

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

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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

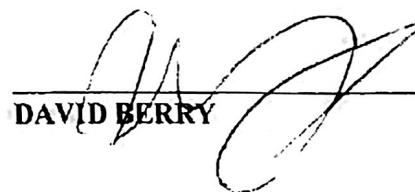
It is understood by the parties hereto that the Supplementary Agreement is intended to be confidential in nature. In the event that it has been finally determined by a court of competent jurisdiction from which no appeal lies that David has disclosed the existence and terms of the Supplementary Agreement 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

CONSTANTINE ENTERPRISES INC.
Applicant (Respondent in Appeal)

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

Court of Appeal File No. COA-25-CV-0659
Court File No. CV-24-00715321-00CL

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED AT
TORONTO

APPEAL BOOK AND COMPENDIUM

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