

CASE TYPE: Civil/Miscellaneous

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

STATE OF MINNESOTA

In Re: Wayzata Home Products, LLC
and cliqstudios.com LLC

Court File No.: 27-CV-20-4326

Judge: David L. Piper

**MEMORANDUM IN SUPPORT OF MOTION FOR APPROVAL OF FINAL REPORT,
APPROVAL OF DISTRIBUTION TO CREDITORS,
AND THE DISCHARGE OF THE ASSIGNEE**

Lighthouse Management Group, Inc. (“Lighthouse” or “Assignee”), by and through its undersigned counsel, submits this Memorandum of Law in Support of its Motion for Approval of Final Report, Approval of Distribution to Creditors, and the Discharge of the Assignee (“Motion”). Assignee has completed its duties and respectfully requests that the Court discharge the Assignee and terminate the assignment for the benefit of creditors.

FACTUAL BACKGROUND

This proceeding is an assignment for the benefit of creditors pursuant to Minnesota Statutes Chapter 577. The assignors, Wayzata Home Products, LLC, and its subsidiaries, including cliqstudios.com LLC (together with the other subsidiaries, Square Cabinets LLC f/k/a Itasca Cabinets LLC and Wayzata Cabinetry LLC, the “Assignor”), are limited liability companies with a principal place of business in Edina, Minnesota.¹ The Assignor was engaged in the business of designing and selling kitchen cabinets and related products, but became unable to pay their debts

¹ Assignment for the Benefit of Creditors, filed in the above-caption action on March 13, 2020 (“Assignment”), p. 1, Schedule A; Final Report of Lighthouse Management Group, Inc., dated December 23, 2020, signed by Samuel J.H. Sigelman and filed together with Assignee’s Motion (“Final Report”), p. 1.

as they matured.² Accordingly, the Assignor and Assignee entered into that certain Assignment for Benefit of Creditors, dated March 13, 2020 (“Assignment”).³ Pursuant to the Assignment, the Assignor assigned to Assignee substantially all of their property (“Assignment Property”).⁴ On March 26, 2020, the Assignee mailed a notice of the Assignment to all known creditors of the Assignor.⁵

By making the Assignment, the Assignor consented to the appointment of the Assignee as a “general receiver” with respect to the Assignor, in accordance with Minnesota Statutes, Chapters 576 and 577.⁶ Under the assignment, Assignee was tasked with liquidating the Assignment Property.⁷ Assignee further agreed to pay and discharge in full, to the extent that funds are available from the Assignment Property after payment of expenses, costs, and disbursements, all of the debts and liabilities now due from the Assignor, including interest on the debts and liabilities in full, in accordance with Minnesota Statutes, Chapters 576 and 577.⁸

In undertaking its duties to market and sell the Assignment Property, Assignee initiated an aggressive and comprehensive marketing strategy aimed at locating one or more buyers for the Assignor and/or the Assignment Property.⁹ CliqStudios Cabinets, LLC, an Ohio limited liability company (“Cliq”), ultimately made the highest and best bid to purchase substantially all of the Assignment Property.¹⁰ By Order dated April 28, 2020, the Court approved the sale of the

² *Id.*

³ Final Report of Lighthouse Management Group, Inc., dated December 23, 2020, signed by Samuel J.H. Sigelman and filed together with Assignee’s Motion (“Final Report”), ¶ 2.

⁴ See generally, Assignment; Final Report, p. 1.

⁵ Final Report, p. 2.

⁶ Assignment, p. 2; Minnesota law provides that an Assignee, assigned under Minnesota Statutes Chapter 577, “shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.” Minn. Stat. Section 577.18.

⁷ Assignment, p. 2.

⁸ *Id.*

⁹ Final Report, p. 3-4.

¹⁰ See generally Order Authorizing Assignee to Sell Certain Property Free and Clear of Liens, dated April 28, 2020; Final Report, p. 3.

Assignment Property to Cliq.¹¹ The Assignee realized in excess of \$1,800,000 through the sale of the Assignment Property.¹² During April 2020, the Assignee sold the remaining assets to other third parties generating an additional \$70,000 of sale proceeds.

