

Court File No. CV-18-597922-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CWB MAXIUM FINANCIAL INC.

Plaintiff

-and-

**1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY,
UMAIR N. NASIM, SHRIKANT MALHOTRA, 1975193 ONTARIO LTD. dba
MTN RX & HEALTH and ANGELO KIRKOPOULOS**

Defendants

**RESPONDING MOTION RECORD OF THE DEFENDANT,
1975193 ONTARIO LTD. dba MTN RX & HEALTH**

Date: July 10, 2018

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Tab 1

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Defendants

AFFIDAVIT OF AHMED KASSIM

I, AHMED KASSIM, of the City of Hamilton, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the president, and sole officer and director of the defendant, 1975193 Ontario Ltd. dba MTN RX & Health ("1975193 Ontario" or "MTN RX") and as such have knowledge of the matters herein deposed to.
2. I am a licensed pharmacist in Ontario. I moved to Ontario from Alberta in May, 2017. I have been a licensed pharmacist since 2005, having over 12 years of experience.
3. I moved to Ontario in order to care for my mother, and I also wanted to start my own pharmacy in Ontario. Through a mutual friend, Dr. Ibrahim Mahdi, I became acquainted with Greg Kesminas, who is the owner of Doctor Source Inc., a company which has operated medical clinics for over 15 years. Mr. Kesminas agreed to assist me in acquiring and/or setting up my pharmacy and we discussed an affiliation between his medical clinic and my new pharmacy.

4. Given I had never before owned or operated my own pharmacy, I asked Mr. Kesminas to assist me. Mr. Kesminas introduced me to Umair Nasim, who owned a number of pharmacies in Hamilton, Ontario. I intended to purchase one of these pharmacies from Mr. Nasim, specifically a pharmacy located at 567 Scenic Drive, Hamilton. In our around August, 2017 we were in discussions to acquire the pharmacy, and I had made application for a Certificate of Accreditation as a Pharmacy with the Ontario College of Pharmacists, attached hereto as Exhibit "A". We did not close the transaction as the leasing arrangements with the landlord were not favourable, given the landlord would not agree to a long term lease but would only go month to month.

5. Prior to then, in or around July, 2017, Mr. Kesminas introduced me to Angelo Kirkopoulos, whom I understood to be an accountant who had experience in setting up pharmacies. Mr. Kirkopoulos advised that he could assist me with incorporating a company to start my new pharmacy, and I paid him \$500 to help me with this. He prepared what I understood to be the necessary documents to incorporate 1975193 Ontario. Attached and marked as Exhibit "B" is a copy of a Corporation Profile Report for 1975193 Ontario, which was incorporated on September 12, 2017. My understanding was that initially Mr. Kirkopoulos was listed as a director solely for the limited purpose of incorporating the company, and he was removed within a very short time after the date of incorporation. My understanding is also that the address of the head office registered on incorporation was Mr. Kirkopoulos' brother's home address, which I understood from Mr. Kirkopoulos could be used on an interim basis, because the location of my pharmacy was unknown at the time of incorporation.

6. I had not given Mr. Kirkopoulos permission at any time to be a director of 1975193 Ontario, and at no time did Mr. Kirkopoulos act as a director of 1975193 Ontario or of MTN RX in any way. Aside from incorporating 1975193 Ontario, Mr. Kirkopoulos had no involvement with 1975193 Ontario, and also had no involvement in the construction or setting up of MTN RX Pharmacy. He never had access to the books and records, or the premises of MTN RX Pharmacy, and at no time was Mr. Kirkopoulos a signing authority of any bank account of MTN RX.

7. Mr. Kesminas is not and has never been a shareholder of 1975193 Ontario. The funding for the start-up and construction of my pharmacy came from independent sources. Mr. Kesminas had advised me that the medical clinic which had been affiliated with Mt. Cross, Concession Wentworth Medical Clinic Inc. ("CWMC"), which was not owned by him but rather by a Dr. Jutta, ceased their affiliation with Mt. Cross. This resulted in 5 physicians leaving the Mt. Cross premises at 503 Concession Street, Hamilton. He also advised me that subsequently, Mr. Kirkopoulos had desperately asked Mr. Kesminas to have his physicians replace the physicians who had left. Mr. Kesminas said that he had agreed, and thereafter brought two physicians to work at the premises in or about early September, 2017, which lasted for less than 6 months. He later advised me that it had been a mistake to become affiliated with Mt. Cross, as Mr. Kesminas quickly learned within the first few months that there were management problems and concerns about patient service, and he therefore also ceased his affiliation with Mt. Cross.

8. While in the process of starting my own pharmacy, I needed to obtain some part-time work. Mr. Kirkopoulos offered for me to work at the Mt. Cross Pharmacy on a part-time locum basis, which I did from July, 2017 to March 9, 2018. I worked an average of 2-3 days per week at Mt. Cross Pharmacy on an on-call basis only, and was paid hourly as a consultant. I was never privy to any books and records of 1970636 Ontario and was never involved in any management whatsoever. I never had any knowledge of the finances of 1970636 Ontario, or of the plaintiff's claims against Mr. Kirkopoulos and Mr. Nasim and Shrikant Malhotra ("Malhotra") until much later when I received the plaintiff's Court materials in May, 2018. I never had any discussions with Mr. Kirkopoulos about the financial affairs of Mt. Cross Pharmacy. I stopped working for Mt. Cross Pharmacy in March, 2018, at the time when my new pharmacy, MTN RX Pharmacy opened. Mr. Nasim had also been aware that I was setting up my own pharmacy, and it was agreed that they would not be employing me any longer, when he knew that I was about to open my own pharmacy.

