



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CL-26-00000173-0000

DATE: May 13, 2026

NO. ON LIST: 1

TITLE OF PROCEEDING: EXPORT DEVELOPMENT CANADA V. SYNAPTIVE MEDICAL INC.

BEFORE: Justice J. Dietrich

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE JANE O. DIETRICH:

[1] Richter Inc. as court-appointed receiver (the "**Receiver**") of Synaptive Medical Inc. (the "**Debtor**") seeks two orders.

- [2] First, an order (the "**SISP Approval Order**") approving:
- a. a sale and investment solicitation process (the "**SISP**");
 - b. a Stalking Horse Agreement among the Receiver and 1001599818 Ontario Inc. (the "**Stalking Horse Bidder**") dated May 8, 2026 for use in the SISP;
 - c. an expense reimbursement in favour of the Stalking Horse Bidder; and
 - d. the pre-filing report of the Receiver dated April 27, 2026 (the "**Pre-Filing Report**") and the First Report of the Receiver dated May 7, 2026 (the "**First Report**").
- [3] Second, an Amended and Restated Receivership Order is sought providing for Receiver's Borrowings from Export Development Canada ("**EDC**") and from the Stalking Horse Bidder, with the Receiver's Borrowings from EDC having priority over those from the Stalking Horse Bidder.
- [4] There is no opposition to the relief sought by the Receiver.
- [5] Defined terms used but not otherwise defined herein have the meaning provided to them in the factum of the Receiver filed for use on this motion.
- [6] Synaptive is a privately held medical device and technology company specializing in hardware and software products focused on surgical planning and navigation, robotic digital microscopy, and magnetic resonance imaging. The Receiver was appointed by order dated April 28, 2026. As noted in my endorsement of that day, Synaptive had previously been granted protection under the Companies' Creditors Arrangement Act on March 19, 2025 (the "**CCAA Proceedings**"). A sale and investment solicitation process was run in the CCAA Proceedings. As result of a reverse vesting transaction approved in the CCAA Proceedings, Synaptive emerged from those proceedings on June 26, 2025.
- [7] The Receivership Order was granted, on consent, after certain defaults by Synaptive under Notes owed to EDC. Since the Receivership began, all of Synaptive's directors and employees in Canada have resigned or been terminated by the Receiver. The Receiver has engaged certain former employees on an independent contractor basis to assist with certain accounting functions, maintaining patent renewals and other IP maintenance actions, among other things.
- [8] The Receiver has engaged in discussions and negotiations with a group of former management employees about their intention to raise further equity investment in Synaptive. This investor group is represented by the Stalking Horse Bidder.

- [9] The Stalking Horse Bidder has offered financing up to \$1,000,000 for the Receiver to fund (i) the Receivership Proceedings, (ii) certain required patent and business maintenance costs, and (iii) the implementation of the SISP (the “**Stalking Horse Bidder’s Funding**”). Advances pursuant to the Stalking Horse Bidder’s Funding will be secured on a super-priority basis by a second Receiver’s Borrowings Charge (the “**Second Receiver’s Borrowings Charge**”, which is sought on this motion) behind the Receiver’s Charge and the existing Receiver’s Borrowings Charge. The Stalking Horse Bidder intends to credit bid the amounts advanced under the Second Receiver’s Borrowings Charge as part of the consideration offered in the Stalking Horse Bid. In the event, the Stalking Horse Bid is the successful bid in the SISP but the transaction contemplated by the Stalking Horse Agreement does not close due to the Stalking Horse Bidder’s breach or default, the agreement between the parties, for which approval is now sought, is that Second Receiver’s Borrowing Charge will be subordinated and postponed to the obligations owed to EDC under the Senior Note.
- [10] The key terms of the Stalking Horse Agreement include: (i) cash consideration equal to all advances under the Receiver’s Charge and Receiver’s Borrowings Charges (other than any portion of such charges which are credit bid), plus an expense reserve for the Receiver’s post-closing costs; (ii) a working capital injection of \$5 million (less the cash consideration); and (iii) the rollover of the Senior Note into a new Rollover Note in favour of EDC for US\$6 million at an interest rate of 8.0% per annum. As noted above, the Stalking Horse Bidder also intends to credit bid all amounts advanced under the Stalking Horse Bidder’s Funding as secured by a second Receiver’s Borrowings Charge.
- [11] The Stalking Horse Agreement includes some bid protection elements, including an expense reimbursement to the Stalking Horse Bidder of \$50,000 (in the event that the Stalking Horse Agreement is not the successful bid) and an overbid amount to be determined by the Receiver, which is presently set at \$100,000. The expense reimbursement is less than 1% of the total consideration under the Stalking Horse Agreement.
- [12] In addition to conducting the CCAA SISP less than a year ago, Richter has continued to assist Synaptive in its capacity as Financial Advisor. The SISP timeline envisions a one-phase SISP with a deadline for submission of Bids by June 5, 2026 with a potential auction to occur on June 15, 2026 if other qualified bidders emerge. The entire process is anticipated to be contemplated to be completed by June 30, 2026.
- [13] In considering whether to approve a SISP, the Court is to assess the reasonableness and adequacy of a receiver’s sales process in light of the approval factors that the Court will later use to assess a proposed sale: see *CCM Master Qualified Fund v blutip Power Technologies*, 2012 ONSC 1750 at para 6 [**CCM**]. Those factors, identified in the Ontario Court of Appeal’s decision in *Royal Bank of Canada v. Soundair Corp.* 1991 CanLII 2727 (ONCA) at para 16 include: (i) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently; (ii) the efficacy and the integrity of the process

