

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

**BETWEEN:**

**KINGSETT MORTGAGE CORPORATION**

**Applicant**

**and**

**30 ROE INVESTMENTS CORP.**

**Respondent**

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***AIDE MEMOIRE OF THE RESPONDENT, 30 ROE INVESTMENTS CORP.***  
(Case Conference before Justice Conway on January 17, 2024)

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January 16, 2023

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30 Roe Investments

**TO: SERVICE LIST**

## THE UNUSUAL REQUEST TO WITHHOLD PUBLISHING 30 ROE'S RESPONDING AND CROSS-MOTION RECORD ON THE CASE WEBSITE

1. The Receiver's requested relief is unprecedented and countermands the Order of Justice Cavanagh (the "**Receivership Order**")<sup>1</sup> and its obligations contained within the E-Service Protocol to publish all materials on the Case Website.<sup>2</sup>
2. The Receiver has not provided this Court with any statutory or common law authority that would entitle it to the unusual relief sought in this Case Conference. The Receiver has not brought a motion to vary or amend the Receivership Order pursuant to paragraph 31, and it is not seeking a sealing order today.
3. The professional reputations of others are not the concern of a Receiver, nor a relevant consideration within a Receivership process.
4. The purported concerns of publishing 30 Roe's Responding and Cross-Motion Record, including the affidavit of Mr. Raymond Zar (the "**Zar Affidavit**"),<sup>3</sup> can be dealt with by such affected parties in a separate proceeding involving those parties; not within a Receivership Application by the Receiver that, as a Court officer, has a duty to act in a *neutral* manner and not as any party's advocate or proxy representative.
5. Moreover, if the Receiver takes issue with paragraphs within the Zar Affidavit, it could have brought a motion to strike the impugned paragraphs. For reasons only it knows, it has not done so.

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<sup>1</sup> Appendix "A", Justice Cavanagh's Order dated May 9, 2022, at para. 24.

<sup>2</sup> Appendix "B", E-Service Protocol.

<sup>3</sup> Appendix "C", Affidavit of Mr. Raymond Zar sworn November 7, 2023.

## The Receiver has Failed to Comply with the Receivership Order

6. Paragraph 24 of the Receivership Order requires that all documentation pertaining to this Receivership Application be published on the Case Website:

THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at [<https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>]) shall be valid and effective service...**This Court further orders that a Case Website shall be established in accordance with the protocol with the following URL: ksadvisory.com/experience/case/30-roe-investments-corp.** [Emphasis Added.]

7. Paragraph 24 of the Receivership Order has not been varied since it was made. The Receiver has not complied with this requirement as it has failed to publish numerous documents produced by the Respondent, including:

- a. Appellants Motion Record dated May 26, 2022
- b. Appeal Book and Compendium dated May 26, 2022
- c. Supplementary Appeal Book and Compendium dated May 30, 2022
- d. Factum of the Appellant dated May 30, 2022
- e. Endorsement of Justice Steele dated May 1, 2023
- f. Endorsement of Justice Osborne dated October 12, 2023
- g. Responding & Cross-Motion Record dated November 7, 2023
- h. Endorsement of Justice Wilton-Siegel dated November 14, 2023
- i. Endorsement of Justice Kimmel dated November 29, 2023
- j. Endorsement of Justice Conway dated December 1, 2023

8. This Receiver has also failed to publish the parties' *Aide Memoires* and Justice Conway's Endorsement dated December 1, 2023. In doing so, it is withholding information from the public about the existence of this question between the parties. Again, it is not the role of a Receiver to act as a gatekeeper of information or an arbiter of truth.

## **The Receiver's Primary Arguments are Logically Inconsistent**

9. The Receiver states that publishing the Zar Affidavit on the Case Website is unnecessary because “all interested stakeholders already have a copy of it” (as they are on the E-Service List). If we accept this logic, there would be no reason for the Receiver to post its *own* materials on the Case Website since “all interested stakeholders already have a copy of it”. What’s good for the goose is good for the gander.
10. Moreover, the fact that parties have copies of Court materials does not obviate the need to publish those materials on the Case Website. To the contrary, para 26 of the Protocol specifically represents to the public that they need not be placed on the E-Service List since they can monitor the proceeding by accessing the Case Website:

Those persons who are interested in monitoring a Commercial List Proceeding but are not required to be served with Court Documents in accordance with the Rules or the practice in the Commercial List are not to be placed on the E-Service List. **Such parties should monitor the Commercial List Proceeding by accessing the Case Website.** [Emphasis Added.]
11. The Receiver’s concern that publishing the Zar Affidavit would “amplify” the “unproven and potentially harmful allegations” is without merit. 30 Roe is bringing a cross-motion seeking leave to pursue a claim against this very Receiver. The Zar Affidavit is sworn evidence containing necessary factual context about the events that transpired. It also includes several exhibits that substantiate the statements made. While it might be inconvenient to this Receiver and its professional colleagues, the Zar Affidavit is thorough, detailed, and substantiated.
12. In a democratic society founded upon the Rule of Law, anyone, including Mr. Zar, is at liberty to seek recourse through the Court process. The fact that Mr. Zar’s affidavit and claim contains allegations of unsavoury conduct, is no reason to prevent it from

being published on the Case Website. It is not the role of this Receiver or this Court to hide affidavit evidence absent a clear common law or statutory basis to do so.

### **This Receiver is Concerned about Protecting its Professional Network**

13. The request sought in this Case Conference reveals a peculiar concern about protecting its professional colleagues. Respectfully, this is not the role of a receiver.

14. The professionals mentioned in the Zar Affidavit, all of whom have a copy of the Zar Affidavit, can use the legal channels available to them if they believe they have been defamed. None of them have done so.

15. Further proof that the Receiver is especially concerned about protecting its professional network, is the fact that it seeks a sweeping release in favour of KingSett.

Why would a Receiver seek legal relief for KingSett's benefit?

16. Paradoxically, the Receiver's *Aide Memoire* at paragraph 4, explains that:

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.

17. This position is untrue and, therefore, misleading. The Receiver's Notice of Motion for discharge, at paragraph 21, states:

At the request of KingSett, the Receiver is also seeking a release in favour of the KingSett Released Persons. **The Receiver supports the granting of this release on the facts and circumstances of this case.** [Emphasis Added.]

18. This also raises a larger question: why is the Receiver pursuing relief before this Court if it takes "no position" on that relief sought? This proposition clearly lacks credibility.

## **The Zar Affidavit Contains Relevant and Material Evidence**

19. The Zar affidavit contains material evidence for the motion and cross-motion to be heard on February 7, 2024.
20. As this Receiver is seeking a release for KingSett, the Respondent was forced to include information regarding KinSett's conduct leading up to and including this Receivership Application.
21. The Receiver's reliance on *Hill v. Church of Scientology of Toronto* is misguided. That decision deals with a libel action brought by a crown prosecutor. Any of the professionals mentioned in the Zar Affidavit may seek similar recourse. While such a lawsuit might "amplify" the allegations against them, it would be the appropriate venue to deal with the Receiver's concerns.
22. In *Hill*, the Supreme Court of Canada recognized that the good reputation of an individual is a *universally* applicable interest:
- Although it is not specifically mentioned in the Charter, the good reputation of the individual represents and reflects the innate dignity of the individual, a concept which underlies all the Charter rights. It follows that the protection of the good reputation of an individual is of fundamental importance to our democratic society.<sup>4</sup>
23. Where, as here, the Receiver has selectively published material on the Case Website, the Zar Affidavit, outlining his legal position and response, serve to uphold the sentiment expressed in *Hill*.

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<sup>4</sup> *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130 at para. 120.

## **The Receiver's Double Standard: It Can Post False and Defamatory Information about Mr. Zar - but Mr. Zar Cannot Post the Truth About what Transpired in this Application**

24. This Receiver has not hesitated to disparage Mr. Zar in Court documents, which it also does not hesitate to publish on the Case Website. For instance, in its Second Report<sup>5</sup>, it dedicated an entire section described as “Zar’s Allegations”:

During the course of the receivership proceedings, **Zar has made numerous baseless allegations in respect of the Receiver, its counsel, HomeLife and KingSett.** The Receiver and its counsel have responded to these allegations as they consider appropriate. The Receiver has also advised Zar that it does not intend to respond to his allegations on an ongoing basis, and that if he believes he has some basis for a complaint, **the matter should be raised with the Court and will be addressed by the Receiver in that context.** The Receiver does not intend to address these matters in detail as it does not believe they are relevant to the relief sought on the present motion, but reserves the right to do so at a later date and/or in reply should any allegations be made by the Company or Zar before the Court. [Emphasis Added]

25. The Receiver’s Fourth Report also contains a section described as “Zar’s Conduct”.

There, the Receiver alleges Mr. Zar failed to cooperate and has made several allegations against the principal parties in this Application, implying these allegations are groundless.<sup>6</sup>

26. Additionally, the Fourth Report describes events involving Mr. Zar and his former counsel<sup>7</sup> with implications that Mr. Zar’s conduct occasioned unnecessary delays and costs. The Zar Affidavit squarely addresses these and other matters which speak to the issues that will be heard on the Discharge Motion.

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<sup>5</sup> Appendix “D”, Second Report of KSV Restructuring Inc. dated December 5, 2022, at Section 3.4.


<sup>6</sup> Appendix “E”, Fourth Report of the KSV Restructuring Inc. dated May 16, 2023, at Section 3.1.

<sup>7</sup> Appendix “F”, Fourth Report of the KSV Restructuring Inc. dated May 16, 2023, at Section 3.2 at paras. 5 – 7.

**DIRECTION SOUGHT**

27. For all the aforementioned reasons, 30 Roe respectfully requests that the Court direct the Receiver to immediately publish all of the missing documents listed herein to the Case Website forthwith.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 16<sup>th</sup> day of January 2024**



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**Sam A. Presvelos**  
Lawyers for the Respondent



## **APPENDIX “A”**



Electronically issued : 09-May-2022  
 Délivré par voie électronique : 09-May-2022  
 Toronto

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

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

THE HONOURABLE )

MONDAY, THE 9<sup>TH</sup>

JUSTICE CAVANAGH )

DAY OF MAY, 2022

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**

**ORDER  
 (Appointing Receiver)**

THIS APPLICATION made by KingSett Mortgage Corporation (the "**Applicant**") for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing KSV Restructuring Inc. ("**KSV**") as receiver and manager (in such capacities, the "**Receiver**") without security, of (i) the real property legally described in Schedule "A" hereto (the "**Real Property**"), (ii) all of the assets, undertakings and properties of 30 Roe Investments Corp. (the "**Debtor**") acquired for, used in connection with, situate at, or arising from the ownership, development, use or disposition of, the Real Property, including the proceeds therefrom, and (iii) all of the Debtor's rights, claims, advantages, benefits, title and interest in, to and under all agreements, leases, documents, permits, approvals, licenses and instruments in respect of the Real Property and all monies or proceeds payable thereunder

(collectively with (i), (ii) and (iii), the "**Property**"), was heard on May 6, 2022 via Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Daniel Pollack sworn January 7, 2022 and the Exhibits thereto, the affidavit of Elizabeth Fimio affirmed on February 17, 2022 and the Exhibits thereto, and the affidavit of Lorraine Klemens sworn April 26, 2022 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, the Debtor, the Canadian Imperial Bank of Commerce ("**CIBC**") and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavits of service sworn and filed, and on reading the consent of KSV to act as the Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Property.

### **RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security

personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage the Property, including the powers to enter into any agreements or incur any obligations in connection with the Property, or cease to perform or disclaim any contracts of the Debtor in respect of the Property;
- (d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets as necessary or desirable to preserve or maintain the Property or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor in connection with the Property (including, without limitation, any rent payments in respect of the Real Property) and to exercise all remedies of the Debtor in collecting such monies and accounts, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor in connection with the Property;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor (as such proceedings relate to the Property or any portion thereof), the Property or the Receiver, and to settle

or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act* as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions in respect of the Property as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to undertake any investigations deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Debtor,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence

of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, information and cloud-based data of any kind related to the Property, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer, in a cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers and account creating credentials that may be required to gain access to the information.

### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor and relating to the Property, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor relating to the Property or statutory or regulatory mandates for the supply of goods and/or services,



including without limitation, all computer software, communication and other data services, accounting services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor relating to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act, 1999*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act* or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person except those in favour of CIBC, but subject to subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## **FUNDING OF THE RECEIVERSHIP**

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount that is acceptable to the Applicant and as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person except those in favour of CIBC, but subordinate in priority to the Receiver's Charge and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## **SERVICE AND NOTICE**

24. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List

website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [ksvadvisory.com/experience/case/30-roe-investments-corp-](http://ksvadvisory.com/experience/case/30-roe-investments-corp-).

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the net realizations from the Property with such priority and at such time as this Court may determine.

31. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

32. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.



Digitally signed by  
Mr. Justice  
Cavanagh

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## **APPENDIX “B”**

# The Guide Concerning Commercial List E-Service

Effective July 1, 2014

This Guide applies to proceedings on the Commercial List in the Toronto Region, effective July 1, 2014. It *supercedes* all E-Service Protocols for the Commercial List in the Toronto Region, issued before July 1, 2014, which are hereby revoked.

Counsel and parties are advised to refer to the relevant Parts of the [Consolidated Provincial Practice Directions](#) as well as any other relevant [Toronto region-specific Practice Directions and Guides](#) which are available on the Superior Court of Justice website at: [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj).

## Part I: Introduction

Proceedings on the Ontario Superior Court (Commercial List) (the “**Court**” or the “**Commercial List**”) frequently involve multiple and evolving stakeholders located nationally and internationally. These proceedings involve “real time litigation” which, by its nature, requires efficient, effective and cost efficient methods of providing service and notice to stakeholders.

The usual methods of service provided for under the *Rules of Civil Procedure* (Ontario) (the “**Rules**”) do not always operate efficiently in multi-party, multi-jurisdictional proceedings, nor do they take advantage of the most current technologies. Service provisions in Commercial List orders before the development of this guide evolved in an *ad hoc* manner without precision or specificity with respect to such fundamental terms as the “service list”.

The purpose of this Commercial List E-Service Guide (“**E-Service Guide**”) is to provide a uniform method of “substituted service”, under the Rules, that engages modern and efficient processes to effect service and give notice in certain Commercial List proceedings. In order to achieve this purpose the E-Service Guide utilizes three tools:

- a. Service of documents by electronic mail;
- b. A “service list” with defined parameters; and
- c. Mandatory websites containing defined minimum levels of information.

The E-Service Guide will be incorporated by reference in orders at the initial stages of certain Commercial List proceedings as a form of substituted service pursuant to Rule 16.04 of the Rules subject to Rule 17.05.<sup>[1]</sup> A copy of the E-Service Guide will be available on the Commercial List website at: [www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial\\_List](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial_List) and need not be appended to the incorporating order.

