

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

CHEEMA CARRIERS CORP. AND 1000083465 ONTARIO INC.

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43,
AS AMENDED**

**REPLY RECORD
(Application for Receivership Order,
returnable June 16, 2025)**

June 3, 2025

Torys LLP
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, ON M5K 1N2

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Lawyers for Bank of Montreal, the Applicant

To: The Service List

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TAB1

**ONTARIO
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AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE
ACT*, R.S.O. 1990, C. C.43, AS AMENDED**

**REPLY AFFIDAVIT OF LEO CHUN
(sworn June 3, 2025)**

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Lawyers for Bank of Montreal, the Applicant

I, Leo Chun, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I swear this reply affidavit in support of the receivership application of Bank of Montreal (the “**Applicant**”), described more fully in the affidavit that I previously swore in this proceeding on April 28, 2025. Unless otherwise indicated, capitalized terms used in this reply affidavit and not otherwise defined shall have the meanings given to them in my April 28 affidavit.

A. The Debtors’ APS is a Further Default

2. On May 21, 2025, the Applicant’s counsel delivered a letter to the Debtors (the “**May 21 Letter**”), a copy of which is attached hereto at **Exhibit “A”**. To date, the Applicant has not received a response from the Debtors to the May 21 Letter, including in respect of the Applicant’s requests for information provided therein.

3. Importantly, the May 21 Letter reminded the Debtors that it is an event of default under the Loan and Security Documents for them to enter into any agreement of purchase and sale in respect of the Real Property without first consulting with the Applicant and obtaining the Applicant’s consent to such sale. Specifically, the May 21 Letter provided that:

we write to remind you that pursuant to section I.(12) of the Charge Terms, 465 Ontario will be in default of the Charge Terms, along with the Cheema GSA, the 465 Ontario GSA, the Cheema Credit Agreement, the 465 Ontario Credit Agreement and certain other Security Documents if 465 Ontario sells, transfers or disposes of the Real Property or part thereof or any interest therein unless the Lender has approved in writing such sale, transfer or other disposition. This means that 465 Ontario is not permitted to complete any transaction without first obtaining the consent of the Lender, so any agreement(s) in respect of same should be provided to the Lender as soon as possible.

4. The Applicant is now in receipt of the affidavit of Faraz Elahi sworn May 30, 2025 (the “**Elahi Affidavit**”). As indicated in the Elahi Affidavit, the Debtors entered into a binding agreement of purchase and sale for the Real Property on May 23, 2025 (the “**APS**”).

5. The Applicant only found out about the APS after it had been signed. The Debtors did not seek the Applicant’s consent to the APS, nor did they consult with the Applicant in respect of the APS or any of the terms thereof. Accordingly, the Debtors’ entry into the APS resulted in a default under the Charge Terms, along with defaults under the Cheema GSA, the 465 Ontario GSA, the Cheema Credit Agreement, the 465 Ontario Credit Agreement and certain other Loan and Security Documents.

6. On June 2, 2025, the Applicant’s counsel delivered a further letter to the Debtors (the “**June 2 Letter**”), whereby the Applicant notified the Debtors that their entry into the APS without the Applicant’s consent and their failure to respond to the Applicant’s requests for information constitute defaults under the applicable Loan and Security Documents. A copy of the June 2 Letter is attached as **Exhibit “B”**.

7. The Applicant has numerous serious concerns about the terms of the APS, including, among other things, that: (i) the APS does not close for approximately 8 months; (ii) the APS is highly conditional for 60 business days (i.e., until around August 18, 2025); (iii) the APS provides that “the Buyer may close this transaction by way of a Share Purchase Transaction, pursuant to which there shall be no assumption of debts, liens or otherwise by the Buyer unless otherwise agreed to in writing”; (iv) the purchase price of \$10 million appears to be at least \$1.5 million, or approximately 13%, lower than the value of the Real Property determined by the Debtors’ own appraiser; (v) the APS appears to be conditional on confirmation that the Real Property is zoned

for “for the purpose of medical offices”, which would constitute a significant departure from its current use; and (vi) there is no evidence as to the Debtors’ ability to satisfy the conditions precedent to the APS, nor as to the Buyer’s ability to consummate the transaction.

