

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)
)
)
)

TUESDAY, THE 12TH

JUSTICE OSBORNE

DAY OF SEPTEMBER, 2023

B E T W E E N :

GEORGE VASTIS

Plaintiff
(Defendant to the Counterclaim)

- and -

HELEN VASTIS

Plaintiff

- and -

CHRISTOS KOMMATAS

Defendant
(Plaintiff to the Counterclaim)

- and -

CALLDRON GAS BARS LTD. and 1195705 ONTARIO INC.,
carrying on business as OLD PRO DRIVING RANGE

Defendants
(Defendants to the Counterclaim)

ORDER

THIS MOTION, made by The Fuller Landau Group Inc., in its capacity as the Court-appointed liquidator and receiver (in these capacities, the “**Liquidator**”) of the undertaking, property and assets of Calldron Gas Bars Ltd. (“**Calldron**”) and 1195705 Ontario Inc. o.a. Old Pro Driving Range (“**Old Pro**”, and together with Calldron are the “**Companies**”) for an order:

- (a) seeking advice and direction regarding a purported right of first refusal (“**ROFR**”) in favour of Suncor Energy Products Partnership (“**Suncor**”) as it relates to the property municipally known as 9980 Mississauga Road, Brampton, Ontario (the “**Mississauga Rd. Property**”) and specifically the 1.16 acres leased by Suncor, being Parts 1 and 2 on Plan 43R-16796, save and except Part 1 on Expropriation Plan PR 2078646 (the “**Demised Premises**”) as described in the lease between Calldron and Suncor, dated March 15, 1995, and any amendments or extensions that have been made from time to time (the “**Lease**”); and
- (b) approving the activities of the Liquidator and its counsel as outlined in the Second Report of the Liquidator dated June 28, 2023 (the “**Second Report**”);

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, the Affidavit of George Vastis, affirmed July 21, 2023, the Affidavit of Scott McCheyne, affirmed July 26, 2023, the Affidavit of Christos Kommatas, sworn July 20, 2023, the Affidavit of Neil Warshafsky, sworn July 21, 2023, and on being advised that the Liquidator, Suncor, George Vastis and Christos Kommatas consent to this form of order:

1. **THIS COURT ORDERS** that the ROFR contained in paragraph 15 of the Lease is valid and exercisable, but is limited to the Demised Premises, and the ROFR is only effective and exercisable if, and when, the Demised Premises is severed or subdivided from the remainder of the Mississauga Rd. Property.

2. **THIS COURT ORDERS** that, for greater certainty, the Liquidator is not obligated to:

- (a) comply with the ROFR contained at s. 15 of the Lease unless it chooses to subdivide and/or sever the Demised Premises from the remainder of the Mississauga Rd. Property; and

(b) sever and/or subdivide the Demised Premises from the Mississauga Rd. Property.

3. **THIS COURT ORDERS** that Suncor shall have one additional option to extend the term of the Lease from April 16, 2040 to April 16, 2050 (the “**Additional Extension**”). The Additional Extension shall be subject to the same terms and conditions applicable to extension periods enumerated in paragraph 4 of the Lease Extension Agreement dated January 20, 2020 (the “**2020 Lease Extension**”). For the avoidance of doubt, paragraph 5 of the 2020 Lease Extension shall renew with the Additional Extension.

4. **THIS COURT ORDERS** that the activities of the Liquidator, as set out in the Second Report, are hereby approved.

5. **THIS COURT ORDERS** that only the Liquidator, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Second Report as detailed in paragraph 4 above.

6. **THIS COURT ORDERS** that the parties to this motion shall bear their own costs of this motion.

GEORGE VASTIS et al
Plaintiffs

CHRISTOS KOMMATAS et al
Defendants

Court File No.: CV-20-00644241-00CL

CHRISTOS KOMMATAS
Plaintiff by Counterclaim

GEORGE VASTIS
Defendant to the Counterclaim

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at **TORONTO**

ORDER

LERNERS LLP
225 King Street West, Suite 1500
Toronto, ON M5V 3M2

Domenico Magisano LS#: 45725E
dmagisano@lernalers.ca
Tel: 416.601.4121

Spencer Jones LS#: 77350U
sjones@lernalers.ca
Tel: 416.601.2358

Lawyers for the Liquidator