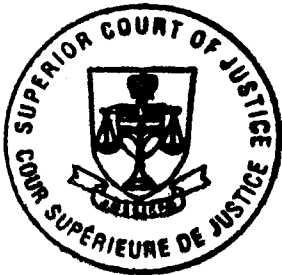


ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
*Ontario Business Corporations Act, R.S.O., Chapter B-16*

THE HONOURABLE *Mr:* )  
JUSTICE *HAINES* )

MONDAY , THE 29<sup>th</sup>  
DAY OF OCTOBER, 2018



ABBAS MOHAMMAD

Applicant

- and -

STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.

Respondents

**ORDER**  
**(Non-Arms' Length Claims Procedure and Bar Order)**

THIS MOTION, made by Albert Gelman Inc. in its capacity as court-appointed liquidator (the "**Liquidator**") without security, of all of the assets, undertakings and properties of 2497486 Ontario Ltd.. (the "**Company**") for, among other things, an order approving and establishing a procedure for the resolution and barring of certain claims against the Company was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Second Report of the Liquidator dated October 23, 2018, and on hearing the submissions of the lawyers for the Liquidator, the Applicant and the Respondents (except the Company):

**DEFINITIONS**

1. THIS COURT ORDERS that the following terms in this Order shall have the following meanings ascribed to them:

- (a) “**Appointment Order**” means the Order of Madam Justice Conway dated June 20, 2017 in the OBCA Proceeding;
- (b) “**Business Day**” means a day which is not: (a) a Saturday or a Sunday; or (b) a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario;
- (c) “**Claim**” means any right or claim of any Party that may be asserted or made in whole or in part against the Company, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest that may accrue thereon in which there is an obligation to pay, and costs which such Party would be entitled to receive pursuant to the terms of any contract with such Party at law or in equity, any right of ownership of or title to property or assets or to a trust or deemed trust (statutory or otherwise) against any property or assets, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, or any right or ability of any Party to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, based in whole or in part on facts which exist prior to the Determination Date, together with any other rights or claims, whether or not asserted, made after the Determination Date, in any way, directly or indirectly related to any action taken or power exercised prior to the Determination Date;

- (d) **“Claims Procedure”** means the non-arms’ length and equity claims solicitation procedure and schedules set out herein, as may be amended from time to time;
- (e) **“Court”** means the Ontario Superior Court of Justice (Commercial List);
- (f) **“Creditor”** means any Party having a Claim and, if the context requires, an assignee or transferee of a Claim or a trustee, receiver, receiver-manager or other Party acting on behalf of such Party;
- (g) **“Determination Date”** means the date that is 60 days from the date of this Order;
- (h) **“Dollars”** or **“\$”** means lawful money of Canada unless otherwise indicated;
- (i) **“Equity Claim”** has the meaning as set out in the *Bankruptcy and Insolvency Act* (Canada);
- (j) **“Inter-Shareholder Claim”** means <sup>a Party's</sup> ~~the Applicant's~~ claim for certain amounts alleged to be owing by ~~the Respondents, or either of them, to the Applicant;~~ <sup>any other Party on account of monies loaned;</sup>
- (k) **“Net Proceeds”** means all funds held by the Liquidator, less the reasonable fees and disbursements for the Liquidator and its counsel, any and all disbursements, any distributions authorized by the Court, and a reasonable reserve sufficient for the Liquidator to complete its mandate and be discharged by this Court;
- (l) **“Notice of Determination”** means the notice substantially in the form attached hereto as **Schedule “B”**;
- (m) **“Notice of Dispute”** means a notice given by a Creditor to the Liquidator advising the Liquidator of the Creditor’s objection to the Liquidator’s Notice of Determination;
- (n) **“OBCA”** means the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended;

- (o) **“OBCA Proceeding”** means the proceedings before the Court in respect of the application by the Applicant commenced pursuant to the OBCA and bearing Court File No. CV-17-11740-00CL;
- (p) **“Order”** means any order of the Court in connection with the OBCA Proceeding;
- (q) **“Party” or “Parties”** means any one or more of the parties to the OBCA Proceeding, except the Company and, for greater certainty, includes Abbas Mohammad, Stephen Celestial and Mustafa Ismael;
- (r) **“Proof of Claim”** means the form to be completed and filed by a Creditor setting forth its proposed Claim, substantially in the form attached hereto as **Schedule “A”**;
- (s) **“Records”** has the meaning set out in the Appointment Order as well as any documents provided to the Liquidator as part of the Claims Procedure;

#### **FILING OF PROOFS OF CLAIM**

2. THIS COURT ORDERS that each Creditor shall file a written Proof of Claim so as to be received by the Liquidator on or before the Determination Date, by registered mail, personal delivery, courier, facsimile transmission or e-mail.

3. THIS COURT ORDERS that each Creditor’s Proof of Claim shall include, without limitation, amounts claimed on account of any shareholder loans advanced to the Company, together with documents supporting such advances, and may include such other supporting documents as the Creditor may consider relevant.

