Court File No. CV-25-00738512-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

EXPORT DEVELOPMENT CANADA

Applicant

- and -

CLEARPIER ACQUISITION CORP. and 1000238820 ONTARIO INC.

Respondents

APPLICATION UNDER SECTION 243 (1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended
and s. 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43

FACTUM OF EXPORT DEVELOPMENT CANADA

(Receivership Application returnable July 29, 2026)

July 28, 2026

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TO: **SERVICE LIST**

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PART I -INTRODUCTION

1. In April 2025, proceedings were commenced by ClearPier Acquisition Corp. ("**CPAC**") and its parent, 1000238820 Ontario Inc. (together with CPAC, the "**Debtors**"), under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") for the purpose of conducting a sale and investment solicitation process (the "**CCAA Proceedings**").

2. The Debtors were holding companies, with no operating businesses of their own. The sale and investment solicitation process under the CCAA was aimed at monetizing the Debtors' foreign operating subsidiaries.

3. That process was proposed by the Debtors as an alternative to a pre-existing receivership application by Export Development Canada ("**EDC**"), as the senior secured creditor of the Debtors. At the time, the Debtors had committed numerous very material defaults under EDC's senior secured debt, and EDC had demanded repayment of amounts in excess of CDN$36 million and USD$40 million. Notwithstanding EDC's concerns, EDC consented to and cooperated with the Debtors' proposed CCAA path.

4. Over a year later, the Debtors' proceedings under the CCAA have not generated any successful going concern transactions.

5. EDC is the only creditor with an economic interest in the assets of the Debtors.

6. In EDC's view, the CCAA process has run its course, and the only appropriate next step is to transition the Debtors' and their equity holdings in various operating subsidiaries, to a more efficient receivership proceeding.

7. EDC is not aware of any opposition to the proposed receivership, which is supported by Richter Inc. ("**Richter**") in its capacity as Monitor in the CCAA Proceedings.

PART II - THE FACTS

8. EDC is the senior secured lender to CPAC pursuant to a Facility Agreement dated September 8, 2022, between, among others, EDC, CPAC, and a number of CPAC's operating subsidiaries and other affiliates as guarantors (as amended, supplemented or modified from time to time, the "**Credit Agreement**").[1]

9. EDC is currently owed in excess of CDN$36 million and US$40 million by CPAC (the "**CPAC Indebtedness**"). [2]

10. Advances under the Credit Agreement were provided by EDC to CPAC to finance the acquisition by CPAC of the following subsidiaries:

    (a) Cygobel Media Ltd. ("**Cygobel**");

    (b) KPM Technologies Ltd. ("**KPM**"); and

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[1] Affidavit of Mark Doyle, sworn February 28, 2025, contained in the Application Record of the Applicant dated July 21, 2026, Court File No. CV-25-00738512-00CL [companion receivership proceeding court file number] (the "**Application Record**") (the "**Doyle Affidavit**"), at para. 3(a).

[2] Application Record, Doyle Affidavit, at para. 3(b).

(c) Pesto Harel Shemesh Ltd. (“**Pub Plus**”);

(d) Hang My Ads Lda. (“**HMA**”)[3]

(collectively, the “**Operating Subsidiaries**”).

11. Cygobel, KPM, and Pub Plus are located in Israel. HMA is located in Portugal.[4] CPAC describes the businesses of the Operating Subsidiaries as a premier advertising company specializing in performance app marketing, including user acquisition and engagement.[5]

12. To secure the obligations under the Credit Agreement, EDC holds a general security interest over all personal property of the Debtors as well as Cygobel, KPM and Pub Plus. EDC also holds a pledge of shares of HMA.[6]

13. Defaults under the Credit Agreement began in early 2023. Since that time defaults have included a number of fundamental matters:

(a) Failures to make scheduled interest and principal payments, beginning in March 2023. At this time, overdue scheduled interest and principal payments exceed CDN$11 million and US$11 million.

[3] Application Record, Doyle Affidavit, at paras. 21-23.
[4] Application Record, Doyle Affidavit, at para. 17.
[5] Application Record, Doyle Affidavit, at para. 12.
[6] Application Record, Doyle Affidavit, at para. 24.

(b) Consistent failures to deliver financial reporting necessary for EDC to understand the state of the Debtors' and the Operating Subsidiaries' businesses.

(c) An acquisition of Media Quest Group Limited by an affiliate of CPAC, without obtaining any amendment to permit this acquisition in accordance with the Credit Agreement.