B. Financial Calculations

8. In my April 28 affidavit, I described how the Debtors’ Debt Service Coverage Ratio (as defined in both the Cheema Credit Agreement and the 465 Ontario Credit Agreement) and ratio of Total Funded Debt to EBITDA (each as defined in both the Cheema Credit Agreement and the 465 Ontario Credit Agreement) resulted in the Financial Covenant Defaults under certain Loan and Security Documents. A copy of the Applicant’s calculations of both of those financial ratios that the Applicant used in making the determination that the Financial Covenant Defaults had occurred is attached as **Exhibit “C”**.

9. Finally, paragraphs 27 to 29 of the Elahi Affidavit describe a meeting between Mr. Elahi and certain of the Applicant’s staff held on or around October 10, 2024. To the extent there was any misunderstanding on the part of Mr. Elahi or the Debtors as to what was discussed in that meeting, the Applicant’s letters to the Debtors dated November 1, 2024, January 31, 2025, March 3, 2025, and April 17, 2025, should have corrected such misunderstanding.

AFFIRMED REMOTELY by Leo Chun at the City of Toronto in the Province of Ontario, before me on April June 3, 2025 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

Leo Chun

MIKE NOEL
(LSO#: 80130F)

This is Exhibit “A” referred to in the Affidavit of Leo Chun sworn by Leo Chun at the City of Toronto, in the Province of Ontario, before me on June 3, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in blue ink, appearing to be "MIKE NOEL", written in a stylized, cursive-like font.

Commissioner for Taking Affidavits (or as may be)

MIKE NOEL

May 21, 2025

VIA COURIER AND EMAIL (faraz@cheemacarriers.com; raghav@rsglaw.ca)

Cheema Carriers Corp.
2423 Anson Dr.,
Mississauga, Ontario L5S 1G1

1000083465 Ontario Inc.
43-2355 Derry Rd. E.,
Mississauga, Ontario L5S 1V6

RSG Law
6605 Hurontario Street
Suite 400
Mississauga, ON, L5T 0A3

Attention: Messrs. Baseerat Mansoor, Faraz Elahi, Naila Ejaz and Raghav Vig

Dear Sirs/Mesdames:

Re: Amended & Restated Letter of Agreement dated November 7, 2023, by and between Bank of Montreal (the “Lender”), as lender, Cheema Carriers Corp. (“Cheema”), as borrower, and 1000083465 Ontario Inc. (“465 Ontario”, and together with Cheema, the “Borrowers:), Faraz Elahi, Baseerat Mansoor and Maila Ejaz (collectively, the “Personal Guarantors”), as guarantors, Letter of Agreement dated January 14, 2022, by and between the Lender, as lender, 465 Ontario, as borrower, and Cheema and the Personal Guarantors, as guarantors; and the other Security Documents (as such term is defined in Schedule “A” hereto)

***Bank of Montreal v Cheema Carriers Corp. and 1000083465 Ontario Inc.
Court File No. CV-25-00742000-00CL***

We are lawyers for the Lender. We refer to the Security Documents. Capitalized terms used in this letter that are not otherwise defined herein have the meaning given thereto in the Affidavit of Leo Chun sworn April 28, 2025, in the proceeding noted above.

Pursuant to, among other things: (i) section 8 of the Cheema GSA; (ii) section 8 of the 465 Ontario GSA; (iii) the “Reporting Requirements” provisions of the Cheema Credit Agreement; and (iv) section D.(18) of the Charge Terms, the Borrowers are required to furnish the Lender with information concerning, among other things, the Borrowers, their business and/or the Lender’s collateral upon the Lender’s request (each, an “**Information Request**”). Schedule “B” of this letter contains a list of such Information Requests. Please provide responses to these Information

Requests as soon as possible and by no later than May 28, 2025.

We also write to remind you that the endorsement of Dietrich J. dated May 14, 2025 (the "Endorsement"), provided that counsel to the Borrowers confirmed that no out of the ordinary course of business transactions are expected between May 14, 2025, and June 16, 2025, and if that changes, then counsel to the Borrowers agreed, and is directed, to provide advance notice to the Lender in writing of any such transaction(s). It is the Lender's expectation that the Borrowers, and their counsel, will comply with the Endorsement.