The E-Service Guide permits service upon persons on the E-Service List <sup>[2]</sup> by those who have the right to serve and file material in the proceeding under the Rules, an order of the Court or otherwise. The E-Service Guide does not itself give any person the right to serve and file material. To that end, the E-Service Guide is not meant to alter or replace requirements under the Rules with respect to such matters as the delivery of Notices of Appearance. The E-Service Guide is subject to modification by the Court in appropriate cases.

Nothing in this E-Service Guide varies any requirements under the Rules or applicable practice directions with re-



spect to the filing of Court Documents with the Court.

The E-Service Guide will be used in the following insolvency proceedings (collectively, the “**Insolvency Proceedings**”) pending before the Commercial List:

- a. Proceedings under the *Companies’ Creditors Arrangement Act (Canada)* (“**CCAA**”);
- b. Receivership proceedings, including proceedings under the *Bankruptcy and Insolvency Act (Canada)* (“BIA”), the *Courts of Justice Act (Ontario)*, the *Securities Act (Ontario)* and other legislation which provides for the appointment of court officers;
- c. Proceedings under the *Winding-Up and Restructuring Act*;
- d. Division I proposal proceedings under the BIA; and
- e. Any other insolvency-related proceedings, including bankruptcy proceedings under the BIA or other Commercial List proceedings, where the Court determines that it would be beneficial to use the E-Service Guide.

[3]

In addition to the Insolvency Proceedings, the E-Service Guide may be used in large or complex arrangement, reorganization or similar court proceedings under the *Business Corporations Act (Canada)* and the *Business Corporations Act (Ontario)* where the Court determines that its use would be beneficial (“**Reorganization Proceedings**”).

[4] Insolvency Proceedings and Reorganization Proceedings are referred to collectively as “**Commercial List Proceedings**”.

## Part II: Service by Email

1. Electronic mail (“**Email**”) will be the required mechanism to serve documents to be filed in court (“**Court Documents**”) in Commercial List Proceedings. If service by Email is not practicable Court Documents may be served as provided in the Rules.
2. Court Documents are documents that must be served under the Rules with respect to motions or applications in Commercial List Proceedings such as notices of motion, notices of application, affidavits, facta, Court Officer [5] reports and orders.
3. Service by Email on the E-Service List shall be used only for the following purposes:
  - a. Service of Court Documents;
  - b. Delivery of correspondence containing information with respect to motions or applications such as the location or timing of a Commercial List Proceeding or other directions with respect to a proceeding; and
  - c. Circulation of material related to motions or applications such as draft orders.
4. Email sent to the E-Service List shall not be used in order to provide a party’s general comments on the proceedings or to advocate positions or for any other use not specifically provided for herein.
5. The moving party in a Commercial List Proceeding shall seek Court adoption of the E-Service Guide in the or-

der initiating the proceeding (or as soon as practicable thereafter). The following provision shall be included in such order unless varied by the Court:

### **Substituted Service and Case Website [6]**

THIS COURT ORDERS THAT the **E-Service Guide of the Commercial List** (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at: [www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/)) shall be valid and effective service. Subject to Rule 17.05 [7] this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL ‘<@>.’”

6. Except as otherwise provided herein, Email service is a sufficient mode of service of Court Documents without duplicating service by facsimile, hard copy delivery or other method of service.
7. Court Documents should be served by Email by way of HTML link or PDF files. If the party serving the Court Document can create an HTML link to the Court Document prior to serving the Court Document, service of such document by PDF file shall not be necessary. The HTML link must be a link directly to the document being served.[8]
8. To the extent practicable, Court Documents shall be in a format which is compliant with the Guide Concerning e-Delivery.
9. Where a party is serving more than one document by Email of HTML links, the Email shall specify each document being served and shall include a separate HTML link for each document being served.
10. If a Court Document is being served by way of an Email of a PDF file, the party serving the Court Document shall be cognizant of the size of the file and send the Court Document in multiple Emails if the PDF file would appear to be too large to serve in a single Email.
11. If the party serving the Court Document by Email receives notification of a transmission failure, the party serving the Court Document shall make reasonable efforts to ensure that successful Email transmission of the Court Document occurs or that the Email comes to the attention of the intended recipient or his or her firm.[9]
12. Any Court Document served by Email should clearly state in the subject line of the Email: (i) notification that a Court Document is being served; (ii) a recognizable short form name of the Commercial List Proceeding; (iii) the nature of the proceeding; and (iv) the nature of the Court Document.[10] The body of the Email should contain a description of the party serving the Court Document, a brief description of the nature of the Court Document being served, the date of the proceeding and any other specific information with respect to the proceeding such as, for example, a specific commencement time or court location if known.
13. In accordance with Rule 3.01(1)(d), a Court Document served by Email before 4:00 p.m. shall be deemed to be

received that day and Court Documents served after 4:00 p.m. or at any time on a holiday shall be deemed to be received on the next day that is not a holiday.

14. Each party serving a Court Document in a Commercial List Proceeding is responsible for complying with the E-Service Guide. Nothing herein, however, is intended to change the substantive law about who is required to be served with materials in respect of any particular motion or proceeding brought within a Commercial List Proceeding.
15. Even though a Court Document has been served in accordance with this E-Service Guide, a person may show that the Court Document:
  - a. did not come to the person's notice;
  - b. came to the person's notice later than when it was served or effectively served, or
  - c. was incomplete or illegible.
16. Each party serving a Court Document by Email shall prepare an affidavit of service containing the particulars of the service including the E-Service List served, the Email addresses to which Court Documents were sent and the time of the Emailing. A copy of the affidavit of service shall be filed with the Court.

### **Part III: The E-Service List**

17. The E-Service List in a Commercial List Proceeding ("E-Service List") is a mechanism to facilitate service of Court Documents on stakeholders who should be served with Court Documents ("Stakeholders"). Stakeholders include a corporation, body corporate, partnership or individual that has a legal interest in the Commercial List Proceeding. The E-Service List is not intended as a mechanism to generally disseminate information with respect to the status of a Commercial List Proceeding.
18. The E-Service List shall list the names, contact coordinates, including Email addresses, of Stakeholders or their counsel, who may be served by Email in accordance with Part III hereof. Inclusion of a party on the E-Service List allows effective service of Court Documents on such party by Email.
19. After the order is issued authorizing the use of the E-Service Guide in a Commercial List Proceeding, counsel for the party initiating the proceeding, or the appointed Court Officer, if appropriate, (the "E-Service List Keeper") shall prepare the initial E-Service List containing the names and e-mail addresses of Stakeholders upon whom service is to be effected by Email.
20. The E-Service List Keeper shall use its best efforts to ensure that the Email address of a Stakeholder is correct and will result in an effective transmission of Court Documents to the intended recipient when initially placed on the E-Service List. Stakeholders on the E-Service List shall notify the E-Service List Keeper of any subsequent change of their Email address.
21. The E-Service List Keeper shall send an Email to each proposed Stakeholder identifying themselves as the E-Service List Keeper and advising that: (i) the proposed Stakeholder has been placed upon the E-Service List,

- (ii) Court Documents will be validly served upon the proposed Stakeholder by Email; and (iii) that any Stakeholder on the E-Service List may serve Court Documents on any other Stakeholder on the E-Service List in accordance with this E-Service Guide.
22. During the course of the Commercial List Proceeding, the E-Service List Keeper shall add Stakeholders to the E-Service List from time to time as required subject to the procedure set out in paragraph 21.
23. The E-Service List must include the following parties:
- a. Counsel for the applicant/moving party in the Commercial List Proceeding;
  - b. The Court Officer appointed in the Commercial List Proceeding and counsel for the Court Officer;
  - c. Counsel for any party that has delivered a Notice of Appearance under the Rules from time to time;
  - d. Any party or counsel to any party who should be served with Court Documents in accordance with the Rules and the practice in the Commercial List; and
  - e. Any Stakeholder or counsel to a Stakeholder who has filed a Request for Electronic Service (“**RES**”).<sup>[11]</sup>
24. Stakeholders who wish to be placed on the E-Service List in order to receive service of Court Documents in a timely and efficient manner shall Email to the E-Service List Keeper a duly completed RES in the form attached as Schedule “A” hereto<sup>[12]</sup>.
25. If a Stakeholder on the E-Service List no longer has an ongoing legal interest in a Commercial List Proceeding, that Stakeholder may request that the E-Service List Keeper delete that Stakeholder from the E-Service List.
26. Those persons who are interested in monitoring a Commercial List Proceeding but are not required to be served with Court Documents in accordance with the Rules or the practice in the Commercial List are not to be placed on the E-Service List. Such parties should monitor the Commercial List Proceeding by accessing the Case Website.<sup>[13]</sup>
27. A lawyer who files an RES on behalf of a client must identify such client. Lawyers receiving E-Service of Court Documents on behalf of clients must be properly accredited lawyers within the jurisdiction in which they practice. By delivery of such RES, the lawyer warrants his or her authority to receive service on behalf of his/her client.
28. In addition to the E-Service List referred to in paragraph 18 hereof, the E-Service List Keeper shall create and maintain a copyable Word document containing up to date Email addresses of the Stakeholders on the E-Service List (the “**Address List**”). The purpose of the Address List is to allow Stakeholders on the Service List to copy and paste the Email addresses of the current Stakeholders on the E-Service List into Emails serving Court Documents. This process is designed to avoid E-Service of Court Documents using out of date or inaccurate E-Service Lists. The practice of serving Court Documents by “replying to all” on a previous Email is discouraged. The E-Service List Keeper shall provide a current copy of the Address List to the WebHost<sup>[14]</sup> each time the list is updated, as Stakeholders are added or removed.

29. Any party wishing to serve a Court Document in a Commercial List Proceeding shall use the then current copy of the Address List posted on the Case Website to serve the Court Documents. If possible, the serving party shall make enquiries of the E-Service List Keeper to determine if the E-Service List Keeper is aware of parties to be added to the Address List who have not yet been added.
30. During the course of a Commercial List Proceeding, certain motions or applications require service of Court Documents on respondents with an interest in that particular motion or application only; for example, service on lien claimants with an interest only on specific property with respect to a sale approval and vesting order. In such circumstances, the party bringing the motion or application shall prepare a Supplementary E-Service List listing the names and Email addresses of the “one time” respondents that the moving party wishes to serve by Email. The cover Email shall contain the information designated in paragraph 12 and 21 hereof. The affidavit of service with respect to that motion shall include the Supplementary E-Service List.
31. The E-Service List Keeper shall use its best efforts to maintain the E-Service List current and accurate. In addition to any other protection that may be available to it by statute or Court order, the E-Service List Keeper shall incur no liability in carrying out the provisions of this E-Service Guide and, in particular, with respect to the creation or maintenance of the E-Service List, except for any gross negligence or wilful misconduct on its part.

#### **Part IV: The Case Website**

32. The case website hereinafter described (the “Case Website”) will be established for the purpose of:
  - a. Creating a comprehensive and current record of Commercial List Proceedings;
  - b. Allowing easy and inexpensive access to the record of proceedings to Stakeholders involved in Commercial List Proceedings and to parties with a potential interest in the proceedings;
  - c. Providing a mechanism to facilitate service of Court Documents by Email with HTML links to particular Court Documents; and
  - d. Provide a mechanism to facilitate the dissemination of notices and information to larger groups of interested parties such as employees, retirees or general unsecured creditors.
33. The Case Website shall be hosted by the Court Officer appointed in the Insolvency Proceeding or by counsel to the applicant in Reorganization Proceedings (the “WebHost”) or as the Court may order.
34. The Case Website, or a link to the Case Website, shall be located on the WebHost’s website and shall be prominently identified to ensure easy public access to the Case Website and the Court Documents posted thereon. The Case Website shall be specifically devoted to the posting, organization, storage and display of electronic versions of all Court Documents delivered in a Commercial List Proceeding.
35. The Case Website shall be organized in a manner that facilitates the ability of any interested party to easily locate Court Documents delivered in the Commercial List Proceedings and other documentation relevant to the Commercial List Proceedings such as proof of claim forms and creditor meeting documentation.

36. The WebHost shall post the following categories of documents, as served or to be served:
- a. Notices of application/notices of motion;
  - b. All affidavits, including exhibits, and other material filed by an applicant/moving party with respect to an application/motion;
  - c. All responding affidavits, including exhibits, and other material delivered in response to the application or motion by all respondents;
  - d. All facts and written arguments delivered by any party to an application or to a motion;
  - e. Books of authorities;
  - f. All court reports filed by Court Officers;
  - g. All Court Orders, Reasons for Decision and Endorsements;
  - h. The current version of the E-Service List and Address List;
  - i. The name and Email address of the E-Service List Keeper; and
  - j. Any document that requires dissemination to interested parties, such as proof of claim forms, notices of creditor meetings, plan disclosure statements, plans of reorganization and voting letters as requested by the restructuring debtor or the Court Officer.

If the WebHost is uncertain whether a document should be posted on the Case Website as a result of its content, the WebHost may seek directions from the Court at a 9:30 appointment.

37. This list of information to be posted to the Case Website is not meant to be an exhaustive list. The WebHost may post other case-related information to the Case Website in its discretion. In the case of a Monitor under the CCAA, nothing in this E-Service Guide shall affect any requirements set out in the CCAA or the regulations thereunder with respect to the posting of documents to a website by the Monitor.
38. Documents that have been sealed by Court order or documents in respect of which sealing orders are being requested shall not be posted on the Case Website.
39. Any party intending to bring a motion or application in a Commercial List Proceeding shall, if reasonably possible, provide an electronic copy of the motion or application record to the WebHost for posting on the Case Website prior to service. If the motion or application record has been posted on the Case Website, the moving party or applicant may serve the proceeding by Email using a HTML link to the Case Website. Where time does not permit the prior posting of motion or application records on the Case Website, the applicant or moving party shall serve the Court Documents on the E-Service List by Email of a PDF or by HTML link in accordance with paragraph 7.
40. Counsel shall send an electronic copy of Court Documents to the WebHost at the time of service of the Court Documents on the E-Service List.



I acknowledge having read the Ontario Superior Court of Justice Commercial List E-Service Guide. I hereby request to be placed on the E-Service List. By so doing, I agree as a Stakeholder or as counsel to a Stakeholder that the Stakeholder accepts service by electronic means in this case and will be bound by that service:

Stakeholder/ Counsel to Stakeholder

**PLEASE RETURN SIGNED COPY OF FORM TO** <insert name of E-Service List Keeper here>: <email address> | 416-xxx-xxxx

### IMPORTANT NOTES

1. The E-Service List is intended to provide a timely and efficient method for effecting service in Commercial List Proceedings in accordance with the **E-Service Guide**, a copy of which has been posted on the Commercial List website at: [www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial\\_List](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial_List).
2. Persons interested solely in monitoring the proceedings should do so by reference to the Case Website noted above and should not request to be placed on the E-Service List.
3. By filing this RES form, you hereby agree that the Stakeholder accepts service by electronic means as the sole means of service and will be bound by that service.
4. Parties residing outside of Ontario should consider whether, based on substantive law, the delivery of an RES constitutes an attornment to the Ontario proceedings.

