SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-00728550-00CL **DATE:** December 13, 2024

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TITLE OF PROCEEDING: CANADIAN WESTERN BANK v. CANADIAN MOTOR FREIGHT LTD. et al

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

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For Other, Self-Represented:

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ENDORSEMENT OF JUSTICE W.D. BLACK:

Overview

[1] The Receiver was before me today seeking a contempt order against the following individuals and entities (the "Contemnors") on the basis that they have intentionally defied clear and unambiguous orders of this court: (i) Canadian Motor Freight Ltd. ("CMF"); (ii) 2568403 Ontario Inc. ("256", and, together with CMF, the "Debtors"); (iii) Imran Hussein, Satbir Singh Kahlon, and Sukhdeep Sing Arora ("Debtor Management"); (iv) United Group of Companies Ltd. ("United"); and (v) Makhan S. Bajwa, Dev Mangat and Taj Dhaliwal ("United Management"). All of the Contemnors, and their counsel, appeared in person.

[2] More specifically, the Receiver asserts that the Contemnors have refused to comply with and have willfully breached my orders of November 5, 2024 (the "Receivership Order') and December 2, 2024 (the "Asset Recovery Order" and, from time to time together with the Receivership Order, the "Orders"), within this receivership proceeding under the Bankruptcy and Insolvency Act (the "BIA").

[3] Under both Orders, the Contemnors were required to deliver to the possession of the Receiver all of the property and assets of the Debtors, without, as the Receiver puts it, "any strings attached." In particular, the Contemnors were specifically and unequivocally ordered to facilitate the Receiver's retrieval of vehicles and trailers belonging to the Debtors (the "Fleet Assets") from premises operated by United (the "United Yard").

[4] Rather than complying with the Orders, the Receiver asserts, the Contemnors have stalled and delayed the release of the Fleet Assets to the Receiver, offering up insubstantial excuses why they could not or would not do so, even in the face of increasingly stern admonitions from this court that their cooperation was not just expected but unequivocally required.

Conclusion re Contempt

[5] In the circumstances, as discussed below, I have no difficulty finding all of the Contemnors to be in contempt of this court's orders. While the Receiver argued, as alternative positions, that findings of both Civil and Criminal contempt are available and appropriate on this record, I conclude that a finding of Civil contempt relative to each Contemnor is the appropriate disposition here.

Relevant Background

[6] The Debtors are related Ontario corporations engaged in the freight trucking business. Their primary place of business and warehouse is located at 400 Brunel Road in Mississauga, Ontario ("400 Brunel").

[7] Messrs. Hussain, Kahlon and Arora (i.e. Debtor Management), are the directors, managers and shareholders of the Debtors.

[8] United operates a freight trucking and vehicle and trailer storage business. Its registered office is in Brampton, but its principal place of business is located at the United Yard (at 1911 Eglinton Avenue East in Mississauga, Ontario).

[9] Mr. Bajwa is the sole officer and director of United. Mr. Mangat and Mr. Dhaliwal are managers of United. Mr. Mangat is the Chief Executive Officer ("CEO") and Mr. Dhaliwal holds the title of Manager, Operations & Logistics.

[10] By August 28, 2024, the Debtors were in default of substantial secured loan repayment obligations to Canadian Western Bank ("CWB"). As a result, CWB applied for a receivership order under section 243(1) for the BIA, and on October 9, 2024, Justice Kimmel appointed Ernst & Young Inc. ("EY") as interim receiver of the property, assets and undertaking of the Debtors.

[11] On November 5, 2024, I appointed EY as Receiver (i.e. no longer interim receiver), effective November 15, 2024 (i.e. the Receivership Order). The effective date of the receivership was delayed, at the request of the parties, specifically for the purpose of giving the Debtor Management time to return the Fleet Assets back to 400 Brunell to allow the Receiver to take possession of them.

[12] Although there are other assets subject to the receivership, the main assets at issue on this contempt motion are the Debtors' Fleet Assets.

[13] On November 15, 2024, the Receiver attended at 400 Bunel to meet with Debtor Management and to take possession of the Fleet Assets. Debtor Management advised that the Fleet Assets were no longer at 400 Brunel, and had instead been moved to the United Yard.

[14] These facts form the basis of the Receiver's request for a contempt order against the Debtors and Debtor Management.