9. I was very surprised and shocked to hear about the issues concerning Mt. Cross Pharmacy and that Mr. Kirkopoulos and Mr. Nasim had been arrested and charged criminally. The first time I became aware of the situation was when the RCMP attended

at my pharmacy in May 17, 2018 to exercise a search warrant. Prior to then, I had been away on holiday in Sweden from April 29 to May 16, 2018.

MTN RX Pharmacy

10. Neither Mr. Kirkopoulos, Mr. Nasim, nor Mr. Malhotra had any involvement in the planning, design, financing, or construction of the MTN RX Pharmacy. I chose the location at 566 Concession Street based on it being close to Juravinski (Hamilton Health Sciences) Hospital, the population density in the area, and being able to obtain a favourable lease. I was not concerned with other pharmacies being in the area, given the make-up and demographics of the area, and the high level of service I felt I could provide to patients.

11. I commissioned preparation of the plans and construction for my pharmacy through my own contractor, and worked in conjunction with the Ontario College of Pharmacists (the "OCP") to ensure compliance with their standards. I was originally hoping to complete construction and open the pharmacy in December, 2017. However, there was some delay due to our contractor; as with any construction, I understood that delays could occur and was not overly concerned with timing. I re-scheduled with the OCP for them to attend for their assessment inspections in December, January and mid-February, 2018. Following the OCP's assessments and approval, MTN RX Pharmacy opened on or about March 9, 2018. Attached hereto and marked as Exhibit "C" is a copy of email communications with the OCP in respect of its assessments.

12. After MTN RX Pharmacy opened, Mr. Kesminas brought in two physicians to share space and operate their medical practices. It was agreed that they would be able to utilize the space without payment of rent for the first year, given their medical practices would be beneficial to MTN RX Pharmacy. I subsequently decided to employ Mr. Kesminas as a manager, given his experience and background in health services.

13. In respect of the Website of MTN RX, my understanding is that this web-site was owned by Mr. Kesminas' medical clinic. The web-site was never owned by 1970636

Ontario or Mt. Cross Pharmacy, and was created by Mr. Kesminas' company in 2014. It is also my understanding that Mt. Cross Pharmacy never had and currently does not have a web-site of its own. The picture on the web-site screenshot at Appendix 8 of the Receiver's motion record, is Mr. Kesminas' wife, who is a health care professional; the other individuals in the picture are also family members of Mr. Kesminas. My understanding from Mr. Kesminas is that the web-site was not proprietary to Mt. Cross.

14. When Mr. Kesminas' physicians moved to the MTN RX premises at 566 Concession Street, my understanding was that he changed his web-site to include the address of MTN RX Pharmacy, as can be seen on the screen-shot referenced at Appendix 9. of the Receiver's motion record. The web-site is not proprietary to and is not owned by MTN RX Pharmacy. MTN RX does not currently own or operate its own web-site; however, I am in the process of developing a web-site for MTN RX Pharmacy. A typical web-site for an independent pharmacy would include much more comprehensive and detailed information about the pharmacy and services offered, and would be significantly more effective in attracting clients.

15. I am not aware and have no further knowledge of the Receiver's comments at paragraphs 4.0.3 to 4.0.8 of the First Report concerning the web-site.

16. I strongly deny the Receiver's statements at paragraphs 4.0.3 and 4.0.9 of its First Report, that since April 1, 2018 approximately 675 client files were transferred to MTN RX without authorization from Mt. Cross. Attached hereto and marked as Exhibit "D" is a copy of MTN RX Pharmacy's full patient list from February 1, 2018 to June 28, 2018 (redacted for privacy reasons), which has been provided to the Receiver. MTN RX Pharmacy has never had more than the approximately 260 clients on its patient list.

17. After MTN RX opened, a number of patients of Mt. Cross became patients of MTN RX voluntarily, primarily because they had informed us that their insurance coverage had been denied while they were patients at Mt. Cross, which resulted in a situation where they were desperate for their medication but could not afford to pay for it without insurance coverage. At no time did I or MTN RX Pharmacy actively solicit any clients of Mt. Cross. In the first month since opening, we had approximately 21 patients.

6

In April, 2018 we had a cumulative total of approximately 82 patients. In May, 2018, we had a cumulative total of approximately 175 patients. Of these patients, I am not sure who could be said to have also been patients of Mt. Cross. To the best of my knowledge, in most if not all cases MTN RX Pharmacy obtained individual voluntary consents to transfer the patient's file where warranted. I deny the Receiver's allegation at paragraph 4.0.11 of its First Report that there was any deliberate or systematic transfer of any patient files from Mt. Cross to MTN RX without client consent or authorization. There may have been some patients who voluntarily decided to start up a new patient file with MTN RX when they were unable to obtain service from Mt. Cross; however, all patients are at liberty to obtain prescriptions from any pharmacy and may initiate a file at more than one pharmacy, at any time.

18. My understanding was also that other patients of Mt. Cross Pharmacy went to other pharmacies when issues arose concerning denial of insurance coverage due to the activities of 1970636 Ontario and Mr. Kirkopoulos. There were also patients who came to MTN RX when we first opened, but after-which decided to go to other pharmacies as is their right and liberty to do so. Furthermore, I understand that when newspaper stories emerged concerning Mt. Cross and the criminal charges laid against Mr. Kirkopoulos and Mr. Nasim, more patients left Mt. Cross for other pharmacies. Following the media reports, existing patients of MTN RX also left, and in this respect, I believe that MTN RX was negatively affected, and unjustifiably suffered losses due to the activities of Mt. Cross, and the related media coverage.

