

District of Ontario
Division No. 09 - Toronto
Court No.: 31- 2648658, 31-2648647, 31-2648661
Estate No.: 31- 2648658, 31-2648647, 31-2648661

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY
2551999 ONTARIO INC.
OF THE CITY OF TONRONT
IN THE PROVINCE OF ONTARIO

IN THE MATTER OF THE BANKRUPTCY
MIDICI CANADA OPERATING LIMITED
OF THE CITY OF TONRONT
IN THE PROVINCE OF ONTARIO

IN THE MATTER OF THE BANKRUPTCY
2668859 ONTARIO INC.
OF THE CITY OF TONRONT
IN THE PROVINCE OF ONTARIO

TRUSTEE'S PRELIMINARY REPORT ON ITS ADMINISTRATION (CONSOLIDATED)

From the Trustee: Goldhar & Associates Ltd.

The following information is a consolidated set of information provided to assist interested parties in evaluating the affairs of 2551999 Ontario Inc. ("Franchising"), MidiCi Canada Operating Limited ("Newmarket"), and 2668859 Ontario Inc.'s ("Mississauga") (to be collectively referred to as, the "Companies").

The Companies list above are related companies that have all filed assignments into bankruptcy. To simplify the administration of these three similar estates the Trustee has consolidated its preliminary report and will discuss all relevant information relating to the entities below.

Please note, we have not audited or reviewed the Companies' books and records and, as a result, we are not able to express an opinion concerning the accuracy of the information contained herein. The following information originated from the Companies books and records that were made available to us, as well as from our discussions with the principals of the Companies.

In addition, the Trustee notes pursuant to the Act, where two companies make assignments at substantially the same time and one company is indebted to the other, the first meeting of creditors of the creditor company should be held before the first meeting of creditors of the debtor company so the trustee and inspectors of the creditors company may decide whether a proof of claim should be filed and votes at the first meeting of creditors of the debtor company. As such, the Trustee has arranged for the meeting of creditors of Franchising to be conducted prior to the meeting of creditors of Newmarket.

SECTION A - BACKGROUND

The Companies filed assignments in bankruptcy on the 29TH day of May 2020 and Goldhar & Associates Ltd. ("Goldhar" or the "Trustee") was appointed Trustee of the estates.

Franchising was incorporated on December 16th, 2016 and operated at 250 - 40 Eglinton Avenue East, in the City of Toronto in the Province of Ontario. Franchising was originally incorporated to secure the licenses, naming rights, and leases to be associated with the operation of two Italian styled pizza restaurants located at Market & Co at Upper Canada Mall in Newmarket, Ontario and The Food District located at Square One Shopping Centre¹ in Mississauga, Ontario. The two restaurants operations were established as separate Ontario Corporations, Newmarket, incorporated on April 10, 2018, and Mississauga, incorporated on December 4, 2018.

The following is a list of the employees employed by the Companies at the date of bankruptcy:

- (a) Franchising - 0
- (b) Newmarket - 32
- (c) Mississauga - 46

The following is a list of the shareholders and directors for each of the Companies:

(a) Franchising

There are 7 shareholders of Franchising:

- Amalgam Eleven Limited (35%)
- MRILAC (20%)
- David Albert (20%)
- 2484493 Ontario Limited (5%)
- Kate Camenzuli (6%)
- Amplifier Foods (5%)
- Stuart Wanlin (9%)

There is 1 director of Franchising:

- Eli Staiman

(b) Newmarket

There is 1 shareholder of Newmarket:

- MidiCi Canada Franchising Limited (2551999 Ontario Inc.)

There is 1 director of Newmarket:

- Eli Staiman

¹ Both corporate leases have been executed with subsidiaries of Oxford Properties as named landlord.

There is 1 shareholder of Mississauga:

- MidiCi Canada Franchising Limited (2551999 Ontario Inc.)

There is 1 director of Mississauga:

- Eli Staiman

Our preliminary review indicates, and as advised by the principal, that the Companies insolvency resulted from:

Franchising was incorporated to secure the MidiCi Group LLC² license, naming rights, and leases of two operating entities with Oxford Properties located at Market & Co. in Upper Canada Mall, in Newmarket, Ontario, and in The Food District located at the Square One Shopping Centre, in Mississauga, Ontario. Both leases were executed in advance of either restaurant commencing operations.

Before opening the Newmarket location in the summer of 2018, a new corporation, Newmarket, was incorporated with the intention of it operating the Newmarket location with permission granted from Franchising. Newmarket's opening was successful, and the beginning months of the operation were profitable; however, the business began to suffer as did most of the other Market & Co. tenants. Many attempts were made to adjust the business model, including menu and service style changes, to no great avail.

The Mississauga location was planned and committed at the same time as Newmarket. A new corporation, Mississauga, was also created in concurrence with the plans for construction with an early summer opening of 2019 as the target. Unfortunately, due to certain challenges with the source and supply of proprietary design features and other construction complications, Mississauga was not successful in opening the new location until late September 2019. By this time, Mississauga had already incurred multiple months of rent payments and additional building costs (estimated to be in excess of \$200,000) and were left with little reserve to support the two locations.

