



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00710795-00CL DATE: May 02, 2025

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TITLE OF PROCEEDING: CAMERON STEPHENS MORTGAGE CAPITAL LTD.
v 2011836 ONTARIO CORP et al

BEFORE JUSTICE: Steele

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Ryan Shah Jeff Larry	Applicant-Receiver- Albert Gelman Inc	ryan.shah@paliareroland.com jeff.larry@paliareroland.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Wendy Greenspoon-Soer	Respondent - Cameron Stephens Mortgage Capital Ltd.	wgreenspoon@garfinkle.com
Fanseay Wang	Respondents- 2011836 Ontario Corp. Jefferson Properties Limited Partnership	fwang2025@icloud.com

	1000162801 Ontario Corp. Amercan Corporation 1000199992 Ontario Corp. Duca Financial Services Credit Union Ltd	
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE STEELE:

1. Albert Gelman Inc., the Receiver of 2011836 Ontario Corp. (“201”) and Jefferson Properties Limited Partnership (“JPLP”) (201 and JPLP, collectively, the Debtors), seeks, among other things, an increase to the borrowing limit, a sealing order in respect of the Glynn Report, and approval of the fees, disbursements, and activities of the Receiver and its counsel.
2. Mr. Fansay Wang, a director of the Debtors, opposes the increase to the borrowing limit, among other things.
3. Mr. Wang objects to the Receiver’s management of the Project (defined below). Certain of the decisions objected to by Mr. Wang are *res judicata*. Specifically, the court has already approved the following in prior orders:
 - a. The Receiver’s decision to halt construction in January, 2024;
 - b. The Receiver’s decision to retain a new construction manager; and
 - c. The Receiver obtaining the prior borrowing increase to \$31,500,000.

4. No one else opposed the relief sought.

Background

5. The Receiver was appointed pursuant to the Order of Cavanagh J., dated December 21, 2023 (the “Appointment Order”).
6. When the Receiver was appointed, the Debtors had partially constructed a residential development project (the “Project”) on the Debtors’ real property (the “Real Property”). The Project consists of 96 residential units (60 stacked townhomes and 36 freehold townhomes).
7. On January 24, 2024, the Receiver ceased construction on the Project because of concerns regarding health and safety and construction deficiencies. As set out in the Second Report of the Receiver, these health and safety infractions included:
 - a. The absence of an adequate health and safety program and coinciding documents;
 - b. Lack of site protections, including hoarding and overhead protection;
 - c. Non-compliant general housekeeping: excessive waste debris, including hazards frozen into the ground;
 - d. Absence of personal protective equipment: hard hats, safety shoes, respiratory, eye and ear protection were not used by many workers;
 - e. Inadequate fall protection: unprotected openings, missing guardrails, unsecured and improperly built ramps, exposing workers to falls and severe hazards;
 - f. Extreme build-up of snow and ice across the entire project (inside and outside) making it extremely difficult for workers to navigate and work safely;
 - g. No access for emergency vehicles: snow, ice, improper material storage and debris all impeded access to emergency vehicles; and
 - h. Absence of wash stations and unsanitary washroom facilities.
8. Construction on the Project was resumed in June 2024.
9. On June 18, 2024, the Court granted an order approving the Receiver’s request to disclaim agreements of purchase and sale for the freehold townhomes.
10. On November 5, 2024, Cavanagh J. granted a lien claims process order (the “LCP Order”). This order provides a mechanism for adjudicating certain lien claims. The Receiver has determined that the cost of resolving the lien claims could be \$2,100,000.
11. The Receiver expects the Project to be substantially completed in or around the end of June 2025.
12. The Receiver’s borrowing authority was originally \$7,000,000. It was subsequently increased to \$31,500,000. The Receiver is of the view that it requires \$40,000,000 to complete the Project and therefore seeks a further increase to the borrowing limit.

