

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.)	FRIDAY, THE
)	
JUSTICE McEWEN)	3rd DAY OF JULY, 2020

**IN THE MATTER OF THE BANKRUPTCY OF DYLEX LIMITED,
A COMPANY INCORPORATED PURSUANT TO THE LAWS OF CANADA
AND HAVING ITS HEAD OFFICE IN THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO**

O R D E R

THIS MOTION, made by Koskie Minsky LLP ("**KM**") was heard this day via video conference at, Toronto, Ontario.

ON READING the Affidavit of James Harnum, sworn June 29, 2020, and the Affidavit of Samuel Peter Martin, sworn August 16, 2001, and on hearing the submissions of KM, and counsel to KSV Kofman Inc., the trustee in bankruptcy of the estate of Dylex Limited ("**KSV**"),

- 1. THIS COURT ORDERS** that time for service of this Notice of Motion and the Motion Record is abridged, and the motion is properly returnable today.
- 2. THIS COURT ORDERS** that KM is re-appointed as Representative Counsel pursuant to section 126(2) of the *Bankruptcy and Insolvency Act*, R.S.C. , 1985, c. B-3 ("**BIA**") to

all terminated employees of Dylex Limited ("the **Employees**") with respect to an additional distribution (the "**IP Distribution**") to be made to creditors of Dylex by the trustee in bankruptcy, as reported in the Report of KSV dated December 4, 2019, which was filed with the Court on December 12, 2019.

3. **THIS COURT ORDERS** that Representative Counsel may rely on the claims it submitted in the Employees omnibus proof of claim that were accepted by the trustee in the prior bankruptcy proceedings of Dylex, subject to correcting any clerical errors therein as agreed to by Representative Counsel and KSV.
4. **THIS COURT ORDERS**, if necessary, that Representative Counsel shall have access to and the right to examine all the records and data kept by Dylex in respect of its capacity as an employer of the Employees whether they are kept on paper, electronic or other format, as may be required in respect of the IP Distribution.
5. **THIS COURT ORDERS** that pursuant to section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* (Canada) (S.C. 2000, c. 5) ("**PIPEDA**"), the provision of the personal information pursuant to paragraph 4 above to the Representative Counsel as authorized by this Order, and the use and disclosure of that personal information are in compliance with PIPEDA and applicable privacy statutes.
6. **THIS COURT ORDERS** that Representative Counsel is authorized to take all steps and to do all things necessary in carrying out the terms of the Order, including dealing with any regulatory body and government or ministry, department or agency, and to take all such steps as may be necessary or incidental thereto.

7. **THIS COURT ORDERS** that Representative Counsel shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, save and except for claims based on gross negligence or wilful misconduct on their part.
8. **THIS COURT ORDERS** that Representative Counsel shall be at liberty to appoint, employ, or retain such professional or expert advisors from time to time as the Representative Counsel may consider necessary or desirable to carry out the provisions of the Order.
9. **THIS COURT ORDERS** that the costs of the Employees for Representative Counsel shall be paid to Representative Counsel from the funds available from the IP Distribution in the amount of \$35,000 (inclusive of taxes and disbursements) on Representative Counsel providing an invoice to KSV, subject to redaction for confidentiality.
10. **THIS COURT ORDERS** that the Representative shall be at liberty and is authorized to apply to this Honourable Court for advice and directions in the discharge or variation of his powers and duties.
11. **THIS COURT ORDERS** that this Order is subject to any further order of the Court in respect of these matters.



McEWEN, J.

IN THE MATTER OF THE BANKRUPTCY OF DYLEX LIMITED, A COMPANY
INCORPORATED PURSUANT TO THE LAWS OF CANADA AND HAVING
ITS HEAD OFFICE IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO

Estate No. 31-394548

3 July 20

A Hatney
R Slattery

The Order shall go as per the draft filed and signed on an unopposed basis.

I Have reviewed the record and heard the submissions of counsel.

The relief sought is fair and reasonable.

Specifically, it is sensible in the circumstances to reappoint KM as Rep Counsel as
is the ancilliary relief.

The fees sought are reasonable and privacy issues are protected.



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ORDER

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Proposed Representative Counsel to the
terminated employees of Dylex Limited