

**SUPERIOR COURT OF JUSTICE – ONTARIO**

7755 Hurontario Street, Brampton ON L6W 4T6

**RE:** ROYAL BANK OF CANADA., **applicant**

**AND:**

FALCON XPRESS TRANSPORTATION GROUP INC.  
FALCON INVESTMENT GROUP INC.  
6086 MAYFIELD INC.  
2593548 ONTARIO INC., **respondents**

**BEFORE:** Justice Derstine

**COUNSEL:** NEMERS, JEREMY  
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HORSTEN, CALVIN, for the **applicant**  
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**AND:**

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**HEARD:** April 25, 2025, videoconference

**ENDORSEMENT**

- [1] The applicant Royal Bank of Canada seeks an order appointing a receiver without security of all the assets properties and undertakings of Falcon Express Transportation Group, Falcon Investment Group Inc, 6086 Mayfield Inc and 2593548 Ontario Inc including the municipal property known as 6086 Mayfield Rd. in Caledon ON.

- [2] The debtors collectively owe RBC more than \$15 million. RBC holds security over the assets of the debtors including general security agreements and a charge over the real property which gives RBC the right to apply to the court for the appointment of a receiver.
- [3] On January 28th, 2025, RBC and the debtors entered a forbearance agreement dated January 21st, 2025, which contains consents to receivership from each of the debtors. The debtors have breached the forbearance agreement and the consents to receivership have become active. RBC waited several additional weeks before commencing this receivership application to give the debtors two opportunities to close our purported financing to repay RBC.
- [4] There is documentation before the court today indicating that at a minimum real attempts have been made to secure financing. The real difficulty with this is that similar real attempts have apparently been made in the past and have never crystallized into actual funding. On a number of occasions, the debtors have seemed very close to funding and yet funding has never been finally approved.
- [5] The debtors through council have asked until May 15th to be able to finalize their funding. They say they're very close to having funding, but they don't have it right now. This submission would have more urgency had it not been made in the past. Justice Fowler Byrne of this court gave the debtors 8 days to come up with financing or to consent to receivership. The parties are now before me and there is no funding.

- [6] I'm keenly aware that receivership is a significant step in any proceeding. It does not advance the interests of the debtor for obvious reasons which include reputational loss. It is not a quick and efficient way for the bank to recover its money. If I was to make an order of receivership today, then the bank would certainly not have its money by May 15.
- [7] While I am sympathetic with any business who is making a bonafide effort to not be placed into receivership, the bank has a just and proper claim to receivership if the debtors are unable to produce funding in a timely manner.
- [8] The debtor suggests that I could issue an order appointing a receiver but ordering that that receivership not take effect until May 16. If the Bank was satisfied and repaid in full, then the receivership would not occur. This would have the effect of drawing a significant line in the sand and preventing the debtor from continuing to delay the bank from its rightful enforcement. On the other hand, it would give one last opportunity to the debtor to avoid receivership.
- [9] The parties have conferred on terms and are by and large ad idem save for one paragraph. In that paragraph the bank is unconditionally released from all demands causes of action suits covenants and contracts and the like from the debtors for matters up to the date of the financing being transferred away from RBC. The bank asks for this language in order to ensure that there is absolute finality to this matter if they are paid off. The debtor says that the language is over expansive and does not take into account the fact that it is unknown what will happen in the next few weeks.

[10] I find that the bank is entitled to this language in the order. There is real justification for an order appointing a receiver today. I could have easily done so. For all the reasons I originally stated I am prepared to give the debtor one final chance to secure funding and avoid receivership. It must however be understood that it is the will of this court that this be the final opportunity for the debtor. If they are unable to come up with funding for any reason whatsoever the bank is entitled to its receivership. The wording as proposed by the bank will ensure that finality. The debtors are not compelled to sign this release, they are only compelled to sign it if they wish the financing. They must assume the risk that the bank will behave in an unusual manner in the next couple of weeks. On the evidence before me I think that that is unlikely. The debtor has put himself into a position where he is fortunate indeed that is not being ordered into receivership forthwith.

[11] The order will go on the terms agreed upon except for paragraph 35B which is an order of this court though not on consent. Costs are addressed at paragraph 32 of the order.



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Justice Derstine