



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00711609-00CL

DATE: January 7, 2025

NO. ON LIST: 03

TITLE OF PROCEEDING: THE TORONTO-DOMINION BANK v. TORONTO ARTSCAPE INC.

BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Hugh McHenry	THE TORONTO-DOMINION BANK	hmchenry@harrisonpensa.com

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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Quinn Harris	City of Toronto	
Tiana K Boyman		
Trevor Pringle	Msi Spergel – Receiver	
Ben McIntosh	City of Toronto	
Chris Lee		

ENDORSEMENT OF JUSTICE CONWAY:

- [1] All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of msi Spergel inc. dated January 3, 2025.
- [2] The Receiver brings this motion for the following relief:
- a. An order approving the Second Report and the activities of the Receiver described therein;
 - b. An order approving the Receiver’s Interim Statement of Receipts and Disbursements as at December 18, 2024;
 - c. An order approving the following ten sale transactions:
 - i. The sale of Units 51 and 65, Level 2, Units 4 and 7, Level 3 property located at 210 Simcoe Street, Toronto, Ontario to the City of Toronto;
 - ii. The sale of Units 5, Level 1, Units 2, 3, 6, 8, 12, 13, 14, 15, 25, 26, Level 2, Units 2, 3, 6, 8, 12, 13, 14, 15, 29, Level 3 property located at 38 Abell Street, Toronto, Ontario to the City of Toronto;
 - iii. The sale of Units 1, 2, Level 1 property located at 38 Abell Street, Toronto, Ontario to Propeller Centre for the Visual Arts;
 - iv. The sale of Units 8 and 9, Level 2, 180 Shaw Street, Toronto, Ontario to Centre for Indigenous Theatre;

- v. The sale of Units 2 and 3, Level A, 180 Shaw to College-Montrose Children's Place;
 - vi. The sale of Units 2 and 7, Level 1, 180 Shaw to Inspirit Foundation;
 - vii. The sale of Unit 3, Level 1, 180 Shaw to Intergalactic Arts Collective;
 - viii. The sale of Units 4 and 5, Level 1, Unit 1, Level 3, 180 Shaw to Koffler Centre of the Arts;
 - ix. The sale of Unit 1, Level 1 and Unit 5, 180 Shaw to Small World Music Society;
 - x. The sale of Unit 5, Level 2, 180 Shaw to Gillian Iles and Matthew Schofield;
- d. An Order increasing the Receiver's Borrowing Charge from \$600,000 to \$670,000 *nunc pro tunc*;
 - e. An Order authorizing the repayment of amounts borrowed by the Receiver under Receiver's Certificates;
 - f. An Order sealing certain Confidential Appendices to the Second Report;
 - g. An Order authorizing and directing the Receiver to make a distribution to First Ontario Credit Union Limited ("FOCU"), or such other party, as directed by FOCU, upon the closing of the Transactions;
 - h. An Order authorizing and directing the Receiver to make a distribution to Community Forward Fund ("CFF"), or such other party, as directed by CFF upon the closing of the Transactions;
 - i. An Order authorizing and directing the Receiver to make a distribution to the City of Toronto for the outstanding realty taxes;
 - j. An Order approving the fees and disbursements of the Receiver; and
 - k. An Order approving the fees and disbursements of Minden Gross LLP and Fogler, Rubinoff LLP, as legal counsel to the Receiver.

[3] The motion is supported by all stakeholders. There was no opposition at the hearing today.

[4] I am satisfied that the requested relief should be granted.

- [5] With respect to the sale transactions, the Receiver followed the court-approved Sale Process. The purchasers are the City of Toronto for the 38 Abell Live/Work Units and the 210 Units. The purchasers for the other units are the existing tenants (other than Inspirit Foundations for certain of the 180 Shaw Units). All of the *Soundair* factors have been met. In particular, I am satisfied that the Receiver has made a sufficient effort to get the best price for the units. As noted above, the transactions are supported by the stakeholders. I approve the transactions and have signed the Approval and Vesting Orders for the various transactions.
- [6] The proposed distributions to FOCU and CFF are approved. The Receiver has obtained independent legal opinions as to their respective security.
- [7] The remainder of the relief sought in the Ancillary Order is approved. That order contains a continuation of the sealing order for the Confidential Appendices attached to the First Report and a sealing order for the Confidential Appendices attached to the Second Report, pending further court order. I have added language that these orders remain in effect only pending the closing of the Transactions or further court order. I am satisfied that the requested sealing order for the Confidential Appendices meets the test in *Sierra Club/Sherman Estates* and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of a company in receivership to maximize the realization of assets. It only covers information that could prejudice stakeholders if the transactions fail to close and the properties have to be remarketed. **I direct counsel for the Receiver to file a hard copy of the Confidential Appendices with the Commercial List office in a sealed envelope with a copy of the Ancillary Order and this Endorsement.**
- [8] Orders to go as signed by me and attached to this Endorsement. These orders are effective from today's date and are enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is located at the bottom left of the page.