



## COUNSEL SLIP

COURT FILE NO. CV-20-637081-CL

DATE: Friday, February 28, 2020

THE HONOURABLE: MR. JUSTICE KOEHNEN

No. ON LIST: 1

COURTROOM: 8-3 @ 330 UA

TITLE OF  
PROCEEDING

T.B. -v- K.M.

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Respondent (s)

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Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Trust Bank, As Agent  
Plaintiff(s)

AND

Kew Media Group Inc et al.  
Defendant(s)

Case Management  Yes  No by Judge: Kochner J

| Counsel                 | Telephone No: | Facsimile No: |
|-------------------------|---------------|---------------|
| <u>see counsel slip</u> |               |               |
|                         |               |               |

- Order  Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- Adjourned to: \_\_\_\_\_
- Time Table approved (as follows):

FTI

Trust seeks to appoint FTI as Receiver and Manager of Kew Media Group Inc and some of its affiliates.

~~Trust~~ Kew seeks an adjournment of the application to the middle of next week. Kew says it is entitled to 10 days notice of the Receivership application. It was served only last night.

Feb. 28, 2020  
Date

[Signature]  
Judge's Signature

Additional Pages \_\_\_\_\_

Superior Court of Justice  
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**FILE/DIRECTION/ORDER**

Judges Endorsment Continued

Despite the very short service  
I grant the receivership order.

The appl. cat. syndicated lenders are  
owed over \$113,000,000.

The appl. cat. and FTI have already  
been "in" the company for ~~over~~ <sup>over</sup> 60 days  
working with management to prepare for a  
receivership or some other process of restructuring.  
During this period the situation of Kew  
has gone from bad to worse.

In December 2019 Kew advised its  
lenders that it had materially overstated information  
in its base borrowing certificates. The  
effect was that there was a collateral  
deficiency equal to approximately half of  
the \$113,000,000 debt.

Superior Court of Justice  
Commercial List

**FILE/DIRECTION/ORDER**

**Judges Endorsment Continued**

On January 15, 2020 Ken's auditors withdrew its audit reports for 2017, 2018 and 2019.

On January 16, 2020 the OSC cease traded Ken's shares for 15 days. On January 29 the OSC issued a permanent close trade order.

The orders have also become aware of numerous other breaches including the sale of certain U.S. subsidiaries without the required consent of the orders and the diversion of payments that should have gone to the orders but went to other parties instead.

Ken initiated a sales process for you + resulted in non-binding letters of intent that would see the orders suffer a significant shortfall.

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsement Continued

Kew's subsidiaries in the U.K. were put into administration in the UK. This means...

Kew remains a relevant issuer and will be required to disclose this application. That runs the serious risk of having suppliers and customers of Kew terminate contracts. If that occurs the situation of Kew will only ~~worsen~~ worsen.

In addition notice of a recent listing application risks jeopardizing the sales of potential sales that are in progress. Providing potential purchasers with certainty about who they should deal with or only ~~is~~ improves the sales process.

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

The respondents have not pointed me to any specific prejudice that they will suffer because of the failure to receive 10 days notice.

This is not a situation where the respondents application has come out of "the blue". FTI has been working with Morgan for 60 ~~70~~ days that only occurs when there are significant problems. Although ~~the~~ Kew has had <sup>over</sup> 60 days to come up with proposals ~~and~~ counsel could not point me to any alternatives. The only thing counsel for Kew has pointed me to is that the board would like to need to consider alternatives. I was not advised that the board ~~was~~ has been working on alternatives that are coming to fruition.

Superior Court of Justice  
Commercial List

## FILE/DIRECTION/ORDER

## Judges Endorsment Continued

Counsel for Kew also suggested that we do not even know if the information in the bank's application is true. If that is the case Kew is not without a remedy. The material was served last night. It is a serious application on ~~the~~ extreme that notice. If there is something materially misleading about the application materials, that ~~is~~ <sup>may</sup> give directors & other stakeholders grounds to set the ~~order~~ aside.

In my view this is a case in which it is appropriate to dispense with the 10 day notice under the BIA. The defaults are material. Kew has known for at least 60 days that it needed others. I have been pointed to no options. Kew's V.K. subsidiaries are already in administration.

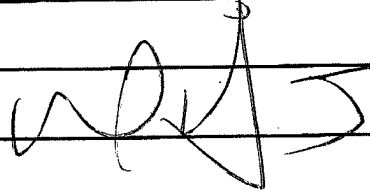
Court File Number: \_\_\_\_\_

Superior Court of Justice  
Commercial List

**FILE/DIRECTION/ORDER**

**Judges Endorsment Continued**

Further delay at this point creates  
a serious risk that customers and  
suppliers will flee the only available  
or already very serious situation.



Koehn J