19. In respect of paragraph 4.0.16 of the Receiver's First Report, Angela Abrantes was hired by MTN RX on May 7, 2018. The circumstances relating to Angela's hiring by me were that in April, 2018, she had advised me that her job satisfaction at Mt. Cross had been declining, and her pay-cheques, which she relied upon to support a disabled daughter, had bounced on more than one occasion since January, 2018. Angela advised me that this angered her, and she finally decided to leave when the patient crisis situation arose in late April, 2018, due to the termination of insurance coverage for patients at Mt. Cross.

20. In respect of the blister pack patients (patients to whom drugs were delivered), I was advised by Angela that given the crisis situation, she called these patients, many of whom she had served for a long time, and advised them that they could receive service from MTN RX, but also that they remained at liberty to go elsewhere to any other pharmacy for service. I have reviewed our patient list and determined that we have approximately 76 blister pack patients who had also been clients of Mt. Cross, all of whom provided their voluntary consents for transfer of their files.

21. I was also advised by Angela that to date approximately 60 other clients had voluntarily agreed to transfer their files to MTN RX. In respect of the Fillware software, which is a standard pharmacy patient software, I was advised by Angela when I had returned from vacation on May 17, 2018, that Mr. Nasim had asked her to come back to Mt. Cross to assist him with patients who were in crisis and had been denied coverage. Angela advised me that or about May 10, 2018, Mr. Nasim had been present with her and directed a call to Fillware, wherein he asked whether it was possible to merge the Mt. Cross system with the system for MTN RX. At this time, I was away on holiday in Sweden, and any receipt of patient files would have required my sign off, which could not be given while I was away. Regardless, no merger of the Fillware systems between Mt. Cross and MTN RX ever occurred. There was also no intention or orchestrated design on my part or on the part of MTN RX to receive any mass transfer of patient files. Given the situation concerning the patients at Mt. Cross, patients needed to receive service, and while MTN RX did receive a number of patients who had prior been with Mt. Cross, other pharmacies received patients as well.

22. I also deny the Receiver's suggestion in its First Report at paragraph 4.0.13 that MTN RX had received revenue of approximately \$80,000 on a monthly basis due to improper transfers of patients to MTN RX. This figure is impossible, and may have been based on inflated numbers generated by Mt. Cross. I also dispute the Receiver's calculation that 102 patients transferred between April 2018 and May 2018 could result in a loss of \$31,154.76/mth or \$373,857.12 on annualized basis to Mt. Cross, without any accounting for associated expenditures and net versus gross figures. I further dispute that MTN RX caused any damages to Mt. Cross. Due to its own

mismanagement, deliberate acts, and/or misfortunes, Mt. Cross created a situation where it lost both the confidence of patients, and the confidence of the public.

23. In respect of paragraph 4.0.13 of the Receiver's First Report, I am advised by Angela that she did not actively advise patients that Mt. Cross had moved its location to the MTN RX premises. I have also been informed by Angela that she advised patients who had made inquiries with her, that they were at liberty to go to any other pharmacy for their needs; however, a number of patients wanted to follow and stay with Angela because of their familiarity and long term relationship with her, some of whom she had assisted for years.

24. I deny that the plaintiff or the Receiver holds security over the assets of MTN RX or the patients of MTN RX who voluntarily became patients of MTN RX. I further deny that 1975193 Ontario has acted in any improper manner in respect of the patients who were formerly clients of Mt. Cross, but could not receive adequate service due to the activities of Mt. Cross or its management.

25. 1975193 Ontario had no contractual dealings with the plaintiff, is not indebted to the plaintiff, has no ownership or other affiliation with 1970636 Ontario or its principals, and operates independently with its own assets at its own premises.

26. I oppose the relief being sought by the Receiver and believe that to extend the receivership over the assets of 1975193 Ontario, would be over-reaching, unfounded, and unjust.

27. I make this affidavit for no improper purpose.

SWORN before me at the City
of Hamilton, in the Province of Ontario
this 10th day of July, 2018

A COMMISSIONER, ETC.

AHMED NASSIM

CWB MAXIUM FINANCIAL INC. v. 1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY et al.
Plaintiff Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

AFFIDAVIT OF AHMED KASSIM

(sworn July 10 2018)



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Lawyers for 1975193 Ontario Ltd.

Exhibit A

THIS IS EXHIBIT "A" TO THE AFFIDAVIT
OF AHMED KASSIM, SWORN
BEFORE ME AT THE CITY OF HAMILTON,
PROVINCE OF ONTARIO, THIS 10th DAY
OF JULY, 2018



Commissioner, etc.



