



District of Ontario
Division No. 09- Toronto
Court No. 35-2681654
Estate No. 35-2681654

IN THE MATTER OF THE BANKRUPTCY OF
1836816 ONTARIO INC.
OF THE CITY OF KITCHENER, IN THE PROVINCE OF ONTARIO

Minutes of the First Meeting of Creditors:

November 10, 2020, 10:00 a.m.
BDO Canada Limited
Conference meeting via Webex

Chairperson: Marie-Josée Sicard, Official Receiver
Office of the Superintendent of Bankruptcy (“OSB”)

ATTENDANCE

See attached attendance sheet.

CALL TO ORDER

Marie-Josée Sicard acted as Chairperson for the meeting under the authority of s. 105(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”).

The Chairperson called the meeting to order at 10:15 a.m.

QUORUM

The Chairperson noted that as there was at least one proven creditor present, quorum was established and the meeting was properly called and duly constituted.

The Chairperson also noted that only creditors who had filed a valid proof of claim prior to the start of the meeting would be allowed to vote on any motions.

MEDIA

The Chairperson asked if there were any members of the media currently present at the meeting. As no members of the media came forward, it was determined that none were in attendance.

GENERAL DISCUSSION

The Chairperson confirmed that the creditors had received the creditor package and explained the purpose of the meeting set out in s. 102(5) of the BIA.

The Chairperson noted that, for logistical purposes, the meeting would be locked (10:18am).

TRUSTEE'S PRELIMINARY REPORT

The Chairperson confirmed that the Licensed Insolvency Trustee (“LIT”) provided a link to the Trustee’s Preliminary Report prior to the meeting and noted that if any creditor had not received the link, they should advise the LIT.

The LIT presented the Trustee’s Preliminary Report and explained that the purpose of the report was to provide basic background information needed to make informed decisions on next steps for the estate.

The LIT responded to a number of questions as they related to the report.

Financial Review

The LIT noted that the financial section of the report was based on internal financial statements received from 1836816 Ontario Inc. o/a Hacienda Sarria (“Hacienda” or the “Bankrupt Company”) and that a formal forensic audit had not been completed. Despite the chart in the report only going back to 2018, the LIT noted that the company had also suffered losses in previous years.

Creditors asked if they would be able to see the profit and loss statements. The LIT noted that the Preliminary Report prepared by the LIT is a statutory document that they wanted to provide in advance of the meeting for creditors to have time to review. Financial documents, like the profit and loss statements, are typically made available to Inspectors but not broadly distributed to creditors.

Creditors wanted to know what a forensic audit entailed. The LIT stated that a forensic audit is generally done if statements are not in order and need to be completely reconstructed. Inspectors can decide later on if an audit is required but they are usually more costly and there are currently no funds available in the estate.

Event Deposits

The LIT noted that the wording of the event contracts do not appear to establish a trust. Additionally, a trust requires separate bank accounts so that the funds are not co-mingled. In this case, the Bankrupt Company placed all deposits in one account. For these reasons, the deposits were classified as unsecured claims in the bankruptcy. Creditors are able to obtain their own legal opinion on this matter if they choose.

There was a request to have the bank statements sent out to creditors to review. The LIT noted that not all documents are publicly available and that the Inspectors would usually review these documents and then report to the rest of the creditors.

Related Parties

1291029 Ontario Limited (“**129 Ontario**”) is the owner of the property rented by the Bankrupt Company. The Directors of 129 Ontario and the Bankrupt Company are related. The LIT noted that although the two companies are related, they are separate and distinct entities. 129 Ontario also provided additional funds to the Bankrupt Company in 2020, which is why their claim on the Claims Register is higher than what was originally noted on the Statement of Affairs. The LIT obtained an independent legal opinion on the security and confirmed that it was valid and enforceable.

The LIT confirmed that the General Security Agreement was registered under the PPSA. No payments were made on the loan nor was any interest charged on the debt and as a result it may have been better than a loan agreement with an at arm’s length party. The LIT noted that although these documents are not broadly distributed to creditors, Inspectors would have a chance to review them.

