

From: Koehnen, Mr. Justice Markus (SCJ) [<mailto:Markus.Koehnen@scj-csj.ca>]

Sent: Tuesday, April 20, 2021 3:07 PM

To: Fred Tayar <fred@fredtayar.com>; Arkadi Bouchelev <arkadi@bouchelevlaw.com>;
ypark@foglery.com

Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>; Allan Rutman <aar@zeifmans.ca>

Subject: Re: Grovum v. Kouznetsov CV-16-11618-00CL

Email Endorsement

1. Three parties seek various forms of relief from me that today.
2. The Receiver seeks an order removing one account from the scope of the receivership. The account is a retirement savings account of the defendant, Mr. Kouznetsov. The plaintiff Mr. Grovum does not oppose that relief. That order is therefore granted.
3. The receiver also seeks to be relieved of the obligation to prepare audited financial statements of a number of corporations because there are no records that would allow them to prepare such statements. Neither Mr. Grovum nor Mr. Kouznetsov object to the relief sought. That relief is also granted.
4. Finally, the receiver seeks an order approving its activities and fees. That too is not opposed. I am satisfied that the fees for both the Receiver and its counsel are eminently reasonable.
5. I have attached a signed order granting the Receiver the relief it seeks.

6. Mr. Grovum seeks an order for the payment of costs in his favour. In earlier proceedings, I granted an order awarding Mr. Grovum his costs but the order provided that the costs would be paid only after other debts of the receivership had been paid. The Receiver is unable to determine exactly when debts of the estate will be paid. Much turns on when CRA determines what amount of interest and penalties it will charge for tax arrears. The amount in the estate is well in excess of what the Receiver expects any debts of the estate to be. In those circumstances, there is little prejudice in paying Mr. Grovum his costs. The order will provide that Mr. Grovum will be liable to reimburse the estate should the estate experience a deficiency.

7. Mr. Kousnetsov submits that he should be entitled to a payment from the estate equal to the costs award that Mr. Grovum is being paid. I disagree. The cost award in favour of Mr. Grovum is an award against Mr. Kousnetsov. That award is in effect being taken from Mr. Kousnetsov's interest in the estate. In those circumstances, Mr. Kousnetsov is not entitled to an equivalent payment. Moreover, there is no evidentiary record to support any early payment to Mr. Kousnetsov. The only evidence before me today is that the Receiver is continuing to pay Mr. Kousnetsov A monthly amount of \$14,000.

8. Finally, Mr. Kousnetsov asks that \$50,000 be paid from his entitlement to the estate to his lawyer, Mr. Bouchelev, to pay future legal expenses. I grant that relief. Mr. Kousnetsov has been able to access funds subject to the Mareva injunction to pay for past legal expenses. There is no basis to change that order.

Justice Markus Koehnen
Ontario Superior Court of Justice
361 University Ave.
Toronto, Ont.
M5G 1T3
416-327-5284
