

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

STEPHEN GILBERTSON and
UNITED STATES AIR COMPRESSOR INCORPORATED

Applicants

and

MEHMET BORA KUZUCAN, ZORBEY DOGUKAN KUZUCAN, DENIZ DINCER, US
AIR COMPRESSOR (CANADA) INC. and US AIR COMPRESSORS INC.

Respondents

AN APPLICATION PURSUANT TO SECTION 241 of the *CANADA BUSINESS
CORPORATIONS ACT*, R.S.C. 1985, c. C-44, as amended, and SECTION 101 of
the *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended

AIDE MEMOIRE OF THE RESPONDENTS

September 16, 2026

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1. This Aide Memoire is filed by Bora Kuzucan and DK Kuzucan (the “**Kuzucans**”) with respect to the relief sought by the Applicants to provide security to USACC’s Receiver.
2. Pursuant to Justice Myers’ endorsement dated July 28, 2026, the Kuzucans respectfully request that this Honourable Court compel USACI to pay the sum of \$100,000 towards the Kuzucans’ costs of these proceedings, in priority to the security requested.
3. The Kuzucan note Justice Myers’ comments in the endorsement relating to the potential of a Receivership over USACI:

122. Should the Kuzucans seek an appointment of a receiver over the US company I will consider it based on the holdings already made above. As I have tried to make clear throughout, the Kuzucans hold no monopoly on conflict of interest. But, I have not yet been asked to appoint a receiver over the US company.

123. It seems to me that there is an issue of comity around whether I ought to appoint a receiver for the US company even if this court has jurisdiction. The same is true for the order sought removing Bora Kuzucan as a director of the US company. It may be that a US order is required in any event for enforcement of any order made here.

124. Accordingly, I do not rule on whether there ought to be a receivership over Delaware, the US company, or any other entity at this time. If a party seeks the appointment of a receiver over another party based on the existing record I may be contacted to convene a case conference in short order.

4. There are currently two pending motions in Minnesota relating to USACI. Depending on the result of the motions in Minnesota, the Kuzucans may proceed with a case conference before Justice Myers for a receivership over USACI.
5. The two pending motions in Minnesota relate to: a motion by DK for a statutory buy out of his shares in USACI and a summary judgment motion by DK for payment of attorney fees

and disbursements from Gilbertson. Copies of the materials in both motions will be uploaded to Case Center.

6. The Kuzucans seek court direction compelling USACI to pay \$100,000 towards the Kuzucans' costs of these proceedings. Gilbertson continues to fund his own legal fees from USACI. The January 15, 2026 order required him to refund the \$100,000 he took from USACI or distribute \$100,000 to the Kuzucans, and this Court refused to set this order aside.

7. A party seeking to establish civil contempt has to prove a three-part test that (a) the order in question must state clearly and unequivocally what should or should not be done; (b) the party alleged to have breached the order had the actual knowledge of it; and (c) the party prohibits or intentionally failed to do the act of the order.¹

8. A court order is binding until it is varied or quashed. That the order may be difficult to comply with is not an excuse for non-performance. If difficulties in complying arise, it is up to the person subject to the order to have it varied. To hold otherwise would allow the person subject to the order to determine whether he perceives it as "appropriate or convenient" to comply.²

9. It is undisputed that the Applicants are aware of Justice Myers' order dated January 15, 2026. It is also undisputed that the Applicants continue to take money from USACI to fund their legal expenses and have continuously opposed compliance with the order. Finally, while

¹ *Carey v Laiken*, 2015 SCC 17 at [paras 33-35](#)

² *Thrive Capital Management Ltd v Michael Hyman et al*, 2020 ONSC 4921 at [para 20](#)

USACC is under receivership, the Kuzucans are unable to draw on \$100,000 from USACC for payment of their legal fees.

10. Payment of \$100,000 to the Kuzucans from USACI is especially justified when considering Gilbertson's conduct, including:

- (a) his repeated non-compliance with the expectations of this Court and his own discovery obligations;
- (b) his unilateral conduct in cutting off funding and purporting to terminate the Canadian Company's rights, which necessitated this application; and
- (c) the need to ensure parity between the parties, particularly in circumstances where Gilbertson has and continues to draw on corporate funds for his own legal fees.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 16th of September 2026.



Christopher Stanek

GOWLING WLG (CANADA) LLP Lawyers for the Respondent

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PROCEEDING COMMENCED AT TORONTO

**AIDE MEMOIRE OF THE RESPONDENTS,
MEHMET BORA KUZUCAN and ZORBAY DOGUKAN
KUZUCAN**

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