



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00703933-00CL DATE: OCTOBER 31 2023

NO. ON LIST: 1

TITLE OF PROCEEDING: **QUALITY RUGS OF CANADA LTD v WAYGARD CAPITAL INC**
et al

BEFORE JUSTICE: **PENNY**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|--------------------------------|--|
| CHRISTOPHER BESANT | QUALITY RUGS OF CANADA LIMITED | cbesant@grllp.com |
| | | |

For Defendant, Respondent, Responding Party, Defence:

| Name of Person Appearing | Name of Party | Contact Info |
|---|---|--|
| STEVEN LEONARD GRAFF MATILDA LICI JAMES BRUCE | WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P. | sgraff@airdberlis.com mlici@airdberlis.com jbruce@waygarcapital.com |
| DANIEL WRIGHT | UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA | dwright@rousseaumazzuca.com |
| MICHAEL P. FARACE | GG EIGHT CUMBERLAND INC | Michael.farace@devrylaw.ca |

For Other, Self-Represented:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|-----------------------------------|--|
| Devon Goyo | Supplier to Respondent – Ciot Inc | dgoyo@parenteborean.com |
| Akhil Vohar | Ames Tile & Stone LTD | avohra@ogilvielaw.com |

| | | |
|---|--|--|
| Natalie Renner Natasha MacParland | Counsel for Ironbridge, the DIP Lender | Nrenner@dwpv.com nmacparland@dwpv.com |
| Joseph Latham Erik Axell Arif Dhanani Bryan Tannenbaum | RSM Canada Limited - Monitor | jlatham@goodmans.ca eaxell@goodmans.ca arif.dhanani@rsmcanada.com bryan.tannenbaum@rsmcanada.com |
| Demetrios Yiokaris (Koskie Minsky LLP) | LIUNA Local 183 | dyiokaris@kmlaw.ca |
| Derek Brett | 4405967 NS Limited. | dbb@burnsidelaw.net |
| Tushar Sabharwal | Olympia Tile | tsabharwal@dakllp.com |
| Haddon Murray | Counsel to suppliers: Torlys Inc; Metropolitan Hardwood Floors (Eastern) Inc.; Lauzon – Planchers De Bois Exclusifs Inc.; Cerasec Inc.; and BoaFranc SENC/GP | haddon.murray@gowlingwlg.com |
| Danny Nunes (DLA Piper Canada LLP) | Fuzion Flooring | danny.nunes@dlapiper.com |
| Marin Leci | Housing One | mleci@blg.com |

ENDORSEMENT OF JUSTICE PENNY :

The court-ordered stay in these CCAA proceedings was to have expired today. At a case conference on Friday, October 27, I scheduled a motion for a stay extension.

At 9:40 PM last night, the Monitor was advised definitively that the Ironbridge transaction would not be proceeding. This transaction was at the heart of the debtors' restructuring proposal. The debtors have no funds to continue to operate the company, and no available source of funds. It is generally recognized by the debtors and other stakeholders that, with the Ironbridge transaction gone, the only remaining option is some form of liquidation.

Waygar had a pending application for the appointment of a receiver which was adjourned as part of the negotiations which lead to the initial order under the debtor-lead CCAA filing. In light of the collapse of the debtors' restructuring effort, Waygar, earlier this morning, brought its application back on. It seeks the appointment of The Fuller Landau Group Inc. as receiver of the debtors.

There are many stakeholders whose interests have been affected, constrained or deferred to date, in the interests of a negotiated solution and/or the expectation of a future court hearing on various aspects of the CCAA process. In order to avoid chaos, there will need to be an orderly transition from the CCAA proceedings to the receivership proceedings, and an ongoing stay will be required. During the transition, it is important that parties' positions not be compromised or further prejudiced.

In all of the circumstances, I find it is just and convenient to grant Waygar's application for the appointment of a receiver. The form of order, however, shall reflect the principles which inform an initial order under the CCAA. In other words, the initial receivership order shall be a "bare bones" order (as distinct from the Commercial List Model Order, which may be sought on the "comeback" hearing) which appoints the Receiver and confers on the Receiver control over the debtors' assets and undertaking. There will need to be a priority charge to protect the Receiver and its counsel. And, the Receiver will need the power to borrow in an initial amount that will enable its work to be done until the "comeback" hearing, which has been scheduled to take place on Friday November 24, 2023 at 10:00 AM before me. The existing stay shall be extended until November 24, or further order of the court.

Of great importance to the stakeholders, many of whom have been patiently waiting for their day in court to assert their claims and priorities, is that the initial receivership order not prejudice any position a stakeholder may wish to take regarding the order and effectiveness of any priorities or related interests (such as the assertion of common law trusts). This includes, without limitation, Ironbridge, which advanced funds under the court-approved DIP facility, and the suppliers, whose trust and lien claims have been held in abeyance under the ARIO pending finalization of a lien regularization order, which has not happened. All such rights and arguments are preserved pending further argument on November 24, or other date as may be scheduled. The court specifically retains the authority and discretion to make retroactive orders to ensure that this principle has been adhered to.

The ARIO will remain in place during the transition. To the extent the initial receivership order and the ARIO are in conflict, the initial receivership order shall prevail. The Monitor has undertaken to work with the Receiver during the transitional period to ensure the most efficient and effective transition reasonably available.

The Monitor confirmed that certain funds that were to be held separate and apart by virtue of my September 26 endorsement have indeed been held separate and apart. They will continue to be so held, either by the Monitor or the Receiver, as appropriate. The beneficiary of the \$2,000 payment (MRAD) is apparently out of the country and has not cashed the cheque issued to him by the debtors. To avoid uncertainty and delay in resolving that payment, the cheque issued to MRAD may be destroyed or cancelled and the funds transferred to LIUNA's counsel to be held in trust for MRAD.

I am leaving it to the principal stakeholders to draft a bespoke initial receivership order in accordance with these directions. If there are serious disagreements about truly material and necessary points which must be resolved before November 24, I may be spoken to.

A handwritten signature in blue ink, appearing to read "Penny J.", with a stylized flourish at the end.

Penny J.