



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00720929-00CL

DATE: October 15, 2025

NO. ON LIST: 2

TITLE OF PROCEEDING: First Source Financial Management Inc. v. Block 80 Holdings Inc. et al

BEFORE: JUSTICE J. DIETRICH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Dillon Gohil	First Source Financial Management Inc.	Dillon.gohil@paliarerland.com
Dom Michaud ,	Court-Appointed Receiver, TDB Restructuring Limited	dmichaud@robapp.com
Anisha Samat,	TDB Restructuring Limited	asamat@robapp.com
Bryan Tannenbaum	TDB Restructuring Limited	btannenbaum@tdbadvisory.ca

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE J. DIETRICH:

Introduction

1. TDB Restructuring Limited (“**TDB**”) in its capacity as the Court-appointed receiver (the "**Receiver**") over the real property municipally known as Block 80, Bellisle Heights, 61 Thompsons Rd. West, Penetanguishene, Ontario (the "**Real Property**"), owned by Block 80 Holdings Inc. (the "**Debtor**"), seeks two Orders.
2. First, an approval and vesting order (the "**AVO**") is sought approving an asset purchase agreement (the "**APA**") between the Receiver and Penetang Shores Inc. ("**PSI**") as purchaser for a sale of the Real Property free and clear of all claims and encumbrances.
3. Second, an order (the "**Administration and Discharge Order**") is sought:
 - a. approving the sale and investment solicitation process ("**SISP**") conducted by the Receiver;
 - b. declaring that the construction lien in favour of Georgian Bay Construction Services Inc. ("**GBCS**") registered on June 19, 2024 (the "**GBCS Lien**") is invalid and unenforceable as against the Real Property;
 - c. approving the First Report of the Receiver dated October 3, 2025 (the "**First Report**"), the activities and conduct of the Receiver as described therein and the Receiver's statement of receipts and disbursements to September 30, 2025 (the "**R&D**") attached thereto;
 - d. approving the Receiver's fees and disbursements, and those of its counsel, and the estimated costs to complete the receivership administration as described in the First Report;
 - e. approving the proposed Interim Distribution of proceeds from the transaction contemplated by the APA (the "**Transaction**")
 - f. approving an increase in the Receiver's Borrowing Charge from \$500,000 to \$750,000
 - g. sealing the confidential appendix to the First Report until closing of the Transactions or until further order of the Court;

- h. discharging the Receiver upon the filing of a certificate (the “**Discharge Certificate**”); and
 - i. authorizing a distribution to First Source Financial Management Inc. ("First Source") up to the amount owed to First Source by the Debtor.
- 4. No opposition to the relief sought was raised at the hearing. Counsel for GBCS did not attend, however, counsel for the Receiver advised that they had been informed by counsel for GBCS that GBCS did not oppose the relief sought in respect of the GBCS Lien.
 - 5. Defined terms used but not defined herein have the meaning provided for in the factum of the Receiver filed for use on this motion.

Background

- 6. TDB was appointed as Receiver over the Debtor by Order of Justice Black dated July 8, 2024 (the "**Appointment Order**").
- 7. The Real Property is the site of a residential apartment building with 18 units. First Source is a secured lender of the Debtor, in connection with a mortgage loan advanced to the Debtor (the “**Loan**”), that was intended to aid in the completion of the construction of the apartment building. Counsel for the Receiver advised that First Source is owed in excess of \$6.5 million.
- 8. The Receiver has obtained an independent legal opinion that, subject to the usual qualifications and assumptions, First Source holds valid and enforceable security over the Real Property.
- 9. GBCS registered the GBCS Lien against the Real Property on June 19, 2024. A certificate of action has not been registered on title to the Real Property by GBCS. On August 20, 2025, counsel to the Receiver wrote to counsel for GBCS, to enquire about the perfection of the GBCS Lien and has received no response.
- 10. Pursuant to paragraph 21 of the Appointment Order, the Receiver was empowered to borrow up to \$500,000 (the “**Borrowing Limit**”) at any time for the purpose of funding the exercise of the Receiver’s powers and duties. The full amount of the Receiver’s borrowing was used to fund and pay for the contract entered into with GBCS to complete construction in respect of the first phase of the Real Property (the “**Initial Work**”). GBCS advised that there were certain “extras” that were required over and above the contract price to complete the Initial Work. On the basis that the net rent, after payment of monthly expenses in relation to the operation, repairs and maintenance of the Real Property were not sufficient to pay for the cost of the extras incurred by GBCS, the

Receiver advised GBCS that it would need to wait to be paid from the proceeds of sale of the Real Property.

