

CITATION: YRC Freight Canada Company, 2023 ONSC 6865
COURT FILE NO.: CV-23-00704038-00CL
DATE: 2023-12-05

SUPERIOR COURT OF JUSTICE - ONTARIO

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF YRC FREIGHT CANADA COMPANY, YRC
LOGISTICS INC., USF HOLLAND INTERNATIONAL SALES CORPORATION
AND 1105481 ONTARIO INC.

APPLICATION OF YELLOW CORPORATION UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED

Applicant

BEFORE: Chief Justice Geoffrey B. Morawetz

COUNSEL: *Caroline Descours and Brennan Caldwell*, for Yellow Corporation

Alex St. John, for Teamsters (Local Union 938)

Katie O'Rourke, for Teamsters (Local Union 879)

Roger Jaipargas, for the Bank of New York Mellon, as Administrative Agent and
Collateral Agent under the UST Credit Agreements

Natalie Levine and Stephanie Fernandes, for Alvarez & Marsal Canada Inc.
(Information Officer)

David Rosenblat and Ben Muller, for Citadel Advisors LLC, as Postpetition B-2
Lender

Aryo Shalviri, for MFN Partners, L.P. as Junior DIP Lender

Saneea Tanvir, for United States of America

HEARD: December 5, 2023

ENDORSEMENT

[1] Yellow Corporation (the “Yellow Parent”), in its capacity as Foreign Representative (the “Foreign Representative”) in respect of the proceedings commenced by the Yellow Parent and certain of its affiliates, including YRC Freight Company Canada, YRC Logistics Inc., USF Holland International Sales Corporation and 1105481 Ontario Inc. (collectively, the “Canadian Debtors”), under Chapter 11 of the United States Code (the “Chapter 11 Cases”) brought this motion for an order (the “Fourth Supplemental Order”), recognizing and enforcing the following orders (collectively, the “U.S. Orders”) granted by the U.S. Bankruptcy Court in the Chapter 11 Cases.

- (a) Order Approving and Authorizing the Debtors to Enter into that Certain Amendment No. 1 Dated as of November 16, 2023 to the Junior Secured Super-Priority Debtor-in-Possession Credit Agreement dated as of September 6, 2023 (the “DIP Amendment Order”); and
- (b) Supplemental Order Regarding Agency Agreement with Nations Capital, LLC. Ritchie Bros. Auctioneers (America) Inc., IronPlanet Inc., Ritchie Bros. Auctioneers (Canada) Ltd., and IronPlanet Canada Ltd. Effective as of October 16, 2023; (I) Authorizing and Directing the Reattachment of Liens on Rolling Stock Assets Under Certain Circumstances; and (II) Granting Related Relief (the “Supplemental Agency Agreement Order”).

[2] Previous endorsements issued in these proceedings set out the basis for the jurisdiction of this court to recognize orders of the U.S. Bankruptcy Court and are not repeated in this endorsement. (See: *YRC Freight Canada Co. (Re)*, 2023 ONSC 5513.).

[3] The motion was not opposed and the Information Officer supported the position of the Yellow Parent.

[4] The evidentiary basis for the requested relief is set out in the Affidavit of Matthew A. Doheny sworn November 28, 2023 and the Third Report of the Information Officer.

[5] The affidavit of Mr. Doheny establishes that the full amounts provided for under the DIP Facilities approved pursuant to the Final DIP Order have been drawn by the Debtors. The Debtors have determined that they require additional DIP financing to continue to advance their wind-down and sale efforts and have entered into the DIP Amendments providing for up to an additional \$100 million of additional DIP financing. The DIP Amendments were approved pursuant to the DIP Amendment Order granted by the U.S. Bankruptcy Court on November 17, 2023.

[6] There was no objection to the U.S. Bankruptcy Court’s entry of the DIP Amendment Order.

[7] The Yellow Parent submits that recognition of the DIP Amendment Order is consistent with Part IV of the CCAA, the principles of comity, and the approval of the DIP financing commonly granted in Canadian restructuring proceedings.

[8] The affidavit of Mr. Doheny also establishes that as part of the Debtors' sale efforts in respect of the Rolling Stock Assets, the Debtors and their advisors determined that the Rolling Stock Agent's ability to efficiently market and sell the Rolling Stock Assets would be best served if the Debtor's third party lien and title processing service provider, VINtek Inc. ("VINtek"), were able to transfer and deliver the Certificates of Title in respect of the Rolling Stock Assets clear of any liens and encumbrances. In order to achieve this objective, including the removal of liens, the Secured Parties requested and required certain protections with regards to their liens on the Rolling Stock Assets. Accordingly, the Debtors sought approval by the U.S. Bankruptcy Court of the Supplemental Agency Agreement Order on November 17, 2023.

[9] The Supplemental Agency Agreement Order authorizes and directs VINtek to release the notations of liens on the Rolling Stock Certificates of Title and deliver such certificates to the Rolling Stock Agent. The Debtors submit that by clearing the Rolling Stock Certificates of Title, interested purchasers of Rolling Stock Assets will have increased comfort and confidence in their ability to efficiently obtain title to the assets in question. The Supplemental Agency Agreement Order provides the Secured Parties with protections to restore their liens in applicable circumstances.

[10] There was no objection to the U.S. Bankruptcy Court's entry of the Supplemental Agency Agreement Order.

[11] Yellow Parent submits that it is appropriate for the court to recognize and give effect to the Supplemental Agency Agreement Order, as it will facilitate and improve the efficiency of the Debtor's sale efforts with regards to their Rolling Stock Assets and is consistent with Part IV of the CCAA and the principles of comity.

[12] The Information Officer has advised that it is not aware of any public policy issues that would raise concerns with the recognition of the U.S. Orders.

[13] Having reviewed the evidence and hearing submissions, I accept the submissions of the Foreign Representative and the Information Officer.

[14] I am satisfied that it is appropriate to grant the Fourth Supplemental Order.

[15] The motion is granted and the Fourth Supplemental Order has been signed.


Chief Justice Geoffrey B. Morawetz

Date: December 5, 2023