

District of Ontario
Division No. 09 - Toronto
Court No.: 32-2682182
Estate No.: 32-2682182

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY OF
DR. Bijoy Tharakan Thomas Dental Professional Corporation
in the Regional Municipality of Peel, in the Province of Ontario

TRUSTEE'S PRELIMINARY REPORT

Trustee: Goldhar & Associates Ltd.

The following information is provided to assist evaluating Dr. Bijoy Tharakan Thomas Dental Professional Corporation (the "Debtor" or the "Company") COB as HyMy Dentistry's. Please note, we have not audited or reviewed the Debtor's books and records and, as a result, we are not able to express an opinion concerning the accuracy of the information contained herein. The following information originated from the Debtor's books and records that were made available to us, as well as from our discussions with the principal of the Debtor.

SECTION A - BACKGROUND

The Debtor was incorporated on May 27th, 2016 and commenced operations under its corporate name, HYMY Dentistry, as a dental practice. The Company was located at 301-303 Alexander Street in the City of Whitehorse in the Yukon Territory.

The Company has been inactive for over twelve months and the Trustee has been informed by the Debtor that all assets of the Company were repossessed in September 2019.

The Company had zero employees as of the date of bankruptcy and its majority shareholder and director was:

- Bijoy Tharakan Thomas

The Debtor has listed the following minority shareholders who appear to be related to the principal officer:

- Marium Jagan
- Amisha Ann Bijoy
- Alisha Bijoy

On the 4th day of December 2017, the principle of the Company relocated to be 409 - 3400 Riverspray Cres in the City of Mississauga of the Province of Ontario.

Our preliminary review indicates, and as advised by the principal, the Company's financial difficulties and eventual assignment into bankruptcy resulted from the following events:

The Debtor practiced dentistry through a partnership named HyMy Dentistry along with a professional corporation owned by Dr. Biju Gopinath (Dr. Gopinath). After a tumultuous beginning to the partnership, the Debtor and Dr. Gopinath were unable to come to an agreement as to how the partnership would proceed which led to the Debtor's resignation from the partnership on November 30th, 2017. The partnership was dissolved that same day.

HyMy Dentistry leased all operating equipment from the Royal Bank of Canada ("RBC") through a master lease agreement (the "Lease Agreement"), provided by Henry Schein Corporation. As a result of the dissolution of HyMy Dentistry, payments on RBC Lease Agreement were discontinued and on September 18, 2019, Henry Schein repossessed the equipment by way of sheriff seizure. The Lease Agreement was executed by both the Debtor and Dr. Gopinath and upon the seizure of the equipment both entities became liable for any deficiency on amounts due.

In addition, the property where HyMy Dentistry operated was purchased by a related company owned by Dr. Gopinath and Bijoy Thomas named 536095 Yukon Inc ("536095"). HyMy leased the clinic space from 536095. In early 2020, RBC, who held a mortgage on the property, petitioned the building owned by 536095 and repossessed the property. The Debtor surrendered the property back to RBC and is uncertain of any sale of the property at this time.

As a result of the events described above the Debtor felt it had no other option but to file an assignment into bankruptcy on the 22nd day of October 2020 Goldhar & Associates Ltd. was appointed Trustee of the estate, subject to the affirmation of creditors at the duly convened first meeting of creditors.

SECTION B - ASSETS

As described above the leased equipment of the Company was repossessed by RBC in September 2019. The Trustee has not been made aware of any other assets of the Company at this time.

SECTION C - SECURED CREDITORS

The Trustee understands that all secured creditors of the Company have realized on their assets and deficiencies have been listed on the Statement of Affairs. As a result, the Trustee did not make an inquiry with the Yukon Territory registry to conduct a PPSA search.

SECTION D - CONSERVATIVE AND PROTECTIVE MEASURES

(a) Conservatory and protective measures:

No conservatory measures were required of the Trustee.

(b) Books and records

The Trustee has taken possession of the available books and records of the Company

(c) Carrying on business

The Company has not operated under the HYMY partnership since November 2017.

SECTION E - LEGAL PROCEEDINGS

The Trustee is aware of a civil claim made by Henry Schein for a breach of contract by failing to pay for lease dental equipment and the additional items delivered to the Debtor and Dr. Gopinath. The Debtor has informed the Trustee that it did not guarantee any amounts due to Henry Schein.

The Trustee is not aware of any other legal proceedings.

