

COURT NO. B-160364
ESTATE NO. 11-253977
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

INTHE MATTER OF THE BANKRUPTCY OF VIRGINIA MARY TAN

CLAIMS PROCESS ORDER

BEFORE THE HONOURABLE) THE 12th DAY
MR. JUSTICE GOMERY) OF NOVEMBER, 2021

ON THE APPLICATION of McEown and Associates Ltd. (the "Trustee"), in its capacity as Trustee in Bankruptcy of Virginia Mary Tan and Patrick Eng Tan, coming on for hearing at Vancouver, British Columbia on this day, and on hearing Christopher Ramsay, counsel for the Trustee, and Paul R. Bennett and Mark W. Munteer, counsel for the Plaintiff in *Jastram Properties Ltd. v. Virginia Mary Tan et al.*, Vancouver Registry No. S-162335;

THIS COURT ORDERS that:

DEFINITIONS

For the purposes of this Order, the following terms shall have the following meanings:

- (a) **"Amount Advanced"** means the aggregate of amounts advanced by a Class Creditor or on behalf of a Class Creditor to the Tans to invest in the Tan Investment Scheme;
- (b) **"Amount Received"** means the aggregate of amounts received by a Class Creditor or paid to any third party on behalf of or for the benefit of the Class Creditor from the Tans, without regard to whether any portion was characterized as interest, dividends, redemptions or profits;
- (c) **"Claims Deadline"** means four months after the Notice Date;
- (d) **"Claims Notice Date"**, means one month after Class Counsel Review Deadline;
- (e) **"Claims Package"** means a document package, including:
 - (i) an Instruction Letter to a Known Class Creditor;
 - (ii) a copy of this Order, excluding Schedules;
 - (iii) a Proof of Claim;
 - (iv) a copy of the Settlement Administration Plan Order, with the Settlement Administration Plan attached (without Schedules); and
 - (v) such other documents determined to be necessary or desirable by Class Counsel or the Trustee;
- (f) **"Claims Process"** means the procedures outlined in this Order;

- (g) **"Claim"** means any right or claim of any Class Member against the Tans, or any of them, for the principal loss of the Class Member's investment in the Tan Investment Scheme that would be a "claim provable in bankruptcy", "provable claim" or "claim provable" as defined by section 2 of the *Bankruptcy Insolvency Act*, RSC 1985, c. B. 3;
- (h) **"Class Counsel"** means the law firms of Bennett Mounteer LLP;
- (i) **"Class Counsel Confirmation"** means the confirmation or amendment of a Proof of Claim completed and signed by Class Counsel, and if applicable, the Class Member, substantially in the form attached hereto as Schedule "D" to this Order;
- (j) **"Class Counsel Review Deadline"** means one month after the Claims Deadline;
- (k) **"Class Creditor"** means any Class Member or assignee who is entitled to make a Claim against the Tans or any of them;
- (l) **"Class Member"** means a member of the Class in the Tan Class Action, defined as all persons, other than the Defendants, who have provided funds to invest in the Tan Investment Scheme promoted by Virginia Tan and who have received payments from the Scheme which are lesser in total amount than the total principal amount they invested, and who did not opt-out of the Tan Class Action;
- (m) **"Court"** means the Supreme Court of British Columbia;
- (n) **"Instruction Letter to Known Class Creditor"** means the letter from the Trustee to a Known Class Creditor regarding the Trustee's determination of the Claim for that Known Class Creditor, completion of a Proof of Claim and the process for revision or disallowance of a Proof of Claim and process of appeal from such revision or disallowance, substantially in the form attached hereto as Schedule "A";

(o) **"Known Class Creditor"** means a potential Class Creditor whose identity is known by the Trustee as of the date of this Order and who receives a Claims Package from the Trustee;

(p) **"Notice Date"** means 14 days after the day on which all appellate rights with respect to this Order and the Settlement Administration Plan Order have expired or have been exhausted;

