



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-722168-00CL

DATE: August 23, 2024

NO. ON LIST: 4

TITLE OF PROCEEDING: COACH USA INC. v. THE ATTORNEY GENERAL OF CANADA ON BEHALF OF HIS MAJESTY THE KING IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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Al Hutchens	Information Officer – Alvarez and Marsal	ahutchens@alvarezandmarsal.com

ENDORSEMENT OF JUSTICE BLACK:

- [1] Coach U.S.A., Inc. (“Coach USA”), brings this motion in its capacity as the foreign representative (in such capacity “Foreign Representative”) of itself and certain of its affiliates (as defined in the materials as the “Chapter 11 Debtors”), in respect of proceedings commenced under Chapter 11 of the *United States Bankruptcy Code* (the “Chapter 11 Cases”).

- [2] This court has previously recognized the Chapter 11 Cases as “Foreign Main Proceedings” within the meaning of Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “CCAA” and the Canadian Debtors’ proceedings thereunder, the “CCAA Proceedings”).

- [3] In this motion, the Foreign Representative seeks an order (the “Sale Recognition and Vesting Order”), among other items:
 - (a) Recognizing and giving full force and effect in Canada to the Sale Order (as defined in the materials) pursuant to which the United States Bankruptcy Court of the District of Delaware (the “U.S. Court”) approved the sale of the Purchased Assets (as defined in the Amended Purchase Agreement), to the Purchaser (as defined in the materials), free and clear of all Liabilities and Encumbrances other than Assumed Liabilities and Encumbrances (again, each as defined in the Amended Purchase Agreement);

 - (b) Approving the sales transactions (the “Sale Transaction”), contemplated by the First Amended Purchase Agreement dated August 13, 2024 (the “Amended Purchase Agreement”), by and among certain identified Chapter 11 Debtors (the “Debtor Sellers”, which includes the Canadian Debtors), including the sale by the Debtor Sellers of the Purchased Assets used in connection with the Business (defined in the Amended Purchase Agreement), carried out in Canada to Newco Canada and Newco Canada’s assumption of the Assumed Liabilities (the “Canadian Assumed Liabilities”);

 - (c) Vesting the Canadian Acquired Assets and Canadian Assumed Liabilities in and to Newco Canada; and,

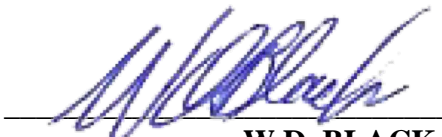
 - (d) Authorizing the Chapter 11 Debtors to take such steps and execute such additional documents as may be necessary or desirable for the completion of the Sale Transaction.

- [4] The Chapter 11 Debtors, including the Canadian Debtors are leading providers of ground passenger transportation services in North American. While the Company operates on an integrated basis, the Canadian Debtors comprise roughly a tenth of the Company’s overall size (as measured, for example, by revenue (9.7%) and overall workforce (13.2%)).

- [5] On June 11, 2024, the Chapter 11 Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under the *United States Bankruptcy Code*.

- [6] Following an initial hearing date of June 13, 2024 in the United States Court, this court made an order the next day recognizing the Chapter 11 Cases as foreign main proceedings, recognizing Coach USA as the Foreign Representative and granting stays of proceedings in favour of the Canadian Debtors. This court also appointed Alvarez & Marsal Canada Inc. as the Information Officer and granting related relief.

- [7] Proceedings ongoing in the U. S. Court were recognized at various junctures by this court and, on August 14, 2024, the U.S. Court approved the Sale Transaction and Amended Purchase Agreement pursuant to the Sale Order attached as Schedule A to the order sought before me.
- [8] The materials disclose that there was a wide-ranging marketing effort undertaken in the U.S., that as a result of that process there were no qualified bids received, and that accordingly, the pre-existing stalking horse bidder became the purchaser.
- [9] It is a requirement under the Amended Purchase Agreement that the Foreign Representative obtain an order of the Canadian Court, among other things, recognizing the Sale Order.
- [10] It is clear that this court has jurisdiction to grant the order sought, having already recognized the Chapter 11 Cases as a foreign main proceeding.
- [11] Provisions of the CCAA, and the central guiding principle of Part IV of the CCAA, comity, dictate cooperation, to the maximum extent possible, with the foreign representative and the foreign court involved in a foreign proceeding.
- [12] Nothing in the record before me suggests any reason, policy-based or otherwise, why this court would depart from this usual stance of cooperation.
- [13] The Recognition and Vesting Order sought is in standard form and appropriate to the circumstances at hand. It meets the requirements of s. 49(1) of the CCAA, as well as the factors established in *Royal Bank v. Soundair Corp.*, 1991 CanLII 2727 (ONCA), as further considered and developed in *Re Digital Domain Media Group Inc., Re*, 2012 BCSC 1567 (in the context of the court recognizing a sale order granted in a U.S. foreign main proceeding).
- [14] Specifically, among other considerations, the sale process appears to have been reasonable and efficient, the interests of all parties were considered, the consideration is fair and reasonable, and has been determined by the U.S. Court to be the highest and best available offer.
- [15] In the circumstances I am prepared to, and hereby grant the Sale Recognition and Vesting Order sought in the form uploaded at tab A68 of Caselines, a signed copy of which is attached.


W.D. BLACK J.

DATE: August 23, 2024