

SUPERIOR COURT OF JUSTICE – ONTARIO

7755 Hurontario Street, Brampton ON L6W 4T6

RE: MITSUBISHI HC CAPITAL CANADA, INC.,
MITSUBISHI HC CAPITAL CANADA LEASING, INC., **Applicants**

AND:

ORBIT EXPRESS INC.,
10055913 CANADA INC.,
8615314 CANADA INC., **Respondents**

BEFORE: Justice Emery

COUNSEL: FISHER, HEATHER and IQBAL, ASIM, for the applicants
Email: heather.fisher@gowlingwlq.com /
asim.iqbal@gowlingwlq.com

SELF-REP (SINGH, YADWINDER), for ORBIT EXPRESS INC.
Email: yours.randhawa@gmail.com

HEARD: July 30, 2024, by video conference

ENDORSEMENT

[1] The Applicants (jointly. “Mitsubishi”) bring this application for a receivership order under s. 243(1) of the *Bankruptcy and Insolvency Act* (the “BIA) and s. 101 of the *Courts of Justice Act*.

[2] Mr. Singh appeared on the application today on behalf of the Respondent Orbit Express Inc. and the other two corporate Respondents. He has requested an adjournment to obtain funding so that the Respondents are able to retain counsel As

corporations, they must be represented by a lawyer unless leave is given by the court under Rule 15.01(2).

[3] The Applicants oppose the request for an adjournment. Their lawyers served the application record on July 19, 2024. They take the position that the Respondents have had 12 days to retain counsel. The Applicants obtained this hearing date for the application to be heard on an urgent basis as urgency was found by Rahman J. on July 24, 2024 and set the deadline of July 29 for the Respondents to file responding materials.

[4] No responding materials have been filed on the application to date.

[5] In the event the court grants the adjournment, the Applicants seek terms including a timetable for the delivery of responding materials (which will require the Respondents to engage legal representation), and an order appointing an interim receiver to protect against the risk of any dissipation of assets that would impair Mitsubishi's security.

[6] I consider that it would be in the interests of justice that the Respondents be given time to obtain legal representation and to deliver responding materials to the application. The parties agree that August 29, 2024 as the hearing date would provide more than enough time for the Respondents to retain and instruct counsel. The Applicants anticipate that their submissions shall take no more than 30 minutes to make. They are confident that the application will take less than 59 minutes in total as they do not know if the Respondents will file any materials or make submissions. It is their expectation the application can be heard as a regular motion on a regular motions day.

[7] Counsel for the Applicants will take the necessary steps to book this application on August 29, 2024 through Calendly. The application is therefore adjourned to that date, subject to two terms that will have the force of orders.

[8] For the first term, I order the following timetable for the service and filing of materials by all applicants and all respondents. This timetable is made on consent:

- a. The responding application record containing all affidavits, by August 13;
- b. Reply application record, if any, by August 15;
- c. Factum of the Respondents (as the Applicants have already filed their factum, uploaded to Case Centre), by August 19;
- d. Reply factum, if any, of the Applicants, by 12 noon on August 21; and
- e. Confirmation of Motion/Application Form by the Applicants, by 2 p.m. on August 21.

[9] The time for the service and filing of materials by any party is abridged to accommodate this timetable.

[10] As a second term of the adjournment, I grant an Order appointing an interim receiver in the form of the revised draft Order filed by the Applicants, as modified and issued by me today (the "Interim Receiver Order"). I consider that it was just and convenient to make the Interim Receiver Order pending the return of the application on a full record. I modified the revised draft provided by the Applicants to show that Mr. Singh attended on behalf of the corporate Respondents. The Interim Receiver Order was not

made on consent and is without prejudice to the rights of all parties on the application. It shall remain in place until further order.

A handwritten signature in blue ink, appearing to read "Emery J.", written in a cursive style.

Emery J.