



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-23-00694493-00CL

DATE: July 6th 2023

REGISTRAR: Tiana Khan

NO. ON LIST: 5

TITLE OF PROCEEDING: **BBB CANADA LTD. v SIXTH STREET SPECIALTY LENDING,
INC. et al**

BEFORE JUSTICE: **JUSTICE OSBORNE**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
PAPLAWSKI, EMILY	BBB CANADA LTD.	epaplawski@osler.com
ROSENBLAT, DAVE	BBB CANADA LTD.	drosenblat@osler.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
COBB, EVAN	JP Morgan Chase	evan.cobb@nortonrosefulbright.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
SHAKRA, MIKE	The monitor	shakram@bennettjones.com
HUTCHENS, AL	The monitor	ahutchens@alvarezandmarsal.com

FENNEMA, NATE	The monitor	nfennema@alvarezandmarsal.com
FOSTER, JOSHUA	The monitor	fosterj@bennettjones.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. The Applicant seeks approval of the proposed claims procedure for the solicitation, determination and/or resolution of claims as against the current and former directors of BBB Canada.
2. The Applicant relies upon the Affidavit of Wayne Haddad sworn June 29, 2023 together with exhibits thereto and the Sixth Report of the Court-appointed Monitor dated July 4, 2023. Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Sixth Report unless otherwise indicated.
3. The relief sought today is unopposed, and is supported and recommended by the Monitor as well as the senior secured creditor.
4. The Chief Justice has been case managing this restructuring. On June 22, 2023, this Court granted a stay of proceedings to August 22, 2023 to allow BBB Canada to continue the steps necessary to complete the orderly wind down of Canadian operations for the benefit of all stakeholders.
5. Accordingly, it makes good practical sense that this time to initiate a claims process with respect to directors and officers. The motion materials reflect that the funds available to the estates of the Applicant and BBB LP will not be sufficient to satisfy the claims of the secured creditors of BBB Canada, with the result that there will be no distributions available to unsecured creditors of BBB Canada. It follows that the claims process is limited to the claims or potential claims against the directors and officers of BBB Canada.
6. I am satisfied that the relief sought, and particularly the terms of the draft claims procedure order, are appropriate in the circumstances of this case and should be approved.
7. The proposed D&O Claims Process has been designed by the Applicants in consultation with the Monitor to provide for the potential universe of claims against the directors and officers of BBB Canada to be ascertained, determined and addressed within a structured and orderly process. That process is intended to avoid the requirement for the Applicant to maintain a reserve for potential claims and further to permit the discharge of the Directors' Charge. That in turn would permit distributions to the senior secured creditors of the Applicant.
8. The particulars of the D&O Claims Process are set out in the draft order, the Haddad Affidavit and the Sixth Report. Of import, the claims bar date is proposed to be August 7, 2023.
9. This Court has jurisdiction to make an appropriate order pursuant to section 11 of the CCAA. The Commercial List has on many occasions approved claims processes in CCAA proceedings: *Re Toys "R" Us (Canada) Ltd.*, 2018 ONSC 609 [Commercial List] at para. 8; and *Re Timminco Ltd.*, 2014 ONSC 3393 at para. 40.
10. Claims procedure orders should be flexible and expeditious, fair and reasonable. They should be designed to achieve the remedial objectives of the CCAA and ensure that stakeholders are treated as advantageously and fairly as the circumstances permit: *Re Laurentian University of Sudbury*, 2021 ONSC 3885 at paras. 30 & 32.
11. It follows that the terms of an appropriate claims procedure should be tailored to the particular facts and circumstances of each individual case, in a manner that is consistent with the overall objectives of the CCAA.

12. I am satisfied that the proposed order here does just that, and will provide for the determination of the nature, quantum and validity of D&O Claims in a manner that streamlines the resolution of those claims against the insolvent debtor here - BBB Canada - in the most time sensitive and cost-efficient manner: *Re Canwest Global Communications Corp.*, 2011 ONSC 2215 [Commercial List] at para. 40.
13. For all of these reasons, the proposed claims procedure is approved.
14. Order to go in the form signed by me which is effective immediately and without the necessity of issuing and entering.

O'Brien, J.