SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: **CV-24-712687-00CL** **DATE:** **August 19, 2024**

NO. ON LIST: **5**

TITLE OF PROCEEDING: **9869247 Canada Limited et al v. Royal Bank of Canada**

BEFORE JUSTICE: **JUSTICE W.D. BLACK**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Haddon Murray	Counsel for the Monitor	Haddon.murray@gowlingwlg.com
Maya Poliak	Counsel for NE SPC II LP	maya@chaitons.com
Melinda Vine	Counsel for Gray Jay Estates Inc.	mvine@harrisonpensa.com

ENDORSEMENT OF JUSTICE W.D. BLACK:

[1] The applicant was before me seeking a (further) extension of the stay in place in this matter under the CCAA *nunc pro tunc* from August 9, 2024 to the earlier of: (i) the delivery of the Monitor's certificate; and, (ii) September 27, 2024.

[2] The applicant and Monitor (EY) also seek approval of the Monitor's Eighth Report.

[3] There is no opposition to this relief, and it is clear that the purchaser and the applicants, with the Monitor's assistance, have been diligently working towards closing the Transaction (as defined in the materials). In this endorsement I will use certain terms that have been defined in the materials to date that this court has previously approved (by order of May 7, 2024), and that, as confirmed by an updated cash flow forecast, the applicants will have sufficient cash during the proposed further extension period.

[4] This court has previously granted a number of extensions, noting on each occasion the diligent efforts of all concerned.

[5] Most recently, an extension (the July Stay Extension Order, as defined in the materials), was granted to accommodate the expected closing of the Transaction by August 9, 2024.

[6] However, it has emerged during the timeframe leading up to that proposed timing for the closing that there is a dispute between two lenders – Blacksail and Gray Jay (as defined in the materials) – about an amount payable to Gray Jay under the Lenders' Assignment Agreement.

[7] Although there have been ongoing negotiations between the two lenders in an attempt to resolve that dispute, currently the lenders remain at an impasse, which has been preventing the closing of the Transaction.

[8] When it became apparent that the Transaction was not going to close, owing to the dispute between the Lenders, the applicants immediately contacted the court to book this motion to further extend the Stay (*nunc pro tunc*).

[9] As noted in the Monitor's Eighth Report, the applicants and the Monitor have been having ongoing discussions with the two Lenders to understand their positions and to assess the likelihood of closing the Transaction in short order.

[10] In these discussions, Blacksail has now advised that it is willing to complete the (contentious) Gray Jay Assignment at a purchase price of $4,451,870.32, subject to a reservation of Gray Jay's rights to contest the purchase price adjustment within 60 days and, once the Gray Jay Assignment is complete, the purchaser is prepared to close the Transaction.

[11] To that end, Blacksail has brought a motion seeking specific performance of the Gray Jay Assignment, and Gray Jay has indicated that it does not oppose the relief sought by Blacksail.

[12] Accordingly, there are two unopposed orders before me: (i) the Stay Extension Order; and (ii) the Assignment Order.

[13] In connection with the Assignment Order, Blacksail's motion has now been scheduled to proceed on November 20, 2024, for 90 minutes.

[14] For purposes of that motion, Blacksail's materials are to be delivered by September 30, 2024, Gray Jay's responding materials are due by October 18, 2024, and Blacksail's reply materials, if any, are to be provided by October 25, 2024. Cross-examinations, if any, are to be completed during the week of November 4, 2024, and factums are to be exchanged in accordance with the Rules.

[15] In the circumstances, noting the cooperation and diligence of all concerned, and the benefit of closing the Transaction, I am granting both the Stay Extension and Assignment Order, signed copies of which are attached.

W.D. BLACK J.

DATE: AUGUST 19, 2024