

CANADA / JUDGMENT

The9 Limited v. Skychain Technologies Inc.

2022 BCSC 1666

COURT

Supreme Court of British Columbia

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2022 BCSC 1666 The9 Limited v. Skychain Technologies Inc.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

The9 Limited v. Skychain Technologies Inc.,

2022 BCSC 1666

Date: 20220920

Docket: S225466

Registry: Vancouver

Between:

The9 Limited, 1111 Limited, and NBTC Limited

Plaintiffs

And

Skychain Technologies Inc., and Miningsky Technologies (Manitoba) Inc.

Defendants

In Chambers

Before: The Honourable Mr. Justice Gomery

Oral Reasons for Judgment

Counsel for the Plaintiffs:

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Place and Date of Hearing:

Vancouver, B.C.

September 15, 2022

Place and Date of Judgment:

Vancouver, B.C.

September 20, 2022

Introduction

- [1] Skychain Technologies Inc. ("Skychain") planned to construct a cryptocurrency hosting facility in Birtle, Manitoba. It incorporated a wholly owned subsidiary, Miningsky Technologies (Manitoba) Inc. ("Miningsky") for this purpose. The9 Limited ("The9"), agreed to advance \$4 million for the project. Of the \$4 million, \$2 million was paid for shares and warrants, and \$2 million was advanced as debt under convertible debentures obtained by The9's nominee, 1111 Limited ("1111"). Skychain's subsidiary, NBTC Limited ("NBTC"), also advanced approximately \$2.6 million to Miningsky as deposits in connection with cryptocurrency mining to take place at the Birtle facility.
- [2] The terms and conditions of the debt financing are contained in three documents: a Financing Agreement dated May 14, 2021 between Skychain and The9, a General Security Agreement ("GSA") dated May 14, 2021 between Skychain and The9, and a Debenture Certificate issued by Skychain and dated June 2, 2021. The documents contemplate, in the language of cl. 5.1(m) of the Financing Agreement, that "Skychain will use the proceeds from the Financing substantially to fund construction and energization of the Facility" to be constructed in Birtle. Under cl. 5.1(n), Skychain is required to obtain the permits and approvals required for the project by June 30, 2021, described as the "Long Stop Date", and to complete construction and energization by December 7, 2021, described as the "Facility Delivery Date".

- [3] Skychain was unable to obtain permits required to complete the project. It has abandoned the idea of building a facility in Birtle, Manitoba. It now hopes to build a cryptocurrency hosting facility with a larger capacity in Melita, Manitoba. In the meantime, equipment purchased by Miningsky at a cost of approximately \$2.8 million for the facility in Birtle is stored at five different locations, mostly in British Columbia and Manitoba, but also in Saskatchewan and South Carolina.
- [4] It is common ground that Skychain is in breach of cl. 5.1(n) of the Financing Agreement. The dispute between the parties concerns the remedies available to The9 and 1111.
- [5] First, The9 and 1111 seek summary judgment for the total amount loaned, together with interest as provided under the debenture. Skychain says that they are not entitled to repayment of the total amount advanced at this time, and that the amount owing to date has already been extracted from Skychain under a prejudgment garnishing order.
- [6] Second, The9 seeks the appointment of a receiver of all of Skychain's assets, undertaking, and property, principally with a view to enabling it to investigate what has happened to the funds it advanced to Skychain. Skychain says that the appointment of a receiver is not justified on the materials before the court.

Evidentiary issue

- [7] The plaintiffs commenced this action on July 19, 2022 and filed their application for summary judgment on August 11, immediately following receipt of Skychain's response to civil claim. Skychain filed its application response and a first affidavit made by its chief executive officer, Donald Gordon, on August 22, 2022.
- [8] The9 filed its receivership application on September 1, 2022. Skychain filed its application response and a second affidavit made by Mr. Gordon on September 9. Skychain did not advise The9 that it intended to rely on the second affidavit in relation to the summary judgment application, only the receivership application.
- [9] The parties agreed that both applications should be heard together, and all the affidavits were assembled into a single application record. At the hearing, Skychain's counsel wished to refer to Mr. Gordon's second affidavit in connection with the summary judgment application, and counsel for The9 objected. He said that he had not had any notice in advance of the hearing that the affidavit would be used for this purpose. I said that I would deal with the objection in my reasons.
- [10] I grant Skychain leave to use Mr. Gordon's second affidavit on the summary judgment application. The9 is seeking judgment against Skychain at an early stage in the litigation. The9 received the second affidavit six days in advance of the application - I am assuming that it was served on the day it was filed - and does not object to its forming part of the record on the receivership application. While Skychain's counsel should have made it clear that he intended to refer to the affidavit on both applications, this has the air of an oversight,

