



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: **CV-24-00713253-00CL** DATE: **JANUARY 14, 2026**

NO. ON LIST: 1

TITLE OF PROCEEDING: DUCA FINANCIAL SERVICES CREDIT UNION LTD. v. WEST EGLINTON MEDICAL CENTRE LTD.

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
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Mukul Manchanda	Court-Appointed Receiver, msi Spergel Inc.	mmanchanda@spergel.ca

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Gleb Bazov	Counsel for West Eglinton Medical Centre Ltd. and Dr. Ciro Adamo	gleb@schwartzandschwartz.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT

Overview of Motion

[1] This motion, as originally configured, was a motion by the Receiver (in this endorsement I will use this and other terms as defined in the materials uploaded for today's hearing) seeking, among other relief:

(a) Approval of the Receiver's First Report;

- (b) Approval of an AVO in respect of an agreement of purchase and sale between the Receiver as vendor and 2637945 Ontario Inc. as Purchaser dated September 12, 2025 (as of January 13, 2026 the Purchaser assigned its rights under the Sale Agreement to 1001437081 Ontario Inc.) and authorizing the Receiver to complete the Transaction contemplated by the Sale Agreement (involving the sale of the property at 2010 Eglinton Avenue West in Toronto);
- (c) Approval of the sealing of the Confidential Appendices to the First Report until the closing of the Transaction or further order of this court;
- (d) Approval of the Receiver's Interim Statement of Receipts and Disbursements (as at November 30, 2025);
- (e) Approval of the fees and disbursements of the Receiver and its counsel TGF for the period from March 14, 2024 to and including December 31, 2025 and payment of same;
- (f) Approval of the Receiver's Proposed Distribution;
- (g) Approval of a transfer of \$30,000 to fund the bankruptcy of the Debtor; and,
- (h) Termination of these proceedings and discharge of the Receiver upon the filing of the Receiver's discharge certificate.

Developments on the Eve of and the Morning of the Motion

- [2] As matters unfolded – rapidly - in the hours before the hearing of the motion, the respondents Dr. Ciro Adamo and West Eglinton Medical Centre Ltd. (WEMC) originally filed an Aide Memoire, uploaded to Case Center late in the day on January 13, (2026, the day before the motion), in which they took no issue with the proposed AVO but sought an adjournment of aspects of the Distribution Motion (in particular to permit them to make submissions about DUCA's claim to the interest that it alleges has accrued in respect of the BLOC, being the sum of \$135,917.76 and DUCA's claim to legal (enforcement) fees in respect of its security vis-à-vis WEMC).
- [3] Then, on the morning of the motion, so first thing on January 14, 2026, the respondents uploaded an affidavit of Dr. Adamo, seeking to adjourn the entirety of the Receiver's motion to allow the Receiver time to consider Dr. Adamo's offer (the "Adamo/WEMC Offer"), also submitted on the morning of January 14, presumably just before Dr. Adamo swore and delivered his affidavit.
- [4] Dr. Adamo deposes in his January 14 affidavit as to his belief that his January 14 offer – the Adamo/WEMC Offer - (the fourth offer he has made to purchase 2010 Eglinton Avenue West) is "the best offer currently available for 2010 Eglinton Avenue West."
- [5] Dr. Adamo can be confident in that assertion, at least as to the price contemplated in his Adamo/WEMC Offer, inasmuch as he obtained pursuant to an arrangement with the Receiver, confirmed by a non-disclosure agreement, an unredacted version of the Sale Agreement for the 2010 Eglinton Avenue West property. (The Receiver complains in passing that the Sale Agreement was not provided to Dr. Adamo to allow him to use the Purchase Price to make an opportunistic slightly higher offer, but in light of my findings on this issue I will not dwell on this complaint).

[6] However, based on my own review of the information in the Confidential Appendices, it is fair to observe that Dr. Adamo's late-breaking offer is in an amount only slightly in excess of the amount being paid by the Purchaser in the Transaction.

Caselaw re Late-Breaking Offers to Redeem

[7] The law is clear that, although in exceptional circumstances the court may entertain or even allow a redemption on the eve of approval of a transaction that a receiver has recommended, it is rare, for good reasons, for the court to do so.

[8] In the decision of the Court of Appeal for Ontario, in *Rose-Isli Corp. v. Smith*, 2023 ONCA 548 for example, referring in turn to this court's decision in *B&M Handelman Investments Limited v. Mass Properties Inc.* (2009) CanLII 37930 (ON SC), the court discusses the guiding considerations:

“We adopt the rationale for those guiding principles articulated in [B&M Handelman] where the court stated, at para.22:

A mockery would be made of the practice and procedures relating to receivership sales if redemption were permitted at this stage of the proceedings. A receiver would spend time and money securing an agreement of purchase and sale that was, as is commonplace, subject to Court approval, and for the benefit of all stakeholders, only for there to be a redemption by a mortgagee at the last minute. This could act as a potential chill on securing the best offer and be to the overall detriment of stakeholders.

