



INSOLVENCY CONSULTANTS & TRUSTEE IN BANKRUPTCY

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**Estate No. 11-1693965**  
**Court No. B-121430**  
**Vancouver Registry**

**IN THE MATTER OF THE BANKRUPTCY OF  
RASHIDA ABDULRASUL SAMJI**

**TRUSTEE'S PRELIMINARY REPORT TO CREDITORS**

RASHIDA ABDULRASUL SAMJI (“Samji” or the “Bankrupt”) made an Assignment in Bankruptcy on December 5<sup>th</sup>, 2012 and Boale, Wood and Company Ltd. was appointed as Trustee of the Estate. This report has been prepared by Boale, Wood & Company Ltd., in its capacity as Trustee of the Company to provide preliminary information available as at January 3<sup>rd</sup>, 2013 to the creditors.

**BACKGROUND**

***Investment Scheme***

In 2003 Ms. Samji began promoting an investment scheme and deposited and paid out funds through her notarial practice, Rashida Samji Notary Corporation (“Samji Notary Corporation”), bank account. In 2010 Ms. Samji ceased using the Samji Notary Corporation for her investment scheme and started using Samji & Assoc. Holdings Inc., a company that she had incorporated in 2010.

According to the Receiver’s Second Report Ms. Samji solicited funds from investors (the “Investors”) and represented to the Investors that the funds would be held in her notary trust account and used, without direct access, as collateral for loans in foreign countries where the Mark Anthony Group conducted their wine business (the “Investment Scheme”). Investors were required to deposit funds for terms of at least six months and were informed that the funds would earn interest-like annual returns of 12%. We understand that the Investment Scheme was referred to as the Mark Anthony Investment but was not in any way related to the Mark Anthony Group.

Between 2003 and 2012, Ms. Samji received in excess of \$90,000,000 from the Investors. We understand that the funds received from Investors were initially deposited to bank accounts in the name of Samji Notary Corporation. Funds were then disbursed out to various places including to Samji & Assoc., Ms. Samji and to the Investors. There is no

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indication in any of the documents reviewed by the Trustee that Investor funds were used for the purposes of the Mark Anthony Investment.

A number of law suits have been filed against Ms. Samji and others and several of these law suits claim that the Investment Scheme was a ponzi scheme which is an investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors.

A large number of Investors were clients of Mr. Arvindbhai Patel, a financial planner who worked for Coast Capital Credit Union ("Coast Capital") between 2006 and 2012.

***British Columbia Securities Commission Orders***

In January 2012 the British Columbia Securities Commission ("BCSC") became concerned about the Investment Scheme. Their concerns resulted in the BCSC issuing investigation orders for purposes of investigating the affairs of Ms. Samji, Samji & Assoc., Samji Notary Corporation and Mr. Patel in relation to breaches of the *Securities Act*, including illegal trading and distribution of securities, misrepresentation and fraud.

Immediately upon issuing the investigation orders the BCSC took steps to take possession of the books and records in relation to the Investment Scheme that were kept at the office of Samji Notary Corporation.

The BCSC also froze various bank accounts in the name of Ms. Samji, Samji & Assoc., Samji Notary Corporation and Mr. Patel and registered liens against eight properties that Ms. Samji either owned or had an interest in.

***Society of Notaries Public of British Columbia Custodianship Order***

The Society of Notaries Public of British Columbia ("Notaries Society") being concerned about the notary clients of Samji Notary Corporation, applied to the Supreme of British Columbia (the "Court") for an order appointing Mr. Ronald Usher, an employee of the Notaries Society, as custodian over the property of Samji Notary Corporation to manage the notarial practice of Ms. Samji. On February 8, 2012 the Court granted an order appointing Mr. Usher as Custodian (the "Custodian Order").

***Receivership Order***

Pursuant to an application made by the BCSC, the Court issued an Order on April 3, 2012 appointing MNP Ltd. as Receiver over certain property of Samji & Assoc. and Mr. Patel (the "Receivership Order").

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The specific property of Samji & Assoc. that MNP Ltd. has been appointed as Receiver over is the funds held in the Toronto Dominion Bank Account # 9697-52089-110 ("TD Account") and Vancouver City Savings Credit Union Account # 225540 ("Vancity Account") which accounts were in the name of Samji & Assoc.

These two bank accounts were included in the freeze order issued by the BCSC but as a result of the Receiver appointment the freeze on these two accounts was lifted by the BCSC. According to the Receiver's 2<sup>nd</sup> Report to the Court dated September 22, 2012 the funds in the TD account at the date of the Receivership Order were approximately \$784,000 and the funds in the Vancity account were approximately \$28,468.

