



MEMORANDUM TO PARTIES

TO: Sue Smolen
Manager, Supreme Court Scheduling

FROM: The Honourable Madam Justice DeWitt-Van Oosten

DATE: September 8, 2017

RE: ***RSC Enterprise Canada Inc. v. Tan***; VA S162913 ("*RSC*") and related actions: VA B160364; VA B160363; VA S162272; VA S162335; VA S162327; VA S162752; VA S162876; VA S163009; VA S163025; VA S163808; VA S163845; VA S154278; VA S155677; VA S160389; VA H170040; VA H170041; VA H170043; VA S162855; VI S161713; VI S161714; NW H181306; and FSJ H23401

Counsel for *RSC* is requested to ensure that all parties named in Appendix A receive a copy of this Memorandum, as well as the Trustee in Bankruptcy of the Estate of Virginia Tan and the Estate of Patrick Tan (the "Trustee in Bankruptcy").

[1] The above-noted actions have been assigned to me for the purpose of judicial case management.

[2] This Memorandum is in follow-up to a Judicial Management Conference (JMC) held on September 7, 2017.

[3] The primary purpose of the JMC was to establish a case management framework for moving these actions forward in a co-ordinated manner, where practicable.

[4] The parties in attendance on September 7 were provided an opportunity to address various issues raised in my previous Memorandum on this matter, dated April 12, 2017.

[5] As a result of submissions made, I have made the following determinations as case management judge:

1. All applications brought within the context of an action identified in Appendix A to this Memorandum (the "Related Actions"), as updated from time to time, are to be filed in accordance with the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "Rules"), unless otherwise directed by the case management judge. On filing, the applicant is to provide notice of the application to all affected parties in the Related Actions.
2. All interlocutory applications in the Related Actions shall be heard by the case management judge, either at a JMC or on a date obtained through Supreme Court Scheduling.
3. Consistent with item 1 above, whether an interlocutory application is heard at a JMC, or by way of separate hearing, it must accord with the filing requirements under the Rules and notice of the application must be provided to all affected parties in the Related Actions.
4. Whether an interlocutory application brought in one of the Related Actions can presumptively be considered to have been brought in each of the other Related Actions, subject to the direction of the case management judge, is a matter that can await a future JMC.
5. Timelines for the delivery of documents under Rule 7-1 in the Related Actions, where applicable, can await a future JMC.
6. Whether documents obtained in one Related Action, through production in the ordinary course, or as a result of court order, may presumptively be used and relied upon in each of the Related Actions, subject to the discretion of the trial judge, is an issue that can await a future JMC.
7. In the interim, the broader (or general) availability and use of documents obtained in a Related Action is a matter to be addressed on a case-by-case basis, within the context of an application brought in a Related Action. Consistent with item 1 above, any such application shall accord with the Rules and notice of the application must be provided to all affected parties in the Related Actions.
8. Coordination of, and timelines for the completion of examinations for discovery in the Related Actions, where applicable, will not be set at this time; rather, this is an issue that can await a future JMC.
9. Likewise, whether examinations for discovery as completed in one Related Action, may be presumptively used and relied upon by an adverse party in another of the Related Actions, subject to the discretion of the trial judge, is an issue that can await a future JMC.

10. In the interim, the broader (or general) availability and use of examinations for discovery conducted in a Related Action is a matter to be addressed on a case-by-case basis, within the context of an application brought for that purpose. Consistent with item 1 above, any such application shall accord with the Rules and notice of the application must be provided to all affected parties in the Related Actions.
11. Timelines for the delivery of expert and rebuttal reports and the presumptive use that may be made of these reports across the Related Actions, is an issue that can await a future JMC.
12. Timelines for the exchange of witness lists can await a future JMC.
13. Whether one or more of the Related Actions should be joined, consolidated or heard for trial at the same time, is an issue to await a future JMC.
14. JMCs shall be held every six months, running from the date of this Memorandum. However, if an issue arises that requires an earlier date, the parties are at liberty to move the date forward.
15. To clarify, the Related Actions that involve foreclosure proceedings are exempt from this case management framework, *except* to the extent that the parties to the foreclosure actions have an obligation to keep the Trustee in Bankruptcy notified of material developments in their proceedings and to provide a full accounting of proceeds. Legal counsel involved in the foreclosure proceedings need not attend a JMC, unless they choose to do so, or are otherwise directed to attend by the case management judge.
16. By consent, the Trustee in Bankruptcy will function as a central contact for material developments in all Related Actions, but in light of the Trustee's current resource limitations, only to this extent:
 - The Trustee will prepare a list of the actions before the Court relating to Virginia Tan and Patrick Tan that are known to the Trustee (the "Action List"). At this time, the list will be comprised of those current actions attached as Appendix A;
 - The Trustee will add to the Action List the names and contact information of counsel to the parties or of self-represented litigants, to the extent that such information has been to date publicly filed and is easily accessible to the Trustee;
 - The Trustee will post the Action List on the Trustee's website on the webpage dedicated to the bankruptcies, which at this time is

<http://www.boalewood.ca/2016/05/03/patrick-eng-tien-tan-and-virginia-mary-tan/> (the "Trustee's Website"), so that it may be available to the public;

- The Trustee's Website will contain a notice advising that persons who wish to have their action and contact information included on the Action List, or amended, are to contact the Trustee;
- The Trustee's Website will also contain a notice advising parties that arrangements for service on actions, interlocutory applications or otherwise, remain the responsibility of the parties and not the responsibility of the Trustee;
- Upon receiving consent for same, the Trustee will provide, on the Trustee's Website, an "email service list" containing the known email addresses of counsel and self-represented litigants involved in matters on the Action List, which could be accessed by the public to be used in the event parties or others wish to disseminate information electronically to the greater group (the "Email Service List"); and,
- The Trustee will add to the "Email Service List" the names and contact information of counsel to the parties or of self-represented litigants, to the extent that such information becomes known to the Trustee, is easily accessible and consent for including the information on the Email Service List is forthcoming.