**Ontario College
of Pharmacists**
Putting patients first since 1871

Application for Certificate of Accreditation as a Pharmacy

(Check all that apply)

Fee (incl. HST) See page 10 for payment information

<input checked="" type="checkbox"/> New Pharmacy Opening Complete sections A, B, C, D, a Director of a Corporation Declaration of Good Character for every Pharmacist Director of the corporation applying for a Certificate of Accreditation and submit a pharmacy Floor Plan	\$1412.50	<input type="checkbox"/> The pharmacy will operate a Remote Dispensing Location (Complete Section G)	\$565	<input type="checkbox"/> The pharmacy will operate a Lock and Leave (Complete Section H)	-
<input checked="" type="checkbox"/> Acquisition of an Existing Pharmacy or Amalgamation Complete sections A, B, C, D, E, a Director of a Corporation Declaration of Good Character for every Pharmacist Director of the corporation applying for a Certificate of Accreditation, a Pharmacy Self Assessment and submit a pharmacy Floor Plan	\$847.50	<input type="checkbox"/> The pharmacy will operate a NEW Remote Dispensing Location (Complete Section G)	\$1130	<input type="checkbox"/> The pharmacy will operate a NEW Lock and Leave (Complete Section H)	\$282.50
<input type="checkbox"/> Relocation of an Existing Pharmacy Complete sections A, B, C, D, F, a Pharmacy Self Assessment and submit a pharmacy Floor Plan	\$847.50	<input type="checkbox"/> The pharmacy will operate a NEW Remote Dispensing Location (Complete Section G)	\$1130	<input type="checkbox"/> The pharmacy will operate a NEW Lock and Leave (Complete Section H)	\$282.50
<input type="checkbox"/> Existing Pharmacy to operate a Remote Dispensing Location Complete sections A & G	\$1130				
<input type="checkbox"/> Existing Pharmacy to operate a Lock and Leave Complete sections A & H and submit a pharmacy Floor Plan	\$282.50				

Pharmacy Information

Owner of Pharmacy/Corporation Name:

2253658 ONTARIO INC.

Accreditation Number: (if existing)

304388

Current Name of Pharmacy:

1-CARE DRUG MART

New Name of Pharmacy: (complete if current pharmacy name is being changed)

191593 ~~ONTARIO~~ Hyatt Drug mart

Address of Pharmacy:

A

567 SCENIC DR.

City/Town:

HAMILTON

Province:

ON

Postal Code:

L9C 1G9

Proposed Date of Opening:

Sept 22/17 Oct 13/17

Pharmacy Hours of Operation:

M-F 9:30-4:00

Usual & Customary Fee:

9.99

Telephone Number:

B

289-520-0870

Fax Number:

289-335-0224

Email Address:

Website:

Description of Pharmacy: ☐ Plaza/Mall ☒ Medical Clinic ☐ Freestanding ☐ Other:

Specialty Services: ☐ Methadone for MMT ☐ Methadone for Pain ☐ Non-Sterile Compounding ☐ Mail Order

☐ Hazardous Sterile Compounding ☐ Non-Hazardous Sterile Compounding ☐ Central Fill ☐ Long Term Care/Nursing Home



Ontario College
of Pharmacists
Putting patients first since 1871

Application for Certificate of Accreditation as a Pharmacy

3. Library (DPRA Reg 58/11, Part IV s. 25)

- a) All required references are available in the pharmacy. ☒ Yes ☐ No
- b) There are references appropriate to the specialty practice of the pharmacy.
• (e.g.) Geriatric dosage handbook for those servicing long-term care or retirement facilities; pediatric dosing guide ☒ Yes ☐ No
- c) On-line access to the OCP legislation, Pharmacy Connection, and the ODB Formulary is available.
• NOTE: the Required Reference Guide is available on the OCP website, www.ocpinfo.com ☒ Yes ☐ No

4. Drug Schedules/Inventory (DPRA Reg 58/11, Part II)

- B** a) All Schedule II medications are located in an area with no public access. ☒ Yes ☐ No
- b) Non-prescription narcotics are located away from public view. ☒ Yes ☐ No
- c) All Schedule III medications (Professional Products Area) are located within 10m (30 ft.) of the dispensary. ☒ Yes ☐ No
- d) The narcotics and controlled drugs are stored in a way that they are 'reasonably secure'. ☒ Yes ☐ No
- e) The pharmacy has a system that has been established to monitor the N/CD/TS inventory and perform reconciliations as per the DM Policy on Inventory Management. ☒ Yes ☐ No

5. Lock and Leave (DPRA Reg 58/11, Part V, s.38)

- a) The area completely restricts public access to the Schedule I, II and III drugs when a pharmacist is not present.
• NOTE: Lock and Leave must be operational and ready for approval prior to use. ☒ Yes ☐ No

6. Prescription Label (DPRA, S. 156)

- a) The prescription label includes the trading name and ownership name (as filed with OCP), as well as the pharmacy's correct address and telephone number (including area code). ☒ Yes ☐ No

Specialty Services

COMPLETE THIS SECTION IF THE PHARMACY ENGAGES IN ANY OF THE FOLLOWING SPECIALTY SERVICES:


1. Methadone
• The pharmacy has fulfilled the requirements as outlined in the Fact Sheet - Key Requirements for Methadone Dispensing:
(<http://www.ocpinfo.com/practice-education/practice-tools/fact-sheets/methadone/>) ☐ Yes ☒ No
- C** 2. Long-term Care
• The pharmacy will adhere to the Standards for Pharmacists Providing Services to Licensed Long-Term Care Facilities
(<http://www.ocpinfo.com/regulations-standards/standards-practice/ltc-standards/>) ☐ Yes ☐ No
3. Compounding
• Specialty Non-sterile compounding ☐ Yes ☒ No
• Sterile compounding ☐ Yes ☒ No
• The pharmacy will adhere to the Guidelines for Compounding Preparations
(<http://www.ocpinfo.com/regulations-standards/policies-guidelines/compounding/>) ☒ Yes ☐ No

An inspector will review this self assessment and contact you if there are any questions or concerns.

