Court File No.CV-14-10518-00CL

THE CASH STORE FINANCIAL SERVICES INC. AND RELATED APPLICANTS

SUPPLEMENT TO THE TWELFTH REPORT TO THE COURT SUBMITTED BY FTI CONSULTING CANADA INC., IN ITS CAPACITY AS MONITOR

November 27, 2014

Court File No. 14-CL-10518-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., TCS CASH STORE INC., INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., AND 1693926 ALBERTA LTD DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

SUPPLEMENT TO TWELFTH REPORT TO THE COURT SUBMITTED BY FTI CONSULTING CANADA INC. IN ITS CAPACITY AS MONITOR

INTRODUCTION

1. On November 19, 2014 the Monitor filed the Twelfth Report to the Court (the "**Twelfth Report**") in these CCAA Proceedings in relation to a motion by the Applicants, returnable November 21, 2014. Capitalized terms used in this Supplement to the Twelfth Report but not defined herein have the meanings given to them in the Twelfth Report.

2. On November 21, 2014, Cash Store obtained an order, among other things, approving the Third Amending Agreement providing for a fourth extension option pursuant to the Amended Joint DIP Term Sheet in the amount of $7 million, approving the Eleventh Report of the Monitor, and extending the stay of proceedings until and including February 27, 2015.

3. In the motion returnable November 21, 2014, the Applicants had also sought approval of a retainer agreement pursuant to which the CRO retained Litigation Counsel to investigate certain claims against former officers and/or directors, advisors, third party lenders and other parties and to advance claims on behalf of the Applicants on a contingency fee arrangement (the "**Retainer Agreement**"). At the hearing of the motion, Regional Senior Justice Morawetz adjourned the request for approval of the Retainer Agreement to December 1, 2014 at 9 a.m. at the request of counsel to the Class Representative (as defined in the endorsement of Regional Senior Justice Morawetz dated August 26, 2014) in this matter ("**Representative Counsel**") and 424187 Alberta Ltd. ("**424**"). The adjournment was intended to provide the parties with a short period of time to consider the issue and for the Monitor to consult with the various stakeholders to see if the matter could be addressed consensually.

4. Also at the hearing of the motion on November 21, 2014, the Monitor provided additional disclosure to the Court regarding the professional fees paid by the Applicants in this matter and indicated it would provide such additional information to the service list.

5. The purpose of this Supplement to the Twelfth Report is to provide the Court with the following:

   (a) An update regarding discussions among stakeholders in relation to the Litigation Counsel Retainer Agreement;

   (b) Additional information regarding professional fees paid by the Applicants;

   (c) A description of the Monitor's continuing review of information concerning fee collections in Ontario; and

   (d) Information regarding the decision rendered by the Court of Appeal of Ontario in relation to the Order of Regional Senior

Justice Morawetz dated August 5, 2014 (the "**TPL Order**") and the impact on funds segregated by the Applicants.

TERMS OF REFERENCE

6. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicants, the Applicants' books and records, certain financial information prepared by the Applicants and discussions with the Applicants' management and advisers. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

RETENTION OF LITIGATION COUNSEL

8. Subsequent to the hearing on November 21, 2014, counsel to the Monitor consulted with counsel for various stakeholders, including Representative Counsel, counsel to 424, counsel to the Ad Hoc Committee and counsel to the CRO.

9. Subsequent to such discussions, the Monitor has received confirmation from the CRO that: (i) the CRO will keep the Monitor apprised of all material aspects of the litigation conducted pursuant to the Retainer Agreement, including that the CRO will keep the Monitor apprised of any new retainer agreement(s) that he intends to enter into in respect of an appeal or services for collection of a judgment or order as referenced in paragraph 29 of the Retainer Agreement; and (ii) the CRO will obtain prior Monitor approval of any agreement to terminate the

Retainer Agreement and to enter into an hourly rate retainer agreement as referenced in paragraph 19 of the Retainer Agreement.

