

CITATION: D'Amore v. Banwell Development Corporation, 2023 ONSC 2495

COURT FILE NO.: CV-11-00017088-0000

DATE: 2023-04-24

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Kevin D'Amore, Applicant

AND:

Banwell Development Corporation, 928579 Ontario Limited, Scott D'Amore,
Royal Timbers Inc. and M.R. Dunn Contractors Ltd., Respondents

BEFORE: Regional Senior Justice B. G. Thomas

COUNSEL: Tony Van Klink, Counsel for BDO Canada Limited, the Court-appointed
Receiver of Banwell Development Corporation and Royal Timbers Inc.

Kevin D'Amore, self-represented

Steven Pickard, Counsel for Scott D'Amore

Robert J. Reynolds, Counsel for the Respondent, J. Murray Troup and 928579
Ontario Limited

Sheri Medaglia, Counsel for the Execution Creditor, J. Lepera Contracting Inc.

Ryan T. MacKenzie, Counsel for the Execution Creditor, M. R. Dunn Contractors
Ltd.

William V. Sasso, Counsel for D'Amore Construction (2000) Ltd.

Philip S. Chandler, Counsel for the Estate of Patrick D'Amore and Simba Group
Developments Limited

James Branoff, Counsel for the Estate of Patrick D'Amore and Simba Group
Developments Limited

Michael I. Binetti

Stephen N. Cherniak, Court-appointed Receiver of Banwell Development
Corporation and Royal Timbers Inc.

Leslie Crawford, Counsel for His Majesty the King in Right of the Province of
Ontario as Represented by The Ministry of Finance

Rakhee Bhandari – c/o Canada Revenue Agency, Department of Justice (CRA)

Mark P. Nazarewich, Counsel for The Corporation of the City of Windsor

Alfredo R. Gatti, Counsel for Southridge Investments Limited

David B. Williams, Counsel for Anthony Giannotti

Michael Laba, Counsel for Hadi Homes Inc. and Hadi Custom Homes Inc.

Mark Mailloux – c/o KDM Inc.

HEARD: In writing.

ENDORSEMENT

- [1] There is a motion record in this matter brought by BDO Canada, the Court-appointed Receiver. It seeks unopposed relief in the form of the following:
- (a) Approval of the Receiver's Fourteenth Report;
 - (b) Approval of the Receiver's Statement of Receipts and Disbursements (June 5, 2013 – January 31, 2023);
 - (c) Approval of the fees and disbursements of the Receiver and its legal counsel;
 - (d) Approval of a detailed pro rata disbursement to unsecured creditors of Banwell; and
 - (e) Discharging the Receiver from its obligations in this Receivership subject to completion of its administration as described.
- [2] On June 5, 2013, I appointed BDO Canada as Receiver–Manager of the assets of the respondents, Banwell and Royal Timbers. Since then there has been 13 reports of the Receiver describing its activities in the realization of the corporate assets and the payments of secured and unsecured creditors. I have approved each report and made related orders.
- [3] As previously noted, I have the Fourteenth Report of the Receiver in the recent record filed. I have reviewed the motion record herein.
- [4] I confirm that the Receiver has carried out its duties and responsibilities in accordance with the terms of my appointment order.
- [5] I approve the Fourteenth Report and the Receiver's activities detailed therein. I approve the Receiver's Statement of Receipts and Disbursements for Banwell and for Royal Timbers.
- [6] I have reviewed the detailed Statement of Fees and Disbursements in the period described for both the Receiver and for its legal counsel. I find those accounts fair and appropriate.
- [7] All known assets of Banwell and Royal Timbers have now been realized upon by the Receiver. I approve the pro rata distribution to the unsecured creditors of Banwell as

described in the Fourteenth Report and as directed in the draft order provided. All unsecured creditors of Royal Timbers having been paid in full by a previous court-ordered distribution.

- [8] It is appropriate that the Receiver be discharged at this time subject to its completion of its administration of the Receivership Estate as described in the Report and subject to the filing with the Court of a certificate of completion. The order, however, does not release the Receiver from any acts of gross negligence or wilful misconduct.



Regional Senior Justice B. G. Thomas

Date: April 24, 2023.