

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MADAM JUSTICE ) WEDNESDAY, THE 9TH DAY  
PEPALL )  
) OF APRIL, 2008



MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION  
AND HARRY STINSON

Respondents

ORDER

THIS MOTION, made by UNITE HERE Ontario Counsel, Local 75 (the “Union”) for an order granting it leave, if required, to apply to the Ontario Labour Relations Board (“OLRB”) for certification as the exclusive bargaining agent for certain of the employees of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively, the “Debtors”) and other relief as set out in its Amended Notice of Motion dated January 28, 2008 was heard this day at Toronto.

*sup*

ON READING the Affidavit of Lis Pimentel sworn January 8, 2008 and the Exhibits thereto, the Third Report of Ira Smith Trustee & Receiver Inc. (the “Receiver”) dated December 27, 2007 and the Appendices thereto, the Fifth Report of the Receiver dated January 31, 2008 and the Appendices thereto, the Affidavit of Ross Vasil sworn February 26, 2008, the Affidavit of Tony Pulice sworn February 28, 2008, the Second Supplementary Fifth Report of the Receiver dated April 2, 2008 and the Appendices thereto, the transcript of the cross-

examination of Ross Vasil taken April 4, 2008, the transcript of the cross-examination of Tony Pulice taken April 4, 2008 and on hearing the consent of counsel for the Union and the Receiver,

*no one appearing for TSCC No. 1703, Ed Mirvish Enterprises Limited, King West Inc., Peter Kosman and Projections Inc. Segman*

1. **THIS COURT ORDERS** that the stay contained in the receivership order dated August 24, 2007 in these proceedings is hereby lifted to the extent required in order to allow the Union to apply to Arbitrator Stephen Raymond for a review of evidence under Article 9 of the Ontario Card Check Neutrality Agreement (the "Agreement") between the Union and The Suites at 1 King West, Stinson Hospitality Inc., and 2076564 Ontario Inc. (collectively the "Affected Debtors").

2. **THIS COURT ORDERS** that if the arbitral review under Article 9 (and 14 as necessary) of the Agreement establishes by final award that the Union has membership evidence for a majority of the employees in the proposed bargaining unit in satisfaction of Article 9 of the Agreement, the Affected Debtors will and shall hereby be deemed to recognize the Union as the exclusive bargaining agent of the proposed bargaining unit described in the Agreement (the "Bargaining Unit").

3. **THIS COURT ORDERS** that the Receiver provide to the Union a list of the current employees in the Bargaining Unit upon the written request of the Union provided that the Union may make such requests no more than once in each calendar month.

4. **THIS COURT ORDERS** that the Union shall not bring any proceedings before any Court, administrative tribunal, including, without limitation, the OLRB, or otherwise at any time in future to seek to hold the Receiver, its directors, officers, employees, agents, attorneys and counsel liable as successor employer, common employer, related employer or otherwise liable to any employee or the Union in any personal or other capacity in respect of the employees of the Debtors. The Union shall not deliver a Notice to Bargain to the Receiver nor seek any form of

*Investments Ltd., Robert VerAun, DSM Leasing Ltd., Joanna Ramessa-Chung, HSBC Canada ~~as app.~~ although served with the Receiver's motion to approve its Fifth Report dealing, in part, with this matter, ✓*

collective bargaining relationship with Debtors concerning the employees in the Bargaining Unit, it being recognized and agreed by the Union and the Receiver that the intention of this Order is to allow the Receiver to sell the business of the Debtors to a buyer while preserving the Union's ability to engage in collective bargaining with that buyer and not with the Receiver.

5. **THIS COURT ORDERS** that the Union will not seek the reinstatement of the employment of Tony Pulice whether by way of an unfair labour practice complaint or otherwise. This paragraph does not limit Mr. Pulice's remedies at common law if any.

6. **THIS COURT ORDERS** that in all other respects this motion is hereby dismissed without costs.



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PER/PAR: 

ED MIRVISH ENTERPRISES LIMITED  
AND 1 KING WEST INC.

and  
STINSON HOSPITALITY INC.,  
DOMINION CLUB OF CANADA  
CORPORATION AND HARRY STINSON

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

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capacity as receiver and manager and former monitor  
of Stinson Hospitality Inc., Dominion Club of Canada  
Corporation, The Suites at 1 King West Inc. and  
2076564 Ontario Inc.

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