



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00742000-00CL

DATE: February 18, 2026

NO. ON LIST: 2

TITLE OF PROCEEDING: BANK OF MONTREAL v. CHEEMA CARRIERS CORP. et al
BEFORE: JUSTICE J. DIETRICH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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Birpal Benipal	CSL to Daimler Truck Financial Services Canada Corporation	birpal@benipallaw.ca

ENDORSEMENT OF JUSTICE JANE O. DIETRICH:

[1] Bank of Montreal (the “**Bank**”) seeks an order appointing Goldhar & Associates Ltd. (“**Goldhar**”) as receiver and manager over all of the assets, properties and undertakings of the Debtors, Cheema Carriers Corp. and 1000083465 Ontario Inc., including a commercial real property located at 860 Progress Court, Oakville,

Ontario (the “**Real Property**”). The Bank seeks this appointment under section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Ontario Courts of Justice Act*.

[2] This application first came before me on May 14, 2025. At that time, the matter was opposed and I set a schedule which included a hearing on June 16, 2025. On June 16, 2025, the parties agreed to adjourn the matter until October 3, 2025, on terms set out in my endorsement of June 16, 2025. Those terms included that if the Bank had not been repaid by October 1, 2025, that the Debtors consented to the form of order sought – with the caveat that the Debtors may object to Goldhar as the proposed receiver. If the Debtors objected to Goldhar, the Bank could propose an alternative licensed insolvency trustee, and the Debtors consented to that alternative receiver.

[3] When the parties attended on October 3, 2025, they agreed to further adjourn the receivership application on terms of a revised consent order which terms included that the a sale of the Real Property (the “**Transaction**”) was to close and payment of the proceeds of the Transaction in an amount of at least \$10 million were to be received by the Bank by December 1, 2025. Further, the Debtors agreed that if the Transaction was terminated or if any of the Bank did not receive the funds in accordance with the specified timelines, they consented to the appointment of Goldhar on the terms set out in the Consent Order.

[4] The parties then attended before me again on December 3, 2025, at which time, the matter was again adjourned on consent, until today. The terms of that consent adjournment contemplated the closing the Transaction and provided that if the Bank had not been repaid proceeds from the Transaction of at least \$10 million by February 16, 2026, the Debtors consented to the appointment of Goldhar on the terms set out in the Consent Order.

[5] Despite the further time provided to the Debtors, February 16, 2026 has passed and the Bank has not received the contemplated funds. Counsel for the Debtors confirmed the Transaction has terminated. Accordingly, the matter proceeded on consent of the Debtors before me.

[6] Defined terms not otherwise defined herein have the meaning provided to them in the Factum of the Bank filed on this application.

Background

Debtors

[7] The Debtors—Cheema and 465 Ontario—operate a trucking, transport and logistics business headquartered in the Greater Toronto Area. Their business focuses primarily on the transport of temperature-controlled freight and produce across routes that include the east and west coasts of the U.S. and Texas. Both of the Debtors are incorporated under the laws of Ontario.

The Loans and Security

[8] The Debtors owe the Bank over \$10.5 million under four credit facilities (the “**Indebtedness**”). The Bank advanced three of those facilities to Cheema (collectively, the “**Cheema Facilities**”) and the remaining facility to 465 Ontario (the “**465 Ontario Facility**”). The Debtors have both guaranteed each other’s obligations.

[9] Among other things, as security for its obligations, Cheema executed a security agreement dated January 31, 2022. The 465 Ontario Facility is a mortgage-backed facility, whereunder the Bank advanced \$9.2 million to 465 Ontario to purchase the Real Property. Among other things, as security for the 465 Ontario Facility, the Bank registered a \$10,050,000 charge against the Real Property on February 1, 2022 and was granted a general security agreement dated January 27, 2022.

Default

[10] The Debtors were required to deliver their combined financial statements for the year ended December 31, 2023 to the Applicant by June 30, 2024. They did not do so until September 2024. At that time, the Bank discovered that, for the period ending December 31, 2023, the Debtors breached certain financial covenants.

[11] As a result of the financial covenant defaults, on November 1, 2024, the Bank provided notice to the Debtors that repayment was required by January 31, 2025. The Bank subsequently extended the repayment deadline to February 28, 2025 and ultimately to March 31, 2025. Repayment was not received.

[12] On April 17, 2025, in response to the Payment Defaults, the Bank delivered demand letters and notices of intention to enforce security under section 244 of the BIA.

[13] Both GSAs and the Standard Charge Terms incorporated into the Charge on the Real Property provide the Bank with the right, among other things to seek the appointment of a receiver.

[14] Other parties with a PPSA registration were served in May of 2025. Counsel for PNC Equipment Finance and Daimler Truck Financial Services Canada Corporation attended today to observe, but did not take any position on the relief sought.

[15] As noted above, on June 16, 2025, October 3, 2025, and December 3, 2025 the parties agreed to adjourn the matter to provide the Debtors time to sell the Real Property and repay the Bank, however, it was agreed that if the Bank did not receive proceeds of at least \$10 million by February 16, 2026, the Debtors consented to the relief sought by the Bank.

Issue

[16] The only issue to be determined today, is whether it is just or convenient to appoint a receiver over the assets, properties and undertakings of the Debtors.

Analysis

[17] The test for the appointment of a receiver under s. 243 of the BIA or s. 101 of the CJA is whether it is just or convenient.

[18] In determining whether it is just or convenient to appoint a receiver the court must have regard to all of the circumstances of the case particularly the nature of the property and the rights and interests of all parties in relation to the property: see *Bank of Nova Scotia v Freure Village of Clair Creek*, [1996] OJ No 5088 at para 10. While the appointment of a receiver is generally an extraordinary equitable remedy, where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: see *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 7101 at para. 27

[19] As summarized by Justice Osborne, as he then was, in *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, 2022 ONSC 6186 at para 25, a number of factors have historically been taken into account in the determination of whether it is appropriate to appoint a receiver. The factors are not a checklist, but rather a collection of considerations to be viewed holistically, they include:

- a. whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- c. the nature of the property;
- d. the apprehended or actual waste of the debtor's assets;

- e. the preservation and protection of the property pending judicial resolution;
- f. the balance of convenience to the parties;
- g. the fact that the creditor has a right to appointment under the loan documentation;
- h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- i. the principle that the appointment of a receiver should be granted cautiously;
- j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- k. the effect of the order upon the parties;
- l. the conduct of the parties;
- m. the length of time that a receiver may be in place;
- n. the cost to the parties;
- o. the likelihood of maximizing return to the parties; and
- p. the goal of facilitating the duties of the receiver.

[20] In this case, it is just and convenient to appoint a receiver.

[21] The Debtors owe in excess of \$10.5 million to the Bank.

[22] The Bank has not moved precipitously. Over a year has passed since the Bank notified the Debtors that they were in default of their obligations. The Bank extended the deadline for repayment multiple times, including most recently to February 16, 2026, failing which the Debtors agreed that they consented to the relief sought by the Bank.

[23] The Bank's security documents provide for the appointment of a receiver.

[24] The value of the Debtors' business derives largely from trucks and transportation equipment that could be in a dozen or more jurisdictions at any particular time—including jurisdictions across the United States. A receivership is necessary to preserve the value of these highly mobile assets.

[25] Goldhar is qualified to act as receiver and has consented to do so.

[26] The terms of the proposed receivership order, as modified during the hearing today are appropriate and consistent with the Model Order of the Commercial List.

[27] Accordingly, I grant the receivership order in the form signed by me today.

Disposition

[28] Order to go in the forms signed by me this day.



Date: February 18, 2026

Justice J. Dietrich