10. To the extent the Monitor is advised of any new retainer agreement(s) that the CRO intends to enter into as referenced in paragraph 19 or 29 of the Retainer Agreement, the Monitor intends to advise the Court of such new agreements in a Court report, served on the service list. In particular, it is the Monitor's intention to report to the Court in advance of providing approval of any agreement to terminate the Retainer Letter and enter into an hourly rate retainer agreement to the extent the Monitor is of the view that any creditor may be prejudiced by such a transition.

11. The Monitor understands that, as a result of the confirmations set out above, Representative Counsel and counsel to 424 do not oppose the approval of the Retainer Agreement, which will be sought by the Applicants at the motion returnable December 1, 2014 at 9 a.m.

PROFESSIONAL FEES PAID BY THE APPLICANTS

12. In the Twelfth Report, the Monitor provided a Cashflow forecast and Budget to Actual showing forecasted professional fees and a comparison to the actual professional fees paid by the Applicants in the CCAA Proceedings up to October 31, 2014, respectively.[1]

13. The Monitor also set out a list of professionals who received payments as shown in the Budget to Actual professional fee line item, together with details of the fees paid to the Monitor and its counsel. By way of additional disclosure, the following is a list of amounts paid to each of the other professionals included in that list (in each case including expenses and taxes):

[1] The Twelfth Report also included an excerpt of paragraph 42 of the Amended & Restated Initial Order. It should be noted that paragraph 42 was amended in the order TPL Order such that the last sentence of that paragraph reads "The Applicants shall also be entitled to pay the reasonable fees and disbursements of Goodmans LLP, Houlihan Capital LLC, McMillan LLP and Bennett Jones LLP."

Professional Entity	**Fees Paid to 10/31/2014**
William E. Aziz, in his capacity as Chief Restructuring Officer – including both fees and disbursements payable pursuant to the CRO's engagement letter	$890,224.00
FTI Consulting Canada Inc., in its capacity as the Monitor	$3,224,735.59
McCarthy Tétrault LLP, in its capacity as counsel to the Monitor	$857,577.82
Osler Hoskin & Harcourt LLP, in its capacity as counsel to the Chief Restructuring Officer	$2,123,571.99
Rothschild Inc. in its capacity as financial advisor	$1,080,545.03
Conway MacKenzie, in its capacity as financial advisor	$795,450.97
Norton Rose LLP, in its capacity as counsel to the DIP Lenders and Agent	$1,386,769.65
Goodmans LLP, in its capacity as counsel to the Ad Hoc Committee	$1,013,099.00
Moelis and Company, in its capacity as original financial advisor to lenders under the Initial DIP	$383,836.08
Houlihan Lokey Capital Inc., in its capacity as financial advisor	$1,001,120.92

14. In addition to the above, during the same timeframe, Michele McCarthy, the CCRO was paid a total of $236,923.05 and McMillan LLP, in its capacity as counsel to Trimor Annuity Focus Limited Partnership #5, was paid a total of $64,100.93. These amounts were not included in the professional fee restructuring line item but rather were included in payroll and operating expenses, respectively.

15. Throughout these CCAA proceedings, the professional fees paid by the Applicants have been reviewed and approved primarily by the CRO. In a typical billing cycle, invoices are sent from the professional entities incurring the fees to the CRO. Upon receipt, the CRO reviews the invoices on behalf of the Applicants and if the fees are approved by him, copies the Monitor on the request to the Applicants for payment.

TIMING OF FEE COLLECTIONS IN ONTARIO

16. As reported in the Twelfth Report, the CRO and Monitor became aware that, as a result of the treatment of capitalized fees in the Cash Store system, Cash Store had received amounts in respect of capitalized fees when accepting payments of principal in Ontario during these CCAA Proceedings.

17. Subsequent to the submission of the Twelfth Report and in response to an inquiry made by the Court, the Monitor conducted a further review of the Cash Store systems to determine at what point the Cash Store system began recording capitalized fees as principal. Based on this review, it appears that it was on or about February 1, 2013 (on the launch of the revolving line of credit products in Ontario) that such fees began to be included as principal in the Cash Store system.

18. The CRO and Monitor continue to develop a process to calculate and address the amounts received that are properly characterized as costs of borrowing that were received following the restriction on such collections.

