

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) WEDNESDAY, THE 18<sup>TH</sup>  
JUSTICE NEWBOULD )  
DAY OF DECEMBER, 2013

B E T W E E N:

DBDC SPADINA LTD.,  
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO  
Applicants

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP  
LTD. and EGLINTON CASTLE INC.  
Respondents

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO, TO BE  
BOUND BY THE RESULT

**ORDER**

**THIS MOTION**, made by the Applicant, DBDC SPADINA LTD.,  
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO, for an Order granting  
various relief, was heard on December 18, 2013;

**ON READING** the Notice of Application dated October 1, 2013, the Amended Notice of  
Application dated October 24, 2013, the Amended Amended Notice of Application dated

December 17, 2013, the Notice of Motion dated December 11, 2013, the Amended Notice of Motion dated December 17, 2013, the affidavits of James Reitan sworn October 1, October 3, October 24 and December 9, 2013 the affidavit of Dr. Stanley K. Bernstein sworn October 1, 2013, the affidavits of Norma Walton sworn October 3 and October 31, 2013, the affidavit of Harlan Schonfeld sworn October 1, 2013, the affidavit of Marvin Pernica sworn December 5, 2013, the affidavit of Robert Duranceau sworn December 16, 2013, the affidavit of Jean Monardo sworn December 16, 2013 and the Exhibits attached thereto, the First Interim Report of the Inspector, Schonfeld Inc., the Supplemental Report to the First Interim Report of the Inspector and the Exhibits thereto, the Second Interim Report of the Inspector and the facts and books of authorities, filed, and upon hearing counsel for the Applicants, the Respondents, the Manager and the Mortgagees;

#### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

#### **CONTINUING ORDERS**

2. THIS COURT ORDERS that the Orders of the Honourable Justice Newbould dated October 4, 2013, October 25, 2013 and November 5, 2013 continue in full force and effect except as modified by this Order.

#### **APPOINTMENT OF MANAGER**

3. THIS COURT ORDERS that Schonfeld Inc. is hereby appointed manager ("Manager") over the following real property:

(a) 232 Galloway Road, other than those units sold to *bona fides* third party purchasers, as determined by the Manager or by further Order of this Court; and

(b) 65 Front Street East,

on the same terms as the Order appointing the Manager over the Schedule "B" Properties dated November 5, 2013.

#### **MANAGER'S CHARGE**

4. THIS COURT ORDERS that the Manager's Borrowing Charge shall rank in first priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person to a maximum of \$150,000 on each Schedule "B" Property;

5. THIS COURT ORDERS that the Manager's Borrowing Charge in excess of \$150,000 and the Manager's Charge shall rank in subsequent priority to any all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person validly registered on title of the Schedule "B" Properties as of the date of this Order.

6. THIS COURT ORDERS that the proceeds of each Schedule "B" Property shall be used only to fund the obligations of that Schedule "B" Property and/or the Manager's Charge as set out in paragraphs 4 and 5 above and for greater certainty shall not be used to fund the obligations of any other Schedule "B" Property.

7. THIS COURT ORDERS that the proceeds of any Manager's Borrowing Charge be used only to fund the obligations of the Schedule "B" Property against which the Manager's Borrowing Charge is registered.

## **COSTS**

8. THIS COURT ORDERS that the costs of this Application and the costs of the Inspectorship shall not form part of the Manager's Charge or the Manager's Borrowing Charge and shall be borne by the parties, as may be determined by this Court from time to time and for greater certainty shall not form part of the Manager's Charge or the Manager's Borrowing Charge.

## **COMPLIANCE WITH THE MORTGAGES**

9. THIS COURT ORDERS that the mortgagors of the Schedule "B" Properties shall comply with the terms of the respective mortgage agreements.

10. THIS COURT ORDERS that the mortgagees of the Schedule "B" Properties may seek further relief of this Court in the event of further default under the respective mortgage agreements.

## **MANAGER'S POWERS**

11. THIS COURT ORDERS that subsection 5(l) and (m) of this Court's Order dated November 5, 2013 is modified to require the consent of the respective mortgagee(s) or further Order of this Court to market, list for sale, sell, convey, transfer or assign any Schedule "B" Property.

12. THIS COURT ORDERS that the Manager shall report to the mortgagee on the status of the respective Schedule "B" Properties as reasonably required by the mortgagee.

## **CERTIFICATES OF PENDING LITIGATION AND REGISTRATION OF CHARGES**

13. THIS COURT ORDERS that the shareholders loans provided by the Applicants and/or Dr. Bernstein to the Schedule B Companies shall be registered on title of the Schedule "B" Properties as a secured charge, ranking in second priority to all security interests, trusts, liens, charges and



encumbrances, statutory or otherwise, in favour of any Person validly registered on title of the Schedule "B" Properties.