The LIT stated that they have not obtained a legal opinion on the lease or offered an opinion on the fair market value of the rent charged. This is something that can be discussed with the estate Inspectors.

The LIT confirmed that the creditor who made the demand payment was not a related party.

Section B – Conservation and Protective Measures

The LIT noted in the report that they have safeguarded the assets and the property owner had obtained insurance coverage. A question was asked as to why insurance was taken out on the assets. The LIT stated that until they reach an agreement on what to do with the assets, they needed to be insured. 129 Ontario was able to extend their existing coverage onto the assets, which was more cost efficient for the estate.

A question was asked about redeeming the assets. The LIT explain that there were a few options available to the estate. The assets can be released to the secured creditor to reduce the amount owed to them. The estate could also look at selling the assets but it would cost money and the funds would go back to the secured creditor based on the scheme of distribution under the BIA.

Section G – Preference Payments

Based on their review, the LIT identified three preference transactions. The LIT spoke with the secured creditor about collection of these payments and the secured creditor requested that the LIT not pursue collection. Since the secured creditor’s claim exceeded the total value of the preference transactions, if the estate were able to realize on any of the transactions, all funds would go directly to the secured creditor and would have no impact

on the unsecured creditors. There would also be a cost associated with realization that would be borne by the estate.

GENERAL QUESTIONS

After the LIT presented the Preliminary Report, the Chairperson opened the floor to any additional questions.

Natasha Germanakos asked a question regarding the creditor that made the demand payment and whether or not they were at arm's length. The LIT stated that they had not disclosed the creditor that made the demand as there is a reputational risk to the company but confirmed that the vendor was at arm's length.

Mitchel Taylor, a creditor asking questions on behalf of 58 other couples, presented a number of questions to both the LIT and the Director of the Bankrupt Company.

The creditor noted that all corporate profile reports done on 1836816 Ontario Inc. state that the company did not have a current business name registered. The creditor asked the LIT what documents or information can be provided to ensure that Hacienda Sarria is in fact the registered business entity operating as 1836816 Ontario Inc. The LIT noted that it is common for companies to register a corporate name but use a different company name to the public. The contracts for events included 1836816 Ontario Inc. and the LIT confirmed that they completed a corporate profile search and identified the numbered company.

The creditor asked the LIT why 129 Ontario's claim amount differed between the Statement of Affairs and the Preliminary Report. The LIT stated that they prepared the Statement of Affairs based on information provided by the Director of Hacienda. When 129 Ontario submitted their proof of claim, the claim amount was adjusted. The Chairperson added that the Statement of Affairs is a sworn document by the Director of the company. The LIT is required to review the claims as they come in and address any major discrepancies.

The creditor asked questions regarding Indulge Nature and Organic Kitchen Inc.'s ("**Indulge Kitchen**") claim, and whether there was any correspondence between Indulge Kitchen and Hacienda prior to the demand letter. The LIT stated that Indulge Kitchen's claim increased from the amount noted on the Statement of Affairs after reviewing their proof of claim. When asked directly about discussions with Indulge Kitchen, there was no response from the Director. The LIT noted that they could not speak to conversations that may have taken place between the companies but would follow up with the Director.

The lack of response from the Director of the Bankrupt Company led to a discussion regarding their attendance at the meeting. The LIT confirmed the Director was in attendance at the beginning of the meeting but that they had received a message from the Director stating that their microphone was not working. Creditors noted that they have prepared a number of questions that they would like to ask the Director at the meeting. The LIT said that an option could be to gather the questions and forward them to the Director

for a response. There was hesitation about this option as it would not capture the fluidity of conversation that would have occurred at the meeting. The Chairperson noted that while the Director does have a duty to attend the meeting, the BIA provides additional ways to ask the Director questions. The first option is an examination done by the OSB under s. 161 of the BIA. Another option would be to conduct a s. 163 examination through the LIT. Both options allow creditors to put forth questions that they would like to ask the Director.

