



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-23-00693758-00CL

DATE: Friday, November 10, 2023

NO. ON LIST: 1

TITLE OF PROCEEDING: **ORIGINAL TRADERS ENERGY LTD. et al v HIS MAJESTY THE KING IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTRY OF FINANCE et al**

BEFORE: **MADAM JUSTICE KIMMEL**

PARTICIPANT INFORMATION

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ENDORSEMENT OF JUSTICE KIMMEL:

1. The following are my notes of the oral ruling that was given at the return of the Monitor's motion for a Mareva injunction today:

The Monitor's motion for a Mareva injunction order against Mr. Page, Ms Cox and their company [2658658 Ontario Inc.] was scheduled on an urgent basis, returnable today. The record discloses that the urgency was tied to the closing of the sale of the home of Mr. Page and Ms Cox [located at 18 Main Street North, Waterdown, Ontario], which the respondents have now confirmed is scheduled for November 30, 2023.

The respondents seek an adjournment of this motion and have offered to pay the net sale proceeds of their home into Mr. Paige's solicitor's trust account pending a resolution of the Mareva injunction request.

The allegations of fraud against the respondents upon which the requested Mareva injunction order are predicated are serious, but are not entirely new. The Monitor acknowledges that, since being granted super monitor powers by a consent order of this court last month, it has been continuing to investigate the nature and rationale of various transaction to determine if there is any legit business purpose of those payments.

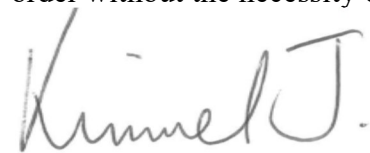
At this point in time, the aspect of the Mareva injunction order sought that requires the Monitor to establish that there is a risk of dissipation of assets by the respondents, or a risk of their removal out of the reach of this court, is predicated primarily on inferences that the Monitor asks the court to draw from the fraud allegations, including allegations and conduct dating back to an earlier Mareva injunction order granted in this case in connection with a yacht.

I am not satisfied today that the requested interim Mareva injunction order should be made on the basis of inferences, given that the respondents have indicated that they wish to respond to the merits of these allegations and have offered to pay the net sale proceeds from the sale of their home into trust, and also having regard to their recent co-operation and active participation in these CCAA proceedings, which they say demonstrates that the risk of dissipation and removal of assets today is not what it might have been when the first Mareva injunction order was issued.

However, the court must balance these Mareva respondents interests against the interests of the other creditors and stakeholders in this CCAA proceeding.

I am prepared to grant the adjournment on the basis of the terms proposed by the Mareva respondents on the condition that the motion will come back on for a hearing before me during the week of December 4, 2023.

2. After canvassing the availability of counsel for the parties, the court ordered the adjournment of the Mareva injunction motion to December 7, 2023 for a half day before me. The terms of the adjournment are that the net proceeds of the sale of the home of Mr. Page and Ms Cox located at 18 Main Street North, Waterdown, Ontario shall be held by Mr. Page's solicitors in trust, pending further order of this court.
3. Counsel shall work co-operatively with respect to the line of credit that shows as a priority encumbrance on title to the home so that all are informed as to what is anticipated might have to be done about any remaining indebtedness in respect of that encumbrance to allow the sale transaction to close. There shall be no further draws upon, or increases to, that indebtedness, except for contractual interest payable, between now and the closing date.
4. Counsel shall agree to a timetable for all pre-hearing steps for the return of this motion such that all materials shall have been served, filed and uploaded into the appropriate CaseLines bundle by no later than December 5, 2023. If information pertaining to the closing of the sale of the house comes to light at the end of November, it should be accommodated, as necessary, in the schedule.
5. This endorsement and the orders and directions contained in it shall have the immediate effect of a court order without the necessity of a formal order being taken out.



KIMMEL J.