14. THIS COURT ORDERS that the certificate of pending litigation appended hereto as Schedule "C" shall be registered on title to 44 Park Lane Circle, Toronto, Ontario without further Order and the Land Registrar is so directed.

15. THIS COURT ORDERS that the certificates of pending litigation appended hereto as Schedule "D"- "CC" shall be registered on title to the following properties (the "Other Properties") without further Order and the Land Registrar is so directed:

- (i) 620 Richmond Street West, Toronto, Ontario;
- (ii) 875 Queen Street East, Toronto, Ontario;
- (iii) 3270 American Drive, Mississauga, Ontario;
- (iv) 2 Kelvin Avenue, Toronto, Ontario;
- (v) 346 Jarvis Street, Toronto, Ontario, other than those units sold to third parties;
- (vi) 3775 St. Clair Avenue East;
- (vii) 14/17 Montcrest, Toronto, Ontario;
- (viii) 1 William Morgan Drive, Toronto, Ontario;
- (ix) 324 Prince Edward Drive, Toronto, Ontario;

- (x) 24 Cecil Street, Toronto, Ontario;
- (xi) 185 Davenport Road, Toronto, Ontario;
- (xii) 30 and 30A Hazelton Avenue, Toronto, Ontario;
- (xiii) 1246 Yonge Street, Toronto, Ontario;
- (xiv) 777 St. Clarens Avenue, Toronto, Ontario;
- (xv) 17 Yorkville Avenue, Toronto, Ontario;
- (xvi) 252 Carlton Street and 478 Parliament Street, Toronto, Ontario;
- (xvii) 19 Tennis Crescent, Toronto, Ontario;
- (xviii) 66 Gerrard Street East, Toronto, Ontario;
- (xix) 646 Broadview Avenue, Toronto, Ontario;
- (xx) 14 College Street, Toronto, Ontario;
- (xxi) 26 Gerrard Street Est, Toronto, Ontario;
- (xxii) 3 Post Road, Toronto, Ontario;
- (xxiii) 2 Park Lane Circle Road, Toronto, Ontario;
- (xxiv) 2454 Bayview Avenue, Toronto, Ontario; and
- (xxv) 321 Carlaw, Toronto, Ontario.

16. THIS COURT ORDERS that a charge shall be registered on title in favour of the Applicants to the Other Properties, in subsequent priority to any security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person validly registered on title thereof as of the date of this Order.

**OTHER RELIEF**

17. THIS COURT ORDERS that the net proceeds from the sale of any Schedule "B" Property be held by the Manager and distributed in accordance with the shareholders agreements, subject to:

- (a) Dr. Bernstein being made whole first, including return of debt and capital, interest and profits;
- (b) The Respondents satisfying this Honourable Court as to the amount and authenticity of their equity contributions, if any, which onus the Respondents bear; and
- (c) Any profits or return on equity otherwise payable to the Respondents being made available first to the Manager to fund its activities and the Schedule "B" Properties, provided that the parties shall be able to seek further Order of the Court in that regard.

18. THIS COURT ORDERS that Norma Walton and Ronald Walton shall make and satisfactorily evidence to the satisfaction of Manager the equity investments as required by the agreements in respect of the Schedule "B" Companies and Properties to fund the expenses of the Schedule "B" Companies and Properties;

19. THIS COURT ORDERS that the Respondents and The Rose & Thistle Group may not dispose of or encumber any assets held by them either jointly or severally, without further Order of this Honourable Court.

20. THIS COURT HEREBY REQUESTS that aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Manager and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Manager, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Manager and its agents in carrying out the terms of this Order.

21. THIS COURT ORDERS that the Manager be at liberty and is hereby authorized and empowered to apply to any court, tribunal regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

22. THIS COURT ORDERS that any interested party may apply to this Court to seek the advice and direction of the Court in respect of this Order or the activities of the Manager on not less than seven (7) days' notice to the Manager and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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DBDC SPADINA LTD., et al  
Applicants

-and- NORMA WALTON et al.  
Respondents

Court File No.: CV-13-10280-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP**

Barristers

Suite 2600

130 Adelaide Street West

Toronto ON M5H 3P5

**Peter H. Griffin (19527Q)**

Tel: (416) 865-2921

Fax: (416) 865-3558

Email: [pgriffin@litigate.com](mailto:pgriffin@litigate.com)

**Shara N. Roy (49950H)**

Tel: (416) 865-2942

Fax: (416) 865-3973

Email: [sroy@litigate.com](mailto:sroy@litigate.com)

Lawyers for the Applicants