



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-25-00746939-00CL DATE: In Writing

NO. ON LIST: _____

TITLE OF PROCEEDING: NATIONAL BANK OF CANADA v. AXIOM REAL-TIME METRICS INC.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Jennifer Stam	Applicant	jennifer.stam@nortonrosefulbright.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Jeffrey Levine	Axiom Real-Time	Jeffrey.levine@mcmillan.ca
Alec Hoy	PwC in CV-24-00731538-00CL	ahoy@cassels.com
Leanne Williams	Business Development Bank	lwilliams@tgf.ca
Robert Trifts	Gianni Di Iorio	ronaldflom@gmail.com
Tamara Watson	Andrew Schachter	twatson@LN.Law

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
George Benchetrit	Proposed Receiver, KSV Restructuring	george@chaitons.com
David Im	Proposed Receiver, KSV Restructuring	dim@chaitons.com
Stuart Brotway	Sitero Entities, Purchaser	sbrotman@fasken.com

COSTS ENDORSEMENT OF JUSTICE CAVANAGH:

1. The Receiver brought a motion for approval of a sale transaction. The motion was originally returnable on July 11, 2025 and was adjourned to July 15, 2025 pursuant to the endorsement of Kimmel J.
2. The Receiver's motion was opposed by Andrew Schachter. The opposition was on the basis that Mr. Schachter had found an alternative transaction for the purchase of assets that was superior to the transaction recommended by the Receiver. Mr. Schachter also took the position that he had been excluded from participating in the sale process.
3. The Receiver's motion was granted. Mr. Schachter had promised that amounts would be wired to his lawyers for a deposit and for initial operating costs. These amounts were not received by the law firm. I held that in the absence of these payments in trust, there was no assurance that the proposed purchaser under the alternative transaction would be able to fund the operations of the Company until closing or complete the transaction, and that this was fatal to Mr. Schachter's opposition to the Receiver's motion.
4. The Receiver was successful on the motion. The Applicant, National Bank of Canada ("NBC"), supported the Receiver's motion.
5. The Receiver seeks costs of its motion from Mr. Schachter on a full indemnity scale in connection with Mr. Schachter's opposition in the amount of \$25,775.30 (including HST).
6. The Receiver also seeks an order that Mr. Schachter pay the Receiver's expenses for time and disbursement in the amount of \$43,629.30 (including HST).
7. NBC seeks costs of the Receiver's motion from Mr. Schachter on a full indemnity scale in connection with his opposition to the Receiver's motion in the amount of \$14,391.68 (including HST).
8. Mr. Schachter opposes the Receiver's and NBC's requests for costs. He submits that his opposition to the Receiver's motion was not made in bad faith and it did not constitute improper interference with the sales process. He submits that in the circumstances of the transaction recommended by the Receiver, where approval was sought on a very short time frame because of the Company's cash situation, it was not unreasonable for him to present the alternative transaction and seek a brief time for consideration of it. This was allowed by Kimmel J. when she granted the short adjournment, the terms of which he complied with. Mr. Schachter submits that even though he was unable to secure payment of the cash amounts before the July 15, 2025 hearing, he should not be faulted for this in the circumstances.
9. Mr. Schachter submits that NBC is not entitled to costs.
10. In the circumstances of the Receiver's motion, I do not consider Mr. Schachter's opposition to it so that the alternative transaction could be considered to qualify as conduct that rises to the level of reprehensible or other egregious conduct justifying an award of costs on an elevated scale.
11. The Receiver was successful on its motion and Mr. Schachter was unsuccessful in opposing it. The Receiver is entitled to costs on a partial indemnity scale for the additional costs it incurred as a result of the opposition of Mr. Schachter to the Receiver's motion.
12. I exercise my discretion to decline to make an order requiring Mr. Schachter to pay the Receiver's own costs in circumstances where Mr. Schachter unsuccessfully opposed the motion. I do not find that he acted in bad faith for an improper purpose.
13. I decline to make an order requiring Mr. Schachter to pay costs of NBC.

14. The Receiver has submitted a costs outline for these costs which shows that the additional costs attributable to Mr. Schachter's opposition, on a partial indemnity scale, are \$15,465.18 (including HST). I accept that this amount is fair and reasonable and falls within a range of costs that Mr. Schachter would reasonably expect to pay if his opposition to the Receiver's motion was unsuccessful.
15. I fix costs of the Receiver's motion, for costs attributable to Mr. Schachter's opposition, on a partial indemnity scale in the amount of \$15,465.18 to be paid by Mr. Schachter within 30 days.

September 12, 2025