TPL APPEAL

19. On November 25, 2014 the Ontario Court of Appeal released its decision to dismiss the appeal of 0678786 B.C. Ltd. and Trimor Annuity Focus Limited Partnership #5, who were appealing from the TPL Order (the "**TPL Appeal**"). A copy of the TPL Order is attached hereto as **Schedule "A"** and a copy of the Court of Appeal's decision is attached hereto as **Schedule "B"**.

20. The TPL Order appealed from provides that the "Disputed Post-Filing Receipts", "TPL Post-Filing Receipts" (as defined in the Initial Order), "Post-Filing McCann Receipts", "Post-Filing Trimor Ontario Receipts" and "Post-Filing Trimor Non-Ontario Receipts" (collectively, the "**TPL Amounts**") form part of the property of the Applicants, do not have to be held separate and apart and may be used by the Applicants for general operating purposes and any other purpose whatsoever, subject to the terms of the Initial Order and the terms of the DIP Facility and Term Sheet.

21. The TPL Order also provides that nothing in that order affects the declaration made in section 4(c)(i) of the "TPL Protection Order", dated April 30, 2014, which provided that from April 30, 2014, the Applicants were only entitled to use non-Ontario Trimor brokered loan receipts:

> "for the purpose of brokering new TPL Brokered Loans in the name of Trimor provided that, with effect upon any such new TPL Brokered Loan being made, it is hereby declared that Trimor shall be the owner of such new TPL Brokered Loan and all proceeds therefrom and such TPL Brokered Loan and all proceeds therefrom shall not form part of the Property and shall not be subject to the Charge".

22. Accordingly, the TPL Amounts addressed in the TPL Order do not include loans made after April 30, 2014 from non-Ontario Trimor brokered loan receipts for the purpose of new TPL Brokered Loans in the name of Trimor and proceeds therefrom (the "**4(c)(i) Amount**").

23. As of November 15, 2014, the amounts currently segregated by the Applicants in relation to the TPL Post-Filing Receipts of approximately $9.8 million less the 4(c)(i) Amount of approximately $1.02 million in relation to payday loans and approximately $0.89 million for draws on lines of credit using a weighted average approach[2] results in a total of approximately $7.89 million.

24. To determine the TPL Amount, this amount will also have to be reduced by the amount of any fees that were included in the collection of brokered loans in Ontario in light of the Ontario collections issue described above. Cash Store, with the assistance of the Monitor, is presently calculating this amount - a process that is taking additional time given the recent departure of certain Cash Store personnel. The Monitor presently expects that the final calculation will be completed next week.

25. As described in the Tenth Report to the Court, the Amended Joint DIP Term Sheet (as amended by the Second Amending Agreement) provides that upon the issuance of an order by the Court of Appeal dismissing the TPL Appeal or a similar settlement, the DIP Lenders will have the option to require Cash Store to make a mandatory prepayment in an amount equal to 100% of the amounts subject to the dismissed TPL Appeals or settlements.

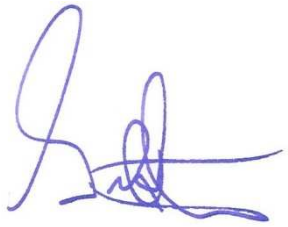
26. The Monitor understands that the Applicants intend to either use the TPL Amount for general operating purposes or, if required to do so by the DIP Lenders, make the mandatory prepayment of the TPL Amount (less the 4(c)(i) Amount and any cost of borrowing improperly included therein from receipts in Ontario), in accordance with the terms of the Amended Joint DIP Term Sheet.

[2] As previously reported in the Tenth Report of the Monitor, collections on line of credit loans are not specifically tracked in relation to specific draws on the line of credit such that there is no clear delineation of which collections are in relation to amounts advanced after April 30, 2014. The weighted average approach set out herein is one method of calculating the value of receipts on non-Ontario Trimor lines of credit post-April 30, 2014. To the extent collections are applied to the oldest draws first, approximately $0.85 million was collected in relation to post-April 30 lines of credit made in the name of Trimor. To the extent collections are applied to the newest draws first, approximately $0.98 million was collected in relation to such lines of credit.

