

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
)
JUSTICE DUNPHY) THURSDAY, THE 16TH
)
) DAY OF AUGUST, 2018

BETWEEN:

**COMFORT CAPITAL INC., THE BANK OF NOVA SCOTIA TRUST COMPANY,
E. MANSON INVESTMENTS LTD., FENFAM HOLDINGS INC., 593651 ONTARIO
LTD., 1031436 ONTARIO INC., ALRAE INVESTMENTS INC., BARRY SPIEGEL,
SHARON NIGHTINGALE, DAVID SUGAR, PHYLLIS SUGAR, NATIONAL TIRE LTD.,
1119778 ONTARIO LIMITED, 1415976 ONTARIO LIMITED, ALRAE INVESTMENTS
INC., BAMBURGH HOLDINGS LTD., BEVERLEY GORDON, DIANE GRAFSTEIN,
RICHARD GRUNEIR, B. & M. HANDELMAN INVESTMENTS LTD., RIDGEWAY
OCCUPATIONAL CONSULTANTS INC., YERUSHA INVESTMENTS INC., MIHAL
TYLMAN, A. ELIEZER KIRSHBLUM, 593651 ONTARIO LIMITED, THE BANK OF
NOVA SCOTIA TRUST COMPANY IN TRUST FOR BAILEY LEVENSON, THE BANK
OF NOVA SCOTIA TRUST COMPANY IN TRUST FOR ROSEMONDE KELLY, ANNE
HANDELMAN, YERUSHA INVESTMENTS INC., CELMAR INVESTMENTS CORP.,
BEVERLEY GORDON, PHILGOR INVESTMENTS LTD., BRILLIANT INVESTCORP
INC., MAXOREN INVESTMENTS, 2227046 ONTARIO LIMITED, DAST PROPERTIES
LIMITED, TOVA MARKOVZKI, JOSEPH SUCKONIC and B. & M. HANDELMAN
INVESTMENTS LIMITED**

Applicants

- and -

**ANNIE YERETSIAN, TERRY WILSON, 2457674 ONTARIO INC.,
2399029 ONTARIO INC. and MOSS DEVELOPMENT LTD.**

Respondents

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990 C. C.43, AS AMENDED****

**ORDER
(MALMO AND LOYALIST CHATTELS)**

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as receiver and manager (in such capacity, the “Receiver”) of certain assets, undertakings and properties of the Respondents (each Respondent individually hereinafter being referred to as a “Debtor” and

collectively, the “**Debtors**”) for, among other things, (i) an Order approving the Receiver’s sale to Canam Apprais Inc. of the chattels the Receiver took possession of at the property municipally known as 65 Malmo Court, Maple (the “**Malmo Chattels**”), (ii) a Declaration that 2362090 Ontario Inc. (“**236 Inc.**”) has no claim to or interest in the Malmo Chattels or the chattels that the Receiver took possession of at the property municipally known as 12497 Loyalist Parkway, Picton (the “**Loyalist Chattels**”), and no claim to or interest in the proceeds of the Malmo Chattels or the Loyalist Chattels, be it legal, equitable, possessory or otherwise, and (iii) a Declaration that the Receiver has no liability whatsoever to 236 Inc., or any other person or entity, in relation to the claims of 236 Inc. to the Malmo Chattels or the Loyalist Chattels, or in respect of any rent that 236 Inc. allegedly paid to the Respondent 2399029 Ontario Inc, was heard this day at Toronto.

ON READING the Receiver’s Second Report dated May 17, 2018, the Receiver’s Fourth Report dated August 10, 2018, the Motion Record of 236 Inc. dated May 17, 2018, the Supplementary Record of 236 Inc. dated May 25, 2018, the Second Supplementary Motion Record of 236 Inc. dated August 10, 2018 and Third Supplementary Motion Record of 236 Inc. dated August 13, 2018, the Applicants’ Motion Record dated May 25, 2018 and the Applicants’ Supplementary Motion Record dated May 27, 2018, and on hearing the submissions of counsel for (i) the Receiver, (ii) the Applicants, (iii) 2399029 Ontario Inc., 2457674 Ontario Inc., Terry Wilson, Canada Investment Corporation and Canada Capital Corporation, (iv) Morteza (Ben) Katebian, and (v) 236 Inc., no one appearing for any other person on the service list, although properly served as appears from the affidavit of Eric Golden sworn August 13, 2018, filed, and on being advised that this Order was to issue on the consent of the Receiver, the Applicants and 236 Inc.,

1. **THIS COURT ORDERS** that the Receiver sell the Malmo Chattels (except for the Bentley) to 236 Inc. by way of Bill of Sale with no representation or warranties regarding the Malmo Chattels, for the all-inclusive amount of \$15,000.00 in certified funds to be paid to the Receiver by 5:00 pm on Monday August 20, 2018 (“**Purchase**”).

2. **THIS COURT ORDERS** that following the Purchase, 236 Inc. is to remove all of the Malmo Chattels (except for the Bentley) from 65 Malmo Court, Maple, Ontario, by 5:00 pm on Tuesday, August 28, 2018 (the “**Removal**”).

3. **THIS COURT ORDERS** that if the Purchase is not completed by 5:00 pm on Monday August 20, 2018, or if the Removal is not completed by 5:00 pm on Tuesday August 28, 2018, the Receiver is hereby authorized and directed to dispose of the Malmo Chattels (except for the Bentley) as it sees fit in its sole absolute unfettered discretion, including but not limited to by way of garbage disposal.

4. **THIS COURT ORDERS** that the motion of 236 Inc. dated May 17, 2018, be and is hereby dismissed in its entirety without costs.

5. **THIS COURT DECLARES** that the Receiver and the Applicants, including but not limited to their agents and employees, have no liability whatsoever to 236 Inc., or any other person or entity, in relation to the past, present or future claims of 236 Inc. to the Malmo Chattels or the Loyalist Chattels, or in respect of any rent that 236 Inc. allegedly paid to 2399029 Ontario Inc.

A handwritten signature in black ink, appearing to read "J. D. D.", is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish that extends to the right and then loops back under the line.

COMFORT CAPITAL INC., ET AL.

Applicants

and **ANNIE YERETSIAN, TERRY WILSON, ET AL.**

Respondents

Court File N CV-18-592103-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER
(MALMO AND LOYALIST CHATTELS)**

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Rosen Goldberg Inc.