



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-22-00692309-00CL

DATE: **26-SEP-2023**

NO. ON LIST: 5

TITLE OF PROCEEDING: PRICEWATERHOUSECOOPERS INC. IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF BRIDGING FINANCE INC. ET AL v. SKYMARK FINANCE CORPORATION et al.
BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Dylan Chochla (Fasken Martineau DuMoulin LLP)	Counsel for the Receiver	dchochla@fasken.com
Mitch Stephenson (Fasken Martineau DuMoulin LLP)	Counsel for the Receiver	mstephenson@fasken.com
Greg Karpel (Alvarez & Marshal Canada Inc.)	Receiver	gkarpel@alvarezandmarshal.com

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
Sam Babe (Aird and Berlis LLP)	Counsel for the Purchaser	sbabe@airdandberlis.com
Paul Kowalczyk	Investor	sbspaul@gmail.com
Alexander Andruss	Investor	model73c@hotmail.com

ENDORSEMENT OF JUSTICE CONWAY:

- [1] **All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of the Applicant dated September 22, 2023.**
- [2] The Receiver seeks an AVO approving the Sale Transaction for the Consumer Portfolio and the additional relief set out therein. The Receiver also seeks an Ancillary Relief Order approving its Second Report and activities described therein and approving the fees and disbursements of the Receiver and its counsel.
- [3] The motion was unopposed by any of the creditors or other bidders. However, two of the investors in Skymark, Mr. Kowalczyk and Mr. Andruss (the Investors), attended the hearing today and voiced their opposition to the Sale Transaction. Their opposition was based on the fact that they were going to lose their investment in Skymark. They referred to a deal or side agreement that would have seen them recover their investment – that was not before the court today. I explained to the Investors that the issue for me to determine today was whether the Sale Transaction should be approved and whether the legal test for approving the Sale Transaction had been met.
- [4] I am satisfied that the *Soundair* test for approving the Sale Transaction has been met. The Receiver followed the court-approved sale process under the SISP Approval Order. The offer leading to the Sale Transaction was received after the SISP was terminated. The Receiver then went back to the other bidders and gave them an opportunity to enhance their previous offers. Ultimately, the Sale Transaction was the best offer received. I have reviewed the Confidential Appendices to the Second Report and can confirm that this is the case.
- [5] I am satisfied that the Consumer Portfolio was adequately exposed to the market and that further efforts would not yield a better result. The process was run with integrity. There was no unfairness in the conduct of the Sale Process.
- [6] The Bridging Receiver's secured interest is vastly greater than any of the bids received and it will suffer a significant shortfall as secured creditor. Given the range of bids received and level of interest in these assets, it is apparent that there would not be any recovery for the Investors as equity holders if the Consumer Portfolio continued to be marketed.
- [7] I am therefore approving the Sale Transaction and granting the AVO. I approve the name change clause in the AVO since the Purchaser will be using the Skymark name after closing pursuant to the Sale Transaction.

- [8] The AVO contains a sealing order for the Confidential Appendices to the Second Report pending the closing of the Sale Transaction. I am satisfied that this order meets the test in *Sierra Club/Sherman Estates* and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of an insolvent company to maximize the realization of assets. **I direct counsel for the Receiver to file a hard copy of the Confidential Appendices with the Commercial List office in a sealed envelope with a copy of the AVO and this Endorsement.**
- [9] The Ancillary Order is satisfactory to me and I approve the relief set out therein with respect to the Second Report and the fees.
- [10] Orders to go as signed by me and attached to this Endorsement. These orders are effective from today's date and are enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is located below the text of paragraph [10]. The signature is stylized with a large, looped initial 'C'.