

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- and -

MIZRAHI (128 HAZELTON) INC. and MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

RESPONDENT'S COMPENDIUM

August 15, 2025

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000
Toronto ON M5K 1E7

Jennifer Stam LSO#: 46735J

Tel: 416.202.6707

jennifer.stam@nortonrosefulbright.com

James Renihan LSO#: 57553U

Tel: 416.216.1944

james.renihan@nortonrosefulbright.com

Lauren Archibald LSO#: 87151U

Tel: 416.216.4842

lauren.archibald@nortonrosefulbright.com

Fax: 416.216.3930

Lawyers for the Receiver (Respondent in the
Appeal)

TO: **TYR LLP**
488 Wellington Street West
Suite 300-302
Toronto ON M5V 1E3

Jason Wadden LSO#: 46757M

Tel: 416.627.9815

jwadden@tyrllp.com

Michael O'Brien LSO#: 64545P

Tel: 416.617.0533

mobrien@tyrllp.com

Nick Morrow LSO#: 87335T

Tel: 416.434.9114

nmorrow@tyrllp.com

Tel: 416.477.5525

Lawyers for the Appellant,
David Berry

AND TO: **CASSELS BROCK & BLACKWELL LLP**
Barristers and Solicitors
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto ON M5H 0B4

Jason Arbuck

Tel: 416.860.6889

jarbuck@cassels.com

Jeremy Bornstein

Tel: 416.869.5386

jbornstein@cassels.com

Stephanie Fernandes

Tel: 416.860.6481

sfernandes@cassels.com

Tel: 416.869.5300

Fax: 416.360.8877

Lawyers for the Applicant (Respondent in the Appeal)

AND TO: **MORSE SHANNON LLP**
133 Richmond St. W., Suite 501
Toronto ON M5C 2V9

David Trafford LSO#: 68926E

Tel: 416.369.5440

dtrafford@morsetrafford.com

Lawyers for Sam Mizrahi

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CONFIDENTIALITY AGREEMENT

This agreement ("**Agreement**") is made the 28 day of June, 2016 (the "**Effective Date**").

BETWEEN: **DAVID BERRY**, of the City of Toronto in the Province of Ontario

 (hereinafter referred to as "**David**")

AND **SAM MIZRAHI**, of the City of Toronto in the Province of Ontario

 (hereinafter referred to as "**Sam**")

RECITALS

WHEREAS David, Sam, Mizrahi Developments Inc. ("**MDI**") and Mizrahi Development Group (1451 Wellington) Inc. ("**Wellington Inc.**") have entered into a term sheet (the "**Term Sheet**") whereby David has agreed to loan MDI the aggregate amount of ten million dollars (\$10,000,000) (the "**Loan Transaction**");

AND WHEREAS on or about the date of execution of this Agreement, David, Sam, MDI and Wellington Inc. have, or shall, enter into a loan agreement, personal guarantee, general security agreements and other ancillary documents to consummate the Loan Transaction;

AND WHEREAS David, Sam and Mizrahi (128 Hazelton) Inc. entered into a Supplementary Agreement relating to certain supplemental security and obligations with respect to the Loan Transaction, which Supplementary Agreement is intended to be strictly confidential

NOW THEREFORE, in consideration of the background, the mutual covenants contained herein, and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the Parties), the Parties agree as follows:

SECTION 1 - CONFIDENTIALITY

It is understood by the parties hereto that the Supplementary Agreement is intended to be confidential in nature. In the event that it has been finally determined by a court of competent jurisdiction from which no appeal lies that David has disclosed the existence and terms of the Supplementary Agreement by delivering a signed copy of the Supplementary Agreement to any third parties who were not otherwise aware of the Supplementary Agreement, David shall forfeit (i) repayment of all amounts due and owing under Loan Facility #1 and Loan Facility #2, and (ii) his right to exercise the warrant which shall be delivered to him on consummation of the Loan Transaction entitling David to obtain twenty five percent (25%) of the Net Profits in the Project.

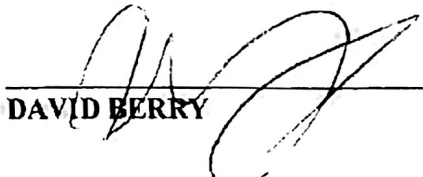
Notwithstanding the foregoing, David shall be entitled to disclose the existence and/or terms of the Supplementary Agreement and deliver a copy of same to his accountants, lawyers and other professional advisors (on a need-to-know basis), and such disclosure shall not be considered a violation of this Section 1. In addition, disclosure of the existence and/or terms of the Supplementary Agreement by David (which includes by way of delivering a copy of same) with the consent of Sam, or disclosure of the existence and/or terms of the Supplementary Agreement by David (which includes by way of delivering a copy of same) subsequent to any disclosure of the Supplementary Agreement by Sam, or disclosure of the existence and/or terms of the Supplementary Agreement by David (which includes by way of delivering a copy of same) pursuant to an order of a court of competent jurisdiction, or disclosure of the existence and/or terms of the Supplementary

Agreement by David (which includes by way of delivering a copy of same) as required by law, or disclosure of the existence and/or terms of the Supplementary Agreement by David (which includes by way of delivering a copy of same) in connection with enforcement of this Supplementary Agreement or any other agreement or document delivered in connection with the Loan Transaction, shall not be considered a violation of this Section 1.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.



SAM MIZRAHI



DAVID BERRY

Court of Appeal File No. COA-25-CV-0659

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

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-and- MIZRAHI (128 HAZELTON) INC. et al.
Respondents (Respondents in Appeal)

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PROCEEDING COMMENCED AT
TORONTO

APPEAL BOOK AND COMPENDIUM

NORTON ROSE FULBRIGHT CANADA LLP

222 Bay Street, Suite 3000
Toronto ON M5K 1E7

Jennifer Stam LSO#: 46735J

jennifer.stam@nortonrosefulbright.com
Tel: 416.202.6707

James Renihan LSO#: 57553U

james.renihan@nortonrosefulbright.com
Tel: 416.216.1944

Lauren Archibald LSO#: 87151U

Tel: 416.216.4842
lauren.archibald@nortonrosefulbright.com

Tel: 416.216.4000

Fax: 416.216.3930

Lawyers for the Receiver (Respondent in the Appeal)