



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-25-00737678-00CL

DATE: 18 June 2025

NO. ON LIST: 2

TITLE OF PROCEEDING: **AREND ET AL. v. GRMADA HOLDINGS INC.**

BEFORE JUSTICE: **J. DIETRICH**

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 |
|--------------------------|---|--|
| Josh Suttner | Counsel for the Respondent, GRMADA Holdings Inc. | jsuttner@airdberlis.com |

For Other, Self-Represented:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---|--------------|
| Bryan Tannenbaum | Proposed Receiver, TDB Restructuring Limited | |

ENDORSEMENT OF JUSTICE J. DIETRICH

Introduction

[1] The applicants as Lender seek an order appointing TDB Restructuring Limited (“**TDB**”) as receiver of all of the assets, undertakings and properties of Grmada Holdings Inc (the “**Debtor**”) including the real property known municipally as 3750, 3748 and 3742 Bathurst Street, North York, Ontario (the “**Real Property**”) pursuant to s. 243 of the *Bankruptcy and Insolvency Act* and s. 101 of the *Courts of Justice Act*.

[2] At a case conference on April 30, 2025, I scheduled the hearing of this application for today and set a schedule for the exchange of material. Counsel for the Debtor was in attendance at that case conference, however, no material was filed in accordance with the established schedule.

[3] Rather, this morning a Letter of Interest from CYR Funding Inc. (“**CYR**”) for mortgage financing dated June 10, 2025 was uploaded to Case Center (not attached to an affidavit). The Letter of Interest on its face is not a commitment but an expression of interest outlining terms which have been discussed between CYR and their lending associates.

[4] On the basis of this Letter of Interest, the Debtor requested an adjournment of the receivership application. The Lender opposed the adjournment request.

[5] On the record before me, I advised counsel that I was not prepared to adjourn the Receivership application. No payments have been made to the Lender for over a year. The Loan (as defined below) matured approximately 11 months ago. A forbearance agreement in which the Debtor consented to the appointment of a receiver was executed, and has expired.

[6] In response, the Debtor advised that it does not oppose the appointment of the Receiver, however, requests that the Receiver refrain from taking costly steps while the Debtor attempts to refinance the amount owed to the Lender.

[7] Defined terms not otherwise defined herein have the meaning provided for in the factum of the Lender filed on this application.

Background

The Debtor

[8] The Debtor is an Ontario corporation, whose sole officer and director is Roman Zhardanovsky.

[9] The Debtor is the registered owner of the Real Property. The Real Property was intended for a redevelopment project consisting of a hi-rise residential building. However, as of February 10, 2025, the Real Property consisted of (a) an abandoned two-story building, which at some point appeared to be a furniture store, (b) an operating Tim Hortons; and (c) a partially demolished, abandoned gas station.

[10] Other than the Lender's security registrations, there are no other encumbrances registered against the Real Property and there are no other secured creditors registered against the Debtor under the Personal Property Security Act, R.S.O. 1990, c. P10.

The Lender

[11] The applicants, Arend Corporation, Domenic Sericchi, Peter Adamo, Frank Adamo, Antonini Family Holdings Inc., 1453595 Ontario Inc., M Antonini Holdings Inc., Carmen Antonini, 1599825 Ontario Limited, 2205633 Ontario Limited, Freemac Tile and Granite Inc., Fusion Terrazzo Systems Inc., Maple Corp. Investments, TMAC Design Inc., Fredy Rossi, Tyler Rossi, Connor Rossi, Meghan Rossi, Riverside Humber Corp, 2438747 Ontario Limited, Jacquie Strauss, and Anne Urbanek (collectively the "**Lender**") consist of individual residents of Ontario and Ontario corporations.

The Loan and Security

[12] Pursuant to a commitment letter dated July 10, 2023 (the "**Commitment Letter**"), the Lender advanced a loan in the principal amount of \$25,383,000.00 to the Debtor for a 6-month term at an interest rate of 11.50% per annum (the "**Loan**")

[13] The Loan was secured by, amongst other things, a general security agreement,⁶ a general assignment of rents,⁷ and a first ranking charge on title to the Real Property, registered on July 21, 2023 (the "**Charge**").

[14] The Charge contains terms permitting the Lender to seek the appointment of a receiver upon an event of default.

[15] As of March 31, 2025, the amount outstanding to the Lender is \$28,450,456.25 with interest, legal fees and disbursements continuing to accrue.

Recent Events

[16] The maturity of the Loan was extended from February 1, 2024 to July 31, 2024.

[17] On May 1, 2024, the Debtor failed to remit the monthly interest payment.

[18] On July 25, 2024, the Lender issued a demand letter and a Notice of Intention to Enforce Security in accordance with section 244 of the BIA.

