

Court File Number: CV-13-10280-00CL

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

DBDC Spaulin
Plaintiff(s)
AND
Norme Walter et al
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
<u>M. Dunn - J. Haney</u>		
<u>S.N. Roy & D. Slatt for applicants / Norme Walter in person; M. A. Bowler in person</u>		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

February 23, 2016

The applicants came to have the proceeds from the sale of 346 Jarvis Street, Unit 7 (approx. \$82,000 plus accrued interest) paid to the Smith Trustee & Receiver Inc, the personal receiver of Norme and Donald Walter in partial satisfaction of its fees & its legal counsel's fees.

Date _____ Judge's Signature _____

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Judges Endorsment Continued

Ms Walter opposes the motion and moves for an order requiring the Managers, Schankel Inc to issue a claims process for the property. She says that ~~the~~ the money is trust & should await a determination of all of the creditors of ~~the~~^{her} and her husband who should be entitled to the money.

Mr. Arge Boudle appeared today on behalf of himself and his wife who have lost a great deal of money in investing with the Walters. I am told they are investors in some scheduled companies, although not in the Jones Street property. After listening to Mr. Boudle and the relatively small amount of money he and his wife were wishing for, I gave a short adjournment to permit counsel for the applicants to see if some resolution could be made with Mr. Boudle. On resumption I was told that an offer had been made to Mr. Boudle but that after

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Judges Endorsment Continued

talking to Ms Watten he had decided not to take the offer up. That is unfortunate.

The known creditors of the Jarvis Street property have been paid by the Managers.

The remaining funds held by him are sitting there ready to be paid to Shrover's entitled

to them. This is one of the unusual properties in this case that has resulted in a surplus, albeit a small surplus. It

is not really the job of the Managers to run

a claims process for the properties as all

claims have been paid. The properties were

acquired by the Estates personally and

so the money in trust at first instance

would be payable to them.

The difficulty with a claims process if run by the Managers is that the cost would eat up all the money in trust. Ms Watten does not disagree. In the circumstances some practicality needs to be placed.

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Judges Endorsment Continued

Under the order appointing the personal receiver of the Walters, he has a charge over the assets of the Walters (but not over the assets which were subject to the Manager's powers). The money now held in trust is the Walters unless someone has a claim against it.

To ~~ascertain~~ ^{determine} what the total claims against the Walters are will be no easy matter and will involve years if all claims made are determined through the course of litigation.

To date, the claims process has been a Request process for each property involved.

To now say that it should include all known creditors in relation to all properties would be a change, and could not possibly be done and have any money after expenses ^{available} to be paid out to any creditor.

There is no evidence before me that there will ever be any other money left over.

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Judges Endorsment Continued

from any of the schedule B or C
properties in the Watsons and then
to their unsecured creditors.

In the circumstances I decline to make
the order sought by Ms. Walton. I order
that the money held in trust by the trustee
from the sale of the Fairview Street property,
be paid out to the personal receiver of
the Watsons to be applied against the
fees and expenses of the personal receiver,
including its legal expenses.

20th Feb 2011