



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00710413-00CL

DATE: September 17, 2026

NO. ON LIST: 1

TITLE OF PROCEEDING: MBL ADMINISTRATIVE AGENT II LLC

v.

TRADE X GROUP OF COMPANIES INC. et al.

BEFORE: JUSTICE PETER CAVANAGH

PARTICIPANT INFORMATION

For Applicant(s):

Name of Person Appearing	Name of Party	Contact Info
Sean Monahan	Counsel to the Applicant, MBL Administrative Agent II LLC	smonahan@dwpv.com

For Respondent(s):

Name of Person Appearing	Name of Party	Contact Info
Hunter Norwick	Counsel to the Defendant, Luciano Butera (CV-25-00747899-00CL)	hunter@kestenberglitigation.com
Catherine Francis	Counsel to the Defendant, CFO Centre (CV-25-00747899-00CL)	cfrancis@foglers.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Brittni Tee	Counsel to the Court-Appointed Receiver, FTI Consulting Canada Inc.	btee@goodmans.ca
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ENDORSEMENT OF JUSTICE PETER CAVANAGH:

[1] This motion is brought by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the "Receiver"), without security, of substantially all of the assets, undertakings and properties of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX Ops Canada Corporation (collectively, "Trade X" or the "Debtors").

[2] The Receiver seeks an Order (the "Settlement Approval Order") approving a partial settlement (the "Settlement") on the terms and conditions set out in the unredacted minutes of settlement (the "Minutes of Settlement") attached as Confidential Appendices "A", "B" and "C" to the Twelfth Report (the "Confidential Appendices"), and sealing such Confidential Appendices.

[3] The Settlement is the result of multiparty negotiations with certain of the defendants to the Trade X Action (as defined below) brought by the Receiver, on behalf of the Debtors, and certain of the defendants to the Secured Lenders' Action (as defined below) brought by the Applicant, the Debtors' senior secured lender. The Settlement provides for the payment of certain settlement amounts to the Receiver, on behalf of the Debtors, and the Applicant and, in exchange, the Debtors and the Applicant will discontinue their respective actions against the settling defendants and grant them releases. The actions will continue against the remaining defendants. The Settlement is conditional on approval by this Court in these receivership proceedings.

[4] The Receiver also seeks an order (the "Fee Approval Order") approving:

- a. the Receiver's last five reports and the activities and conduct of the Receiver described therein; and
- b. the fees and disbursements of the Receiver and its counsel.

[5] On or about February 19, 2026, the Receiver and the Applicant (together, in their respective capacities as plaintiffs in the Trade X Action and the Secured Lenders' Action, the "Plaintiffs") reached a partial settlement in principle of the Trade X Action and the Secured Lenders' Action (as defined in the motion materials) with defendants Eric Gosselin, Eric Van Essen, Luciano Butera, Patrick Leung, Brent Sawadsky, The CFO Centre Limited, Philip Mittleman, Lakshmi Suresh and Wouter Van Essen (collectively, the "Settling Defendants"). The parties ultimately entered into the Minutes of Settlement.

[6] The key terms of the Settlement are as follows: (a) AIG Insurance Company of Canada, in its capacity as insurer under Trade X's directors' and officers' insurance policy (the "D&O Policy"), will pay an agreed settlement amount (the "Insurer Settlement Amount") to the Plaintiffs; (b) Eric Gosselin will pay an agreed settlement amount (the "Gosselin Settlement Amount") to the Plaintiffs; (c) The CFO Centre Limited will pay an agreed settlement amount (the "CFO Centre Settlement Amount" and collectively with the Insurer Settlement Amount and the Gosselin Settlement Amount, the "Settlement Amounts") to the Plaintiffs; (d) the Plaintiffs shall have the right to allocate the Settlement Amounts between them in their sole discretion; (e) the Plaintiffs shall bring motions to amend their respective Statements of Claim to reflect the contents of the Minutes of Settlement; (f) the Plaintiffs and the Settling Defendants shall execute full and final mutual releases in the form contemplated by the Minutes of Settlement; and (g) the Settlement in respect of the Trade X Action is subject to this Court's approval in these proceedings.

[7] The Trade X Action and the Secured Lenders' Action will continue as against Ryan Davidson, and the Secured Lenders' Action will continue as against the other remaining Secured Lenders' Defendants that are not Settling Defendants (the "Remaining Defendants").