The creditor asked a question regarding the calculation of future cash flow amounts and why it appears that an amount lower than the 75% remaining (event cost minus 25% deposit) was used in the calculation of events. The LIT noted that the future cash flows were calculated based on future events scheduled and the price per guest. When preparing the future cash flow amount, the LIT kept in mind that events would have likely been smaller than originally planned because of COVID-19 restrictions. Additionally, as the price per guest varied depending on the event, the LIT calculated and used \$198 as an average.

A question was asked regarding the decision to decrease the deposit amount from 25% to \$500. LIT stated that there was nothing in the documents they received that would allow them to comment on the reason for the change. The question would need to be forwarded to the Director to respond.

The creditor asked if there was an explanation available as to why there were six deposits refunded between August 4 and Oct. 14, 2020. The LIT noted that they would send the question to the Director for their response.

The creditor wanted to know how the Director was able to survive financially if they have not taken any compensation since 2018. The LIT noted that they would forward the question to the Director for their response.

The creditor asked if there was an explanation available to why the Business Development Bank of Canada loan was repaid six days after the demand was received instead of being used as a payment to cover a large portion of the demand amount. The LIT noted this as a question to be put to the Director.

The creditor requested a breakdown of the \$30,000 projected salary costs for maintenance and planning staff noted in the Preliminary Report. The LIT reiterated that the Preliminary Report was prepared to provide a snapshot of future cash flows but that a breakdown could be made available to creditors.

The creditor requested a copy of the lease agreement to review the arrangement between 129 Ontario and the Bankrupt Company regarding rent, taxes and utilities paid. The LIT said that a copy of lease agreement can be provided and made available to the creditors.

The creditor wanted to know which company was responsible for operating the outdoor dining events that took place during the Phase 2 reopening and whether funds from Hacienda were used to launch the events. The LIT said they would need to get more

information from the Director but noted that, based on the documents they had, all receipts were co-mingled and not in separate bank accounts.

The creditors asked a question regarding the breakdown of the key vendor's demand letter and why Hacienda was deemed to not be able to continue operations without the vendor when they did not typically provide catering services. The LIT stated that they would send the question to the Director for their response.

The creditors requested information on what the deposits provided in 2019 and 2020 were used towards and if there were any financial documents that showed the movement of the funds. The LIT responded that copies of bank statements are not made public but can be shared with Inspectors. Inspectors are there to ensure transparency of the process by reviewing documents and reporting to the rest of the creditors.

The creditors asked if there was a lawyer on record who is representing the Director of the Bankrupt Company and whether they were authorized to accept service of any potential claims against the Director. The LIT stated that if a creditor is serving Hacienda, they need to do it through BDO as the LIT but if they are serving the Director personally, they would need to go to the Director.

Part way through the meeting, the LIT was able to call the Director and connect them through speakerphone so that they could answer some of the questions. The Director stated that the intent of the business was to be profitable or at least break even. They went on to say that there were a number of key plans put in place in February of 2020 to become profitable over the next five years but COVID-19 affected that. In regards to the demand letter, the Director said that they received the letter on October 13th and decided it was not something they could avoid. The Director declined to respond to questions about not taking financial compensation over the past few years. The Director noted that they would need to get back to them on the questions about the BDC loan, their personal legal representation, the last year the company made a profit and the returned deposits.

Simon Almeida wanted to know if the LIT could provide the requested documents to all creditors so that everyone could better understand the next steps for the estate. The LIT noted that they would work to find a way of providing access to the requested documents without broadly distributing them. Under normal circumstance, creditors would request to come to the LIT's office to review them but as that is not currently an option, it would be unfair to limit access to only five Inspectors. An alternative solution may be to set up a secure data room where documents could not be downloaded. The creditors wanted to know a timeframe for setting up the data room. The LIT stated that they did not want to commit to anything without speaking with their IT team first. The LIT advised the creditors to check the website regularly as they would be posting more information there.

