



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-25-00745576-00CL

DATE: May 21, 2026

NO. ON LIST: 3

TITLE OF PROCEEDING: BANK OF MONTREAL v. ADRIEL ORTINO CORP et al

BEFORE: JUSTICE CAVANAGH

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**PARTICIPANT INFORMATION**

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**ENDORSEMENT OF JUSTICE CAVANAGH:**

[1] The applicant, Bank of Montreal (“BMO”), brings this application for an Order appointing KSV Restructuring Inc. (“KSV”) as receiver and manager (in such capacity, the “Receiver”), without security, of all of the property, assets and undertakings (collectively, the “Property”) of Adriel Ortino Corp. (“Adriel”), ADD Equipment Corp. (“ADD Equipment”), Aden Disposal Corp. (“Aden”), AE3 Excavating Corp. (“AE3”), AEON Landscaping Corp. (“AEON”), All Seasons Gardening & Maintenance Ltd. (“All Seasons”), Anthony’s Excavating and Grading Ltd (“Anthony’s”), HC & C Contracting Inc. (“HC & C”) and Shilson Excavation & Trucking Inc. (“Shilson”, and together with Adriel, ADD Equipment, Aden, AE3, AEON, All Seasons, Anthony’s and HC&C, the (“Borrowers”) pursuant to section 243 of the *Bankruptcy and Insolvency Act* (Canada)<sup>1</sup> (the “BIA”) and section 101 of the *Courts of Justice Act* (Ontario), and related relief.

[2] Although service of the application materials was made on the respondents (by email to their principal, Adriel Ortino) fewer than 10 days before this hearing date, no one appeared to oppose the relief sought or to request an adjournment. In the circumstances, I grant the requested order to abridge the time for service and to validate service.

### **Factual Background**

[3] The facts with respect to this Application are set out in the Affidavit of Michaela Wolf sworn May 16, 2026 (the “Wolf Affidavit”). Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Wolf Affidavit. The following facts are based on the affidavit evidence in the Wolf Affidavit.

[4] The Borrowers historically operated a landscaping, excavation and grading business through various private and closely held corporations. Operations are now largely inactive and the Borrowers are no longer booking new business.

[5] BMO has extended joint and several credit facilities (collectively, the “Loans”) to the Borrowers under the terms and subject to the conditions of the Term Sheet.

[6] As of May 12, 2026, BMO was owed approximately \$18,498,786.30 in respect of the Demand Facilities (the amount owing from time to time by the Borrowers to BMO, the “Indebtedness”).

[7] As security for the Indebtedness and liability owing to BMO pursuant to the Term Sheet, among other things, the Borrowers provided BMO with general security agreement(s) in respect of all of the personal property of each of the Borrowers (collectively, the “GSAs”).

[8] BMO has registered its security interest over all of the personal property of the Borrowers pursuant to the Personal Property Security Act (Ontario) (the “PPSA”). Several other secured creditors have also registered their security interest (including PMSIs) against certain of the Borrowers. Certain of these registrations pre-date BMO’s PPSA registration, and relate to, among other things, the servicing, leasing or financing of specific equipment or motor vehicles.

[9] Around October 2023, all of the Former Bookkeepers of the Borrowers abruptly left en-mass. The Borrowers subsequently came to believe that their Former Bookkeepers had been misappropriating significant contract revenues through misleading bookkeeping practices and the use of fake invoices. At the same time, Unbilled Receivables were not invoiced nor collected, and the Borrowers were overcharged for amounts properly due to certain contractors, suppliers or other third parties providing services to the Borrowers.

[10] Through the latter half of 2024, the Borrowers breached certain reporting requirements under the Term Sheet. BMO refrained from making demand on the Loans at this time in order to provide the Borrowers with the breathing room required to determine the financial impact of the Alleged Misappropriation Scheme, notwithstanding that it had become clear that the Borrowers’ “borrowing base” had been significantly overstated,

and that BMO's collateral was not sufficient to secure its indebtedness. By December of 2024, the Borrowers had gone into overdraft of certain Loans. These overdrafts were also tolerated by BMO in the circumstances.

[11] In January 2025, the Borrowers once again breached the Term Sheet by exceeding the maximum total funded debt to EBITA ratio thereunder. As a result of this breach, BMO delivered a notice of covenant breach and reservation of rights letter to the Borrowers.

[12] In February 2025, BMO received the first of a number of garnishment notices and requirements to pay in respect of certain Borrowers issued by the CRA and other third-party creditors.

[13] By May 2025, and against the background of BMO continuing to remain patient and sympathetic to the Borrowers' circumstances, the Borrowers once again breached the Term Sheet for failing to deliver requisite financial reporting (audited annual consolidated financial statements, quarterly financial statements and a monthly borrowing base certificate) thereunder (collectively, the "May Breaches").

