

Endorsement of Madam Justice Gilmore dated December 15, 2020

From: Gilmore, Madam Justice Cory (SCJ)

Sent: December 15, 2020 1:49 PM

To: Irving, Shawn <SIrving@osler.com>; Sandler, Tracy <TSandler@osler.com>; Malik, Waleed <WMalik@osler.com>; Jordan Wong <Jwong@ksvadvisory.com>; Bobby Kofman <bkofman@ksvadvisory.com>; S. Fay Sulley <fsulley@torkinmanes.com>

Cc:

Subject: New Skies Satellites B.V. v. Juch-Tech Inc. - Court File No. CV-20-00652759-00CL

Counsel: see my Endorsement below.

Endorsement of Gilmore, J.

This matter came before me on December 9, 2020 as a confidential Receivership Application. I granted an Order which gave the Receiver limited powers. As a result of allegations by the Receiver with respect to the lack of cooperation by the Debtor, the Receiver has brought a further motion returnable today seeking an expansion of its powers.

The Receiver submits they are not seeking extraordinary relief given the lack of engagement by the Debtor over the last 12 months and since the Appointment Order was made. Further, there are concerns that the Debtor has removed assets and collateral from the property and commingled certain other assets. There also bins and trailers that are padlocked to which the Receiver has not been able to gain access. The Receiver alleges that the response from the Debtor has been aggressive and unhelpful with respect to the Receiver carrying out the terms of the December 9, 2020 Order.

Ms. Sulley has been retained by the related parties and Mr. Juchniewicz. While she does not object to the Receivership, she objects to the manner in which the receivership has been carried out. She denies the Receiver's allegations and seeks an adjournment to respond.

Fortunately, despite the differences of the parties in terms of events since the making of the Appointment Order, Ms. Sulley acknowledged a willingness to cooperate and indicated that books and records of the Debtor can be put together and delivered by December 31, 2020.

Ms. Sulley's client should have a brief opportunity to respond, however, I am hopeful given Ms. Sulley's submissions today that an agreement can be worked out between now and Friday with respect to the Debtor's overall cooperation, otherwise the motion will proceed.

Given all of the above, I make the following order:

1. The matter will return before me on December 18, 2020 at 2:00 p.m. for one hour.
2. Ms. Sulley may file her responding material by 10:00 a.m. on December 17, 2020.
3. The status quo shall be preserved and any assets or collateral removed from the property on or after December 9, 2020 shall be forthwith returned.
4. The Receiver to ensure that the property remains accessible so long as assets or collateral are not being removed.
5. Ms. Sulley to forthwith provide a written proposal regarding delivery of books and records of the Debtor.

I see that Mr. Malik has already delivered a Zoom invite for Friday with the Receiver's motion materials. Ms. Sulley to upload her materials to the sync.com link if the matter is not otherwise resolved.

December 15, 2020

A handwritten signature in blue ink, appearing to read "C. Gilmore J.", is written over a light blue rectangular highlight.

Madam Justice Cory A. Gilmore
Ontario Superior Court of Justice
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