[6] As the case management process continues, there may be other procedural or substantive issues that the parties in the Related Actions consider appropriate to add to the management framework, or, changes may be necessary to existing items. The parties are at liberty to raise these issues within the course of the JMCs.

[7] The parties subject to the case management framework are to co-ordinate a maximum three day hearing in Vancouver Chambers, preferably in December 2017 or January 2018, for the purpose of addressing, as appropriate and warranted: (1) a possible lifting of one or more of the stays under the bankruptcy legislation (2) access to any financial records relating to Virginia Tan and Patrick Tan that are in possession of the Trustee in Bankruptcy and relevant to the Related Actions; (3) access to any examinations that have been conducted in the bankruptcy proceedings; (4) particulars under Rule 3-7; and/or (5) any other issues that the parties consider necessary and incidental to either advancing a step in a Related Action, as necessitated by current circumstances, or responding to demands or requests made.

[8] Any application made at the said hearing must accord with the Rules and notice of the application must be provided to all affected parties in the Related Actions.

[9] The parties who intend to participate in the hearing are to work co-operatively to develop an application agenda for the hearing, with a view to grouping like applications and avoiding unnecessary repetition or overlap. The order of submissions and time limits for submissions are to be agreed-upon in advance.

[10] All parties in the Related Actions who have not yet closed their pleadings under Rule 3, with the consent of the opposing party or otherwise, and intend to participate in the hearing, must use their best efforts to close pleadings by no later than 21 days before the hearing.

[11] The JMC currently scheduled for one hour on November 21, 2017, in Related Action VA B160364 has been cancelled.

[12] If clarity on the directions provided in this Memorandum is required, the parties are at liberty to request same, in writing. The Court's response will be distributed to all parties in the Related Actions.

"DeWitt-Van Oosten J."

APPENDIX A

1. *RSC Inc. v. Virginia Mary Tan* (the "RSC Action");
VA S162913
2. *RSC Inc. v. Virginia Mary Tan* (the "Virginia Tan Bankruptcy Proceeding");
VA B160364, Estate No. 11-253977
3. *RSC Inc. v. Patrick Eng Tien Tan* (the "Patrick Tan Bankruptcy Proceeding");
VA B160363, Estate No. 11-253976
4. *Richard Ting Man Li v. Virginia Mary Tan* (the "Richard Ting Man Li Action
#1");
VA S162272
5. *Jastram Properties Ltd. v. Virginia Mary Tan* (the "Jastram Action");
VA S162335
6. *Irene Richards v. Virginia Mary Tan* (the "Richards Action");
VA S162327
7. *Richard Ting Man Li v. Virginia May Tan* (the "Richard Ting Man Li Action
#2");
VA S162752
8. *Lenka Helen Pelikan v. Virginia May Tan dba Letan Investments
Management* (the "Pelikan Action");
VA S162876
9. *Rina Teo v. Virginia Tan* (the "Teo Action");
VA S163009
10. *Farid Pascuas v. Virginia Mary Tan* (the "Pascuas Action");
VA S163025
11. *Phyllis Margaret Kersey v. Virginia Mary Tan* (the "Kersey Action");
VI S161713
12. *Susan Joan Gilles v. Virginia Mary Tan* (the "Gilles Action");
VI S161714
13. *Wong Chui Kit v. Virginia Mary Tan* (the "Chui Kit Action");
VA S163808
14. *Shirley Lee v. Virginia Mary Tan* (the "Lee Action");
VA S163845
15. *RanAm Developments Ltd. v. Marcus Soon-Keen Tan* (the "RanAm Action");
VA S154278
16. *Marcus Tan v. RanAm Developments Ltd.* (the Marcus Tan Action");
VA S155677

17. *Reliable Mortgages Investment Corp v. Patrick Tan* (the "Reliable Foreclosure Proceeding");
NW H181306
18. *Lohn Foundation v. Virginia Mary Tan and others* (the "Lohn Foreclosure Proceeding");
VA S160389
19. *Royal Bank of Canada v. TLD Investments Inc.* (the "Royal Bank Foreclosure Proceeding");
FSJ H23401;
20. *Canadian Western Bank v. Marcus Soon-Keen Tan* (the "Canadian Western Bank Foreclosure Proceeding #1");
VA H170040;
21. *Canadian Western Bank v. Marcus Soon-Keen Tan* (the "Canadian Western Bank Foreclosure Proceeding #2");
VA H170041;
22. *Canadian Western Bank v. Marcus Soon-Keen Tan* (the "Canadian Western Bank Foreclosure Proceeding #3");
VA H170043; and
23. *Valerie Lek Soo Noi v. Wong Chui Han* (the "Lek Action")
VA S162855.