

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

BETWEEN:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

30 ROE INVESTMENTS CORP.

Respondent

**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**

**AIDE MEMOIRE OF THE RECEIVER
(RE: 9:30 am Attendance to be held before
Justice Conway on January 17, 2024)**

January 11, 2024

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capacity as Court-appointed Receiver

A. OVERVIEW

1. KSV Restructuring Inc. is the Court-appointed receiver and manager (in such capacity, the “Receiver”) of certain property of 30 Roe Investments Corp. (the “Debtor”). It seeks directions with respect to whether it should publish the Affidavit of Raymond Zar dated November 14, 2023 (the “Zar Affidavit”) on the case website. Mr. Zar is the Debtor’s sole officer and director. The Receiver is concerned that:

- (a) publication of the Zar Affidavit on the case website is not necessary, since the case website was established to facilitate the efficient exchange of information with stakeholders and all interested stakeholders already have a copy of it;
- (b) the Zar Affidavit is a 151 page airing of Mr. Zar’s grievances against every party involved in the case, almost every professional that has been involved in it and a variety of strangers to the litigation. The Receiver does not believe that the case website should be used to amplify these unproven – and potentially harmful – allegations.

2. Finally, the Receiver does not believe that publication is necessary to foster the open court principle. The Zar Affidavit has been filed with the Court and served on the service list in the receivership. The Receiver does not believe that there is any principled reason for the Zar Affidavit to be *more* public because it was filed in an insolvency proceeding.

B. BACKGROUND

3. The Debtor owned nine penthouse condominium units and related parking spaces and storage units/lockers located at 30 Roehampton Avenue in Toronto, Ontario. It did not repay a debt owed to the Applicant (“KingSett”) when it was due and the Receiver was appointed to realize on the Debtor’s property. Its mandate is now largely complete. The Zar Affidavit was ostensibly filed to

oppose the Receiver's motion for, among other relief:

- (a) a discharge and other ancillary relief, including the standard release in favour of the Receiver and its counsel; and,
- (b) approval of the Receiver's fees.

4. The Receiver also included KingSett's request for a release in its Notice of Motion, although it does not take any position on whether that relief should be granted.

C. THE ZAR AFFIDAVIT

5. The Zar Affidavit contains the latest in a series of allegations made by Mr. Zar throughout these proceedings. He has previously alleged (among other things) that someone involved in this case was listening to his phone calls to blackmail him,¹ and that members of this Court² and the Ontario Court of Appeal³ ruled on this case despite having undisclosed conflicts of interest.

6. The overall theme of the Zar Affidavit is that all of the professionals that acted (or were perceived to act) against the Debtor are dishonest and that most of the professionals that acted for the Debtor were either dishonest, incompetent or both. Mr. Zar alleges that:

- (a) this Court assumes that anyone who appears opposite KingSett has "committed wrongdoing";⁴
- (b) the Receiver has been "exclusively designated by KingSett as the purported independent disinterested receiver" and that KingSett has "absolute control" over not only the

¹ Third Report of the Receiver dated January 26, 2023 ("Third Report") at para. 2.4(2)(d)(ii).

² Third Report at para. 2.4(2)(d)(iv).

³ Third Report at para. 2.4(2)(d)(iii). See also [*KingSett Mortgage Corporation v. 30 Roe Investments Corp., 2023 ONCA 219*](#) at para. 21.

⁴ Affidavit of Raymond Zar Sworn November 7, 2023 ("Zar Affidavit"), at para. 30-32.

Debtor, but *any* debtor in *any* KingSett receivership;⁵

- (c) the Receiver's counsel at Goodmans LLP has a permanent "sworn duty of loyalty" to KingSett, based on a small and unrelated matter closed years ago and that, as a result, Goodmans was acting for KingSett's goals instead of the Receiver's;⁶
- (d) the Debtor's former counsel, Ken Rosenberg at Paliare Roland Rosenberg Rothstein LLP, did not prepare responding materials on the original receivership application because he was "under pressure from [KingSett's counsel] Sean Zweig to resign";⁷
- (e) CIBC's counsel, Chaitons LLP, "is bound" not to "act contrary" to KingSett based on an unrelated matter opened long after this matter began;⁸
- (f) a senior real estate professional at Colliers named Alam Pirani lied about his relationship with Ruparell (a now deceased property developer) to get information from Mr. Zar;⁹
- (g) Mr. Symon Zucker, another one of the Debtor's former lawyers, falsely claimed to be a member of Solomon Rothbart Tourgis Slodovnick LLP and misrepresented his experience with receiverships.¹⁰ Mr. Zar alleges that Mr. Zucker "did not have the required skills, knowledge or infrastructure to prepare materials"¹¹ and improperly tried to arrange debtor financing from a company controlled by his brother;¹²
- (h) Blaney McMurtry LLP ("**Blaney**") misrepresented its ability to act for the Debtor¹³ and

⁵ Zar Affidavit at para. 26.

