



Court No. 31-2013017

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

MASTER *MILLS*

) Tuesday, The 13th day
)
) of October 2015

IN THE MATTER OF THE PROPOSAL OF
1408998 Ontario Inc.
OF THE CITY OF TORONTO, PROVINCE OF ONTARIO

ORDER APPROVING PROPOSAL

UPON THE APPLICATION OF Rosen Goldberg Inc., Trustee (the "Trustee") *in re* the Proposal of 1408998 Ontario Inc., filed on August 6, 2015, upon reading the Report of Trustee on Proposal, dated September 11, 2015 and upon hearing counsel for the Trustee; and the Court being satisfied that the required majority of creditors duly accepted the Proposal on August 26, 2015, (the "Proposal"), and the terms contained in the paper writing marked Exhibit "A" annexed hereto, and being satisfied that the said terms are reasonable and calculated to benefit the general body of creditors and that no offences or facts have been proved to justify the Court in withholding its approval;

1. THIS COURT HEREBY ORDERS that the Proposal is approved.

Master J. Mills
Registrar in Bankruptcy

IN THE MATTER OF THE PROPOSAL OF
1408998 ONTARIO INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

PROPOSAL

1408998 Ontario Inc. ("140" or the "Debtor"), the above-named debtor, hereby submits the following Proposal under the *Bankruptcy and Insolvency Act*:

PART 1
INTERPRETATION

1. In this Proposal, capitalized terms have the following meanings:
 - (a) "Act" means the *Bankruptcy and Insolvency Act*, as it may be amended from time to time;
 - (b) "Business Day" means any day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable therein;
 - (c) "Claim" means any indebtedness, liability, action, cause of action, suit, debt, due, account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of 140 to any person whether liquidated, unliquidated, fixed contingent, matured, legal, equitable, secured, unsecured, present, future, known or unknown, and whether by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the Filing Date;
 - (d) "Court" means Superior Court of Justice, in Bankruptcy and Insolvency;
 - (e) "Court Approval Date" means the date on which the Court makes the Final Order;
 - (f) "Creditor" means any person who holds one or more Claims;
 - (g) "Creditors' Meeting" means the special meeting of the Unsecured Creditors called for the purpose of considering and voting upon the Proposal;
 - (h) "Due Date" means the date upon which the personal income tax return, for the year in which the Proposal is filed and subsequent years as set out in the Income Tax Act;
 - (i) "Effective Date" means the date on which all conditions contained in Part X hereof have been satisfied;
 - (j) "Employees" means all of the employees of 140;
 - (k) "Event of Default" has the meaning given to it in Part VII;
 - (l) "Filing Date" means the date on which 140 filed its Notice of Intention to Make a Proposal under the Act, being July 7, 2015;

- (m) "Final Order" means an order of the Court approving this Proposal to be granted pursuant to the provisions of the Act, the appeal period having expired and no appeal having been filed, or any appeal therefrom having been dismissed and such dismissal having become final;
- (n) "Maturity Date" means the date on which all payments to the Proposal Trustee have been made, provided that no event of default has occurred that has not been cured or waived;
- (o) "Post Filing Goods and Services" means in respect of the Proposal the goods supplied, services rendered and other consideration given to 140 subsequent to the Filing Date;
- (p) "Preferred Creditor" means any Creditor entitled to receive payment of any amount owed to it in priority to other Creditors as provided in section 136 of the Act;
- (q) "Provisional Return" means a provisional return showing 140's income tax debt for the period from the end of the last taxation years up to the date of filing of the Proposal
- (r) "Property" means the non-exempt assets of 140;
- (s) "Proposal" means this Proposal made pursuant to the Act, as further amended or supplemented from time to time;
- (t) "Proposal Period" means the period between the Final Order and the Maturity Date;
- (u) "Proposal Trustee" means Rosen Goldberg Inc., the trustee acting in this Proposal;
- (v) "Secured Creditor" means any Creditor who has valid security against various assets of the Debtor with respect to its Claim;
- (w) "Unsecured Creditor" means those persons with Claims, except for those Claims:
 - (i) that have been finally and conclusively disallowed;
 - (ii) that may be contingent or unliquidated and found by the Trustee or the Court (as may be applicable), not to be provable;
 - (iii) that are claims by Secured Creditors; or
 - (iv) that are claims by Preferred Creditors.

Headings

2. The divisions of this Proposal into parts, paragraphs and subparagraphs, and the insertion of headings herein, is for convenience of reference only and is not to affect the construction or interpretation of this Proposal.

Number, etc.

3. In this Proposal, where the context requires, a word importing the singular includes the plural and vice versa, and a word importing gender includes the masculine, feminine and neuter genders.