and I do not think there is meaningful prejudice to The9 in the circumstances. As discussed below, the court does not weigh the evidence on a summary judgment application. To the extent that the affidavit contains evidence that might assist Skychain in warding off summary judgment, it would suffer substantial prejudice if The9's objection were upheld.

The application for summary judgment

The test for summary judgment

- [11] This is an application for summary judgment pursuant to Supreme Court Civil Rule 9-6. Pursuant to subrule (5)(a), I must pronounce judgment if I am satisfied that there is no genuine issue for trial with respect to The9's claim. I may pronounce judgment if I am satisfied that the only genuine issue is a question of law; subrule (5)(c).
- [12] The only dispute concerns the interpretation of the loan documentation. This is a question of mixed fact and law; *Sattva Capital Corp. v. Creston Moly Corp*, 2014 SCC 53 at para. 50. While Skychain does not submit that there are issues of material fact as to the surrounding circumstances requiring a trial, there is a factual aspect to its argument. It asks me to dismiss the summary judgment application "with prejudice" on the basis of its interpretation of the Financing Agreement.
- [13] The9 and 1111 bear the burden of showing, on the evidence, that there is no genuine issue of material fact requiring a trial; *Canada (Attorney General) v. Lameman*, 2008 SCC 14 at para. 11 [Lameman]. I am not permitted to weigh evidence beyond determining whether it is incontrovertible; *Beach Estate v. Beach*, 2019 BCCA 277 at para. 49. I may draw inferences of fact based on the undisputed facts before the court, so long as the inferences are strongly supported by the facts; *Lameman*, at para. 11.

The dispute

- [14] The9 relies on s. 11.1(a) of the GSA as establishing its entitlement to a judgment for the entire amount owing under the debentures. Section 11.1(a) states:

The Debentures will become immediately due and payable at the option of the Secured Creditor [The9] in any of the following events (each an "Event of Default"):

- (a) if a default be made in the performance or observance by the Debtor of any term or condition of the Financing Agreement or the Debentures and such default continues for ten Business Days following written notice thereof to the Debtor;
- [15] The requirements of subsection (a) are satisfied. The9 gave written notice of default on June 20, 2022 citing breaches of cl. 5.1(n) of the Financing Agreement. Those breaches were established. Skychain was unable to obtain necessary permits for the construction of the contemplated facility in Birtle. It did not complete construction and energization of the facility. It did not cure the defaults.

- [16] In the amended notice of civil claim, the plaintiffs have pleaded a further breach of cl. 5.1(m) of the Financing Agreement on the basis that Skychain has not applied the proceeds from the financing substantially to fund construction and energization of the facility in Birtle. That alleged breach was also mentioned in the notice of default. However, The9 and 1111 have not advanced their application for summary judgment on the footing of a breach of cl. 5.1(m). They rely only on cl. 5.1(n).
- [17] Clause 29.1 of the GSA provides that it is subject to the terms of the Financing Agreement. The parties' dispute focuses on competing interpretations of cl. 6.3 of the Financing Agreement. Skychain submits that, in the case of a breach of cl. 5.1(n) of the Financing Agreement, the effect of cl. 6.3 is to circumscribe the remedy that would otherwise be available to The9 pursuant to s. 11.1(a) of the GSA.
- [18] Clause 6.3(n) appears in a part of the Financing Agreement headed "Termination". The heading is unhelpful; cl. 16 provides that the headings in the agreement are for convenience of reference only and do not affect the interpretation of the agreement. However, it is at least of interest that cl. 6.3 is grouped with cls. 6.1 and 6.2, which expressly address termination, and itself begins with language imposing on Skychain an obligation to issue a press release consequent on termination.
- [19] The parties agree that the Financing Agreement has not been terminated. The9 says that it has grounds to terminate the agreement and has chosen not to do so, at least for now.
- [20] Clause 6.3 continues as follows:

In the event if Skychain fails to secure any of the material approvals or permits listed in Section 5(n) by the Long Stop Date, The9 shall have a right, acting reasonably in its own discretion, to either: (i) prolong the Long Stop Date and allow Skychain to postpone the Facility Delivery Date to the earliest practicable date or (ii) charge Skychain liquidated damages in the amount of 0.1% of the Financing for each day of delay after the Facility Delivery Date until either 1) the date when the Facility is completed for operations, or 2) the Termination date of this Agreement (the "Liquidated Damages"). The Liquidated Damages shall be capped at 5% of the total Financing amount. Accrued Liquidated Damages shall be paid in a lump sum together with the Interest. In the event if due Liquidated Damages are not paid in a timely manner on the date when the next Interest payment is due, such Liquidated Damages shall bear interest at the rate of 1.5% per month (prorated for partial months) until paid in full. Nothing herein shall limit such The9's right to pursue actual damages for the failure to deliver the Facility, and such The9 shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. This right does not prejudice any other right of termination of this Agreement.

[Emphasis added.]

- [221] Skychain relies in particular on the first sentence of the passage I have quoted. It submits that the effect of this sentence is that, until The9 terminates the Financing Agreement, its only remedies consequent on a failure to secure permits and approvals by the Long Stop Date are (a) to agree to a prolongation of the Long Stop Date and a consequent extension of the Facility Delivery Date, or (b) to claim liquidated damages according to the formula set out in respect of the period prior to termination. Under the formula, the liquidated damages are capped at 5% of the total financing, or \$200,000, plus interest.
- [222] The9 has not given Skychain notice of termination of the Financing Agreement. It has not pleaded that the agreement has been terminated. Thus, according to Skychain's argument, the only remedy available to The9 is to claim liquidated damages as set out in cl. 6.3.
- [223] Reading cl. 6.3 as a whole, in the context of the undisputed circumstances, I do not think that Skychain's interpretation of cl. 6.3 is reasonably arguable.
- [224] Skychain's argument does not come to terms with the penultimate sentence of cl. 6.3. Repeating, and eliminating two meaningless words that appear to have been inserted by accident, it provides:

Nothing herein shall limit The9's right to pursue actual damages for the failure to deliver the Facility, and The9 shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

- [225] The penultimate sentence applies where there has been a failure to deliver the Facility. In that circumstance, the plain meaning of the sentence is that the language that precedes it - which includes the language Skychain emphasizes and relies on - does not limit The9's right to claim damages or any other legal or equitable remedy. The remedies The9 is not precluded from claiming would include its claim to recover the entire amount owing under the debentures pursuant to s. 11.1(a) of the GSA.
- [226] This reading of the clause is consistent with the use of the indefinite article in the first quoted sentence. The9 shall have "a right" to claim one of the two options identified in the sentence, not "the right". As the penultimate sentence makes clear, The9 has other rights as well. The rights afforded under the first quoted sentence are not exhaustive of the remedies available to The9.
- [227] Skychain submits that it cannot yet be said that it has "failed to deliver the Facility" because it is hoping to replace the proposed facility in Birtle, Manitoba, with a proposed replacement facility in Melita, Manitoba. This submission is untenable. Birtle and Melita are distinct towns located 100 km apart. All of the documents specify the location of the facility. Recital B of the Financing Agreement states:

B. Skychain intends to set up a cryptocurrency hosting facility (the "Facility") in Birtle, Manitoba, Canada, on real property located in Prairie View Municipality leased from a third party.

The GSA adopts the meanings ascribed to capitalized terms such as "Facility" in the Financing Agreement (s. 1.1) and also refers expressly to "the Debtor's cryptocurrency mining hosting facility (the "Birtle Facility") in Birtle, Manitoba", at s. 4.1. The Debenture refers to Skychain's "cryptocurrency hosting site in Birtle, Manitoba, Canada", defined as the "Birtle Site".