27. The Monitor respectfully submits to the Court this Supplement to its Twelfth Report.

Dated this 27th day of November, 2014.

FTI Consulting Canada Inc.
The Monitor of
The Cash Store Financial Services Inc.
and Related Applicants



Greg Watson
Senior Managing Director

Schedule “A”

Court File No. CV-14-10518-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE REGIONAL	)	TUESDAY, THE 5TH
	)	
SENIOR JUSTICE MORAWETZ	)	DAY OF AUGUST, 2014

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., TCS CASH STORE INC., INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA LTD. DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

ORDER

THESE MOTIONS, made by 0678786 B.C. Ltd. ("McCann"), Trimor Annuity Focus LP No. 5 ("Trimor") and the DIP Lenders (as defined in the Order dated May 17, 2014) were heard on June 11 and 16, 2014 at 330 University Avenue, Toronto, Ontario.

ON READING the Amended Notice of Motion of McCann dated May 15, 2014, the Amended Notice of Motion of Trimor dated May 14, 2014 (collectively the "TPL Motions"), the Notice of Cross-Motion of the DIP Lenders dated May 20, 2014 (the "Cross-Motion"), the affidavit of Steven Carlstrom sworn April 14, 2014, the affidavit of Erin Armstrong sworn April 13, 2014, the affidavit of Murray McCann sworn April 22, 2014, the affidavit of Sharon Fawcett sworn April 22, 2014, the affidavit of Erin Armstrong sworn May 8, 2014, the Second Affidavit of William E. Aziz sworn May 9, 2014 and the affidavit of Donald MacLean sworn May 15, 2014 (collectively, the "Affidavits"), the exhibits to the Affidavits, the transcript of the cross-examination of Steven Carlstrom on his affidavit sworn April 14, 2014 held April 22, 2014, the

transcript of the cross-examination of Sharon Fawcett on her affidavits sworn April 11 and April 22, 2014 held May 21, 2014, the transcript of the cross-examination of Erin Armstrong on her affidavits sworn April 13 and May 8, 2014 held May 21, 2014, the transcript from the Cross-Examination of Murray McCann on his affidavit sworn April 22, 2014 held May 21, 2014, the transcript of the cross-examination of Jennifer Pede on the affidavit of Don MacLean sworn May 15, 2014 held May 27, 2014 (collectively, the "Cross-Examinations") and the exhibits to the Cross-Examinations and the productions made in connection therewith, and the Monitor's Reports filed in these proceedings, and on hearing the submissions of counsel for the Chief Restructuring Officer of the Applicants, the DIP Lenders, the Monitor, the Ad Hoc Committee, McCann, Trimor and Tim Yeoman,

DISPOSITION OF TPL MOTIONS

1. THIS COURT ORDERS that the TPL Motions be and are hereby dismissed.

2. THIS COURT ORDERS that the Cross-Motion is hereby dismissed without prejudice to the DIP Lenders to renew their motion in accordance with the Endorsement in respect of the TPL Motions and the Cross-Motion dated August 5, 2014 (the "Endorsement").

3. THIS COURT ORDERS that, subject to paragraph 6, the Applicants are the beneficial owners of the Disputed Post-Filing Receipts as defined in paragraph 11 of the Endorsement and neither Trimor nor McCann shall take any steps to collect any advances or loans made to the Applicants' customers, irrespective of whether such loans or advances have been designated in the name of Trimor or McCann or otherwise assigned to Trimor or McCann by the Applicants, and any recoveries or collections on such advances or loans by Trimor and McCann shall be deemed to be held in trust for the Applicants.