Although the Receivership Order was initially made for purposes of preservation of the property of Samji & Assoc., the Receiver commenced an investigation into the Investment Scheme. The results of the Receiver's investigation to date are summarized in the Receiver's Second Report to the Court dated September 22, 2012. The Receiver's investigation includes a review of documents of Samji & Assoc, Samji Notary Corporation and Ms. Samji. These documents include certain banking records that were requested from the banks by the Receiver and information relating to properties owned by Ms. Samji.

On November 19, 2012 the Receiver applied to the Court for an order to expand the property covered by the Receivership Order to include the property of Samji Notary Corporation and Ms. Samji so that the Receiver's ongoing investigation of the Investment Scheme could be completed, and any recovered funds as a result of this investigation, distributed to the Investors subject to the further direction of the Court. The Receiver's application also provided for a stay of the bankruptcy proceedings on the basis that Trustee's duties would be duplicative and unnecessary.

At the Court hearing on December 6, 2012 to consider the Receiver's application, all respondents present opposed the application on the basis that a forensic review was already being conducted by certain of the respondents who had agreed to fund the exercise. Certain respondents also noted that the Trustee has the necessary powers and authority under the *Bankruptcy & Insolvency Act* (the "BIA") to pursue recovery of funds and distribution of the recovered funds to the Investors and creditors.

The Court rendered its decision regarding the application made by the Receiver to expand its powers and stay the bankruptcy proceedings on December 19, 2012. The application was dismissed.

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***RCMP Investigation***

The RCMP has also commenced an investigation into the Investment Scheme and in this regard has seized all the original books and records relating to the Investment Scheme including the books and records seized by the BCSC.

We understand that the records seized by the RCMP and BCSC have been copied and stored on compact discs and distributed to Ms. Samji, Ronald Usher and MNP Ltd.

***Investor Lawsuits***

Since the Investment Scheme has been uncovered, several lawsuits have been filed by the Investors. These lawsuits include individual Investors, a group of Investors that invested through Mr. Platel and a class action lawsuit that has been commenced on behalf of all the Investors that are not otherwise represented. These legal proceedings are against Ms. Samji, Samji & Assoc. and Samji Notary Corporation as well as other parties that allegedly were indirectly involved such as banks, the Notaries Society and accountants.

**CONSERVATORY MEASURES**

Upon being appointed the Trustee immediately advised the Royal Bank of Canada ("RBC"), the Bank of Montreal ("BMO") and Vancouver City Savings Credit Union ("Vancity") of the bankruptcy and requested that any bank accounts in the name of the Bankrupt be frozen immediately and any residual funds in these accounts be forwarded to the Trustee.

The Trustee is currently making arrangements to insure the properties (subject to any insure that may already be in place) through the Trustee's insurer Firstbrook and Cassie.

The Trustee has attended the residence of the bankrupt and has taken possession of jewelry that is not an exempt asset.

The Trustee has sent a letter to the British Columbia Securities Commission ("BCSC") informing the BCSC of the Assignment in Bankruptcy and requesting that the freeze orders against the certain bank accounts of Ms. Samji be lifted and that the liens registered against the real property owned by Ms. Samji be removed. A representative of the BCSC has since advised us that arrangements are being made to lift the freeze orders and remove the liens against real property.

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**ASSETS**

***Cash***

The Bankrupt had four bank accounts at the date of bankruptcy. Details of these accounts as noted on the Statement of Affairs follow:

- RBC Acct (Can\$) \$15,447
- RBC Acct (US\$) 7,572
- BMO Acct: 3,000
- Vancity Acct: Unknown

As mentioned earlier in this report, the Trustee has notified each bank of the bankruptcy and has requested that any accounts in the name of the Bankrupt be frozen immediately and any residual funds in these accounts be forwarded to the Trustee.

The Bank of Montreal has provided the Trustee with notification that the bank account in the name of the Bankrupt is overdrawn in the amount \$104.60.

To date the Trustee has not heard from RBC or Vancity. We understand the RBC and Vancity accounts are both covered by the freeze order issued by the BCSC. The BCSC has confirmed that they will arrange to release their freeze order so that any available funds in these accounts can be forwarded to the Trustee.

***Household Furniture and Personal Effects***

Samji has declared values for her furniture and personal effects on the Statement of Affairs as follows:

Furniture	\$3,000
Clothing	1,000
Jewelery	5,000

The Trustee has obtained photos of the furniture and fixtures but has not yet attained a formal appraisal. However, the Trustee expects that the value of the furniture and fixtures will fall within the exemption amounts provided for under the *British Columbia Court Order Enforcement Act*.