- [28] In its response to civil claim, Skychain admits paragraph 12 of the amended notice of civil claim which states, in part, with reference to the Financing Agreement and the GSA:
12. In May 2021, The9 and Skychain entered into the following agreements to facilitate Skychain's development of a cryptocurrency hosting facility in Birtle, Manitoba (the "Birtle Facility")
- [29] Skychain also admits paragraph 13 of the amended notice of civil claim, which states:
13. Pursuant to the terms of the Financing Agreement, The9 agreed to finance the development of the Birtle Facility in part by way of a debt financing of \$2,000,000 through the purchase of debentures (the "Debentures") at a price of \$0.85 per Debenture to be issued to The9 or its nominee by Skychain.
- [30] The indisputable fact of the matter is that Skychain has decided not to pursue development of the cryptocurrency hosting facility contemplated in the agreements, being a facility located in Birtle, Manitoba. Skychain has not delivered that facility. It will never deliver that facility. The loan has failed of its purpose.
- [31] Skychain acknowledges the established interpretive principle that commercial contracts should be construed in accordance with sound commercial principles and good business sense; *Capital One, National Association v. Solehdin*, 2020 BCCA 182 at para. 25; *RBC Dominion Securities Inc. v. Crew Gold Corporation*, 2017 ONCA 648 at para. 52. Even if Skychain's interpretation of cl. 6.3 were textually plausible, it is difficult to see how it could be considered as commercially sensible. The liquidated damages calculation contained in cl. 6.3 is commercially appropriate to a situation in which performance has been delayed, but not to one in which the facility will never be delivered and the contract will never be performed.
- [32] In my view, Skychain's proposed interpretation of cl. 6.3 does not raise a genuine issue of fact requiring a trial. Skychain's only defence to the plaintiffs' claim fails. Accordingly, The9 and 1111 are entitled to judgment for the full amount owing under the debentures.

The receivership application

- [33] Skychain is a publicly traded company. It carries on business through subsidiaries in British Columbia and elsewhere. It would appear to have very little in the way of assets in its own right, apart from books, records, and office equipment, and perhaps some money in the bank. Approximately \$123,000 that Skychain had in the bank has been paid into court pursuant to a prejudgment garnishing order obtained by the plaintiffs.

[34] The9 seeks the appointment of a receiver of all of Skychain's assets, undertaking and property. It accepts that, if the court makes the order sought, the receiver would not be authorized to assume control of the subsidiaries or take possession of their assets. As I have already noted, the real purpose of the order is investigative. Through a receivership, The9 wants to find out what happened to money it and its subsidiaries advanced to Skychain and its subsidiaries, both the \$4 million advanced under the Financing Agreement and an additional \$2.6 million NBTC advanced to Miningsky under hosting agreements.

Overview of legal framework

[35] The parties agree on the overall legal framework. The court has jurisdiction to appoint a receiver under s. 39 of the Law and Equity Act, R.S.B.C. 1996, c. 253, Supreme Court Civil Rule 10-2, and s. 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3. The cases frequently reference a long list of factors enumerated by Masuhara J. in *Maple Trade Finance Inc. v. CY Oriental Holdings Ltd.*, 2009 BCSC 1527 at para. 25, viewing them not as a checklist but rather as a collection of considerations to be viewed holistically; *Prospera Credit Union v. Portliving Farms (3624 Parkview) Investments Inc.*, 2021 BCSC 2449 at para. 24. The fundamental question is whether the appointment is just or convenient in all the circumstances.

[36] In these reasons, I will focus on the Maple Trade considerations that seem to me most pertinent, grouping them under three headings: those that do not weigh heavily in the balance in the circumstances of this case; those that favour appointment of a receiver; and those that weigh against appointment.

Considerations that do not weigh heavily

[37] The9 is a secured creditor with the right to appoint a receiver by instrument. In many circumstances, this may be a substantial consideration favouring a court appointment for at least two reasons. The law tends to favour the protection of property interests, including the secured creditor's interest in the security. And the debtor's agreement to the appointment of a receiver carries independent weight; *Textron Financial Canada Limited v. Chetwynd Motels Ltd.*, 2010 BCSC 477 at para. 52.

[38] In this case, The9's status as a secured creditor and Skychain's agreement to the appointment of a receiver carry little weight, because The9's security interest is doubtful and the powers of any receiver it may appoint by instrument are confined to securing and realizing upon that security interest.

[39] Section 4.1 of the GSA defines Skychain's security interest. It is an interest in:

all of the Debtor's present and after-acquired personal property located at the Debtor's cryptocurrency mining hosting facility (the "Birtle Facility") in Birtle Manitoba, but excluding any interest that the Debtor has or may acquire, legally or beneficially, in or to any real property upon which the Birtle Facility is located (collectively, the "Collateral"). For greater certainty, notwithstanding the foregoing, the security interest granted under this Section 4.1 to the Secured Party is strictly limited to personal property owned by the Debtor and located at the Birtle Facility.