13. The Receiver retained Glynn Group Incorporated (“Glynn”), a chartered quantity surveyor, as a cost consultant for the Project. The Receiver has at all times maintained a detailed Project budget prepared by Glynn.
14. Glynn’s most recent report dated February 4, 2025 (the “Glynn Report”) sets out the projected costs to complete the Project. The Glynn Report estimates that a total of \$37,804,839 of funding is needed to complete the Project. (The \$40,000,000 borrowing limit sought by the Receiver is required for this amount plus the projected lien claims.)
15. The Receiver states that without the increase it will be unable to fund the projected budget to complete the Project, and pay trades that are found to have valid, post-receivership claims under the LCP Order.

Analysis

Should the Court approve the increase to the Receiver’s borrowing limit to \$40,000,000?

16. Under s. 243(1) of the *Bankruptcy and Insolvency Act* (the “BIA”) the court is authorized to appoint a receiver to “take any action that the court considers advisable.”
17. The Appointment Order provides that the Court may authorize increases to the Receiver’s borrowing limit.
18. The Receiver states that the increase to the borrowing limit is the only way to complete the Project and maximize stakeholder benefit. The Receiver states that the existing borrowing limit is not sufficient to complete the Project and pay the lien claims. As noted by the Receiver, courts routinely increase a receiver’s authorized borrowing limit, where it is necessary to fund work for the benefit of the debtors’ estate: *Royal Bank of Canada v. 2668144 Ontario Inc. et al.*, 2024 ONSC 1680, at paras. 5-7.
19. As noted by the Receiver, the law is clear that Courts are to defer to the reasonable exercise of business judgment by court appointed receivers: *Ravelston Corp. (Re)*, 2005 CanLII 63802, at para. 40. The Court of Appeal stated:

[...] While the specific decision Richter had to make was an unusual one, it was not essentially different from many decisions that receivers must make. Receivers will often have to make difficult business choices that require a careful cost/benefit analysis and the weighing of competing, if not irreconcilable, interest. Those decisions will often involve choosing from among several possible courses of action, none of which may be clearly preferable to the others. Usually, there will be many factors to be identified and weighed by the receiver. Viable arguments will be available in support of different option. The receiver must consider all of the available information, the interests of all legitimate stakeholders, and proceed in an evenhanded manner. That, of course, does not mean that all stakeholders must be equally satisfied with the course of conduct chosen by the receiver. **If the receiver’s decision is within the broad bounds of reasonableness, and if it proceeds fairly, having considered the interests of all stakeholders, the court will support the receiver’s decision.** [...] [emphasis added.]

20. Mr. Wang states that the Receiver demands more borrowing with no explanation or independent verification. Among other things he requests budget disclosure. Mr. Wang has also made proposals to the Receiver, which the Receiver has not adopted.
21. The Receiver has relied on the Glynn Report. As noted by the Receiver, the report is a highly detailed budget based on fixed price trade contracts and a detailed construction schedule. Mr. Wang has not yet viewed the Glynn Report. As noted below, subject to his signing a non-disclosure agreement, he will be permitted to review the report.
22. The Receiver's decision is certainly "within the broad bounds of reasonableness." The Project is near completion and the Receiver, relying on a detailed report prepared by a chartered quantity surveyor, requires additional funding to complete it. It is accretive to the estate for the Project to be completed because the potential realization on a completed project exceeds the value on an as is where is basis. It is to the benefit of all stakeholders that the Project be completed. Funding is necessary in order to do so.
23. I am satisfied that the increase to the borrowing limit should be authorized.

Should the Court approve the activities of the Receiver set out in the Fourth Report, and the professional fees of the Receiver and its counsel?

24. As is commonly done, the Receiver seeks court approval of its Fourth Report and the activities set out therein.
25. The Court has the jurisdiction to review and approve the activities of a court-appointed receiver as set out in the receiver's reports: *Bank of America Canada v. Willann Investments Ltd.*, 1996 CanLII 2782 (ONCA).
26. The Court in *Re Target Canada Co.*, 2015 ONSC 7574, at paras. 22-23, identified several good policy and practical reasons for monitors in CCAA proceedings to routinely seek court approval of their reports and activities. These policy and practical reasons also apply in receivership proceedings where the receiver seeks approval of its report and activities: *Re Hangfen Evergreen Inc.*, 2017 ONSC 7161, at para. 15.
27. As noted above, Mr. Wang takes issue with certain steps taken by the Receiver, including the cessation of construction from January 24, 2024 to June 2024, and the replacement of the construction manager. However, these earlier activities have already received court approval. The Fourth Report covers the Receiver's activities since the Third Report (August 6, 2024).
28. As detailed at paras. 27 to 41 of the Fourth Report, the Receiver has undertaken extensive activities, including the administration of the lien claims process, the ongoing development of the Project, addressing certain Tarion requirements, among other things.
29. I am satisfied that the Receiver's Fourth Report and activities should be approved.
30. The Receiver seeks court approval of its fees and those of its counsel. Fee affidavits have been filed.

