



**ONTARIO
SUPERIOR COURT OF JUSTICE**

ENDORSEMENT

COURT FILE NO.: CV-25-00738613-00CL

DATE: September 25, 2025

NO. ON LIST: 5

TITLE OF PROCEEDING: In Re: Hudson's Bay Company *et al*

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

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ENDORSEMENT OF JUSTICE OSBORNE:

1. HBC seeks an Art Auction Process Order approving the proposed Art Collection Auction Procedures, authorizing the Auction Process, and vesting title to the individual Lots in the corresponding Buyers following the Auction.
2. The Service List has been served. The relief sought today is recommended by the Court-appointed Monitor, and is not opposed by any party (the FILO Agent having required certain amendments to the proposed procedure, as described below). The senior secured lenders support the proposed Procedures.
3. Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Ninth Report of the Monitor dated September 22, 2025, unless otherwise stated.
4. I am satisfied that the relief should be granted.
5. The Applicants, together with the Monitor, have maintained not only the general Service List for all stakeholders in this *CCAA* proceeding, but also a specific Art Service List, including those stakeholders who had taken a position or expressed an interest in the disposition of the Art Collection.
6. The proposed Art Auction Procedures were distributed to all of those parties on September 3, 2025 and Interested Parties were invited to provide feedback or make any inquiries. No material feedback has been received from any party. Inquiries from parties on the Art Service List have been answered by the Applicants and/or the Monitor.
7. It is important that the Art Collection Auction be conducted in a fair and orderly manner so as to maximize proceeds from the monetization of these assets, but to do so in an appropriate way, given the unique nature of this proceeding, and those items.
8. It is important to note at the outset what is *not* included in the Art Collection Auction.

9. First, the Royal Charter is not included, and next steps with respect to the Charter will be the subject of a subsequent motion.
10. Second, the vast majority of items from the Company's artifact collection from what is described in the materials as its early history (or "fur trade era") were donated to the Manitoba Museum in 1994, years before this proceeding commenced. Those donated items included items related to or representative of Indigenous cultures. The result is that only a very limited number of Indigenous-origin objects remain in the Art Collection.
11. I also note that the majority of the Company's reference collection (including, for example, documents of historical significance related to its early days) was donated long before the commencement of this proceeding to the Hudson's Bay Company Archives, now part of the Archives of Manitoba.
12. Finally, the Company had, at the time of filing, four war memorials installed in stores across various Canadian cities, together with two additional memorials in storage. Those memorialized the sacrifice of employees who gave their lives in the First World War or Second World War. The Company has been working to identify suitable future homes for those memorials, prioritizing continued public access but striving to ensure that those memorials remain in the local communities where they have been located, and where the individuals whose names are memorialized lived and worked.
13. Discussions are ongoing with Canadian cultural and historical institutions as well as veterans' associations (such as the Royal Canadian Legion) to ensure that these war memorials are respectfully donated and appropriately displayed. I am satisfied that this is also appropriate.
14. The Company has identified 24 artifacts in the Art Collection that are believed to be of Indigenous origin, potentially of Indigenous origin or otherwise uniquely representative of Indigenous culture. Three of those artifacts are currently on long-term loan to museums. To be clear, none of these 24 artifacts will be included in this Art Collection Auction. Instead, the Company is consulting (with the assistance of the Monitor and Reflect) with relevant stakeholders and Indigenous communities to ensure that these artifacts are donated to appropriate custodians.
15. I am very aware of the potential significance of such items, and I am satisfied that the approach noted above represents a fair, respectful and appropriate manner in which to ensure they are transitioned to appropriate custodians.
16. Beyond these artifacts, the Art Collection consists of art (some of which may very well be important and valuable), but which has no particular cultural or historical significance, or at least any greater significance than would attach to any other corporate art collection. Still, given the unique position of HBC in the history of Canada, there is cultural and historical relevance, as well as the need to uphold the public interest, in the disposition of the Art Collection. These objectives must be balanced against the rights of all stakeholders, including creditors.
17. The proposed Art Collection Auction Procedures represent the most appropriate process for disposing of the Art Collection. Many stakeholders have made inquiries of the Applicants and the Monitor. In response, the Applicants and the Monitor engaged in discussions with numerous stakeholders, including Indigenous groups and government bodies, museums, universities, individuals who have expressed an interest in assisting by way of donations the maintenance of the Art Collection (unsolicited) and others.
18. To facilitate a transparent process, the Applicants and Reflect, together with the Auctioneer (Heffel Galleries), compiled a detailed inventory of the Art Collection which was made available to any Interested Party upon execution of a non-disclosure agreement.

