

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Court File No. 31-1932502

B E T W E E N:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CRATE
MARINE SALES LIMITED

Court File No. 31-1932534

B E T W E E N:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF F.S. CRATE &
SONS LIMITED

Court File No. 31-1932548

B E T W E E N:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1330732
ONTARIO LIMITED

Court File No. 31-1932557

B E T W E E N:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1328559
ONTARIO LIMITED

Court File No. 31-1932540

B E T W E E N:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1282648
ONTARIO LTD.

**ENDORSEMENT OF MR. JUSTICE PENNY DATED DECEMBER 1, 2014
(Unofficial typed transcription)**

In this motion, the principal creditors made demand on November 4, 2014. The Debtors serve a notice of intention to make a proposal on November 14, 2014.

On Friday afternoon, November 21, 2014, I heard an urgent application to appoint a receiver. The Debtors' counsel were away. They had to find a stand in, who essentially requested an adjournment. The original request for an adjournment was for a week. Mr. Chaiton was not available and asked that the motion be returned today.

Now, the Debtors seek to December 9, 2014 at which time they propose to move for DIP financing, which would be secured by a superpriority. I cannot imagine approving that kind of financing in the absence of a concrete proposal which holds out some hope, at least, of support from the creditors.

The interim Court appointed receiver has indicated that it would like to pursue certain avenues for more information. There is an allegation of erosion of the Creditor's equity but, apart from fees, there is no evidence of ongoing shortfalls. I would like to see more information from the Court-appointed receiver on the question of whether there is, in fact, ongoing material erosion.

At the end of the day, if the Debtor had asked for an adjournment to December 9 on November 21, 2014, I would have been inclined to grant it, absent clear evidence of prejudice.

I am mindful of the Court's powers to cut the process short, as I am being asked to do by the Creditors here.

I am also mindful of the lack, at this point, of any hint of a proposal.

However, I do not see evidence of material prejudice in allowing the Debtors until December 9, 2014 to try to persuade the Creditors that they might be better off under a proposal scenario. I say this because the interim receiver will remain in place, as will the proposal trustee.

The fact that the principal creditors say they will never agree to anything is not dispositive. Many creditors have changed their minds once the Debtors are given a chance. However, unlikely that may be in this case, I do not think the circumstances require that I accede to Mr. Chaiton's argument on behalf of the Creditors today.

The matter is further adjourned to December 9, 2014 before me. At that time, the Debtor will be expected to put all its cards on the table or, to use language from another circumstance, its best foot forward.

If the Debtors fall short, Mr. Chaiton is at liberty to renew his request.

In the meantime, order to issue approving the interim receiver's first report.

I will look forward to the Receiver's additional insight into the issue noted above, and any other insight the receiver has between now and December 9, 2014.

Any issues relating to costs are reserved to December 9, 2014.

Service may continue to be made by email, as well as delivery of additional materials to me.

I order that the interim receiver's powers under my order of November 21, 2014 shall continue and be expanded to include investigation and review of the financial affairs of the Debtors more generally. I would expect the interim receiver's emphasis will be on matters that will assist the Court in the determinations it is likely to have to make on December 9, 2014.

The issue of possible privilege shall be dealt with as follows.

The interim receiver shall be given full access to the hard and electronic copies of the Debtors' documents. As an officer of the Court, the interim receiver shall be alert to any privileged documents. If it finds any privileged documents, it shall identify them and stop looking at them. In any event the interim receiver shall make no disclosure or use of identified privileged documents without the consent of the Debtors or further order of the Court. The interim receiver shall in no event, be disqualified from continuing to act merely by having seen and identified privileged documents in accordance with this endorsement.

The Debtors have indicated they have no intention to sell more boats this winter. In the circumstances, there shall be an order that no boats shall be sold without 14 days prior notice to the interim receiver.

Boat slip revenue received for boat slip rental in 2015 shall be reserved for 2015 boat slip services. In other words, these funds shall not to the extent received before December 9, 2014 be available to the Debtors for general revenue pending the December 9, 2014 return.

Timetable:

The Debtors' materials shall be filed by noon on December 5, 2014.

The Creditors may file additional responding materials by noon Monday December 8, 2014.

The confidential appraisals shall remain confidential and unopened until December 9, 2014. The issue of who gets to see these will be revisited December 9 depending on what use, if any, it intended to be made of them. The amount sought for fees to get to December 9 shall be provided today. If there is a problem about this, it shall be addressed by conference call tomorrow at 9:30.