

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, the 11th DAY
)
MR. JUSTICE NEWBOULD) OF MAY, 2016

IN THE MATTER OF THE LIQUIDATION OF LWP CAPITAL INC. PURSANT TO
SECTION 211 OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C. 1985, c.
C-44, AS AMENDED

and

KSV ADVISORY INC. IN ITS CAPACITY AS LIQUIDATOR OF
LWP CAPITAL INC.

Applicant

ORDER

THIS MOTION brought by the applicant, KSV Advisory Inc., in its capacity as Liquidator of LWP Capital Inc. (the “Liquidator”), for advice and directions in accordance with section 4.3(c) of the plan of liquidation and distribution approved at a special meeting of the shareholders of LWP Capital Inc. held on November 9, 2015, and in particular for: (1) an order in the nature of declaratory relief that the dispute identified in the Notice of Objection delivered by the respondent, The Scoular Company (“Scoular”) on February 19, 2016 (the “Notice”) is not a valid dispute pursuant to the terms of the Asset Purchase Agreement, dated September 14, 2015 (the “APA”); (2) an order enjoining Scoular from appointing Ernst & Young as Independent Auditor (as defined in the APA) and/or Brian Clancey as valuator of inventory pursuant to the APA in respect of the objections outlined in the Notice; and (3) an order in the

nature of declaratory relief that any dispute brought by Scoular under the terms of the APA in relation to the valuation of Closing Inventory (as defined in the APA) cannot extend to challenging the methodology employed in relation to the valuation of Closing Inventory for the purpose of calculating the Preliminary Closing Working Capital (as defined in the APA) as agreed to by the parties, but must be limited to the discrepancies in inventory quantity and/or quality as between Preliminary Closing Working Capital as agreed to by Scoular and the Closing Working Capital, was heard on April 29, 2016 at the Court House, 330 University Avenue, Toronto, Ontario, reasons for decision having been reserved to this date.

ON READING the Liquidator's Consolidated Motion Record, Scoular's Responding Motion Record, the Liquidator's Factum, Scoular's Factum and the Liquidator's Reply Factum, and on hearing the submissions of special counsel for the Liquidator and counsel for Scoular,

1. **THIS COURT ORDERS** that the Liquidator's motion be and is hereby dismissed.
2. **THIS COURT ORDERS** that the Liquidator cause LWP Capital Inc. to pay to Scoular the sum of \$86,666.09 for the costs of this motion, disbursements and applicable HST, within 30 days of the date of this Order.

THIS ORDER BEARS INTEREST at the rate of 2 per cent per year commencing 30 days after the issuance of this Order.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 19 2016

PER / PAR:



Rm. Ittleman

MAY 19 2016

R. Ittleman, Registrar
Superior Court of Justice

IN THE MATTER OF THE LIQUIDATION OF LWP CAPITAL INC.
PURSUANT TO SECTION 211 OF THE *CANADA BUSINESS
CORPORATIONS ACT*, R.S.C. 1985. c. C-44, AS AMENDED

Court File No.: CV-16-11242-00CL

**KSV ADVISORY INC. in its capacity
as Liquidator of LWP Capital Inc.**

Applicant

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PROCEEDINGS COMMENCED AT TORONTO

ORDER

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