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[1] Rule 17.05 deals with service of parties in a “contracting state” within the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed at The Hague on November 15, 1965 – Special requirements may apply to such service which are outside the scope of this E-Service Guide.

[2] As defined in Part III below.

[3] CCAA proceedings involve, by definition, cases with more than \$5 million of debt. No debt level criteria have been provided for other Insolvency Proceedings that may take advantage of the E-Service Guide – though the E-Service Guide, and in particular, the Case Website, may be inappropriate for smaller cases.

[4] Before seeking an order incorporating the E-Service Guide in Reorganization Proceedings, counsel should ensure that their firm has the capability to host the Case Website or that other suitable arrangements are made for the hosting of the site.

[5] Court Officers include Monitors, Receivers, Information Officers, Interim Receivers, Trustees in Bankruptcy, Proposal Trustees and other similar persons.

[6] As defined in Part IV below.

[7] See Note 1.

[8] Where the HTML link is not to the Case Website, the party serving the Court Document shall ensure that the link remains active until the completion of the motion or proceeding relating to that Court Document.

[9] Parties who are on the E-Service List shall ensure that “out of town notifications” or other similar notifications contain the name and Email address of another member of that person’s firm or business to whom the Court Document should be sent.



- [10] By way of example – E-SERVICE: Nortel – Approval of Sale of Assets – Motion Record.
- [11] As defined in paragraph 24 below.
- [12] Parties who do not reside in Ontario should consider whether, based upon the substantive law, the delivery of an RES constitutes attornment to the Ontario proceeding.
- [13] As defined in Part IV below.
- [14] As defined in Part IV herein.

## **APPENDIX “C”**

## HYPERLINKED TABLE OF CONTENTS

<b>TAB</b>
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### HYPERLINKED TABLE OF CONTENTS

1

### NOTICE OF CROSS-MOTION

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

**THE MOTION IS FOR:**

**THE GROUNDS FOR THE MOTION ARE:**

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

### AFFIDAVIT OF RAYMOND ZAR (SWORN NOVEMBER 7, 2023)

2

#### A PRIMER ON THE KINGSETT METHOD

Introduction

KingSett's Values

KingSett's Problem: Raymond Zar

KingSett's Solution: Use Receivership to Force Raymond Zar to Sign a Release

Tactics Employed by KingSett to Obtain Receivership Order as Leverage for Release

**HISTORY: KINGSETT, RUPARELL, RAYMOND ZAR, 30 ROE, and 935 QUEEN W**

April 8, 2019: KingSett Lends 30 Roe \$1.5 million

April 18, 2019: Raymond Zar Incorporates 935 Queen Street West Companies.

October 2019: Ruparell Lends the Willowdale Hotel \$500,000

**MISSING AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 28, 2019) ALLOWING RUPARELL COLLATERAL CHARGE ON 30 ROE**

November 2019: Emails with KingSett

**MATURITY OF THE RUPARELL LOAN, NEGOTIATIONS WITH KINGSETT**

January 31, 2020: Commencement of Negotiations with KingSett for Increase

March 12, 2020: Agreement Reached with KingSett for Increase

March 20, 2020: Blaneys Confirmation KingSett Formally Approved Increase

March 26, 2020: KingSett Reneges on Agreement to Increase KingSett Loan

March 26, 2020: Email to Jon Love for Intervention

March 28, 2020: Scott Coates Falsely Accuses Raymond Zar of Lying

March 29, 2020: Raymond Zar Presents Audio Evidence Refuting Scott Coates

March 30, 2020: Scott Apologizes; KingSett Agrees to Honour our Agreement

**FIRST AMENDMENT TO THE KINGSETT LOAN (DATED MARCH 31,2020) INCREASING THE KINGSETT LOAN TO PAYOUT RUPARELL**

**KINGSETT DRAGS ITS FEET ON IMPLEMENTING THE FIRST AMENDMENT**

April 2020: Emails with KingSett

**RUPARELL MYSTERIOUSLY REVERSES COURSE AND NO LONGER WANTS LOAN REPAYED;  
INSTEAD OFFERS BETTER TERMS THAN KINGSETT**

**May 2020: Ruparell Inducements**

**SECOND AMENDMENT TO THE KINGSETT LOAN (DATED MAY 8 2020) AGREEING TO  
DISCHARGE THE KINGSETT COLLATERAL CHARGE FROM WILLOWDALE**

**RUPARELL MAKES PLAY TO TAKE OVER WILLOWDALE HOTEL**

**December 21, 2020: Meeting at the Willowdale Hotel with Ruparell's Contact at City**

**JANUARY 2021: RUPARELL BREACHES AGREEMENT, AGAIN**

**ROEHAMPTON DEMANDS THAT RUPARELL HONOUR THE AGREEMENT**

**January 24, 2021: Lenczner Slaght Letter to Ruparell's Counsel:**

**KINGSETT DISAVOWS SECOND AMENDMENT, NOTES 30 ROE IN DEFAULT, CITING RUPARELL  
COLLATERAL CHARGE ON 30 ROE**

**January 29, 2021: KingSett Agrees to Discharge KingSett Collateral Charge ONLY if and after the  
Ruparell Collateral Charge is Discharged**

**30 ROE CONTINUES TO DEMAND THAT RUPARELL HONOUR ITS OBLIGATION SO 30 ROE CAN  
CURE KINGSETT DEFAULT**

**January 31, 2021: Lenczner Slaght Email to Ruparell's Counsel:**

**RUPARELL IGNORES CONTRACT, COMMENCES POWER OF SALE; PLACES 12 PROPERTIES  
WORTH OVER \$20 MILLION IN JEOPARDY**

**February 1-3, 2021: Emails from Ruparell's Counsel:**

**30 ROE PRESENTS DOCUMENTARY EVIDENCE OF RUPARELL CONTRACT AND REPEATS  
DEMAND FOR COMPLIANCE WITH THE AGREEMENT**

**February 9, 2021: Lenczner Slaght Email to Ruparell's Counsel**

**RAYMOND ZAR DEMANDS ALL COPIES OF DOCUMENTS REGARDING 935 QUEEN STREET  
WEST. RUPARELL REFUSES TO COMPLY**

**February 10, 2021: Zar Email to Ruparell's Counsel**

**30 ROE ASKS KINGSETT FOR THE DEAL STRUCTURE APPROVED UNDER THE FIRST  
AMENDMENT (INCREASE LOAN BY \$500K AND TAKE BOTH 30 ROE AND WILLOWDALE AS  
SECURITY)**

**February/March 2021 Discussions with KingSett:**

**KINGSETT REFUSES TO PROVIDE 30 ROE ANY ASSISTANCE**

**March 15, 2021: Call with Justin Walton**

**30 ROE PROVIDES KINGSETT WITH COPY OF JANUARY 24, 2021 LENCZNER SLAGHT LETTER  
TO RUPARELL**

**March 28, 2021: Email to Scott Coates**

**March 28, 2021: Email Confirmation of Receipt from Scott Coates**

**EVIDENCE OF RUPARELL DEPLETING EQUITY OF 935 QUEEN STREET WEST BY \$10 MILLION  
THREE HOURS AFTER MY FEBRUARY 10, 2021 EMAIL ABOVE**

**March 29, 2021: Parcel Register Search Reveals Illicit Steps by Ruparell**

**March 29, 2021: Instrument Detail Report Confirms \$10 million mortgage was in reaction to the threat of  
litigation by Raymond Zar**

**KINGSETT AGAIN DECLINES TO ASSIST 30 ROE IN ANY WAY, SHAPE OR FORM**

**March 29, 2021: Call with Scott Coates**

**KINGSETT AGAIN DENIES KNOWING RUPARELL OR DOING BUSINESS WITH RUPARELL (CALL RECORDING)**

**March 30, 2021: Another Call with Scott Coates**

**RAYMOND ZAR THREATENS LEGAL ACTION AGAINST RUPARELL IN RESPECT OF THE ILLICIT \$10 MILLION MORTGAGE REGISTERED ON 935 QUEEN ST WEST**

**March 30, 2021: Email to Ruparell's Counsel**

**March 31, 2021: Email from Ruparell's Counsel Confirming Receipt**

**RUPARELL RETALIATES: THREATENS TO CONTACT OTHER LENDERS UNLESS RAYMOND ZAR GIVES UP OWNERSHIP OF 935 QUEEN ST WEST**

**April 5, 2021: Email from Ruparell's Counsel**

**ROEHAMPTON AND RAYMOND ZAR REFUSE TO BE BULLIED AND INSTRUCT COUNSEL TO COMMENCE LEGAL ACTION AGAINST RUPARELL**

**April 7, 2021: Email from Jeffrey Warren to Ruparell's Counsel**

**RUPARELL ASKS ALAM PIRANI TO BROKER A RESOLUTION**

**April 7, 2021 at 4:21 pm: Call from Alam Pirani**

**KINGSETT MYSTERIOUSLY APPROVES A LOAN INCREASE AND EXTENSION, ENOUGH TO PREVENT US FROM SUING RUPARELL FOR DAMAGES BUT NOT ENOUGH TO PAYOUT RUPARELL ENTIRELY AND SUE FOR 935 QUEEN W**

**April 8, 2021: Email from Justin Walton of KingSett**

**THIRD AMENDMENT TO THE KINGSETT LOAN (DATED APRIL 20, 2021)**

**April 20, 2021: KingSett Issues Third Amendment**

**RUPARELL GETS RELEASE FROM ZAR ON ANY STAKE IN 935 QUEEN ST WEST.**

**May 10, 2021: Release Executed in Favour of Ruparell**

**EVENTS LEADING UP TO KINGSETT'S SECRET RECEIVERSHIP APPLICATION**

**KINGSETT MAKES REPRESENTATIONS TO 30 ROE REGARDING THE KINGSETT LOAN**

**September 27, 2021: Call with Scott Coates and Justin Walton (recorded)**

**KINGSETT'S SELF-SERVING ALTERATIONS TO THE PAPERWORK**

**30 ROE EXTENDS THE KINGSETT LOAN UNTIL DECEMBER 1, 2021**

**October 18, 2021: Email to KingSett Requesting 30-day Extension**

**October 29, 2021: Email from Justin Walton containing Extension Agreement**

**November 9-15, 2021: Emails**

**FOURTH AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 10, 2021)**

**November 10, 2021: KingSett Issues Corrected Fourth Amendment**

**CONFESSION: RUPARELL MAKES SHOCKING CONFESSION**

**November 18, 2021: Call with Deepak Ruparell (recorded)**

**KINGSETT ASKS FOR A CALL**

**November 19, 2021: Email from KingSett Confirming Fee Debit and Requesting Call**

**November 19, 2021: Email to KingSett Confirming Debit But Avoiding Call**

**30 ROE EXTENDS THE KINGSETT LOAN UNTIL JANUARY 1, 2022**

November 29, 2021: Email to KingSett Requesting 30-day Extension

**FIFTH AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 29, 2021)**

November 29, 2021: KingSett Issues Fifth Amendment Containing Error, Again

**CONFRONTATION: RAYMOND ZAR CONFRONTS KINGSETT ABOUT RUPARELL**

December 6, 2021 Email and Demand from KingSett

December 10, 2021 Email from Raymond Zar to KingSett Revealing Ruparell Confession

**30 ROE EXTENDS THE KINGSETT LOAN UNTIL APRIL 1, 2022**

December 16, 2021: Email to KingSett Requesting Three Month Extension

**KINGSETT ACCEPTS LOAN EXTENSION TO APRIL 1, 2022**

December 16, 2021: KingSett Sends 30 Roe Billing Statement Confirming Extension

December 21, 2021: Email to KingSett Confirming Agreement

**KINGSETT CONFIRMS INTEREST IS FULLY PAID**

January 6-7, 2022: Emails with KingSett

**JANUARY 7, 2022: KINGSETT AMBUSHES 30 ROE WITH AN APPLICATION TO APPOINT A RECEIVER**

**JANUARY 17, 2022: THE FIRST HEARING**

CIBC Supports 30 Roe's Request for an Adjournment at the First Hearing

**KINGSETT'S IMPROPER RECEIVERSHIP APPLICATION CAUSES DEFAULT UNDER THE CIBC FIRST MORTGAGES, FRUSTRATING 30 ROE'S ABILITY TO PAYOUT THE SECOND POSITION KINGSETT LOAN**

January 17, 2022: KingSett Destroys Millions of Dollars in Value

**30 ROE ATTEMPTS TO MITIGATE DAMAGES BY SELLING THE UNITS AND TAKING ADVANTAGE OF THE HIGHEST CONDO PRICES IN CANADIAN HISTORY**

January 25, 2022: Email to CIBC Expressing Decision to Sell 30 Roe Units

**30 ROE ATTEMPTS TO LIST AND SELL THE UNITS, BUT KINGSETT OBSTRUCTS PROCESS BY REFUSING TO GRANT PARTIAL UNIT DISCHARGES**

February 8, 2022: Attempted Sale and Partial Discharges

**FEBRUARY 22, 2022 - THE SECOND HEARING**

KingSett Continues to Frustrate 30 Roe's Ability to Retain Counsel

**KINGSETT'S COUNSEL TURNS 30 ROE'S COUNSEL PALIARE ROLAND LLP INTO WITNESS BY ADMITTING KINGSETT'S REAL AGENDA IN PHONE CALL**

February 22, 2022: Call with Ken Rosenberg of Paliare Roland

**30 ROE CONFRONTS KINGSETT, KINGSETT CONFRONTS ZWEIG, ZWEIG CONFRONTS ROSENBERG**

February 23-24, 2022: Email Chain of Events

**30 ROE INSTRUCTS PALIARE ROLAND TO CONTINUE PREPARING FOR THE RECEIVERSHIP HEARING**

March 1-3, 2022: Emails with Paliare Roland

**30 ROE'S ATTEMPT TO LEAVE THE LAWYERS OUT OF THE DISPUTE WITH KINGSETT**

**March 3, 2022: Email to Jon Love**

**PALIARE ROLAND ATTEMPTS TO GET OFF THE RECORD WITH JUST FOUR DAYS' NOTICE; JUSTICE CAVANAGH DENIES REQUEST AND DIRECTS HEARING**

**March 8, 2022: Case Conference with Justice Cavanagh**

**30 ROE FINDS BUYERS FOR SOME UNITS AND REPEATS DEMAND FOR KINGSETT TO GRANT PARTIAL DISCHARGES**

**March 29, 2022: Request for Discharge Statement on Each Unit**

**KINGSETT BREACHES CONTRACT; REFUSES TO GRANT PARTIAL DISCHARGES**

**March 31, 2022: Email response from KingSett's Counsel**

**PALIARE ROLAND REFUSES TO ACT DESPITE COURT ORDER AND REFUSES TO RETURN RETAINER FUNDS SO 30 ROE COULD RETAIN OTHER COUNSEL DESPITE REFUSING TO ACT**

