



SUPERIOR COURT OF JUSTICE

ENDORSEMENT

COURT FILE NO.: CV-23-00701806-00CL DATE: June 30, 2023

NO. ON LIST: 3

TITLE OF PROCEEDING: TOBIA IHDE V DAMIVA

BEFORE: Mr Justice KOEHNEN

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---------------|--------------------|
| Fred Tayar | Tobias Ihde | fred@fredtayar.com |
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For Defendant, Respondent, Responding Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---------------|--------------|
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For Other, Self-Represented:

| Name of Person Appearing | Name of Party | Contact Info |
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ENDORSEMENT

[1] The applicant is a secured creditor of the respondent and seeks to appoint a receiver over the respondent. The respondent is indebted to applicant in an amount exceeding \$4 million. Demand has been made, no payments have been forthcoming.

[2] The respondent is a small manufacturer and retailer. Its two principals resigned suddenly at the beginning of June, taking with them the intellectual property and physical inventory necessary to conduct the business. As a result, the enterprise has essentially ceased to operate. If a receiver is not appointed, the business will imminently lose its major customers and patent protections, thereby rendering the applicant's security valueless.

[3] Mr. Tayar brought to my attention what purports to be an affidavit of Ms. Chia Sun, one of the respondent's principal's which was signed before a notary on June 29, 2023. The contents of that document essentially admit to the need for a receivership. In it, Ms. Sun states that the respondent has no money and no significant revenues and that there was no money to pay payroll. She states that she and her husband Mr. Smith are preserving company property such as inventory but has not received instructions on where to send the inventory or who would arrange to pay for palleting costs and shipping. Ms. Sun states in the document that she will comply with the Receiver's request of the transfer of knowledge and information to the best of her ability.

[4] The loans provided by the applicant were secured by a General Security Agreement dated as of April 7, 2020. The GSA was perfected under the PPSA on April 1, 2020.

[5] The respondent's attorneys recently advised that certain government filings must be made in early July 2023, failing which the respondent will risk losing patent rights.

[6] Under section 243 of the Bankruptcy and Insolvency Act, a court may appoint a Receiver on the application of a secured creditor if it is "just or convenient" to do so. The section 101 of the Courts of Justice Act also provides that the court may appoint a receiver where it is "just or convenient" to do so.

[7] I am satisfied that it is just and convenient to appoint a receiver. If a receiver is not appointed, the respondent risks losing certain patent protections. In addition, it will not be able to process orders over its website and will not be able to deliver large orders to retailers. There does not appear to be any opposition to the appointment of a Receiver.

[8] In addition, the Receiver seeks an order allowing it to examine Ms. Sun about the location of corporate property and about the corporation's recent affairs. Given the urgency of the situation I am satisfied that it is appropriate to provide such relief. I note in this regard that Ms. Sun's affidavit suggests she is willing to cooperate with the Receiver. Full cooperation may render such examinations unnecessary.



Mr Justice KOEHNEN

Date: June 30, 2023