⁶ Zar Affidavit at paras. 351 – 363.

⁷ Zar Affidavit at para. 234.

⁸ Zar Affidavit at para. 39.

⁹ Zar Affidavit at para. 131 – 135.

¹⁰ Zar Affidavit at para. 286 – 287.

¹¹ Zar Affidavit at para. 288.

¹² Zar Affidavit at para. 291.

¹³ Zar Affidavit at para. 367.

did not bring a motion to discharge the Receiver despite instructions to do so,¹⁴ and

- (i) the Receiver caused “the abuse” of Mr. Zar’s mother “at the hands of Toronto Police”.¹⁵ Zar’s mother, who had previously sued him for control over the Debtor, makes no such allegation.

D. REQUEST TO POST ZAR’S AFFIDAVIT

7. The Zar Affidavit is filed with the Court. There is no sealing order. Anyone interested in the case can obtain a copy from the Court office in the ordinary course, or from Mr. Zar. The question is whether the Zar Affidavit should be *published* on the Website and not whether it should be public.

8. The Commercial List E-Service List Protocol (the “Protocol”), requires that the “WebHost” (in this case, the Receiver) responsible for maintaining the case website post motion material. The Protocol states that if the WebHost is uncertain about whether any document should be posted “as a result of its content” then it can seek directions from the Court at a 9:30 appointment.¹⁶ The Receiver believes the Zar Affidavit should not be posted and it is, accordingly, seeking directions.

9. Although the Protocol allows the WebHost to seek directions, the Receiver has been unable to identify any decision considering what material should or should not be posted on the Website. This appears to be a case of first impression.

10. The Receiver respectfully submits that the purpose of the Website, as defined in the Protocol, should guide when material should be posted. The Protocol says that the case website (together with the case service list) serves to provide a “modern and efficient” way to keep “multiple and evolving”

¹⁴ Zar Affidavit at para. 388 and 392 – 395.

¹⁵ Zar Affidavit at para. 408.

¹⁶ [The Guide Concerning Commercial List E-Service](#) (E-Service Guide) Part IV at para. 36.

stakeholders who are located “nationally and internationally” apprised of documents relevant to a case.¹⁷

11. The Receiver does not believe that this purpose will be furthered by posting the Zar Affidavit. These proceedings are nearly complete, and have always involved a relatively narrow set of stakeholders, all of whom are on the service list and received the Zar Affidavit when Mr. Zar served it. Only Kingsett, the Receiver and Mr. Zar have participated actively in the motion. The first mortgagee, CIBC, has been repaid. The Receiver is not aware of an other stakeholder with an interest in the motion.

12. The Receiver has significant concerns about publishing Zar’s latest allegations on the case website. The Zar Affidavit makes potentially defamatory allegations against a number of professionals. This Court, and the Supreme Court of Canada, have emphasized the importance of professional reputations and restrained publication of defamatory allegations against professionals where appropriate.¹⁸ Although the Protocol protects the Receiver against liability for publishing the Zar Affidavit, the Receiver is concerned that publishing it will harm important interests (the interest of professionals in protecting their reputations) without accomplishing any purpose (since anyone with an interest in the motion already has the Zar Affidavit).

E. DIRECTION SOUGHT

13. In these circumstances, the Receiver respectfully requests a direction stating that it need not post the Zar Affidavit on the Website.

¹⁷ E-Service Guide Part I.

¹⁸ *Hill v. Church of Scientology of Toronto*, [1995] 2 SCR 1130 at para. 118 & 177; *Stikeman Elliot LLP v. Myron I. Gottlieb* 2019 ONSC 3068 at para.123.

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

Court File No.: CV-22-00674810-00CL

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Proceeding commenced at Toronto

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