After a few successful months in Newmarket, both locations began to show unprofitable months; notwithstanding regular attempts to meet with the landlord and other parties to review what changes needed to be made to the operation and marketing of the properties. With continual unprofitable months and the inability to renegotiate operating agreements, the locations were simply not able to continue to operate and forced to close on Family Day 2020.

As a result of the forced closure of both locations, the director of the Companies decided the best course of action was to assign the entities into bankruptcy.

² MidiCi Group LLC is an American Neapolitan pizza restaurant chain based out of Los Angeles, California. In addition, the Trustee understands MidiCi Group LLC has filed for creditor protection in the USA.

SECTION B - ASSETS

(1) Franchising

The assets, as listed on the Franchising statement of affairs ("SOA"), are as follows:

(a) Trade Fixtures - \$20,000

The trade fixtures of Franchising relate to the restaurant equipment, leasehold improvements, and miscellaneous restaurant furniture located at the Market & Co. Newmarket location. The Trustee understands from discussions with the director of Franchising that the equipment and Newmarket loans for Newmarket were completed in the name of Franchising and never switched over. In addition, prior to the Trustees appointment, upon closure of Newmarket the assets were locked into the leased premise by the secured creditor and currently negotiations are in place between the Oxford Properties (the "Landlord") and RBC (defined below) to deal with the security.

(b) Accounts Receivable - \$195,000

At the date of bankruptcy, Franchising had three separate accounts receivable due to it.

One, an account due from Newmarket in the amount of approximately \$20,000 in relation to outstanding royalties due to Franchising. Newmarket has also filed an assignment into bankruptcy and based on the assets listed on its SOA, the Trustee does not believe this receivable has any realizable value.

Two, an account due from MidiCi Group LLC in the amount of approximately \$160,000 in relation to an outstanding fee due to Franchising created by the opening of the Canadian operations. The Trustee has had several conversations with the director of Franchising and does not believe this amount has any realizable value as MidiCi Group LLC is also listed as a creditor on Franchising's SOA as well as it having filed for creditor protection in the US.

Three, an account due from the Landlord in relation to a reimbursement owing for an allowable tenant improvement. The Trustee does not believe this amount has any realizable value given the large obligations due to the Landlord for outstanding lease amounts.

(2) Newmarket

Not applicable

(3) Mississauga

The assets, as listed on the Mississauga SOA, are as follows:

(c) Trade Fixtures - \$20,000

The trade fixtures of Mississauga relate to the restaurant equipment, leasehold improvements, and miscellaneous restaurant furniture located at the Square One Shopping Centre location in Mississauga. The Trustee understands from discussions with the director of Mississauga and counsel to the secured creditor, Royal Bank of Canada ("RBC"), that the trade fixtures were locked into the leased premise by RBC and a receiver has been appointed to deal with the assets.

SECTION C- SECURED CREDITORS

The Trustee has conducted a PPSA search of the Companies and confirmed the following registered security interests:

(1) Franchising

- Royal Bank of Canada - General Security Interest registered against all assets of Franchising.

(2) Newmarket

- Royal Bank of Canada - General Security Interest registered against all assets of Operating.
- Merchant Capital Growth Ltd. - General Security Interest registered against all assets of Operating.

(3) Mississauga

- Royal Bank of Canada - General Security Interest registered against all assets of 266.

The Trustee has further reviewed the nature of the Merchant Capital Growth's claim detailed on the Franchising SOA as it fails to appear on Franchising PPSA search results. The Trustee believes this may have been incorrectly registered against Newmarket. The Trustee has reached out to Merchant Capital Growth's with respect to filing a proof of claim so it can further investigate which entity it is a creditor of.

In addition, Canada Revenue Agency ("CRA") maintains a priority position for its deemed trust claim (being monies withheld from employees' wages for income tax, Employment Insurance premiums and Canada Pension Plan premiums but not remitted). Proven deemed trust claims take a priority over some or all secured claims. At this time, the Trustee does not know the quantum of CRA's deemed trust claim and has requested CRA conduct an audit to establish any trust claims.

Further, the Wager Earner Protection Plan Act creates a super-priority, over current assets (cash, accounts receivable and inventory), for employees' wages, vacation pay, termination and severance pay. The super-priority for employees' wages is for a maximum amount of \$2,000 per employee. The Trustee is currently calculation the WEPPA amounts and will be administering the program on behalf of former employees.

SECTION D - CONSERVATIVE AND PROTECTIVE MEASURES

Details below apply to the Companies collectively.

(a) Conservatory and protective measures

Not applicable³.

(b) Books and records

The Trustee has taken possession of all available books and records of the Companies.

(c) Carrying on business

The Companies shut down operations on Family Day weekend, 2020.⁴

SECTION E - LEGAL PROCEEDINGS

There are no known legal proceedings filed by or against the Companies.

No legal proceedings have been commenced by or against the Trustee or against the estate.

