



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: BK-24-03046358-0031

DATE: March 22, 2024

NO. ON LIST: 3

TITLE OF PROCEEDING: **Igloo Industries Group Ltd. vs. Albert Gelman Inc.**

BEFORE JUSTICE: **Justice Black**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Jeffrey Simpson	Albert Gelman Inc.	jsimpson@torkinmanes.com
Bryan Gelman	Trustee	bgelman@albertgelman.com
Adam Zeldin	Proposal Trustee	azeldin@albertgelman.com
Rosemary Fisher	Business Dev. of Canada (Creditor)	fisherr@simpsonwagle.com
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ENDORSEMENT:

1. In circumstances that I will address in more detail in a longer endorsement describing the events of the last few days in this matter and setting out my decision, the parties came back before me for an urgent case conference this afternoon (having been before me on Wednesday, March 20, 2024).

2. RBC served materials dated today's date taking the position that, since Stanislaw Sneig and Maria Sneig (the "Individuals") had not themselves served motion materials seeking an extension of the time to file Notices of Intention to Make a Proposal ("NOI") and since the time for them to do so, (as I was advised by the Company's counsel) expires at 11:59 p.m. tonight, they should be declared bankrupt and given no extension.

3. I am concerned, and will address in detail in my longer endorsement to be forthcoming, that the Individuals are not specifically aware of the requirement for them to seek an extension in their own right.

4. The company's materials (seeking an extension of the time to file the NOI) refer to consolidating the Company's NOI proceedings with those of the Individuals, and to "extending the time for the Company and the Individuals to make proposals to their respective creditors".

5. It is clear from RBC's own motion materials that it understood that the Company and the Individuals were collectively seeking the consolidation and extension. In paragraph 4 of Philip O'Gorman's affidavit of March 19, 2024, on behalf of RBC, he said that his affidavit was sworn in support of an adjournment of the consolidation, stay extension and ancillary relief orders sought by "the Debtor, Mr. Sneig and Mrs. Sneig" ...in their motion returnable on March 20, 2024.

6. It appears, and Mr. Simpson who acts for the Proposal Trustee candidly acknowledged, that all parties proceeded on the basis that the Individuals were seeking the consolidation and extension.

7. During discussions among the parties over the last couple of days – following the attendance before me on March 20 – it has become clear to RBC (and it seems others) that counsel for the Company is not representing the Individuals, and that the Individuals have filed no separate materials seeking the consolidation and extension.

8. The individuals do not have counsel, were not before me, and were not served with materials in connection with today's attendance.

9. I have no idea what their understanding is of the potential for them to be declared bankrupt as of 11:59 tonight, and I am concerned that their understanding is likely the same as the understanding of all parties as of Wednesday March 20, 2024, namely that the Individuals were included in the request for consolidation and an extension.

10. RBC maintains that I do not have jurisdiction, under s. 50.4(10) of the BIA to extend the time set out in ss. 50.4(8) and (9) of the BIA, in the absence of an application by the impacted party (here the individuals) for that extension of time, inasmuch as s. 50.4(10) provides that subsection 187(11) of the BIA does not apply in respect of the time limitations imposed by subsection (9).

11. Subsection 187(11) provides the general power for the court to extend timelines under the BIA "either before or after the expiration thereof on such terms, if any, as it thinks fit to impose."

12. I also note, however, s. 187(9) of the BIA, which provides that “No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that court.

13. I am concerned that the Individuals’ omission to file materials was a product of the same “irregularity” that characterized these proceedings as recently as Wednesday March 20, 2024, namely that all parties believed that the Individuals were seeking the same consolidation and extension as the Company, albeit, as has since become evident, they did not file separate materials.

14. I am also concerned that, having discovered the “defect” that the Individuals did not file their own materials, RBC is opportunistically seeking to take advantage of the defect, by bankrupting the principal(s) of the Company, in circumstances where the Individuals are unaware of that potential looming consequence.

15. I am particularly concerned about these matters because the Individuals do not have their own counsel, and were not served with notice of today’s proceedings nor notice of RBC’s position.

16. In the circumstances I find that, pursuant to s. 187(9), RBC’s position that there should be no extension of the Individuals’ time to file their NOIs because they did not bring motions themselves, is not appropriate or reasonable, and I extend the time for the Individuals to bring their own motions to consolidate and extend to April 2, 2024, and direct that these motions be dealt with, together with the other matters to be heard on April 8, 2024, as will be set out in more detail in the longer endorsement that I will prepare relative to the hearing on March 20, 2024 and the related events of the days between then and today’s case conference.

17. I find that in fact it would be unjust for RBC to be allowed to take advantage of the irregularity, and my order is intended to remediate that potential injustice.

18. I ask that counsel for the Company and/or the Proposal Trustee bring this endorsement to the attention of the Individuals so that they may engage counsel and participate in these proceeding going forward.

Justice Black

Date: March 22, 2024