For questions, please contact a Practice Advisor in the Pharmacy Practice department or an inspector at pharmacypractice@ocpinfo.com

Exhibit B

THIS IS EXHIBIT "B" TO THE AFFIDAVIT
OF AHMED KASSIM, SWORN
BEFORE ME AT THE CITY OF HAMILTON,
PROVINCE OF ONTARIO, THIS 10th DAY
OF JULY, 2018



Commissioner, etc.

Request ID: 021816277
Transaction ID: 68508560
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2018/06/26
Time Report Produced: 14:52:52
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

1975193

Corporation Name

1975193 ONTARIO LTD.

Corporate Name History

1975193 ONTARIO LTD.

Effective Date

2017/09/12

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Administrator:

Name (Individual / Corporation)

AHMED

KASSIM

Address

84 WILLS CRES

BINBROOK
ONTARIO
CANADA L0R 1C0

Date Began

2017/09/12

First Director

YES

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

15

Request ID: 021816277
Transaction ID: 68508560
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2018/06/26
Time Report Produced: 14:52:52
Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

1975193

1975193 ONTARIO LTD.

Last Document Recorded

Act/Code	Description	Form	Date
BCA	ARTICLES OF INCORPORATION	1	2017/09/12

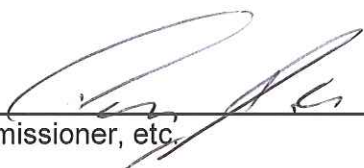
THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Exhibit C

THIS IS EXHIBIT "C" TO THE AFFIDAVIT
OF AHMED KASSIM, SWORN
BEFORE ME AT THE CITY OF HAMILTON,
PROVINCE OF ONTARIO, THIS 10th DAY
OF JULY, 2018



Commissioner, etc.

----- Forwarded message -----

From: **Lisa Craig** <lcraig@ocpinfo.com>
 Date: Thu, Feb 15, 2018, 4:08 PM
 Subject: Re: New opening MTN Rx and Health
 To: ahmed.kassim@gmail.com <ahmed.kassim@gmail.com>

Sorry I was in meetings today. You are all set!!
 Thanks and good luck.

Lisa

On Feb 15, 2018, at 12:53 PM, Ahmed Kassim
 <ahmed.kassim@gmail.com<<mailto:ahmed.kassim@gmail.com>>> wrote:

Hi lisa

I sent u yesterday evening email fornthe left items that was missing in the check list as we provided for our pharmacy

The Fax No (289) 805-0608

The weighting machine

The fridge thermometer

On Feb 14, 2018 9:59 AM, "Ahmed Kassim" <
ahmed.kassim@gmail.com<<mailto:ahmed.kassim@gmail.com>>> wrote:
 no problem I am waiting for you

my no is 4033900666<tel:(403)%20390-0666>

On Wed, Feb 14, 2018 at 9:45 AM, Lisa Craig <lcraig@ocpinfo.com<<mailto:lcraig@ocpinfo.com>>> wrote:
 My apologies. I need to handle something quick on my way. I should arrive around 1030. Sorry. I will get there as soon as I can.

Lisa

On Jan 21, 2018, at 11:16 PM, Lisa Craig
 <lcraig@ocpinfo.com<<mailto:lcraig@ocpinfo.com>><<mailto:lcraig@ocpinfo.com><<mailto:lcraig@ocpinfo.com>>> wrote:

Sounds great. Thanks!

Lisa

18

From: Ahmed Kassim [mailto:ahmed.kassim@gmail.com<mailto:ahmed.kassim@gmail.com>]
Sent: Wednesday, January 17, 2018 10:11 AM
To: Lisa Craig <lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com>>
Subject: Re: New opening MTN Rx and Health

Hi Lisa

Thank you a lot for your replay

I will make sure every thing will be ready for the inspection and happy valentine day :)

On Wed, Jan 17, 2018 at 9:31 AM, Lisa Craig
<lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com><mailto:lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com>>>
>> wrote:
Hello Ahmed.
I was actually able to reschedule something so that I can make February 14th work.
I should arrive around 10am.
Let me know if you have any problems. I look forward to meeting you.
Thanks
Lisa

From: Ahmed Kassim [mailto:ahmed.kassim@gmail.com<mailto:ahmed.kassim@gmail.com> <mailto:ahmed.kassim@gmail.com<mailto:ahmed.kassim@gmail.com> >]
Sent: Monday, January 15, 2018 2:54 PM
To: Lisa Craig <lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com><mailto:lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com>>>
Subject: Re: New opening MTN Rx and Health

Dear Lisa,

Thank you for all your cooperation and flexibility with me.
We have just met with our contractor and he has given us a firm date of completion, finally. I appreciate the fact that you probably have a busy schedule in February but we are looking to book a firm date of
please let me know what you can do to fit me any daY from Feb 14 or any day after .

Thank you in advance and looking forward to hearing back from you and finally meeting you.

On Nov 9, 2017 10:36 AM, "Lisa Craig"
<lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com><mailto:lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com>>>
>> wrote:
Pharmacy Applications have just informed me that you are hoping to open in December

Here is a checklist of things you need to complete prior to scheduling my visit. I look forward to meeting you.