[8] The Receiver reports that it holds the view that the Settlement is in the best interests of the Debtors and their stakeholders, for whom it provides significant value, and that it is reasonable in the circumstances having regard to the roles of the Settling Defendants at Trade X. The Applicant, which is the Debtors' senior secured creditor, actively participated in the negotiation of, and is a party to, the Settlement. The Applicant has executed the Minutes of Settlement and supports the Settlement.

[9] Paragraphs 3(h) and (j) of the Receivership Order grant the Receiver the authority to settle any indebtedness owing to the Debtors and to settle or compromise any proceeding. The Receiver agreed to the Settlement pursuant to these powers.

[10] In the context of an insolvency proceeding, the Court will consider the following key factors in assessing whether to approve a settlement agreement: (a) whether the settlement is fair and reasonable; (b) whether it provides substantial benefits to other stakeholders; and (c) whether it is consistent with the purpose and spirit of the relevant insolvency legislation. See *Maple Bank GmbH (Re)*, 2016 ONSC 7218, at para. 8. The Court will also consider the *Soundair* factors.

[11] The Court has held that in connection with a settlement, a receiver must consider the available information and use its expertise to determine how to maximize the value of the rights subject to the settlement, and that in seeking to settle a claim, the receiver can meet its obligations where the proposed compromise is commercially reasonable. It is also appropriate for Courts to take into account the business judgment of the court officer that was involved in the negotiation of the settlement where that settlement raises complex issues or where the receiver is otherwise in a better position to evaluate the merits of the settlement.

[12] I am satisfied that the Settlement should be approved for the following reasons:

- a. **Sufficient effort was made to obtain the best price:** The Receiver, in consultation with the Applicant, engaged in extensive negotiations over an extended period of time with the Settling Defendants and their insurer under Trade X's D&O Policy. The Settlement provides significant value for the benefit of the Debtors' stakeholders in the near term and avoids the costs and risks associated with further litigation with respect to the Settling Defendants. The Receiver does not believe that further negotiations would have produced a better outcome, and believes that the Receiver together with the Applicant achieved the best available settlement with the Settling Defendants in the circumstances. In addition, the maximum amount payable under the D&O Policy, in respect of both defence costs and judgment, is \$4 million (the "D&O Policy Limits"). The Receiver understands that defence costs of the Settling Defendants to date total more than \$600,000, although the Actions remain at the pleading stage. Absent a settlement, it is likely that the D&O Policy Limits would be exhausted by defence costs and the D&O Policy would not be available to pay any judgments obtained in the Actions. Accordingly, a settlement at this stage is likely the best approach to maximize recoveries from the D&O Policy.
- b. **The interests of all parties have been considered:** The Receiver consulted with the Applicant, and the Applicant actively participated in the negotiation of, and is a party to, the Settlement. The Applicant is the Debtors' senior secured creditor and is currently owed over \$18 million. The Applicant is unlikely to recover this amount in full unless the Receiver and/or the Applicant are entirely (or almost entirely) successful in the Trade X Action and/or the Secured Lenders' Action and any judgment awarded in either or both of the Actions is collected in full. No other creditors will be affected by the Settlement.
- c. **The settlement negotiations were conducted with integrity:** The settlement negotiations were conducted with integrity and due diligence and in good faith. There is no suggestion that they were not. The Receiver has not received any objections or concerns regarding the Settlement.
- d. **There was no unfairness:** In the Receiver's view, there has been no unfairness in the conduct of the settlement negotiations. The negotiations were robust and achieved favourable results for the benefit of the Debtors and their stakeholders.

[13] Each of the Minutes of Settlement require the parties to keep confidential the Settlement Amounts. The Receiver has publicly filed copies of the Minutes of Settlement with the Settlement Amounts redacted, and seeks an order sealing the unredacted copies of the Minutes of Settlement that contain the Settlement Amounts.

[14] The Supreme Court of Canada has held that a *Pierringer* agreement, including the negotiated settlement amount, is protected by settlement privilege. See *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013

SCC 37 (CanLII) at para. 18. The Trade X Claim and the Secured Lenders' Claim will continue as against the Remaining Defendants, and disclosure of the Settlement Amounts could be prejudicial to the ongoing Actions.

[15] I am satisfied that the *Sherman Estate* requirements are satisfied and that the limited sealing order should be made.

[16] I am satisfied that the Fee Approval Order should be made.

[17] Orders to issue in forms of Orders signed by me today.

Date: September 17, 2026