**April 4, 2022: Letter of Direction to Paliare Roland**

**April 6, 2022: Paliare Roland Makes WITH PREJUDICE Offer to 30 Roe**

**April 9, 2022: 30 Roe Rejects Paliare Roland's WITH PREJUDICE Offer**

**PALIARE REMOVAL MOTION: PALIARE ROLAND AND BENNETT JONES DEEMED WITNESSES IN THE DISPUTE BETWEEN KINGSETT AND 30 ROE**

**April 11, 2022: In-Camera Motion Before Justice Penny**

**JUDGE DIRECTS PALIARE ROLAND TO UNCONDITIONALLY RETURN 30 ROE'S TRUST FUNDS**

**April 12, 2022: Paliare Roland Retains LawPRO Counsel, Abides by Court Order, Returns Trust Funds**

**KINGSETT IMPROPERLY INFLATES LEGAL FEES IN ORDER TO PREVENT 30 ROE FROM PAYING OUT THE KINGSETT LOAN WITHOUT SIGNING A RELEASE**

**April 13-14, 2022: Emails with Bennett Jones Re: Legal Fees**

**30 ROE STRIKES LANDMARK DEAL CIBC REINSTATING CIBC MORTGAGES BASED ON NEW \$2.8 MILLION FIRM CAPITAL LOAN TO PAYOUT KINGSETT**

**Early May, 2022:**

**30 ROE RETAINS COUNSEL TO BRING A CROSS-MOTION REQUIRING KINGSETT RETAIN ALTERNATIVE COUNSEL AND TO ACCEPT REPAYMENT OF THE KINGSETT LOAN AND HAVE COSTS ASSESSED**

**May 2022:**

**RECEIVERSHIP HEARING BEFORE THE HONOURABLE JUSTICE CAVANAGH**

**May 6, 2022: Receivership Hearing**

**May 9, 2022: Receivership Order Granted**

**30 ROE'S NOTICE OF APPEAL FILED THE NEXT DAY**

**May 10, 2023: 30 Roe Appeals the Receivership Order of Justice Cavanagh**

**KSV RETALIATES BY RUSHING TO THE PROPERTY AND MISREPRESENTING ITSELF TO RESIDENTS BY CLAIMING "THE OWNER HAS CHANGED"**

**May 11, 2022: At 4:40 pm – Video of KSV Misrepresentation**

**THREATENING EMAIL RECEIVED FROM "EARL. E. DEMIZE"**

**May 21, 2022: Email**

**THE CITY OF TORONTO AUDIT FINDS THAT HOTELS USED AS COVID SHELTERS IMPROPERLY OVERBILLED THE CITY BY OVER \$13 MILLION**

**May 31, 2022: Toronto Star Article**

**KINGSETT PREVENTS 30 ROE'S APPEAL FROM BEING HEARD ON PROCEDURAL GROUNDS**

**June 13, 2022: KingSett's Motion to Quash at the Court of Appeal for Ontario**

**RECEIVERSHIP OF 30 ROE FORMALLY TAKES EFFECT**

**June 13, 2022: Court of Appeal Decides that Leave Required In 30 Roe's Case**

**BRIEF PRIMER ON THE DUTIES OF COURT-APPOINTED RECEIVERS IN CANADA**

**ALLEGATIONS 30 ROE REFUSED TO COOPERATE WITH THE RECEIVER ARE ENTIRELY WITHOUT MERIT**

**June 16, 21, and 29, 2022 Letters from 30 Roe to Receiver's Counsel**

**30 ROE AGAIN SECURES FINANCING, AND KINGSETT AGAIN INFLATES ITS COSTS TO BLOCK THE REFINANCING**

**June 21 to July 11, 2022, emails**

**CALL RECORDING: KSV MADE MISREPRESENTATIONS TO THE COURT AND COMMITTED NEGLIGENCE**

**July 6, 2022, at 4:46 pm: Raymond Zar Call with Noah Goldstein, Murtaza Tallat of KSV and Chris Armstrong of Goodmans**

**July 6, 2022, at 6:48 pm: KSV Distributes Memo on Proposed Sale Process**

**SALES PROCESS APPROVAL MOTION BEFORE JUSTICE MCEWEN**

**July 18, 2022: Approval of the Receiver's Sales Process**

**CONFLICT OF INTEREST: CHRIS ARMSTRONG IS A KINGSETT LAWYER**

**July 26, 2022: Email to Chris Armstrong**

**AUGUST 2022: 30 ROE SECURES \$3 MILLION IN UNCONDITIONAL FINANCING TO DISCHARGE THE RECEIVER, AND FINALLY SUE KINGSETT FOR DAMAGES.**

**SEPTEMBER 2022: CALL RECORDINGS: KINGSETT THREATENS OUR LAWYER AT BLANEYS TO DERAIL THE FINANCING TO PREVENT 30 ROE FROM PAYING OUT KINGSETT WITHOUT SIGNING A RELEASE**

**DECEMBER 2022: EVIDENCE OF KINGSETT'S DIRECT INVOLVEMENT AND INTEREST IN 935 QUEEN STREET WEST (2692201 ONTARIO INC.)**

**DECEMBER 7, 2022: ROEHAMPTON RELEASES STATEMENT IN RELATION TO KINGSETT AND KSV**

**DECEMBER 9 2022: NOAH GOLDSTEIN OF KSV KNOWINGLY LIES TO TORONTO POLICE IN ORDER TO EFFECT THE ARREST OF RAYMOND ZAR'S MOTHER**

**DAMAGES SUSTAINED BY 30 ROE**

**Before the Receivership (January 2022)**

**After the Receivership (October 2023)**

**EXHIBITS**

**EXHIBIT "A" – QUEEN FUND ARTICLES**

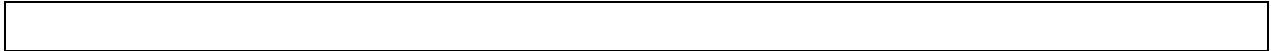
**EXHIBIT "B" – 269 ARTICLES**

**EXHIBIT "C" – MISSING AMENDMENT**

**EXHIBIT "D" – FIRST AMENDMENT**



EXHIBIT "E" – SECOND AMENDMENT  
EXHIBIT "F" – 935 QUEEN PARCEL REGISTER  
EXHIBIT "G" – 935 QUEEN INSTRUMENT REPORT  
EXHIBIT "H" – CALL RECORDING ZAR/COATES MARCH 30, 2021  
EXHIBIT "I" – THIRD AMENDMENT  
EXHIBIT "J" – RUPARELL RELEASE  
EXHIBIT "K" – CALL RECORDING - ZAR, COATES WALTON – SEP 27, 2021  
EXHIBIT "L" – CALL TRANSCRIPT – ZAR, COATES, WALTON – SEP 27, 2021  
EXHIBIT "M" – EXTENSION AGREEMENT  
EXHIBIT "N" – FOURTH AMENDMENT  
EXHIBIT "O" – RUPARELL CONFESSION – CALL RECORDING – NOV 18, 2021  
EXHIBIT "P" – FIFTH AMENDMENT  
EXHIBIT "Q" – ZWEIG DEFAMATION – CALL RECORDING – FEB 22, 2022  
EXHIBIT "R" – 30 ROE AMENDED NOTICE OF APPEAL – MAY 2022  
EXHIBIT "S" – KSV MISREPRESENTATION VIDEO – MAY 11, 2022  
EXHIBIT "T" – JUNE 16, 21, 29 2022 LETTERS FROM 30 ROE TO RECEIVERS COUNSEL  
EXHIBIT "U" – JUNE 21, 2022 TO JULY 11 2022 EMAILS  
EXHIBIT "V" – CALL RECORDING – ZAR, GOLDSTEIN, TALLAT, ARMSTRONG – JULY 6, 2022  
EXHIBIT "W" – CHRIS ARMSTRONG CONFLICT OF INTEREST  
EXHIBIT "X" – ARMSTRONG DRAFT DISCHARGE ORDER  
EXHIBIT "Y" – CALL RECORDING – ZAR WARREN – AUG 30 2022  
EXHIBIT "Z" – CALL RECORDING – ZAR WARREN – SEP 1, 2022  
EXHIBIT "AA" – VIDEO OF RECEIVER NOAH GOLDSTEIN – DEC 9, 2022 at 12:49 pm  
EXHIBIT "BB" –



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**KINGSETT MORTGAGE CORPORATION**

Applicant

- and -

**30 ROE INVESTMENTS CORP.**

Respondent

**AFFIDAVIT OF RAYMOND ZAR (Sworn November 7, 2023)**

**I, RAYMOND ZAR, of the City of Toronto, Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:**

1. I am the sole Director and Officer of the Respondent, 30 Roe Investments Corp. (hereinafter referred to as the (“**30 Roe**” or the “**Company**”) and, as such have knowledge of the matters to which I hereinafter depose. 30 Roe and Raymond Zar do not and do not intend to, waive privilege by any statement herein.

2. Where the information in this affidavit is based upon information and belief, I have indicated the source of my information and belief and do verily believe it to be true. To the extent that any of the information set out in this affidavit is based on my review of documents, I verily believe the information in such documents to be true.

3. I swear this affidavit in opposition to the relief sought by the Receiver and in favour of the relief sought by 30 Roe at the November 14, 2023 hearing.

4. This affidavit is not intended to address every issue between myself, 30 Roe and all of the other entities and individuals listed and discussed herein, including, without limitation, KingSett and KSV.

5. I am the majority shareholder, Director, President and CEO of Roehampton Capital, the parent company of 30 Roe. I previously served as Chief Operating Officer of Skyline Investments, a billion-dollar publicly traded hospitality and real estate development firm with over 2,000 employees. I earned a Master of Business Administration degree from Ivey Business School at Western University and formed Roehampton Capital in late 2017. I also serve as Director of TSCC 2559, the condominium corporation of the Building, a position I have held for the last seven years.

6. The Receiver has refused to fund 30 Roe's legal expenses, and the Receiver controls 30 Roe's funds at this time. I am duly authorized by 30 Roe to act as its legal representative, so it is not barred from access to justice in this matter at this time.

7. In the last two years, I have been authorized to act for 30 Roe by five Judges of the Ontario Superior Court of Justice (Commercial List) and four Justices of the Court of Appeal for Ontario.

8. 30 Roe was the largest owner of the condominium units and related parking spaces and storage lockers (collectively, the "**Units**" or "**Property**") located at 30 Roehampton Avenue, Toronto, Ontario (the "**Building**"), which it operated as a successful corporate housing business known as Roe Suites (the "**Business**").

9. 30 Roe's senior lender was the Canadian Imperial Bank of Commerce (the "CIBC") for \$4.29 million as of January 25, 2023. As of October 2023, CIBC has been repaid in full and no longer has an interest in the Receivership.

10. 30 Roe's junior lender is the Applicant, KingSett Mortgage Corporation ("KingSett"), for \$1.875,000 million (the "KingSett Loan"). The KingSett Loan was funded in April 2019 (below).

## **A PRIMER ON THE KINGSETT METHOD**

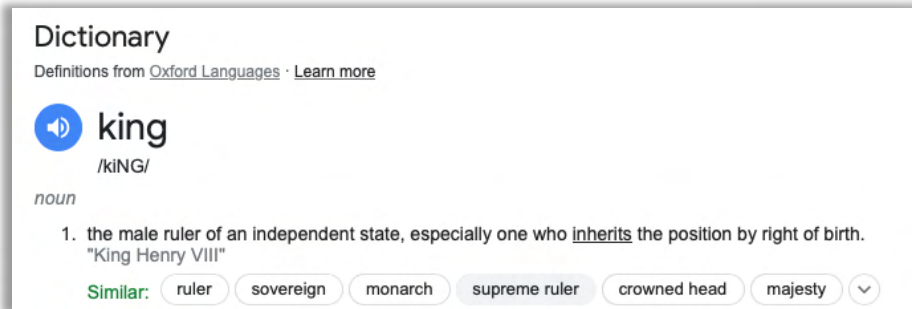
### **Introduction**

11. It is often said that there are two sides to every story, and I eagerly await the day when 30 Roe and my side of this story, of which this affidavit provides only a glimpse, is comprehensively presented in court. That will ensure that KingSett is finally held accountable for the immense pain, distress, and harm it has inflicted upon my family, my health, my reputation and my business interests.

12. As the subsequent sections of this affidavit will delve into various instances of rather severe and egregious misconduct by KingSett, KSV various counsel, and others, I believe it would be beneficial for the reader to first receive a brief introduction from me on what I refer to as the "KingSett method".

## KingSett's Values

13. Names serve as the earliest introduction to an individual, a brand, or a collective entity. When Jon Love founded KingSett, his first decision was to choose a name for his new company. Jon Love chose to call his company King. Oxford Dictionary defines the word King as follows:



14. Just as we select a name for a company, we also select the words that we feel best represent our values. In the case of KingSett, they have written a handful of pleasant words on their website that they claim to represent their values, but the most precise reflection of our values lies in our actions; our actions unveil the complete truth. As delineated below in this affidavit, KingSett's actions unmistakably affirm that its name is the truest representation of its values, how it sees itself and how it sees others.

## KingSett's Problem: Raymond Zar

15. Litigation provides a range of legal remedies to a problem. To understand KingSett's litigation strategy, we must grasp the underlying problem that KingSett aimed to remedy and ascertain the rationale behind its choice of remedy, which, in this instance, was the appointment of a Receiver over the assets of 30 Roe – and by extension, a significant part of my net worth.

16. KingSett's stated objective on paper has been that it merely wanted its \$1,8750,000 second mortgage paid back. But that cannot be true given the evidence adduced at [Exhibit Q](#) (the Zweig admissions to Rosenberg), which proves that from the onset, KingSett's true objective was to "*get rid of Raymond [Zar]*". Thus, the problem KingSett sought to remedy, contrary to its representation to the Court, was Raymond Zar – not repayment of a mortgage.

17. In this affidavit, I have adduced evidence that KingSett lied about not knowing and/or doing business with Ruparell.

18. I have adduced evidence of KingSett's extensive track record of conveniently disregarding contractual obligations and only honouring its commitments when faced with the irrefutable evidence of voice recordings.

19. I have adduced evidence that KingSett had comprehensive knowledge of the Ruparell dispute prior to suddenly agreeing to give up additional security while simultaneously increasing the KingSett Loan and thus increasing its risk exposure.

20. I have adduced evidence proving that KingSett's actions and misrepresentations directly culminated in the Ruparell Release and my forfeiture of any stake in the property situated at 935 Queen St West – all while KingSett falsely maintained it did not know and/or do business with Ruparell.