It was requested that creditors send the LIT all the questions they wished to ask the Director by November 13th. The LIT would then forward the questions to the Director and based on the responses, a decision could be made on pursuing an examination of the Director. The creditors asked additional questions on the process of requesting an examination. The

Chairperson noted that with a s.161 examination, the LIT would gather the questions the creditors wished to ask and send them to OSB. An analyst would then conduct the examination, under oath, and prepare a report. Only the analyst, Director and legal counsel for the Director, if desired, would attend. A s. 163 examination is conducted through the LIT and counsel would ask the questions. A court reporter would attend so the notes from the examination would be verbatim, in comparison to a S. 161 exam which is not. There is also a cost to the estate to conduct a s.163 examination unlike the s. 161 exam. The LIT added that examinations focus on finding facts but are not substitutes to motions or other legal options.

Caryl-Anne Stordy asked if the LIT could confirm that they have connected with all creditors. The LIT stated that they sent the creditor package out based on the contact information they received from the company. The LIT has a list of all individuals they were able to contact and a list of those who did not respond. If a creditor knew of anyone who may not have received a package, the LIT requested that the creditor let the individual know to contact the LIT. The LIT also said that they would put an updated claims register on the website and confirmed that they had posted an advertisement regarding Hacienda's bankruptcy.

Simon Almeida, asked if there was a duty of care for the Bankrupt Company to wind down operations once they felt things were going south. The LIT stated that there were a number of actions taken because of COVID-19 including renegotiating the lease amount, the BDC loan and laying off employees. It appears that these actions were taken in an effort to keep the business operational.

AFFIRMATION of TRUSTEE

The Chairperson called for a motion to affirm the appointment of BDO Canada Limited as the LIT. The LIT stated they were provided with proxies prior to the start of the meeting and that a motion to affirm the LIT would be brought forwarded by KW Habilitation and seconded by Bishop MacDonell High School.

The Chairperson asked if there were any objections to the appointment of the LIT. One creditor, Melissa Magder, stated that they would like to object to the LIT's appointment but wanted to know if they would need to have a substitute LIT already identified. The Chairperson stated that if they did not already have a substitute LIT in place, creditors may have the current LIT substituted at another meeting by special resolution. The Chairperson stated that there was no specific timeframe set out to do this.

BDO Canada Limited was appointed as LIT of the estate.

APPOINTMENT OF INSPECTORS

Pursuant to s. 116(1) of the BIA, the Chairperson explained the role of the Inspector.

The creditors asked if they were to commence legal action, would it be a conflict of interest if they were an Inspector for the estate. The LIT noted that if an Inspector were to bring legal action against the Director personally, a conflict would exist and they would need to resign. The LIT stated that they were not aware of any current actions so there would be no conflict in becoming an Inspector today and could always decide to resign or be substituted at a later date.

Three names were brought forward to be appointed as Inspectors: Yujie Zhang, Rade Sajic and Rohan Ram.

The Chairperson reiterated that if an Inspector were to be appointed today and decided that they no longer wished to be in the role they could always resign. New Inspectors can also be appointed later on, as long as there were less than five Inspectors at that point in time.

A motion to appoint the Inspectors was brought forward by KW Habilitation and seconded by Bishop MacDonell High School. The LIT created a poll in the Webex meeting that allowed those in attendance to vote on the appointment of the three individuals. The Chairperson noted that attendees could abstain from voting as well. The three Inspectors received 61 “yes” votes, one “no” and 11 individuals did not respond.

The motion carried and the three individuals were appointed as Inspectors of the estate.

ADJOURNMENT of MEETING

The Chairperson asked if there were any other matters to discuss prior to adjourning the meeting. Simon Almeida, asked if the OSB was concerned with the fees of the LIT being guaranteed. The Chairperson stated that this is a common practice and it allows the LIT to begin work on the estate.

As there were no objections to the adjournment of the meeting, a motion to adjourn was brought forward by KW Habilitation and seconded by Bishop MacDonell High School.

The meeting was adjourned sine die at 1:00pm.

