



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00723586-00CL

DATE: March 26, 2026

NO. ON LIST: 3

TITLE OF PROCEEDING: OLD TBS CANADA LIMITED

BEFORE: Justice Steele

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Natalie Levine	Monitor of Old TBS Canada Limited	nlevine@cassels.com
Joshua Nevsky	CCAA Monitor	jnevsky@alvarezandmarsal.com
Alec Hoy	CCAA Monitor	ahoy@cassels.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE STEELE:

- [1] The Monitor seeks an Order authorizing the Monitor to make one or more distributions to CRA up to the amount of the Assessed WHT Payable Amount.
- [2] Capitalized terms used in this endorsement that are not defined herein have the meaning set out in the Monitor's factum.
- [3] No one objects to the proposed Order, despite notice of the motion having been provided to the Service List.

[4] The Court has jurisdiction to approve the proposed distribution to CRA pursuant to s. 11 of the CCAA, which authorizes the Court to “make any order that it considers appropriate in the circumstances.”

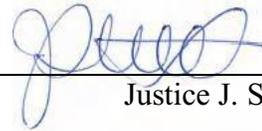
[5] As set out in *First Source Financial Management v. Chacon Strawberry Fields Inc.*, 2024 ONSC 7229, at para. 45, citing *Re AbitibiBowater Inc.*, 2009 QCCS 6461, the court may consider the following factors when determining whether it is appropriate to make an interim distribution:

- (a) Whether the proposed recipient’s security is valid and enforceable;
- (b) Whether the amounts that are owed to the proposed recipient exceed the proposed interim distribution amount; and
- (c) Whether the proposed distribution would result in interest savings.

[6] I am satisfied that the proposed distribution should be approved. The amounts owing to CRA relate to withholding obligations of the Company to CRA in connection with certain pre-filing payments made to the non-resident UK parent. The Assessed WHT Payable Amount is subject to a deemed trust in favour of CRA pursuant to s. 227(4.1) of the *ITA*. As such, it ranks in priority to the Company’s general creditors. The Monitor intends to only pay the assessed amount (not the interest and penalties) at this time, because the deemed trust only extends to the principal amount. Interest and penalties continue to accrue on the amount owing to CRA; accordingly, the Monitor’s proposed payment of the WHT Obligations will minimize the further accrual of interest and penalties on the balance due.

[7] The proposed CRA Distribution Order is attached. The order is effective from today’s date and is enforceable without the need for entry and filing.

Date: Mar 26, 2026



Justice J. Steele