As part of its duties, Assignee proposed procedures for the resolution and treatment of claims against the assignment estate.¹³ On June 26, 2020, the Court entered an Order Granting Assignee's Motion to Establish a Claims Process ("Claims Order").¹⁴ In accordance with the Claims Order and Minnesota Statutes Section 576.49, Subdivision 3, Assignee reviewed the Assignor's books and records, identified creditors of the Assignor, prepared a preliminary schedule of claims, and solicited claims from claimants of the Assignor.¹⁵ Assignee received approximately 150 claims filed against one or more of the Assignor.¹⁶ The Assignee reviewed the claims and resolved all discrepancies between asserted claims and the Assignor's books and records, through either formal claim objections or consensual resolutions with the respective claimants.¹⁷ The Court affirmed all of Assignee's claim objections.¹⁸

Finally, the Assignee has filed an interim report with the Court, as well as a final report and accounting submitted together with this Motion ("Final Report").¹⁹ In accordance with Minn. Stat. § 576.38, subd. 3., the Final Report provides:

- (1) A description of the activities of the Assignee in the conduct of the Assignment;

¹¹ *Id.*

¹² Final Report, p. 3-4.

¹³ Final Report, p. 4.

¹⁴ *See generally* Claims Order; Final Report, p. 4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *See generally* Final Report.

- (2) A schedule of all Assignment Property at the commencement of the Assignment and any Assignment Property added thereafter;
- (3) A list of expenditures, including all payments to professionals retained by the Assignee;
- (4) A list of any unpaid expenses, if any, incurred during the Assignment;
- (5) A list of all dispositions of Assignment Property; and
- (6) A list of all distributions made or proposed to be made.

Additionally, the Assignee, in conjunction with filing the Final Report, brings this motion for approval of the payment of fees and expenses of the Assignee. As such, the Assignee has complied with the requirements outlined in Minn. Stat. § 576.38, subd. 3. Because the Assignee has completed its duties and the Assignment Property has been sold, the Court should approve the Final Report, the proposed distribution to creditors, and discharge the Assignee.

ARGUMENT

I. THE COURT SHOULD AUTHORIZE THE FINAL DISTRIBUTION.

The Assignee has completed its administration of the Assignment. It now seeks Court approval to distribute the remaining funds in its possession to creditors of the Assignor. In total, there are about 1,354 claimants against the assignment estate that total \$38,355,530.49, and there is a total of approximately \$1,400,000 available for distribution.²⁰ The available funds derive from funds on hand, receivable collections, the collection of \$153,739.39 held by Wells Fargo as collateral for an Irrevocable Letter of Credit, and the sale of the Assignor's assets.²¹

²⁰ Final Report, p. 7-8.

²¹ *Id.*

Minnesota Statute Section 576.51 sets forth a priority scheme for the payment of creditors. The claimants in this Assignment who have priority to the unsecured claimants are those who: (1) hold administrative claims or “actual, necessary costs and expenses incurred during the [assignment];” (2) have “claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within the 90 days before the time of appointment;” (3) have “unsecured claims of governmental units for taxes that accrued before the time of appointment.” See Minn. Stat. § 576.51, subd. 1(2)(3)(6).

After satisfying the priority claimants, the non-priority claimants will be paid on a pro-rata basis. The proposed distribution is set forth below:²²

Claim Priority	Allowed Claims	Proposed Payment	%
Administrative	\$195,343	\$195,343	100%
Employee 90 Day	\$279,622	\$279,622	100%
Tax	\$1,313	\$1,313	100%
Unsecured	\$37,879,252	\$923,722	2.4%
Total	\$38,355,530	\$1,400,000	

As set forth in the chart above, after paying the creditors holding a statutory-priority claim, there is \$923,722 in funds available to pay the non-priority claimants. Given that the pool of non-priority claimants hold claims with a value of \$37,879,252, they will be paid 2.4% of their allowable claim.²³ Attached to the Final Report and identified as **Exhibit D** is a schedule of the claimants and the amounts the Assignee proposes to distribute to each of the non-priority claimants (“Distribution Schedule”).²⁴

²² *Id.* Assignee proposes to make no de minimis distributions, which it classifies as distributions under \$10. In other words, Claimants who would otherwise receive a distribution of less than \$10 will receive no distribution.

²³ *Id.*

²⁴ *Id.*

The Assignee seeks approval to make a final distribution of such proceeds, net of final expenses, in accordance with the Distribution Schedule. The proposed distribution set forth above and on the Distribution Schedule reflects a pro rata distribution to creditors, based on the priority scheme set forth in Minn. Stat. § 576.51. Assignee proposes to make the proposed distributions within 30 days of the entry of the Order approving the Distribution Schedule, or as soon thereafter as reasonably practical. Assignee further proposes that, in the event creditors do not cash their distribution checks within 90 days of the date of issuance, the Assignee shall cancel such checks and donate any remaining funds of the assignment estate to Second Harvest Heartland, a 501(C)(3) nonprofit charity. Following the distribution to creditors in accordance with the Distribution Schedule, Assignee shall turn over any remaining tangible assets of the Assignment estate, and all books and records of the Assignor, to Wayzata Holdings LLC or one of its assigns.