- [40] There is no Birtle Facility, and there never was. It may be arguable that equipment that was shipped to Birtle, Manitoba, in anticipation of the establishment of a cryptocurrency mining facility there could be considered as equipment located at the Birtle Facility as contemplated in s. 4.1. This is a difficult argument because, in announcing and explaining its decision to redirect its efforts from Birtle to Melita, Skychain consistently refers only to the "proposed Facility". This is Skychain's language in a press release issued on May 6, 2022 and that of Mr. Gordon in his second affidavit at para. 28.
- [41] In s. 12.1(e) of the GSA, Skychain agrees to the appointment of a receiver "for the collateral". In s. 13, the receiver's powers are enumerated. They include entering the Birtle Facility, taking possession of the collateral, disposing of the collateral, taking proceedings for the purpose of realizing upon the collateral, and "to exercise any rights or remedies which could have been exercised by the Secured Party against the Collateral" [emphasis added].
- [42] Skychain points to *Lloyd's Bank Canada v. Lumberton Mills Ltd.* (1988), 73 C.B.R. (N.S.) 258 (B.C.C.A.), in which, in a concurring judgment, Southin J.A. expressed "grave doubts" as to the propriety of a court appointment of a receiver whose remit extends to unsecured assets. The court did not decide the point, and counsel could not point to any consideration of Southin J.A.'s obiter dictum in the intervening 34 years. In my view, subsequent jurisprudence makes it clear that the existence and scope of security held by the applicant creditor is only one consideration among many. In this particular case, the limited nature of the security interest and limited powers of an instrument-appointed receiver effectively neutralize what would otherwise be a substantial consideration favouring the appointment of a receiver. They are not themselves arguments against the appointment of a receiver.
- [43] The Maple Trade considerations include "the apprehended or actual waste of the debtor's assets" and "the preservation and protection of the property pending judicial resolution". These are not weighty considerations in this case because the strong likelihood is that the assets of substance are in the possession of Skychain's subsidiaries. A receivership order will not directly secure them from wastage or disposition, and that is not the focus of The9's argument, as it was developed in oral submissions.

Considerations favouring the appointment of a receiver

- [44] As I have noted, The9 seeks the appointment of a receiver to facilitate and expedite an investigation of Skychain's use and disposition of funds received from The9 and its affiliates. The9 has legitimate grounds for concern because it is not at all clear what became of the \$6.6 million advanced by the plaintiffs. To the extent that Skychain has offered explanations, they are not wholly consistent.
- [45] On Skychain's account, its finances are in disarray. Its financial statements are all prepared on a consolidated basis. Its most recent financial statement is an interim statement for the nine-month period that ended on December 31, 2021. It failed to publish financial statements for its fiscal year-end of March 31, 2022, in default of its obligations under securities legislation. In its press release dated July 27, 2022, announcing its failure to file, it referred to "additional audit procedures". In Mr. Gordon's second affidavit, he explains that Skychain has entered into litigation with its former CEO, Mr. Zhang, and the litigation concerns, among other things, the expenditure of funds for the Birtle facility. In the litigation, Skychain alleges that Mr. Zhang was dishonest and took secret profits, and that the Birtle project was unfeasible and diverted and wasted company resources.
- [46] In a footnote to the December 31, 2021 interim financial statement, Skychain identifies Manitoba site equipment purchased in the past three months with a book value of \$2,280,724. In its press release of May 6, 2022, Skychain states that equipment purchased for the Birtle facility is stored in Manitoba. However, this statement is contradicted by Mr. Gordon at para. 39 of his second affidavit, where he identifies hosting equipment owned by Miningsky, with a book value exceeding \$1 million of approximately \$2.8 million, that was never shipped to the Birtle site "so as not to incur the associated high shipping costs given that the Facility is not being constructed".
- [47] Mr. Gordon attaches as exhibits to his affidavit various inventories of hosting equipment, two of which he says were provided to The9 informally in Chinese-language WeChat exchanges. Neither side has provided a translation of these exchanges. The documents themselves are in English. One of them is entitled "Birtle Inventory List" and states a total inventory value of \$1,054,400.44. The other lists an inventory of Miningsky hosting equipment, "cost based", totalling \$2,781,408.89.
- [48] At paragraph 14 of his second affidavit, Mr. Gordon at least intimates that Miningsky's purchase of hosting equipment for the Birtle facility was funded from the \$2.6 million it received from NBTC, not the \$4 million it received from Skychain. He states:
14. While the Financing proceeds were paid by The9, the equipment purchased for the Facility was paid for by Mininsky MB, the operating subsidiary that was to construct and operate the Facility, which had received approximately \$2.6 million from NBTC pursuant to Hosting Agreements between Mininsky MB and NBTC. Skychain does not itself directly engage in hosting business operations.

