



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-22-00685133-00CL

DATE: March 19, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: CHRISCWE HOLDINGS INC. v. OASIS GLOBAL INC. et al

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

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ENDORSEMENT OF JUSTICE OSBORNE:

- [1] This matter returns today following on my adjournment of the motion originally scheduled for yesterday. I was concerned about short service and adequate notice and, as reflected in my Endorsement of yesterday's date, there were issues under discussion with respect to two encumbrances on title, one mortgage and one notice of lease.
- [2] The Receiver seeks an order approving the sale transaction contemplated by an agreement of purchase and sale between the Receiver as vendor, and Chriswe Holdings Inc. as purchaser, signed March 14, 2024 all as described in the Second Supplementary Report to the Third Report of the Receiver dated March 15, 2024. The Receiver also seeks a vesting order, vesting in the Purchaser the Purchased Property free and clear of all encumbrances save those Permitted Encumbrances specifically identified.
- [3] Defined terms in this Endorsement have the meaning given to them in my earlier Endorsements in this proceeding and/or in the motion materials including the various Reports of the Receiver.
- [4] Approval of the transaction and the vesting order are not opposed today by any party. However, two encumbrances registered against title to the Property and proposed to be vested off through the order sought today were addressed both yesterday and today.
- [5] First, 2327525 Ontario Inc. ("232") has a notice of lease registered on title to one of the PINs. 232 is a solar power company that entered into a lease with Mark Rivers pursuant to which it installed solar panels and related equipment on the roof of one of the buildings on the Property in order to generate power to feed into the province's electrical grid through the FIT (Feed In Tariff) program.
- [6] The issue of this lease and whether 232 had been given notice came up yesterday, and counsel for the Receiver advised that they had located contact information for former counsel to 232, Dale & Lessmann, LLP, and had had contact with that counsel over the weekend and indeed had expected them to appear yesterday. They did not. This was one of the reasons I adjourned the matter yesterday.
- [7] Counsel for the Receiver confirmed that it had formally delivered yesterday to 232 a notice that it had disclaimed the lease.
- [8] Today, Mr. Jochen Bezner appears on behalf of 232. He is not counsel, but confirmed to the Court that he is both the Chief Executive Officer and a shareholder of 232, and has authority to bind the corporation. He advised that former counsel is no longer engaged the company. I inquired of Mr. Bezner whether 232 intended to engage counsel and whether he was seeking an adjournment of the motion today, which in the circumstances I would have been prepared to grant.
- [9] Mr. Bezner confirmed to the Court that what he really desired was the opportunity to negotiate with the Purchaser of the Property terms upon which the lease might continue. Mr. Kaufmann, the principal of the Purchaser, was also present in Court today as an observer and confirmed that he was prepared to enter into discussions with 232.
- [10] On that basis, and given the disclaimer of the lease by the Receiver, Mr. Bezner specifically confirmed that he was not requesting an adjournment of the matter today. He confirmed to the Court that he understood that the vesting order being sought would remove the notice of his lease from title and that the purchase would be free and clear of any obligations under the lease, with the result that, while he was going to engage

in discussions with the Purchaser, if those discussions did not lead to an agreement between those parties, his notice of lease would be vested off title.

- [11] Second, the law firm of Himelfarb Prozanski LLP has a mortgage registered on title in the amount of \$50,000, which is non-interest-bearing, and Mr. Rozlak appears for HP. That matter was adjourned yesterday in order that HP and the Receiver could have discussions and HP could provide further particulars with respect to its outstanding invoices to the Receiver.
- [12] That occurred, but the issues are not resolved in the sense that HP wants to be paid as soon as possible the \$50,000 secured by the charge. The Receiver is still investigating this matter, with the assistance of HP, in part since at the time that Mr. Rivers consented to the mortgage, he was subject to a Bankruptcy Proposal.
- [13] The Receiver has undertaken, if the vesting order is granted and the mortgage discharge, to hold in trust the full amount of \$50,000 as against any liabilities owing to HP.
- [14] Given the assurance that this money would be held by the Receiver as requested by HP (as opposed to counsel) and that the issues would be resolved on a timely basis, HP did not oppose the vesting order sought, vesting off title its mortgage. The Receiver will engage with HP on a timely basis the resolution or, if necessary, the determination of any issues, and if further necessary, I may be spoken to with respect to case management directions required to ensure that matter is determined on a timely basis.
- [15] With those two encumbrances addressed, there was no other opposition to the relief sought.
- [16] The basis for the proposed sale and vesting order is set out in the materials and in particular the Second Supplementary Report. I am satisfied that the proposed sale meets the *Soundair* Principles and should be approved. The transaction represents the best available offer, no other offers having been received notwithstanding the listing of the Property on MLS, and the offer is not subject to financing. It therefore eliminates any future risk and can be completed as soon as possible, all of which is beneficial to the accretion of value for the benefit of the estate and all stakeholders.
- [17] There were no objections to the form and content of the order, which I am satisfied is appropriate and is consistent with vesting orders granted by the Commercial List.
- [18] Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.

Osawa, J.