

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE**

Respondent

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**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF  
THE HONOURABLE JUSTICE McEWEN  
DATED FEBRUARY 23, 2018**

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February 23, 2018

For the reasons below I granted the Approval/Vesting Order and the Discharge Order as per the drafts filed and signed (with reasons to follow).

Daimler Truck Financial (“Daimler”) sought to adjourn the motion on the basis, primarily, that the Receiver’s Motion Record was deficient for the reasons set out in the letter sent by its counsel to Receiver’s counsel dated February 22, 2018.

I refused to grant the adjournment. In my view, Daimler’s requests for further information were of no importance given the clear evidence that the remaining monies to be distributed to the Applicant were for below what it is owed. There is no issue that the Applicant stands in priority to Daimler and Daimler concedes that is the case.

I am satisfied that RBC has established in this matter, and based in its own Application, that the Respondent owes it \$1,592,172.45. Even if I am wrong, there is no doubt it is owed approximately \$550,000.00 which will almost certainly vastly exceed the amount it expects to recover.

I also agree with the Receiver that it is not obligated to pursue the guarantees given the limits on the guarantees and the small likelihood of success. This would only serve to further deplete a modest recovery.

In my view, all the requests in the aforementioned letter (I do not propose to deal with each) should not hold up the orders sought, and the pending discharge and the pending auction. I can see no harm to Daimler or any other creditor.

Daimler does not oppose the Approval and Vesting Order sought. With respect to the Discharge Order it raises the same basic arguments. As noted, I do not accept these submissions. In my view the Receiver and its counsel have acted reasonably. The fees sought are also reasonable as is the suggested method of moving forward with respect to the TTC issue, auction and distribution (and the rest of the order).

Last, I awarded \$7,500.00 in costs against Daimler and in favour of the Receiver to be paid within 30 days. Daimler added extra costs to the Receivership and today's attendance.

McEwen, J.

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