Marie-Josée Sicard

Marie-Josée Sicard
Chairperson / Official Receiver
Office of the Superintendent of Bankruptcy

November 30, 2020

Encl.: Attendance Sheet

Attendance Sheet

1836816 Ontario Inc. (35-2681654)

November 10, 2020 (10:00 am)

Office of the Superintendent in Bankruptcy

| | |
|--------------------|--------------|
| Marie-Josée Sicard | Chairperson |
| Chris Poole | Observer |
| Raquel McGee | Minute taker |

Trustee's Office

| | |
|-------------|---------------|
| Mike Braga | LIT |
| Robyn Duwyn | LIT |
| Margo Head | Administrator |

Nadine Doyle

1836816 Ontario Inc Director

| <u>Creditor</u> | <u>Claim Amount</u> | <u>Proxy</u> | <u>Confirmed will be in attendance</u> |
|--|----------------------------|---------------------|---|
| Ramneek Sodhi & Jon Babatinca | \$2,194.30 | n | Ramneek |
| Abby Ellis | \$6,935.13 | n | yes - Abby |
| Akailah Wilson & Traven Smith | \$6,375.00 | n | yes - Akailah |
| Aleia Ally & Sanjay Mangar | \$14,750.00 | n | yes - Aleia |
| Krista Francis & Alexander Juby | \$3,960.00 | n | yes - Alexander |
| Allison Swackhamer & Tyler Schmidt | \$7,337.49 | n | yes - Allison |
| Amanda Baltzer & Cameron McKnight | \$7,650.00 | n | yes - amanda |
| Parinaz Lak & Amir Soltani | \$12,000.00 | n | yes - amir |
| Andrea Hernandez and Akhikio Tse | \$6,375.00 | n | yes - Andrea |
| Adrienne Pollington & Anthony Bellavia | \$4,950.00 | n | yes - Anthony |
| Arushi Kothari & Alex Sidhu | \$7,375.00 | n | yes - arushi |
| Beverly Tong & Andre Yang | \$6,375.00 | n | yes - Beverly |
| Bianca Pariselli & Blair McHugh | \$4,950.00 | n | yes - Blair |
| Candace Bond & Robert Rinaldi | \$7,650.00 | n | yes - Candace |
| Caryl-Anne Stordy & Michael Binsfeld | \$8,500.00 | n | yes - Caryl-Anne |
| Catherine Umolac & Chris Eveleigh | \$6,307.50 | n | yes - Catherine |
| Catriona McGregor & Shawn Jafarnejad | \$3,960.00 | n | yes - Catriona |
| Liana & Celso Cardieri | \$4,428.88 | n | yes - Celso Cardieri |
| Charmaine Vaswani & Andrew Hylton | \$9,506.25 | n | yes - Charmaine |
| Ceylan Myers & Chris Studer | \$6,375.00 | n | yes - Chris |
| Christie Bouquet & Ty Tran | \$6,375.00 | n | yes - Christie |
| Connie Yang & Alex Lee | \$500.00 | n | Yes - Connie |
| Corina Carroll & Kyle Harris | \$3,960.00 | n | yes - Corina |
| Danielle Greenway & Brendon Bigelli | \$9,737.50 | n | yes - Danielle |
| Around the Table | \$2,434.08 | y | yes - Debra |
| Dana Sciarra & David Caldas | \$11,000.00 | y | yes - Drew |
| Dana Francoeur & Drew Davis | \$6,843.75 | n | yes - Drew |
| Eunice Furtado & Dimitrije Babin | \$6,000.00 | n | yes - Eunice |
| Rachel Veilleux & Mike Helps | \$6,375.00 | n | yes - Francis (father) |
| Jasmine Smith & Frank Cappelli | \$6,760.00 | n | yes - Frank |
| Isabelle Kiraly & Franklin Tello | \$3,187.50 | n | yes - Franklin |
| Ariel Lai & Henry Chong | \$9,824.50 | n | yes - Henry |
| Iris Dip & Eric Ionico | \$5,375.00 | n | Yes - Iris |
| Isabel Stanley | \$70.00 | n | yes - Isabel |
| Jasleen Sodhi & Raj Dhillon | \$2,352.25 | n | Yes - Jasleen |
| Cortney Hansen & Jeff Chaves | \$9,562.50 | n | yes - Jeff |
| Jen Sousa & Danny Freitas | \$2,590.00 | n | yes - Jennifer |
| Jessica Lum & Gerhard Kiessling | \$10,000.00 | n | Yes - Jessica |
| Jordan Nurse & Adam Barges | \$6,375.00 | n | yes - Jordan |
| Kayla Ellis & David Morgan | \$3,072.50 | n | YES - Kayla |