21. I have adduced evidence that in retaliation to my confronting KingSett about the Ruparell Confession, KingSett ambushed me with a motion to appoint a Receiver, under false pretenses, and for a loan with no interest outstanding and fully secured with million in equity – equity that KingSett destroyed to leverage me into signing a release.

22. By this point, I could have ceased my pursuit of the truth and of additional causes of action, believing there could be no more to uncover. As it turns out, I was only seeing the tip of the iceberg.

23. As elaborated upon in subsequent sections of this affidavit, in December 2022, I came across evidence of KingSett's involvement in 935 Queen Street West and the existence of an impending transaction with the City of Toronto that stood to generate shareholders of 935 Queen Street West an estimated sum between \$60 to \$100 million.

24. Raymond Zar was always the problem. First, for Ruparell – a problem which KingSett resolved for Ruparell by making misrepresentations to me. And, as it turns out, for KingSett, given the December 2022 discovery of KingSett's interest in 935 Queen St West.

### **KingSett's Solution: Use Receivership to Force Raymond Zar to Sign a Release**

25. Now that we understand KingSett's problem, we can understand why it chose the remedy of Receivership under the guise of enforcing on a measly \$1,875,000 mortgage that Justice Cavanagh determined had a disputed maturity date, no interest outstanding, and was entirely secure.

26. First, KingSett possesses a wealth of experience in receiverships, making it a familiar and well-versed environment. Additionally, KingSett maintains a remarkably close relationship with KSV Advisory Inc. ("KSV"), the firm exclusively designated by KingSett as the purported independent disinterested receiver. However, as the evidence herein reveals, KSV falls far from the standard of independence and disinterest. KingSett's utilization of KSV effectively affords it absolute control over the company in receivership.

27. Second, KingSett employs a strategic approach to generate conflicts with the intent of obstructing the opposing party from securing experienced and proficient legal counsel. This tactic is exemplified by two particular instances outlined in this affidavit wherein KingSett compelled our lawyer at Paliare Roland to resign by turning them into a witness and then threatened our counsel at Blaney McMurtry with loss of KingSett business if Blaneys continued to act for us.

28. Third, KingSett improperly utilizes the law firm(s) that represent KSV as its legal counsel on the initial application for a receiver. This practice results in a financial conflict of interest and an incentive for the law firm, as the granting of the application will lead to more business for KSV, thus ensuring the satisfaction of both KingSett and KSV. However, KingSett takes it a step further - prior to filing the application, it directs KSV to engage legal counsel bound by a sworn duty of loyalty to KingSett. This guarantees that neither the receiver (KSV) nor its purportedly independent counsel can take actions contrary to KingSett's interests or preferences. The evidence supporting these facts is adduced in the sections below.

29. In essence, KingSett enjoys the advantages of a court-appointed receiver while simultaneously exerting control over the actions and decisions of that court-appointed receiver as if it were privately appointed.

30. Fourth, KingSett capitalizes on the collective memory of the judges presiding over the Ontario Superior Court of Justice Commercial Lists (the "Commercial List"), many of whom have overseen no less than half a dozen KingSett receiverships within the past five years. These KingSett receiverships, except for 30 Roe, have virtually always involved debtors accused of fraudulent activities, money laundering, misappropriation of funds, and non-compliance with court orders and can aptly be described as fraudulent individuals.



31. Consider the most recent KingSett receivership of various StateView Homes companies, where public filings reveal the disappearance of hundreds of millions of dollars. Similarly, the KingSett receivership of Sunrise Homes last year, as per public records, indicates the misappropriation of at least \$14 million in funds. Several years prior to that, the KingSett Receivership of the Textbook Group involved the misappropriation of millions of dollars, necessitating a mareva injunction. Consequently, the Commercial List has a collective memory of KingSett receiverships where KingSett is portrayed as the wronged party, while the debtor is characterized as the one committing wrongdoing.

32. Unfortunately, this situation leads to a form of guilt by association. If you find yourself as a debtor facing a KingSett receivership, the assumption is that you must have committed wrongdoing.

33. How and why KingSett lends to so many fraudsters is beyond the scope of my affidavit and a question for KingSett.

34. In conclusion, receiverships stand as KingSett's preferred legal recourse. While it is meant to serve as a protective shield, in the hands of an entity that views itself as King, that shield has been wielded as a sword against both me and 30 Roe.

35. The evidence at trial will show that KingSett utilized this shield as a sword when it ambushed me with its motion to appoint a Receiver right after I confronted KingSett about the Ruparell Confession – all to extract a release from me and cover up its involvement with Ruparell and in 935 Queen St West.

**Tactics Employed by KingSett to Obtain Receivership Order as Leverage for Release**

36. I will now speak to some of the specific tactics used by KingSett in the 30 Roe matter leading up to obtaining the Receivership Order.

37. One, KingSett created the illusion of urgency by concealing its preparation of the Receivership Application until a mere five business days prior to the hearing date it arbitrarily selected.

38. Two, when the KingSett Loan was funded, KingSett encouraged 30 Roe to use the same lawyer as KingSett for the closing – Blaney McMurtry. Over the years, Blaney had become our main law firm. Consequently, when the KingSett application was served, we found ourselves without legal representation.

39. Three, KingSett takes its approach to conflicts a step further – it regularly engages legal counsel that previously opposed it, thereby ensuring that these law firms are restricted from taking actions against KingSett in the future without KingSett's consent. As a recent example, just about two weeks ago, KingSett enlisted the services of Chaitons, a firm that had previously represented CIBC in the 30 Roe matter and had adopted positions that KingSett did not favour. Going forward, Chaitons is bound by this engagement and cannot act contrary to KingSett's wishes.

40. Four, Bennett Jones and, by extension, KingSett turned our lawyer at Paliare Roland into a witness in the matter, forcing him to resign and leaving us without counsel a mere nine business days before the Receivership Hearing on May 6, 2022.

41. Five, KingSett employed the very complications it had deliberately caused, including the presence of conflicting counsel, the short notice for serving materials and scheduling hearings without prior notice. KingSett then used these complications to argue in court that 30 Roe was

responsible for causing delays. This tactic was aimed at portraying 30 Roe as being in the same category as past KingSett debtors who were brought before the Commercial List, even though this characterization couldn't be further from the truth.

42. Six, KingSett made it very difficult to payout the KingSett Loan the moment it served its motion to appoint a Receiver. This is because the mere act of commencing receivership proceedings caused a default under the CIBC first mortgage and meant 30 Roe had to pay not only payout KingSett but also CIBC to avoid being placed into receivership. This was, in effect, execution before trial.

43. Seven, KingSett refused to issue partial discharge statements despite its contractual obligation to do so. This breach of contract obstructed 30 Roe's right and ability to sell the Units individually and payout the KingSett Loan on each sale to avoid being placed into receivership.

44. Eight, there is but one constant in KingSett's conduct throughout this matter: the deliberate inflation of costs. This tactic is aimed at obstructing the unconditional discharge of the KingSett Loan, thereby allowing KingSett to maintain leverage over both me and 30 Roe so that we sign a release in favour of KingSett and abandon any pursuit of legal action against KingSett for all the wrong it committed, harm it caused and liability for the damages we have suffered.

45. The evidence adduced in this affidavit indisputably demonstrates that KingSett, aided by KSV, has systematically impeded the repayment of the KingSett Loan unless accompanied by a signed release in favour of KingSett and its lawyers including the waiver of statutory rights to assess legal fees claimed. It is important to note that KingSett did not originate this tactic. In fact, even Paliare Roland attempted a similar maneuver to secure a release by withholding 30 Roe's retainer trust funds hostage, just as KingSett has held 30 Roe's assets hostage. As described in the

sections below, the court did not look favourably upon this tactic and directed that the firm return the trust funds to 30 Roe without conditions. I firmly believe that, at the culmination of the eventual trial seeking damages from KingSett and KSV, the trial judge or jury will conclude that the evidence presented establishes KingSett's liability to 30 Roe and me for damages.

## **HISTORY: KINGSETT, RUPARELL, RAYMOND ZAR, 30 ROE, and 935 QUEEN W**

### **April 8, 2019: KingSett Lends 30 Roe \$1.5 million**

46. The \$1.5 million KingSett Loan was used to repay, amongst other things, a second mortgage owing to 729171 Alberta Inc., a company controlled by an individual named Deepak Ruparell (collectively "**Ruparell**"). KingSett's original security documents did not contain explicit consent to a court-appointed Receiver in the event of default. At all material times, KingSett and Ruparell denied having any relationship with each other.

47. The \$1.5 million KingSett Loan was secured by a second position charge on the 30 Roe Units and a second position collateral charge of \$300,000 registered against The Willowdale Hotel, a property owned by another subsidiary of Roehampton Capital ("**KingSett Collateral Charge**").

### **April 18, 2019: Raymond Zar Incorporates 935 Queen Street West Companies.**

48. I partnered with Ruparell in respect of a property located at 935 Queen Street West in Toronto ("**935 Queen W**"). In this regard, on April 18, 2019, I incorporated QUEEN ST. WEST FUND I INC. ("**Queen Fund**") and 2692201 ONTARIO INC. ("**269**") and served as their sole

Director. Attached hereto as [Exhibit “A”](#) is a copy of the articles of incorporation of Queen Fund. Attached hereto as [Exhibit “B”](#) is a copy of the articles of incorporation of 269.

49. 269 is the owner of the property located at 935 Queen Street West in Toronto. Queen Fund is the owner of 269. Ruparell and I were, in turn, shareholders of Queen Fund.

50. At no time was it disclosed to me that KingSett was involved with Ruparell, Queen Fund or 269.

### **October 2019: Ruparell Lends the Willowdale Hotel \$500,000**

51. In October 2019, Ruparell agreed to lend the Willowdale Hotel (another subsidiary of Roehampton Capital) a \$500,000 loan secured by a second position charge on The Willowdale Hotel (the “**Ruparell Loan**”). However, due to the prevailing KingSett Collateral Charge on the Willowdale Hotel occupying the second position, the Ruparell Loan security would be relegated to the third position.

52. Consequently, a specific deal structure was negotiated with Ruparell: Until the KingSett Collateral Charge was either discharged or postponed, Ruparell could temporarily register third position collateral charges on the 30 Roe Units behind KingSett (“**Ruparell Collateral Charge**”). However, upon the discharge of the KingSett Collateral Charge on the Willowdale Hotel, Ruparell committed to discharging the Ruparell Collateral Charge from 30 Roe Units.

**MISSING AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 28, 2019)  
ALLOWING RUPARELL COLLATERAL CHARGE ON 30 ROE**

**November 2019: Emails with KingSett**

53. On November 4, 2019, I contacted Justin Walton, Executive Director of Mortgage Investments at KingSett (“**Justin Walton**”). I summarized the situation, asking for either a postponement of the KingSett Collateral Charge, or, alternatively, for KingSett to lend us an additional \$500,000 that we would use to payout the Ruparell Loan. Below is my email of November 4, 2019:

From: **Raymond Zar** <rz@roehamptoncapital.com>

Date: Mon, Nov 4, 2019 at 11:54 AM

Subject: KingSett Postponement - The Willowdale Hotel

To: Justin Walton <jwalton@kingsettcapital.com>

Justin,

As you may recall, KingSett registered a collateral charge of \$300,000 on one of our other assets, The Willowdale Hotel, at 170 Willowdale Avenue in Toronto. This was as part of security for the \$1.5 million second mortgage on our 30 Roehampton Avenue properties.

At the time, I had mentioned that we would be looking to raise the additional \$500k we require through other sources since KingSett only offered to lend \$1.5 and not the original \$2 million we were seeking. The Willowdale Hotel is valued at \$6.5 million and only has a \$3.5 million first mortgage. As such, the position of your \$300k collateral charge (currently 2nd position) is disproportionate to the equity available in this asset.

We have now secured the additional \$500k we required by way of a second mortgage on The Willowdale Hotel. To remain compliant with the terms of the new financing we have secured, we will need KingSett to sign the attached acknowledgement and direction, postponing its collateral charge behind the new lender.

Alternatively, we are open to offering you the same terms as the new lender for the additional \$500k, which is 10% plus a 2% fee and that way you will have a \$500k second charge on The Willowdale Hotel for the new loan along with a \$300k third position collateral charge for the 30 Roehampton loan.

Please let me know which option you prefer.

Regards,  
Raymond

54. Shortly after the above email, Justin Walton told me that KingSett did not feel that the Ruparell Collateral Charge was “a big deal” and that the status quo could simply be maintained (i.e., the KingSett Collateral Charge on Willowdale and the Ruparell Collateral Charge on 30 Roe).

While I was relieved to hear Justin Walton confirm this, I wanted to have this in writing so that KingSett could not claim that it took issue with the Ruparell Collateral Charge in the future.

55. In this regard, on November 29, 2019, Justin Walton emailed me a signed missing Amendment to the KingSett Loan dated November 28, 2019 (the “**Missing Amendment**”), which, amongst other things, acknowledges and explicitly permits the Ruparell Collateral Charge. Attached hereto as [Exhibit “C”](#) is a copy of the November 28, 2019, Missing Amendment.

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Fri, Nov 29, 2019 at 9:16 AM  
Subject: FW: KingSett Capital - Scanned Document  
To: Raymond Zar <rz@roehamptoncapital.com>

Can you review and sign the attached. I am getting the postponement signed now.

Justin Walton  
KingSett Capital  
T. 416.687.6757  
C. 416.770.0434

56. It is important to note that KingSett omitted the Missing Amendment in its Receivership Application record, and KingSett failed to disclose its existence to the Court.

## **MATURITY OF THE RUPARELL LOAN, NEGOTIATIONS WITH KINGSETT**

### **January 31, 2020: Commencement of Negotiations with KingSett for Increase**

57. The Ruparell Loan was set to mature on February 28, 2020, and Ruparell had indicated that he required the Ruparell Loan to be paid back. As such, on January 31, 2020, I emailed Justin Walton to request an increase to the KingSett Loan. Below is the email I sent:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Jan 31, 2020 at 4:35 PM  
Subject: KingSett 2nd Mortgage on 30 Roe  
To: Justin Walton <jwalton@kingsettcapital.com>

Justin,

I hope all is well.

At the time of our transaction, 30 Roe was appraised at \$7.6 million (Jan 2019 Colliers appraisal). There is a \$4 million CIBC 1st mortgage on the property. KingSett gave us \$1.5 million (68.42% of the appraised value minus the CIBC 1st).

Attached is a spreadsheet outlining the latest sales at 30 Roe along with a copy of the actual MLS listings. There has been quite a lift in the prices, which given the latest TREB report, should come as no surprise.

Even at a conservative \$8.5 million valuation and using the same 68.42% LTV KingSett used, we would ask that the loan be increased to \$1.8 million (\$8.5m @ 68.42% minus the \$4m CIBC 1st).

