

IN THE MATTER OF THE BANKRUPTCY OF  
LISCHKOFF BUILD DESIGN LTD.  
OF THE TOWN OF UTTERSON,  
IN THE PROVINCE OF ONTARIO

Minutes of the first meeting of creditors of Lischkoff Build Design Ltd. held by Zoom conference call on Tuesday, December 6, 2022, at 10:00 A.M.

Present - see attached attendance list.

Mr. Goldberg welcomed everyone in attendance and advised that he was representing Rosen Goldberg Inc., the Licensed Insolvency Trustee (the "Trustee") for the estate of Lischkoff Build Design Ltd. ("Lischkoff").

Mr. Steven Goldberg advised that he would serve as both chairperson and secretary of the meeting.

The chairperson declared the meeting to be properly convened and validly constituted.

The chairperson reported that in attendance was Mr. James Lischkoff, a principal of Lischkoff, his counsel Stewart Thom and Mr. Tony Van Klink of the firm of Miller Thomson, who had been retained by the Trustee to act as independent counsel. In addition, two representatives of the Office of the Superintendent of Bankruptcy ("OSB") were also in attendance as observers.

Mr. Goldberg advised that the purpose of the first meeting of creditors was:

- (i) to review the affairs of the bankrupt;
- ii) to give instructions to the Trustee, as necessary;
- iii) to affirm the appointment of the Trustee; and
- iv) to appoint 1-5 inspectors.

A copy of the Trustee's Preliminary Report to Creditors (the "Report") was presented on the zoom screen for all participants to review.

The chairperson then reported:

- (i) The Trustee had received 23 proofs of claim with a dollar value totaling \$2,255,688 of which \$280,855 was filed as secured by The Royal Bank of Canada. Certain unsecured creditors had indicated on the proofs of claim that they reserved the right to amend their claims to secured.

- (ii) Section G of the Report made reference to an anonymous complaint received by the Office of the Superintendent of Bankruptcy. The complaint related to (a) the purchase by James Lischkoff of a house for a family member and (b) Mr. Lischkoff's hiding of corporate assets. Mr. Goldberg advised that:
- the matter of the house purchase would be dealt with in the Trustee's review of the affairs of Lischkoff; and
  - the Trustee had requested Mr. Lischkoff to hold the equipment pending further instructions.
- (iii) It was the Trustee's view that one of the main issue in the estate administration related to the funds identified as "Trust" totaling \$150,000. At the time of the bankruptcy, Lischkoff operated two bank accounts - one designated as a trust account and the other as a general account. The Trustee has taken possession of the funds in both accounts which are being held in separate estate bank accounts.

With respect to the Trust funds (\$150,000) there could be four different groups claiming entitlement to these funds – (i) Canada Revenue Agency for unpaid source deductions, (ii) customers (iii) the Royal Bank of Canada as a secured creditor and (iv) unsecured creditors. The Trustee will be completing an analysis/report to be reviewed with its counsel. Based on the finds the Trustee would then make a recommendation and if necessary would apply to court for advice and directions. However, at this time the Trustee is not yet in a position to make any comments.

#### **The meeting the dealt with the following questions/comments.**

Mr. DiBerardino:

- (i) In the Trustee's Report, there was no comments regarding any legal proceedings. When would the Trustee deal with litigation in which Lischkoff was involved? Mr. Goldberg advised that the Trustee would be reviewing these matters with its counsel and then be in a position within the next few weeks to make recommendations to the estate inspectors.
- (ii) No documents on Trustee's web site. Mr. Goldberg confirmed that all relevant bankruptcy documents including the Trustee's preliminary report to creditors, the minutes of this meeting and any motion records would be posted to the Trustee's web site.

Andrew Woods:

Mr. Woods commented that in addition to customers, sub-trades could also have a beneficiary interest in the “Trust” funds.

The Trustee then advised that in addition to the “Trust” funds, sub-trades could also have an interest in any accounts receivable collected by either the Trustee or RBC as a secured creditor. At this time, the Trustee did not have any idea how either CRA or RBC would pursue the collection of the outstanding accounts receivable. Once a determination was made, the Trustee would advise the estate inspectors and seek instructions, if required.

Demetrios Yiokaris

Mr. Yiokaris enquired when the Trustee expects to have the report completed. Mr. Goldberg advised that the report was about approximately 70% completed and expected that it would be finalized within a short period. The report would then be presented to the inspector for review and further instructions.

Mr. Yiokaris then commented that given the limited amount of “Trust” funds, it may be more practical if the Trustee attempted to meet with the various interested parties in order to settle the issue of entitlement without the necessity of legal proceedings. Mr. Goldberg and the Trustee’s counsel both agreed that a settlement without legal/court proceedings would be preferable and least costly.

Ubanna Okebugwu

Inquired as to whether the analysis would reflect cash payments by customers to the “Trust” account. Mr. Goldberg confirmed that the analysis/report would include payments received for 2022.

Jason Armstrong

Armstrong Dodge was claiming a lien for unpaid repairs but was not listed as secured. Mr. Goldberg advised that the claim would be reviewed and if valid the records would be adjusted accordingly.

