

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 27TH
)
JUSTICE.HAINEY) DAY OF JUNE, 2019



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
(MILLER THOMSON CLAIMS PROCESS FEES
re: HJLJ Parties and Stanbarr Parties Priority Dispute)**

THIS MOTION, made by Canada Capital Corporation Inc., Canada Investment Corporation,
2399029 Ontario Inc., 2457674 Ontario Inc. and Terry Wilson (collectively, the “**Claims Process**

Respondents”), initially returnable June 6, 2019, for, among other things, an Order striking the claims in the Claims Process herein of Currah Capital Corporation and the Stanbarr Parties (as defined below), was heard this day at Toronto for scheduling purposes only, at a Case Conference in the Claims Process herein.

ON READING the Order of Justice Chiappetta made January 25, 2019, wherein Miller Thomson LLP was paid the all-inclusive amount of \$241,000.00 (the “**Chiappetta Order**”) for the Claims Process Respondents’ legal fees to be incurred in respect of the Claims Process after December 19, 2018 (the “**MT January 2019 Fees Payment**”), and **ON HEARING** submissions of counsel for (i) Rosen Goldberg Inc., in its capacity as receiver and manager (in such capacity, the “**Receiver**”) without security, of certain assets, undertakings and properties of the Respondents herein, (ii) the Claims Process Respondents, (iii) Morteza (Ben) Katebian and Payam Katebian, (iv) 2396135 Ontario Corp and Currah Capital Corporation, (v) Annie Yeretsian, (vi) HJLJ Investments Limited, 527540 Ontario Limited, and Dast Properties Limited (collectively, the “**HJLJ Parties**”), and (vii) Stanbarr Services Limited, Janodee Investments Ltd., Meadowshire Investments Ltd., Regard Investments Ltd., 1563503 Ontario Limited, Beaver Pond Investments Ltd., The Canada Trust Company, Rita Rosenberg and 527540 Ontario Limited (collectively, the “**Stanbarr Parties**”), no one else appearing for any other person on the service list, although properly served,

1. **THIS COURT ORDERS** that \$100,000.00 (the “**MT June 2019 Fees Payment**”) is to be paid to Miller Thomson LLP, not in trust and without the requirement of any form of direction from the Claims Process Respondents, or any other party, parties or person(s) that Miller Thompson LLP is acting for or has acted for in these proceedings, to be paid by the Receiver pursuant to paragraphs 2 and 3, below, and by the Accountant of the Superior Court of Justice (the “**Accountant**”) pursuant to paragraphs 4 and 5, below.

2. **THIS COURT ORDERS AND DIRECTS** that \$20,000.00 of the MT June 2019 Fees Payment be paid by the Receiver to Miller Thomson LLP from the net proceeds of sale of 124597 Loyalist Parkway, Picton (“**Loyalist**”).

3. **THIS COURT ORDERS AND DIRECTS** that a further \$20,000.00 of the MT June 2019 Fees Payment be paid by the Receiver to Miller Thomson LLP from the net proceeds of sale of 97 Bridge Street, Picton (“**Bridge**”).

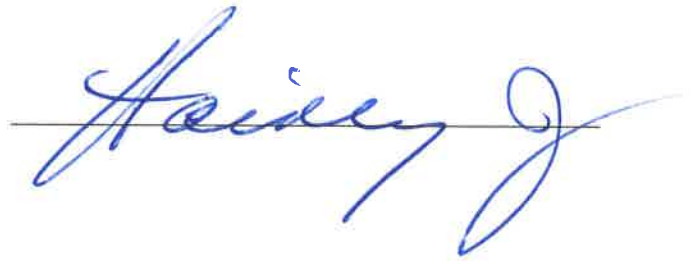
4. **THIS COURT ORDERS AND DIRECTS** that \$60,000.00, being the balance of the MT June 2019 Fees Payment, be paid from the net proceeds of sale of 7 High Point Road, Toronto (“**High Point**”), held in the Accountant’s Account Number 551078 (the “**Account**”) pursuant to the Distribution Order of Justice Dunphy dated August 3, 2018. The Accountant shall pay this amount from the Account by way of cheque made payable to Miller Thomson LLP, and the Accountant is hereby so directed.

5. **THIS COURT ORDERS** that the Accountant shall immediately release the payment for \$60,000.00 set out in paragraph 4 above, without regard to any appeal period in respect of this Order.

6. **THIS COURT ORDERS** that the MT June 2019 Fees Payment is for the Claims Process Respondents’ legal fees to be incurred by Miller Thomson LLP from the date of this Order onward only in respect of any and all steps relating to the Claims Process claims of the HJLJ Parties and the Stanbarr Parties to the surplus funds available for distribution in High Point and 13 vacant residential lots on Caldwell Drive in Oro-Medonte (“**Caldwell**”), up to and including the hearing scheduled on August 23, 2019 (the “**HJLJ-Stanbarr Priority Dispute**”), and are inclusive of disbursements and HST, but exclude (i) outstanding legal fees and costs incurred by Miller Thomson LLP from January 25, 2019, to the date of this Order not satisfied by way of the MT

January 2019 Fees Payment, and (ii) legal fees and costs incurred by Miller Thomson LLP on other matters relating to the Claims Process herein from the date of this Order.

7. **THIS COURT ORDERS** that this Order is without prejudice to the Claims Process Respondents bringing a motion for the release of further funds in respect of outstanding legal fees incurred by Miller Thomson LLP in the Claims Process between the date of the Chiappetta Order and the date of this Order not satisfied by way of the MT January 2019 Fees Payment (including but not limited those relating to the HJJJ-Stanbarr Priority Dispute prior to the date of this Order), and legal fees and costs incurred by Miller Thomson LLP from the date of this Order on matters relating to the Claims Process herein other than the HJJJ-Stanbarr Priority Dispute.



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

AUG 12 2019

PER / PAR:



COMFORT CAPITAL INC., ET AL.

Applicants

Court File No. CV-18-592103-00CL
and **ANNIE YERETSAN, TERRY WILSON, ET AL.**

Respondents

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

Proceeding commenced at Toronto

ORDER

**((MILLER THOMSON CLAIMS PROCESS FEES
re: HJLJ Parties and Stanbarr Parties
Priority Dispute))**

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