(d) Breaches of permitted debt restrictions.[7]

14. As a result of all of these events of default (collectively, the "**Defaults**"), on February 27, 2024, EDC, through counsel, delivered a letter demanding repayment of the facilities and a Notice of Intention to Enforce Security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (Canada). [8]

15. EDC worked cooperatively with the Debtors and the Operating Subsidiaries for an extended period to try to resolve these matters. These efforts included two forbearance periods, in April 2024 and again in August and September 2024. The purpose of these forbearance arrangements was to provide time for management of the Debtors to continue to pursue their equity refinancing efforts and to commence a sale process with a third-party advisor if those equity refinancing efforts failed. These efforts did not result in a successful outcome.[9]

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[7] Application Record, Doyle Affidavit, at paras. 27-28.
[8] Application Record, Doyle Affidavit, at para. 29.
[9] Application Record, Doyle Affidavit, at paras. 33-39.

16. EDC commenced this Receivership Application initially in February 2025. In response, the Debtors commenced the CCAA Proceedings. An Initial Order was granted in the CCAA Proceedings on April 2, 2025, with the consent of EDC. Richter was appointed as Monitor in the CCAA Proceedings. Since that time, the Receivership Application has been in abeyance.[10]

17. The purpose of the CCAA Proceedings was to conduct a monitor-led sale and investment solicitation process to identify restructuring, sale or reorganization transactions in respect of the Debtors as well as the Operating Subsidiaries. That process was approved in the CCAA Proceedings on April 10, 2025, and was conducted by Richter, in its capacity as Monitor in the CCAA Proceedings.[11]

18. During the sale and investment solicitation process, on October 9, 2025, the Monitor was granted enhanced powers in the CCAA Proceedings (the "**Enhanced Powers Order**").[12]

19. The sale and investment solicitation process in the CCAA Proceedings has not resulted in any completed going concern transactions for the Operating Subsidiaries' businesses. A proposed sale transaction for Cygobel and KPM was not completed as a result of the purchaser's unjustified failure to close.[13] Pub Plus is now in receivership proceedings in Israel through which all operations have been wound down.[14] A sale transaction for HMA has not been

[10] Eighth Report of the Monitor dated July 24, 2026 (the "**Eighth Report**"), at paras. 68-69.
[11] Eighth Report, at para. 7.
[12] Eighth Report at para. 10.
[13] Eighth Report at paras. 36 to 40.
[14] Eighth Report at para. 48.

entered into. The purpose of the CCAA Proceeding, being the court-supervised sale and investment solicitation process in respect of the Debtors, has now run its course.[15]

20. Accordingly, EDC has renewed the Receivership Application. A receivership is necessary in the current circumstances. No value-maximizing transactions were completed for the Debtors' businesses, and the receivership process represents the more appropriate and efficient framework within which to continue administration of the Debtors' remaining assets and affairs to preserve and realize value in the Operating Subsidiaries.

21. Since the Enhanced Powers Order, Richter in its capacity as Monitor in the CCAA Proceedings has exercised substantial oversight and control with respect to the Applicants and their assets, such that the appointment of Richter as receiver would largely preserve the status quo.

PART III - STATEMENT OF ISSUES, LAW AND AUTHORITIES

22. The issues for determination on this Application are: (i) whether the appointment of a receiver over the assets, property and undertaking of the Debtors is appropriate; and (ii) whether certain ancillary relief regarding the Receiver's reporting obligations should be granted.

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[15] Eighth Report at para. 70.

Appointment of the Receiver is Appropriate

23. Section 243 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") provides for the appointment of a receiver when it is "just and convenient" to do so:

> (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just and convenient to do so:
>
> (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
>
> (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
>
> (c) take any other action that the court considers advisable.
>
> (1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless:
>
> (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
>
> (b) the court considers it appropriate to appoint a receiver before then.[16]

24. Section 101 of the *Courts of Justice Act* (Ontario) (the "**CJA**") similarly provides for the appointment of a receiver when it is "just or convenient" to do so:

> In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted, or a receiver or receiver and manager may be appointed by an interlocutory order, where

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[16] Bankruptcy and Insolvency Act, RSC 1985, c B-3, s. 243(1).("**BIA**")

> it appears to a judge of the court to be just or convenient to do so.[17]

25. It is clear that EDC is a secured creditor entitled to make an application under Section 243 of the BIA. EDC has delivered the notifications required pursuant to Section 244 of the BIA to the Debtors. The Debtors are insolvent persons, currently subject to the CCAA Proceedings. The powers that EDC requests the Court grant to Richter in its capacity as proposed receiver are consistent with the powers generally granted by the Court and are consistent with the powers Richter currently has in its capacity as Monitor in the CCAA Proceedings.