19. Prior to finalizing the Art Collection Auction Procedures, the Applicants and Reflect notified the Art Service list that those procedures were being developed and were available for review by Interested Parties. As noted above, no material comments were received.
20. The proposed Procedures outlined the terms for the mechanics of the auction, commissions, and the treatment of expenses and consignment fees. In general terms, those items deemed by the Auctioneer to be best disposed of by way of online auction will be addressed in that manner. Those items of more significant value and/or importance will be disposed of by way of live auction to be conducted this autumn.
21. Heffel Galleries, a Canadian company based in Canada, is well qualified to carry out the role of Auctioneer. It has very extensive experience in both online and live auctions, particularly with respect to Canadian art and artifacts and other art and artifacts of particular importance and/or relevance to Canada and its peoples, including Indigenous peoples.
22. Accordingly, I am satisfied that the proposed Art Auction Process Order should be granted. The proposed Procedures satisfy the factors set out by Morawetz, J. (now Chief Justice) of this Court in *Nortel Networks Corporation, Re*, 2009 CanLII 39492 at paras. 47-48. I am satisfied that:
 - a. a sale is warranted at this time;
 - b. it will be of benefit to the whole economic community;
 - c. none of the creditors have a *bona fide* reason to object (and indeed, none has objected, and the senior secured creditors support the Procedures); and
 - d. there is no better viable alternative.
23. Moreover, while the factors set out in section 36 of the *CCAA* apply directly only to the approval of a sale rather than a sales process, they dovetail with the *Nortel* criteria. Those criteria should be evaluated in light of considerations that may apply in the future, given that a request for approval of a concluded sale under section 36 typically follows.
24. Section 36 of the *CCAA* itself frames the test for court approval in respect of the sale of assets outside the ordinary course of business. The specific factors to be considered are set out in section 36(3). The list of those factors, which is neither mandatory nor exclusive, are satisfied here. As has been noted by many courts, they also correspond generally with the *Soundair Principles*, which are also satisfied here.
25. In my view, the proposed Procedures are the product of the sufficient effort that has been made to establish a procedure to obtain the best price. The interests of all parties have been considered and the process has efficacy and integrity. For these reasons, it is appropriate to authorize now the Procedures that would provide for the vesting in the purchaser of title to any art or artifact in respect of which it was the successful bidder, free and clear of encumbrances without the need to obtain further Court approval in respect of every single item.
26. As requested by the FILO Agent, the Procedures have been revised to ensure that payment of proceeds of sale will be held by the Monitor, they will be paid over by the Auctioneer within 21 days, any decision to rescind a sale for non-payment will involve the Monitor, and any disputes will be determined if necessary by this Court.
27. Detailed listings of the artwork and artifacts included in the Art Collection have been distributed and are available. The specific schedules of items to be included in both the live and online auctions will soon be made publicly available to ensure that any interested party can review in advance of the applicable auction

all of the available items. The Auctioneer will undertake an extensive marketing initiative to ensure maximum exposure of the items available.

28. For all of these reasons, the motion is granted. The Art Collection Auction Order I have signed has immediate effect without the necessity of issuing and entering.

A handwritten signature in green ink, reading "Steven J." with a comma at the end. The signature is written in a cursive style.