



SUPERIOR COURT OF JUSTICE

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-24-00715153-00CL

DATE: February 27, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: EXPORT DEVELOPMENT CANADA v. ANTAMEX INDUSTRIES ULC

BEFORE: JUSTICE BLACK

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**PARTICIPANT INFORMATION**

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

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**ENDORSEMENT OF JUSTICE BLACK:**

- [1] The parties were before me on February 27, 2024. At that time, as my endorsement from that hearing reflects, it was my impression that the parties were in the early part (or at most the midst) of a discussion about a potential resolution. Accordingly, I directed that the parties continue that discussion and report back to me on March 4, 2024.
- [2] The parties did so. While they did not reach a full agreement, it appears from the reports delivered on March 4 on behalf of EDC and Antamex/Sureties, respectively, that there are items on which the parties agree, and a potential basis for a way forward.
- [3] Based on the submissions that I heard on February 27, 2024, and the contents of the parties' reports about their negotiations, I order as follows:
- a. Deloitte is appointed, effective immediately, as a receiver over the EDC Collateral (also referred to in places as the U.S. Collateral) and the related books and records, including the books and records of Antamex. The parties, acting reasonably, are to agree on a form of Order, that I will approve, relative to this partial receivership;
  - b. The Sureties are to pay an amount up to \$2 million CAD into the Deloitte trust account immediately following March 12, 2024 in the event the Sureties do not commit, by March 12, 2024, to providing necessary and sufficient financial support to Antamex;
  - c. In addition to this payment, and regardless of the outcome, the Sureties are to reimburse EDC directly for all professional fees and expenses reasonably incurred during the "adjournment period" between February 27 and March 12, 2024 (which reimbursement is not conditional on the Sureties funding decision or any other matter, and will include the fees incurred by EDC's legal counsel and the proposed receiver and its legal counsel);
  - d. Antamex will pay the next regular payment to EDC under the EDC Loan, on the date that that next payment falls due;
  - e. Subject to any material unanticipated developments between now and March 12, 2024, or an agreement between the parties, Antamex and/or the Sureties will not make any further requests for an adjournment beyond March 12, 2024; and
  - f. During the period between now and March 12, 2024, Antamex may continue to operate in the ordinary course, including performing as required under construction contracts with respect to the ongoing fabrication, supply, and installation of materials.
- [4] Antamex and the Sureties have suggested that the appointment of Deloitte as a partial receiver – over the EDC Collateral – be delayed inasmuch as the required activities in that regard will cause distraction from the Sureties' focus on assessing their potential funding of the Antamex business.
- [5] While I accept that that may be somewhat the case, I am also concerned, particularly in light of correspondence from the landlord of the facility in Norwich, Connecticut, that it is imperative for a receiver to be appointed immediately to address the circumstance with the Norwich landlord and to attempt to achieve a resolution of that dispute which protects EDC's interest in the EDC Collateral.

[6] I expect the parties to be able to agree on the necessary form of Order to implement my findings above; if not I may be spoken to early in a day later this week.

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Black J