



SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

**ENDORSEMENT**

COURT FILE NO.: CV-23-00700581-00CL DATE: July 24<sup>th</sup> 2023

NO. ON LIST: 1

TITLE OF PROCEEDING: **FIRE & FLOWER HOLDINGS CORP. et al v FENCOTT *et al***

BEFORE JUSTICE: **Justice Osborne**

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
KONYUKOVA, MARIA	Applicants	mkonyukhova@stikeman.com
YANG, PHILIP	Applicants	pyang@stikeman.com

**For Defendant, Respondent, Responding Party, Defence:**

Name of Person Appearing	Name of Party	Contact Info
HADDON, MURRAY	Turning Point Brands (Canada) Inc.	haddon.murray@gowlingwlg.com

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
ROSENBERG, JEFFREY	The Monitor	Jeffrey.rosenberg@fticonsulting.com
WILLIAMS, LEANNE	Counsel to the Monitor	lwilliams@tgf.ca
RENNER, NATALIE	DIP Lender	nrenner@dwpv.com

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**ENDORSEMENT OF JUSTICE OSBORNE:**

1. Turning Point Brands (Canada) Inc., (“TPB”) brought a motion originally returnable on June 19, 2023 to lift the stay of proceedings, terminate the consignment agreement between TPB and Fire & Flower Inc. dated January 5, 2023, and related relief.
2. The Affidavit of Service filed reflects that the motion record was served on the Service List on June 17, 2023.
3. On June 19, 2023, I adjourned the motion given the short service and to allow the parties and opportunity to discuss a possible consensual resolution of the matter.
4. It was then resolved, on consent, and on July 6, 2023, the matter return before me and the Applicants and TPB sought the relief in the form of the revised draft order circulated to the Service List the previous day. In addition to the consent of those two parties, the revised relief sought enjoys the consent of the DIP Lender and is fully supported and recommended by the Court-appointed Monitor for the reasons largely set out in the Second Report of the Monitor dated July 5, 2023.
5. At the hearing on July 6, the Court was advised that no stakeholder had contacted counsel for the Applicants or the Monitor either since the motion record was originally served on June 17 or since the revised draft order was served the day before the motion, to indicate even informally any opposition to the relief sought.
6. However, in the circumstances and given that the terms of the draft order sought had been amended from the version originally served on June 17, in my view stakeholders were entitled to a reasonable if brief opportunity to digest the issues and consider their position.
7. Accordingly, I adjourned the motion is adjourned for one week to July 13, 2023, and asked counsel for the Court-appointed Monitor to advise me directly by end of day on July 12, 2023 as to whether this motion was opposed. I advised the parties that if the relief was not opposed, I would address the motion in writing thereafter with no further attendance necessary, and if the motion was opposed, a hearing date could be scheduled through me.
8. The Court-appointed Monitor has now advised me that there are no objections to the relief sought. I am satisfied that, now, stakeholders have had a reasonable opportunity to consider their position.
9. I am also satisfied that the substantive relief sought is appropriate in the circumstances. The agreement between TPB and Fire & Flower Inc. is a consignment agreement, and in a somewhat unique circumstances of this particular agreement and the present circumstances of this proceeding, the relief sought is appropriate.
10. Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering. The Court-appointed Monitor is directed to provide a copy of this endorsement and the Order I have signed today to all parties.

Osborne, J.