

Cour fédérale



Federal Court

Date: 20091022

Docket: T-982-08

Citation: 2009 FC 1076

**BETWEEN:**

**TOP RANK INC.**

**Plaintiff**

**and**

**CLUNCROW HOLDINS LTD**  
carrying on business under the firm name and style of  
**DOC MALONE'S PUB & TAVERN, SARAH PINKNEY, 1558871 ONTARIO INC,**  
carrying on business under the firm name and style of  
**LOCKERROOM ON CUNDLES SPORTS BAR & GRILL, DANA PARRIS,**  
**TRENT SPORTS BARS INC,**  
carrying on business under the firm name and style of  
**CHAMPS, CHARLES RUSSELLE, FRANKFURTERS INC,**  
carrying on business under the firm name and style of  
**THE PENALTY BOX, JONATHAN ARIEL, WARREN MASON,**  
**SIMON HADDAD BOWLING LTD**  
carrying on business under the firm name and style of  
**STEEL CITY SPORTS BAR, CHRIS HADDAD, ROCKY'S SPORTS BAR INC,**  
carrying on business under the firm name and style of  
**ROCKY'S SPORTS BAR, SAVERIO ROCCA, JACQUELINE ROCCA,**  
**2045428 ONTARIO INC,**  
carrying on business under the firm name and style of  
**P.M. TORONTO, MANOLIS MAKRIS, 101016565 SASKATCHEWAN LTD**  
carrying on business under the firm name and style of  
**SPARKY'S DINER, DEREK LEUNG, BAR-SALON 447 INC,**  
carrying on business under the firm name and style of  
**BAR LE 447, GESTION HENRI BEAULIEU INC, HENRI BEAULIEU,**  
**9009-1885 QUEBEC INC,**  
carrying on business under the firm name and style of  
**BAR ST. JOSEF, HENRI BEAULIEU, 9175-7062 QUEBEC INC,**  
carrying on business under the firm name and style of  
**LONDON PUB, OLIVER OUSSET, 9015-3875 QUEBEC INC,**  
carrying on business under the firm name and style of  
**SPORALIE PRO BILLARD, BERNARD TOUSIGNANT, YVES ROBERGE,**

**JOHN DOE #1 carrying on business under the firm name and style of QUINSAM HOTEL,  
JOHN DOE #2 carrying on business under the firm name and style of CREEKSIDE PUB,  
JOHN DOE #3 carrying on business under the firm name and style of  
BREAKER AND BILLARD,  
JOHN DOE #4 carrying on business under the firm name and style of 12:30 BAR  
and JOHN DOE #5 carrying on business under the firm name and style of  
2001 SPORTS BAR**

**Respondents**

**ASSESSMENT OF COSTS – REASONS**

**DIANE PERRIER, ASSESSMENT OFFICER**

[1] On July 15, 2009, the Court made an order dismissing the action with costs for Respondents 9015-3875 QUEBEC INC., Bernard Tousignant and Yves Roberge.

[2] On July 24, 2009, the Respondents' attorney filed the bill of costs and requested that it be assessed without a personal appearance by the parties. On August 12, 2009, letters were sent to the parties setting a timeline for filing written submissions. Having received no written submissions to date, I am now prepared to proceed with the assessment on the basis of the documentation on record.

[3] The Respondents' lawyer's fees to be assessed are allocated in the amount of \$2,164.38 (\$1,917.50 + \$95.88 5% GST + \$151 7.5% QST). I have allocated the following items for the fees to be assessed: item 2 – preparation and filing of the Defence (7 units), item 4 – preparation and filing of an uncontested motion (motion for dismissal of action) (4 units), item 6 – appearance at the

motion for dismissal of action (3 units x 15 minutes), item 25 – services after judgement (1 unit) and item 26 - assessment of costs (2 units).

[4] Item 6 – appearance at the motion for dismissal of action was allocated only for the motion length as per the hearing summary from 9:30 to 9:45 a.m., i.e. 15 minutes. Item 26 – assessment of costs was allocated at only 2 units because the assessment is simple and uncontested. Also, the Quebec sales tax (QST) was allocated at 7.5% according to the current rate.

[5] The outlay for the fees for photocopying and binding the copies of the motion for dismissal of action in the amount of \$22.60 and the fees for serving the motion for dismissal of action via messaging service in the amount of \$20.90, the adjusted total of which is \$43.50, seem reasonable to me given that the evidence for them is given by affidavit.

[6] The Respondents' bill of costs submitted in the amount of \$3,100.80 is assessed and is allowed in the amount of \$2,207.88. A certificate of assessment will be issued for that amount.

MONTREAL (QUEBEC)  
October 22, 2009

“Diane Perrier”  
\_\_\_\_\_  
DIANE PERRIER  
ASSESSMENT OFFICER

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** T-982-08

**STYLE OF CAUSE:** TOP RANK INC. v. CLUNCROW HOLDINS LTD ET AL

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES**

**PLACE OF ASSESSMENT:**Montreal, Quebec

**REASONS BY DIANE PERRIER, ASSESSMENT OFFICER**

**DATE OF REASONS:** October 22, 2009

**NAMES OF COUNSEL AND SOLICITORS OF RECORD:**

Engelking Wood  
Edmonton (Alberta)

FOR THE APPLICANT

Boily Morency Roy  
Quebec City (Quebec)

FOR THE RESPONDENTS 9015-3875 Québec Inc.,  
Bernard Tousignant and Yves Roberge