(q) **"Notice of Disallowance"** means the notice substantially in the form attached hereto as Schedule "E";

(r) **"Notice to Unknown Class Creditors"** means the notice to be substantially in the form attached hereto as Schedule "B";

(s) **"Proof of Claim"** means the form to be completed and filed by a Class Creditor setting forth the Class Creditor's Claim, substantially in the form attached hereto as Schedule "C";

(t) **"Proven Claim"** means a Claim that has been allowed by the Trustee pursuant to the terms of this Order;

(u) **"Settlement Administration Plan Order"** means the order made by the Court on November 12, 2021 in the Tan Class Action approving the Settlement Administration Plan for distribution of the Settlement Funds to Class Members;

(v) **"Settlement Funds"** means approximately \$3.512 million held in trust by Class Counsel for distribution to the Class Members pursuant to the Settlement Administration Plan Order;

(w) **"Tan Class Action"** means the certified class proceeding in *Jastram Properties Ltd. v. Virginia Mary Tan et al.*, BCSC Action No. S-162335;

- (x) **"Tans"** means, collectively, Virginia Mary Tan and Patrick Eng Tien Tan;
- (y) **"Tan Investment Scheme"** means the Ponzi or Ponzi-like scheme or schemes operated by the Tans up to approximately 2016;
- (z) **"Trustee"** means McEown + Associates Ltd., Trustee in Bankruptcy for the Defendants Virginia Tan and Patrick Tan.
- (aa) **"Trustee's Website"** means <https://www.mceownassociates.com/copy-of-virginia-mary-tan-patrick-e-1>;
- (bb) **"Unknown Class Creditor"** means a Class Creditor whose identity is unknown by the Trustee as of the date of this Order and who does not receive a Claims Package from the Trustee;

CLAIM PROCESS

2. On or before the Notice Date, the Trustee will cause:
 - (a) the Claims Package to be delivered by mail or email to each Known Class Creditor at the addresses in the records of the Trustee and Class Counsel;
 - (b) the Notice to Unknown Class Creditors to be posted on the Trustee's Website and be published once in the Vancouver Province newspaper; and
 - (c) The Claims Package to be posted on the Trustee's Website.
3. The sending of the Claims Package to the Known Class Creditors, the publication of the Notice to Unknown Class Creditors and the posting of that Notice and the Claims Package on the Trustee's Website, in accordance with the foregoing terms of this Order, shall constitute good and sufficient service of such materials to any Class Creditors of the Tans and to any other person who may be entitled to receive notice and no other notice or service need be given or made and no other document or material need be served.

4. Class Creditors must deliver a completed Proof of Claim to the Trustee prior to the Claims Deadline in order to be eligible to receive a payment from the Settlement Funds, pursuant to the Settlement Administration Plan Order.

5. A Proof of Claim must be delivered by ordinary mail, registered mail, courier, email, facsimile or personal delivery and be received by the Trustee at McEown + Associates Ltd. at #110-744 West Hastings Street, Vancouver, BC V6C 2V6, Attention to: Camille Bartolome or by email to cb@mceownassociates.ca or by fax at (604) 558-8021.

6. Upon receiving a completed Proof of Claim, the Trustee shall review the Proof of Claim to determine if it has been submitted by a person who is or may be a Class Creditor. If the Trustee determines that the person is or may be a Class Creditor, the Trustee shall provide a copy of the Proof of Claim to Class Counsel.

7. Prior to the Class Counsel Review Deadline, Class Counsel shall review a Proof of Claim filed by the Class Creditor and consult with the Class Creditor, if able to do so, and may supplement the documentation and information filed in support of that Proof of Claim.

8. If Class Counsel concludes that a Proof of Claim tiled by a Class Creditor is consistent with the documents and records in the possession of Class Counsel concerning the Tan Investment Scheme, Class Counsel shall deliver a Class Counsel Confirmation to the Trustee with respect to the Proof of Claim, prior to the Class counsel Review Deadline. Prior to that date, with the consent of the Class Creditor, Class Counsel may also amend the Proof of Claim, as provided for by the Class Counsel Continuation, in an amount that Class Counsel concludes is consistent with the documents and records in the possession of Class Counsel.

