



Court File No. CV-11-9306-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

TUESDAY, THE 11TH

JUSTICE

Cumming

)

DAY OF OCTOBER, 2011

)

B E T W E E N:

BANK OF MONTREAL

Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED
and KENNETH W. ROWE LIMITED

Respondents

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,
and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

ORDER

THIS MOTION, made by BDO Canada Limited (the "Receiver") in its capacity as the Court-appointed receiver and manager of all of the assets, undertakings and properties of Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Limited, for orders approving the conduct and Bill of Costs of the Receiver, the Bill of Costs of counsel to the Receiver and approving the claims process proposed by the Receiver was heard this day at the court house, 330 University Avenue, 7th Floor, Toronto, Ontario, M5G 1R7.

ON READING the First Report to Court of the Receiver and on hearing the submissions of counsel for the Receiver, counsel for Bank of Montreal and counsel for the Purchaser, no one appearing for any other person on the service list,

1. **THIS COURT ORDERS** that the activities and conduct of the Receiver as described in the First Report to Court of the Receiver, filed, are hereby approved.

2. **THIS COURT ORDERS** that the Bill of Costs of the Receiver as verified by the Affidavit of William A. Courage sworn October 3, 2011, and all fees and disbursements shown thereon, are hereby approved.

3. **THIS COURT FURTHER ORDERS** that the Bill of Costs of counsel to the Receiver as verified by the Affidavit of Stewart Thom sworn October 6, 2011, and all fees and disbursements shown thereon, are hereby approved.

4. **THIS COURT FURTHER ORDERS** that the Receiver is authorized and directed to make the following distributions of funds following completion of the sale of assets authorized pursuant to an Approval and Vesting Order issued on the same date as this Order:

(a) To Canada Revenue Agency in the amount of \$21,551 in full satisfaction of its property claim in respect of source deduction arrears; and

(b) To Bank of Montreal in the amount of \$1,243,555.96 plus interest accrued to date in payment in full satisfaction of its secured claim.

5. **THIS COURT FURTHER ORDERS** that the claims process outlined in the First Report to Court of the Receiver, and the documentation in connection therewith attached as

Schedule A hereto, are hereby approved and the Receiver is hereby authorized and directed to conduct the claims process as outlined therein.

6. **THIS COURT FURTHER ORDERS** that the Receiver shall have its costs of this Motion on a substantial indemnity scale.

Oct 11, 2011 Peter A. Cumming J.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

OCT 11 2011

PER/PAR:

NB

Schedule A
INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE AGAINST OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED AND KENNETH W. ROWE LIMITED
(hereinafter referred to as "OSGCC")

A. -Claims Process

By order of the Honourable XXXXXXXXXX dated XXXXXXXX the Ontario Superior Court of Justice the Receiver, BDO Canada Limited, has been authorized to conduct a claims procedure for determining claims against the OSGCC (the "Claims Procedure"). The Claims Procedure, a copy of which is enclosed, shall govern the valuation of all Claims against OSGCC.

This letter provides instructions for responding to or completing the Proof of Claim enclosed herewith. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Claims Procedure Order. A copy of the Claims Procedure Order can be obtained from the Receiver's website at www.bdo.ca/OSGCC.

Please note that this letter is intended as a guide only and that in the event of any inconsistency between the terms of this letter and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

The Claims Procedure is intended for any party asserting a claim of any nature or kind whatsoever against OSGCC whether liquidated, unliquidated, contingent or otherwise as of (claims date), or any claim arising from the termination, repudiation or cancellation by OSGCC or its Receiver of any contract, lease or other agreement as of (claims date) as described in the Claims Procedure Order. If you have any questions regarding the Claims Procedure, please contact the solicitor for BDO Canada Limited, in its capacity as Receiver of OSGCC (the "Receiver") at the address provided below.

All inquiries with respect to the Claims Procedure Order should be addressed to:

Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, Ontario M5C 2W7

Attention: Mr. David Chaiton
Telephone: 416-643-8814
Facsimile: _____
Email: dchaiton@torkinmanes.com

B. -For Creditors Submitting a Proof of Claim

If you believe that you have a claim against OSGCC, you will have to file a Proof of Claim with the Receiver.

BDO Canada Limited
Suite 200, BDO Building
1717 Second Avenue East
P.O. Box 725
Owen Sound, ON N4K 5W9

Attention: Joe Bette
Telephone: 519-372-0188 x2265
Email: jbette@bdo.ca

Proof of Claims for all Claims (including Director and Officer Claims) must be received by 5:00p.m. (Eastern Standard Time) on (due date) (the "Claims Bar Date") or such later date as the Receiver may consent to in writing.