Please note that for the opening inspection the pharmacy must be in a "ready to open" condition. This means you will only be accredited if all of the following elements are in place:

1. Construction must be 100% complete-this would include any lockable gates/lock and leave cabinets
2. Hot running water
3. Computer system must be operational and you must be able to generate a label
4. Internet connection must be functional
5. Phone and Fax system must be hooked up
6. Library requirements are met. If you are using internet based references, be prepared to demonstrate that you know how to access them.
7. Ability to scan documents as newly required in the DPRA (this must be tied to the patient record).
8. Refrigerator, thermometer and balance.
9. Ability to shred confidential information.

Please review the Checklist for Opening a New Pharmacy located on the OCP website for further information.

Please ensure that the pharmacy will meet the above requirements, otherwise I will not be able to provide you with an accreditation number. When you know the exact time frame when the pharmacy will meet the above requirements, we can schedule your opening assessment. Opening assessments are usually conducted in the morning, and we prefer to have at least 2 weeks notice.

Please also keep me informed if things are delayed since I can only provide your accreditation number if all requirements are met.

I look forward to meeting you.

Thanks.

Lisa

[Description: ocplogo]

Lisa Craig R.Ph., B.Sc.Phm

Community Practice Advisor

t. 416-962-4861 ext.2352<tel:416-962-4861%20ext.2352><tel:(416)%20962-4861>

f. 416-847-8292<tel:416-847-8292><tel:(416)%20847-8292>

lcraig@ocpinfo.com<mailto:lcraig@ocpinfo.com><mailto:lcraig@ocpinfo.com><mailto:lcraig@ocpinfo.com>>

www.ocpinfo.com<http://www.ocpinfo.com><http://www.ocpinfo.com/>

[Twitter 25px]

<http://www.twitter.com/ocpinfo?utm_source=Twitter&utm_medium=EmailSignature&utm_campaign=EmailSignature> [cid:image005.png@01D0A2D3.6873E7D0]

<http://www.facebook.com/ocpinfo?utm_source=Facebook&utm_medium=EmailSignature&utm_campaign=EmailSignature> [YouTube 25px]

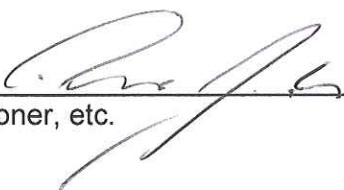
<http://www.youtube.com/ocpinfo?utm_source=YouTube&utm_medium=EmailSignature&utm_campaign=EmailSignature> [LinkedIn 25px] <https://www.linkedin.com/company/ontario-college-of-pharmacists?utm_source=LinkedIn&utm_medium=EmailSignature&utm_campaign=EmailSignature>

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Ahmed Kassim

--
Ahmed Kassim

Exhibit D

THIS IS EXHIBIT "D" TO THE AFFIDAVIT
OF AHMED KASSIM, SWORN
BEFORE ME AT THE CITY OF HAMILTON,
PROVINCE OF ONTARIO, THIS 10th DAY
OF JULY, 2018



Commissioner, etc.

MTN RX & HEALTH
1975193 ONTARIO LTD.
566 CONCESSION STREET, HAMILTON, ONTARIO L8V 1B1, CANADA
Tel: (1289) 278-1607 Fax: (905) 318-3878

Patient(s) List
(Active)

Date Range: Feb 01, 2018 - Jun 28, 2018

[illegible]

23

(Active)

Date Range: Feb 01, 2018 - Jun 28, 2018

Page 2

MTN RX & HEALTH
1975193 ONTARIO LTD.
566 CONCESSION STREET, HAMILTON, ONTARIO L8Y-1B1, CANADA
Tel: 1(289) 278-1607 Fax: (905) 318-3878

Patient(s) List
(Active)

Date Range: Feb 01, 2018 - Jun 28, 2018

[illegible]

26

MTN RX & HEALTH
1975193 ONTARIO LTD.
566 CONCESSION STREET, HAMILTON, ONTARIO L8V 1B1, CANADA
Tel: 1(289) 278-1607 Fax: (905) 318-3878

Patient(s) List
(Active)

Date Range: Feb 01, 2018 - Jun 28, 2018

Patient	DOB	Address	Phone	Plans	Notes	RXs	Total Paid
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	B		[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]
Grand Totals:							[REDACTED]

Tab 2

Court File No. CV-18-597922-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CWB MAXIUM FINANCIAL INC.

Plaintiff

-and-

**1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY,
UMAIR N. NASIM, SHRIKANT MALHOTRA, 1975193 ONTARIO LTD. dba
MTN RX & HEALTH and ANGELO KIRKOPOULOS**

Defendants

AFFIDAVIT OF GIEDRIUS (GREG) KESMINAS

I, GIEDRIUS (GREG) KESMINAS, of the City of Hamilton, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the president and owner of Doctor Source Inc., a corporation incorporated in the Province of Ontario and as such have knowledge of the matters herein deposed to. I have a degree in Pharmacy as well as a Masters of Business Administration.
2. Doctor Source Inc. has operated medical clinics for fifteen (15) years, with various locations in the Hamilton-Wentworth region.
3. One of my friends, Dr. Ibrahim Mahdi, introduced me to Ahmed Kassim, a pharmacist from Alberta. Mr. Kassim wanted to acquire or open a new pharmacy in the Hamilton area. I agreed to assist him, and we discussed an affiliation between my medical clinic and his new pharmacy.
4. I introduced Mr. Kassim to Umair Nasim, who owned a number of pharmacies in Hamilton, Ontario. Mr. Kassim wanted to purchase one of these pharmacies from Mr.