by which offers are obtained; (iii) whether there has been unfairness in the working out of the process; and (iv) the interests of all parties.

- [14] Accordingly, as set out in *CCM* at para 6, when reviewing a sales and marketing process proposed by a receiver a Court should assess: (i) the fairness, transparency and integrity of the proposed process; (ii) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and, (iii) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.
- [15] The use of stalking horse bids in insolvency sale processes, including in receivership proceedings is not unusual and in considering the use of such, the Court needs to balance the need to move quickly, to address the real or perceived deterioration of value of the business during a sale process or the limited availability of restructuring financing, with a realistic timetable that encourages and does not chill the auction process: see Para 8 of *CCM*.
- [16] I am satisfied in these circumstances that the SISP, including the Stalking Horse Agreement for use therein should be approved. The proposed SISP is fair and transparent. All prospective purchasers that execute an NDA will be provided with access to the data room containing additional information about Synaptive's Property. As well, the Receiver also consulted with and obtained approval from Synaptive's senior secured creditor, EDC, in the development of the SISP and of the Stalking Horse Agreement. The proposed SISP is commercially efficient in light of the circumstances faced by the Receiver including the Receiver's previous involvement with Synaptive and the recent sales process conducted in the CCAA Proceedings. Further, as noted by the Receiver without an expedited and efficient going concern sales process, Synaptive's medical device licenses would not be preserved. In addition, a key criteria for ensuring Synaptive's future success is the ability of a bidder to re-hire terminated employees. A prolonged sales process will have a negative impact on any bidder's ability to reengage employees who may accept other job offers if there is a material delay.
- [17] The Stalking Horse Bid does not include a break fee, but instead has an Expense Reimbursement of \$50,000, which represents less than 1% of the Total Consideration, as well as an overbid amount that the Receiver has set at \$100,000. The Receiver considers these to be reasonable in comparison to other stalking horse agreements it has reviewed, wherein similar provisions were approved in transactions of this nature. Based on this comparison, the Receiver is of the view that the Expense Reimbursement is reasonable to compensate the Stalking Horse Bidder for its costs and expenses in relation to entering into the Stalking Horse Agreement and is well below market standards. The Receiver maintains the discretion to amend the overbid amount, but is of the view that the present overbid amount will not chill third-party bidding during the SISP. Accordingly, I accept the Receiver's view that the Stalking Horse Bid in this circumstance is appropriate and is approved for use in the SISP as is the expense reimbursement.

- [18] To implement the Stalking Horse Bidder's Funding, the Receiver is seeking to amend and restate the Receivership Order as noted above. EDC has advised that Receiver that it will not provide funding to advance the SISP. Without the Stalking Horse Bidder's Funding and the super-priority for those funds, the Receiver advises that it would be forced to pivot to a liquidation, which would likely result in lower overall consideration received for the business or Property. The proposed Amended and Restated Receivership Order reflects the necessary changes to the court-ordered charges to facilitate the funding of the SISP and are approved.
- [19] The request to approve the Pre-Filing Report and the First Report is not unusual and there are good policy and practical reasons for doing so: see *Laurentian University of Sudbury*, 2022 ONSC 2927 at paras. 13-14. The observations in those cases while made in the context of a *Companies' Creditors Arrangement Act* proceeding apply to the activities of a court appointed receiver: see *Triple-I Capital Partners Limited v 12411300 Canada Inc*, 2023 ONSC 3400 at para 66. No opposition to the approval of the reports has been raised and the approval of the reports is appropriate in the circumstances as the Receiver has acted reasonably and in good faith. The draft order provided contains the typical language that only the Receiver is entitled to rely on the approval.
- [20] Orders to go in the form signed by me this day.



Date: May 13, 2026

Justice J. Dietrich