- [49] This begs the question of what Skychain did with the \$4 million.
- [50] In short, the evidence discloses apparent financial irregularities, allegations of misconduct on the part of a senior officer in connection with the project, inconsistent statements as to the location of equipment purchased by Miningsky, and inconsistent valuations of the equipment purchased and retained by Miningsky. To date, Skychain has not provided to The9 and its affiliates an accounting of what was done with the funds advanced by them.

Considerations weighing against the appointment of a receiver

- [51] A receivership will be expensive, a drag on the finances of a company that is already in difficulty. It will cause Skychain significant reputational damage in the public markets. It is at least possible that it will tip Skychain into insolvency.
- [52] The cases repeatedly caution that the appointment of a receiver is extraordinary relief, which should be granted cautiously and sparingly.
- [53] Skychain submits that extraordinary relief is not justified in this case, because The9 has available to it alternative ordinary means of conducting the investigation it seeks. These would include discovery of documents and examinations for discovery in connection with NBTC's claim against Miningsky in this action, and an examination in aid of execution in connection with the judgment I have granted The9 against Skychain. Skychain further submits that The9 could have sought and obtained the information it seeks in correspondence or through its representative on Skychain's board of directors.

Assessment

- [54] In light of the considerations I have canvassed, I must weigh the potential harm to Skychain, if a receiver is appointed, against the potential harm to The9, if I refuse its application, considering both the extent to which the potential harm on each side would be irreparable, and the balance of convenience. The presence or absence of irreparable harm is not necessarily determinative.
- [55] There is substance to Skychain's argument that there are other investigative avenues available to The9. The pleading period ended with the filing of Skychain's response to civil claim on August 10, 2022. Under R. 7-1(1), Skychain was required to deliver its list of documents 35 days later, on September 15. On the assumption that it has not yet done so, the list is now overdue. It is open to NBTC to examine Miningsky for discovery on seven days' notice under R. 7-2(1) and (13). Judgment having been granted, it is open to The9 and 1111 to examine Skychain for discovery in aid of execution, again on seven days' notice, under R. 13-4. By all of these means, it is open to the plaintiffs to obtain much if not all of the information they seek, without the expense and reputational injury to Skychain consequent on a receivership.

- [56] There is some possibility that a receivership would freeze liquid assets in Skychain's possession that will otherwise be dispersed, to The9's ultimate detriment. I view that as unlikely. Apart from that possibility, it does not appear that The9 will suffer irreparable harm from refusal of the order sought. The risks of irreparable harm to Skychain, in the form of the irrecoverable costs of a receivership and the risk of an insolvency, are substantial.
- [57] Notwithstanding the legitimate grounds for concern identified by The9, I conclude that the circumstances of this case do not warrant the extraordinary remedy of a receivership at this time. The plaintiffs should pursue their investigation and their claims through the ordinary avenues available to them under the Supreme Court Civil Rules. These reasons should not be taken to preclude further applications by the plaintiffs, as they may be advised, based on additional information to be obtained concerning Skychain's dealings and its circumstances, or in the event of an unwarranted failure by Skychain to provide information it is legally bound to provide.

Disposition

- [58] The9 and 1111 are entitled to judgment against Skychain as follows:
- a) for \$2,006,800 including interest to July 6, 2022; and
 - b) Prejudgment contractual interest from July 7 through September 20, 2022 in the amount of \$4,164.04 (being 76 days at \$54.79 per day).
- [59] The9's application for an order appointing a receiver is dismissed.
- [60] The9 and 1111 will recover costs of the action from Skychain except that Skychain will be entitled to set-off the costs of the failed receivership application, treating it as a one-half day application.

"Gomery, J."

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