Date for Action

4. In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day that is a Business Day.

Successors and Assigns

5. This Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, personal representatives, successors and assigns of all persons named or referred to herein including, without limitation, all Creditors.

Accounting Principles

6. Accounting terms not otherwise defined have the meanings assigned to them in accordance with generally accepted Canadian accounting principles.

PART II PURPOSE AND EFFECT OF THIS PROPOSAL

Purpose of Proposal

7. The purpose of this Proposal is to provide the Unsecured Creditors with a greater dividend than would result from a forced liquidation of the Property and amends the terms of any and all agreements between 140 and the Unsecured Creditors existing at the Filing Date.

Persons Affected

8. This Proposal will, as of the Effective Date, be binding on 140 and all Preferred Creditors and Unsecured Creditors of 140.

PART III SECURED CREDITOR CLAIMS

9. The Claims of the Secured Creditors, if any, of 140 shall be dealt with in accordance with the arrangements made between 140 and its Secured Creditors.

PART IV UNSECURED CREDITOR CLAIMS

Payment of Unsecured Claims

10. Subject to paragraph 11 hereof, 140 will cause to be paid to the Proposal Trustee:
 - a) the sum of \$550,000 (the "Proposal Funds") to be paid as follows:
 - i. Claims, if any, in Part VI of this Proposal, to be paid within six (6) months

- after the Court Approval Date, and
- ii. The sum of \$70,000 to be paid no later than thirty (30) days following the amount paid in subsection (i) herein, and
 - iii. The balance, representing the difference between the Proposal Funds and the total amounts paid in subsections (i) and (ii) herein, to be paid in seventeen (17) equal monthly instalments commencing no later than thirty (30) days following the payment of the amount noted in subsection (i) herein.

The funds to be received by the Proposal Trustee shall be paid as follows:

- b) the fees and costs of the Proposal Trustee;
- c) the claims, if any, in Part VI of this Proposal, in priority to the Unsecured Creditors;
- d) the full amount of the admitted claims of the Unsecured Creditors to be distributed pro-rata, less applicable levy of the Office of the Superintendent of Bankruptcy, without interest, and without penalty, among the Unsecured Creditors.

Effect of Payment

11. Unsecured Creditors will accept the payments provided in Part IV of this Proposal, in complete satisfaction of all their Claims and all liens, certificates of pending litigation, executions or any other similar charges or actions or proceedings in respect of such Claims will have no effect in law or in equity against the property, assets and undertaking of 140. Upon the making of all payments provided for in this Part IV, any and all such claims, certificates of pending litigation, executions or other similar charges or actions will be discharged, dismissed or vacated without costs to 140.

PART V POST FILINGS

12. 140 covenants and agrees to keep all filings, remittances and instalments, if any, to Canada Revenue Agency current for the post filing returns.

PART VI PREFERRED CLAIMS AND MANDATORY PAYMENTS

Crown Claims

13. Unless Her Majesty consents, 140 shall pay in full, within six months after the Court Approval Date, all amounts that were outstanding at the Filing Date that are of a kind that could be subject to a demand under:
 - (a) subsection 224(1.2) of the *Income Tax Act*;
 - (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a

contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or

- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
- (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
 - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection.

Set Off

14. 140 acknowledges that Her Majesty the Queen will have the right to exercise its right of set off with respect to any income tax or GST refunds pertaining to the period prior to the Proposal.

Preferred Claims

15. Preferred Claims, without interest, are to be paid in full in priority to all Claims of Unsecured Creditors including, without limitation, any entitlement of Unsecured Creditors to the payments to be made under Part IV of this Proposal.

Payment of Fees

16. All proper fees and expenses of the Proposal Trustee and reasonable legal and other professional fees of and incidental to the proceedings and transactions arising out of this Proposal and in connection with the preparation of this Proposal, and the administration of this Proposal, including advice to 140 in connection therewith, will be paid in addition to the Proposal Funds by the Debtor. The Proposal Trustee will be at liberty to withdraw and pay such fees from time to time subject to final approval by the Registrar in Bankruptcy upon completion of the Proposal.

Employees' Claims

17. All payments payable to former or current employees of 140, not to include independent commissioned sales agents or contractors, for amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA if 140 became bankrupt on the Filing Date, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of traveling salesmen, disbursements properly incurred by those salesmen during the same period.

PART VII EVENTS OF DEFAULT

18. The following events will constitute Events of Default for the purpose of section 63 of the Act and otherwise under this Proposal:
- (a) the non-payment of the amounts to the Proposal Trustee pursuant to paragraph 10; or
 - (b) the enforcement by any Secured Creditor of its security over all the assets of 140.

