

Counsel:

See attached counsel slip

Endorsement:

As a result of the sudden passing on January 28, 2021 of a practicing lawyer, Bradley Duby, there are two matters before me. Mr. Duby practised law through Brad Duby Professional Corporation (the "Debtor"). Mr. Duby had an active practice with many active files. There is no one to take over this practice and Mr. Duby's widow has advised through her former legal counsel that she does not intend at this time to seek appointment as trustee of the estate of Mr. Duby without a will. Mr. Duby's widow has been informed of the proceedings and does not take a position. She did not appear on the proceedings before me today.

The Toronto-Dominion Bank ("TD Bank") is a secured creditor of the Debtor and has a general security agreement. The obligations of the Debtor were guaranteed by Mr. Duby. On February 9, 2021 TD Bank issued a formal written demand for repayment of its loan facilities to the Debtor together with a notice of intention to enforce security pursuant to section 243 (1) of the BIA. At that time, the indebtedness owing to the TD Bank by the Debtor was \$607,580.84. There are two secured creditors who registered notice of their security interests under the PPSA, Bridgepoint and Easy Legal Finance. They are represented on these proceedings today. They do not oppose the requested orders.

TD Bank seeks the appointment of MNP Ltd. as receiver of the assets, undertakings and properties of the Debtor. I am satisfied that there is urgency given the TD Bank's need to secure its collateral and initiate realization efforts as well as to assist the Law Society of Ontario ("Law Society") in securing client files and property. I am satisfied that a court-appointed receiver is necessary for the protection of the Debtor's property, the interests of the secured creditors and other stakeholders. In the circumstances, it is just and convenient that a receiver be appointed.

The Law Society has brought a separate application for an order appointing the Law Society as trustee to take possession of property including client files and practice -related materials of any kind whatsoever that was or should be in the possession of the deceased lawyer Mr. Duby and/or his estate and/or Brad Duby Professional Corporation. The Law Society and TD Bank have been in contact with each other, through counsel, and the proposed order that each seeks reflects that these parties intend to work cooperatively with each other and will seek direction of the court if required. In the circumstances, in order to protect the interests of Mr. Duby's clients, it is imperative that the requested order be made so that steps may be taken to assign the client files to new counsel or return them to clients themselves.

I am satisfied that the orders sought by TD Bank and by the Law Society should be made.

Orders to issue in forms of attached orders signed by me.

A handwritten signature in blue ink, appearing to read "Cavanagh J.", is written over a light blue rectangular background.

Cavanagh J.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE TORONTO-DOMINION BANK

Applicant

- and -

BRAD DUBY PROFESSIONAL CORPORATION

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**COUNSEL SLIP
(FEBRUARY 25, 2021)**

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THE TORONTO-DOMINION BANK

- and -

BRAD DUBY PROFESSIONAL CORPORATION

Applicant

Respondent

Court File No. CV-21-00657656-00CL

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

Proceedings commenced at Toronto

**Counsel Slip
(February 25, 2021)**

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