The Trustee has obtained an appraisal of the jewelry from Maynards that indicates a Fair Market Value of approximately \$2,000 to \$3,000.



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**RRSP**

The debtor has an RRSP with Olympia Trust in the amount of approximately \$34,000 that is considered exempt property with the exception of any contributions made in the prior twelve months.

The Trustee has requested details of this policy from the financial institution and has received confirmation that no contributions were made in the twelve months prior to the date of bankruptcy.

The Trustee will be investigating the source of funds used by Ms. Samji to invest in the RRSP. If it is determined that the funds used to invest in the RRSP were Investor funds, the Trustee will require Ms. Samji to return these funds to the estate.

**Real Property**

Samji has invested in a number of properties as summarized below:

Property Description	Ownership %	Assessed Value	Known Mortgages	Equity
Lot 51, Sunshine Coast Hwy, Sechelt, BC	50% (Note 1)	\$209,000		\$104,500
Lot 43, Sunshine Coast Hwy, Sechelt, BC	50% (Note 1)	219,000		109,500
Lot 22, Sunshine Coast Hwy, Sechelt, BC	50% (Note 1)	217,000		108,500
Lot 155, #1803 - 1295 Richards St, Vancouver, BC	100%	385,000	140,000	245,000
Strata Lot 6, #4A - 1596 14th Ave W., Vancouver, BC	100%	2,160,000	1,491,500	668,500
Strata Lot 1, 6490 Ember Place, Sechelt, BC	100%	554,000	190,000	364,000
Strata Lot 19, 5391 Wakefield Beach Lane, Sechelt, BC	100%	725,000	498,475	226,525
Amended Lot 2, 601/628/709/980/3645/2701/2765 Westview Drive, North Vancouver, BC	33.1/3% (Note 2)	346,497		115,499
		<b>\$4,815,497</b>	<b>\$2,319,975</b>	<b>\$1,942,024</b>

Note 1: Sheneez Makalai and the Estate of Karim Makalai own 50% of this property

Note 2: Abdulrasul G. Makalai, Sheneez Makalai and Karim Makalai's Estate own 66.2/3% of this property



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As mentioned earlier in this report, the BCSC have registered liens against these properties that are anticipated to be removed shortly.

The Trustee has arranged for a realtor to provide valuations of each of these properties which should be available within the next week.

All the properties appear to have equity based on the assessed value as shown on the 2012 Property Tax Assessment Notice. Accordingly, the Trustee intends to transfer all the properties into its name and list the properties for sale.

**Vehicle**

Samji currently leases a 2010 Mercedes-Benz GLK350 through a lease agreement with Mercedes-Benz Financial Services. The lease has been registered in the Personal Property Registry. The Trustee has not yet been informed of the balance owing under the lease but the Black Book value of the vehicle is \$27,472. On confirmation of the balance owing under the lease the Trustee will determine whether there is any equity in the vehicle for the benefit of the estate.

**PROVABLE CLAIMS**

The Trustee has performed a preliminary review of the claims filed to date which are summarized below:

	<b>As Per Statement of Affairs</b>	<b>Claims Filed to date</b>
Secured Creditors	\$2,376,380	\$0
Unsecured Creditors	\$31,340,952	\$56,874,803
<b>Totals</b>	<b>\$33,717,332</b>	<b>\$56,874,803</b>

The claims filed to date include a claim in respect of the Class Action in the amount of \$31,300,000. This claim includes an estimate of the claim of all Investors include those Investors that have filed separately. This explains the significant difference in value between the claims filed to date and the amount as per the Statement of Affairs.

There also appear to be some discrepancies between the amounts listed on the statement of affairs and the claims filed by individual Investors to the date of this report. At the

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date of this report, the Trustee has not completed its review of the claims to determine the reasons for the discrepancies.

## **SECURED CREDITORS**

### ***First National Financial LP – Mortgage***

Lot 19, 5391 Wakefield Beach Lane, Sechelt, BC has a mortgage registered against it by First National Financial LP. Foreclosure proceedings are in process and the outstanding mortgage balance is around \$498,475.

### ***TD Canada Trust - Mortgage***

Strata Lot 6, #4A – 1596 14<sup>th</sup> Ave W., Vancouver BC has a mortgage registered against it by TD Canada Trust. Foreclosure proceedings are in process and the outstanding mortgage balance is around \$1,491,500.

