



**ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ENDORSEMENT

**COURT FILE
NO.:**

CV-25-00738613-00CL

DATE:

July 31, 2025

NO. ON LIST: 3

**TITLE OF
PROCEEDING:
BEFORE
JUSTICE:**

**In Re: HUDSON'S BAY COMPANY
Justice OSBORNE**

PARTICIPANT INFORMATION

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ENDORSEMENT OF JUSTICE OSBORNE:

1. HBC seeks various orders and directions today as set out in the motion materials, including:
 - a. an order approving the assignment and assumption of leases between HBC and YM Inc. (Sales) (“YM”) dated as of May 28, 2025, and amended on June 18, June 25 and July 16, 2025 (the “YM Lease Assignment Agreement”), and approving the related transactions;
 - b. an order sealing the confidential appendix to the Seventh Report of the Monitor dated July 29, 2025 which sets out a summary of the economic terms of the bids received during the Lease Monetization Process for the YM Leases, to be in effect until closing of the YM Transaction or further order of the Court;
 - c. an order approving the assignment and assumption of leases between HBC and Ivanhoe Realities Inc. (“IC”) as assignee, and Ivanhoe Cambridge II Inc. as landlord, (the “IC Lease Assignment Agreement”), and approving the related transactions;
 - d. an order extending the stay of proceedings until and including October 31, 2025;

- e. a direction and case management order in respect of the pending motion of HBC relating to the disposition of the Royal Charter returnable September 9, 2025, requiring and directing that all responding materials, including but not limited to materials of any party wishing to oppose the motion, to be served and filed no later than August 21, 2025; and
 - f. an order approving the Monitor's Reports and the activities of the Monitor referred to therein.
2. As discussed below, one of the landlords (Ivanhoe Cambridge) appeared to request an adjournment of the previously scheduled motions for approval of the Central Walk Asset Purchase Agreement and the corresponding assignment of leases returnable August 28 and 29, 2025.
 3. The Applicants rely on the Affidavit of Franco Perugini, sworn July 25, 2025, together with exhibits thereto, and the Seventh Report of the Monitor dated July 29, 2025, together with Appendices thereto. Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Seventh Report, unless otherwise stated.
 4. None of the relief referred to above in subparagraphs 1(a) – (e) is opposed, although with respect to the stay extension, the FILO Agent submits that any such extension should be conditional on an order requiring the Monitor and the Applicants to immediately distribute to the FILO Agent, the amount of approximately \$7 million comprised of approximately \$2 million from the proceeds of the sale of the Affiliate Lease Assignment currently held in trust by the Monitor, and approximately \$5 million from the proceeds of the YM Lease Assignment Agreement once approved and completed.
 5. With respect to the proposed approval of the Monitor's Reports and the activities of the Monitor, the FILO Agent and various landlords, including in particular Ivanhoe Cambridge, Oxford and Cadillac Fairview, submitted that the Reports and activities ought not to be approved at least today, and that such approval was premature, given concerns those parties intended to raise in opposition to the approval of the Central Walk APA which motions are returnable on August 28 and 29, 2025.
 6. I am satisfied, having reviewed all of the materials filed and heard the submissions of all parties, that the proposed relief should be granted.
 7. First, with respect to the YM Lease Assignment Agreement and the IC Lease Assignment Agreement, this Court has jurisdiction to approve a sale of assets outside the ordinary course of business pursuant to section 36 of the *CCAA*.
 8. I have considered the factors set out in section 36 (3) of the *CCAA* as well as the *Soundair Principles*, with which those factors overlap.
 9. While not determinative, the recommendation of the Court-appointed Monitor and the lack of any opposition from any party are factors to be taken into account.
 10. I am satisfied that the process undertaken by the Applicants to identify the highest offers for these leases was fair, reasonable, and there is no concern as to its efficacy and integrity. The Applicants and their advisors undertook significant efforts to obtain the best price for the leases as part of the previously approved Lease Monetization Process, and have not acted improvidently. Solicitation efforts for these leases was extensive. The process was fair and transparent, and included consultation with the Monitor, and certain secured lenders at relevant times. I am satisfied that the interests of all parties have been considered, and there has been no unfairness in the conduct of the Lease Monetization Process.
 11. Fundamentally, the proposed transactions represent a positive development for the Applicants and their stakeholders, the consideration to be received is fair and reasonable, and I am satisfied that the approval and vesting orders and related relief should be granted.

