



No. S197744  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985. C. C-36  
BETWEEN:

MINISO INTERNATIONAL HONG KONG LIMITED, MINISO  
INTERNATIONAL (GUANGZHOU) CO. LIMITED,  
MINISO LIFESTYLE CANADA INC., MIHK MANAGEMENT INC.,  
MINISO TRADING CANADA INC., MINISO CORPORATION and  
GUANGDONG SAIMAN INVESTMENT CO. LIMITED

PETITIONERS

AND:

MIGU INVESTMENTS INC., MINISO CANADA INVESTMENTS INC., MINISO CANADA STORE INC.,  
MINISO (CANADA) STORE ONE INC., MINISO (CANADA) STORE TWO INC., MINISO (CANADA)  
STORE THREE INC., MINISO (CANADA) STORE FOUR INC., MINISO (CANADA) STORE FIVE INC.,  
MINISO (CANADA) STORE SIX INC., MINISO (CANADA) STORE SEVEN INC., MINISO (CANADA)  
STORE EIGHT INC., MINISO (CANADA) STORE NINE INC., MINISO (CANADA) STORE TEN INC.,  
MINISO (CANADA) STORE ELEVEN INC., MINISO (CANADA) STORE TWELVE INC.,  
MINISO (CANADA) STORE THIRTEEN INC., MINISO (CANADA) STORE FOURTEEN INC.,  
MINISO (CANADA) STORE FIFTEEN INC., MINISO (CANADA) STORE SIXTEEN INC.,  
MINISO (CANADA) STORE SEVENTEEN INC., MINISO (CANADA) STORE EIGHTEEN INC.,  
MINISO (CANADA) STORE NINETEEN INC., MINISO (CANADA) STORE TWENTY INC.,  
MINISO (CANADA) STORE TWENTY-ONE INC., and MINISO (CANADA) STORE TWENTY-TWO INC.

RESPONDENTS

#### APPLICATION RESPONSE

**Application Response of:** The parties set forth in Schedule "A" attached hereto (the  
"Application Respondents")

THIS IS A RESPONSE TO the Notice of Application of the Respondents, filed July 18, 2019 (the  
"Application").

#### Part 1: ORDERS CONSENTED TO

The Application Respondents consent to the granting of the orders set out in the following  
paragraphs of Part 1: NIL

#### Part 2: ORDERS OPPOSED

The application Respondents oppose the granting of the following paragraphs of the Notice  
of Application:

1. All, unless the provisions of such orders are revised in accordance with the objections raised in this Application Response.

**Part 3: ORDERS ON WHICH NO POSITION IS TAKEN**

The Application Respondents take no position to the granting of the orders set out in the following paragraphs of Part 1:

1. Paragraphs 1 and 2, if the provisions of such orders are revised in accordance with the objections raised in this Application Response.

**Part 4: FACTUAL BASIS**

1. Each of the parties listed in Schedule A, who call themselves the "Franchisees", entered into similar contracts.
2. Those contracts were, variously, an Investment and Cooperation Agreement, and/or a Limited Partnership Agreement.
3. Each of the contracts, generally, provides that the particular franchisee in question is entitled to 49% of the net profits, as defined in the agreements, from the operation of the stores with respect to which their investments were being made.
4. Each of the contracts required a deposit to be provided by the particular franchisee, to be held against that franchisee's ultimate obligations under the contracts, but it was restricted in the use and in the manner it could be accessed and was to be held as security and not otherwise disbursed.
5. It is alleged in bankruptcy proceedings, filed by the Petitioners in these proceedings, against certain of the Respondents, as set forth in paragraphs 42 to 56, particularly 42, 44 and 55(b) of the Affidavit of Ting Shi in that proceeding that those very contracts, themselves, were in breach of the underlying agreements between the Respondents and the Petitioners.
6. That fact was concealed from the Franchisees and, in fact, they were provided assurances to the contrary, including by representatives of the Petitioners.
7. Counsel has not yet examined the facts sufficiently to provide an opinion to the Franchisees, but the Franchisees assert that they have claims sounding in fraud and fraudulent misrepresentation as well as debt.

**Part 5: LEGAL BASIS**

1. It is the purpose of the proceedings at this point to preserve the status quo, balancing the competing interests of the parties and stakeholders until such time as a plan can be presented.

2. These Respondents object to the following paragraphs in the various orders being sought:

**A. PARAGRAPHS 41, 14 and 15 OF THE INITIAL ORDER:**

3. Paragraph 41 of the Initial Order authorizes the Monitor to enter into a Management Services Agreement with Miniso Lifestyle Canada Inc.

4. Paragraphs 2.1 and 2.4 of the Management Agreement authorize the manager and the Monitor to close certain stores, thereby terminating the agreements entered into by the Franchisees.

5. That termination is contrary to the termination provisions of those agreements and those agreements cannot be terminated unilaterally, absent cause.

6. Accordingly, those provisions of the Management Agreement are contrary to s. 32(1) of the *Companies' Creditor Arrangement Act* ("CCAA").