Alternatively, we would ask that the collateral charge of \$300,000 on The Willowdale Hotel be released since your LTV on 30 Roe has improved drastically.

### **March 12, 2020: Agreement Reached with KingSett for Increase**

58. On or around March 12, 2020, an agreement was reached with KingSett, whereby KingSett would (a) Increase the KingSett Loan from \$1.5 million to \$2 million, (b) increase the interest rate from 8% to 9%, and (c) register a \$2 million blanket charge on both 30 Roe and The Willowdale Hotel

### **March 20, 2020: Blaneys Confirmation KingSett Formally Approved Increase**

59. On March 20, 2020, Jeffrey Warren, our lawyer at Blaney McMurtry LLP (“**Blaneys**”), advised me that KingSett’s lawyer, Kym Stasiuk at Blaneys, had confirmed that the above amendment had been formally approved. Here is a copy of that email:



From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Fri, Mar 20, 2020 at 2:31 PM  
Subject: RE: FW: EXTERNAL: 170 Willowdale  
To: Raymond Zar <rz@roehamptoncapital.com>

Kym has told me that the amendment to the loan has been approved formally but not yet put into writing but he has been instructed to proceed. He expects to have paper to me on Monday. He said that with everything that is going on, KingSett expects to fund late next week or early the week after

Jeffrey M. Warren

[jwarren@blaney.com](mailto:jwarren@blaney.com)

📞 416-593-3962 | 📞 416-594-2434

**From:** Raymond Zar [mailto:[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)]

**Sent:** March 20, 2020 1:42 PM

**To:** Jeffrey M. Warren

**Subject:** Re: FW: EXTERNAL: 170 Willowdale

Can you check with Kym once more? Justin Walton just told me again on the phone moments ago that he has sent instructions to Kym.

Regards,  
Raymond

60. Around this time, there was growing tension between myself and Ruparell concerning the maturity of the Ruparell Loan, and I was not pleased with how Ruparell was acting aggressively and insensitively despite the COVID-19 crisis that had just occurred. As such, once KingSett informed me that it was going to fund the \$500,000 to payout the Ruparell Loan despite the COVID-19 crisis, and in reliance of same, I broke the news to Ruparell confidently and assertively and took the opportunity to highlight my discontent with how Ruparell conducted himself and contrasted it with KingSett's support for and confidence in Roehampton 30 Roe, and my leadership as CEO, as demonstrated by KingSett's decision to increase the KingSett Loan amid a pandemic.

### **March 26, 2020: KingSett Reneges on Agreement to Increase KingSett Loan**

61. By March 26, 2020, we had still not received the amendment letter from KingSett. Below is my email to Justin Walton and his reply:

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Thu, Mar 26, 2020 at 3:22 PM  
Subject: RE: KingSett 2nd Mortgage on 30 Roe  
To: Raymond Zar <rz@roehamptoncapital.com>

Not yet. I actually have a meeting with Credit at 4pm today so I'm going to get discuss then. Will call you no later than 5:30pm with an update.

Justin Walton  
KingSett Capital  
T. 416.687.6757  
C. 416.770.0434

From: Raymond Zar <rz@roehamptoncapital.com>  
Sent: Thursday, March 26, 2020 3:17 PM  
To: Justin Walton <JWalton@kingsettcapital.com>  
Subject: Re: KingSett 2nd Mortgage on 30 Roe

Justin - I hope all is well. Do you have the amendment yet?

Regards,  
Raymond

62. Following the above email, I received a call from Justin Walton and the President and Group Head of Mortgage Investments at KingSett, Scott Coates (“**Scott Coates**”). Justin Walton had been my primary contact at KingSett; I was taken aback that Scott Coates was on the call, especially since this was not disclosed to me when the call was scheduled.

63. On the call, Scott Coates wasted no time to tell me that to him, the matter was personal, that he did not appreciate me “running to the principal office” the year prior (in reference to my contacting Jon Love, CEO of KingSett (“**Jon Love**”) when Scott Coates tried to block the deal at the last minute the year prior), and that he “didn’t like the deal then, and doesn’t like the deal now.” Scott Coates went out of his way to make it clear to me that he was the “Chair of the Credit Committee” and, according to my notes, “controlled [my destiny] at KingSett.”

64. What Scott Coates said, especially his reference to the “principal's office,” made it feel like he saw himself as a class bully. Here is a copy of the email from the year prior that summarizes the first time we had to ask Jon Love to intervene:

From: **Jon Love** <JLove@kingsettcapital.com>  
Date: Thu, Mar 21, 2019 at 8:47 AM  
Subject: RE: KingSett loan to Roehampton Capital  
To: Raymond Zar <rz@zaradvisory.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

Raymond thank you for your note, I will be on this immediately  
Scott- please review and lets discuss  
Thanks  
Jon

**Jon Love**  
CEO, KingSett Capital

From: Raymond Zar <rz@zaradvisory.com>  
Sent: Thursday, March 21, 2019 8:43 AM  
To: Jon Love <JLove@kingsettcapital.com>  
Subject: Imp: KingSett loan to Roehampton Capital

Jon,

We have a situation which I am hoping we can work together to resolve.

Back in January, we went to market to refinance an existing second mortgage on one of our assets (a whole floor on nine penthouses at Yonge & Eglinton) with a new \$2 million facility to decrease interest expense and increase working capital.

During the discussions, we had floated the idea that KingSett set up a larger facility in the \$2.5m range which would have additional security tied to it: a second charge on a boutique hotel we own at Yonge & Sheppard. KingSett declined because the hotel was non-branded and said it would only lend against the nine penthouses. After a month of negotiations and review by your underwriting team, KingSett offered to lend \$1.5 million, \$500k less than our ask. Though other firms were willing to fund the full \$2 million, we accepted KingSett's offer because of its strong reputation in the market. To us, the relationship with KingSett was more valuable than the additional funds' other firms had offered.

Our condition precedents were satisfied on March 5th, and the site tour with Justin Walton was completed on March 12th. By the end of the tour, we were advised that everything was in order and that we could aim for a March 22nd closing and so we commenced the process with our lawyer. Coincidentally, it turned out that we both work with Blaney McMurtry and though there would usually be a conflict in such a case, we were told that KingSett was comfortable enough to waive the conflict. We saw this as yet another indication of KingSett's strong reputation and commitment to closing.

Yesterday, two days before what was to be the closing, we were told that KingSett would not honour our deal but that KingSett would agree to proceed if we agreed to provide additional security by way of a second charge on our boutique hotel (in addition to the second charge on the nine penthouses). This was both an unreasonable and impossible ask. First, KingSett already passed on lending against the hotel asset, citing that it was not branded. Second, KingSett was aware that we were in the process of beginning a major renovation and expansion at the hotel and that the construction financing would be unattainable if KingSett also encumbered that asset.

Given the assurances we received from KingSett, we had requested payout statements from the existing lenders whom we had advised could expect their funds back shortly. These lenders went on to plan accordingly and are waiting to be paid out. At the same time, we sent notice out to the other firms that competed against KingSett for our business and advised them that we had secured the funding we required. Both these representations are now at risk of being untrue.

Jon, I have been a long time follower of your leadership in the industry - both as one of its members and as a fellow Ivey alumnus. I especially enjoyed watching your speech at the 2016 convocation. Like you, I take great pride in my reputation and for "doing what I say, and saying what I mean". To now be faced with the prospect of having to go back on my word with the existing lenders and to go back to market after two months and conduct this process all over again would certainly be detrimental to the record I have worked hard to achieve.

I hope this may be a simple case of miscommunication and that we can close on the deal that we had agreed on.

I look forward to hearing from you.

Best regards,  
Raymond

## March 26, 2020: Email to Jon Love for Intervention

65. While the matter was personal to Scott Coates, it was not so to me. I felt sorry for Scott Coates and wondered if he may be dealing with stress induced by the pandemic, perhaps causing him to act and speak irrationally.

66. We had a deal, and I expected KingSett to honour our deal. Given Scott Coates' state and refusal to reason, I once again (one year after the first time) wrote to Jon Love, outlined the facts, and simply asked that KingSett "Honour the agreement we had." Below is that email:

**From:** Raymond Zar <[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)>  
**Sent:** Thursday, March 26, 2020 5:40 PM  
**To:** Jon Love <[JLove@kingsettcapital.com](mailto:JLove@kingsettcapital.com)>  
**Subject:** Imp: Honour the agreement we had

Jon,

Scott Coates just advised me that KingSett will not honour the agreement we made with Rob Kumer on March 12th as follows:

- Loan principal increase from \$1.5 million to \$2 million.
- Interest rate increase from 8% to 9%.
- KingSett would increase its 2nd position charge on two assets from \$1.5 million and \$300k respectively to a blanket \$2 million charge on both assets (9 penthouses and one boutique hotel).

On March 20th, Blaneys confirmed in writing that "the amendment to the loan has been approved formally but not yet put into writing, but that [they] have been instructed to proceed."

On Friday, March 20th, Justin Walton reiterated that Rob Kumer was the last step in the approval and that Rob had approved the deal and that the only reason for the delay was because everyone was working from home.

KingSett's word has significant weight in our industry - that has never been more important than it is today. Perhaps this may be miscommunication. We are prepared to close on the deal we had struck and ask that KingSett do the same.

I look forward to hearing from you.

Regards,  
Raymond

### **March 28, 2020: Scott Coates Falsely Accuses Raymond Zar of Lying**

67. In the days following my email to Jon Love, various calls were made with Justin Walton and Scott Coates. In one such call on March 28, 2020, Scott Coates became louder and accused me of lying about what KingSett had agreed to. He attacked my integrity and went on a rant about how he tried to block the deal back in 2019, but I ran to Jon Love and "told on him" but that Jon was not going to come to my "rescue" this time and that Scott had "all the power."

### **March 29, 2020: Raymond Zar Presents Audio Evidence Refuting Scott Coates**

68. I did not seek conflict with Scott Coates and did not understand why Scott Coates was making everything personal. I found Scott Coates' statements to be profoundly hurtful and incredibly unprofessional. It was as though Scott Coates had a personal vendetta against me and was focusing KingSett's resources towards causing me harm. In response to Scott Coates' assault on my integrity and good name, I sent him a call recording which proved that everything I had said was true. Here is the email exchange:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Sun, Mar 29, 2020 at 4:16 PM  
Subject: Re: Telephone Call Together  
To: Scott Coates <SCoates@kingsettcapital.com>

In light of the call record and written confirmation of approval and funding from your lawyer, are you in agreement to revisit your decision to pull funding?

69. In the following email, Scott Coates acknowledges listening to the recording and begins taking a different approach. Rather than accuse me of lying (which he would no longer do given the recording), he demanded that I delete all recordings – the very proof I used to defend against his false accusations against me – against my integrity and reputation.

70. I reminded Scott Coates that the recordings were made under Ontario's one-party consent law, were proper, and that their use was only necessitated by KingSett's refusal to honour our agreement. Here is that email exchange:

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Sun, Mar 29, 2020 at 4:50 PM  
Subject: KingSett / Raymond Zar  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Thanks for your email Raymond.

I've cc'd Justin Walton.

I'll reach out to you tomorrow afternoon following a scheduled meeting we have at KingSett regarding your loan.

P.S. We've never given you consent to record your telephone calls with KingSett and hereby request that you delete all recordings that you've made of your calls with KingSett life-to-date. Yesterday's telephone call together (Scott Coates, Justin Walton, Raymond Zar @ 4pm) was the first and only call we've ever had with you wherein you mentioned you've been recording your KingSett telephone calls to which I responded by asking you not to record the call we were currently then on; to which you, in turn, responded by saying that you were not recording it. Thank you for that. I also advised you on that same 4pm call yesterday and am advising you again by way of this email that you never have had nor do you have today (nor will you have going forward) the permission to record any of your telephone calls (past, present or future) with KingSett; accordingly, I would ask that you immediately destroy all of your original recordings of past conversations with KingSett and any copies (in whole or in part) of any such recordings. Thank you in advance for your cooperation in this regard. The immediate destruction of these recordings is greatly appreciated.

P.P.S. I will be in touch with you tomorrow. As said, it won't be until the afternoon. I can't say exactly what the time will be at this writing for which I apologize. Will let you know the moment I have more clarity.

Regards,

Scott

**Scott Coates**  
Group Head  
Mortgage Investments  
W: 416-687-6702  
M: 416-258-7074

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Sun, Mar 29, 2020 at 5:09 PM  
Subject: Re: KingSett / Raymond Zar  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

I do not agree with your characterization of events. To be clear - any recordings made would strictly pass the "one-party consent" requirement by law as I was a participant in all of them, and I consented to the recording. Respectfully, KingSett's consent was not required.

The simplest remedy to your issue of being recorded is to practice keeping your word and doing what you say.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Sun, Mar 29, 2020 at 10:31 PM  
Subject: Re: KingSett / Raymond Zar  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Rob Kumer <RKumer@kingsettcapital.com>

Scott,

First, I do not engage in surreptitiously recording any conversations for malicious purposes. I have many discussions throughout the day, and my management style is one where I am quite hands-on and not accustomed to relying on an executive assistant that listens to my calls and takes notes. In the past, I took detailed notes during my calls, which I then used to update my status report. As the number of active files increased, this practice became time-consuming and, at times, took an entire day for me to get through.

That is why I implemented my current system, which automatically transcribes my calls, allowing me to focus on the conversation without the distraction of notetaking or the missed details and outright errors that manual notes can entail.

This is the first time I have had to resort to pulling transcripts of a call to defend myself against the false assertion that I am lying about what was said. It gives me no pleasure to do so.

Second, I agree with your sentiments below, and I feel we share the same views on how business ought to be conducted. But please try and look at things from my perspective. My first interaction with you was as a result of your sudden decision to pull the \$1.5 million loan offer at the last minute. It took Jon's intervention for it to go through. On our call at that time, you did not hide how you felt about my involving Jon and made it quite clear that you would even the score.

This time, it was KingSett's CIO who approved the \$500k amendment. I did not expect to have you intervene once more to pull our financing at the last moment. When you did intervene, you did so on a call where for the most part, I thought I was speaking to Rob Kumer. That is how unexpected your sudden involvement was. We had not ever discussed this together and but yet you appeared at the eleventh hour to personally give me the news and made a point that you are the "Chair of the credit committee" and that you didn't like the deal then and you don't like it now.

When you asked to have a call yesterday, I approached it with an open mind. I assumed you wanted to understand the deal better, perhaps ask some questions. Instead, you opened the call by letting me know once more that you are the "Chair of the credit committee" and that no one, including Jon, can intervene. You suggested I look for another lender altogether and made it clear you and, by extension, KingSett - had no interest in working with me. When I attempted to keep the conversation focused on the facts such as the written commitment issued by your law firm, confirming the formal approval of the loan and imminent funding, you accused me of lying.