11. The Receiver was also informed in mid-April 2025 that the Town required certain further site works to be completed (the “**Additional Work**”) in order to address ongoing complaints from homeowners located at the rear of the Real Property and if the Additional Work was not completed by June 1, 2025, the Town would use the securities it held to complete the work itself.
12. The Receiver was concerned that the Town's cost of performing the Additional Work would exceed its own costs for doing so. Accordingly, First Source agreed to advance the Receiver an additional \$250,000 to fund the Additional Work and pay significant past due and accruing professional fees on the condition the Receiver seek an increase in its Borrowing Limit on the next attendance.
13. With respect to the sale of the Real Property, the Receiver received listing proposals from three commercial real estate brokerages and ultimately selected Cushman & Wakefield ULC (“**C&W**”) as sales agent for the sale of the Real Property, with the concurrence of First Source. On October 22, 2024, the Receiver entered into an MLS listing agreement with C&W.
14. After discussion with C&W, the Receiver set an offer deadline date of February 5, 2025 (the “**Bid Deadline**”) as C&W indicated that the period between October 23, 2024 and February 5, 2025 was sufficient time to appropriately market the Real Property, taking into account the holiday season. A summary of C&W's market efforts is set out in the First Report.
15. C&W received 14 signed Confidentiality Agreements by prospective purchasers or brokers, all of whom were given access to the electronic data room. However, as of the Bid Deadline, C&W had received no offers for the Real Property. Subsequent to the Bid Deadline, C&W continued to market the Real Property with a view to furthering interest from certain parties that had expressed an interest in purchasing the Real Property and with the concurrence of First Source, the asking price was reduced to \$6.2 million.
16. Although the Receiver advised during the hearing that two offers were received for the Real Property the purchase price contained in those offers was substantially less than the amount owing to First Source. Ultimately, no acceptable offers were received and on August 19, 2025, the Receiver and PSI executed the APA. PSI is an entity owned by First Source, and the Transaction is structured as a credit bid in respect of First Source's first mortgage on the Real Property.
17. The APA contemplates payment by PSI to the Receiver an amount sufficient to extinguish various priority charges and outstanding obligations of the Receiver. The

Receiver seeks approval to distribute such amount upon closing the Transaction in the following order of priority (the “**Interim Distribution**”):

- a. payment to the Town for the property taxes owing on the Real Property, plus any further interest or fees at the time of closing;
- b. payment of any remaining unpaid fees and disbursements of the Receiver and its counsel relating to the Real Property;
- c. payment to C&W of the commissions owed to it upon the successful closing of the Real Property in the event of a credit bid; and
- d. payment to GBCS for the construction extras incurred by it in completing the post-receivership Initial Work and Additional Work in connection with the Real Property.

18. The APA also contemplates that the amounts owing as Receiver's Borrowings will be forgiven.

19. As set out in the First Report, along with closing of the Transaction, the Receiver's remaining duties include, making the distributions discussed above, paying any remaining utility and/or service providers for goods and services rendered and closing the Receiver's accounts with those providers; doing all things necessary to assist PSI with transitioning utility services currently in the Receiver's name to each purchaser, as required; doing all things necessary to assist PSI with transitioning collections of rent from the tenants in residing in the Real Property; assisting with the transition of the Receiver's current property manager to PSI, should it require same; and preparing the Final Statement of Receiver pursuant to section 246(3) of the *Bankruptcy and Insolvency Act*.

Issues

20. The following issues are to be determined today should the Court:

- a. approve the SISP and the Transaction contemplated by the APA;
- b. declare that the GBSC Lien is invalid and unenforceable as against the Real Property;
- c. approve the requested Interim Distributions;
- d. approve the First Report, the activities of the Receiver set out therein, the R&D and the fees and activities of the Receiver and its counsel?

- e. grant the limited sealing order requested; and
- f. approve the discharge of the Receiver, upon the filing of the Discharge Certificate?