Breaches of Receivership Order

[15] The Receivership Order gives the Receiver the power to take possession of assets, including the Fleet Assets, without interference from any person. It also requires the Debtor and Debtor Management to advise the Receiver of the existence of any Property (as defined in the Receivership Order, and including the Fleet Assets) in their possession, and to grant immediate and continued access to such Property and to deliver it to the Receiver upon the Receiver's request.

[16] As noted, instead of allowing the Receiver to take possession of the Fleet Assets "without interference," and delivering the Fleet Assets to the Receiver as required by the Receivership Order, Debtor Management instead sent the Fleet Assets to United and United Management.

[17] I find that this was a clear breach of the Receivership Order.

[18] Counsel for the Debtors and Debtor Management took the position before me today that, once they had transferred the Fleet Assets to United and United Management, the Fleet Assets were no longer under their control, and, implicitly, no longer their problem.

[19] This misses the point. The Debtors and Debtor Management had no right to transfer the Fleet Assets in the face of the Receivership Order, and I find that to do so, intentionally and with specific knowledge of the Receivership Order and its requirements, was a clear breach.

[20] The breaches by United and United Management are equally clear.

[21] As noted, by November 15, 2024, when the Receiver attended at 400 Brunel to take possession of the Fleet Assets, those assets had already been transferred, without notice or authorization, to the United Yard.

[22] The Receiver therefore went to the United Yard that same day, November 15, to confirm and take an inventory of the Fleet Assets that had been taken there.

[23] On that day, the Receiver identified 50 Fleet Assets parked in the United Yard. The Receiver later confirmed the specific Fleet Assets at the United Yard by VIN searches, PPSA searches and information provided by third-party lessors of certain Fleet Assets.

[24] On November 15, 2024, the Receiver met with Mr. Dhaliwal and Mr. Mangat at the United Yard, and provided them with a copy of the Receivership Order. The Receiver sought to negotiate a short-term arrangement with Mr. Dhaliwal and Mr. Mangat for the use of parking spots at the United Yard until the Receiver could coordinate the removal of the Fleet Assets.

[25] There then followed, in the next few days, an exchange of proposed lease documents and provisions, during the course of which the Receiver sent United a cheque, despite no arrangement having been finalized, for the storage of Fleet Assets on a per diem basis. The Receiver explains in its evidence that although based on the clear language of the Receivership Order, it had no obligation to pay United (or anyone else), it did so as a good faith attempt to maintain a positive working relationship and arrangement with United.

[26] On November 21, 2024, the Receiver re-attended at the United Yard to discuss again with Mr. Dhaliwal and Mr. Mangat the arrangements with respect to the Fleet Assets at the United Yard. On that day, the Receiver also arranged for one of the Debtors' third-party lessors to attend at the United Yard to remove 11 of the Fleet Assets, that had been leased to the Debtors.

[27] The Receiver waited approximately six hours at the United Yard that day, accompanied for a period of that time by the third-party lessor, only to be advised by Mr. Dhaliwal that United would be denying the Receiver access to the United Yard, and that United would not release any Fleet Assets to the Receiver.

[28] Communications between the Receiver and United Management continued for the next few days, during which the Receiver reiterated that pursuant to the Receivership Order, United was obliged to grant the Receiver full and immediate access to the United Yard so that the Receiver could take possession of the Fleet Assets, without interference.

[29] United Management continued to stall, and to refuse the Receiver access to the United Yard and to the Fleet Assets, in clear violation of the Receivership Order.

Receiver Advises it will Seek Further Order

[30] On November 26, 2024, counsel for the Receiver delivered a letter to United that emphasized United's obligation to cooperate with and assist the Receiver under the Receivership Order, and advised that unless United granted the Receiver immediate access to the United Yard, the Receiver would seek a further order from the court compelling United to release the Fleet Assets.

[31] Mr. Dhaliwal responded that day, saying that United would not release the Fleet Assets until the Receiver paid alleged outstanding lien invoices up to November 26, 2024. Not only was this purported condition never raised before November 26, but the Receiver has since confirmed that no such alleged liens exist.

[32] On November 28, 2024, the Receiver advised United that a further hearing before this court had been scheduled for December 2, 2024, and that the Receiver would be seeking an order at that time compelling United to provide access to the United Yard to allow the Receiver to take possession of the Fleet Assets.

[33] On November 29, 2024, the Receiver served United with its motion materials for the December 2, 2024 hearing.

