



Court File No. CV-10-9029-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

THE HONOURABLE) THURSDAY, THE 21ST
)
JUSTICE MARROCCO) DAY OF APRIL, 2011

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

**CARNIVAL NATIONAL LEASING LIMITED AND
CARNIVAL AUTOMOBILES LIMITED**

Respondents

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, s.101 of the *Court of Justice Act*, R.S.O., 1990, c. C-43 and Rule 14.05(2) and (3)(d), (g) and (h) of the Rules of Civil Procedure

ORDER

THIS MOTION, made by PricewaterhouseCoopers Inc., in its capacity as receiver (the “**Receiver**”) of all the properties, assets, and undertakings of Carnival National Leasing Limited and Carnival Automobiles Limited (together “**Carnival**”), appointed pursuant to the Order of Justice Newbould dated February 15, 2011 (the “**Receivership Order**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the First Report of the Receiver, dated April 15, 2011 (the “**First Report**”) and the Confidential Supplement thereto (the “**Confidential**

Supplement”), filed; and, on hearing the submissions of counsel for the Receiver, counsel to Bank of Montreal (“**BMO**”), no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Anna Stitt sworn April 18, 2011, filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning as ascribed to it in the First Report.

APPROVAL OF AUCTION AGREEMENT

3. THIS COURT ORDERS that the Receiver be and is hereby authorized to enter into an Auction Services Agreement with Asset Engineering (the “**Auctioneer**”) substantially in the form contained in the Confidential Supplement (the “**Auction Agreement**”).
4. THIS COURT ORDERS that the Auction Agreement and the sales of Vehicle Inventory contemplated thereby (the “**Transactions**”) are hereby approved, and the Receiver is hereby authorized to execute and deliver all ancillary and related documents and to take all such steps and actions as are necessary to give effect to, and complete, the Transactions.
5. THIS COURT ORDERS that title to each Vehicle sold by the Auctioneer to a purchaser pursuant to the Agreement shall, upon receipt by the Auctioneer of the purchase price there for, vest in such purchaser free and clear of and from any and all interests of any person therein, including without limitation all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, howsoever arising or created (collectively, the “**Claims**”), provided that the net proceeds paid by the Auctioneer to the Receiver from the sale of each Vehicle, shall stand in place and stead of that Vehicle, and all Claims shall attach thereto with the same priority as they had with respect to the Vehicle immediately prior to the completion of the sale thereof.

6. THIS COURT ORDERS that, following the sale of a Vehicle to a Purchaser, the Receiver be and is hereby authorized to execute and file such financing change statements, discharges, partial discharges, amendments, releases or other instruments (collectively, “Discharges”) necessary to discharge any Financing Statement registered in favour of any party against the vehicle identification number of the Vehicle sold, and that the Registrar of Personal Property Registry for the Province of Ontario is hereby directed to accept for registration all Discharges registered by the Receiver pursuant to this paragraph.

PERFORMING LEASE SALES PROCESS

7. THIS COURT ORDERS that the Receiver be and is hereby authorized to conduct the Performing Lease sale process described in Section VII of the Report, provided that any proposed transaction for the sale or administration of the Performing Lease portfolio shall be subject to further order of this Court.

DELINQUENT LEASES

8. THIS COURT ORDERS that the Receiver be and is hereby authorized to deal with the Delinquent Lease portfolio and the Vehicles subject to Delinquent Leases in accordance with Section VIII of the First Report.

ORDINARY COURSE DISTRIBUTIONS

9. THIS COURT ORDERS that the Receiver be and is hereby authorized to effect the Ordinary Course Distributions, from funds currently held in the Post Receivership Accounts, in the amounts of \$417,427 to BMO and \$172,106 to Royal Bank of Canada (“RBC”), and is further authorized to effect Ordinary Course Distributions to BMO and RBC out of Ordinary Course Receipts collected by the Receiver from time to time during the course of the administration of the Receivership, and to account for, and record, such Ordinary Course Distributions in the Receiver’s Vehicle Accounting procedures.

EXAMINATION POWERS

10. THIS COURT ORDERS that the Receiver shall have the same powers of examination as are conferred upon a trustee in bankruptcy by Section 163(1) of the BIA and that the provisions

of the BIA shall apply in respect of those powers of examination *mutatis mutandis*; provided that the Receiver shall be empowered to conduct such examinations in its discretion without any further authorization, direction or resolution from the creditors of Carnival, any other interested person or the Court.

11. THIS COURT ORDERS that, pursuant to paragraph 10, the Receiver be and is hereby authorized to examine any person who's examination, in the Receiver's discretion after consultation with BMO and RBC, would be of assistance to the Receiver in its administration of, and realization upon, the property, assets and undertaking of Carnival.

12. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court any transcripts from examinations conducted pursuant to paragraphs 10 and 11 hereof, without any restrictions, consistent with the provisions of Section 163(3) of the BIA and that the Receiver should provide copies of any such transcripts to any creditor that requests the same, at the cost of the requesting party.

RECEIVER'S OCCUPATION RIGHTS

13. THIS COURT ORDERS that the authority of the Receiver to occupy the Premises pursuant to and subject to the terms of paragraph 8 of the Receivership Order be and is hereby extended to August 15, 2011.

APPROVAL OF ACTIVITIES AND FIRST REPORT

14. THIS COURT ORDERS that the activities and conduct of the Receiver, as set out in the First Report be and are hereby approved, and that the First Report be and is hereby approved.

15. THIS COURT ORDERS that the Confidential Supplement be treated as confidential, not form part of the public record, and sealed until the completion of the Transactions, or further Order of this Court.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

APR 26 2011

Maureen S

PER/PAR: NB

BANK OF MONTREAL

- and -

CARNIVAL NATIONAL LEASING LIMITED et al.

Applicant

Respondents

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SUPERIOR COURT OF JUSTICE
Commercial List
Proceedings commenced at
Toronto**

**ORDER
April 21, 2011**

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