

Saskatchewan



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QBG 880 of 2021 – JCS

Conexus Credit Union 2006 v Voyager Retirement III Genpar Inc., Voyager Retirement II LP, Voyager Retirement III Genpar Inc. and Voyager Retirement III LP

Rick M. Van Beselaere, QC for Conexus Credit Union 2006
Michael J. Russell and Justin Zelowsky for the respondents and for Caleb
Management Ltd.
Alexander K.V. Shalashniy for the MNP Ltd.

FIAT -November 5, 2021

ELSON, J.

[1] The purpose of this fiat is simply to address the wording of the order that should issue following the Court's fiat of October 19, 2021. It is the Court's understanding that the parties disagree on certain terms set out in the draft order proposed by Conexus Credit Union 2006 [Conexus].

[2] In this fiat, I shall very briefly address the respondents' suggested changes to the proposed draft order. For the most part, I will confine my comments to the contentious issues, some of which are more contentious than others. In doing so, I may incidentally touch on issues where the parties agree.

[3] Paragraph 3(1) - In respect of this provision, the respondents propose changes that distinguish between transactions of personal property and transactions of real property. It is my understanding that Conexus does not vigorously oppose these changes. Moreover, I am satisfied that the changes are not particularly significant. Accordingly, paragraph 3(1) may be changed in the manner proposed by the respondents.

[4] Paragraph 3(s) - I am not persuaded that the respondents' proposed change is required. Accordingly, this provision shall remain as worded in the proposed order.

[5] Closing passage to paragraph 3 - The respondents are concerned about the sentence beginning with the phrase "Without limiting the generality of the foregoing, ..." and ask that the sentence to be deleted or, in the alternative, included in paragraph 3(c). It is my understanding that Conexus is prepared to accept the latter of these two suggestions. In the end, I am not persuaded that this is significant one way or the other. Considering the position of Conexus, I direct that paragraph 3(c) of the proposed order be amended to address the issue reflected in the challenged sentence.

[6] Paragraph 17.1 - The respondents asked that this provision be deleted from the proposed order or, in the alternative, that more permissive language to be used with respect to the seeking of a court order to address any priority issue involving the

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Canada Revenue Agency. This is a very typical provision for orders of this kind. I am not persuaded that its language is unduly restrictive or inflexible. Given that a priority issue would require an application by one or more of the relevant parties, I believe it is already sufficiently permissive.

[7] Proposed insertion of paragraphs 25A and 25B - I am satisfied that it is not appropriate for these proposed paragraphs to be included in the order. In this regard, I am persuaded by Mr. Shalashniy's submission that it would be inappropriate to include a direction that may foreclose or preclude certain actions the receiver may consider appropriate. Should there be any difficulties as between the receiver or any of the relevant parties, including Caleb Management Ltd., they can be addressed in the course of the receivership and, if necessary, become the subject of a further application to the Court.

[8] In the end, I am satisfied that, subject to the directed changes to paragraphs 3(l) and (c), the order may issue in the form of the most recent proposed order presented by Conexus.


R. W. ELSON, J.