

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

NOTICE OF MOTION

KSV Restructuring Inc. ("**KSV**"), in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of: (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order, defined below) (the "**Real Property**"); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors (the "**Property**"), or either of them, including all proceeds thereof, will make a motion to a Judge of the Superior Court of Justice (Commercial List) on **Friday, August 15, 2025 at 10:00 a.m.**, by judicial videoconference via Zoom at Toronto, Ontario. Please advise if you intend to join the motion by emailing Lauren Archibald at lauren.archibald@nortonrosefulbright.com.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR ORDERS, among other things:

1 If necessary, abridging and validating the time for service and filing of this notice of motion and motion record;

2 Approval of a transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale dated July 15, 2025 (as amended, the “**APS**”) among Jean Robitaille and Joanne Aubin, as purchaser (together, the “**Purchaser**”), and the Receiver, as vendor, for the sale of Unit 801 (as defined below), and vesting all of Hazelton’s right, title and interest in and to Unit 801 to the Purchaser;

3 Authorizing the Receiver to distribute the net proceeds of the Transaction to Constantine Enterprises Inc. (“**CEI**”), Hazelton’s senior secured creditor, on account of the CEI Priority Debt (as defined below);

4 Approving the Sixth Report of the Receiver dated August 8, 2025 (the “**Sixth Report**”) and the activities of the Receiver as set out therein; and

5 Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

6 Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on June 4, 2024 (the “**Receivership Order**”), KSV was appointed as receiver and manager of the Property;

7 At the time of the Receivership Order, Hazelton was the registered owner of the Real Property, which is a nine-storey, 20-unit luxury condominium development project located in Toronto's Yorkville neighbourhood;

8 Pursuant to Orders of the Court dated August 30, 2024 and September 20, 2024, the Court approved transactions for the sale of a ground floor retail unit and units 201, 204 and 403;

9 Hazelton remains the registered owner of four condominium units at the Real Property (units 404, 801, 802 and 901) and the parking spaces and lockers allocated to each unit;

10 Shortly after the commencement of the receivership proceedings, the Receiver engaged Gillam Communities Inc. to complete the construction of units 801, 802, and potentially, 901;

11 The construction of units 801 and 802 has now been completed;

The Sale Process and the APS

12 Unit 801 (along with its associated parking spots and locker, "**Unit 801**") has been marketed for sale periodically since September 2023 and, most recently, continuously for the last 6 months;

13 The listing agent for Unit 801, Ms. Saghi Elahi, is familiar with Hazelton as she has sold 401, 402 and 601 prior to the receivership and unit 403 during the receivership;

14 On July 17, 2025, the Receiver finalized the APS with the Purchaser for Unit 801, for a purchase price of \$7,500,000 (subject to certain conditions);

15 The APS was further amended on August 8, 2025, and the Purchaser waived the remaining conditions (other than approval of the Court);

- 16 In addition to the purchase price noted above, the APS provides, among other things:
- (a) a deposit of \$500,000, being held by the listing agency;
 - (b) the Receiver has agreed to hold back \$100,000 subject to certain release conditions to satisfy certain amounts including for special assessments (which are not currently in the condo corporation's budget) for a period of 1 year;
 - (c) all material conditions have been cleared, except for Court approval;
 - (d) the closing date is no later than August 29, 2025, which may be extended by 30 days if further time is required to seek Court approval; and
 - (e) the representations and warranties are standard for a condominium sale transaction, as amended to reflect that Unit 801 is being sold by a Receiver and the Transaction is subject to Court approval;
- 17 The offer received from the Purchaser was the third written offer received for Unit 801 and is significantly higher than prior offers, including verbal offers;
- 18 CEI supports the Transaction;

Distributions

- 19 Hazelton is indebted to CEI, Hazelton's senior secured creditor, pursuant to, among other things, the DUCA Commitment (as defined in the Sixth Report), which is the senior ranking mortgage on the Real Property;
- 20 The current amount owing to it under the DUCA Commitment is approximately \$10.6 million (the "**CEI Priority Debt**"), including interest, but excluding costs and expenses and applicable interest thereon, in each case, which continue to accrue before and after the date of the Sixth Report;

21 CEI has also advanced funds to the Receiver during the receivership proceedings under the Receiver's Borrowings Charge (as defined in the Receivership Order) – the current balance of the Receiver's borrowings is \$1.43 million, plus interest and costs which continue to accrue;

22 The Receiver's legal counsel, Norton Rose Fulbright Canada LLP, has conducted a review of CEI's security, including the DUCA Commitment, and provided the Receiver with an opinion that the DUCA Commitment (and CEI's other security) is valid and enforceable;

23 After repaying the amounts owing to CEI under the Receiver's Borrowing Charge, the Receiver intends, subject to the Court's approval, to distribute to CEI the net Transaction proceeds as a partial repayment of Hazelton's indebtedness owing to CEI under the DUCA Commitment;

Activities

24 The activities of the Receiver as described in the Sixth Report were necessary and undertaken in good faith pursuant to the Receiver's duties and powers as set out in the Receivership Order;

General

25 Rules 1.04, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*; and

26 Such further and other grounds as counsel may advise and this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1 The Sixth Report; and

2 Such further and other evidence as counsel may advise and this Court may permit.

August 8, 2025

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CONSTANTINE ENTERPRISES INC. -and-
Applicant

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MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

NOTICE OF MOTION

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