



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

**COURT FILE NO.:** CV-25-00738703-00CL

**DATE:** March 11, 2026

**NO. ON LIST:** 5

**TITLE OF PROCEEDING:** CERRUTI INVESTMENTS INC. v. 2616766 ONTARIO LIMITED

**BEFORE:** JUSTICE J. DIETRICH

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Jeffrey Levine	Counsel to the Applicant, Cerruti Investments Inc.	Jeffrey.levine@mcmillan.ca
Wael Rostom		wael.rostom@mcmillan.ca

**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
George Benchetrit	Counsel to the Respondent, 2763161 Ontario Limited	george@chaitons.com

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Eric Florjancic	Counsel to Joe's Cement Work (2019)	eric@legalfocus.ca
George Benchetrit	Counsel to Laminar	george@chaitons.com
Stephen.Marentette	Counsel to Fulger Transport Inc.	stephen.marentette@swslitigation
Irwin Ozier	Counsel to Noble Corporation	iozier@ln.law
Rodney Godard	Counsel for Windsor Power & Light Limited and Aqua Temp Mechanical Contractors Limited	rgodard@kirwinpartners.com
David Kirwin	Counsel to Tatro Horizons Limited	dkirwin@lawhouse.ca
Christopher Armstrong	Counsel to the Receiver, KSV Restructuring Inc.	carmstrong@goodmans.ca
Josh Sloan		jsloan@goodman.ca

Martin Kasic	Receiver, KSV Restructuring Inc., in its capacity as receiver of 2616766 Ontario Limited	mkosic@ksvadvisory.com
Noah Goldstein		ngoldstein@ksvadvisory.com
Steve Pan	Pangeo Corporation	steve.pan@pangeo.com

---

## **ENDORSEMENT OF JUSTICE J. DIETRICH:**

### **Introduction**

[1] KSV Restructuring Inc. as court-appointed receiver of 2616766 Ontario Limited (the "**Debtor**") including the real property located at 6500 Cantelon Drive in Windsor, Ontario (the "**Real Property**") seeks two orders. Defined terms used but not otherwise defined herein have the meaning provided to them in the factum of the Receiver filed for use on this motion.

[2] First, an Approval and Vesting Order (the "**AVO**") is sought

- a. approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver, Cerruti Investments Inc. ("**CII**") and 6500 Cantelon Drive Inc. (the "**Designated Buyer**") dated March 4, 2026 (the "**Sale Agreement**"), a copy of which is attached to the Third Report of the Receiver dated March 5, 2026 (the "**Third Report**") and vesting the Purchased Assets (as defined in the Sale Agreement) in the Designated Buyer on closing of the Transaction;
- b. ordering that the Assumed Leases (as defined in the Sale Agreement) continue in full force and effect; and
- c. granting a limited sealing order in respect of the confidential appendix to the Third Report being a summary of other bids received for the Real Property.

[3] Second, an Ancillary Order is sought:

- a. authorizing the Receiver to enter into settlement agreements with certain Construction Lien Claimants in amounts agreed to by the Receiver, with CII's consent or further order of the Court on the basis such Construction Lien Claims have priority over the mortgages registered against the Real Property in favour of Fulger Transport Inc., Tatro Horizons Ltd and Joe's Cement Work (2019) Inc.
- b. approving the settlement of claims held by 27631616 Ontario Limited ("**Laminar**") in relation to its mortgages registered on title to the Real Property;
- c. approving proposed distributions of proceeds of the Transaction;
- d. approving the Second Report of the Receiver dated October 15, 2025 and the Third Report (collectively, the "**Reports**") and the activities of the Receiver set out therein; and
- e. approving the fees and disbursements of the Receiver as set out in fee affidavits attached to the Third Report.

[4] There is no opposition to the relief requested by the Receiver.

## Background

[5] The Debtor is a single purpose entity whose principal asset is the Real Property, a 53.4- acre industrial lot with 499,263 square feet of net rentable area, comprising four interior rentable suites, three of which are currently occupied by tenants.

[6] The Real Property is subject to six charges/mortgages registered on title:

- a. two charges in favour of Laminar: (i) a mortgage registered on title on May 16, 2023, in the principal amount of \$13 million, and (ii) a mortgage registered on title on September 7, 2023, in the principal amount of \$4 million (collectively, the “**Laminar Mortgages**”);
- b. a charge in favour of CII pursuant to a mortgage registered on title on March 16, 2021, in the principal amount of \$22 million (the “**CII Mortgage**”);
- c. a charge in favour of Fulger Transport Inc. in the principal amount of approximately \$6.6 million registered on title on June 5, 2024 (the “**Fulger Mortgage**”);
- d. a charge in favour of Tatro Horizons Ltd. in the principal amount of \$450,000 registered on title on September 11, 2024 (the “**Tatro Mortgage**”); and
- e. a charge in favour of Joe’s Cement Work (2019) Inc. (“**JCW**”) in the principal amount of approximately \$477,000 registered on title on March 27, 2025 (the “**JCW Mortgage**” and, with the Fulger Mortgage and the Tatro Mortgage, the “**Junior Mortgages**”).