The December 2 Motion and the Asset Recovery Order

[34] I heard the Receiver's motion on December 2, 2024. Various interested parties attended before me, including Mr. Dhaliwal (by Zoom). I heard submissions from a number of those in attendance that day, including from a Mr. Surinder Singh Begda, a non-lawyer speaking on behalf of a company called IS Trucking Limited, which had an interest in the outcome of the motion. Mr. Dhaliwal made no submissions before me that day, and did not seek to do so. If he had, I would have heard any submissions he wished to make.

[35] At the conclusion of the hearing on December 2, 2024, I issued the Asset Recovery Order, which the Receiver delivered on that same day to United, Mr. Dhaliwal and Mr. Mangat.

[36] Still on the same day, after delivering the Asset Recovery Order, the Receiver contacted Mr. Dhaliwal (eventually reaching him late that day after a number of attempts). Mr. Dhaliwal, who was at that stage specifically aware of the Asset Recovery Order, told the Receiver that he understood that he had 72 hours to comply with the order, and that he needed time to consult with other representatives of United.

[37] The Receiver advised Mr. Dhaliwal that this was a misinterpretation of the Asset Recovery Order, that there was no allowance for 72 hours to comply, and that in fact United and United Management were obliged immediately to comply with the Asset Recovery Order. The Receiver scheduled a call with Mr. Dhaliwal the next morning – December 3, 2024 – to discuss the arrangements for the Receiver to remove the Fleet Assets.

[38] Also on December 2, 2024, the Receiver attended again at the United Yard, and observed that the Fleet Assets, or at least many of them, remained at the United Yard that day. The Receiver was unable to enter the United Yard to conduct a complete inventory to ensure that all 50 Fleet Assets were still present at the United Yard at that time, but did photograph some of the Fleet Assets that it could see and identify in the United Yard that day. Importantly, the Receiver filed in the record before me today date-stamped photographs taken that day to confirm the presence of Fleet Assets that the Receiver could see and photograph at that time.

[39] On December 3, 2024, the Receiver had a call, as scheduled, with Mr. Dhaliwal and Mr. Mangat, in which the Receiver repeated that, under the terms of the Asset Recovery Order, United was required to provide the Receiver immediate access to the United Yard and to release the Fleet Assets to the Receiver.

Breaches of the Asset Recovery Order

[40] Mr. Dhaliwal and Mr. Mangat told the Receiver that they were not prepared to comply with the Asset Recovery Order at that time, purportedly because they were not given an opportunity to speak during the December 2, 2024 motion before me, and because no arrangements had been made by the Receiver to pay United.

[41] I note that neither of these suggestions bears any weight. As noted, Mr. Dhaliwal was present before me on December 2, 2024 at the hearing of the Receiver's motion and did not make, or to my recollection seek to make any submissions. Moreover, neither the Receivership Order or the Asset Recovery Order requires the Receiver to make any payments as a precondition of retrieving the Fleet Assets. Although the Receiver had discussed with United Management earlier on the possibility of compensating United for storing the Fleet Assets, and had even made one gratuitous payment in that regard, the Orders are clear that there is no obligation for the Receiver to do so, a fact that the Receiver made clear to United and United Management at various points.

[42] Importantly, Mr. Dhaliwal and Mr. Mangat did not tell the Receiver, during the call on the morning of December 3, 2024, that, during the days leading up to the December 2 hearing, and following the December 2 hearing and their knowledge and receipt of the Asset Recovery Order, they and United had been surreptitiously moving the Fleet Assets away from the United Yard to undisclosed locations.

[43] Also on December 3, 2024, the Receiver had a call with certain third-party lessors of certain Fleet Assets, one of which – Volvo – had tracking devises on certain Fleet Assets it leased to the Debtors. Volvo advised the Receiver that those tracking devises indicated that four of the Fleet Assets had been moved out of the United Yard, under cover of darkness, in the middle of the night on December 1, 2024, after United having received notice of the December 2, 2024 motion. The Volvo assets with tracking devices had been moved to 1625 Shawson Drive in Mississauga, Ontario (the "Matheson/King Yard").

[44] As a result of learning from Volvo that certain Fleet Assets had been moved with notice or permission, the Receiver became concerned that other Fleet Assets had been moved to undisclosed locations beyond the reach of the Receiver and this court. The Receiver delivered to United on December 4, a letter dated December 3, 2024, advising that such conduct constituted a flagrant breach of the Orders, and requesting confirmation that United would comply with the Asset Recovery Order by 10:00 a.m. on December 4, 2024.