4. THIS COURT ORDERS that, subject to paragraph 6, notwithstanding anything to the contrary in the Amended and Restated Initial Order dated April 15, 2014 (the "Initial Order") and the Order (Additional TPL Protections) dated April 30, 2014 (the "TPL Protection Order"):

(a) the Disputed Post-Filing Receipts, TPL Post-Filing Receipts (as defined in the Initial Order), the Post-Filing McCann Receipts, the Post-Filing Trimor Ontario Receipts and the Post-Filing Trimor Non-Ontario Receipts (as such terms are defined in the TPL Protection Order) shall form part of the Applicant's Property (as defined in the Initial Order) and shall be subject to the Charges;

(b) the Applicants shall no longer be required to hold any of the Disputed Post-Filing Receipts, TPL Post-Filing Receipts, the Post-Filing McCann Receipts, the Post-Filing Trimor Ontario Receipts or the Post-Filing Trimor Non-Ontario Receipts separate and apart from the Applicants' operating or other accounts in accordance with any provision of the Initial Order or the TPL Protection Order;

(c) the Applicants are hereby authorized to use the Disputed Post-Filing Receipts, TPL Post-Filing Receipts, the Post-Filing McCann Receipts, the Post-Filing Trimor Ontario Receipts and the Post-Filing Trimor Non-Ontario Receipts for general operating purposes and any other purpose whatsoever, subject to the terms of the Initial Order (as amended by this Order) and the terms and conditions of the DIP Facility and the Term Sheet (in each case as defined in the Order dated May 17, 2014);

(d) paragraph 35 of the Initial Order shall no longer be of any force and effect; and

(e) the Applicants shall no longer be directed pursuant to paragraph 10 of the Initial Order to make any retention payments to TPLs.

5. THIS COURT ORDERS that paragraph 42 of the Initial Order is hereby amended so that the final sentence of paragraph 42 shall read as follows: "The Applicants shall also be

entitled to pay the reasonable fees and disbursements of Goodmans LLP, Houlihan Capital LLC, McMillan LLP and Bennett Jones LLP".

6. THIS COURT ORDERS that nothing in this Order shall affect the declaration made in Section 4(c)(i) of the TPL Protection Order and Section 4(c)(i) of the TPL Protection Order remains in full force and effect, subject to further Order of the Court.

7. THIS COURT ORDERS that there shall be no costs awarded to any party with respect to the TPL Motions or the Cross-Motion.

RSJ

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

AUG - 8 2014

MB

IN THE MATTER OF the *Companies' Creditors Arrangement Act,* **R.S.C. 1985, c. C-36, as amended**

AND IN THE MATTER OF a plan of compromise or arrangement of The Cash Store Financial Services Inc., The Cash Store Inc., TCS Cash Store Inc., Instaloans Inc., 7252331 Canada Inc., 5515433 Manitoba Inc., 1693926 Alberta Ltd. doing business as "The Title Store"

Court File No: CV-14-10518-00CL

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

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Counsel for the Chief Restructuring Officer of the Applicants

Schedule “B”

COURT OF APPEAL FOR ONTARIO

CITATION: Cash Store Financial Services Inc. (Re) 2014 ONCA 834
DATE: 20141125
DOCKET: C59377 & C59379

Hoy A.C.J.O., Cronk and Blair JJ.A.

In the Matter of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

And in the Matter of a Plan of Compromise or Arrangement of The Cash Store Financial Services Inc., The Cash Store Inc., TCS Cash Store Inc., Instaloans Inc., 7252331 Canada Inc., 5515433 Manitoba Inc., 1693926 Alberta Ltd. doing business as "The Title Store"

Robert W. Staley, Jonathan Bell and Ilan Ishai, for 0678786 B.C. Ltd.

Brett Harrison, for Trimor Annuity Focus LP No.5

Andrew Hatnay and Adrian Scotchmer, for Timothy Yeoman

Alan Merskey and Andrew McCoomb, for DIP Lenders and *Ad Hoc* Committee of Noteholders

Alan Mark and Brendan O'Neill, for DIP lenders and *Ad Hoc* Committee of Noteholders

Jeremy Dacks, for the Chief Restructuring Officer

Heather Meredith, for FTI Consulting Canada Inc., in its capacity as Monitor

Heard: November 18, 2014

On appeal from the order of Justice Geoffrey B. Morawetz of the Superior Court of Justice, dated August 5, 2014.

