



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-21-00656398-00CL **DATE:** 27 January 2023

NO. ON LIST: _____

TITLE OF PROCEEDING: **COSA NOVA FASHIONS LTD V THE MIDAS INVESTMENT
CORP**
BEFORE JUSTICE: **Osborne**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Counsel for Receiver - R Slattery	Rosen Goldenberg Inc. as Receiver	Rslattery@mindengross.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Counsel for Respondents - Patrick Corney	Midas and John Kavanagh	pcorney@millerthomson.com
Counsel for respondent - Michael Mcquade	Midas	mmcquade@mjnlaw.ca
Counsel for Respondent Kevin Sherkin	Midas and John Kavanagh	ksherkin@millerthomson.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Gordon Ullman	Mills & Mills LLP	Gordon.ullman@millsandmills.ca
Brahm Rosen	Receiver	
Thomas Farrell	On his own behalf	OFFICE8@farrellautoport.ie

ENDORSEMENT OF JUSTICE OSBORNE:

1. This matter has a lengthy history. Suffice to say for today's purposes that the Receiver brings this motion for approval of its activities, including the Statement of Receipts and Disbursements as described in the Seventh Report and to authorize distributions in accordance with the Claims Process carried out pursuant to the order of Dietrich, J. dated July 11, 2022.
2. Approval of the activities of the Receiver, and of the Statement of Receipts and Disbursements as of January 18, 2023, is unopposed and are approved.
3. The Receiver plans to hold back approximately \$950,000 pending receipt of Notices of Assessment from the CRA which will take some time. If, after any claims of the CRA are satisfied, funds are remaining, they can be the subject of a supplementary distribution.
4. With respect to the distributions for which authorization is sought today, the only contentious distributions were those to the Dickinson Wright law firm and to Miller Thomson.
5. The distribution to Dickinson Wright is in respect of fees and is unopposed. It is noted that there is apparently an outstanding costs disposition by Koehnen, J. It may be that that issue relates to the client of Dickinson Wright, rather than the entitlement of the firm to fees, but if and to the extent that that costs disposition affects the distribution authorized today, there will be an adjustment as necessary.
6. The distribution to Miller Thomson was the subject of submissions effectively limited to the issue of whether and when that firm was acting for Midas or Mr. Cavanagh. The Receiver proposes to make the distribution on the basis that the legal work was done and the fees are appropriate, but wants authorization.
7. Mr. Farrell consents to the distribution to Miller Thomson but not in the amount claimed of \$78,103.27. Instead, he says, a portion of this consisting of \$47,400.68 relates for work done by the firm on behalf of Mr. Cavanagh with the result that Miller Thomson should be paid only \$30,102. He also objected to the hourly rate charged by that firm and submitted that it exceeded typical rates charged by firms in Ireland, where he lives.
8. Having heard the submissions of all parties, the distribution is approved in the amount sought. Whether and the extent to which there is or may be a dispute between Messrs. Farrell and Kavanagh as to claims between and among them is a dispute between them in for another day. I am satisfied, and the Receiver agrees, that the work was done and the accounts should be paid as appears to be agreed by all today with the exception of the caveat noted by Mr. Farrell above.
9. In terms of case management, Mr. Farrell wishes to dispute the determination of his claim pursuant to the claims process proscribed by Dietrich, J. He will deliver all responding materials by February 10, 2023, a date which is agreeable to him.
10. The Receiver will then consider whether the matter can be resolved and if not, a hearing for the appeal of the determination of the claim, will be scheduled at a scheduling appointment on March 2, 2023 at 9:30 AM for 15 minutes via Zoom.
11. Order to go in the form signed by me today which is effective without the necessity of issuing and entering.


Osborne, J.

