

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

B E T W E E N:

**CERRUTI INVESTMENTS INC.**

Applicant

- and -

**2616766 ONTARIO LIMITED**

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SECTION 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**

Vipen Chauser, a shareholder of the Respondent, will make a Motion before a judge presiding over the Commercial List at 330 University Avenue, Toronto on a date to be established by the Commercial List Office.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

- ☐ In writing under subrule 37.12.1(1) because it is;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location

Zoom link to be provided by the Court

**THE MOTION IS FOR:**

- (a) A declaration that the amount claimed by the Applicant in this proceeding related to the mortgage debt is grossly inflated, with the specific amount further to be particularized;
- (b) Leave to bring a derivative action by Vipen Chauser ("**Vipen**") in the form of a counter-application on behalf of 2616766 ("**766**" or the "**Respondent**");
- (c) Leave for Vipen to intervene in this proceeding in his capacity as a shareholder of 766;
- (d) A request that KSV Restructuring Inc. ("**KSV**" or the "**Receiver**") provide supporting documentation to Vipen (in his capacity as a shareholder, officer, and director of 766) including deposit slips, wire confirmations, cancelled cheques, bank statements, draft copies, trust ledger statements, and any other supporting documents relevant to the mortgage transactions of the property municipally known as 6500 Cantelon Drive, Windsor, Ontario (the "**Property**") giving rise to this receivership;
- (e) In the alternative, leave for Vipen to represent the interests of 766 pursuant to *Rule* 15.01(2); and
- (f) Such further and other Relief as to this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

- (g) The Respondent, 766, is the owner of the Property.
- (h) At all material times, Vipen was a shareholder, officer and director of 766.
- (i) On or about March 1, 2021, 2818927 Ontario Inc. ("**927**"), Lou Cerruti ("**Lou**"), Claybar Contracting Inc. ("**Claybar**"), 766, 2616768 Ontario Limited ("**768**"), Hira Dhillon ("**Hira**"), Vipen, Mahan Dhillon ("**Mahan**") and Sylvia Cerruti ("**Sylvia**" and collectively, the "**Parties**") allegedly entered into a Property Acquisition and Loan Agreement (the "**Alleged PALA**").
- (j) Pursuant to the Alleged PALA,
  - (i) Lou agreed to provide approximately \$9,162,000.00 as first mortgage financing to 766 for the Property (the "**Property Mortgage**") to discharge all existing encumbrances against the Property;
  - (ii) The shareholders of 766 agreed to collectively guarantee the Property Mortgage; and
  - (iii) The Property Mortgage was to be registered in the principal amount of \$22,000,000.00 as a first mortgage on the Property.
- (k) On or about June 24, 2021, the Alleged PALA was allegedly amended ("**1<sup>st</sup> Amended Alleged PALA**").

- (l) Pursuant to the 1<sup>st</sup> Amended Alleged PALA, Lou agreed to advance the additional sum of \$1,000,000.00 to be secured by and under the Property Mortgage, and that the advance would bear interest at 10% per annum.
- (m) On or about April 13, 2023, the 1<sup>st</sup> Amended Alleged PALA was further allegedly amended (the “**2<sup>nd</sup> Amended Alleged PALA**”).
- (n) Pursuant to the 2<sup>nd</sup> Amended Alleged PALA,
  - (i) 766 was to acknowledge that Lou advanced \$125,000.00 on May 9, 2022, which would be secured by the Property Mortgage;
  - (ii) Lou agreed to advance an additional \$734,271.00, also to be secured by the Property Mortgage; and
  - (iii) The Parties acknowledged that the increased principal amount of the Property Mortgage is now \$11,034,271.00.
- (o) On or about May 5, 2023, the 2<sup>nd</sup> Amended Alleged PALA was further amended (the “**3<sup>rd</sup> Amended Alleged PALA**”).
- (p) Despite Vipen being a director and officer of 766, Vipen was not aware of various amendments in the Alleged PALA, and the 1<sup>st</sup> Amended Alleged PALA. Vipen was never named as a signatory of the 2<sup>nd</sup> Amended Alleged PALA and 3<sup>rd</sup> Amended Alleged PALA. Throughout the material period, Vipen did not sign the agreements himself and was not fully aware of the various transactions and amendments if any.