SECTION F - PROVABLE CLAIMS

(a) The following is a list of claims filed in relation to Franchising:

	<i>As Declared</i> <i>Amount \$</i>	<i>As filed and admitted</i> <i>Amount \$</i>
<i>Secured</i>	475,188.54	1,011,690.83
<i>Unsecured</i>	784,662.65	86,636.98
<i>Preferred</i>	-	-
Total	\$ 1,259,851.19	\$ 1,098,327.81

The Trustee holds proxy(ies) - 0

³ As described earlier in this preliminary report, a receiver has been appointed over the assets of Mississauga and are to be appointed over the assets of Franchising and Newmarket.

⁴ On or around February 17, 2020.

(b) The following is a list of claims filed in relation to Newmarket:

	<i>As Declared</i> <i>Amount \$</i>	<i>As filed and admitted</i> <i>Amount \$</i>
<i>Secured</i>	-	999,570.68
<i>Unsecured</i>	413,973.90	27,454.60
<i>Preferred</i>	14,578.21	-
Total	\$ 428,552.11	\$ 1,027,025.28

The Trustee holds proxy(ies) - 0

(c) The following is a list of claims filed in relation to Mississauga:

	<i>As Declared</i> <i>Amount \$</i>	<i>As filed and admitted</i> <i>Amount \$</i>
<i>Secured</i>	494,182.00	1,007,475.23
<i>Unsecured</i>	831,418.40	-
<i>Preferred</i>	15,218.70	-
Total	\$ 1,340,819.10	\$ 1,007,475.23

The Trustee holds proxy(ies) - 0

SECTION H - ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION

Upon the Trustees initial investigations of the assets of the Companies, it was determined that the secured debt was far in excess of the realizable value of the assets. As such, and with also considering additional landlord, CRA, and WEPP claims, the Trustee did not attempt to take possession of the assets.

Upon its initial investigation and pending unforeseen events or undisclosed assets, the Trustee does not anticipate any distribution to the unsecured creditors of the Companies at this time.

SECTION I - TRANSFER AT UNDERVALUE

The Trustee will be seeking directions of the creditors pursuant to section 38 of the *Bankruptcy & Insolvency Act* as the Trustee has no funds to investigate transfers of value or fraudulent preferences.

In addition, the Trustee has possession of bank statements for the prior 12 months leading to the bankruptcy, however, has not yet reviewed the bank statements, and will seek instructions from the creditors in this regard.

SECTION J - OTHER MATERIAL MATTERS NOT COVERED ABOVE

Goldhar & Associates Ltd. received payments in the amount of \$10,515 plus HST from a related party to the Companies for each estate. These amounts are in relation to consulting work with th Companies prior to its insolvency and for carrying out the Trustee's basic administration; which includes: meeting with debtor, analyzing its financial position, preparing all documentation, explaining duties of the officer of the bankruptcy corporation and co-operation with the Trustee, filing the bankruptcy documents, accepting appointment as Trustee, arranging the first meeting of creditors and subsequent meetings, advising the Companies on their obligations under the WEPP, preparation of the final statement of receipts and disbursements, application for discharge and all basic work as required up until and including the attendance at the first meeting of creditors.

The Trustee reminds creditors of its point above that it does not have funds a review of transfers at undervalue or fraudulent preferences and seeks advise from creditors pursuant to section 38 if required.

Dated at Mississauga, Ontario this 16th day of June 2020.

Goldhar & Associates Ltd.
In its capacity as the Licensed Insolvency Trustee of
2551999 Ontario Inc., MidiCi Canada Operating Limited, 2668859 Ontario Inc.
and not in its personal capacity



David Adams, CIRP, LIT
Vice President

Proceeding by creditor when trustee refuses to act

• **38.** (1) Where a creditor requests the trustee to take any proceeding that in his opinion would be for the benefit of the estate of a bankrupt and the trustee refuses or neglects to take the proceeding, the creditor may obtain from the court an order authorizing him to take the proceeding in his own name and at his own expense and risk, on notice being given the other creditors of the contemplated proceeding, and on such other terms and conditions as the court may direct.

• **Marginal note:**Transfer to creditor

(2) On an order under subsection (1) being made, the trustee shall assign and transfer to the creditor all his right, title and interest in the chose in action or subject-matter of the proceeding, including any document in support thereof.

• **Marginal note:**Benefits belong to creditor

(3) Any benefit derived from a proceeding taken pursuant to subsection (1), to the extent of his claim and the costs, belongs exclusively to the creditor instituting the proceeding, and the surplus, if any, belongs to the estate.

• **Marginal note:**Trustee may institute proceeding

(4) Where, before an order is made under subsection (1), the trustee, with the permission of the inspectors, signifies to the court his readiness to institute the proceeding for the benefit of the creditors, the order shall fix the time within which he shall do so, and in that case the benefit derived from the proceeding, if instituted within the time so fixed, belongs to the estate.

2551999 Ontario Inc., MidiCi Canada Operating Limited, 2668859 Ontario Inc.

Trustee's Preliminary Report

Estate No. 2551999, 2668859, 2551999, 2668859

[end]