



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: BK-24-03064916-0031

DATE: June 27, 2024

NO. ON LIST: 3

TITLE OF PROCEEDING: IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF NATIONAL TRAFFIC SAFETY MANAGEMENT INC.,

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

Name of Person Appearing	Name of Party	Contact Info
Harvey Chaiton Laura Culleton	Counsel for National Traffic Safety Management Inc	harvey@chaitons.com laurac@chaitons.com

For Defendant, Respondent:

Name of Person Appearing	Name of Party	Contact Info
Jeff Berger	TDB Restructuring Limited, Proposal Trustee	Jberger@tdbadvisory.ca
Rob Alfieri	Counsel for FundThrough	

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] National Traffic Safety Management Inc. seeks an order approving the FundThrough Term Sheet dated June 18, 2024 and corresponding Charge.

- [2] National Traffic (or the Company) relies upon the Fifth Report of the Proposal Trustee dated June 24, 2024, together with the Appendices thereto. I note that those appendices include the Affidavit of Michael Spencley without exhibits sworn April 11, 2024.
- [3] The Motion materials have been served on the Service List. The relief sought today is unopposed. Defined terms in this Endorsement have the meaning given to them in the motion materials unless otherwise stated.
- [4] The Company filed an NOI on April 5, 2024. It has prepared, with the assistance of the Proposal Trustee, a weekly cash flow forecast for the 13 weeks ending September 20, 2024. Receipts are forecasted to consist primarily of receivables collected in the normal course of business together with funds advanced pursuant to the FundThrough Financing Facility, if approved.
- [5] Cavanagh, J. approved, and subsequently increased, a bridge interim financing loan pursuant to a DIP term sheet dated April 10, 2024 between the Company and a non-arm's-length party, J-9 Investments Inc. It was later increased again by Conway, J.
- [6] Funded Through has agreed to provide an interim factoring facility, (the "FundThrough Financing Facility"), the terms of which are as set out in the Term Sheet.
- [7] The Company is also seeking a FundThrough DIP Charge to secure that Facility, intended to be secured by all present and future Eligible Receivables in respect of which the proposed Charge would rank in priority to all encumbrances.
- [8] The relief sought is recommended and supported by the Proposal Trustee who is of the view that the terms of the Facility and the Charge are reasonable in the circumstances.
- [9] Should the Facility not be approved, and the Charge not granted, the Company will be unable to meet its post-filing obligations.
- [10] There is no question that the facility is expensive. There is also no question, however, that there are no other alternatives available to the Company. I also observe that while the factoring nature of the Facility is somewhat atypical, it is reflective of the manner in which FundThrough runs its business and fundamentally, is effectively another form of DIP financing.
- [11] I am satisfied for the above reasons, and for the reasons more fully set out in the Fifth Report, that the Facility and Charge should be approved pursuant to section 50.6 and 183 of the *BIA*. Section 50.6 of the *BIA* gives the Court the ability to approve interim financing for the debtor and to make an order subjecting all or part of the Company's property to security or charge, and give that security or charge priority in rank. The factors to be considered are set out in section 50.6. See also *Colossus Minerals Inc., Re*, 2014 ONSC 514. The factors are satisfied here.
- [12] Order to go in the form signed by me and which is effective immediately without the necessity of issuing and entering.

O'Leary, J.