[19] On September 1, 2024, the Lender and the Debtor executed a Forbearance Agreement, pursuant to which the Lender agreed to refrain from further enforcement proceedings until October 1, 2024 (the “Forbearance Agreement”).

[20] Despite the expiry of the Forbearance Period, the Debtor has failed to repay the Loan and has failed to resume any interest payments under the Loan.

[21] On June 8, 2025, Mr. Gregory Brunette of Brunette Mortgage Enforcement Ltd., retained by the Lender in early March 2025, was notified by the City of Toronto Fire Services that there was an active fire at an abandoned building located on part of the Real Property. Mr. Brunette contacted Mr. Zhardanovsky to inform him of the fire. Mr. Zhardanovsky stated that Mr. Brunette should deal with the matter and disconnected the call.

[22] The City of Toronto Fire Services extinguished the fire and directed that the site be supervised for 12 hours. Mr. Brunette arranged for his employees to do so.

Issue

[23] The only issue to be determined today, is whether it is just or convenient to appoint a receiver over the assets, properties and undertakings of the Debtor.

Analysis

[24] The test for the appointment of a receiver under s. 243 of the BIA or s. 101 of the CJA is whether it is just or convenient.

[25] In determining whether it is just or convenient to appoint a receiver the court must have regard to all of the circumstances of the case particularly the nature of the property and the rights and interests of all parties in relation to the property: see *Bank of Nova Scotia v Freure Village of Clair Creek*, [1996] OJ No 5088 at para 10. While the appointment of a receiver is generally an extraordinary equitable remedy, where the rights of the secured creditor include,

pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: see *Bank of Montreal v. Sherco Properties Inc.* 2013 ONSC 7023 at para 41 and 42.

[26] Although the presence of a contractual entitlement to appoint a receiver is not a determinative factor, here, where the right to appoint a receiver is provided under a mortgage, the remedy becomes less extraordinary see para 44 of *BCIMC Construction Fund Corporation et al. v. The Clover on Young Inc.*, 2020 ONSC 1953.

[27] As summarized by Justice Osborne in *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039 (CanLII) at para 19, a number of factors have historically been taken into account in the determination of whether it is appropriate to appoint a receiver. The factors are not a checklist, but rather a collection of considerations to be viewed holistically, they include:

- a. whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- c. the nature of the property;
- d. the apprehended or actual waste of the debtor's assets;
- e. the preservation and protection of the property pending judicial resolution;
- f. the balance of convenience to the parties;
- g. the fact that the creditor has a right to appointment under the loan documentation;
- h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- i. the principle that the appointment of a receiver should be granted cautiously;
- j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- k. the effect of the order upon the parties;
- l. the conduct of the parties;
- m. the length of time that a receiver may be in place;
- n. the cost to the parties;
- o. the likelihood of maximizing return to the parties; and

p. the goal of facilitating the duties of the receiver.

[28] In this case, it is just and convenient to appoint a receiver.

[29] The Debtor owes in excess of \$28 million to Lender. The Loan matured on July 31, 2024 and no amounts have been received on the Loan since April 1, 2024. In this context the Letter of Interest for potential refinancing, which is not binding, is not sufficient to provide comfort of repayment to the Lender.

[30] Under the terms of the security, the Lender is entitled to apply to the Court for the appointment of a receiver upon default.

[31] The Lender has demanded repayment of the total indebtedness and issued the 244 BIA Notices. The notice period under the 244 BIA Notices has since elapsed.

[32] The Debtor also consented to the appointment of a receiver in the Forbearance Agreement.

[33] The Lender has, understandably, lost all confidence in the Debtor's ability to manage the Real Property. The Debtor's lack of response to the recent fire on part of the Real Property is concerning.

[34] At least part of the Real Property is in a vulnerable state and requires preservation and maintenance. The Lender is not suited to manage the Real Property given its current state. A court appointed receiver can preserve and maintain the Real Property and implement a fair and transparent process to market and sell the Real Property for the benefit of all stakeholders.

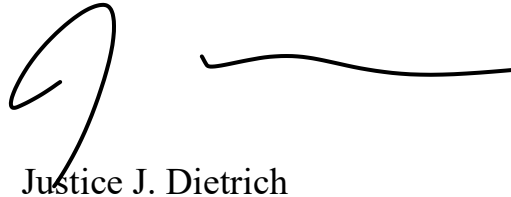
[35] TDB is qualified to act as receiver and has consented to do so.

[36] The terms of the proposed receivership order are appropriate and consistent with the Model Order of the Commercial List.

[37] As discussed at the hearing, the receiver is to communicate with the Debtor with respect to the property and the refinancing efforts. If the Debtor can arrange refinancing sufficient to repay the Lender in short order, a motion may be brought to the Court to address such.

Disposition

[38] Accordingly, I grant the receivership order in the form signed by me today.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line.

Justice J. Dietrich

June 18, 2025