



Tel: 905 615 8787
Fax: 905 615 1333
www.bdo.ca

BDO Canada Limited
1 City Centre Drive, Suite 1040
Mississauga ON L5B 1M2 Canada

July 10, 2018

TO THE CREDITORS OF
2283942 ONTARIO INC.

Re: Estate of 2283942 Ontario Inc., a bankrupt (the "Bankrupt")
Update on Trustee's litigation

We wish to take this opportunity to provide the creditors of the Bankrupt an update on the estate's litigation and general administrative matters.

1. Court File No. CV-14-513935 - 3320-3330 Midland Avenue, Toronto, Ontario (the "Midland Litigation")

We are happy to report that positive progress has been made in the Midland Litigation against 2433591 Ontario Inc. ("591"), 2435982 Ontario Inc. ("982") and Herman Kuang (collectively the "Defendants"). As you may recall, the Trustee seeks to reverse the power of sale transaction which took with respect to the real property known as 3320-3330 Midland Avenue, Toronto, Ontario (the "Property"). Specifically, the Trustee seeks to have title to the Property returned to the bankrupt estate to allow the Trustee to sell it. Alternatively, the Trustee seeks to recover the equity in the Property as at the time of the transfer, plus damages.

In November 2017, the estate's legal counsel sought a date for a motion for summary judgment as against 591 and 982. A motion for summary judgment is a request for the court to rule that the defendants, 591 and 982, have no case and to award a decision in favour of the Trustee. The Court determined that a summary judgment motion is not an appropriate procedure to deal with the complexities of the Midland Litigation. However, the Court did refer the Midland Litigation to case management, wherein the complexities may be addressed. Under case management, one judge is assigned to the litigation for the duration of the lawsuit with the goal of ensuring the lawsuit moves forward without unnecessary cost and delay.

After many delays due largely to the conduct of the Defendants, including their failure to deliver defences or produce information as well as Ms. Young's client changing lawyers on 3 occasions, Justice Morawetz ordered that this litigation would be case managed at a hearing on May 23, 2018. The first case management conference was then scheduled and heard before Mr. Justice Archibald (the "Judge") on May 25, 2018. The Judge fixed the trial date for this matter for January 14, 2019 for a total of 8 days and also scheduled key deadlines leading up to the trial date. Trial dates are often 18 months away in the ordinary course so this is a good result.

In addition, the Judge set a timetable and ordered certain items and actions that were to be followed, including mandatory mediation to be held by August 31, 2018. Accordingly, we have booked a mediation date for August 20, 2018 to investigate if a settlement may be reached without the necessity of a trial. In addition the Defendants must all produce all relevant documents in their possession by mid-August with all of the parties to be examined for discovery by September 30, 2018.

If any problems arise, we now have the advantage that this matter is case managed by the Judge and we will have access to him to decide matters on short notice. The Judge was quite clear that this matter has dragged on far too long and he will not allow that to continue. Hopefully, this will prevent further delay tactics.



2. Fame Weekly Inc. Action

On April 20, 2017, Fame Weekly Inc. (“FWI”), a creditor of the Bankrupt, brought a motion for, and obtained, a Section 38 Order from the Court. The Section 38 Order authorized FWI to commence and prosecute all claims arising from the appointment of the Trustee against 2283942 Ontario Inc.’s directors, shareholders and other associated third parties, pursuant to section 38 of the *Bankruptcy and Insolvency Act*. The bankrupt estate did not have funds to start an action against the directors or others. The Midland Litigation is specifically excluded from the Section 38 Order.

Since FWI’s receipt of the Section 38 Order, the Trustee has been inundated by numerous requests for information and documents and improperly accused of wrongdoing. The Trustee understands that FWI also reached out to certain creditors and estate inspectors who have expressed various concerns to the Trustee. Accordingly, the Trustee sought to bring a motion before the Court to, among other things, obtain an order preventing FWI from interfering with the Trustee’s administration. The motion was scheduled to be heard April 26, 2018, however, it was adjourned consensually to allow the respective lawyer’s time to try and resolve any issues without the need of the Court. In the interim, Fame Week’s harassment of the Trustee has greatly diminished.

3. Miscellaneous administrative matters

The estate’s counsel was Pallett Valo LLP (“Pallett”). Lead counsel was Bobby Sachdeva (“Sachdeva”). On May 8, 2018 Sachdeva moved his law practice from Pallett to Miller Thompson LLP (“Miller”).

This Midland Litigation is a large file with a long history and Sachdeva has been lead counsel for the Trustee and the estate for several years. It would be difficult and costly for new counsel to learn the file at this stage. Accordingly, with the approval of the Inspectors, the estate has retained Miller to continue as lawyers for the estate and the Trustee in all matters. Accordingly, the file has been transferred from Pallett to Miller. Sachdeva shall continue to have carriage of the matter given his knowledge of the file and issues. In addition Miller Thomson is a large national firm with extensive resources available should they be required. The transfer of the file makes economic and strategic sense.

Further, Miller is continuing with the file on the same financial basis as agreed to in the Pallett retainer letter. This will not impact the litigation or increase the fees to the Estate.

As a reminder, we have set up a website with much of the pertinent information for the ongoing Midland Litigation, and other documentation, as follows:

www.extranets.bdo.ca/2283942

We will endeavour to provide timely and accurate updates to the website.



We appreciate your continued patience in this difficult time. If you have any questions or comments, please do not hesitate to contact the writer.

Yours very truly,
BDO CANADA LIMITED
Trustee
Per:

A handwritten signature in blue ink, appearing to read 'Peter Naumis', written over the 'Per:' line.

Peter Naumis, B. Comm., CIRP, LIT
Vice-President