7. The same is true of a portion of paragraph 14(a).

8. Paragraph 15 of the order does provide for compliance with s. 32 of the CCAA in terms of notice to the landlords and any secured creditors claiming a security interest in the fixtures. Notice should also be provided to the Franchisee involved in the store in question.

**B. PARAGRAPH 29 OF THE INITIAL ORDER:**

9. The Franchisees seek to add provisions to paragraph 29 of the Initial Order, directing and empowering the Monitor to:

- (a) Provide an ongoing accounting, segregated in a fashion to be determined by the Monitor, with respect to each store; and

- (b) On the request of any particular Franchisee, to provide an accounting or any accounting information available to permit the determination of what portion of the deposits provided by the Franchisees have not been expended, and what expenses were paid using the deposits, if any.

10. It will be claimed by the Franchisees that those deposits were to be held in trust.

**C. PARAGRAPHS 30(a) and 32(a) and (b) OF THE INITIAL ORDER:**

11. Both provisions should be clarified to include the Franchisees in paragraph 30(a) and to ensure that the provisions of s. 32 of the CCAA apply to paragraphs 32(a) and (b).

**D. PARAGRAPH 25 OF THE INITIAL ORDER:**

12. Should be amended to include the words "for matters arising" between the words "debtors" and "after".

**E. PARAGRAPHS 45, 52 and 54 OF THE INITIAL ORDER:**

13. Those provisions should be clarified, to indicate that they do not apply to any portion of the proceeds from the operation of the stores pursuant to the Management Agreement, which properly form part of the 49%, to which any particular Franchisee may be entitled.

14. That is particularly so, given the broad wording of the Interim Credit Facility Agreement attached as Exhibit W to the affidavit of Qinua Chen.

**F. PARAGRAPH 49 OF THE INITIAL ORDER:**

15. The provisions for the fees of the Monitor and its counsel and of the debtor's counsel consist of a retainer of \$200,000, the sum of \$1 million reserved in the projected cash flow, plus a \$1 million administrative charge, for a total of \$2.2 million. It is the position of the Franchisees that in the circumstances, an administrative charge in the amount of \$1 million is excessive.

**G. THE CLAIMS PROCESS ORDER:**

16. Paragraph 17 of the Claims Process Order indicates that claims that cannot be compromised in s. 5.1(2) and 19(2) of the CCAA shall not be "otherwise affected by this Claims Process Order, and for greater certainty that paragraph 16 shall not apply." The Franchisees, subject to the advice of counsel, will assert claims which cannot be compromised under s. 5.1(2), and 19(2) of the CCAA, as sounding in fraudulent misrepresentation and fraud. They may also have similar claims against the Petitioners.

17. Paragraph 21, and, indeed, the provisions of the Act, give to the Respondents, the right to accept, revise or disallow each claim and it is inappropriate, in cases where fraud is being alleged, for the Respondents to consider and admit or reject the claims sounding in fraud being advanced directly against them.

18. It is necessary to clarify what portions of the Claims Process Order do apply to such claims. If the claimants have a claim in fraud, is it appropriate, at all, to give to the Monitor the power to disallow those claims? If so, the order should provide that the Proof of Claim should be accompanied by a narrative setting forth, briefly, the basis on which the allegations of fraud are founded.

**Part 6: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Long Li made July 19, 2019.
2. Affidavit #1 of Ting Shi (body only) filed December 12, 2018, in SCBC Vancouver Registry Action No. B180734.

The Application Respondents estimate that the application will take ½ a day.

*[Check whichever one of the following boxes is correct and complete any required information]*

☐ The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

☒

The Application Respondents have not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is:

Attention: H.C. Ritchie Clark, Q.C.  
Bridgehouse Law LLP  
900-900 West Hastings Street  
Vancouver, BC, V6C 1E5  
Email: rclark@bridgehouselaw.ca

Dated: July 19, 2019



Counsel for the filing parties  
H. C. Ritchie Clark, Q.C.

**SCHEDULE "A"**

1. 2130680 Alberta Ltd.;
2. JKW Canada Inc.;
3. 1072591 Canada Ltd.;
4. 10287881 Canada Inc.;
5. 10306541 Canada Inc.;
6. 2592256 Ontario Incorporated;
7. 9631-2208 Quebec inc.;
8. 10287881 Canada Inc.;
9. 9376-6319 Quebec Inc.;
10. 9374-9828 Quebec inc.;
11. 9375-1642 Quebec Inc.;
12. Morfly Investments Inc.;
13. 9374-8762 Quebec Inc.;
14. 9375-0883 Quebec Inc.;
15. A&J Ontario Corp.;
16. 10287865 Canada Inc.;
17. Unite YiHua Technology Canada Co., Ltd.;
18. Long Li;
19. Xiaochen Xu;
20. Dengfeng Lin on behalf of 1182193 BC Ltd.;
21. Jian Hu on behalf of 1162138 BC Ltd.;
22. JF Retail Business Company Limited;
23. Sunshine Creative Accessories Ltd.;
24. 2633134 Ontario Inc.;
25. 2623211 Ontario Inc.;
26. Enlight Max Enterprise Inc.;
27. 1122024 BC Ltd.;
28. Horon Enterprises Ltd.; and
29. 9360-3876 Quebec Inc.