

Campbell, Amanda

From: Koehnen, Mr. Justice Markus (SCJ) <Markus.Koehnen@scj-csj.ca>
Sent: Wednesday, April 14, 2021 11:28 AM
To: Kennedy, Robert; Loberto, Daniel; Jerry.Henechowicz@mdp.ca; michael.litwack@mdp.ca; David P. Preger
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List
Subject: Re: Stalking Horse Approval: Pillar Capital Corp. v. Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)
Attachments: Turuss order 20210414.pdf

[WARNING: EXTERNAL SENDER]

Email Endorsement

1. This is a motion to extend the time to receive bids on the sale of a real property and to approve a stalking horse bid which contains a break fee. The motion was brought on short notice. Potentially opposing parties were only advised of the motion yesterday.
2. No one appeared to oppose the motion. Receiver's counsel advised me that one potential bidder wrote back in response to the notice of motion to indicate that it would be submitting a bid superior to the stalking horse bid.
3. Short notice of the motion is justified. The current deadline for submission of bids is April 16. That now needs to be extended given that the stalking horse bid was only agreed to yesterday.
4. It makes good sense to have a stalking horse bid in light of the confidential valuations of the property which I have reviewed.

5. The stalking horse bid contains a break fee of 2.69% which includes expense reimbursement. That amounts to \$175,000. Once again, in light of the confidential valuations I have reviewed, the break fee is justified in that it is likely to generate value superior to the stalking horse bid plus the break fee. In the event it does not, it is a risk worth taking.

6. The receiver also seeks an order sealing the valuation of the property. I grant that order. Given that bids are still being received and that after the deadline for bids, the receiver proposes to hold an auction amongst qualified bidders, it makes good sense to retain confidentiality in the receiver's valuations of the real property. Similarly, even after a final agreement was entered into, it makes good sense to retain confidentiality in the valuation in case the final bid does not actually close.

7. Finally, the receiver seeks improvement of its expenses and disbursements. I have reviewed the receiver's 5th report which sets out the expenses of the steps it and its counsel have incurred. I find the expenses reasonable in the circumstances.

8. I attach a signed order.

Justice Markus Koehnen

Ontario Superior Court of Justice

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