Finally, we write to remind you that pursuant to section I.(12) of the Charge Terms, 465 Ontario will be in default of the Charge Terms, along with the Cheema GSA, the 465 Ontario GSA, the Cheema Credit Agreement, the 465 Ontario Credit Agreement and certain other Security Documents if 465 Ontario sells, transfers or disposes of the Real Property or part thereof or any interest therein unless the Lender has approved in writing such sale, transfer or other disposition. This means that 465 Ontario is not permitted to complete any transaction without first obtaining the consent of the Lender, so any agreement(s) in respect of same should be provided to the Lender as soon as possible.

This letter further informs you that the Lender hereby expressly reserve all available rights, remedies and claims in their entirety, any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lender, as the case may be, in accordance with the Security Documents, the Endorsement or at law and in equity.

Yours truly,

Bank of Montreal, by its Lawyers, Torys LLP



By: _____
Name: Adam M. Slavens
Title: Partner

Schedule "A"

Security Documents

- a) Security Agreement dated January 31, 2022, by Cheema in favour of the Lender;
- b) Guarantee for Indebtedness of an Incorporated Company dated November 9, 2023, by 465 Ontario in favour of the Lender;
- c) Assignment of Insurance Monies dated January 31, 2022, by Cheema in favour of the Lender;
- d) Guarantee for Indebtedness of an Incorporated Company dated November 9, 2023, by the Personal Guarantors in favour of the Lender;
- e) Security Agreement dated January 27, 2022, by 465 Ontario in favour of the Lender;
- f) Guarantee for Indebtedness of an Incorporated Company dated January 27, 2022, by Cheema in favour of the Lender;
- g) Assignment of Insurance Monies dated January 27, 2022, by 465 Ontario in favour of the Lender;
- h) Guarantee for Indebtedness of an Incorporated Company dated January 27, 2022, by the Personal Guarantors in favour of the Lender;
- i) Acknowledgement re Standard Charge Terms dated January 31, 2022, by 465 Ontario in favour of the Lender, and the Standard Charge Terms appended thereto;
- j) Mortgage registered on or around February 1, 2022, against the real property legally described by PIN 24848-0050 (LT) and bearing Registration No. HR1863806;
- k) Notice of Assignment of Rents registered on or around February 1, 2022, against the real property legally described by PIN 24848-0050 (LT) and bearing Registration No. HR1863824,

(the foregoing, together with the letter agreements (including amendments and restatements) and all other agreements and security documents related to the foregoing, collectively, the "**Security Documents**")

Schedule “B”

Information Requests

- a) Financial statements for the reporting period ended December 31, 2024, and any interim financial statements for 2025, including, without limitation, lists of accounts receivable and trial balances for the reporting period ended April 30, 2025;
- b) Most recent notices of assessment from CRA, including, without limitation, for HST and source deduction amounts;
- c) Number of employees and independent operators/contractors employed and/or engaged by the Borrowers and any arrears of wages or other amounts owed to such persons or source deduction amounts owed in respect of such persons;
- d) Current location and vehicle identification numbers of trucks owned, leased, financed and/or operated by the Borrowers and confirmation that all such trucks are adequately insured and have their GPS locators enabled; and
- e) Copies of any insurance agreements and other material agreements in respect of the use of the Real Property by the Borrowers or any other persons.

This is Exhibit “B” referred to in the Affidavit of Leo Chun sworn by Leo Chun at the City of Toronto, in the Province of Ontario, before me on June 3, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

MIKE NOEL

June 2, 2025

VIA COURIER AND EMAIL (faraz@cheemacarriers.com; raghav@rsglaw.ca)

Cheema Carriers Corp.
2423 Anson Dr.,
Mississauga, Ontario L5S 1G1

1000083465 Ontario Inc.
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RSG Law
6605 Hurontario Street
Suite 400
Mississauga, ON, L5T 0A3

Attention: Messrs. Baseerat Mansoor, Faraz Elahi, Naila Ejaz and Raghav Vig

Dear Sirs/Mesdames:

Re: Amended & Restated Letter of Agreement dated November 7, 2023, by and between Bank of Montreal (the “Lender”), as lender, Cheema Carriers Corp. (“Cheema”), as borrower, and 1000083465 Ontario Inc. (“465 Ontario”, and together with Cheema, the “Borrowers:), Faraz Elahi, Baseerat Mansoor and Maila Ejaz (collectively, the “Personal Guarantors”), as guarantors, Letter of Agreement dated January 14, 2022, by and between the Lender, as lender, 465 Ontario, as borrower, and Cheema and the Personal Guarantors, as guarantors; and the other Security Documents (as such term is defined in Schedule “A” hereto)

Bank of Montreal v Cheema Carriers Corp. and 1000083465 Ontario Inc.
Court File No. CV-25-00742000-00CL

We are lawyers for the Lender. We refer to the Security Documents.