31. When considering whether to approve professional accounts, the court will consider the overall value contributed, taking into consideration (a) the nature, extent and value of the assets, (b) the complications encountered, (c) the degree of assistance provided by the debtor, (d) the time spent, (e) the receiver's knowledge, experience and skill, (f) the diligence and thoroughness displayed, (g) the responsibilities assumed, (h) the results of the receiver's efforts, and (i) the cost of comparable services when performed in a prudent and economical manner: *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at paras. 33 and 44-45.
32. The Receiver's professional fees incurred for services rendered from August 1, 2024 to March 31, 2025 are \$984,031.50 plus disbursements. The Receiver's counsel's fees from August 1, 2024 to March 31, 2025 total \$219,271.22 (including taxes and disbursements). The Receiver's real estate counsel's fees from December 31, 2023 to March 31, 2025 total \$205,915.65 plus disbursements and HST.
33. The quantum of the professional fees reflects the extent of the activities that the Receiver has been required to undertake in this proceeding. The Receiver notes the complicated nature of the Project's prospective completion and significant issues with the management of the construction prior to the Receiver's appointment. The Project was taken on by the Receiver mid-development, which added complexity.
34. The fees and disbursements of the Receiver and its counsel were incurred at standard rates. The rates are consistent with those charged by sophisticated insolvency professionals and counsel. I am satisfied that the fees and disbursements are fair, reasonable and justified in the circumstances.

Should the court grant a sealing order in respect of the Confidential Appendices?

35. The Receiver asks for an order sealing the Glynn Report pending the completion of the Project and the sale of all of the Units.
36. At the hearing, Mr. Wang asked to see the Glynn Report. The Receiver indicated that, subject to Mr. Wang signing a non-disclosure agreement, he could see the report. The Receiver noted that it is willing to provide Mr. Wang with the Glynn Report (subject to the NDA) on a disclosure/transparency basis because he is a stakeholder. The Receiver indicated that this was not in connection with Mr. Wang's criticism of the Project.
37. Subsection 137(2) of the *Courts of Justice Act* provides that the Court may order that any document filed in a civil proceeding be treated as confidential, sealed, and not form part of the public record.
38. It is common to temporarily seal commercially sensitive material when assets are to be sold under a court process. Courts have acknowledged that there is a public interest in the "general commercial interest of preserving confidential information" and in maximizing recoveries in an insolvency: *Sherman Estate v. Donovan*, 2021 SCC 25, at para. 41.
39. The requested sealing order is limited in scope and in time. The proposed sealing order balances the open court principle and legitimate commercial requirements for confidentiality in the circumstances. In my view, the benefits of the requested sealing order outweigh the negative impact on the "open court" principle. The Glynn Report contains commercially sensitive information about the Project including the projected market value of the units and the value of the Receiver's contracts with trades

and suppliers. I agree with the Receiver that the disclosure of this report could have a detrimental impact on any future sale process as well as the tendering process for trades. No stakeholder will be materially prejudiced by the requested sealing order, which applies to only a limited amount of information.

40. I am satisfied that the limited nature and scope of the proposed sealing order is appropriate and satisfies the *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, at para. 53, requirements, as modified in *Sherman Estate*, at para. 38.
41. The Receiver is directed to provide the sealed report to the Court clerk at the filing office in an envelope with a copy of this endorsement and the signed order (with the relevant provisions highlighted) so that the confidential report can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.
42. Order attached.



Justice Steele

Date of Release: May 6, 2025