| | | | |
|---|--------------|---|-------------------|
| Stephanie Kim & Vlad Pripotnev | \$3,960.00 | n | yes - Kim |
| Kimberly Suyom & Anthony Iervasi | \$6,600.00 | n | yes - Kimberly |
| Laura Smith & Mike Vernon | \$3,235.00 | n | yes - Laura Smith |
| Leah Mackie | \$15,000.02 | n | yes - Leah |
| Lindsey Nahls & Daniel Stark | \$3,960.00 | n | yes - Lindsey |
| Margarita Iarovaia & Russel Westlake | \$8,500.00 | n | yes - Margarita |
| Carling DalBianco & Matt Campbell | \$7,012.50 | n | yes - Matt |
| Eden Lee & Matthew Ewing | \$14,341.00 | n | yes - Matthew |
| Melissa Black & Ed Bernard | \$6,341.25 | n | yes - Melissa |
| Melissa Magder & Mark Lansdell | \$7,650.00 | n | yes - Melissa |
| Meg Wilson & Mike Vanderzand | \$8,287.50 | n | yes - Michael |
| KW Habilitation c/o Cherylyn Sawatzky | \$500.00 | y | Yes - Mike Braga |
| Bishop MacDonell (2021 Prom) c/o Amanda Belluz | \$4,125.00 | y | Yes - Mike Braga |
| Laura Kraehling & Mitch Taylor | \$6,375.00 | n | yes - Mitchell |
| Natalia Jureczek & Patrick Mul | \$6,885.00 | n | yes - Natalia |
| Natasha Germanakos & Rade Sajic | \$8,543.75 | n | Yes - Natasha |
| Nikol Stoimenova & Shane Pollock | \$6,375.00 | n | yes - Nikol |
| Paul Fetalvero | \$500.00 | n | yes - Paul |
| Indulge Natural and Organic Kitchen Inc. | \$126,622.41 | y | yes - Paul |
| Veronica Puistonon & Peter Argany | \$28,650.95 | n | yes - Peter |
| Gardi Wong & Philip Tieu | \$3,460.00 | n | yes - Phillip |
| Phoebe Leung & Ryan Weaver | \$3,960.00 | n | yes - Phoebe |
| Rachel Clark & Richard Tep | \$7,650.00 | n | yes - Rachel |
| Rebecca Bialachowski & Patrick Cavanaugh | \$5,000.00 | n | yes - Rebecca |
| Renee Vansevenant & Jonathan Jackson | \$6,375.00 | n | yes - Renee |
| Maria Daniel & Rohan Ram | \$7,200.00 | n | yes - rohan |
| Dee Flores & Ryan Figueroa | \$6,000.00 | n | yes - Ryan |
| Sarah Reynen & Carson King | \$6,375.00 | n | yes - Sara |
| Melissa Seifried & Scott MacKay | \$5,445.00 | n | yes - Scott |
| KCI, SJAM, Bluevale, Cameron Heights, Eastwood. | \$20,125.00 | y | yes - Shannon |
| Katrina Sartor & Simon Almeida | \$6,375.00 | n | yes - Simon |
| Elena Damtsis & Simone Tine | \$7,901.50 | n | yes - Simone |
| Sunny Yan & Sky Zhou | \$5,579.75 | n | yes - Sunny |
| Tharushi De Alwis & Varakone Chanthoumpo | \$4,800.00 | n | yes - Tharushi |
| Yujie Zhang & Chris Wu | \$5,445.00 | n | yes - Yujie |
| Lauren Wolfe & Mark Ollivierre | \$4,950.00 | n | yes -Mark |
| Caitlin Pursell & Tyler Metcalf | \$7,650.00 | n | yes- Tyler |
| Victoria Armstrong & Jason | \$9,650.00 | n | yes- Victoria |