26. The only remaining question is whether the appointment of Richter as receiver is just and/or convenient in the circumstances. When considering whether the appointment is just and convenient, the Ontario court has explained:

> The question is whether it is more in the interests of all concerned to have the receiver appointed or not. In order to answer the question, the court must consider all the circumstances of the case, particularly:
>
> a) The effect on the parties of appointing the receiver. This includes potential costs and the likelihood of maximizing return on and preserving the subject property;
>
> b) The parties' conduct; and
>
> c) The nature of the property and the rights and interests of the parties in relation to it.[18]

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17 Courts of Justice Act, RSO 1990, c C.43, s. 101.

18 *Business Development Bank of Canada v. Pine Tree Resorts Inc. and 1212360 Ontario Limited* 2013 ONSC 1911 at para. 22.

27. Any express provision for the appointment of a receiver in the relevant security documents is also considered to be a relevant factor by courts in Ontario.[19]

28. In assessing whether it is more in the interests of all concerned to have the receiver appointed or not, Ontario courts have looked at the following factors, which are to be reviewed holistically:

(a) whether irreparable harm might be caused if no order is made, although it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;

(b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;

(c) the nature of the property;

(d) the apprehended or actual waste of the debtor's assets;

(e) the preservation and protection of the property pending judicial resolution;

(f) the balance of convenience to the parties;

(g) the fact that the creditor has a right to appointment under the loan documentation;

[19] *RMB Australia Holdings Limited v. Seafield Resources Ltd.*, 2014 ONSC 5205 at paras. 28 and 29.

(h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;

(i) the principle that the appointment of a receiver should be granted cautiously;

(j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;

(k) the effect of the order upon the parties;

(l) the conduct of the parties;

(m) the length of time that a receiver may be in place;

(n) the cost to the parties;

(o) the likelihood of maximizing return to the parties; and

(p) the goal of facilitating the duties of the receiver.

29. In the current case EDC submits the following factors are particularly relevant:

(a) No party with an economic interest in the Debtors' assets is prejudiced by the appointment of the receiver. The CCAA sale and investment solicitation process showed that EDC is the only party with a remaining economic interest given its secured debt in excess of CDN$36 million and US$40 million.

(b) EDC has the express right under its security documents to seek the appointment of a receiver over the assets of the Debtors.

(c) EDC has worked cooperatively with the Debtors for an extended period including in connection with events of default commencing in 2023 and the CCAA Proceeding commenced over a year ago.

(d) The material assets of the Debtors are limited to equity interests in the Operating Subsidiaries. No employee, customer or other commercial interests are affected by the proposed receivership.

(e) Affiliates of the Debtors are already the subject of ongoing receivership proceedings commenced by Royal Bank of Canada, as secured creditor of those affiliates.[20]

(f) The Debtors have been operating in circumstances analogous to a receivership since the granting of the Expansion of Powers Order in the CCAA Proceedings.

(g) The objective of the receivership will be to preserve the equity interest of the Debtors in the Operating Subsidiaries and, potentially, monetize those interests at an appropriate time. This process can be expedited through a court-driven sale approval.

(h) To EDC's knowledge, no interested party opposes the Receivership Application.

[20] *Royal Bank of Canada v. ClearPier Inc., Advinteo Inc., ClearPier Performance Inc. Solavid Inc., Vexigo Inc., VTV Studio Inc. and Media Quest Inc.* Order (Appointing Receiver) dated April 23, 2026, Court File No: CV-26-00003632-00CL.

30. EDC submits the proposed receivership is the only appropriate step to advance the process of preserving collateral and maximizing recoveries at this time. The collateral would remain protected by a stay of proceedings and would be administered by a court-appointed officer with authorization to consider continuing to hold the equity interests or taking other value maximizing steps. The receivership would also be procedurally simpler and more efficient than continuation of the CCAA Proceeding.

Receiver's Reporting Obligations

31. The proposed order appointing Richter as receiver would exempt the receiver from compliance with Sections 245(1), 245(2) and 246 of the BIA[21], provided that the receiver shall provide notice of the appointment to the Office of the Superintendent of Bankruptcy, accompanied by the prescribed fee.