SECTION F - PROVABLE CLAIMS

The following is a list of claims filed with the Trustee at this time:

	<i>As Declared Amount \$</i>	<i>As filed and admitted Amount \$</i>
<i>Secured</i>	\$ -	
<i>Unsecured</i>	\$ 274,318.64	
<i>Preferred</i>	\$ -	
Total	\$ 274,318.64	\$ -

The Trustee holds 0 proxy(ies)

SECTION G - THIRD-PARTY DEPOSITS OR GAURANTEES

The Trustee has not been provided with any third-party deposits or guarantees for the administration of the Debtor's estate.

SECTION H - TRUSTEE'S INTENTION TO ACT FOR SECURED CREDITORS

The Trustee is not acting for any secured creditors as set out in subsection 13.4 (1.1) of the Act.

SECTION I - ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION

The Trustee does not anticipate that any distribution will be made to the creditors of the Debtor at this time.

SECTION J - TRANSFER AT UNDERVALUE AND PREFERENTIAL PAYMENTS

The Trustee has not been provided with the bank statements for the prior 12 months leading to the bankruptcy and has not conducted any review of the transactions prior to the Company's assignment into bankruptcy.

The Trustee understands the Company has been inoperative for some time and does not have reason to believe any transaction at undervalue or preferential payments have occurred at this time.

The Trustee will seek instructions from the creditors in this regard as there are no funds available to further investigate these statements.

Although the Trustee has not completed a review of the bank statements, is not aware of any transfers made at undervalue by the company.

SECTION K - OTHER MATERIAL MATTERS NOT COVERED ABOVE

Goldhar & Associates Ltd. was paid \$7,500 plus applicable HST by Marium Jagan (a related party) for consulting services with respect to basic estate administration and general insolvency services, which include: meeting with Debtor, analyzing its financial position, preparing all documentation, explaining duties of the officer of the bankruptcy corporation and co-operation with the Trustee, filing the bankruptcy, accepting appointment as Trustee, and all other work as required up until and including the attendance at the first meeting of creditors.

Section 49(3) of the *Bankruptcy and Insolvency Act* indicates that an assignment is to be offered to the official receiver in the locality of the debtor. "Locality of debtor" is defined by S. 2 to mean the principal place (a) where the debtor has carried on business during the year immediately preceding his or her bankruptcy (b) where the debtor has resided during that year, and (c) in cases not coming within (a) or (b), where the greater portion of the debtor's property is situated.

Although the Debtor carried on business at one time in the Yukon Territory, the Debtor has filed for bankruptcy in the Province of Ontario for the following reasons:

1. The Debtor has been inactive for over 12 months and all assets were repossessed in September 2019;
2. The principal of the Company has lived in Ontario with his family for over 12 months;
3. The principal of the Company is also a bankrupt in Ontario;

The Trustee reminds the creditors that it does not have funds to review transfers at undervalue or fraudulent preferences and seeks advise from creditors pursuant to section 38, if required.

Dated at Mississauga, Ontario this 18th day of November 2020.

Goldhar & Associates Ltd.

In its capacity as the Licensed Insolvency Trustee of

DR. BIJOY THARAKAN THOMAS DENTAL PROFESSIONAL CORPORATION

and not in its personal capacity



David Adams, CIRP, LIT
Vice President

Proceeding by creditor when trustee refuses to act

- **38.** (1) Where a creditor requests the trustee to take any proceeding that in his opinion would be for the benefit of the estate of a bankrupt and the trustee refuses or neglects to take the proceeding, the creditor may obtain from the court an order authorizing him to take the proceeding in his own name and at his own expense and risk, on notice being given the other creditors of the contemplated proceeding, and on such other terms and conditions as the court may direct.

- **Marginal note:Transfer to creditor**

(2) On an order under subsection (1) being made, the trustee shall assign and transfer to the creditor all his right, title and interest in the chose in action or subject-matter of the proceeding, including any document in support thereof.

- **Marginal note:Benefits belong to creditor**

(3) Any benefit derived from a proceeding taken pursuant to subsection (1), to the extent of his claim and the costs, belongs exclusively to the creditor instituting the proceeding, and the surplus, if any, belongs to the estate.

- **Marginal note:Trustee may institute proceeding**

(4) Where, before an order is made under subsection (1), the trustee, with the permission of the inspectors, signifies to the court his readiness to institute the proceeding for the benefit of the creditors, the order shall fix the time within which he shall do so, and in that case the benefit derived from the proceeding, if instituted within the time so fixed, belongs to the estate.

[end]