We have had heated conversations, but at no time have I attacked your integrity as you have mine. Perhaps you are correct in that the market has changed, and it is now less convenient for KingSett to fund as it agreed to. That does not make it right when you know full well that in reliance of KingSett's commitment, I closed any prospect of having the current lender extend its loan term. This was communicated in the call with Rob Kumer, where I even said that I was glad I had a partner in KingSett and looked forward to calling the private lender and giving them a piece of my mind. That is the one thing that you had no trouble believing.

Regards,  
Raymond

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Sun, Mar 29, 2020 at 11:09 PM  
Subject: Re: KingSett / Raymond Zar  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Rob Kumer <RKumer@kingsettcapital.com>

Thanks for your email Raymond. Will be in touch tomorrow afternoon.

Good evening.

Scott

### March 30, 2020: Scott Apologizes; KingSett Agrees to Honour our Agreement

71. Finally, on March 30, 2020, Scott Coates apologized for his earlier behaviour, which I accepted, and confirmed that KingSett would honour our agreement and that the formal amendment letter should be expected shortly.

From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Mon, Mar 30, 2020 at 10:44 AM  
Subject: KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>

Hi Raymond, have you heard anything from KingSett? I have followed up with Kym a couple of times with no response, which is unusual.

 Blaney  
McMurtry LP 2 Queen Street East | Suite 1500  
Toronto, Ontario M5C 3G5

Jeffrey M. Warren

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Mar 30, 2020 at 1:31 PM  
Subject: Re: KingSett  
To: Jeffrey M. Warren <jwarren@blaney.com>

Hi Jeff,

We hit a hiccup as someone inside KingSett decided to interfere at the eleventh hour and try to get this amendment pulled. I had to escalate it to the highest level at KingSett. Fortunately, I just finished a call with Scott Coates, Group Head of Mortgage Investments, who confirmed the loan is proceeding. He said we will have the signed amendment by 5 pm tomorrow.

### FIRST AMENDMENT TO THE KINGSETT LOAN (DATED MARCH 31,2020) INCREASING THE KINGSETT LOAN TO PAYOUT RUPARELL

72. Finally, on March 31, 2020, the First Amendment to the KingSett Loan was signed, and the process to satisfy the conditions commenced. Attached hereto as [Exhibit "D"](#) is a copy of the March 31, 2020, First Amendment to the KingSett Loan (the "**First Amendment**").



## KINGSETT DRAGS ITS FEET ON IMPLEMENTING THE FIRST AMENDMENT

### April 2020: Emails with KingSett

73. Unfortunately, KingSett's words were not matched through actions. All of April 2020 was spent in needless back and forth on KingSett's never-ending and everchanging list of conditions.

Here are the emails:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 9, 2020 at 4:31 PM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Justin Walton <JWalton@kingsettcapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>

Justin,

It is our position that we have satisfied the CP's through the production of the BDC email confirming the loan balance as at April 3, 2020, and the statement printouts from the CIBC website confirming the balance as at April 1, 2020.

Perhaps this is a case of miscommunication as I do not understand what else we can provide, given the present circumstances.

Regards,  
Raymond

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Tue, Apr 14, 2020 at 11:51 AM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>

Hi Raymond,

I just wanted to follow up on our conversation on Friday. When do you expect to get us the additional info on the first mortgages we discussed?

Regards,

Justin Walton  
KingSett Capital

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Apr 21, 2020 at 2:02 PM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Hire Abdi <HAbdi@kingsettcapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>

Hire,

Please see the attached mortgage balance printouts from the CIBC website generated today. We have been running at 90% occupancy at the hotel for the last two weeks, and I have been swamped dealing with the required health and safety protocols that had to be implemented virtually overnight to continue serving the substantial demand.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 23, 2020 at 11:16 AM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Hire Abdi <HAbdi@kingsettcapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>

Hire,

Please provide a status update. We are ready to close.

From: **Hire Abdi** <HAbdi@kingsettcapital.com>  
Date: Mon, Apr 27, 2020 at 10:49 AM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>

We need you to line up the document to the unit.

**Hire Abdi**  
KingSett Capital

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Apr 27, 2020 at 3:13 PM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Hire Abdi <HAbdi@kingsettcapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>

Can you not just add up the balances and find the total? The commitment letter only refers to the total balances, not individual balances. The account numbers correspond to the account numbers on the year-end statements. If you do not intend on closing, then say so, instead of dragging this on. I am extremely busy with several other matters, and this is becoming a nuisance. We have been ready to close for several weeks now.

Regards,  
Raymond

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Mon, May 4, 2020 at 7:01 PM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>

Do you have time for a call this evening to discuss?

Justin Walton  
KingSett Capital

## **RUPARELL MYSTERIOUSLY REVERSES COURSE AND NO LONGER WANTS LOAN REPAYED; INSTEAD OFFERS BETTER TERMS THAN KINGSETT**

### **May 2020: Ruparell Inducements**

74. Remarkably, while KingSett was dragging its feet on funding the \$500,000 increase to the KingSett Loan so we could repay the Ruparell Loan, rather than complain, Ruparell suddenly began to entice us to extend the Ruparell Loan. It was as though Ruparell was helping KingSett get out of its commitment under the First Amendment.

75. In this regard, Ruparell offered the following inducements:

- (a) interest rate reduction of 6%, capitalization of all interest except three months
- (b) indefinite duration for the loan,
- (c) right to repay at any time without penalty,
- (d) waiver of lender fees and legal fees,
- (e) unconditional discharge of security on Zar's personal residence, and
- (f) discharge of Ruparell Collateral Charge from 30 Roe upon discharge of KingSett Collateral Charge on The Willowdale Hotel.

76. The terms Ruparell offered were too good not to accept. Once KingSett confirmed its agreement (below), we accepted the Ruparell offer and KingSett offer and closed this file – or so we thought.

**SECOND AMENDMENT TO THE KINGSETT LOAN (DATED MAY 8 2020) AGREEING TO DISCHARGE THE KINGSETT COLLATERAL CHARGE FROM WILLOWDALE**

77. Given KingSett's delays and Ruparell's seemingly changed attitude, and my own patience with KingSett coming to an end given how much difficulty I had to go through each time simply to have KingSett honour its word, I decided to write to Justin Walton and ask him directly if he is serious about funding or not so that I could focus on Ruparell's offer. Here is that email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, May 5, 2020 at 3:25 PM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Justin Walton <JWalton@kingsettcapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>, Jeffrey M. Warren <jwarren@blaney.com>, Bryan Salazar <BSalazar@kingsettcapital.com>, Kym Stasiuk <KStasiuk@blaney.com>

Justin,

For over a month, you have been conducting due diligence on this \$500k transaction. We have satisfied all of the CP's stated in the Amending Letter, yet you have taken no steps towards closing the transaction and refuse to indicate your intentions. We will not continue in this way.

I have instructed counsel to send you documents to effect the discharge of your \$300k second position collateral charge on the Willowdale Hotel. Scott had confirmed on our call that KingSett would agree to the said discharge in the event it does not fund the \$500k increase to the Loan contemplated in the Amending Letter, which you have effectively abandoned.

Regards,  
Raymond

78. KingSett jumped on the prospect of backing out of the First Amendment.

79. I had no reason to think anything of KingSett or Ruparell's intentions. At all material times, KingSett and Ruparell both represented explicitly to me that they did not do business with or know

each other. These representations were made numerous times, including but not limited to March 2020, from Rob Kumer, Chief Investment Officer of KingSett, and again in March 2021 (detailed below) by Scott Coates.

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Tue, May 5, 2020 at 6:38 PM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>, Jeffrey M. Warren <jwarren@blaney.com>, Bryan Salazar <BSalazar@kingsettcapital.com>, Kym Stasiuk <KStasiuk@blaney.com>

Raymond,

Thank you for your email. We are open to your request as noted below subject to certain terms and conditions in favour of the lender to be established by way of a loan amending agreement. We will get such agreement to you later this week for execution.

Regards,

Justin Walton  
KingSett Capital

80. On May 8, 2020, KingSett sent the signed Second Amendment to the KingSett Loan. Attached hereto as [Exhibit “E”](#) is a copy of the May 8, 2020, Second Amendment to the KingSett Loan (the “**Second Amendment**”).

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Fri, May 8, 2020 at 10:38 AM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>, Jeffrey M. Warren <jwarren@blaney.com>, Bryan Salazar <BSalazar@kingsettcapital.com>, Kym Stasiuk <KStasiuk@blaney.com>

Raymond,

Further to our email correspondence below, please find attached a loan amending agreement for your review and execution.

Regards,

Justin Walton  
KingSett Capital

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Mon, May 11, 2020 at 3:19 PM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>, Jeffrey M. Warren <jwarren@blaney.com>, Bryan Salazar <BSalazar@kingsettcapital.com>, Kym Stasiuk <KStasiuk@blaney.com>

Raymond,

I wanted to follow up on this? Please advise.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, May 12, 2020 at 10:54 AM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Justin Walton <JWalton@kingsettcapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>, Jeffrey M. Warren <jwarren@blaney.com>, Bryan Salazar <BSalazar@kingsettcapital.com>, Kym Stasiuk <KStasiuk@blaney.com>

Justin,

We are working out the details with the existing lender on the Willowdale Hotel, as their agreement to certain terms is required for us to accept your revised amendment instead of the current deal we have. We will update you either later today or tomorrow.

Regards,  
Raymond

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Wed, Jun 17, 2020 at 7:38 AM  
Subject: RE: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>

Raymond,

Can you provide a status update on this?

I also need a copy of the updated insurance certificate on 30 Roe as we don't have a copy (though you did note it was renewed). Please send this over when you get a chance.

Thanks,

Justin Walton  
KingSett Capital

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Sep 9, 2020 at 1:52 PM  
Subject: Re: Update regarding Amending Letter - 30 Roe Investments Corp - KingSett  
To: Justin Walton <JWalton@kingsettcapital.com>

Hi Justin,

Please find attached fully executed amendment agreement. We will take care of drafting the paperwork for the discharge of your 3rd position collateral charge on 170 Willowdale. For now, we will leave it as is.

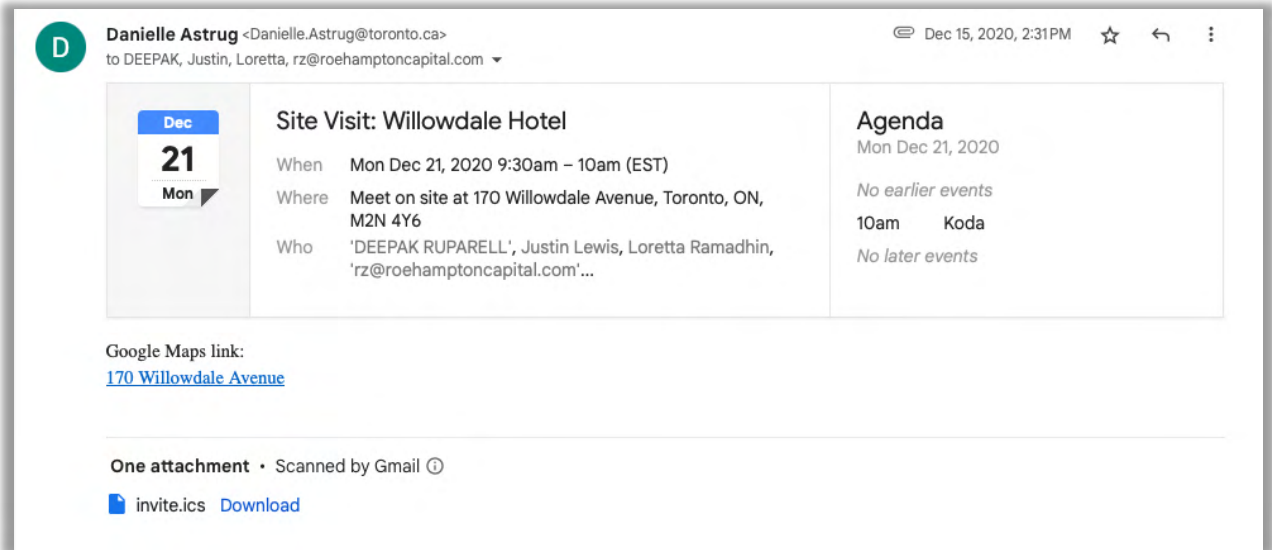
Thanks  
Raymond

## **RUPARELL MAKES PLAY TO TAKE OVER WILLOWDALE HOTEL**

81. I thought we had closed the KingSett/Ruparell chapter. I thought KingSett would honour our agreement to release the Willowdale Collateral Charge. I thought Ruparell would honour our agreement and release the 30 Roe Collateral Charge. I was wrong.

82. In early December 2020, Ruparell kept popping up repeatedly. He insisted on setting up a site visit with the City of Toronto to view the Willowdale Hotel and discuss a potential lease. He asked if I would agree to \$100/night for a one-year term (without the need to staff or clean the hotel). That was a highly lucrative offer at the time (worst stretch of COVID-19 for the hospitality industry).

83. Ruparell began taking a very active role in the Willowdale Hotel. He scheduled a site visit with the City of Toronto to tour the Willowdale Hotel on December 15, 2020, for December 21, 2020, at 9:30 am without confirming it with me. I learned about it after receiving an email invitation from the Shelter, Support, and Housing Administration at the City of Toronto. See the email here:



**December 21, 2020: Meeting at the Willowdale Hotel with Ruparell’s Contact at City**

84. In attendance were Raymond Zar, Deepak Ruparell, and Justin Lewis (Director, Shelter Supporting & Housing Administration, City of Toronto) (“**Justin Lewis**”).

85. Ruparell introduced Justin Lewis as “[his] guy at the City.” While the meeting was to tour the Willowdale Hotel, Ruparell and Justin Lewis spent the bulk of the time talking about Ruparell’s hotels in downtown Toronto, which Justin Lewis appeared to be working on leasing to the City – the so-called “COVID Hotels.”

86. At the end of the tour, Ruparell asked me to wait in the lobby while he went outside and spoke alone with Justin Lewis.



## **JANUARY 2021: RUPARELL BREACHES AGREEMENT, AGAIN**

87. I expect the new year to bring new opportunities and, of course, new challenges. Unfortunately, the start turned out to be nothing but old challenges reappearing.

88. In early January 2021, I had a call with Ruparell about the Ruparell Loan and his emotionally charged approach to its repayment – one day wanting the loan repaid, the next trying to have the City enter into a lease with us, the next wanting the loan to sit in place. Recall, back in 2020, KingSett had agreed to pay out the Ruparell Loan, and it was Ruparell that stepped in at the last minute and offered better terms than KingSett and thus enabled KingSett to walk away from its commitment to payout the Ruparell Loan.

89. I asked Ruparell to confirm that he will instruct his counsel to remove the Ruparell Collateral Charges off 30 Roe as agreed.