Analysis

- 21. Given that the SISP has run its course it is not appropriate or necessary for the Court to approve it. Rather, the focus, at this time, should be the approval of the APA and the Transaction contemplated thereby.
- 22. The principles to be applied when determining whether to approve a sale transaction were articulated by the Ontario Court of Appeal in *Royal Bank of Canada v Soundair Corp.* 1991 ONCA 2727 (“*Soundair*”): (a) whether the receiver has made sufficient effort to obtain the best price and has not acted improvidently; (b) the efficacy and integrity of the process by which offers have been obtained; (c) whether the interests of all parties have been considered; and (d) whether there has been unfairness in the working out of the process.
- 23. I am satisfied that the *Soundair* principles have been met.
- 24. The Receiver solicited listing proposals from established commercial real estate brokerages and selected C&W. There was an extensive marketing process undertaken by C&W that started approximately a year ago. Despite 14 interested parties executing Confidentiality Agreements, no acceptable offers were received. The two offers that were received were for substantially less than the amounts owing to First Source. The Receiver does not believe that further exposure to the market would result in a superior offer.
- 25. The Receiver is satisfied that fair consideration is being provided in the APA, and that this is the best offer the Receiver could expect to obtain in the circumstances. As noted above, no objections were raised with respect to the approval of the APA.
- 26. Accordingly, the requested AVO, with the amendments discussed during the hearing is substantively consistent with the form of Commercial List Model Order is approved.
- 27. With respect to the declaration sought in regard to the GBCS Lien, although a construction lien against the Real Property was registered on June 19, 2024, as of the date of the Receiver’s report, no action has been commenced with respect to the GBCS Lien, no certificate of action has been registered, and no request for leave to perfect the GBCS Lien has been made to the Court or the Receiver. As noted above, counsel to GBCS has advised counsel to the Receiver that GBCS does not oppose the relief sought in this respect. In the circumstances, I am satisfied that the evidence before me is that the GBCS Lien was not perfected in accordance with the requirements of the Construction Act. As

such the relief sought noting the GBCS Lien is not valid or enforceable with respect to the Real Property is appropriate in the circumstances.

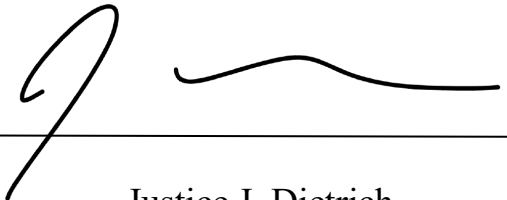
28. The requested amounts to be paid as part of the Interim Distribution are not opposed by any party including First Source. I note that in the First Report, the defined term Interim Distribution included, in error, a repayment of Receiver's Borrowings, however, rather than being repaid those amounts are to be forgiven under the APA. Based on the record before me, I am satisfied those payments identified as in the revised order appropriate in the circumstances.
29. As for the Receiver's request to retroactively increase its borrowing amount, the relief is quite unusual. Given that the amounts are to be forgiven under the APA, it is not necessary for me to approve the increase retroactively and I decline to do so.
30. The request to approve the First Report is not unusual and there are good policy and practical reasons for doing so. No opposition to the approval of the First Report has been raised and the approval of the First Report is appropriate in the circumstances as the Receiver has acted reasonably and in good faith. The draft order provided contains the typical language that only the Receiver is entitled to rely on the approval. Similarly, the R&D is approved.
31. The Receiver also seeks approval of the fees and disbursements of the itself and its legal counsel, including a fee accrual to complete matters. In this respect, as the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer* 2014 ONCA 851 at paras 33 and 45, this Court does not undertake a line-by-line analysis of the invoices. Rather, the guiding principles on fee approvals of this nature are whether the fees are fair, reasonable, and proportionate given the value of the Property and liabilities as well as the complexity of the Proceeding. In considering these guiding principles, subject to the comments below regarding the fee accrual, the fees of the Receiver and its counsel as set out in the First Report are appropriate and are approved.
32. The limited sealing order being sought is necessary to preserve the Receiver's ability to maximize the value of the Real Property in the event of the Transaction does not close. I am satisfied that the requested sealing order for the confidential appendix to the First Report (being an unredacted version of the APAs) meets the test in *Sherman Estate v. Donovan* 2021 SCC 25 at para 38 and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of a company in receivership to maximize the realization of assets. I direct counsel for the Receiver to file a hard copy of the confidential appendices with the Commercial List Office in a sealed envelope with a copy of the relevant order and this endorsement.
33. As for the requested discharge, I am not prepared at this to time to grant that relief and discharge the Receiver. The Remaining Duties as described in the First Report are substantial – the transaction contemplated by the APA has not closed. I appreciate that

the Receiver sought the relief now in an effort to reduce costs, however, given the work still to be done, I am not prepared to grant the requested release upon discharge in favour the Receiver at this time.

Disposition

34.Orders to go in the form signed by me this day.

Date: October 15, 2025



Justice J. Dietrich