32. In practical terms, this relieves the receiver from the obligations to:

(a) provide notice of the appointment to all creditors of the Debtors that the receiver has ascertained or later ascertains;

(b) prepare a statement containing prescribed information related to the receivership and deliver a copy thereof to the Superintendent of Bankruptcy, and to any creditor of the Debtors who requests a copy; and

[21] BIA, ss. 245(1), 245(2) and 246.

(c) prepare interim reports and a final report to the Superintendent of Bankruptcy and any creditor who requests a copy.

33. In the current case, relief from these obligations is intended to assist in cost reduction and efficiency in a circumstance where the Debtors' insolvency has been the subject of extensive prior communication to creditors through the CCAA Proceedings, where EDC appears to be the only party with an economic interest in the Debtors' assets and where those assets are limited to equity interests in the Operating Subsidiaries and cash.

34. Similar orders have been granted by this court in past proceedings where an overlapping *Companies' Creditors Arrangement Act* (Canada) proceeding existed, such as the proceedings of Sears Canada Inc. and Victorian Order of Nurses for Canada.[22]

PART IV - ORDER REQUESTED

35. For the foregoing reasons, EDC respectfully requests the appointment of Richter as receiver of the assets, properties and undertaking of the Debtors.

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[22] First Amended and Restated Order (Appointing Receiver) dated December 9, 2015, in the matter of Victorian Order of Nurses for Canada et al.; Sears Canada Inc. et al., Amended and Restated Receivership Order dated October 16, 2018.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28th day of July, 2026.

Evan Cobb

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SCHEDULE "A"
LIST OF AUTHORITIES

1. Business Development Bank of Canada v. Pine Tree Resorts Inc. and 1212360 Ontario Limited, 2013 ONSC 1911.

2. RMB Australia Holdings Limited v. Seafield Resources Ltd., 2014 ONSC 5205.

3. Royal Bank of Canada v. ClearPier Inc., Advinteo Inc., ClearPier Performance Inc. Solavid Inc., Vexigo Inc., VTV Studio Inc. and Media Quest Inc. Order (Appointing Receiver) dated April 23, 2026, Court File No: CV-26-00003632-00CL.

4. First Amended and Restated Order (Appointing Receiver) dated December 9, 2015, in the matter of Victorian Order of Nurses for Canada et al.

5. Sears Canada Inc. et al., Amended and Restated Receivership Order dated October 16, 2018.

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date July 28, 2026

Evan Cobb

Signature

SCHEDULE "B"
TEXT OF STATUTES, REGULATIONS & BY – LAWS

1. *Bankruptcy and Insolvency Act, RSC 1985, c B-3*

243(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or

(c) take any other action that the court considers advisable.

243(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless:

(a) the insolvent person consents to an earlier enforcement under subsection 244(2); or

(b) the court considers it appropriate to appoint a receiver before then.

Receiver to give notice

245 (1) A receiver shall, as soon as possible and not later than ten days after becoming a receiver, by appointment or otherwise, in respect of property of an insolvent person or a bankrupt, send a notice of that fact, in the prescribed form and manner, to the Superintendent, accompanied by the prescribed fee, and

(a) in the case of a bankrupt, to the trustee; or

(b) in the case of an insolvent person, to the insolvent person and to all creditors of the insolvent person that the receiver, after making reasonable efforts, has ascertained.

Idem

(2) A receiver in respect of property of an insolvent person shall forthwith send notice of his becoming a receiver to any creditor whose name and address he ascertains after sending the notice referred to in subsection (1).

Names and addresses of creditors

(3) An insolvent person shall, forthwith after being notified that there is a receiver in respect of any of his property, provide the receiver with the names and addresses of all creditors.

1992, c. 27, s. 89

Receiver's statement

246 (1) A receiver shall, forthwith after taking possession or control, whichever occurs first, of property of an insolvent person or a bankrupt, prepare a statement containing the prescribed information relating to the receivership, and shall forthwith provide a copy thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

Receiver's interim reports

(2) A receiver shall, in accordance with the General Rules, prepare further interim reports relating to the receivership, and shall provide copies thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

Receiver's final report and statement of accounts

(3) A receiver shall, forthwith after completion of duties as receiver, prepare a final report and a statement of accounts, in the prescribed form and containing the prescribed information relating to the receivership, and shall forthwith provide a copy thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

1992, c. 27, s. 89

2. *Courts of Justice Act, RSO 1990, c C.43*

INTERLOCUTORY ORDERS

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2).

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