



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-719689-00CL DATE: June 14, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: **BANK OF MONTREAL v. TRUE NORTH FREIGHT SOLUTIONS
INC. et al**

BEFORE JUSTICE: **JUSTICE W.D. BLACK**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Josie Parisi	Receiver	iparisi@bdo.ca

ENDORSEMENT OF JUSTICE W.D. BLACK:

- [1] BDO Canada Limited, in its capacity as the court-appointed receiver in this matter (the “Receiver”), of the assets, undertakings and property of True North Freight Solutions inc. (“True North”) and North Shore Logistics Inc. (“North Shore” and together with True North, the “Debtors”), brings this motion for an order approving its pre-filing report dated May 10, 2024 and its first report (“First Report”) dated June 11, 2024.
- [2] The Receiver also seeks
- (a) An order transferring title in and to the assets, listed at Appendix F of the First Report, from 7927959 Canada Corp. (“7959”) to True North and authorizing the Receiver to sell these assets at the Auction;
 - (b) An order requiring Talka Credit Union (“Talka”), to provide certain information; and
 - (c) An order approving the Auction Agreement between Ritchie Bros. Auctioneers (Canada) Ltd. (the “Auctioneer”), and the Receiver, substantially in the form attached as Appendix G to the First Report (the “Auction Agreement”), and vesting title to the Equipment in the corresponding purchases at the Auction (as defined in the Auction Agreement) free and clear of encumbrances upon delivery to them of the applicable bill of sale (the “Approval and Vesting Order”).
- [3] The Debtors operated a logistics delivery business using a fleet of trucks and trailers (the “Vehicles”), servicing customers across North America. The Debtors operated from a property municipally known as 11553 Tenth Line, Halton Hills, Ontario (the “Real Property”), owned by a related company (“88317”). MNP Ltd. (“MNP”), was appointed as receiver over 88317, including over the Real Property.
- [4] On April 12, 2024, BDO was appointed as interim Receiver over the Debtors and 88317. On May 6, 2024, the Debtors were adjudged bankrupt and BDO was appointed as Licensed Insolvency Trustee in Bankruptcy (the “Trustee”), and on May 16, 2024, BDO was appointed as Receiver in an application brought by Bank of Montreal (“BMO”).
- [5] BMO is a senior secured creditor of the Debtors. As security for its loans BMO was granted a general security agreement by each of the Debtors. In addition to BMO, a number of equipment financiers/lessors have registered security interests in specific vehicles acquired or leased by the Debtors. A majority of these creditors have first-ranking security interests in these specific vehicles.
- [6] On May 6, 2024, BDO became aware that the Debtors had transferred title to 60 vehicles to 7959 pursuant to a bill of sale dated March 14, 2024 between True North and 7959 for nominal consideration (the “Transferred Vehicles”). Through investigations, BDO learned that 17 of the Transferred Vehicles had then been sold by the Auctioneer on behalf of 7959 in May of 2024.
- [7] The Receiver engaged in discussions with 7959 and was advised that the Transferred Vehicles were provided as repayment of a loan allegedly advanced by Armour Insurance Brokers Ltd. (“Armour”), to the Debtors, and that the principal of Armour and 7959 (who are one and the same), have agreed to release the net proceeds of the May 2024 Vehicle Sale to the Receiver, and that the balance of the Transferred Vehicles, to the extent they can be located, will be transferred back to True North and sold by the Receiver. Armour and 7959 may file proofs of claim with the Receiver should they wish to advance a claim to the proceeds of sale of the Transferred Vehicles.

- [8] The Receiver advises that there is some urgency to the relief sought. In particular, MNP as receiver of 88317, takes the position that the Trustee has occupied the Real Property since its appointment (as at the date of the Receiver's appointment there were approximately 200 Vehicles on the Real Property), and owes monthly occupancy costs in the amount of \$150,000 plus HST.
- [9] While the Receiver is investigating and may dispute this claim, it nonetheless seeks to move the remaining Vehicles off the Real Property to minimize potential occupancy costs.
- [10] To that end, the Receiver required the assistance of people licensed to operate or otherwise capable of relocating the Vehicles, including not only the Vehicles on the Real Property, but a number of additional Vehicles that were missing at the time of the Receiver's appointment, but many of which have since been located in various places throughout North America.
- [11] In discussions with the Auctioneer, the Auctioneer has advised that it can assist in locating, repossessing, relocating, securing and storing Vehicles at reasonable rates. The Receiver, in the result, retained the Auctioneer to assist with repossession and storage of the Vehicles, and seeks authorization to retain the Auctioneer to sell the Vehicles to allow the Receiver to forego ongoing storage costs.
- [12] More specifically, the Receiver and the Auctioneer have negotiated the Auction Agreement pursuant to which the Auctioneer has agreed to sell Vehicles at an auction in Ontario scheduled to take place on June 26, 2024, and at an auction in Quebec on July 10, 2024, and then to sell any unsold Vehicles at a subsequent auction. The Auction Agreement is conditional on court approval.
- [13] BMO and other secured creditors have advised that they would like to include Vehicles subject to their security in the Auction, and the Receiver expects other creditors will wish to do likewise.
- [14] The other main issue covered in the proposed AVO and Ancillary Relief Order relates to Talka.
- [15] In mid-May 2024, the Receiver became aware that certain of the Debtor's customer payment cheques were deposited at Talka. In discussions about this, Talka told the Receiver that the Debtors did not have accounts at Talka, but that it appears that True North engaged the services of a member of Talka to deposit the cheques, presumably in exchange for cash.
- [16] The Receiver is aware of two cheques totalling over \$55,000.00 that were deposited by Talka's member into its Talka account.
- [17] The Receiver has asked for additional information about the identity of the member, and related items. Talka has advised that it will honour the Receiver's requests if the Receiver obtains a court order requiring Talka to do so.
- [18] Dealing with the relief requested by the Receiver, I find that the Auction Agreement and the sale of the assets by auction is reasonable and appropriate here. The Receiver, through the arrangement with the Auctioneer, has obtained assistance with repossessing and storing the Vehicles, and the Auctioneer has expertise and is well-positioned to sell the Vehicles through auctions.
- [19] I find that the Auction Agreement satisfies the criteria established by the Court of Appeal for Ontario in the *Royal Bank of Canada v. Soundair Corp.* decision, (1991), 4 OR (3d) 1 (ONCA). Not only does the Auctioneer lend considerable assistance and expertise, but the Receiver advises that the commercial terms of the Auction Agreement are reasonable and consistent with industry standards. I also order, in

that regard, that title in and to the assets listed at Appendix F to the First Report, be transferred from 7959 to True North, and that the Receiver is authorized to sell these assets at the Auction.

- [20] I also approve the Receiver's pre-filing report and First Report, and the Receiver's actions and activities as set out in those reports.
- [21] Finally, I order Talka to provide the information sought by the Receiver, as set out more particularly in the Ancillary Relief Order and the AVO.
- [22] I grant both Orders in their entirety.



W.D. BLACK J.

DATE: JUNE 14, 2024