12. Second, I am satisfied that the confidential appendix to the Seventh Report should be sealed, pending the closing of the transaction and/or further order of the Court. The confidential appendix includes bid summaries of the offers received in respect of the YM Leases. There is no question that disclosure of that information now could and very likely would impair the integrity and outcome of any subsequent sales and marketing process, which will be required in the event that the proposed transactions now before the Court did not close.
13. The sealing relief is proportional, necessary and limited. I am satisfied that the test set out by the Supreme Court of Canada in *Sierra Club* and modified in *Sherman Estate* has been met here.
14. Third, I am satisfied that the stay of proceedings, which currently expires today, should be extended to and including October 31, 2025. This Court may grant an extension of a stay of proceedings pursuant to section 11.02 of the *CCAA* where circumstances exist that make the order appropriate, and the debtor company satisfies the Court that it has acted, and continues to act, in good faith and with due diligence.
15. The stay extension is necessary to allow the Applicants to close the YM and IC Transactions in respect of which approval is sought today, finalize materials and seek approval of the Central Walk APA, conduct the Art Collection Auction, address the Royal Charter disposition motion, complete various *WEPPA* matters for employees and former employees, pursue pension surplus matters, and advance this *CCAA* proceeding generally as set out in the motion materials and the Seventh Report. Accordingly, circumstances exist that make the proposed extension order appropriate, and the Applicants have acted and continue to act in good faith and with due diligence.
16. No creditor is expected to suffer material prejudice as a result of the proposed extension, which is supported by the Monitor. The Updated Cash Flow Forecast appended to the Seventh report reflects that the Applicants should have sufficient liquidity to operate through the proposed extension period.
17. The FILO Agent requests that the proposed stay extension be made expressly conditional on the proposed distributions referred to above. No such formal condition to the order is necessary. The Applicants and the Monitor have both agreed (and confirmed in Court) that the distributions will be made as soon as practicable. The Updated Cash Flow Forecast reflects that the required sufficient liquidity will be maintained net of these proposed distributions. There is no issue that the Applicants remain indebted to the FILO Agent and that its security is valid in this regard.
18. Fourth, I am satisfied that the proposed case management direction in respect of the Royal Charter disposition motion should be made. The Applicants have brought a motion for approval of the sale of the Royal Charter to Wittington Investments Limited, which includes as a term thereof the fact that it will be donated immediately to the Canadian Museum of History, together with the donation of an additional amount to fund a consultation process and facilitate sharing of the Charter, as well as supporting educational programs of the Museum, public exhibitions and outreach efforts in respect of the Charter.
19. That motion is returnable on September 9, 2025. Given the significant public interest in the Royal Charter, I previously directed the Applicants to ensure that any motion with respect to its distribution was brought on ample notice to all stakeholders, including but not limited to indigenous groups, the Government of Canada (including but not limited to representing Heritage Canada) and other cultural and historical groups interested in the Charter, all in addition to the economic stakeholders in this *CCAA* proceeding.
20. That has been done, and the Applicants have already served their motion materials which are publicly available, including on the website of the Court-appointed Monitor. Those materials specifically include the agreement between the Applicants and Wittington.
21. It is important that any and all issues regarding the Royal Charter be considered and addressed on the basis of a full record, and that in turn requires that the Applicants and Wittington have an opportunity to consider any issues that may be raised in responding materials filed by any party. Accordingly, I direct that it any

responding materials in respect of the Royal charter motion returnable September 9 be delivered no later than August 21, 2025.

22. Fifth, I am satisfied that the Reports of the Monitor and the activities referred to therein should be approved. This Court has held on many previous occasions that there are good policy and practical reasons for the Court to approve the activities of the Monitor and to provide a level of protection for the Monitor during *CCAA* proceedings. See, for example, *Target Canada Co. (Re)*, 2015 ONSC 7574 at paras. 2, and 22 – 25.
23. Court approval allows the Monitor to move forward with next steps, bring its activities before the Court and allow an opportunity for concerns to be addressed and for the Court to satisfy itself that the activities have been conducted in a prudent and diligent manner, it provides protection for the Monitor not otherwise provided for in the *CCAA*, and protects creditors from the delay that could be caused by re-litigating steps already taken and potential indemnity claims. (*Target*, at para. 22).
24. I am satisfied that the Reports and the activities referred to therein should be approved. Counsel for the FILO Agent and various landlords submitted that approval should at least be adjourned pending the hearing of the Central Walk APA approval motions scheduled for August 28 and 29, 2025.
25. In my view, there is no reason not to approve the Reports and the activities of the Monitor today, for the very reasons set out in *Target*. It is important for the Monitor, as well as the Applicants and indeed all stakeholders, to have certainty and certainty of direction with respect to the progress of this proceeding. The FILO Agent and the landlords raised concerns about the recent disclosure of correspondence between the Applicants (and in some cases, the Monitor) and the Central Walk parties relating to the APA.
26. While the FILO Agent and the landlords are free to make submissions on the return of the Central Walk APA approval motion as to why that APA ought not to be approved and why the leases ought not to be assigned, I observe that Applicants and counterparties to proposed agreements routinely exchange correspondence and may take positions with respect to proposed (but as yet not Court-approved) agreements. Often, such exchanges involve the Monitor. There is no good reason today not to approve the Reports and the activities of the Monitor.
27. Finally, Ivanhoe Cambridge submitted that the Central Walk APA approval motion scheduled for August 28 and 29, 2025 should be adjourned because the lease assignment relief sought by the Applicants includes a request for a declaration that certain portions of sections 3.05 and 3.05(a) of the IC Leases are in breach of section 34 of the *CCAA*, and therefore unenforceable. An adjournment of at least one month was suggested.
28. The case management schedule, culminating in the hearing dates already fixed, contemplate numerous steps, including deadlines for the delivery of moving party and responding party materials, cross examinations and other matters. Vigorous and extensive submissions were made with respect to that schedule, which is already well advanced, and the hearing dates fixed, which themselves represent a balancing of interests between those parties who submitted that the hearing dates were too late, and those that submitted that they were too early. Ivanhoe Cambridge was part of all of that.
29. In my view, it would be unfair to all parties and would create additional delay and cost associated therewith to disrupt that schedule now. Moreover, I am not persuaded that Ivanhoe Cambridge cannot be ready in the time allotted to make such submissions with respect to the proposed assignment conditions as it may wish.
30. For all of these reasons, I granted the orders in the (revised) form proposed. The orders have immediate effect without the necessity of issuing and entering.

A handwritten signature in green ink, appearing to read "O'Brien J.", is located at the bottom right of the page.