[14] BMO subsequently sent a default letter (the "May Default Letter") to the Borrowers, advising them of the May Breaches and that BMO had retained KSV as the bank's financial advisor for the purposes of monitoring the Borrowers' financial health and assessing the value of BMO's security. The May Default Letter additionally required the Borrowers to provide BMO with copies of all outstanding financial reporting required under the Term Sheet (the "May Financial Reporting Requirements"), together with current reporting on accounts receivable, accounts payable, holdbacks and a summary of all outstanding HST, GST and source deductions owing to the CRA. Ultimately, the Borrowers failed to address the May Financial Reporting Requirements on a timely basis.

[15] On May 22, 2025, BMO issued a demand letter to each of the Borrowers (the "Demand Letter") demanding repayment of the Indebtedness due and owing to BMO by no later than June 2, 2025. The Demand Letters enclosed notice(s) of intention to enforce security (collectively, the "NITES") for each of the Borrowers, delivered in accordance with the BIA.

[16] BMO commenced this Receivership Application on June 17, 2025. Prior to the original return date for that Application, BMO considered whether an acceptable forbearance agreement could be negotiated with the Borrowers.

[17] On September 4, 2025, BMO and the Borrowers entered into a forbearance agreement, pursuant to which the Receivership Application was adjourned (the "First Forbearance Agreement").

[18] Upon the expiration of the forbearance period under the First Forbearance Agreement, BMO and the Borrowers entered into a second forbearance agreement on February 2, 2026 (the "Second Forbearance Agreement"), pursuant to which BMO agreed to forbear from enforcing until May 31, 2026. The Second Forbearance Agreement was intended to provide the Borrowers with time to, among other things, market and sell the Equipment. Ultimately, little progress was made in this regard.

[19] On April 30, 2026, BMO notified Mr. Ortino of a Liquidity Shortfall in the amount of \$60,000. The Family did not advance funds sufficient to address this Liquidity Shortfall within 5 business days, as required under the terms of the Second Forbearance Agreement. The failure of the Borrowers to address this Liquidity Shortfall constituted a terminating event under the Second Forbearance Agreement. As a result, on April 8, 2026, BMO advised the Borrowers that the Second Forbearance Agreement had been terminated by its terms.

[20] The Equipment represents an important source of recovery for BMO and the Borrowers other secured creditors.

[21] In order to limit BMO's loss as much as possible, the Receiver intends to immediately move forward with marketing the Equipment for sale. It is anticipated that expressions of interest may be received by the Receiver

for individual pieces of equipment. BMO is not seeking authorization for the Receiver to make an en bloc sale of the Equipment to a third party at this time. Should the Receiver determine that such a sale will maximize recoveries, the Receiver will seek Court-approval for such a transaction.

[22] The proposed appointment order contemplates providing the Receiver with the power to enter into individual transactions for specific pieces of Equipment without further Court order, and, provided that such sale is an Eligible Transaction, to vest out liens and encumbrances upon the Receiver delivery a Sale Certificate to the applicable Purchaser.

### **Analysis**

[23] I am satisfied that it is just and convenient for a receiver to be appointed for the following reasons:

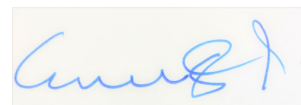
- a. the Borrowers have breached the Term Sheet. Demand has been made and the Borrowers have failed to repay the Indebtedness. Just under one year has passed since demand was made;
- b. the Borrowers have ceased all meaningful operations and are no longer booking new business. Efforts made by the Borrowers to pay down the Bank in a material way have been largely unsuccessful. The appointment of the Receiver at this time, will allow the Receiver to immediately market the Borrowers' assets, property and undertakings with a view to maximizing recovery in an efficient and expeditious manner;
- c. BMO's credit documents specifically provide BMO with the right to seek the appointment of the Receiver, and
- d. despite facing a material shortfall, BMO has provided the Borrowers with significant time and accommodations to deal with the financial impact of the Alleged Misappropriation Scheme and to attempt to paydown BMO's Indebtedness. At this point however, BMO has lost confidence in the Borrowers ability to do so. In the circumstances, the balance of convenience favours BMO being entitled to realize on its collateral through a court-appointed receivership.

[24] I am satisfied that, in the circumstances, the framework for the Receiver to complete modest-value sales efficiently, subject to the safeguards set out in the proposed form of order, is appropriate. I am satisfied that the proposed vesting mechanism in the proposed appointment order is appropriate in the circumstances. Requiring the Receiver to bring multiple motions to Court for separate approval and vesting order(s) for each individual sale would impose significant costs and delay that is disproportionate to the anticipated value of individual Eligible Transactions.

[25] The proposed appointment order preserves the relative priorities of all security interests and other claims to the Equipment as part of the proposed vesting structure. The net proceeds from each Eligible Transaction will stand in the place and stead of the Equipment being sold, and all security interests, liens and claims will attach to those proceeds with the same priority as they had against the purchased Equipment immediately prior to the sale. As a further safeguard to creditor interests, the proposed Appointment Order requires that if the Receiver is selling a piece of Equipment subject to a potential PMSI claim, it must obtain the consent of the potential PMSI holder.

### **Disposition**

[26] Order to issue in form of Order signed by me today.



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