[45] The Receiver received no response to this letter.

[46] The Receiver conducted searches indicating that two businesses appear to occupy and operate at the Matheson/King Yard: (i) a business known as Matheson Collision; and (ii) a business known as King Towing. The Receiver also identified the officers and directors of 2488330 Ontario Inc. operating as Matheson Collision, and 2750726 Ontario Inc., which owns the land on which the Matheson/King Yard is situate. There are common directors and officers between the two entities.

[47] The Matheson/King Yard is located reasonably close to the registered office of the Debtor CMF and to the United Yard.

[48] King Towing appears to operate from the same premises as Matheson Collision, and its officers and directors also overlap with 2488330 Ontario Inc. and 2750726 Ontario Inc.

[49] The Receiver was advised at a point before today's hearing before me, by counsel for United, that King Towing was the company that had towed the Fleet Assets from the United Yard.

[50] On that note, when the Receiver attended the United Yard on December 5, 2024 to determine whether any additional Fleet Assets had been moved out of the United Yard, the Receiver could not identify any of the Fleet Assets. As subsequently confirmed in evidence filed before me by United, all of the Fleet Assets had in fact by then been moved out of the United Yard.

[51] On that same date, December 5, the Receiver attended at the Matheson/King Yard, and saw at least one of the Fleet Assets there. However, a representative of Matheson Collision refused the Receiver access to the Matheson/King Yard, and advised that Matheson Collision would not provide any information to the Receiver about the Fleet Assets.

[52] Similarly, and remarkably, during the Receiver's attendance at the United Yard that day, at which time the Receiver observed that all Fleet Assets had been moved, Mr. Dhaliwal also refused to provide any information to the Receiver about how and where the Fleet Assets had been moved.

December 6 (Ex Parte) Motion

[53] In these circumstances the Receiver brought an ex parte motion before me on December 6, 2024, seeking an order to allow for substituted service on certain proposed responding parties, and seeking a hearing date for the contempt motion which was booked to proceed before me today.

[54] As noted, the Debtors and Debtor Management, and United and United Management were all in attendance before me today and represented by counsel.

[55] Both of these sets of responding parties had filed materials.

Discussion of Positions taken today by Contemnors

[56] As noted above, the position set out in the materials filed by the Debtors and Debtor Management, and echoed in their counsel's submissions, was that once the Debtors had transferred the Fleet Assets to United on November 15, 2024, the Debtors and Debtor Management no longer had any responsibility for the Fleet Assets.

[57] Also as noted above, I disagree, and find that the steps taken by the Debtors and Debtor Management to move the Fleet Assets without notice to or authorization from the Receiver constitute a beach of the Receivership Order.

[58] United, and United Management, in their materials, actually confirm, again remarkably, that during the period November 25, 2024 to December 1, 2024, they arranged for the Fleet Assets to be removed from the United Yard and taken to the Matheson/King Yard and elsewhere. The materials filed by United gave no details concerning the current location of the Fleet Assets.

[59] Those materials also contain a number of demonstrably false statements. For example, and troublingly, the materials represent, as set out above, that all of the Fleet Assets were gone from the United Yard by December 1. In fact, as also set out above, there is photographic evidence that the Receiver filed in the record before me showing definitively that in fact at least some of the Fleet Assets remained in the

United Yard on December 2, 2024, and were obviously removed at some point following the Receiver's attendance at the United Yard that day.

[60] I suspect that the representation in the materials filed by United and United Management that all Fleet Assets had been removed from the United Yard by December 1, was an attempt to avoid the significant concerns associated with United continuing to transfer the Fleet Assets after being specifically aware of the Asset Recovery Order that I made on December 2, 2024.

[61] In his submissions before me, counsel for United and United Management purported to say that the Orders, and the Receiver's conduct and representations, somehow created confusion on the part of United and United Management as to what their obligations were.

[62] I reject these submissions entirely. The Orders are clear on their face, and were explained by the Receiver on multiple occasions. I find that the respondents were intent on playing a shell game with the Fleet Assets, and were in no way confused as to what the Orders required of them. They simply and patently chose to ignore those obligations.

