

Court File Numbers: 35-2395487 and 35-2395481
Estate File Numbers: 35-2395487 and 35-2395481

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
1732427 ONTARIO INC. AND 1787930 ONTARIO INC. BOTH OF THE CITY OF ST.
THOMAS, IN THE PROVINCE OF ONTARIO

NOTICE OF MOTION

(Returnable December 19, 2018)

Dated: December 12, 2018

SWANICK & ASSOCIATES
Barristers and Solicitors
Suite 101
225 Duncan Mill Road
Don Mills, Ontario
M3B 3K9
ATTN: BRUCE SIMPSON 18977E
(416) 510-1888 - phone
(416) 510-1945 - fax
Lawyers for 1787930 Ontario Inc.

- TO: **MILLER, THOMSON**
One London Place
255 Queens Avenue
Suite 2010
London, ON N6A 5R8
Attn: SHERRY KETTLE
(519) 931-3500 – phone
(519) 858-8511 – fax
Lawyers for Transit Petroleum Inc.
- TO: **The Superintendent of Bankruptcy**
451 Talbot Street
Suite 303
London, ON N6A 5C9
- TO: **MNP Ltd.**
111 Richmond Street West
Suite 300
Toronto, ON M5H 2G4
ATTN: SHELDON TITLE
416-323-5240 – phone
416-573-5320 – Cell Phone
Trustee of 1787930 Ontario Inc.

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ONTARIO
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IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
1732427 ONTARIO INC. AND 1787930 ONTARIO INC. BOTH OF THE CITY OF ST.
THOMAS, IN THE PROVINCE OF ONTARIO

NOTICE OF MOTION

(Returnable December 19, 2018)

1787930 Ontario Inc. ("178") will make a motion on consent to change the name of the responding party from Transit Petroleum a division of Hogg Fuel and Supply Ltd. to Transit Petroleum Inc. will be heard before the Court on December 19, 2018, at 80 Dundas Street, London, Ontario, N6A 6A3 at 10:00 a.m. or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: orally

THIS MOTION IS FOR:

1. An Order to change the name of the responding party from Transit Petroleum a division of Hogg Fuel and Supply Ltd. to Transit Petroleum Inc.
2. Such further and other Orders as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. 1787930 Ontario Inc. ("178") and 1732427 Ontario Inc. ("173") served and filed a Motion Record which included a Notice of Motion seeking an order requiring the return of funds received by Transit Petroleum a division of Hogg Fuel and Supply Ltd. from 178 following the issuance of the Notice of Intention to File a Proposal dated July 2, 2018, for fuel provided prior to the issuance of the NOI, before the Court on October 2, 2018.
2. The name of the responding party Transit Petroleum a division of Hogg Fuel and Supply Ltd. has been incorrectly referenced and should be Transit Petroleum Inc.

3. The responding party has consented to the change of the name of the responding party to Transit Petroleum Inc.

4. Such further and other grounds as this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Motion:

1. Affidavit of Laura Carbis, together with Exhibits.
2. Such further and other relief as this Honourable Court may deem just.

Dated: December 12, 2018

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1732427 ONTARIO INC. AND 1787930 ONTARIO INC. BOTH OF THE CITY OF ST.
THOMAS, IN THE PROVINCE OF ONTARIO

AFFIDAVIT

(sworn December 12, 2018)

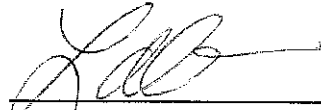
I, Laura Carbis of the Town of Innisfil, in the County of Simcoe, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Law Clerk in the offices of Swanick & Associates and as such have knowledge of the matters hereinafter deposed to save and except for where I state it to be based on information and belief, in which case I have named the person from whom I received the information and verily believe the information to be true.
2. 1787930 Ontario Inc. (“178”) and 1732427 Ontario Inc. (“173”) served and filed a Motion Record which included a Notice of Motion seeking an order requiring the return of funds received by Transit Petroleum a division of Hogg Fuel and Supply Ltd. from 178 following the issuance of the Notice of Intention to File a Proposal dated July 2, 2018, (the “NOI”), for fuel provided prior to the issuance of the NOI, before the Court on October 2, 2018. Annexed hereto and marked as **Exhibit “A”** to this my affidavit is a true copy of the Notice of Motion originally returnable on October 2, 2018.
2. The name of the responding party Transit Petroleum a division of Hogg Fuel and Supply Ltd. has been incorrectly referenced and should be Transit Petroleum Inc.
3. The responding party has consented to the change of the name of the responding party to Transit Petroleum Inc. Annexed hereto and marked as **Exhibit “B”** to this my affidavit is a true copy of the Consent of the parties.

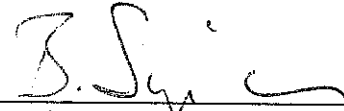
4. I make this affidavit in support of a motion to change the name of the responding party and for no improper purpose.

SWORN before me in the City of
Toronto in the Province of Ontario,
this 12th day of December, 2018

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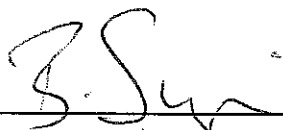


Laura Carbis



Commissioner for Taking Affidavits
B. Simpson

This is Exhibit "A" Referred to in the
Affidavit of Laura Carbis
sworn before me this 12th day
of December, 2018

A handwritten signature in cursive script, appearing to read "B. Sun", is written above a horizontal line.