Accordingly the ability of 273 Ontario to exercise a right of redemption had to take into account the reality that the property remained subject to an active receivership, which engaged interests beyond those of the second mortgagee.

Usually, if a court-approved sales process has been carried out in a manner consistent with the principles set out in *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA), a court should not permit a latter attempt to redeem to interfere with the completion of the sales process... .”

Conclusion re Dr. Adamo's January 14 Offer

[9] I have no difficulty concluding that the sales process here complied with the *Soundair* principles. There were multiple bids and bidders for the 2010 Eglinton Avenue West property, which were clearly the product of a robust and comprehensive sales process.

[10] To allow Dr. Adamo to swoop in at the last moment, and to purchase the property on the basis of an offer that is not appreciably better than the purchase price obtained through a comprehensive process yielding multiple offers, would be to invite the spectre of unpredictability and ultimately purchaser “chill” that the excerpt from *Rose-Isli* above cautions specifically against.

AVO Motion Granted

[11] In the circumstances, I advised the parties, and I confirm here, that I was not prepared to adjourn the AVO portion of the motion, and I am granting the AVO (and related relief) sought. I am satisfied that the

proposed Transaction is not improvident, and is the product of a robust process. There is no evidence of bad faith, and indeed the diligence leading to the Transaction is demonstrable and clear.

- [12] I am also prepared to approve the sealing of the Confidential Appendices until closing of the Transaction or further order of the court. There is sensitive commercial information within the Appendices which, if revealed in the public domain, would potentially compromise further sales process(es) should they become necessary.
- [13] As such, I am approving the relief set out and sought in subparagraphs 1(a) and 1(b) of the Receiver's Notice of Motion.

Discussion of the Distribution Motion

- [14] On balance, I am also not prepared to adjourn the other aspects of the motion, with respect to the proposed distribution(s) and related relief. In discussing the issues relative to the Distribution Motion, I am reverting to the arguments set out in the Adamo AM (defined below). In other words, having rejected Dr. Adamo's offer on the morning of January 14, 2026, which would, if approved, have obviated the need for a determination of the Distribution Motion, I am now setting aside that offer (and Dr. Adamo and WEMC's argument to adjourn the entire matter) and focusing on the arguments set out in the Adamo AM pre-dating the Adamo/WEMC Offer.
- [15] As noted by Dr. Adamo and WEMC. in their Aide Memoire (the "Adamao AM") the Distribution Motion focuses in particular on the claims of DUCA (the senior secured creditor of WEMC) and include:
 - (a) DUCA's claim to the principal and interest in respect of the Mortgage granted by WEMC to DUCA, in respect of which Dr. Adamo and WEMC take no position;
 - (b) DUCA's claim to the principal of the BLOC, fully secured with a \$1,100,000.00 cash collateral account of WEMC ("Cash Collateral"), in respect of which, again, Dr. Adamo and WEMC take no position;
 - (c) DUCA's claim to the interest that it alleges has accrued in respect of the BLOC, being the sum of \$135,917.76 to the date of this motion, which claim Dr. Adamo and WEMC contest, relying on the judgment of this court issued by Myers J. on January 8, 2026; and
 - (d) DUCA's claim to legal fees in respect of its security vis-à-vis WEMC, which Dr. Adamo and WEMC assert have already been determined by Myers J. to be on a partial indemnity basis rather than on the full indemnity scale claimed by DUCA, and the quantum of which Dr. Adamo and WEMC in any event dispute.
- [16] Relative to the two items, as set out in subparagraphs 15 (c) and (d) above, in respect of which Dr. Adamo and WEMC take issue, Dr. Adamo and WEMC first argue that they had insufficient time to develop a proper response to the Receiver's motion.
- [17] I reject this assertion.
- [18] While it is true that the Receiver's final materials for its motion were not delivered until January 7 and 8, 2026, three business days before the hearing of the motion, it is also the case that the issues raised in the motion have been known since before the summary judgment hearing on October 27, 2025 before

Myers J. (discussed below), that Receiver's counsel advised the Service List on December 12, 2025, that the Receiver would be seeking a sale of the assets and a distribution of the proceeds at a hearing on January 14, 2026, and that (as noted above), Dr. Adamo was provided with an unredacted version of the Sale Agreement on January 5, 2026, under the terms of a non-disclosure agreement.