Daniel Leblanc

Mr. LeBlanc inquired what the next steps would be for sub-contractors who had unpaid accounts.

The Trustee could not advise the sub-contractors on how to deal with unpaid accounts. As such, each contractor should consider consulting with it’s own legal advisors.

Jason Spetter

Based on the Trustee's Report, unsecured creditors were unlikely to recover anything. Would that change if the Trustee was successful in recovering any funds from the two matters referred to in section G of the Report.

Mr Goldberg advised that based on the claims of CRA and RBC, the only way unsecured creditors would see any distribution would be if the Trustee was able to recover substantial funds from the collection of accounts receivable, in excess of \$400,000.

Edward Gobran

Mr. Gobran inquired as to the meaning of trust claims. The chairperson provided a brief explanation regarding the various potential trust claims (CRA, customers and sub-trades).

Nathalie Burstein

Inquired as to whether the Trustee's analysis would trace funds paid by Lischkoff. The Trustee confirmed that the report be a complete review of the transactions for 2022.

Sean Ryder

Inquired what happens if the amount shown on the list of creditors was inaccurate. Mr. Goldberg advised that individual claims would be admitted by the Trustee based on the proof of claims filed.

### **Affirmation of LIT**

After a brief discussion, Mr. Goldberg called for a vote to affirm the appointment of Rosen Goldberg Inc. as the Licensed Insolvency Trustee ("LIT"). Up to the first meeting of creditors, the appointment of the LIT had been by the Office of the Superintendent of Bankruptcy. Creditors could either affirm the appointment of the LIT or substitute the LIT with another LIT firm.

A motion was then made by Demetrios Yiokaris to affirm the appointment of Rosen Goldberg Inc. as LIT which was seconded by Jason Spetter.

Mr. Goldberg advised that if any creditor objected to the appointment of the LIT, the objection should be sent via Chat.

As there were no objections received, the appointed of Rosen Goldberg Inc. as LIT was recorded as unanimous.

## **Appointment of Inspectors**

The chairperson advised that pursuant to section 116(1) of the Bankruptcy and Insolvency Act, one to five inspectors could be appointed by creditors.

The role of the estate inspector was to assist the Trustee in the administration of the estate and to approve the Trustee's final statement of receipts and disbursements.

After due discussion, Jason Spetter volunteered to be an estate inspector.

On a motion by the Trustee's proxy (Soil Engineering Ltd.) and seconded by Demetrios Yiokaris, it was resolved that there be one estate inspector – Jason Spetter. Passed unanimously.

Prior to adjourning the meeting, Mr. Goldberg asked if there were any further questions.

Dave Rice

How accounts receivable are dealt with?

The Trustee would issue demand letters with three possible outcomes:

- payment is received;
- the account is disputed; and
- no response is received

If an account is disputed the Trustee will review the issues raised and then make a determination of how to proceed.

For account that do not respond, the Trustee would issue a second demand letter. If no further response was received, the Trustee would consider recommending to the estate inspector legal proceedings based on the quantum of the debt owing.

Trevor Askren

Did not see Scott Brayley listed on the original list of creditor. The Trustee confirmed that a claim had been filed and that it was not unusual for a creditor to be omitted from the initial list of creditors.

There being no further matters to discuss, the Trustee sought a motion to adjourn the meeting.

On a motion by David Rice and second by Trustee proxy the meeting was adjourned with the consent of those present

*Steven Goldberg*

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Steven Goldberg - Chairperson

Attendees at the first meeting of creditors of Lischkoff Build Design Ltd.

Name:	Representing:
Steven Goldberg	Rosen Goldberg Inc. Licensed Insolvency Trustee
Tony Van Klink	Miller Thomson, solicitor to Trustee
James Lischkoff	Bankrupt Corporation and self
Stewart Thom	Torkin Manes, solicitor for James Lischkoff
Jenn & Brad Hutzal	Whyte Dove Cleaning
Travis Askren	Cheyenne Homes
Michelle Galaxy	Self
Niveen Halawa	Office of the Superintendent of Bankruptcy
Daniel Leblanc	Simcoe Muskoka Home Comfort
Edward Gobran	Self
Kike Stecko	Granite Well Drilling
Wanda Tickner	Self
Scott Brayley	Self
Ted Sawiciki	Self
Raquel McGee	Office of the Superintendent of Bankruptcy
Matthew DiBerardino	Glaholt Bowles representing Kafur and Gail Farrell
Bill Robertson	
Andrew Wood	Representing Rolston Home Building
Merlic Rego	Self
Sabrina	The North Studio
Kimberly Kane	Self
Verena Matsuga	Self
Nathan Buhler	Self and Building Workshop
Demetrios Yiokaris	Koskie Minsky representing Frank and Tonka Karakas
Sean Ryder	Self
Shaun Parson	Reconstruct LLP representing Nathalie Burstein and Vish Canaran
Jason Armstrong	Armstrong Dodge
Marcia Mackesy	Self
Nathalie Burstein	Self
Nelson Marques	Self
Ubanna Okebugwu	Representing Suzette and Rodney Clarke
David Rice	Cheyenne Homes
Jason Spetter	William Scott Brayley