II. THE COURT SHOULD APPROVE THE FINAL REPORT, INCLUDING ALL PROFESSIONAL FEES, AND DISCHARGE THE ASSIGNEE.

Pursuant to the Assignment, the Assignor consented to the appointment of the Assignee as a “general receiver” with respect to the Assignor, in accordance with Minnesota Statutes, Chapters 576 and 577. The receivership statute, Minn. Stat. § 576.21, *et seq.*, provides that in connection with a request for a discharge, the “[assignee] shall file a final report and shall request that the court approve the final report and discharge the [assignee].” Additionally, Rule 137.10 of the Minnesota Rules of General Practice requires an assignee to file a final accounting of disbursements and the status of the Assignment Property. Minn. R. Gen. Pract. Rule 137.10 Minn. Stat. § 576.38, Subd. 2. Finally, under Minnesota Stat. § 576.32, Subd. 2(b), professional fees incurred by the Assignee “are subject to approval in connection with the [assignee’s] final report pursuant to section 576.38.”

Pursuant to Minn. Stat. § 576.38, subd. 4, any objection to the Final Report must be filed with the Court and served on the Assignee. The objection must identify with specificity all items of the Final Report to which objection is made, the grounds for the objection, the facts supporting the objection and any legal authority. If there is no objection within 21 days of filing of this Final Report, the Court may enter an order approving the Final Report and discharging the Assignee without the necessity of a hearing. *Id.*

The Assignee filed its Final Report on December 23, 2020 and has served the Final Report and supporting memoranda shortly thereafter. The Final Report, including by reference to prior reports, satisfies the requirements of Minn. Stat. § 576.38, subd. 3 and contains, without limitation: (1) a description of the activities of the Assignee, (2) a description of receivership property and disposition of that property; (3) a list of expenditures, including the fees of Assignee and professional fees; and (4) the Distribution Schedule.

The expenses of the Assignment and other payments have been fully disclosed in the Assignee's periodic reports, which are summarized in the Final Report.²⁵ Such expenses were reasonable and necessary to the Assignment. The expenses incurred and paid enabled Assignee to carry out its duties, including, without limitation, the liquidation of the Assignment Property and the establishment of a claims process.²⁶ The expenses include professionals retained by the Assignee in furtherance of its duties, including Barnes & Thornburg LLP as legal counsel, Donlin Recano as claims agent, and other contractors that the Assignee has disclosed in its interim report and Final Report.²⁷ Assignee's fees and expenses and the distribution to creditors should be approved in conjunction with the approval of the Final Report.

²⁵ Final Report, p. 5-6.

²⁶ *Id.*

²⁷ Final Report, p. 5; the professional fees totaling \$517,329 have been paid, including: \$409,958 paid to the Assignee; and \$77,436 paid to the Barnes & Thornburg LLP law firm.

Because Assignee has completed its duties and the administration of the Assignment, Assignee requests that the Court approve the Final Report and discharge the Assignee. After the Assignee makes its distributions in accordance with the Distribution Schedule, the Assignee will file a supplement to the Final Report detailing cash distributions and the disposition of the remaining Assignment Property (“Supplemental Report”). Following the submission of the Supplemental Report, the Assignee will ask the Court to dismiss this case with prejudice and without the necessity of any further hearing, and thereby discharge the Assignee and terminate the Assignment.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court approve Assignee’s Final Report and proposed Distribution Schedule, and discharge Assignee as the “general receiver” of Assignor.

Dated: December 23, 2020

BARNES & THORNBURG LLP

By: /s/ Christopher J. Knapp
Christopher J. Knapp, #0344412
Michael A. Cavallaro, #0389995
2800 Capella Tower
225 South Sixth Street
Minneapolis, Minnesota 55402-4662
Telephone: 612.333.2111
Facsimile: 612.333.6798
cknapp@btlaw.com
mcavallaro@btlaw.com

ATTORNEYS FOR ASSIGNEE
LIGHTHOUSE MANAGEMENT GROUP, INC.

**ACKNOWLEDGMENT REQUIRED BY
MINNESOTA STATUTES SECTION 549.211, SUBDIVISION 1**

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: December 23, 2020

BARNES & THORNBURG LLP

By: /s/ Christopher J. Knapp
Christopher J. Knapp, #0344412
Michael A. Cavallaro, #0389995
2800 Capella Tower
225 South Sixth Street
Minneapolis, Minnesota 55402-4662
Telephone: 612.333.2111
Facsimile: 612.333.6798
cknapp@btlaw.com
mcavallaro@btlaw.com

ATTORNEYS FOR ASSIGNEE
LIGHTHOUSE MANAGEMENT GROUP, INC.