A commissioner, etc.

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
1732427 ONTARIO INC. AND 1787930 ONTARIO INC. BOTH OF THE CITY OF ST.
THOMAS, IN THE PROVINCE OF ONTARIO

NOTICE OF MOTION

(Returnable October 2, 2018)

1787930 Ontario Inc. ("178") will make a motion pursuant to section 69(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "Act") for an order requiring the return of funds received by Transit Petroleum a division of Hogg Fuel and Supply Ltd. ("Hogg") from 178 following the issuance of the Notice of Intention to File a Proposal dated July 2, 2018, (the "NOI"), for fuel provided prior to the issuance of the NOI, before the Court on October 2, 2018, at 80 Dundas Street, London, Ontario, N6A 6A3 at 10:00 a.m. or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: orally

THIS MOTION IS FOR:

1. An Order, if necessary, dispensing or abridging the time for service of the within Motion;
2. An Order requiring Hogg to return the sum of \$83,734.05, being the amount which Hogg received and retained from 178 for fuel provided prior to the issuance of the NOI;
3. In the alternative, an Order requiring Hogg to return the sum of \$35,299.77, being the amount which Hogg received and retained from 178 for fuel provided prior to the issuance of the NOI, less the amount which remains owing for fuel provided by Hogg post NOI;
4. Costs on a substantial indemnity basis; and
5. Such further and other Orders as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. 178 entered into a contract with Hogg to provide fuel for 178's fleet of vehicles.
2. 178 set up pre-authorized payments on account with Hogg.
3. 178 filed a NOI to its creditors under the provisions of the Act and has received an extension to file a Proposal until September 14, 2018, and has received a second extension to file a Proposal until October 12, 2018.
4. As a result of the issuance of the NOI, all creditors were stayed pursuant to section 69(1) of the Act from any recovery against 178's property for pre-NOI debts.
5. On or about July 5, 2018, following the issuance of the NOI, Hogg wrongfully withdrew the sum of \$83,734.05 from 178's account for pre-NOI debts.
6. 178 has demanded the return of the sum of \$83,734.05 from Hogg, but to date Hogg has refused to return the funds.
7. Hogg has applied the funds which it has wrongfully taken from 178 against outstanding balances owing for the period prior to the date of the NOI.
8. Following the issuance of the NOI, during the period from July 3 until July 8, 2018, Hogg supplied fuel to 178 for which it has invoiced the sum of \$50,639.03.
9. Following the issuance of the NOI, during the period from July 9 until July 15, 2018, Hogg supplied fuel and services to 178 for which it has invoiced the sum of \$33,795.25.
10. 178 has paid the sum of \$36,000 to Hogg for fuel provided post-NOI on July 9, 10, and 11, 2018,

11. As a result of the above referenced financial transactions, Hogg has supplied post-NOI fuel in the aggregate amount of \$84,434.28, for which it has been paid the sum of \$36,000, leaving a balance owing to Hogg for post-NOI fuel of \$48,434.28.
12. Pursuant to the Act, Hogg is entitled to the payment of \$48,434.28 for fuel provided post-NOI.
13. As a result of the foregoing transactions, Hogg's net obligation to 178 is the sum of (\$83,734.05 less \$48,434.28) \$35,299.77.
14. Hogg has refused to return any funds to 178.
15. The funds being wrongfully held by Hogg constitute a payment withdrawn in breach of the stay provision of the Act, or in the alternative, a preference pursuant to the Act.
16. The refusal of Hogg to return the funds is subjecting 178 to undue financial duress to operate in order to maximize the recovery for the benefit of all of its creditors.
17. Sections 50.4 and 69.1 of the Act;
18. Rules 3.02 and 37 of the Rules of Civil Procedure.
19. Such further and other grounds as this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Motion:

1. Affidavit of Nathan McDaniel, together with Exhibits.

2. Such further and other relief as this Honourable Court may deem just.

Dated: September 19, 2018

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Trustee of 1787930 Ontario Inc.

This is Exhibit "B" Referred to in the
Affidavit of Laura Carbis
sworn before me this 12th day
of December, 2018



A commissioner, etc.

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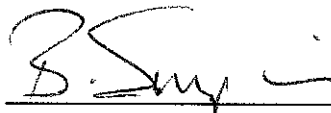
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Consent

THE PARTIES hereto, by their solicitors, consent to an Order in the form attached hereto as
Schedule "A".

The lawyers executing the within consent hereby certify that none of the parties hereto are
under a disability.

Date: December 12, 2018



Swanick & Associates
Lawyers for 1787930 Ontario Inc. and 1732427 Ontario Inc.

Date: December 12, 2018



Miller, Thomson
Lawyers for Transit Petroleum Inc.

Court File Numbers: 35-2395487 and 35-2395481
Estate File Numbers: 35-2395487 and 35-2395481

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

THE HONOURABLE) WEDNESDAY THE 19TH DAY
)
) OF DECEMBER, 2018

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
1732427 ONTARIO INC. AND 1787930 ONTARIO INC. BOTH OF THE CITY OF ST.
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Order

THIS MOTION made on consent of the parties for an Order to change the name of the responding party from Transit Petroleum a division of Hogg Fuel and Supply Ltd. to Transit Petroleum Inc. was heard this day at London, Ontario.

ON READING the consent of the parties filed;

1. **THIS COURT ORDERS** that the responding party name be and the same is hereby changed to Transit Petroleum Inc.