- (q) Vipen did not consent to, nor was he aware of, the underlying Property Mortgage that gives rise to the mortgage debt claimed by the Applicant. In challenging this debt, Vipen suspects that Hira and Mahan orchestrated the agreements and amendments without his knowledge.
- (r) The Applicant and its principal, Lou, knew or ought to have known that Vipen should have signed the Alleged PALA and 1<sup>st</sup> Amended Alleged PALA himself, and that Vipen should have been a party to the 2<sup>nd</sup> Amended Alleged PALA and 3<sup>rd</sup> Amended Alleged PALA.
- (s) It is alleged that there is some level of fraud involved in some of the underlying mortgage documents and agreements, which should be void *ab initio* or be voided.
- (t) Furthermore, the listing agreement form by CBRE brokerage from the First Report of the Receiver dated September 3, 2025, states the following:

1. Termination Rights. ...

In addition, this Agreement shall automatically terminate if: (b) the Seller is restricted in or enjoined from dealing with the Property by a court of competent jurisdiction; ... (d) the Debtor redeems or refinances the mortgages in respect of the Property or otherwise brings the mortgages in respect of the Real Property into good standing (a “**Redemption Transaction**”)

- (u) According to the above Termination Rights, even if the Respondent wishes to proceed with the Redemption Transaction (which would terminate the anticipated listing agreement with CBRE), neither the Respondent nor

Vipen is aware of the redemption amount due to the challenge related to the underlying Property Mortgage debt. To proceed with this sale process while concealing the true amount of the mortgage debt, and without allowing the Respondent and Vipen the opportunity to enter into a Redemption Transaction to end the receivership, is prejudicial.

- (v) On or about April 17, 2025, Mr. David Preger of Dickinson Wright LLP, counsel for Vipen at the time, submitted that Vipen had concerns regarding the calculations of amounts owing to the Applicant as the mortgage debt related to the Property Mortgage were grossly inflated.
- (w) On or about August 11, 2025, Milosevic & Associates, newly retained counsel for Vipen, wrote to the Receiver requesting supporting documentation regarding the calculation of the underlying mortgage debt of the Property including deposit slips, wire confirmations, cancelled cheques, bank statements, draft copies, trust ledger statements, and any other supporting documents relevant to the Property Mortgage transactions underlying the receivership.
- (x) On or about August 14, 2025, Mr. Chris Armstrong of Goodmans LLP responded on behalf of the Receiver and stated that “the Receiver has not engaged in any significant analysis of creditor claims to date and does not expect to do so until it is in a position to seek authorization from the Court to make distributions to creditors. At that time, the Receiver will review the Debtor’s records and any additional information it considers appropriate and

report to the Court on the amounts it seeks authorization to distribute to creditors based on the Receiver's view of creditor entitlements and relative priorities. To the extent your client or any other stakeholder takes issue with the proposed distributions to creditors, it may respond to such motion as it sees fit. [...]" and did not provide the requested documentation.

- (y) The Applicant, along with Lou, is a party to a separate legal proceeding commenced at Milton bearing court file no. CV-25-00002981-0000.
- (z) In the Affidavit of Lou Cerruti sworn on June 19, 2025, Lou stated that proceeds from a mortgage refinance totalling \$2,578,838.41 ("**Milton Funds**") were "available for distribution to Vipen for repairs" to the Property, but he did not provide further details.
- (aa) The Applicant and Lou claim that Vipen made this additional investment in the Property and that the proceeds from the Milton Funds were utilized for Vipen's benefit. However, the mortgage debt asserted by the Applicant from the Property Mortgage has been grossly inflated, and no proper documentation regarding the Milton Funds, such as a disbursement ledger or invoices, has been provided to him by the Applicant or Lou. There appear to be fraudulent transfers and a mix of funds between accounts that need to be accounted for and specified.
- (bb) Such further and other grounds as the lawyers may advise.

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

- (a) *Rules* 1.04, 1.05, 2.01, 2.03, 13.01(1), 26.01, 26.02(b) or (c), 37, 37.05(3), 37.07(2)-(4), 37.10.1(4), 57.03, 59.05, and 60 of the *Rules of Civil Procedure*;
- (b) Section 246 of the *Ontario Business Corporations Act*; and
- (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

September 9, 2025

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Respondent

**CERRUTI INVESTMENTS INC. - and - 2616766 ONTARIO LIMITED**  
Applicant Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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Proceeding Commenced at TORONTO

**NOTICE OF MOTION**

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