



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO: CV-23-00703933-00CL

DATE: 24 November 2023

CV-23-00703292-00CL, CV-23-00703874-00CL

NO. ON LIST: 1.

TITLE OF PROCEEDING: QUALITY RUGS OF CANADA LIMITED v. WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---|---------------------------|
| Kenneth Kraft | Lawyer for Receiver | kenneth.kraft@dentons.com |
| Ken Pearl | The Fuller Landau Group Inc. (the Receiver) | kpearl@fullerllp.com |
| | | |
| | | |

For Defendant, Respondent, Responding Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|--|----------------------|
| Matilda Lici | Lawyer for Waygar Capital Inc., as agent for Ninepoint Canadian Senior Debt Master Fund L.P. (Applicant) | mlici@airdberlis.com |
| Chris Besant | Former Directors & Officers of Quality Rugs of Canada Limited | cbesant@grllp.com |
| | | |
| | | |

| Name of Person Appearing | Name of Party | Contact Info |
|----------------------------------|--|--|
| Haddon Murray | Lawyer for Torlys Inc; Metropolitan Hardwood Floors (Eastern) Inc.; Lauzon – Planchers De Bois Exclusifs Inc.; Cerasec Inc.; and Boa- Franc SENC/GP | haddon.murray@gowlingwlg.com |
| Joe Latham | Lawyer for CCAA Monitor | jlatham@goodmans.ca |
| Michael Farace | Lawyer for GG Eight Cumberland Inc. | Michael.Farace@devrylaw.ca |
| Bryan Tannenbaum Arif Dhanani | Lawyer for RSM Canada Limited (CCAA Monitor) | bryan.tannenbaum@rsmcanada.com arif.dhanani@rsmcanada.com |
| Derek Rici Natalie Renner | Lawyer for Ironbridge Equity Partners Management Limited | dricci@dwpv.com nrenner@dwpv.com |
| Andrew Winton | Alvarez & Marsal Canada Securities ULC | awinton@lolg.ca |
| Demetrios Yiokaris | LIUNA Local 183 | dyiokaris@kmlaw.ca |

Michael Mandarino

Daniel Wright

United Brotherhood of Carpenters

mmandarino@rousseauazzuca.com

dwright@rousseauazzuca.com

Gerard Borean

Devon Goyo

Ciot (Creditor)

gborean@parenteborean.com

dgoyo@parenteborean.com

Eric Dwyer

CDS Distribution Inc.

edwyer@brazeauseller.com

Danny Nunes

Fuzion Flooring

danny.nunes@dlapiper.com

ENDORSEMENT OF JUSTICE PENNY:

[1] There are four motions before the Court.

[2] The Receiver brings two motions: 1) for an amended receivership order; and, 2) for an order approving a lien and trust claims process. The Monitor brings a motion for the continuation of the stay under the CCAA ARIO in favour of the Monitor. Finally, the now former directors of the Applicants move for an extension of the CCAA stay of claims against directors.

[3] The Receiver engaged in significant consultation with stakeholders about the revisions to the “bare bones” receivership order I issued on October 31. As a result, the revised order was not opposed by any stakeholder. There is also no opposition to the Monitor’s motion and the former directors’ motion, although there were, in all cases, certain reservations of rights relating to a number of priority issues which remain outstanding and will be dealt with in future motions.

- [4] I am satisfied with the proposed terms of the revised receivership order. It adheres to the model order, with specific provisions to deal with unique features of this case. Where there was potential for conflict between the appointment of the Receiver and the prior CCAA ARIO appointing the Monitor, the parties have found a reasonable resolution which is embodied in the terms of the revised order.
- [5] Both the Monitor and the Receiver believe that it makes sense to preserve the existence of the CCAA proceedings. Although the role of the Monitor will be limited to the provision of information and/or background on a number of outstanding disputed issues (principally the priority issues referred to above), I am satisfied that that it would be premature to discharge the Monitor or terminate the CCAA proceedings altogether. The CCAA stay of proceedings, however, expires today and, subject, to two exceptions dealt with below, shall not be continued. The operative stay is now the stay provision of the receivership order.
- [6] I am also satisfied with the form of the claims procedure order proposed by the Receiver for dealing with lien and trust claims. The Receiver will endeavor to provide claimants in that process with relevant records in the possession of the Applicants, where they are not otherwise available to the claimant. The claims procedures deal with advancing and deciding lien and trust claims. The pending motions about priorities will address certain remedial issues associated with how a successful claim can and should be recovered.
- [7] These orders shall issue in the form signed by me this day.
- [8] The Monitor has co-operated with the Receiver and will remain available to continue to do so in the context of the outstanding disputes over priorities and any other matters. To this end, the Monitor is not seeking a discharge but, given its continued involvement (on a reduced, focused basis), seeks an extension of the CCAA stay of proceedings against the Monitor and its counsel pending further order of the court. The Monitor also seeks the usual approvals of its reports and fees and those of its counsel.
- [9] I am satisfied with the Monitor's reports. The fees of the Monitor and its counsel reflect the intense, and difficult, work undertaken in these complex proceedings. They are approved. I am also satisfied with the Monitor's proposal that the CCAA proceedings remain open and that the stay be temporarily extended as it applies to the Monitor until the Monitor's participation is no longer required.
- [10] The former directors and officers of the Applicants also seek a temporary extension of the CCAA stay of proceedings against them. The D&Os resigned upon the appointment of the Receiver, although they are largely still employees and continue to assist the Receiver with the task of maximizing realizations. The CCAA ARIO provides for a D&O Charge, which remains outstanding at this point. It is not possible to determine now whether there will be viable claims against the D&O personally, as it is not known what debts giving rise to such liabilities might remain unpaid. The extension of the stay is sought as a temporary measure, to avoid a multiplicity of proceedings and enhance stability in this critical period of maximizing realizations. Any stakeholder is, in the meantime, able to come forward with a motion to lift the stay in appropriate circumstances, where a basis for such a claim can be established. For these reasons, I am satisfied that a continuation of the CCAA stay for D&Os is also appropriate.
- [11] The Monitor's proposed form of order, with the language affecting the D&Os, shall issue in the form signed by me this day.

[12] I have alluded several times to outstanding priority disputes which will be resolved in the weeks to come. The orders issued today are without prejudice to the positions parties may wish to assert in those pending motions, including seeking retroactive orders in appropriate circumstances.

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

Penny J.