Nasim, specifically one located at 567 Scenic Drive, Hamilton. Mr. Kassim did not close the transaction as the leasing arrangements with the landlord were not favourable.

5. In or around July, 2017, I introduced Mr. Kassim to Angelo Kirkopoulos, whom I had known as a friend since 2014, but had no prior business dealings with him. Mr. Kirkopoulos advised that he could assist Mr. Kassim with incorporating a company for his new pharmacy, and Mr. Kassim paid him to do so. I understand that initially Mr. Kirkopoulos was listed as a director of the company, but only for the limited purpose of incorporating the company and was removed soon after incorporation. Aside from incorporating 1975193 Ontario, I do not believe Mr. Kirkopoulos had any involvement in the management of 1975193 Ontario or MTN RX whatsoever.

6. I am not and have never been a shareholder, officer, or director of 1975193 Ontario. I am also not and have never been a shareholder, officer, or director of Concession Wentworth Medical Clinic Inc. ("CWMC"). CWMC was owned and operated by Dr. Jutta, who had been affiliated with Mt. Cross and had 5 or 6 physicians working at the Mt. Cross premises. I understand that there had been a falling out between CWMC and Mt. Cross which resulted in them leaving in May or June, 2017. After they had left, Mr. Kirkopoulos had approached me in a desperate manner and practically begged me to bring my physicians to replace those who had left, and to become affiliated with him. Although I was somewhat reluctant to, I agreed to help him, and in early September, 2017, I brought two physicians in to work at the premises at 503 Concession Street. At the time, I had no knowledge of Mr. Kirkopoulos' or Mt. Cross' dealings with the plaintiff, CWB Maxium Financial Inc. ("CWB Maxium"), nor did Mr. Kirkopoulos inform me about it. I only learned of the issues concerning Mr. Kirkopoulos and Mt. Cross, and that he and Mr. Nasim had been charged criminally, in May, 2018.

7. In respect of paragraphs 4.0.3 to 4.0.8 and Appendix 8 and 9 of the Receiver's First Report, I had created a web-site for my company, Doctor Source Inc. in 2014. The picture on the web-site includes photos of my wife, who is a health care professional, and other family members. I do not believe that Mt. Cross ever had its own web-site. When I brought my physicians to work at the Mt. Cross premises in September, 2017, I simply modified my existing web-site for Doctor Source Inc. and used the name

"Concession Wentworth Medical Clinic" on the website, primarily because it was convenient and as it was not trade-marked, and I did not believe it was a registered business name which prevented my use of the name. My web-site was never intended to be for Mt. Cross Pharmacy and was never proprietary to Mt. Cross.

8. Unfortunately, I learned fairly quickly within the first few months, that the affiliation with Mt. Cross and Mr. Kirkopoulos was a mistake, given the complaints I had heard concerning patients and their ability to receive adequate service and to obtain their medicines through Mt. Cross in a timely manner, and I together with the two physicians decided to exit the situation and terminate any affiliation with Mr. Kirkopoulos and Mt. Cross. At this time I had no knowledge whatsoever of the issues for which Mr. Kirkopoulos and Mr. Nasim were charged criminally, and I was not aware of any of the financial issues concerning CWB Maxium and Mt. Cross.

MTN RX Pharmacy

9. Neither Mr. Kirkopoulos, Mr. Nasim, nor Mr. Malotra had any involvement in the planning, design, financing, or construction of the MTN RX Pharmacy, which was all managed and arranged by Mr. Kassim. Mr Kassim independently obtained his own financing for MTN RX, and had no knowledge of CWB Maxium's dealings with or loan arrangements with Mt. Cross.

10. After MTN RX Pharmacy opened, and based on the negative situation with Mt. Cross, I brought in two physicians to share space and operate their medical practices at the premises of MTN RX at 566 Concession Street when it opened in March, 2018. It was agreed that they would be able to utilize the space without payment of rent for the first year, given their medical practices would be beneficial to MTN RX Pharmacy. Mr. Kassim also hired me as general manager for his company given my background and experience in health services.

11. In respect of the web-site page referenced at Appendix 9 of the Receiver's First Report, again, the web-site was never owned by and was not proprietary to either Mt. Cross Pharmacy or MTN RX Pharmacy, but was created by me for my company, Doctor

Source Inc. in 2014. For the physicians who started work at the premises of MTN RX, I simply changed the name on the web-site to "MTN Medical Clinic and Pharmacy", and the address to 566 Concession Street. As prior stated, Mt. Cross Pharmacy did not have a web-site of its own. MTN RX also did not have a web-site of its own; however Mr. Kassim is constructing a web-site which would be more representative and typical of an independent pharmacy web-site, with much more comprehensive information and specific to MTN RX Pharmacy.

12. In respect of the Receiver's comments paragraph 4.0.4 of the First Report, the domain name <http://www.mountainclinic.ca> is owned by me and was used for my web-site owned by Doctor Source Inc. The listing on <http://www.hnhbhealthline.ca>, is a government web-site, and I am unaware how reference to Mt. Cross Pharmacy would have included reference to <http://www.mountainclinic.ca> as I did not register it with hnhbhealthline.ca. I did register the domain name in June, 2017, using a name consistent with other clinics of mine in the past based on location in Hamilton, in anticipation of bringing my doctors to Mt. Cross which occurred in September, 2017. However, I had done so without any knowledge whatsoever of Mr. Kirkopoulos' or Mt. Cross' dealings with CWB Maxium.