[63] In fact, it is evident that United continued to move Fleet Assets following, and in direct contradiction to the Asset Recovery Order, and I find that this was a flagrant and intentional breach of the Asset Recovery Order.

[64] I also find that the movement of the Fleet Assets even before December 2 (inasmuch as it appears that some of the Fleet Assets were moved before December 2 and some after), was also a flagrant and intentional breach of the Receivership Order.

[65] In fact I find that United's conduct throughout, and that of United Management, has been in the nature of "thumbing its nose" at this court and its process, characterized by an ongoing attempt to shake down the Receiver for payments to which United is not entitled, and by way of a deliberate strategy to shield and hide the Fleet Assets from the Receiver, again in flagrant breach of the Orders.

[66] In the circumstances as described, I easily find the Debtors, Debtor Management, United and United Management to be in contempt of this court and its orders.

Receiver's Argument in Support of Contempt Orders Sought

[67] As noted, the Receiver seeks findings of criminal and/or civil contempt against the responding party Contemnors.

[68] They reference and rely on McLachlin C.J. (as she then was) in the Supreme Court of Canada's decision in *United Nurses of Alberta v. Alberta (Attorney General)*, 1992 CanLII 99 (SCC), in which she wrote:

> "Both civil and criminal contempt of court rest on the power of the court to uphold its dignity and process. The rule of law is at the heart of our society; without it there can be neither peace, nor order nor good government. The rule of law is directly dependent on the ability of the courts to enforce their process and maintain their dignity and respect."

[69] On the basis that a receivership differs from an ordinary civil proceeding between two private parties, and takes place under the auspices of the BIA, which by its nature engages the public interest in the

administration of justice of an orderly insolvency regime involving a substantial number of stakeholders, the Receiver argues that the circumstances in this case meet the test for a criminal contempt order (and the Receiver sets out a persuasive analysis under relevant law showing that both the *actus reus* and *mens rea* for criminal contempt are made out on these facts).

[70] In its submissions, the Receiver also cites the decision of Conway J. in *Castillo v. Xela Enterprises Ltd.*, 2022 ONSC, 4006, in which, in part, Her Honour reviewed the elements of criminal contempt that must be proved beyond a reasonable doubt to make such a finding.

[71] The Receiver fairly notes that, in order to show criminal contempt, it must be demonstrated in the context of the *actus reus* that "the accused defied or disobeyed a court order in a public way," and, for the *mens rea*, that "the accused's public defiance or disobedience of the court order was done with intent, knowledge, or recklessness as to the fact that the public disobedience will tend to deprecate the authority of the court."

[72] While it is a close call, I do not find beyond a reasonable doubt that the Contemnors' conduct involves the level of public defiance described in Conway J.'s decision in *Castillo* (and elsewhere). I appreciate that the "public" requirement here does not literally require open defiance in the public square, but in the case before me I find that, albeit that the conduct was intentionally in defiance of the Orders, it was also largely surreptitious and deceitful. In my view, the "public" nature of the BIA proceedings does not transform this surreptitious conduct – albeit disgraceful – into a public defiance of the court in the way contemplated in the case law relative to criminal contempt.

[73] However, civil contempt is another matter.

[74] The familiar test for civil contempt is set out in the Supreme Court of Canada's decision in *Carey v. Laiken*, 2015 SCC 17. It requires that:

(a) The order alleged to have been breached must state clearly and unequivocally what should and should not be done;

(b) The party alleged to have breached the order must have had actual knowledge of it; and,

(c) The party allegedly in breach of the order must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels.

Finding Contempt

[75] I find that the Receiver has proved each of the required elements of the test for civil contempt beyond a reasonable doubt.

[76] As set out above, I find that the terms of the Orders that have been breached by the Contemnors are clear and unequivocal, and I do not accept the submissions, in particular on behalf of United and United Management, that the Contemnors somehow did not understand these clear terms.

[77] The language of the Orders is straightforward and unambiguous. There can be no uncertainty about the power of the Receiver under the Orders to "take possession and exercise control over" the relevant property and assets "without interference from any other Person." I note that the Debtors and Debtor Management have been represented by counsel at all material times, and that United and

United Management have had counsel at least since just after the Asset Recover Order. It is simply not credible that the Contemnors did not understand the Receiver's mandate and power under the Orders.