[7] Ten construction liens are also registered on title to the Real Property. The Court granted a Construction Lien Claims Procedure Order pursuant to which nine parties submitted 10 proofs of claim totaling approximately \$10 million. Following the Receiver’s review, one claim was disallowed in full, leaving a current balance of unresolved Construction Lien Claims of approximately \$9.5 million.

[8] On September 9, 2025, the Court granted the Sale Process Order, approving the Sale Process to be undertaken in respect of the Property. In accordance with the terms thereof, the Receiver retained CBRE as its broker in the Sale Process.

[9] CBRE launched the Sale Process on October 14, 2025, by distributing an investment summary (the “**Teaser**”) and a form of non-disclosure agreement (“**NDA**”) to its database of 1,925 prospective purchasers, amongst other marketing initiatives. 31 interested parties signed an NDA and were given access to a virtual data room. Eight parties ultimately submitted an LOI by the initial bid deadline of November 22, 2025.

[10] The Receiver invited the top three bidders (the “**Leading Bidders**”) to submit improved LOIs by December 10, 2025. Two of the Leading Bidders submitted revised LOIs on that date, while the third Leading Bidder, an entity related to certain shareholders of the Company (the “**Related Party Bidder**”), submitted its revised LOI on December 18, 2025, which the Receiver determined to consider (the “**Revised LOIs**”).

[11] Initially, the Receiver identified the Related Party Bidder’s Revised LOI as the leading bid. From late December 2025 through early February 2026, the Receiver negotiated with the Related Party Bidder to address outstanding issues and document a definitive agreement. On February 9, 2026, the Related Party Bidder advised the Receiver that its equity partner had withdrawn, and it could no longer proceed.

[12] The Receiver then resumed negotiations with CII, whose Revised LOI had been identified as the next best available bid and was being advanced by the Receiver as a backup bid. CII submitted a further revised LOI on February 13, 2026, and the parties finalized the Sale Agreement on March 4, 2026.

[13] On February 13, 2026, Ventra, a tenant with a right of last refusal to purchase the Real Property (the “**Ventra ROLR**”), was provided with a copy of CII’s final LOI. Ventra has declined to exercise the Ventra ROLR.

[14] The Sale Agreement contemplates the Designated Buyer acquiring: (i) the Real Property; (ii) the Assumed Leases; (iii) the Assumed Contracts (as defined in the Sale Agreement); (iv) the Debtor’s interest in a security deposit held by the City of Windsor; (v) all security and fire detection and suppression equipment at the Real Property to the extent owned by the Debtor; and (vi) the books and records relating to the Real Property solely to the extent that they are in the possession of the Receiver (collectively, the “**Purchased Assets**”).

[15] The consideration received under the Sale Agreement includes a credit bid of the Verified CII Mortgage Amount (being approximately \$17 million) and payment of up to: (i) \$20.5 million on account of the amounts owing to Laminar under the Laminar Mortgages and the Receiver’s Borrowings; and (ii) \$9.5 million for the benefit to Construction Lien Claimants to the extent they hold valid and enforceable Construction Lien Claims under the Construction Act (Ontario) that rank in priority to the CII Mortgage. \$6 million will be available to the Construction Lien Claimants with valid and enforceable Construction Lien Claims even if the CII Mortgage is determined to rank in priority to the Construction Lien Claims.

[16] The Receiver and Laminar engaged in good faith negotiations regarding the amounts claimed under the Laminar Mortgages and agreed to a settlement in the amounts of \$14,389,764 and \$4,719,819 (in each case calculated as at February 20, 2026) (the “**Laminar Settlement**”). The Laminar Settlement is for approximately \$2.5 million less than the amount asserted as owing by Laminar.

[17] The legal priorities between CII and the Construction Lien Claimants have not yet been agreed to or determined, with both parties asserting priority over the other. CII is pursuing settlement negotiations with the Construction Lien Claimants, subject to the Receiver’s consent to any settlement.

## **Issues**

[18] The issues before the Court are whether to

- a. grant the AVO, among other things: (i) authorizing the Receiver to enter into the Transaction; (ii) ordering that the Assumed Leases shall remain in full force and effect, and (iii) sealing the Confidential Appendices; and
- b. grant the Ancillary Order, among other things: (i) approving the Laminar Settlement; (ii) authorizing the Receiver to enter into settlements with the Construction Lien Claimants, on the basis that they have priority over the Junior Mortgages; (iii) approving the Distributions; (iv) approving the Second Report and the Third Report and activities described therein; and (v) approving the fees and disbursements of the Receiver and its counsel.