On May 21, 2025, we wrote to you regarding the Lender’s information requests under the Security Documents (the “**Information Requests**”), the terms of Justice Dietrich’s endorsement dated May 14, 2025, on ordinary course of business transactions (the “**Endorsement**”) and the requirement to obtain the Lender’s consent to any sale, transfer or disposal of the 860 Progress Court, Oakville, property (the “**Real Property**”).

Since that date, you have not provided any substantive responses to the Information Requests and purported to enter into an agreement of purchase and sale in connection with the Real Property in the face of the Endorsement and without the Lender’s consent, which are further defaults under

the Security Documents.

This letter further informs you that the Lender hereby expressly reserve all available rights, remedies and claims in their entirety, any of which may be exercised or otherwise pursued at any time, and from time to time, and without further notice to you, in the sole and absolute discretion of the Lender, as the case may be, in accordance with the Security Documents, the Endorsement or at law and in equity.

Yours truly,

Bank of Montreal, by its Lawyers, Torys LLP

A handwritten signature in black ink, appearing to read 'AS', with a long horizontal line extending to the right from the end of the signature.

By: _____
Name: Adam M. Slavens
Title: Partner

Schedule “A”

Security Documents

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(the foregoing, together with the letter agreements (including amendments and restatements) and all other agreements and security documents related to the foregoing, collectively, the **“Security Documents”**)

This is Exhibit “C” referred to in the Affidavit of Leo Chun sworn by Leo Chun at the City of Toronto, in the Province of Ontario, before me on June 3, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

MIKE NOEL

CHEEMA CARRIERS CORP & 100083465 ONTARIO INC.	
<i>Year End: December 31st</i>	
Quarterly Combined Accountant Prepared F/S	Dec-23
Based on In house financials	
TOTAL FUNDED DEBT / EBITDA	
Net income before taxes	-141,785
Plus: Interest	617,358
Plus: Amortization	1,212,703
Plus: equipment operating lease expenses	141,924
minus Real Estate debt servicing obligations as per definition (P&I:\$46,784.49/mo * 12)	561,414
TOTAL EBITDA	1,268,786
Bank indebtedness;	1,871,153
Bank Long Term Loan (exclude Real Estate Debt from 1000083465 ONTARIO INC. as per definition)	55,793
Plus: Subordinated debt per definition	1,949,470
Plus: Capital Leases	1,560,662
Plus: CPLTD (exclude Real Estate Debt from 1000083465 ONTARIO INC. as per definition)	665,263
Plus: NPV of equipment operating leases	0
Plus: Redemption price of any security which has debt-like attributes (<i>do not include A/P, other short term non-interest bearing liabilities, future income taxes and other hedging obligations</i>)	0
TOTAL FUNDED DEBT	6,102,341
EBITDA (TTM)	1,268,786
TFD/EBITDA ratio	4.81
Covenant ratio: to be maintained not higher than 3x:	3.00
Ratio Met/Breached?	Breached

DEBT SERVICE COVERAGE	
EBITDA (TTM)	1,688,276
Less: Taxes	0
Less: Unfunded CAPEX	0
Total Funds Available	1,688,276
P&I payment for BMO MTG (1000083465 ONTARIO INC.)	561,414
CPLTD For cap lease	625,263
Interest expense - F/S	617,358
Non Discretionary Dividends payment	0
Net Shareholder loan repayment	0
Unfunded capex	0
Total Debt Service Requirements	1,804,035
DSC	0.94
Covenant: 1.15:1	1.15
Met/Breached?	Breached

BANK OF MONTREAL v CHEEMA CARRIERS CORP. AND 1000083465 ONTARIO INC.

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Proceeding commenced at TORONTO

**REPLY AFFIDAVIT OF LEO CHUN
(sworn June 3, 2025)**

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