



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-21-00661434-00CL DATE: 6 FEBRUARY 2023

NO. ON LIST: 5

TITLE OF PROCEEDING: **1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES v. PULSE RX INC. et al**

BEFORE JUSTICE: **JUSTICE STEELE**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

| Name of Person Appearing | Name of Party | Contact Info |
|--|--|-------------------|
| CHRISTOPHER CARUANA (<i>counsel</i>) | 1951584 Ontario Inc. dba Maxium Financial Services | ccaruana@wvllp.ca |
| | | |

For Defendant, Respondent, Responding Party, Defence:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---------------|--------------|
| | | |

For Other, Self-Represented:

| Name of Person Appearing | Name of Party | Contact Info |
|----------------------------------|--|-----------------------|
| SHAUN PARSONS (<i>counsel</i>) | MNP Ltd, in its capacity as the court-appointed receiver of Pulse RX, Family Pharmacy Clinic Inc., and the Pulse Share Trust | sparsons@reconllp.com |

ENDORSEMENT OF JUSTICE STEELE:

1. MNP Ltd. in its capacity as receiver and manager of all of the property, assets and undertakings of Family Pharmacy Inc. and Pulse RX Inc. and as the trustee of the Pulse Share Trust seeks an Order, among other things, that:
 - a) Authorizes the Receiver to make distributions to the Canada Revenue Agency (“CRA”), McKesson Canada Corporation (“McKesson”), 2047944 Ontario Inc. (“National Pharmacy”) and to 1951584 Ontario Inc. (“Maxium” and with National Pharmacy, the “Secured Creditors”) as described in the receiver’s third report.
 - b) Approves the fees and disbursements of the receiver and its independent counsel.
 - c) Approves the discharge of the Receiver upon the filing of the discharge certificate.
 - d) Approves the Third Report and the activities and conduct of the Receiver and its counsel as set out therein.
2. Following Court approved sales transactions, there is about \$1,208,336 in the estate to distribute. There may be additional recoveries from HST refunds and interest on the excess funds.
3. The Receiver advises that after payment to CRA of the unremitted source deductions, payment to McKesson of \$5,685.39 further to a registered security interest in Pulse’s inventory, the Secured Creditors have come to an agreement on the distribution of the funds available to them.
4. The Receiver asks the Court to make an order that the distributions may be made without a Tax Clearance Certificate. The Receiver advised that CRA does not oppose the motion and that the CRA was served with the motion materials.
5. The Court has the jurisdiction to authorize the Receiver to make the distributions without the Tax Clearance Certificate under section 243(1)(c) of the BIA, which has been broadly interpreted. At para. 22 of its factum, the Receiver referenced a recent similar order authorizing distributions prior to the issuance of a Tax Clearance Certificate granted by this Court in the CCAA proceedings of Eve & Co Incorporated and Eve & Co International Holdings Ltd. The Receiver further noted that no party will be prejudiced if this relief is granted, including the CRA. The Monitor’s report states that “any liability that a Tax Clearance Certificate from CRA would address would not be payable under any circumstance based on the fulcrum nature of the Secured Creditors’ claims.”
6. Counsel for Maxium indicated that his client supported the submissions made by counsel for the Receiver.
7. The Receiver seeks a discharge once it has completed the remaining activities and filed with Court the Receiver’s Discharge Certificate, certifying completion of such activities.
8. The Receiver also seeks approval of the professional fees incurred by it and its legal counsel as described in the fee affidavits, including the estimated fees of the Receiver and its legal counsel in connection with the completion of these proceedings. In *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, the Court of Appeal noted, at para. 45, that the Court must ensure that the proposed compensation is fair and reasonable and needs to consider overall value and what was accomplished.
9. This was not a straight-forward proceeding. Among other things, this matter involved tax complexities, a potential priority dispute and medical records that were in a state of disarray. In the circumstances, I am satisfied that the compensation sought is fair and reasonable.

10. Order to go as signed by me and attached. The order is effective from today's date and is enforceable without the need for entry and filing.

Dated: February 6, 2023

A handwritten signature in blue ink, appearing to be "J. Lee" or similar, written in a cursive style.