- [19] As Dr. Adamo's own conduct, in delivering the Adamo AM the evening before the motion and delivering the Adamo/WEMC Offer (and his affidavit to which the offer was attached) on the morning of the motion, reflects, as is frequently the case, that commercial matters necessarily move quickly, including in this court. Parties engaged in these commercial matters are expected, in exchange for access to the Commercial List, to be nimble in their preparation and delivery of materials. In any event, having regard to the chronology outlined above, I am satisfied that Dr. Adamo and WEMC had sufficient time to, and did in fact, address the issues relative to the Receiver's motion.
- [20] As to Dr. Adamo and WEMC's arguments concerning the purported impact of Myers J.'s decisions on the interest and costs issues that they raise, it is important to note, first, that Myers J. was dealing (on October 27, 2025) with a summary judgment motion relative to amounts alleged owing by Dr. Adamo to DUCA under guarantees, and not with the amounts owing by the Debtor to DUCA under the loan agreements.
- [21] More particularly, as confirmed in the endorsement and order of Myers J. arising from the October 27, 2025 motion, His Honour heard, and granted, DUCA's motion for judgment on two guarantees given by Dr. Adamo as security for WEMC's borrowings.
- [22] It is evident from Myers' J.'s endorsement that he placed no credence in Dr. Adamo's argument that because he did not read the guarantees he did not appreciate the business risks associated with them.
- [23] Relative to Dr. Adamo's argument that the reason for his lack of concern (and diligence) relative to the guarantee was that the 2017 loan was cash collateralized by its terms, such that Dr. Adamo's view was that the guarantee he signed was "essentially without risk to him", Myers J. noted that Dr. Adamo had been unable to access the cash collateral, which was in the hands of the Receiver.
- [24] Justice Myers astutely observed that "the Receiver or the plaintiff creditor may have rights against the cash collateral under the debtor's security granted in 2021....There could be a priorities battle looming in the receivership." His Honour also noted, in relation to Dr. Adamo's argument that it was unfair to criticize him for shortcomings in his disclosure, that "The receivership was on notice to Dr. Adamo. He was given time to respond and chose not to do so."
- [25] Relative to Dr. Adamo's second argument before him, that DUCA and/or the Receiver have failed to mitigate the claim against the Debtor by failing to pay off the 2017 debt with the existing cash collateral, Myers J. was receptive to the notion, but explicitly subject to the evidence (which was not before His Honour for the motion on the guarantees).
- [26] Justice Myers said that "While I accept the plaintiff is entitled to enforce its security as it sees fit, that does not necessarily mean that it is free to incur avoidable losses. Can it decide never to take the cash and continue to run up interest against the debtor and its guarantor forever?"
- [27] In the next sentence, however, Myers J. recognized that other factors may enter that analysis, saying:

“There may be good reason why the plaintiff and the Receiver have yet to determine the priorities and distribute the cash collateral. But I cannot decide that in this proceeding without the debtor and the Receiver being here.”

- [28] On the motion before me, all interested parties were in attendance.
- [29] The Receiver explained, with respect to the Cash Collateral, that it has assiduously maintained the “status quo” – i.e. maintained the Cash Collateral, which has generated interest – to guard against the possibility that, “Depending on how the proceeding progressed, there may have been a requirement for the Receiver to use the funds to fund the cost of the proceedings.”
- [30] There was also a lien claim for which priority had to be determined. The Receiver, based on advice from counsel, ultimately concluded that the lien claim did not have priority over DUCA’s claims, but it was necessary for the Receiver to make that determination (and would have been imprudent for the Receiver to cause the Cash Collateral to be deployed pending that determination).
- [31] In addition, for reasons set out in the First Report, it appears that there will likely be a shortfall to DUCA which will increase with any additional costs incurred by the Receiver.
- [32] Pursuant to the credit agreement relating to the Operating Facility dated July 11, 2017, (page 7), pursuant to section 8 of the Revolving Demand Credit Facility Agreement dated July 12, 2017, pursuant to the Commitment Letter dated October 14, 2021 at page 16, and pursuant to paragraph 13.06 of the GSA dated November 9, 2021, the Debtor is obligated to pay all fees, including legal fees, costs and expenses incurred by DUCA in respect of, *inter alia*, enforcement of the loan agreements and the security granted by the Debtor to DUCA.
- [33] It is the Receiver’s position, which is persuasive in my view, that the costs of these proceedings have been properly and reasonably incurred by DUCA and are properly payable by the Debtor.
- [34] The Receiver’s First Report (paragraph 27) notes that the Cash Collateral was pledged as security for the Operating Facility. As noted, the Receiver has maintained the Cash Collateral – appropriately in my view – to protect against contingencies and to ensure sufficient funds to fund these proceedings.
- [35] I accept that it was prudent and appropriate to do so, particularly until a determination as to priorities has been made.
- [36] I find that there is no question – and really no opposition – that DUCA’s security stands in priority to that of the Debtor, and, given that as noted above there is likely to be a shortfall to DUCA, there is no other meaningful priorities contest to adjudicate.
- [37] With respect to Myers J.’s findings on costs, and his award of costs on a partial indemnity basis in the motion before him, it is again critical to understand that His Honour was dealing with a summary judgment motion relative to the guarantees. He did not have before him, and/or was not asked to consider, the full array of loan documentation and security. That documentation, in my view, is clear in confirming that the Debtor is liable for all costs (and not limited to a partial indemnity scale).
- [38] I am also not persuaded that there is any error evident in the Receiver’s calculation and claim for costs and interest.

Conclusion: Receiver's Motion Granted in its Entirety

- [39] Accordingly, as noted, I decline to adjourn the Distribution Motion, and I am granting the orders, in their entirety, sought by the Receiver.
- [40] I have attached signed copies of the AVO and the Discharge and Distribution Order.



W.D. BLACK J.

DATE OF RELEASE: JANUARY 16, 2026