

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

B E T W E E N:

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

Respondents

SUPPLEMENTARY RESPONDING MOTION RECORD

(Returnable on May 28, 2018)

May 27, 2018

DICKINSON WRIGHT LLP

Barristers & Solicitors

199 Bay Street, Suite 2200

Commerce Court West

Toronto, Ontario M5L 1G4

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Lawyers for the Applicants

TO: **SERVICE LIST**

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TAB 1

**ONTARIO
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**ANNIE YERETSIAN, 2399029 ONTARIO INC.,
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and TERRY WILSON**

Respondents

AFFIDAVIT OF PETER SANTOS
(Sworn May 27, 2018)

I, PETER SANTOS, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Vice President of C & K Mortgage Services Inc., a licensed mortgage broker which carries on business as Rescom Capital (“**Rescom**”). Rescom originated and administers the secured loans advanced by the Applicants herein. I have personal knowledge of the matters to which I hereinafter depose.

2. I am swearing this Affidavit in response to the Supplementary Affidavit of Patrick Nersesian sworn May 25, 2018.

3. Following the appointment of Rosen Goldberg Inc. as the Receiver (the “**Receiver**”) of 2399029 Ontario Inc., I have been assisting the Receiver in overseeing the clean up of the abandoned premises located at 65 Malmo Court in Maple (the “**Premises**”) and in arranging for the reconnection of utilities, water and gas at the Premises.

4. The contents found at the Premises appeared to include old, rusted, derelict, and dismantled commercial kitchen equipment, much of which was lacking any labeling, certification or identification of the manufacturer or model number. In an effort to assist the Receiver in determining how to deal with these items, I contacted Ezra Nava of Canada Food Equipment Ltd., on March 27, 2018. At his request, I agreed to meet his brother, David Nava, at the Premises so he could inspect the equipment.

5. I met David Nava at the Premises during the first week of April and he provided me with his business card, a copy of which is attached at **Exhibit “A”**. I informed him that the Premises and the contents thereof were in receivership and pointed out to him a notice posted on the front door which identifies the Premises and its contents as being under the control of the Receiver. A copy of the notice posted on the front door of the Premises is attached at **Exhibit “B”**.

6. I escorted David Nava through the Premises so he could view the equipment in question. I was seeking his opinion to determine what was garbage and what was useful or of value. He took many pictures as he wanted to show the contents to his brother, Ezra. Upon walking through the Premises, he identified what the equipment stored on the Premises could be used for. David Nava and I remained at the Premises for approximately 20 minutes.

7. In the weeks following my walk-through at the Premises with David Nava, I received numerous calls from David Nava that I did not answer. I also received a call from Ezra Nava asking what was being done with the equipment as he was interested in purchasing some items. I replied that the Premises and all of its contents were subject to receivership and suggested that he contact the Receiver.

8. At no time have I solicited any offers to purchase any of the contents located on the Premises. I also did not receive any offer to purchase any of the contents located at the Premises from David Nava, Ezra Nava or any other interested party, contrary to the allegation set out in the email from Ezra Nava to Patrick Nersesian on Friday, May 25, 2018, a copy of which is attached as Exhibit A to the Supplementary Affidavit of Patrick Nersesian.

9. I swear this Affidavit in response to the motion by 2362090 Ontario Inc. and for no other or improper purpose.

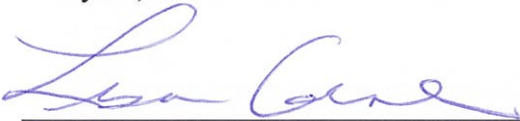
6. I escorted David Nava through the Premises so he could view the equipment in question. I was seeking his opinion to determine what was garbage and what was useful or of value. He took many pictures as he wanted to show the contents to his brother, Ezra. Upon walking through the Premises, he identified what the equipment stored on the Premises could be used for. David Nava and I remained at the Premises for approximately 20 minutes.

7. In the weeks following my walk-through at the Premises with David Nava, I received numerous calls from David Nava that I did not answer. I also received a call from Ezra Nava asking what was being done with the equipment as he was interested in purchasing some items. I replied that the Premises and all of its contents were subject to receivership and suggested that he contact the Receiver.

8. At no time have I solicited any offers to purchase any of the contents located on the Premises. I also did not receive any offer to purchase any of the contents located at the Premises from David Nava, Ezra Nava or any other interested party. Contrary to the allegation set out in the email from Ezra Nava to Patrick Nersesian on Friday, May 25, 2018, a copy of which is attached as “**Exhibit A**” to the Supplementary Affidavit of Patrick Nersesian.

9. I swear this Affidavit in response to the motion by 2362090 Ontario Inc. and for no other or improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
May 27, 2018



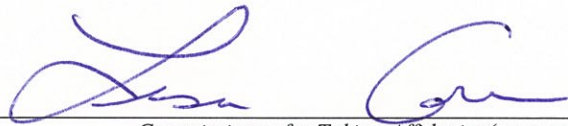
Commissioner for Taking Affidavits
(or as may be)



PETER SANTOS

TAB A

This is Exhibit "A" referred to in the Affidavit of PETER SANTOS
sworn May 27, 2018



Commissioner for Taking Affidavits (or as may be)

LISA CORNE

 **CANADA** 
FOOD EQUIPMENT LTD.

Specializing in New & Used Rebuilt Equipment

DAVID NAVA

President

(416) 253-5100

45 Vansco Road
Etobicoke, Ont. M8Z 5Z8

Cell: (416) 407-3899

Fax: (416) 253-2251

(East of 427, North of Queensway)

www.canadafood.ca
email: davidn428@yahoo.com

TAB B

This is Exhibit "B" referred to in the Affidavit of PETER SANTOS
sworn May 27, 2018



Commissioner for Taking Affidavits (or as may be)

LISA CORNE



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

NOTICE

**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**

This property is in the possession and control of Rosen Goldberg Inc., the Court-appointed Receiver, pursuant to an Order of the Ontario Superior Court of Justice dated February 28, 2018.

REMOVAL OF ANY PROPERTY BY ANY PERSON IS UNLAWFUL

YOU WILL BE HELD LIABLE FOR ANY DAMAGE CAUSED TO THE PROPERTY

For information call:

Rosen Goldberg Inc.

Court-appointed Receiver of Annie Yeretsian, 2399029 Ontario Inc.,
2457674 Ontario Inc., Moss Development Ltd. and Terry Wilson

416-224-4220

COMFORT CAPITAL INC. et al.
Applicants

-and-

ANNIE YERETSIAN et al.
Respondents

Court File No. CV-18-592103-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF PETER SANTOS

DICKINSON WRIGHT LLP

Barristers & Solicitors
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Commerce Court Postal Station
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Lawyers for the Applicants

COMFORT CAPITAL INC. et al.
Applicants

-and-

ANNIE YERETSIAN et al.
Respondents

Court File No. CV-18-592103-00CL

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TORONTO

**SUPPLEMENTARY RESPONDING
MOTION RECORD**

(Returnable on May 28, 2018)

DICKINSON WRIGHT LLP

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Commerce Court Postal Station
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