9. The Trustee shall allow a Proof of Claim with respect to a Class Creditor's investment in the Tan Investment Scheme only for the amount by which the Amount Advanced by the Class Creditor exceeds the Amount Received by the Class Creditor.

10. In determining the Amount Received by a Class Creditor, in the absence of evidence to the contrary acceptable to the Trustee, the Trustee shall assume that interest was received in respect of the Class Creditor's investment in the Tan Investment Scheme, pursuant to the Promissory Note or other documentation issued by the Tans to the Class Creditor in respect of that investment, up to September 1, 2015.

11. The Trustee shall treat multiple investments by Class Creditors of the same household, residing at the same address, as one investment in the Tan Investment Scheme, for the purpose calculating the Amount Advanced in respect of the overall investment and the Amount Received in respect of that investment, unless the Trustee considers it inequitable to do so.

12. The Trustee is hereby authorized to use reasonable discretion as to the adequacy of the compliance as to the manner in which any Proof of Claim is delivered, completed and executed and may, where it is satisfied a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of such a form.

13. On or before the Claims Notice Date, the Trustee shall give notice in writing, by ordinary mail, registered mail, personal delivery, courier, email message or facsimile transmission, to the address provided in the Proof of Claim, of the Trustee's decision to:

- (a) allow the Proof of Claim as filed, in which case the amounts set out in that Proof of Claim shall be deemed to be the Proven Claim for that Class Creditor; or
- (b) disallow the Proof of Claim as filed, in whole or in part, by delivering to the Class Creditor a Notice of Disallowance, in which case the amount, if any, of the Claim (as allowed by the Trustee) shall be deemed to be the Proven Claim for that Class Creditor.

14. If a person receiving a Notice of Disallowance wishes to object to the Notice of Disallowance, the person must, within 30 days of the date of delivery of the Notice of Disallowance, file at the Courthouse, 800 Smithe Street, Vancouver, British Columbia and serve on the Trustee and counsel for the Trustee, a Notice of Application in the Bankruptcy Proceeding seeking to set aside the Trustee's Notice of Disallowance and an affidavit containing all evidence intended to be relied upon by the person in support thereof.

15. A hearing to determine an appeal of the Notice of Disallowance shall be conducted as a true appeal, and not as a new hearing.

16. The process to disallow the Proofs of Claims as filed and to appeal a Notice of Disallowance shall be limited to the process as set out in this Order.

GENERAL PROVISIONS

17. Any document or notice sent by the Trustee by ordinary mail shall be deemed to be received on the tenth (10th) day following the date of mailing.

18. Any person or Class Creditor who provides an email address, facsimile number or alternate address for delivery to the Trustee shall be deemed to consent to receiving materials at that email address, facsimile number or alternate address for delivery.

19. In the event that this Plan is later amended by further Order or the Court, the Trustee may post such further Order on the Trustee's Website and such posting shall constitute adequate notice to Class Creditors of such amended Claims Process.

20. The Trustee may apply to this Court for advice and directions in relation to this Order or with respect to any matter relating to the Claims Process.

21. Notwithstanding the terms of this Claims Process Order, the Trustee is directed and authorized to continue with the ordinary administration of the Consolidated Estate of Virginia Mary Tan including dealing with the claims of general creditors that are not Class Creditors.

22. References in this Order to the singular shall include the plural and references to the plural shall include the singular and to any gender shall include the other gender.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Christopher Ramsay,
Counsel for the Trustee in Bankruptcy of
Virginia Mary Tan and Patrick Eng Tan

Signature of Paul R. Bennett,
Counsel for Jastram Properties Ltd.

Signature of Roderick B McLennan,
Counsel for Maggi Li

By the Court:

Registrar