



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00716267-00CL
CV-24-00716192-00CL

DATE: May 30, 2024

NO. ON LIST: 7 & 8

TITLE OF PROCEEDING: SKYLINK EXPRESS INC. v. UNIFOR AND ITS LOCAL 2002
& THE TORONTO-DOMINION BANK v. SKYLINK EXPRESS INC. et al

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Rachel Moses	Counsel for Toronto-Dominion Bank	rmoses@foglers.com
Jennifer Stam	Counsel for Skylink Express Inc.	Jennifer.stam@nortonrosefulbright.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Jeff Larry	Counsel for Momentum Decisive Solutions Canada Inc., Respondent	jeff.larry@paliareroland.com
Jane Dietrich	Counsel for KSV as Monitor	jdietrich@cassels.com

ENDORSEMENT OF JUSTICE CAVANAGH:

- [1] The Applicant brings this motion for an order (i) extending the stay period up to and including July 30, 2024; (ii) approving the retention of a sales agent and aircraft broker to act as its sales agent to market and sell its assets, and approving the sale process (as described in the motion materials); (iii) increasing the maximum borrowing amount under the Applicant's debtor-in-possession ("DIP") credit facility from \$2.5 million to \$3

million; (iv) approving the Monitor's reports and the Monitor's activities described therein; (v) and approving the fees and disbursements of the Monitor and its legal counsel.

- [2] On March 11, 2024, the Applicant sought and obtained an initial order granting it protection pursuant to the *CCAA* and granting an initial stay period to March 21, 2024. At the initial hearing, The Toronto-Dominion Bank also brought a receivership application returnable on the same day. However, at the initial hearing, the Applicant and the Bank advised that they had agreed to terms pursuant to which the receivership application would be adjourned.
- [3] On March 21, 2024, the Court granted an amended and restated initial order pursuant to which, among other things, the stay period was extended to April 26, 2024.
- [4] The Applicant's primary customer is United Parcel Service Canada ("UPS"). One of the main goals of the *CCAA* proceedings was to give breathing space for the Applicant to renegotiate the terms of the long-time feeder aircraft charter agreement (the "UPS Contract"), given the revenue generated from the UPS Contract is insufficient to cover associated operating costs. The Applicant and UPS have not been able to make progress on a new long-term arrangement that would see the Applicant continue to provide services to UPS. The Applicant and UPS have been in discussions to agree on terms for a shorter term transition plan up through the end of July, which will permit the Applicant to continue to operate the majority of its existing routes during this period.
- [5] The Applicant is seeking authorization to engage 1262396 Alberta Ltd. dba Pollock Aviation (the "Agent"), an experienced sales agent and aircraft broker, to act as a sales agent to market and sell its assets, which consists primarily of the Applicant's aircraft, aircraft parts inventory and potentially its air operator certificate.
- [6] The Agent, in conjunction with the Applicant, and under the supervision of the Monitor, has outlined its proposed approach to the marketing and sale of the Applicant's aircraft and other assets, which provides that they will be marketed for sale on a one-off or en-block basis without a specific bid deadline. The proposed sale process is more fully described in the third report of the Monitor.
- [7] The Bank does not oppose the retention of the Agent or approval of the Sale Process.
- [8] The current maximum borrowing limit under the original DIP term sheet and DIP facility is \$2.5 million. The DIP lender has agreed to increase the maximum borrowing under the DIP facility from \$2.5 million to \$3 million. Without the increased amount, the Applicant is not forecast to be able to meet its liabilities as they come due during the proposed extended stay period.

[9] I am satisfied that the Applicant's request for extension of the stay period up to and including July 30, 2024 should be granted. The Applicant is seeking this extension to provide sufficient time to facilitate the transition and advance the proposed sale process. The revised cash flow forecast indicates that subject to the increased amount of the DIP facility, the Applicant will be able to fund its liabilities as they become due during the stay period.

[10] The Monitor supports the proposed extension to the stay period.

[11] I am satisfied that the requested order should be made.

[12] Order to issue in form of Order signed by me today.