[78] Likewise there can be no confusion as to the obligation "to grant immediate and continued access to the Property to the Receiver, and [to] deliver all such Property to the Receiver upon the Receiver's request." There is no ambiguity in this language, and no scope for the Contemnors' purported interpretation that it gave them license to negotiate and delay. This is particularly so inasmuch as the Receiver and its counsel explained on multiple occasions, including in writing, the clear obligations of the Contemnors.

[79] There is also no doubt that the Contemnors had actual knowledge of the Orders. As noted, the Debtors and Debtor Management have been represented by counsel throughout. Their counsel attended at the motion at which I granted the Receivership Order, and at the motion at which I granted the Asset Recovery Order.

[80] The United Group and United Management met with the Receiver on November 15, 2024, and received a copy of the Receivership Order that day. As noted, Mr. Dhaliwal attended at the December 2, 2024 hearing at which I granted the Asset Recovery Order, and United and United Management had a call with the Receiver on December 3 during which the Receiver explained and emphasized the need for compliance with the Orders. United and United Management engaged counsel then or soon thereafter, and so, again, there is no basis for any legitimate suggestion that they did not understand what the Orders required.

[81] In terms of the "intent" element of civil contempt, the Castillo decision confirms that "All that is required is the intentional commission (or omission) of an act that is in fact prohibited (or required) by the order. As Cromwell J.A. explained in *TG Industries*, '[t]he required intention relates to the act itself, not to the disobedience'."

[82] It is inescapable in the evidence that the Contemnors have intentionally breached the Orders. They were aware of the Orders at material times, received specific and clear explanations of the requirements of the Orders (which were in any event unambiguous) and made decisions not only to ignore their obligations under the Orders, but to take active steps to thwart the Receiver's executions of its duties thereunder.

[83] It appears that the Contemnors did so based on a misguided apprehension that doing so would give them leverage to negotiate payments from the Receiver; again the clear language of the Orders shows that this was not an interpretation that was open to them.

[84] In sum, as stated, I am easily satisfied that the Contemnors are in contempt of the Orders.

[85] Rule 60.11(6) permits the court to hold the Debtors' directors and officers liable for the civil contempt of the Debtors in their corporate capacities. They are also liable directly for civil contempt of the court as individuals, including because the Receivership Order compels "all other individuals…having notice of this Order" to "deliver [the Debtors'] Property to the Receiver."

[86] Given their intentional conduct in delivering the Fleet Assets to United instead of the Receiver, Debtor Management is liable in their capacities as individuals for civil contempt of court.

[87] With respect to United Management, Mr. Bajwa is liable for civil contempt of court in his capacity as director and officer of United, and Mr. Mangat is liable as an officer (in his case CEO) of United under

Rule 60.11(6). In addition, all of United Management are liable for civil contempt of court as individuals as a result of their breach of the Asset Recovery Order. That Order was issued against each of them individually.

[88] United Management, and each of them, failed to give the Receiver access to the United Yard, and failed to assist the Receiver in taking possession of the Fleet Assets, and on that basis, and by their continued and ongoing deliberate efforts to frustrate the Receiver's efforts, each member of United Management is liable for civil contempt of court. The Receiver also notes in this regard that Ontario courts have held employees of corporate entities accountable for breaches of court orders committed on behalf of corporate entities (see, e.g. *Goldcorp Inc. v. Globush*, 1997 CarswellOnt 5333 (Ont. Ct. Justice).

[89] Having found each of the Contemnors to be in civil contempt of court, it remains to address the remedy or remedies to be imposed.

Role and Position of Matheson Collision and King Towing

[90] Before turning to that discussion, I note that at the hearing of this motion, counsel on behalf of Matheson Collision and King Towing, Ms. Singh, attended before me.

[91] In fact, at a point in the proceedings, Ms. Singh requested a break so that she could discuss with counsel for the Receiver (and counsel for the Contemnors) what she advised was a possible resolution to the question of recovery of the Fleet Assets. I allowed a break for that discussion to take place.

[92] Following the break, both Ms. Singh and counsel for the Receiver expressly waived any privilege that would otherwise potentially attach to their discussion, and made submissions about what had been discussed.

[93] In short, it appears that Ms. Singh's clients, not surprisingly, know where the Fleet Assets are located, and were offering to provide information in that regard to the Receiver, but only at a price.