Additional Proof of Claim forms and a copy of the Claims Procedure Order can be found on the Receiver's website at www.bdo.ca/osgcc or obtained by contacting the Receiver at the address indicated above and providing particulars as to your name, address, facsimile number and e-mail address. Once the Receiver has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

Failure to file your Proof of Claim so that it is received by the Receiver by the Claims Bar Date will result on your claim being barred and you will be prevented from making or enforcing a Claim against OSGCC. In addition, you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in these proceedings.

A Proof of Claim for a period arising after the appointment of the Receiver must be received by the Receiver by (DATE), or within 30 days after the claim arose, or by such other date as the Receiver and the claimant agree in writing or the Court so orders.

If the Receiver does not agree with the amount of your claim as filed, and such disagreement cannot be resolved consensually you will receive a Notice of Revision or Disallowance from the Receiver. See ____ for details.

GENERAL INSTRUCTIONS FOR COMPLETING THE PROOF OF CLAIM

The Proof of Claim must be completed by an Individual or an Individual acting on behalf of a corporation. The person acting for a corporation or other person must state the capacity in which they are acting such as "Credit Manager", "Treasurer" etc. The person completing the Claim should have knowledge of the circumstances surrounding the Claim. All Proofs of Claims must be signed, dated and witnessed.

The full name of the Creditor must be filled out in its entirety. Creditors who file a Proof of Claim for a division, or file several Proofs of Claim by division may have their Claims disallowed. ONLY ONE PROOF OF CLAIM FOR EACH LEGAL ENTITY may be filed notwithstanding that separate divisions of the same entity may bill OSGCC separately.

A Statement of Account setting out the full particulars of the Claim must accompany each Proof of Claim. The Proof of Claim should include all amounts owing to you for periods up to and including (date). Claims shall be reduced by the amount of any payments thereon, any volume discounts, or any other credits properly applicable to the Claim.

If the Creditor holds security for any Claim a statement of the value and nature of any security, together with copies of the applicable security documents must accompany the Claim.

If the Creditor holds a contingent or unliquidated claim the Claim must set out the details and reasons for the claim as well as the method of valuation thereof.

FOR CREDITORS RECEIVING A NOTICE OF REVISION OR DISALLOWANCE

If you have submitted a Proof of Claim the Receiver is entitled to challenge the valuation, status or validity of such Claim by sending you a Notice of Revision or Disallowance no later than thirty days after the receipt of the claim, or such further period as is authorized by the Court. If no Notice of Revision or Disallowance is sent by the Receiver before such time then the Receiver shall be deemed to have accepted your Claim.

FOR CREDITORS SUBMITTING A DISPUTE NOTICE

If you are sent a Notice of Revision or Disallowance, you are entitled to dispute the revision or disallowance or your Claim by sending by personal service, facsimile or courier, a Dispute Notice to the Receiver, which must be received within fourteen (14) days of the date of the Notice of Revision or Disallowance. If the Receiver does not receive a Notice of Dispute within this period of time your Claim will be finalized on the basis set out in the Notice of Revision or Disallowance.

Upon delivering the Notice of Dispute you must, within ten (10) days, file an Application for determination of your Claim, such application to be returnable within five (5) days of the filing of the Application.

While these instructions and the accompanying forms are provided to assist you with the preparation of your Proof of Claim and in the Claims Procedure, you must comply with the terms of the Claims Procedure Order dated _____ which is available on the Receiver's website.

NOTICE TO CREDITORS OF OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED AND
KENNETH W. ROWE LIMITED
(hereinafter referred to as the "OSGCC")

RE: NOTICE OF CLAIMS PROCEDURE FOR THE OSGCC

PLEASE TAKE NOTICE that this notice is being published pursuant to an order of the _____ of the *Ontario* Superior Court of Justice _____ (the "Claims Procedure Order"). Any person who believes that it has a Claim against OSGCC or their directors and officers should send a Proof of Claim to BDO Canada Limited, in its capacity as the Receiver (the "Receiver") of OSGCC to be received by 5:00 p.m. (Eastern Standard Time) on (**claims date**) or such other date as the Monitor and the Creditor agree to in writing (the "Claims Bar Date").

CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE FOREVER BARRED AND EXTINGUISHED.

Creditors who require a Proof of Claim form should contact the Receiver (Attention: Joe Bette telephone: (519) 372-0188, Facsimile: (519) 372-0189, or Email: jbette@bdo.ca, to obtain a Claims Package. Additional Proof of Claim forms can be found on the Monitor's website at www.bdo.ca/osgcc.

Dated at Owen Sound this _____

PROOF OF CLAIM

FOR CREDITORS OF OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED AND KENNETH W. ROWE LIMITED (the "OSGCC").

Please read the enclosed Instruction Letter carefully prior to completing this Proof of Claim. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Instruction Letter.