13. In respect of the Receiver's statements at paragraphs 4.0.3 and 4.0.9 of its First Report, I do not believe that 675 client files were transferred to MTN RX. Since I have worked as general manager of MTN RX, the pharmacy has never had more than the approximately 260 clients on its patient list. Of these patients, I believe approximately 120 – 130 could be said to have also been patients of Mt. Cross at one time.

14. After MTN RX opened, a number of patients of Mt. Cross became patients of MTN RX voluntarily, possibly because they had been a patient of one the physicians who went to MTN RX, because of the situation that their insurance coverage had been denied while they were patients at Mt. Cross, and they were desperate for their medication, or for other reasons. My understanding was that they did not come *en masse*, and other patients of Mt. Cross went to other pharmacies besides MTN RX. There were also patients who came to MTN RX, but subsequently decided to go to other pharmacies as is their right and freedom to do so.

15. In respect of paragraph 4.0.16 of the Receiver's First Report, on June 1, 2018, I attended with Angela Abrantes at a meeting conducted by the Receiver. Angela was hired by MTN RX in early May, 2018. From my discussions with Angela, the circumstances relating to her hiring included that she had been dissatisfied with working for Mt. Cross, and she decided to leave when the patient crisis involving termination of insurance coverage to Mt. Cross occurred in late April, 2018.

16. At the June 1, 2018 meeting with the Receiver, I advised the Receiver that I was NOT a shareholder of MTN RX, but rather that I had been employed as a manager. I also believe that Angela said that because of her bounced-cheques from Mt. Cross as early as January, 2018, she had been angry and voiced concerns to some long-time patients about leaving, which was exacerbated given she relies on her income for support of a disabled daughter. Angela advised me that many of the blister pack patients did voluntarily agree to transfer their files to MTN RX, and that with these patients she obtained voluntary consents and had advised them that it was their choice and that they were free to go to whatever pharmacy they wished at any time. She also advised me that in respect of the Fillware software, Mr. Nasim had asked for her assistance with patients who were in crisis as they could not receive insurance coverage and were desperate for their medication. Mr. Nasim had been present with Angela and instructed her on a call to Fillware inquiring about the merger of the Mt. Cross system with the system for MTN RX given the amount of time and labour required for transfer of individual files. I was advised by Angela and Mr. Kassim that no merger of the Mt. Cross system with MTN RX ever occurred.

17. In respect of paragraph 4.0.13 of the Receiver's First Report, from my review of the finances of MTN RX, MTN RX has never received revenue of \$80,000 on a monthly basis, whether as the result of transfers of patients to MTN RX or otherwise. I also do not believe the Receiver's calculation that 102 patients transferred between April 2018 and May 2018 *could* result in a loss of \$31,154.76/mth or \$373,857.12 on an annualized basis to Mt. Cross, without accounting for associated expenditures and gross versus net amounts.

18. In respect of paragraph 4.0.13 of the Receiver's First Report, Angela advised me that she never advised patients that Mt. Cross had moved its location to the MTN RX premises. I was also informed by Angela that she advised patients that they were free to go to any other pharmacy for their needs; however, a number of patients wanted to stay with Angela because of their familiarity and long term relationship with her.

19. In respect of the Receiver's statements at 4.0.30 and 4.0.33 concerning Vadim Kovalev, I do not believe Mr. Kovalev was involved in the allegations made concerning his revenues or activities, for which I understand he has denied any wrongdoing. Mr. Kovalev does currently practice from the premises of MTN RX, however I am not aware of any wrongdoing or improper activities concerning the writing of prescriptions, or any other activity connected in any way to MTN RX.

20. I do not believe the Receiver holds security over the assets or the patients of MTN RX who voluntarily became patients of MTN RX. I further do not believe that 1975193 Ontario has acted in any improper manner or that any damages occurred to Mt. Cross in respect of the patients who were formerly clients of Mt. Cross, but could not receive adequate service or were denied insurance coverage due to the activities of Mt. Cross and its management.

21. I make this affidavit for no improper purpose.

SWORN before me at the City
of Hamilton, in the Province of Ontario
this 10th day of July, 2018

A COMMISSIONER, ETC.

)
)
)
)
)
)
)



GIEDRIUS (GREG) KESMINAS

CWB MAXIUM FINANCIAL INC. v. 1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY et al.
Plaintiff Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

AFFIDAVIT OF GIEDRIUS (GREG)
KASMINAS

(sworn July 19 2018)



GOWLING WLG

Gowling WLG (Canada) LLP
Lawyers
One Main St. West
Hamilton, ON L8P 4Z5

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Tel: 905-540-2472
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Fax: 905-523-2511
Email: calvin.ho@gowlingwlg.com

Lawyers for 1975193 Ontario Ltd.

CWB MAXIUM FINANCIAL INC. v. **1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY et al.**
Plaintiff Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**RESPONDING MOTION RECORD OF THE
DEFENDANT,
1975193 ONTARIO LTD. dba MTN RX &
HEALTH**



Gowling WLG (Canada) LLP
Lawyers
One Main Street West
Hamilton, ON L8P 4Z5

Robert Dunford (LSUC #54819D)
Tel: 905-540-2472
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Tel: 905-540-3280 x23401
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Email: calvin.ho@gowlingwlg.com

Lawyers for the Defendant, 1975193 Ontario
Ltd. dba MTN RX & Health