PART VIII TRUSTEE

Confirmation of Appointment

19. The Proposal Trustee shall be the trustee under this Proposal and all monies payable under this Proposal, unless otherwise provided herein, shall be paid over to the Proposal Trustee who shall make the payment of all dividends in accordance with the terms of this Proposal.
20. The Proposal Trustee is acting in its capacity as Proposal Trustee and not in its personal capacity and no officer, director, employee or agent of the Proposal Trustee shall incur any obligations or liabilities in connection with this Proposal or in connection with the business or liabilities of 140.
21. Any payments made by the Proposal Trustee to Creditors hereunder shall be made by the Proposal Trustee net of any levies payable or due under the Act.

PART IX INSPECTORS

Appointment of Inspectors

22. At the Creditors' Meeting, the Unsecured Creditors will be entitled to appoint one or more, but not exceeding five (5) inspectors in total. The inspectors will have the following powers, but will have no personal liability to 140 or other Creditors:
- (a) the power to extend the dates of payments provided under this Proposal;
 - (b) the power to waive any default in the performance of any provision of this Proposal;
 - (c) the power to advise the Proposal Trustee in respect of such matters as may be referred to the inspectors by the Proposal Trustee; and
 - (d) the power to advise the Proposal Trustee concerning any dispute that may arise to the validity of Claims of Preferred Creditors and Unsecured Creditors under this Proposal.

**PART X
CONDITIONS PRECEDENT**

23. The performance of this Proposal by 140 shall be conditional upon the fulfillment or satisfaction of the following conditions within thirty (30) Business Days following the issuance of the Final Order:
- (a) all approvals and consents to the Proposal that may be required have been obtained;
 - (b) the Final Order has been issued and the time for bringing any appeal therefrom has expired;
 - (c) no order or decree restraining or enjoining the consummation of the transactions contemplated by this Proposal has been issued; and
 - (d) all agreements or instruments necessary to effect the intention and purpose of this Proposal have been received by 140 in a form satisfactory to him and the Proposal Trustee.

**PART XI
RELEASE**

24. Upon the Effective Date, each and every present and former director of 140 (collectively, the "Released Parties"), shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, liens and other recoveries on account of any liability, obligation, demand or cause of action that arose before the commencement of the proceedings under the Act, in respect of the potential statutory liabilities of the former, present and future directors, and provided nothing herein shall release or discharge any of the Released Parties from claims that:
- (a) relate to contractual rights of one or more creditors arising from contracts with one or more directors;
 - (b) are based on allegations or misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors.
25. Sections 95-101 of the Act shall not apply to any dealings by 140 having taken place during the period prior to the Filing Date.

**PART XII
MISCELLANEOUS**

Consents, Waivers and Agreements

26. On the Effective Date, all Unsecured Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety. For greater certainty, each such Unsecured

Creditor will be deemed to have waived any default by 140 in any provision, express or implied, in any agreement existing between the Unsecured Creditor and 140 that has occurred on or prior to the Filing Date, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

Further Actions

27. 140 and the Creditors will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Proposal and to give effect to the transactions contemplated hereby.

Performance

28. All obligations of 140 under this Proposal will commence as of the Effective Date. All obligations of 140 under this Proposal will be fully performed for the purposes only of section 65.3 of the Act upon 140 having made the payments to the Proposal Trustee provided for herein.

Binding Effect

29. The provisions of this Proposal will be binding on the Creditors and 140, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Order after all appeal periods have expired.

PART XIII ANNULMENT OF PROPOSAL

Annulment

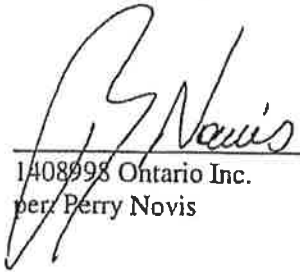
30. If this Proposal is annulled by an order of the Court, all payments on account of Claims made pursuant to the terms of this Proposal will reduce the Claims of Creditors.

PART XIV MODIFICATION

31. 140 may propose amendments to the Proposal at any time prior to the conclusion of the Creditors' Meeting provided that any such amendment does not reduce the rights and benefits given to the Unsecured Creditors pursuant to the Proposal before such amendment and that any and all amendments shall be deemed to be a part of and incorporated into the Proposal.

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Dated at Toronto, Ontario, this 5th day of August 2015.



1408998 Ontario Inc.
per Perry Novis

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE PROPOSAL OF
1408998 ONTARIO INC.
OF THE CITY OF TORONTO,
PROVINCE OF ONTARIO

ORDER

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