

AMENDED THIS Jan 15/20 PURSUANT TO
MODIFIÉ CE A CONFORMÉMENT A
 RULE/LA RÈGLE 26 02 (A)
 THE ORDER OF _____
L'ORDONNANCE DU _____
DATED / EN DATE _____
C. Irwin
Registrar
REGISTRAR
SUPERIOR COURT OF JUSTICE

Court File No.: CV-19-00629694-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

IN THE MATTER OF THE PROPOSAL OF
WILLIAM PLAYER
OF THE TOWN OF MINESING, IN THE COUNTY OF SIMCOE,
IN THE PROVINCE OF ONTARIO

APPLICATION UNDER *the Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant, Ray Jarvis on behalf on behalf of 1923129 Ontario Inc, 1981262 Ontario Inc, 2209326 Ontario Inc., 2307400 Ontario Inc, 2557295 Ontario Inc. The claim made by the applicant appears on the following page.

THIS APPLICATION will be made to a judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario, M5G 1R7 on a date to be established by the Commercial List Office.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date Oct. 23, 2019 Issued by "Ray Williams"
Local registrar

Address of
court office 330 University Avenue
9th Floor
Toronto, ON M5G 1R7

TO: **BDO Canada Limited**
201 - 15 Sperling Drive
Barrie, Ontario
L4M 6K9

APPLICATION

1. The applicant, Ray Jarvis, personally and on behalf of 1923129 Ontario Inc., 1981262 Ontario Inc., 2209326 Ontario Ltd., 2307400 Ontario Inc. and 2557295 Ontario Inc., makes application for:

a. A declaration that the Applicant is aggrieved by the trustee, BDO Canada Limited (“**BDO**”), on behalf of the estate of William Player (“**Player**”), through their decision to place cautions on the following properties (the “**Cautioned Properties**”):

- i. 2049 Horseshoe Valley Road W, Craighurst, Ontario (PIN No.: 58534-0008 LT);
- ii. 2019 Horseshoe Valley Road, Craighurst, Ontario (PIN No.: 58534-0205 LT);
- iii. 205 Ontario Street, Burks Falls, Ontario (PIN No.: 52139-0183 LT);
- iv. 89 Ontario Street, Burks Falls, Ontario (PIN No.: 52142-0217 LT);
- v. 14 Manitoba Street, Bracebridge, Ontario (PIN No.: 48114-0337 LT);
- vi. 3 Crescent Road, Huntsville, Ontario (PIN Nos.: 48880-0001 LT – 48880-0014 LT),
- vii. 3239 Penetanguishene Road, Craighurst, Ontario (PIN 58534-0205 LT).

which are not held, controlled, owned or in any way the real property of Player pursuant to s.37 of the *Bankruptcy and Insolvency Act*;

- b. A declaration that Player has no legal or equitable interest in the Cautioned Properties;
- c. A declaration that the Cautioned Properties do not constitute property of the bankrupt within the meaning of s.67(1)(c) of the *Bankruptcy and Insolvency Act*;
- d. An Order that the trustee immediately remove the cautions on the Cautioned Properties;
- e. Alternatively, an Order that the Land Registrar immediately remove all cautions registered by the trustee on the Cautioned Properties;
- f. Costs on a substantial indemnity basis; and,
- g. Such further and other relief as this Honourable Court may seem just.

2. The grounds for the application are:

- a. The Applicant, Ray Jarvis (“Jarvis”), is the Applicant personally and on behalf of 1923129 Ontario Inc., 1981262 Ontario Inc., 2209326 Ontario Ltd., 2307400 Ontario Inc. and 2557295 Ontario Inc (“Noblehouse”).
- b. 1923129 Ontario Inc. (“192”) is a subsidiary of 1981262 Ontario Inc. (“198”). The shares of 198 are split 50% with Noblehouse, whose only shareholder is Ray Jarvis, and 50% with Table Rock Holdings Inc., whose only shareholder is Ron Williamson.
- c. 2307400 Ontario Inc. (“230”) is a subsidiary of 2209326 Ontario Ltd. (“220”), whose only shareholders are Glenn Jarvis and the Jarvis Family Trust.
- d. Jarvis is not the bankrupt and is not involved in the bankruptcy in any capacity, including as a creditor.
- e. In January 8, 2019, Justice Penny appointed BDO Canada Limited as trustee for the creditors of Player. In February, only one Inspector signed to place these cautions on title to the Cautioned Properties. This action was not reviewed with any other creditors, including the only secured creditor, Bryan Tattersall.
- f. Despite no ownership by Player in any of the Cautioned Properties, the cautions were registered against title to the Cautioned Properties on March 5, 2019.
- ~~g. Jarvis does not dispute the caution registered against the property municipally known as 3239 Penetanguishene Road, Craighurst, Ontario, but the Cautioned Properties are not held or in any way associated with Player.~~
- h. The Cautioned Properties are owned as follows:
 - i. 2049 Horseshoe Valley Road W, Craighurst, Ontario – owned by 192;
 - ii. 2019 Horseshoe Valley Road, Craighurst, Ontario – owned by 198;
 - iii. 205 Ontario Street, Burks Falls, Ontario – owned by 220;
 - iv. 89 Ontario Street, Burks Falls, Ontario – owned by 220;
 - v. 14 Manitoba Street, Bracebridge, Ontario – owned by 220 and Jarvis; and,
 - vi. 3 Crescent Road, Huntsville, Ontario – owned by 220.
 - vii. 3239 Penetanguishene Road, Craighurst, Ontario - owned by 198.

- i. Player holds no shares in 192, 198 or 220. Player holds no ownership in the Cautioned Properties.
 - j. Jarvis, on his own and as a shareholder and director in 192, 198 and 220, is being aggrieved by the actions of the trustee by placing cautions on the Cautioned Properties.
 - k. Jarvis, on his own and as a shareholder and director in 192, 198 and 220, needs to be able to access the equity in the Cautioned Properties in order to secure other financing for projects and investment opportunities for the corporations.
 - l. Section 67(1)(c) of the *Bankruptcy and Insolvency Act*.
 - m. Section 37 of the *Bankruptcy and Insolvency Act*.
 - n. Section 97 of the *Courts of Justice Act*,
 - o. Rule 14.05 of the *Rules of Civil Procedure*.
 - p. Such further and other grounds as counsel may advise and this Honourable Court permit.
3. The following documentary evidence will be used at the hearing of the application:
- a. the Affidavit of Jarvis, sworn on October 8, 2019; and,
 - b. such further and other material as counsel may advise and this Honourable Court permit

October 23, 2019

Falls Law Group
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P1L 1S2

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Lawyer for Ray Jarvis, 1923129 Ontario Inc.
1981262 Ontario Inc., 2209326 Ontario Ltd.
2307400 Ontario Inc. and 2557295 Ontario Inc.

