

Filing a Proof of Claim by March 31, 2017

Issues Related to Equitable Interest

We have received communications from persons who are trying to understand whether they have an equitable interest in the property they contracted to purchase from Harlequin Property (SVG) Limited. We had previously posted a communication which was meant to provide some guidance on what an equitable interest was and that it was the responsibility of purchasers to seek legal counsel so that they could understand their rights when submitting a claim to the Bankruptcy Trustee.

The law surrounding an equitable interest in property is complex. The circumstances surrounding the respective claims which we have received are varied and, as such, we still believe that each investor should seek independent legal advice as to his ability to claim an equitable proprietary interest. Despite representations made by Harlequin/Mr. Ames to the contrary, it is not the role of the Trustee in bankruptcy to provide legal advice, and it would be inappropriate for us to do so as the circumstances in each case are varied and unique, therefore, we are unable to advise on the validity of any particular claim for such an interest at this stage.

In respect of filing a Proof of Claim with the Trustee before March 31, 2017 you should be aware that you can file a Proof of Claim now as an unsecured creditor and this will not prevent you from later amending your claim to a Section 70 claim as having an equitable proprietary interest.

At a date after the first meeting of Creditors on March 31, 2017, the Bankruptcy Trustee will issue a formal notice to all creditors asking them to file a Section 70 claim if they feel they have an equitable proprietary interest. Purchasers will then be given a reasonable time to make this claim. The Trustee will then review the Section 70 claim received to determine if he is in agreement with the purchaser. If the purchaser and the Trustee cannot reach agreement the dispute will need to be adjudicated by the Court.