A. Particulars of Creditor

(Full legal name should be the name of the original Creditor of the OSGCC regardless of whether an assignment of a Claim has been made, or a portion thereof, has occurred prior to or following July 15, 2011.)

2. Full mailing address of the Creditor (the original Creditor, not the Assignee):

3. Telephone Number: _____

Facsimile Number: _____

Attention (Contact Person): _____

4. Has the Claim been sold or assigned by the Creditor to another party?

Yes: ___

No: ___

B. Particulars of Assignee(s) Of any):

1. Full legal name of assignee(s): _____ *(If a portion of the Claim has been assigned, insert full legal name of assignee(s) of Claim}. If there is more than one assignee, please attach a separate sheet with the required information.)*

2. Full mailing address of assignee(s): _____

1. Telephone number of assignee(s): _____

2. Facsimile number of assignee(s): _____
Attention (Contact Person): _____

C. Proof of Claim:

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. That I:

___ am a Creditor of one or more of the OSGCC Companies; OR

___ am _____(state position or title) of
_____ (name of Creditor)

3. That I have knowledge of all the circumstances connected with the Claim described and set out below;

4. The OSGCC was and still is indebted to the Creditor as follows (include all Claims that you assert against the OSGCC).

I am asserting a Claim against OSGCC

D. NATURE OF CLAIM

(Check and complete the appropriate category)

___ SECURED PRE-FILING CLAIM:

CDN\$ _____ [insert \$ value of Claim]

That in respect of this debt, I hold assets of the OSGCC valued at
\$ _____ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

___ UNSECURED PRE-FILING CLAIM: CDNS _____ [insert \$ value of Claim]

___ POST-FILING CLAIM CDNS _____ [insert \$ value of Claim]

___ CONTRACT REPUDIATION CLAIM

CDN\$ _____ [insert \$ value of Claim]

(arising as a result of or in connection with the default for non-payment, termination, repudiation or disclaimer of any agreement by the OSGCC after July 15, 2011 but not including an Employment Claim)

___ EMPLOYMENT CLAIM CDN\$ _____ [insert \$ value of Claim]
(arising as a result of a termination of an employment contract after July 15, 2011 of a former employee of the OSGCC)

___ DIRECTOR AND OFFICER CLAIM

CDN\$ _____ [insert \$ value of Claim]
(arising from the rights of any person against the directors and officers of the OSGCC Claim which the Directors or Officers of the OSGCC are by law liable to pay in their capacity as Directors or Officers, in respect of certain amounts payable by the OSGCC on or after July 15, 2011)

TOTAL CLAIM(S) CDN\$ _____

(Note: Claims in currency other than Canadian dollars must be converted to Canadian dollars using the Bank of Canada noon spot rate on July 15, 2011 (the U.S. to Canadian dollar exchange rate conversion on such date was US\$.9543\$) = CDN\$1.00

E. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached hereto.

(Provide all particulars of the claims and supporting documentation that you feel will assist in the determination of your Claim. including: amount. Description, transaction(s) or agreement(s) giving rise to the claims; name of any guarantor which has guaranteed the claims; amount of invoices, particulars of all credits, discounts, etc. claimed; description of the security. If any granted by the OSGCC to the Creditor and estimated value of such security; and particulars of any Restructuring Claims)

F. FILING OF CLAIMS

Proof of Claim for all Claims (including Director and Officer Claims) against the OSGCC must be received by 5:00p.m. (Eastern Standard Time) on June 30; 2010 or such later date as the Monitor may consent to in writing.

Failure to file your Proof of Claim as directed by the Claims Bar Dates set out above will result in your claim being barred and you will be prohibited from making or enforcing a Claim against the OSGCC and any and any holder of such Claim shall not be entitled to vote on any plan of compromise or arrangement that may be filed or receive any distribution under such or otherwise from the OSGCC.

This Proof of Claim must be delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:

The Monitor
c/o BOO CANADA LIMITED .
the Court-appointed Monitor of the OSGCC
1717 Second Avenue East
Suite 200, PO Box 725
Owen Sound, ON N4K 5W9

Attention: Joe Bette
Telephone: (519) 372-0188
Facsimile: (519) 372-0189
Email: jbette@bdo.ca

Any such notice or other communication delivered by a Creditor shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a Business Day or, if delivered outside of normal business hours on the next Business Day.

Dated at _____ this ____ day of _____ 2011.

Per: _____ *[Name of Creditor]*

BANK OF MONTREAL
Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.
Respondents

Court File No. CV-11-9306-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

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David Chaiton (18362V)
Tel: 416-643-8814

Tel: 416-863-1188
Fax: 416-863-0305

Lawyers for the Receiver, BDO Canada Limited

RCP-E 4C (July 1, 2007)