### ***Royal Bank of Canada - Mortgages***

Strata Lot 1, 6490 Ember Place, Sechelt, BC has a mortgage registered against it by Royal Bank of Canada and the outstanding amount of the mortgage is around \$190,000.

Lot 155, #1803 – 1295 Richards St., Vancouver, BC has a mortgage registered against it by Royal Bank of Canada and the outstanding amount of the mortgage is around \$140,000.

### ***Property Taxes***

A number of the properties owned by Samji have outstanding Property Tax amounts. Property Taxes owing will be paid in priority from the proceeds of the sale of the associated properties.

### ***Mercedes-Benz Financial Services***

The Bankrupt leases a 2010 Mercedes-Benz GLK350 from Mercedes-Benz Financial Services. The lease has been properly registered in British Columbia where the vehicle is located. Mercedes-Benz Financial Services has not filed a claim. The Trustee will, on receipt of a secured claim, assess whether there is any equity in the vehicle for the benefit of the estate. If there is no equity available the Trustee will, with Inspector approval, release its interest in the vehicle to Mercedes-Benz Financial Services.





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**UNSECURED CREDITORS**

The amount owed to unsecured creditors of the Bankrupt as shown on the Statement of Affairs can be summarized as follows:

- Amounts owed to Investors as per the records provided for Investors that have commenced litigation \$8,601,950
- Amounts owed to Investors as per the records provided for Investors that have not commenced litigation \$22,697,285
- Amount owed to HSBC for a personal visa card \$9,303
- Amount owed to TD Canada Trust for a personal visa card \$1,478
- Amounts owed to Vancity for personal visa cards \$11,325
- Amounts owed to CIBC for personal visa cards \$19,605

\$31,340,946

Certain Investors are claiming that the property of the Bankrupt is property that belongs to the Investors and is being held in trust by Samji for the Investors. The Trustee is currently not in a position to comment on the validity of these trust claims. For purposes of the First Meeting of Creditors, the Trustee will allow these creditors’ claims as unsecured creditors, therefore allowing the creditors to vote at the first meeting.

The amount owed to unsecured creditors of the Bankrupt as shown on the Statement of Affairs is \$31,340,952.

**TRUSTEE’S FEE ARRANGEMENT**

The Trustee has received a payment of \$3,000 from the Bankrupt prior to the date of bankruptcy.

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## **SETTLEMENTS, PREFERENCES AND TRANSFERS UNDER VALUE**

At the date of this report the Trustee has not taken possession of the books and records of the Company's which are currently in the possession of the RCMP nor has the Trustee received electronic copies the books and records that have been prepared by the RCMP and BCSC.

As mentioned earlier in this report, certain Respondents in the proceedings have commenced a forensic investigation to trace the funds invested in the Investment Scheme and funds disbursed out.

The Trustee intends to work in cooperation with the Respondents and the independently appointed forensic auditors that will likely be retained to complete this investigation.

The results of this investigation are expected to identify numerous parties that have benefitted from Investment Scheme that the Trustee will then pursue recovery from for the collective benefit of the Investors and Creditors.

## **FIRST MEETING OF CREDITORS**

The First Meeting of Creditors will be held on January 4, 2013 at 2:00 PM. The purpose of this meeting is as follows:

- Consider the affairs of the bankrupt which will include a review of the Trustee's Preliminary Report and answering any questions asked by meeting attendees;
- Affirm the appointment of Boale, Wood & Company Ltd. as Trustee or substitute another in place thereof; and
- Appoint up to 5 Inspectors that will represent the creditors at large and will give directions to the Trustee as the creditors may see fit with reference to the administration of the estate.

The Trustee has been in contact with various lawyers that represent a significant number of the Investors and anticipates that these lawyers may want to be Inspectors of the Estate.

Following the First Meeting of Creditors the Trustee will promptly organize a meeting of Inspectors to discuss in detail how best to proceed with the administration of the estate.



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This is a large and complex administration that will require cooperation of various parties involved to expedite and maximize the recovery to the Investors.

### **ESTIMATED REALIZATION**

The Trustee at this preliminary time is not in a position to provide any meaningful estimate of the realization.

DATED at the City of Vancouver, British Columbia this 3<sup>rd</sup> day of January, 2013.

**Boale, Wood & Company Ltd.**

Trustee of the Estate of  
Rashida Abdulrasul Samji

A handwritten signature in black ink, appearing to read "John McEown", is written over a horizontal line. The signature is stylized and somewhat cursive.

Per: John McEown, CA•CIRP