

District of: Ontario
Division No. 09- Toronto
Estate No. 31-2128389
Court File No: 31-2128389

ONTARIO

SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF 1299746 ONTARIO INC.
OF THE CITY OF PICKERING, IN THE PROVINCE OF ONTARIO

NOTICE OF MOTION

Dean Salem will make a motion to a Judge of the Ontario Superior Court of Justice and/or the Registrar in Bankruptcy on November 6, 2017, at 10:00am, or as soon after that time as the motion can be heard, at 330 University Avenue, by way of appeal from the disallowance by the trustee dated September 12, 2017 of the claim of Dean Salem dated July 29, 2016 and amended June 23, 2017.

THE MOTION IS FOR:

1. An order declaring that the claim against the said estate, as filed by Dean Salem, is a valid and subsisting secured claim.
2. In the alternative to paragraph 1 above an order declaring that the claim against the said estate, as filed by Dean Salem, is a valid and subsisting unsecured claim
3. Such further or other order as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

1. The validly executed Revolving Line of Credit ("RLOC") Agreement dated December 31, 2015 grants Dean Salem security over the assets of 1299746 Ontario Inc. for the indebtedness.
2. The execution of the RLOC Agreement in December 2015 was distilling a previously reached agreement into writing.
3. Dean Salem and 1299746 Ontario Inc. were at all times dealing at arm's length.
4. The RLOC Agreement was executed in order to permit Dean Salem as a critical supplier to continue to advance funds and supply product to 1299746 Ontario Inc. and was not executed with the intention of delaying or defrauding creditors or fraudulently preferring Dean Salem's interest over the interest of creditors, and is not void and unenforceable.

5. The Bankrupt maintained a legal and/or beneficial interest in the title to the assets set out in the RLOC Agreement, and in any event Norris Technologies LLC is entitled to rely on the doctrine of feeding the estoppel.
6. Section 135(4) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended.
7. Such further and other material as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavits and materials filed in support of the motion returnable November 6, 2017.
2. Such further and other material as counsel may advise and this Honourable Court may permit.

October 4, 2017

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