ENDORSEMENT

[1] The appellants, 0678786 B.C. Ltd. and Trimor Annuity Focus Limited Partnership #5, advanced funds to Cash Store Inc. and 1693926 Alberta Ltd. (collectively "Cash Store") – a payday lending company now operating under the protection of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA").

[2] The appellants brought motions before the Commercial List motion judge seeking a determination that they were the sole legal and beneficial owners of both the proceeds on hand from loan payments made by, and accounts receivable from, Cash Store's customers at the time that Cash Store sought protection under the CCAA. Loan payments by Cash Store's customers were commingled with Cash Store's funds and it was not possible to identify the source of the funds on hand at the time of the initial order under the CCAA. Relying principally on the framework of agreements entitled "Broker Agreements" that they had entered into with Cash Store, the appellants argued that they had loaned funds to Cash Store's customers, and Cash Store merely operated as a broker to facilitate placement and collection.

[3] The motion judge disagreed. He found that the relationship between the appellants and Cash Store was a debtor-creditor relationship. Effectively, the appellants had loaned money to Cash Store, which in turn made its own loans to its customers. Accordingly, the appellants were required to stand in line with

Cash Store's other creditors. By orders dated August 5, 2014, the motion judge dismissed the appellants' motions.

[4] On this appeal, the appellants argue that the motion judge improperly varied the terms of the Broker Agreements. They cite *Technicore Underground Inc. v. Toronto (City)*, 2012 ONCA 597, 354 D.L.R. (4th) 516 for the proposition that before a court can vary a contract based on conduct, there must be a pattern of conduct by the parties to the contract demonstrating that they did not intend to be bound by its terms. The appellants argue that the motion judge erred in law because he did not apply this test or that, if he did, he made palpable and overriding factual errors in doing so. The appellants say the test could not be met in the face of what they characterize as evidence from themselves and a former officer of Cash Store that the parties intended to be bound by the terms of the Broker Agreements, as well as the description of the parties' relationship in various public disclosures made by Cash Store.

[5] We are not persuaded that there is any basis for this court to intervene with the motion judge's order dismissing the appellants' motions.

[6] *Technicore* – a case where one party to the contract unsuccessfully argued that the other party varied the notice provisions in the contract by its conduct and therefore could not rely on its provisions – was not argued before the motion judge.

[7] We agree with the respondents, the DIP Lenders and the *Ad Hoc* Committee of Noteholders, that, fundamentally, the appellants seek to have this court re-visit the factual determinations of the motion judge.

[8] The task undertaken by the motion judge was to determine – in the context of an insolvency, where third party creditors asserted that the accounts receivable were the property of Cash Store – the true legal characterization of the relationship between the appellants and Cash Store. As the appellant Trimor Annuity Focus Limited Partnership #5 noted in its reply and responding factum before the motion judge:

> In determining the issue of ownership, it is important to carefully consider the facts. [Para. 5]
>
> The DIP Lenders correctly note that the Cash Store's legal relationship with the [appellants] is not exhaustively defined by the Broker Agreements. The conduct of the parties is also relevant. [Para. 15]

[9] In our view, there was no error in the approach of the motion judge. He considered the terms of the Broker Agreements and the manner in which the parties actually operated. At para. 37 of his reasons, he concluded that the Broker Agreements "did not accord with reality." The actual practices followed by the parties were not consistent with the Broker Agreements. In reality, the appellants and Cash Store were in a debtor-creditor relationship, and not the principal-broker relationship contemplated by the Broker Agreements. There were several bases for his conclusion: the ongoing payments at the rate of

17.5% of the outstanding funding that Cash Store made to the appellants reflected a payment of interest, and the payment of interest was inconsistent with the broker position argued by the appellants; loan repayments were co-mingled with Cash Store funds in its operating account; and Cash Store provided "capital protection" to the appellants, insulating them from any credit risk as a result of loan defaults by Cash Store's customers. The motion judge's conclusion is amply supported by the record and is entitled to deference.

[10] This appeal is accordingly dismissed. There shall be no order as to costs.

"Alexandra M. ACJO."

"E.A. Cronk J.A."

"R.A. Blair J.A."