



NO. S171007
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF
SECTION 152 OF THE SECURITIES ACT, RSBC 1996, C. 418

BETWEEN:

BRITISH COLUMBIA SECURITIES COMMISSION

PETITIONER

AND:

BOSSTEAM E-COMMERCE INC.,
YAN ZHU also known as RACHEL ZHU,
GUAN QIANG ZHANG, and
ZHI YU ZHANG

RESPONDENTS

NOTICE OF APPLICATION

Name (s) of Applicants: The Petitioner

To: Grant Thornton Limited, in its capacity as
Receiver of Bossteam E-Commerce Inc.;

And To: The Service List

TAKE NOTICE that an application will be made by the Applicant to the presiding judge or master at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on June 28, 2018 at 9:45 a.m. for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order authorizing and directing the Receiver to adjudicate Investor Claims and distribute Receivership Funds as follows:
 - (a) when calculating Investor Claims, the Receiver shall pay interest on Investor Claims at the rate of 5% per annum, compounded annually, from and after April 30, 2012, to the date of payment, or at such rates and from such date as the Court may determine;

- (b) the Receiver shall include in its adjudication the 75 Investor Claims filed after the Claims Bar Date; and
- (c) in circumstances where a Downline Investor and Upline Investor (both as defined in the Receiver's Report filed herein on June 13, 2018) have filed a Proven Claim for the same investment, or part thereof, the Receiver shall allow the Downline Claim and disallow the Upline Claim.

The capitalized terms herein have the same meaning as in the Claims Process and Distribution Order (the "CPDO") pronounced herein on April 7, 2017.

Part 2: FACTUAL BASIS

2. Pursuant to an Order pronounced April 7, 2017 (the "**Receivership Order**"), Grant Thornton Limited (the "**Receiver**") was appointed receiver of certain assets and funds (the "**Receivership Funds**") relating to Bossteam E-Commerce Inc. ("**Bossteam**") and others.
3. Bossteam and others had previously been found by the British Columbia Securities Commission (the "**Commission**") to have contravened the *Securities Act*, including committing fraud, and in doing so had raised in excess of \$14 million from in excess of 14,000 investors. As determined by the Court in these proceedings, the Receivership Funds primarily represent funds received from defrauded investors and the Court declared a constructive trust over those funds in favour of investors as a class.
4. Pursuant to the CPDO, the Receiver was tasked with administering a claims process, with a view to returning the Receivership Funds to legitimate investors and other creditors.
5. Investors in Bossteam were primarily unsophisticated, retail investors who invested relatively small sums by way of cash, often paying that cash to an Upline on a promise that the Upline would remit those funds to Bossteam. The Commission's intent when applying to appoint a Receiver over the Receivership Funds was to maximize a return of funds to legitimate investors.
6. The Receiver has provided notice to all potential Investors and Creditors, and adjudicated claims, in accordance with the CPDO. The Receiver is now seeking an Order approving a distribution of the Receivership Funds in accordance with the recommendations in its Report dated June 13, 2018.
7. While the Commission agrees with and supports the vast majority of the Receiver's recommendations, the Commission makes application to the Court to vary the CPDO in some discrete aspects, as follows:

- (a) **Interest:** When making the application to appoint the Receiver and for the CPDO, the Commission did not expect that there would be surplus funds after payment of Investor Claims. However, after administering a robust claims process, it appears that there will be significant surplus funds after paying Investor Claims in full. As such, in order for investors to maximize recovery of their losses, the Commission seeks to vary the CPDO to direct that the Receiver pay interest on Investor Claims at a somewhat nominal rate of interest from the date of the first Freeze Order.
- (b) **Claims Received After the Claims Bar Date:** The Receiver received 75 Investor Claims after expiry of the Claims Bar Date. Though a number of those claims are duplicates of claims previously filed, the Receiver is of the view that some of the claims represent claims of legitimate investors. Given that there is a significant surplus after paying Investor Claims in full, the Commission asks the Court to vary the CPDO to allow the Receiver to adjudicate and pay legitimate Investor Claims received after the Claims Bar Date.
- (c) **Uplines/Downlines:** As set out in the Receiver's Report, individual investors, called Downlines, would often pay their investment money to other investors, called Uplines, who would pool those funds with other investors' funds and remit those monies to Bossteam. The Receiver has received claims from Downlines and Uplines representing the same investment (i.e. a Downline would file a claim for his or her investment and an Upline would file a claim, in part, for that same investment). In those circumstance, and accordance with the CPDO, the Receiver has disallowed the Investor Claim from the Downline and allowed the claim from the Upline. Given the Commission's intent to maximize the return of funds to individual investors, the Commission asks the Court to vary the CPDO to direct the Receiver to instead allow the Downline's claim and disallow the Upline's claim in those circumstances.

Part 3 LEGAL BASIS

8. The Commission will rely on s. 152 of the *Securities Act*, R.S.B.C. 1996, c. 418, Rules 10-2 and 13-1(19) of the *Supreme Court Civil Rules*, s. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, and the inherent jurisdiction of the Court.

Part 4: MATERIAL TO BE RELIED ON

9. Receiver's Report dated June 13, 2018;
10. Claims Process and Distribution Order granted April 7, 2017;
11. Receivership Order granted April 7, 2017.

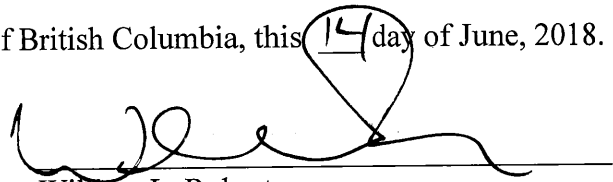
The Applicants estimate that the application will take 10 minutes.

- This matter is within the jurisdiction of a Master.
- This matter is not within the jurisdiction of a Master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 14 day of June, 2018.



William L. Roberts
Lawson Lundell LLP
Solicitors for the Applicants

This Notice of Application is filed by William L. Roberts, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____
of Part 1 of this Notice of Application

with the following variations and additional terms:

Date:

Signature of Judge Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

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Attention: William L. Roberts