

District of: Ontario

Division No. 09 - Toronto  
Court No. 31-2062773  
Estate No. 31-2062773

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY & INSOLVENCY)

THE HONOURABLE

)

THURSDAY, THE 20th

)

JUSTICE

NEWBOLD

)

DAY OF APRIL, 2017



IN THE MATTER OF THE BANKRUPTCY OF 2283942 ONTARIO INC.  
OF THE TOWN ON RICHMOND HILL, IN THE REGIONAL MUNICIPALITY OF YORK, IN THE  
PROVINCE OF ONTARIO

ORDER

(BIA Section 38 – Assignment of Claim)

**THIS MOTION** made by Fame Weekly Inc. ("**Fame Weekly**") for an order pursuant to section 38 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") was heard this day at the court house, 330 University Avenue, Toronto, Ontario, M5G 1R7.

**ON READING** the Affidavit of Steve Shi sworn April 17, 2017 and on hearing the submissions of counsel to Fame Weekly and counsel to BDO Canada Limited in its capacity as Trustee in Bankruptcy ("**Trustee**") of 2283942 Ontario Inc. ("**228 Co.**"), no one else appearing although duly served as appears from the affidavit of service of Erin Craddock sworn April 19, 2017,

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## AUTHORITY TO COMMENCE CLAIM

2. **THIS COURT ORDERS** that Fame Weekly may, and it is hereby authorized to commence and prosecute all claims, suits, causes of action, demands, debts, rights, indemnities, rights of contribution, subrogation rights, guarantees and assurances, obligations and other liabilities of any nature whatsoever arising from the appointment of the Trustee, or vesting in the Trustee as a result of its appointment (collectively, the “**Claims**”) against 228 Co.’s directors, officers, shareholders and other associated third parties (collectively, the “**Defendants**”) including, in particular, the following:

- (a) Claims under sections 95, 96, 97, 98, 98.1 and 101 of the BIA;
- (b) Claims under the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29, as amended, the *Assignments and Preferences Act*, R.S.O. 1990, c. A.33, as amended, or any similar or analogous statute or regulation;
- (c) Claims under the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended, or any similar or analogous statute or regulation;
- (d) Claims arising out of fraud, embezzlement, misappropriation or defalcation of 228 Co.’s assets by any of the Defendants;
- (e) Claims against any third party for obtaining the property or services of 228 Co. by false pretences or fraudulent misrepresentation;

- (f) Claims under any restitution or other similar order imposed by a court in respect of a criminal offence; and
- (g) Claims arising from any breach of trust including, in particular, under the *Condominium Act*, 1998, S.O. 1998, c.19, as amended,

in Fame Weekly's own name and at its own expense and risk, in accordance with section 38 of the BIA.

3. **THIS COURT ORDERS** that the authority to commence and prosecute the Claims as set out in paragraph 2 above specifically excludes the claims that have been or could have been raised in an action between the Trustee as plaintiff and Shiu Kwan Lo and Sons Ltd., 2433591 Ontario Inc., 2435982 Ontario Inc. and Herman Kuang as defendants commenced in the Ontario Superior Court of Justice in Toronto bearing Court File No. CV-14-513935 or any claims relating to the transfer of the property known municipally as 3320-3300 Midland Avenue, Toronto, Ontario under power of sale to 2435982 Ontario Inc. The right to prosecute any such legal proceedings belongs, and shall remain exclusively with, the Trustee.

#### NOTICE OF ORDER

4. **THIS COURT ORDERS** that the notice of the granting of this order upon the other creditors of 228 Co. shall be deemed to be sufficiently served by mailing such notice in a prepaid addressed envelope by registered mail to each such creditor who has proved claims against 228 Co. at the creditor's place of business or address as shown in the creditor's proof of claim.

5. **THIS COURT ORDERS** that service of notice granting this order shall be deemed to be made on the day following the date on which the same is mailed in accordance with paragraph 4 hereof.

## BENEFITS OF CLAIMS

6. **THIS COURT ORDERS** that all benefits to be derived from the Claims, together with the costs of same, shall belong exclusively to Fame Weekly and to such other creditors of 228 Co. who may within 30 days of the service upon them of the notice of the granting of this order as hereinafter provided, agree to contribute *pro rata* according to the amount of their respective claims filed with the Trustee in 228 Co.'s bankruptcy proceedings to the expense and risk of the Claims, and who within such time signify their agreement in writing directed to Larry Ellis, Cassels Brock & Blackwell LLP, 40 King St. West, 2100 Scotia Plaza, Toronto, Ontario, M5H 3C2, solicitors for Fame Weekly.

7. **THIS COURT ORDERS** that the costs of Fame Weekly and of such other creditors of 228 Co. as may join with it in the Claims shall be paid, and after paying such costs in full, the balance, if any, shall be divided between Fame Weekly and any creditors who may contribute under paragraph 6 hereof *pro rata* according to the respective amounts of their claims filed with the Trustee in 228 Co.'s bankruptcy proceedings, in addition to any dividends that they may be entitled to out of 228 Co.'s other assets, but only to the extent to their said claims.

8. **THIS COURT ORDERS** that if a surplus in respect of any recovery of the Claims should exist, after payment of the following:

- (a) the costs of pursuing the Claims; and
- (b) the claims of Fame Weekly and any other creditors who may choose to participate, according to the priority of the same, respectively as determined by paragraph 6 hereof, on a *pro rata* basis as set out above in paragraph 6;

such surplus shall be paid to the Trustee in augmentation of 228 Co.'s estate.

9. **THIS COURT ORDERS** that if any creditor or creditors of 228 Co. shall fail to join in the said agreement provided for in paragraph 6 within the time indicated therein, they shall be thereafter excluded from participating in the benefits to be derived from the Claims.

10. **THIS COURT ORDERS** that the costs of this application shall be at the discretion of the Court on the hearing of the Claims and shall be recoverable as costs in accordance with the provisions of this Order.

#### OBLIGATIONS OF TRUSTEE

11. **THIS COURT ORDERS** that the Trustee shall provide Fame Weekly, within four days of service of this order upon it, with a list of the names and addresses of all creditors who have proven claims against the 228 Co. estate.

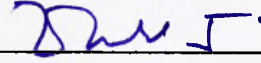
12. **THIS COURT ORDERS** that the Trustee shall within four days of service of this order upon it execute an assignment agreement assigning all its right, title and interest in the Claims.

13. **THIS COURT ORDERS** the Trustee shall within four days of service of this order produce to Fame Weekly any and all books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Claims.

#### MISCELLANEOUS

14. **THIS COURT ORDERS** that leave be and is hereby granted to any interested person to seek direction of this Court with respect to any question arising from this Order, provided that any motion seeking direction shall be returnable on seven days' notice to the Trustee and to all other interested persons.

15. **THIS COURT ORDERS** that Fame Weekly, and any other creditors who join in the Claims, shall have the same right as the Trustee to conduct examinations under section 163(1) of the BIA.

A handwritten signature in blue ink, appearing to be 'D.W. J.', is written above a horizontal line.

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY & INSOLVENCY)**

Proceeding commenced in Toronto

**ORDER**

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