proportionate and limited, both in scope and in time. I am satisfied that the factors set out by the Supreme Court of Canada in *Sierra Club*, as refined in *Sherman Estate*, have been met here. The document is sealed on the limited terms described.
 11. The Receiver is using its available borrowing power to, in the main, purchase fuel to supply the four Gas Stations and keep them operating as going concerns. Liquidity is tight, and for the reasons set out in the First Report, I am satisfied that the Receiver's borrowing limit, and corresponding protection under the Borrowing Charge, should be increased to \$500,000, which will give it sufficient liquidity to ensure the continued supply of fuel to the Gas Stations. The increase accords with the requirements as reflected in the Statement of Receipts and Disbursements attached as Appendix C to the First Report, and is approved.

12. I am also satisfied that the activities of the Receiver should be approved as set out in the First Report. They were necessary, undertaken in good faith, and were well within the mandate of the Receiver.
13. The Fees of the Receiver are set out in the affidavit of Mr. Peter Crawley (together with exhibits thereto) attached to the First Report as Appendix E. I am satisfied that they are appropriate and reasonable in the circumstances. So too with the fees of counsel to the Receiver as set out in the affidavit of John Leslie and exhibits thereto attached to the First Report as Appendix F.
14. Order to go in the form signed by me today which has immediate effect without the necessity of issuing and entering.

Osawa, J.