4. THIS COURT ORDERS that <sup>each Party</sup> ~~the Applicant~~ shall include in his Proof of Claim, a claim <sup>an</sup> ~~for~~, and particulars in respect of, ~~the~~ Inter-Shareholder Claim, <sup>if any.</sup>

5. THIS COURT ORDERS that the Liquidator be and is hereby authorized and directed to review the Inter-Shareholder Claim in accordance with the Claims Procedure as though such Inter-Shareholder Claim was a “Claim” within the meaning of this Order, and that the Parties

shall be bound by the Liquidator's determination of the Inter-Shareholder Claim, subject only to the rights of any Party to dispute the Liquidator's determination in accordance with this Order.

#### **DETERMINATION OF NON-ARM'S LENGTH CLAIMS**

6. THIS COURT ORDERS that the Liquidator shall review each Proof of Claim received and shall review the nature of the Claim set out therein and may investigate the Records and request further evidence or information from the Parties, as appropriate, to determine the validity of the Party's Claim and reconcile same with each other Party's Claim(s) and the Company's Records.

7. THIS COURT ORDERS that the Liquidator may attempt to consensually resolve the amount of the Proof of Claim with the Parties or, upon completion of its investigation, shall send a Notice of Determination to each of the Parties setting out:

- (a) the amount determined by the Liquidator of each Party's Claim(s), the Inter-Shareholder Claim, and the value of each Party's Equity Claim based on their respective shareholdings, being 50% for the Applicant, and 25% for each of the individual Respondents;
- (b) the basis for such determination, and;
- (c) the proposed distribution of the Net Proceeds in accordance with the Liquidator's determination, including the order by which payments shall be made by the Liquidator according to any applicable priorities;

as soon as is practicable after the Determination Date.

8. THIS COURT ORDERS that any Party that objects to the Notice of Determination, shall deliver to the Liquidator a Notice of Dispute within 30 days of receipt of the Notice of Determination, or, if no Party delivers a Notice of Dispute within such time, the value of such Parties' respective Claims shall be deemed to be final and binding as set out in the Notice of Determination.

9. THIS COURT ORDERS that any Party who delivers a Notice of Dispute to the Liquidator in accordance with this Claims Procedure, shall, unless otherwise agreed by the Liquidator in writing, by no later than 5:00 p.m. (Toronto time) on the day that is 30 days after the service of the Notice of Dispute, serve, and file with this Court, a Notice of Motion seeking to appeal the Liquidator's determination(s), returnable on a date to be fixed by this Court. If a Notice of Motion seeking to appeal is not filed within such period, then the Notice of Determination shall, subject to further order of this Court, be deemed to be final and binding.

10. THIS COURT ORDERS that if the Notice of Determination is deemed to be final and binding in accordance with this Claims Procedure, then the Liquidator is hereby authorized and directed to pay the Net Proceeds in accordance with such Notice of Determination as soon as reasonably practicable, in full and final satisfaction of any and all Claims that each Party may have, including without limitation the Inter-Shareholder Claim, and any and all other rights or claims of any Party that were, or could have been, asserted or made, in whole or in part, against any other Party, whether or not asserted or made, in connection with any indebtedness, liability, or obligation of any kind whatsoever arising out of any business, dealings, relationship, or otherwise, related to the affairs of the Company.

### **GENERAL PROVISIONS**

11. THIS COURT ORDERS that notwithstanding paragraph 10 of this Order, the Liquidator shall not be required to make any distribution to any Party, until such time as it has received a certificate from Canada Revenue Agency ("CRA") certifying that the Liquidator is not liable to pay any additional amounts to CRA in its capacity as Liquidator of the Company, which certificate is commonly referred to as a "Clearance Certificate".

12. THIS COURT ORDERS that the Liquidator is authorized to use reasonable discretion as to adequacy of compliance with respect to the timelines set out in this Claims Procedure and the manner in which Proofs of Claim, the Notice of Determination and Notices of Dispute are completed and executed.

13. THIS COURT ORDERS that any document to be sent to a Party pursuant to this Claims Procedure may be sent by e-mail, registered mail, courier or facsimile transmission to the Party's counsel, and any such document shall be deemed to have been received five (5) business days after such document is sent by registered mail and one business day after such document is sent by e-mail, courier or facsimile transmission.

14. THIS COURT ORDERS that any notice or other communication to be given under this Claims Procedure by a Party to the Liquidator shall be in writing in substantially the form, if any, provided for in this Claims Procedure, and will be sufficiently given only if delivered by registered mail, courier, personal delivery, facsimile transmission, or e-mail addressed to:

**Albert Gelman Inc. in its capacity as court-appointed liquidator  
of 2497486 Ontario Ltd.**

100 Simcoe Street  
Suite 125

Toronto, ON M5H 3G2

**Attention: Tom McElroy**

Phone: 416.504-1650 ext. 117

Fax: 416.504.1655

Email: [tmcelroy@albertgelman.com](mailto:tmcelroy@albertgelman.com).