## **Analysis**

[19] 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.* (“**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.

[20] I am satisfied that the *Soundair* principles have been met.

[21] The Receiver through CBRE undertook a comprehensive sales process consistent with the Sales Process Order. Eight bids were submitted, the Receiver sought improved bids from the top three Leading Bidders. After the Related Party Bidder withdrew, the Transaction represents the highest and best bid received in the Sales

Process. The record establishes that the Receiver considered the interests of all stakeholders throughout the Sale Process as it worked to secure the best available outcome.

[22] Accordingly, the Transaction is approved.

[23] The proposed AVO also provides that the Assumed Leases shall remain in full force and effect following the closing of the Transaction and restricts tenants at the Real Property from terminating their respective Assumed Leases by reason of, among other circumstances, pre-closing events that are not continuing, the Debtor's insolvency, the receivership proceedings, or the Transaction. I am satisfied that I have the jurisdiction to grant the requested relief under, among other things, s. 243(1) of the *Bankruptcy and Insolvency Act*: see *Peace River Hydro Partners v. Petrowest Corp.*, 2022 SCC 41 at para. 148. I am also satisfied the relief is appropriate in the circumstances as it is ancillary to approval of the Transaction. Further, the counterparties to the Assumed Leases have been served and raise no opposition today.

[24] 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 Third Report (being a summary of the leading offers received) 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. The Receiver is directed to follow the applicable guidelines for the filing of sealed material with the court, and to eventually apply, at the appropriate time, for an unsealing order, if necessary.

[25] I am also satisfied that the Laminar Settlement is appropriate and should be approved. Courts routinely authorize receivers and other Court-appointed officers to enter into settlement agreements in insolvency proceedings where the proposed settlement is fair and reasonable, provides benefits to other stakeholders, is consistent with the purpose and spirit of the BIA and is otherwise consistent with the *Soundair* principles: See *Ontario Securities Commission v. Bridging Finance Inc.*, 2025 ONSC 539 at paras 13-17. The proposed Laminar Settlement is the product of good faith, arm's length negotiations, results in a reduction of approximately \$2.5 million from Laminar's asserted claim for the benefit of the receivership estate, and avoids the cost, risk and uncertainty of a Court determination of potential disputes. The Laminar Settlement has been consented to by CII in connection with the Transaction and eliminates the ongoing accrual of interest by facilitating a timely distribution to Laminar.

[26] The Transaction also contemplates payment of \$9.5 million to the Receiver for the benefit of the Construction Lien Claimants to the extent of their Proven Priority Construction Lien Claims. The proposed Ancillary Order seeks to authorize the Receiver, with CII's consent (or further order of the Court), to enter into settlement agreements with the Construction Lien Claimants and make distributions up to their Settled Construction Lien Claim Amount. The Junior Mortgagees have been served with the Receiver's motion material and do not oppose this relief. I am satisfied that the requested relief is appropriate in the circumstances.

[27] In the event that the proposed Transaction is approved by the Court, the Receiver seeks authorization to make the Distributions to (i) Laminar up to its settled claim amounts, plus any additional per diem interest, and (ii) the Construction Lien Claimants, up to their corresponding Settled Construction Lien Claim Amount, if any (collectively, the "**Distributions**"). The Receiver's counsel has provided the Receiver a customary opinion confirming the validity and enforceability of the Laminar Mortgages and other security granted by the Debtor to Laminar. I am satisfied that authorization for such Distributions is appropriate at this time to reduce ongoing interest and other costs.

[28] The request to approve the Reports is not unusual and there are good policy and practical reasons for doing so: see *Laurentian University of Sudbury*, 2022 ONSC 2927 at paras. 13-14, citing *Target Canada Co. (Re)*, 2015 ONSC 7574 at paras. 2, 12, 22. The observations in those cases while made in the context of a *Companies' Creditors Arrangement Act* proceeding apply to the activities of a court appointed receiver: see *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, 2023 ONSC 3400 at para 66. No opposition to the approval of the

Reports has been raised and the approval of the Reports 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.

[29] The Receiver also seeks approval of the fees and disbursements of itself and its legal counsel, as set out in the Third Report. 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, the fees of the Receiver and its counsel are appropriate and are approved.

### **Disposition**

[30] Orders to go in the forms signed by me this day with immediate effect.

Date: March 11, 2026

A handwritten signature in blue ink, consisting of a stylized initial 'J' followed by a long horizontal line.

Justice J. Dietrich