



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-00686556-00CL/ CV-22-00687383-00CL

DATE: October 28th, 2022

NO. ON LIST: 1 & 2

TITLE OF PROCEEDING: RECEIVERSHIP OF 2806401 ONT INC & 2806401 ONT INC/ALLIED TRACK SERVICES INC

BEFORE JUSTICE: CONWAY:

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
CHRIS BURR	INTERIM RECEIVER AND RECEIVER	CHRIS.BURR@BLAKES.COM
ADAM DRIEDGER	BRIDGING RECEIVER	ADRIEDGER@TGF.CA

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
BART SARSH	SETAY MOTORS INC	SARSHB@SIMPSONWIGLE.COM
LARISSA FULOP	DANELLA RENTAL SYSTEMS INC	LFULOP@GOODMANS.CA
MITCH VININSKY	KSV RESTRUCTURING INC – INTERIM RECEIVER AND RECEIVER	MVINISKY@KSVADVISORY.COM
GRAHAM PAGE	BRIDGING RECEIVER	GRAHAM.PAGE@PWC.COM
JORDAN WONG	KSV RESTRUCTURING INC – INTERIM RECEIVER AND RECEIVER	JWONG@KSVADVISORY.COM
EMILIE LEBLANC LACASSE	LMS RAIL SERVICES LIMITED	ELEBLANC@SICOTTE.CA
TAMIE DOLNY	VALIANT FINANCIAL SERVICES INC	TDOLNY@AIRDBERLIS.COM

ENDORSEMENT OF JUSTICE CONWAY:

All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Motion Record of the Receiver dated October 20, 2022.

There are two motions before me today. One is brought by the Interim Receiver for approval of its activities from September 17 to 23, 2022 and its fees and those of its counsel for the interim receivership period. The motion is unopposed. I am satisfied that the relief should be granted and have signed the draft order. This order is effective from today's date and is enforceable without the need for entry and filing.

The second is the Receiver's motion for various relief including approval of the Transaction (auction services) and ASA, vesting all rights in the purchasers under the auction process, authorizing the Receiver to sell certain vehicles leased to Allied by Danella, LMS and Setay, authorizing the Receiver to return certain leased assets to LMS and Setay, sealing the confidential appendices to the Receiver's First Report, and approving the activities of the Receiver from September 23 to October 19, 2022.

I reviewed the requested relief with counsel. I am satisfied that the ASA and the Transaction should be approved as they meet the *Soundair* test and are the best opportunity to maximize the value for Allied's stakeholders.

Mr. Burr reviewed in detail the relief sought with respect to leased equipment from various lessors to Allied and the proposed return or sale of that equipment by the Receiver, as well as the applicable provisions of the *Personal Property Security Act* R.S.O. 1990, CHAPTER P.10.

Certain lessors have perfected their security interests and the Receiver will either return their leased equipment or sell it following a buyout or receipt of consent from those lessors. Specifically, counsel for the Receiver and Caterpillar Financial Services Limited, Valiant Financial Services Inc., Meridian OneCap Credit Corp. and Vault Credit Corporation have agreed as follows:

Schedule A to the Approval Order includes equipment and vehicles leased by the Debtor that are subject to security interests of the lessors Caterpillar Financial Services Limited, Valiant Financial Services Inc., Meridian OneCap Credit Corp. and Vault Credit Corporation (the "**Perfected Lessors**"). The Receiver has advised the Court in its materials and in oral submissions that the assets leased by the Perfected Lessors to the Debtor are subject to buy-out negotiations between the Receiver and the applicable Perfected Lessor. The Receiver has further advised that it has included these units leased by the Perfected Lessors in Schedule A of the Approval Order so that if a buy-out is achieved, the Receiver will have the benefit of the vesting language in a subsequent sale, and that if a buy-out is not consummated, the Receiver will return the applicable units to the applicable Perfected Lessor.

Accordingly, notwithstanding that the equipment and vehicles leased to the Debtor by the Perfected Lessors are included in Schedule A to the Order, the Receiver is not authorized to, and shall not, sell any asset leased by a Perfected Lessor unless: (i) the Receiver has consummated an agreed buy-out of such asset with the Perfected Lessor; or (ii) the Perfected Lessor consents. The Receiver has agreed to this.

The Receiver has identified issues with respect to certain pieces of leased equipment from Danella, Setay and LMS. Those lessors do not oppose the sale of the equipment by the Receiver now. However, the Receiver has agreed with counsel for Danella and LMS that the proceeds will be segregated and any issues of priority over those proceeds will be argued on a future distribution motion (Ms. Fulop for Danella had originally attended to oppose the sale but subsequently advised the court that Danella would not oppose the sale and would raise any issues on a distribution motion). Further, any issues regarding the priority of the LMS Secured Creditors to those funds will be determined at a future distribution motion.

The Receiver seeks authorization to return the VIN Registered Setay Units to Setay. No one opposes that relief – in particular, Allied's senior secured creditor Bridging Finance does not oppose. The Receiver also seeks to return the Short Term LMS Units as the term is less than one year and Allied has had possession of these units for less than one year.

All of this is reflected in the draft order and I am satisfied that the relief should be granted.

The order contains a sealing order for the Confidential Appendices to the First Report. The redactions relate to sensitive commercial information and are required to protect the interests of the stakeholders pending the sale of the assets. The sealing order will only remain in effect until the later of the end of the auction period or the sale of all the assets to the purchasers, subject to further court order. I am satisfied that the sealing order meets the *Sierra Club/Sherman Estates* test and should be granted. Counsel for the Receiver shall file an unredacted hard copy of the Confidential Appendices with the Commercial List office, together with a copy of the order and this endorsement.

I am approving the Receiver's activities in the First Report.

I have signed the Order (Approving Auction Services Agreement and Ancillary Matters). Order to go as signed by me and attached to this Endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", with a stylized flourish at the end.