[94] There was no motion before me seeking to hold Ms. Singh's clients in contempt. There was, however, a motion seeking an order for substituted service on those parties by service on Ms. Singh. Ms. Singh confirmed her willingness to receive service on their behalf, and it is clear that her clients, through Ms. Singh and otherwise, are well aware of the status and details of these proceedings, and, as noted, are in fact purporting to negotiate concerning aspects thereof.

[95] I advised Ms. Singh that orders of this court are non-negotiable, and that I expect any parties having knowledge of the Orders to comply with their terms.

Post-Hearing Exchange of Emails

[96] Subsequent to the hearing, I received an email from Receiver's counsel with details of ongoing discussions, essentially to the effect that the Fleet Assets have been moved to various locations, some of which, apparently, are not nearby the Matheson/King Yard, such that, as a condition for providing the Fleet Assets, Matheson Collision and King Towing are demanding that the Receiver either pay certain charges, or incur the expense of retrieving the Fleet Assets from the as yet unspecified locations to which Matheson Collision and/King Towing have taken them.

[97] In response to this email, Ms. Singh asked for a brief period to respond with an email of her own, which I granted. In fact Ms. Singh ended up sending me an email co-authored with counsel for United. That email purports, among other things, to justify the conduct of United (and King Towing), repeats United's evidence about the events at issue -which I find to be largely inaccurate and contradicted by aspects of the evidence before me - and actually goes further to allege that the Receiver and its counsel have acted in bad faith in these proceedings. The response also doubles down on the suggestion, that I have rejected, that the terms of the Orders or the Receiver's explanations of them were somehow confusing.

Conclusion re Emails

[98] I categorically reject those allegations.

[99] I find no basis to support any suggestion that the Receiver has acted other than in good faith. In fact I find that the Receiver and its counsel have acted diligently and in good faith at all times.

[100] The email from Ms. Singh and Mr. Atcha astonishingly purports to demand a payment of $279,670.00 from the Receiver, allegedly comprised of amounts incurred by and/or owing to United and King Towing for actions taken by United and King Towing as "innocent third parties."

[101] I find no basis whatsoever for any such payments. The maneuvers undertaken by the Debtors, United, and King Towing were all of their own doing and at their own behest. It stretches credibility beyond breaking to suggest, as the email from Ms. Singh and Mr. Atcha does, that somehow the Receiver necessitated these actions.

[102] As set out above, I find that the conduct in question was part of the Contemnors' intentional effort to thwart the Receiver's legitimate court-ordered effort to retrieve the Fleet Assets. To seek compensation for such deceitful maneuvers is simply beyond the pale.

Overall Conclusions and Next Steps

[103] Accordingly, and in conclusion:

(a) I find the Contemnors, and each of them, to be in civil contempt of this court's Orders;

(b) Sentencing in respect of these findings of contempt is to take place on a date to be fixed in the week of January 6, 2025;

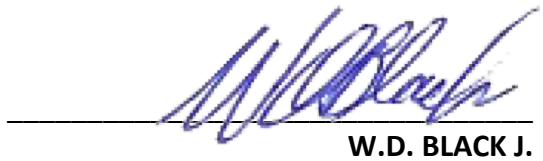
(c) In the meantime, the Contemnors will have the opportunity, and are encouraged, to purge their contempt. Specifically, to the extent that the Contemnors take active steps to comply with the Orders at their own expense by the time I next see them, that is conduct that I will take into account in determining the appropriate sentences and remedies to impose. The Contemnors are not entitled to any compensation in these circumstances, and any attempt on their part to exact such compensation will not be viewed favourably;

(d) In the case of Matheson Collision and King Towing, I grant the order for substituted service, and specifically confirm that service on Ms. Singh by email will constitute service on these parties;

(e) To the extent that the Receiver seeks relief, including potentially contempt findings, as against Matheson Collision and King Towing, the motion for such relief is to be scheduled at the same time and date as the contempt penalty proceedings against the Contemnors in early January;

(f) At that time, I will consider such steps as Matheson Collision and King Towing take, between now and then, to ensure compliance with the Orders. In that regard, I reiterate that the Orders of this court are not negotiable, and are expected to be followed to the letter of their terms. I reiterate that I find no basis on which the Receiver owes any payment to these parties; it may be that they have claims against United, but I do not have sufficient information to make a determination in that regard.

[104] I will also reserve the matter of costs to be dealt with on the return of these matters in early January of 2025.



W.D. BLACK J.

DATED: December 13, 2024