

**Transcription of the Endorsement of Justice Penny dated February 28, 2019**  
Court File No. CV-18-608271-CL

This is a motion for the appointment of a receiver over a number of companies and properties alleged to be owned or controlled by Tanya and/or Sandy Hutchens.

The Hutchens have been found liable for large frauds by the US Federal Court out of Philadelphia and the Colorado state court in a class action.

The Applicants in this proceeding seek foreign recognition of the Federal Court judgment and the receivership is in aid of enforcement of that judgment.

There is a similar proceeding out of the London SCJ by the Siskinds firm seeking recognition and enforcement of the Colorado judgment.

Ms. Hutchens and the various corporations of which she (or her husband) is a shareholder, officer or director, seek an adjournment to file responding material. They say they have procedural and substantive defences they wish to raise.

Further, they say there are CPLs over the subject properties (issued by the SCJ in London) which protects the properties against being sold or encumbered.

Mr. Necpal, for the Applicants, is prepared to grant the adjournment on terms which are not acceptable to the Respondents. The Respondents say, in light of the CPLs, there is no need for further terms.

I am prepared to adjourn the motion, but only on terms.

Terms are necessary on the basis of prior findings of the US courts about the Hutchens and based on the evidence before the Court.

1. The Hutchens have been found liable for \$10s of millions of USD for a large, elaborate fraud;
2. The Hutchens have repeatedly failed to comply with orders of the court;
3. The Hutchens have repeatedly taken stances in the US proceedings which the Court has found were demonstrably without merit and calculated to cause delay and obfuscation;
4. The Hutchens have been found not to be truthful; and
5. The Hutchens have been uncooperative, and less than forthright in their disclosure of information about where the defrauded money went and what their assets are.

This evidence, which comes from the US Courts and the evidence filed on this motion, satisfies me that merely relying on CPLs and the potential for private enforcement by what appear to be arms' length secured creditors is simply not enough to protect the plaintiffs in the US proceedings who have judgments against the Hutchens.

Accordingly, the terms of the adjournment are:

The Receiver shall be appointed on an interim basis, during the period of the adjournment.

The interim Receiver's powers shall be investigative and monitoring in nature. They shall not extend to taking over management of the business or to the sale of any of the properties.

The interim receiver shall, however, be entitled to access to the books and records of the property owners, including bank statements, financial records and accounts etc.

The interim Receiver shall be entitled to demand access to additional documents as it sees fit.

The interim Receiver shall be entitled to conduct examinations under oath concerning the management of known assets and the existence of any other assets.

The interim Receiver shall be entitled to a 1<sup>st</sup> charge on the assets of any companies/properties owned or controlled by the Hutchens, capped for the interim period at \$150,000.

In addition, there shall be a prohibition against any sale or transfer, or encumbrance of any kind, regarding any of the named properties.

The properties shall be managed in the usual and ordinary course of business. There shall be no payments or transactions or transfers outside the usual and ordinary course of business.

Adjourned to March 18, 2019 for 2.5 hours (cleared) before me.

MAP