15. THIS COURT ORDERS that the following Schedules form part of this Order:

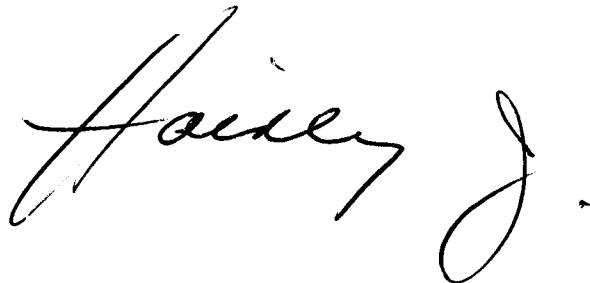
(a) **Schedule "A"** – Proof of Claim; and,

(b) **Schedule "B"** – Notice of Determination.

16. THIS COURT ORDERS that, notwithstanding the terms of this Order, the Liquidator may apply to this Court from time to time for such further order or orders as it considers necessary or desirable to amend, supplement or replace this Order.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 29 2018



PER / PAR: *RW*

**Schedule "A" – PROOF OF CLAIM**

Court File No. CV-17-11740-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
*Ontario Business Corporations Act, R.S.O., Chapter B-16***

**ABBAS MOHAMMAD**

Applicant

- and -

**STEPHEN CELESTIAL, MUSTAFA ISMAEL and  
2497486 ONTARIO LTD.**

Respondents

**PROOF OF CLAIM**

I, \_\_\_\_\_, a party to these proceedings, MAKE OATH AND SAY:

**A. PARTICULARS OF THE CLAIMANT(S):**

(1) Full Legal Name of Claimant(s) (*include if claim is being made through a holding or related corporation*):

**B. PARTICULARS OF CLAIM**

The undersigned claims the following amounts based on the following particulars (*for each category below, set out particular facts setting out the nature of the claims and include any supporting documentation, including copies of cheques, bank draft, money orders, wire transfers, etc., loan documents, promissory notes or other agreement(s) giving rise to the claim and particulars of any claim*):

**Shareholder Loan Claim** (*describe details of why the shareholder account is disputed and indicate the amount claimed*):

[Empty rectangular box]

**Other Claims** *(describe the details of all other claims asserted as against the Company, or if applicable, of an Inter-Shareholder Claim, whether derivative or direct, and indicate the amounts claimed):*

[Empty rectangular box]

**SWORN BEFORE ME** at the \_\_\_\_\_ )  
\_\_\_\_\_, in the \_\_\_\_\_ )  
Province of \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 2018 )

\_\_\_\_\_  
A Commissioner , or Notary Public, etc.

\_\_\_\_\_  
*Name of Deponent:*

## SCHEDULE "B" - NOTICE OF DETERMINATION

### Notice of Determination

Albert Gelman Inc., in its capacity as Liquidator of 2497486 Ontario Ltd. (the "Liquidator"), hereby gives you notice that it has reviewed your Proof of Claim and has made the following determination:

**A) Determination of claims:**

Type of Claim	Abbas Mohammad	Stephen Celestial	Mustafa Ismael
Shareholder loans			
Other claims (if any):			
Inter-Shareholder Claim			
Equity claims			

**B) Basis of Determination:**

Based on the Liquidator's investigation, the Liquidator determined that:

1. *Set out basis of determination...*

**C) Distribution of Net Proceeds:**

1. *Set out order, amounts and recipient to receive distributions of Net Proceeds in accordance with determination of claims*

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**ALBERT GELMAN INC.,**  
in its capacity as Court Appointed Liquidator of  
2497486 Ontario Ltd. and not in its personal  
capacity  
Per:

\_\_\_\_\_  
TOM MCELROY  
100 Simcoe Street, Suite 125  
Toronto, ON M5H 3G2  
Phone: (416) 504-1650 Ext. 117  
Fax: (416) 504-16555  
Email: [tmcelory@albertgelman.com](mailto:tmcelory@albertgelman.com)

• **ABBAS MOHAMMAD**

-and-

**STEPHEN CELESTIAL, MUSTAFA ISMAEL AND 2497486  
ONTARIO LTD.**

• Applicant

Respondents

Court File No. CV-17-11740-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**NON-ARMS' LENGTH CLAIMS  
PROCEDURE AND BAR ORDER**

**KRONIS, ROTSZTAIN,  
MARGLES, CAPPEL LLP**

Barristers and Solicitors  
25 Sheppard Avenue West, Suite 1100  
Toronto, Ontario M2N 6S6

Philip Cho LSUC #45615U

Tel: (416) 225-8750

Fax: (416) 225-6751

Lawyers for Albert Gelman Inc., in its  
capacity as Court-appointed Liquidator of  
2497486 Ontario Ltd.