90. Ruparell's response was the last straw. Here is what he told me:

*“my brother likes the 30 Roe penthouses and wants to keep them”*

91. I found Ruparell's response to be incredibly disrespectful. Instead of responding in kind, I told him it may be more productive for us to communicate through counsel moving forward.

92. In response, Ruparell immediately engaged his counsel at Dickinson Wright to send Notices of Sale on 12 of my properties.

93. I, in turn, engaged my litigation counsel, Lawrence Thacker of Lenczner Slaght, to send the below letter:

## ROEHAMPTON DEMANDS THAT RUPARELL HONOUR THE AGREEMENT

January 24, 2021: Lenczner Slaght Letter to Ruparell's Counsel:



130 Adelaide St W T 416-865-9500  
Suite 2600 F 416-865-9010  
Toronto, ON www.litigate.com  
Canada M5H 3P5

January 24, 2021

Lawrence E. Thacker  
Direct line: 416-865-3097  
Direct fax: 416-865-2856  
Email: lthacker@litigate.com

**VIA EMAIL**

James M. McKeon  
Dickinson Wright LLP  
199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto, ON M5L 1G4

Dear Mr. McKeon:

**RE: 729171 Alberta Inc. Loan to Raymond Zar  
Our File No.: 51696**

Raymond Zar would prefer to resolve this dispute by mutual agreement. If an agreement cannot be reached, and your client, 729171 Alberta Inc. ("729171"), takes any further steps to enforce on its security, the borrower, 170 Willowdale Investments Corp. and the guarantors, Roehampton Capital Corp. and 30 Roe Investments Corp. and Raymond Zar, will:

- (a) defend the enforcement proceedings,
- (b) commence a counterclaim against 729171 for breach of contract, unlawful interference with economic relations, and breach of duty of good faith.

The ensuing litigation will certainly be lengthy and will cause all parties to incur significant legal fees.

Mr. Zar understands that 729171 wishes to be repaid the full amount of the loan including all interest, and 170 Willowdale Investments Corp. wishes to repay those amounts as soon as possible. The difficulty is that, as previously explained, the existence of the charge registered by 729171 on the 30 Roe properties is interfering with Mr. Zar's attempts to refinance the primary mortgage on the 30 Roe properties, the proceeds of which are required to repay 729171.

By refusing to discharge its third position mortgage, contrary to its agreement to do so, 729171 is thwarting Mr. Zar's ability to refinance his first and second mortgage loans. 729171's refusal has caused and will continue to cause Mr. Zar to incur losses for which 729171 is liable.

I understand the background to be as follows:

- The 729171 charge on the 30 Roe properties was always intended to be temporary, specifically because of the time it was taking to get KingSett to agree to release its charge on the 170 Willowdale property.
- KingSett has agreed to release its charge on the 170 Willowdale property on the condition that 729171 releases its charge on the 30 Roe properties.
- 729171's charge on the 30 Roe properties has caused a default under the KingSett loan that must be cured.
- 729171 failure to comply with its agreement to release its charge on the 30 Roe properties is preventing Mr. Zar from curing the default, and from refinancing the prior mortgage debt secured by the 30 Roe properties.

Nevertheless, Mr. Zar is prepared to consider full and final resolution of the current dispute on the following terms:

- 729171 will release and discharge its charge on the 30 Roe properties.
- Kingsett will release and discharge its charge on the 170 Willowdale property.
- 170 Willowdale Investments Corp. will provide proof that the BDC first mortgage, property tax, and insurance on the 170 Willowdale property is current.
- 170 Willowdale Investments Corp. will immediately pay all outstanding interest up to January 31, 2021, and will pay monthly interest on the first of the month from February 1 onwards;
- 170 Willowdale Investments Corp. will agree to not further encumber 170 Willowdale;
- 170 Willowdale Investments Corp. will agree to repay the full loan principal and any accrued but unpaid interest by May 1, 2021;
- 729171 will withdraw and terminate all enforcement proceeds and will not allege or rely on any past default on the terms of the loan, as amended by this settlement proposal

Yours truly,



Lawrence E. Thacker

LET/shf

**KINGSETT DISAVOWS SECOND AMENDMENT, NOTES 30 ROE IN DEFAULT,  
CITING RUPARELL COLLATERAL CHARGE ON 30 ROE**

**January 29, 2021: KingSett Agrees to Discharge KingSett Collateral Charge ONLY if and  
after the Ruparell Collateral Charge is Discharged**

94. Previously, we asked KingSett to send us a discharge of the KingSett Collateral Charge on the Willowdale Hotel, as contemplated by the Second Amendment. On January 29, 2021, KingSett sent our counsel an executive Acknowledgement and Direction allowing our lawyer to discharge the KingSett Collateral Charge on The Willowdale Hotel – this was explicitly contemplated in the Second Amendment.

95. However, KingSett was now stipulating that the discharge could only occur if and after the Ruparell Collateral Charge on 30 Roe was discharged.

96. KingSett also went on to note 30 Roe in default due to the presence of the Ruparell Collateral Charge and entirely disavowed the Second Amendment which we signed and the fact that it had direct knowledge of the Ruparell Collateral Charge when it signed the Second Amendment. KingSett claimed that 30 Roe did not sign the Second Amendment in time.

From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Fri, Jan 29, 2021 at 1:04 PM  
Subject: RE: FW: Kingsett Discharge  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Lawrence Thacker <lthacker@litigate.com>

I have received the executed Acknowledgment and Direction from KingSett to discharge its charge against 170 Willowdale Avenue on the following escrow terms:

The discharge of the Collateral Property will not be registered until the Lender confirms the registered \$500,000 third mortgage charge on the nine condominium units located at 30 Roehampton Avenue (the "**Primary Property**") has been fully discharged. As a result of this third mortgage charge which was not permitted on the Primary Property, your loan is currently in default. However, pursuant to our conversation, we have agreed that you have until May 1, 2021 to discharge the \$500,000 mortgage.

### **30 ROE CONTINUES TO DEMAND THAT RUPARELL HONOUR ITS OBLIGATION SO 30 ROE CAN CURE KINGSETT DEFAULT**

#### **January 31, 2021: Lenczner Slaght Email to Ruparell's Counsel:**

97. Though we were not pleased that KingSett was renegeing on the Second Amendment and had decided now to place conditions on the discharge of the KingSett Collateral Charge and to note us in default, we had little choice in the matter. We sought to impress upon Ruparell to honour its obligation and discharge the Ruparell Collateral Charge, and in return, we would discharge the KingSett collateral charge and thereby elevate Ruparell's security on the Willowdale Hotel:

From: Lawrence Thacker  
Sent: Sunday, January 31, 2021 8:49 PM  
To: Janet C. Nairne <[JNairne@dickinson-wright.com](mailto:JNairne@dickinson-wright.com)>  
Cc: Brian N. Radnoff <[BRadnoff@dickinson-wright.com](mailto:BRadnoff@dickinson-wright.com)>; James M. McKeon <[JMcKeon@dickinson-wright.com](mailto:JMcKeon@dickinson-wright.com)>  
Subject: RE: 729171 Alberta Inc., in trust, loan to 170 Willowdale Investments Corp.

Brian,

My client has now obtained and is holding in escrow the executed Acknowledgment and Direction from KingSett to discharge its charge against 170 Willowdale Avenue. He has been authorised to register that discharge upon confirmation that the registered \$500,000 third mortgage charge on the nine condominium units located at 30 Roehampton Avenue has been discharged. I am certain we can agree on a mechanism to ensure that both discharges are registered virtually simultaneously, so your client will have no risk.

I hope that will assist your client in considering the resolution we have proposed.

Best regards,  
Larry



[Lawrence Thacker](#)\*

## RUPARELL IGNORES CONTRACT, COMMENCES POWER OF SALE; PLACES 12 PROPERTIES WORTH OVER \$20 MILLION IN JEOPARDY

### February 1-3, 2021: Emails from Ruparell's Counsel:

98. Ruparell continued to claim that it is somehow entitled to keep the Ruparell Collateral Charge even in the face of KingSett's agreement to discharge the KingSett Collateral Charge. Ruparell also falsely claimed that interest was owed on the Ruparell Loan. Here is that email:

**From:** Brian N. Radnoff  
**Sent:** Monday, February 1, 2021 10:30 AM  
**To:** 'Lawrence Thacker' <[lthacker@litigate.com](mailto:lthacker@litigate.com)>  
**Cc:** James M. McKeon <[JMckeon@dickinson-wright.com](mailto:JMckeon@dickinson-wright.com)>  
**Subject:** 729171 Alberta Inc., in trust, loan to 170 Willowdale Investments Corp.

Larry-

Thank you for the email but please refer to my letter that I sent you last Friday. There is no agreement which would require our client to discharge any of his security prior to repayment of his loan, and he will not do so. We remain prepared to cooperate in a refinancing as outlined in our letter and as Jim has communicated with you and previous counsel. Our instructions are to prepare and send the notices of sale now that the time periods in our demand letters have expired.

If your client wants to continue discussions on this matter we will require, as a precondition of those discussions, that the interest be brought current.

Brian

**From:** Magda Drozdowski <[MDrozdowski@dickinson-wright.com](mailto:MDrozdowski@dickinson-wright.com)>  
**Date:** Wed, Feb 3, 2021 at 3:19 PM  
**Subject:** Zar - Notices of Sale (Willowdale, Roe Hampton, Rean Drive)  
**To:** [rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com) <[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)>  
**Cc:** [lthacker@litigate.com](mailto:lthacker@litigate.com) <[lthacker@litigate.com](mailto:lthacker@litigate.com)>, Joshua Suttner <[JSuttner@dickinson-wright.com](mailto:JSuttner@dickinson-wright.com)>, Brian N. Radnoff <[BRadnoff@dickinson-wright.com](mailto:BRadnoff@dickinson-wright.com)>, James M. McKeon <[JMckeon@dickinson-wright.com](mailto:JMckeon@dickinson-wright.com)>

Good afternoon,

Please find attached copies of three notices of sale relating to the properties as referenced above. Kindly contact our office if you have any questions or concerns.

Best regards,  
Magda Drozdowski

**Magda Drozdowski** Legal Assistant

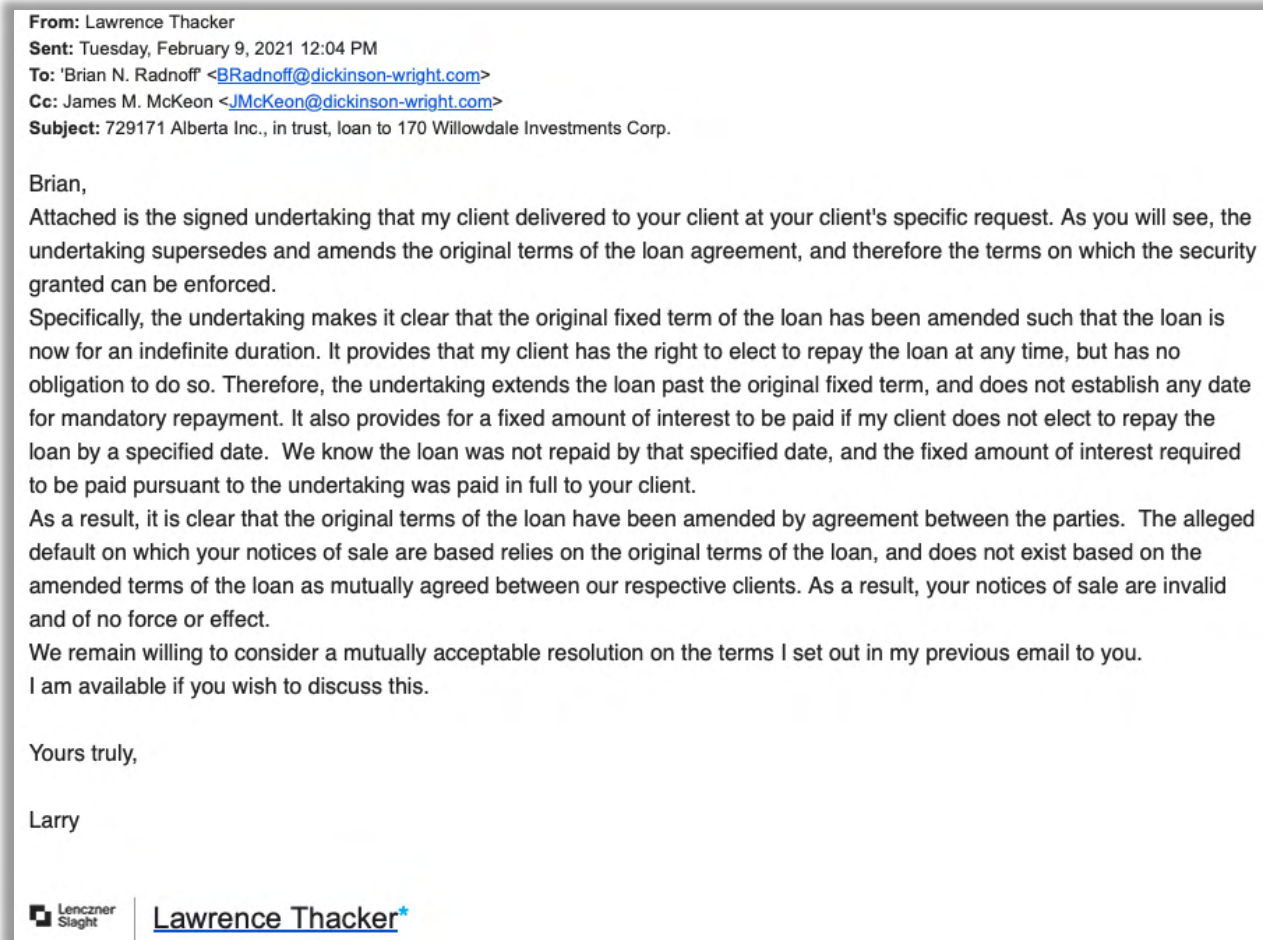
199 Bay Street Phone 416-777-4041  
Suite 2200 Fax 844-670-6009  
Commerce Court West Email [MDrozdowski@dickinsonwright.com](mailto:MDrozdowski@dickinsonwright.com)  
Toronto ON M5L 1G4

**DICKINSON WRIGHT** LLP  
ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA  
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

### **30 ROE PRESENTS DOCUMENTARY EVIDENCE OF RUPARELL CONTRACT AND REPEATS DEMAND FOR COMPLIANCE WITH THE AGREEMENT**

#### **February 9, 2021: Lenczner Slaght Email to Ruparell's Counsel**

99. On February 9, 2021, our counsel, Lawrence Thacker of Lenczner Slaght, wrote to counsel for Ruparell and attached documentary evidence to refute Ruparell's claims, which amounted to fiction and revisionist history:



100. Unfortunately, Ruparell was uninterested in the facts and vowed to continue its campaign against me.

## RAYMOND ZAR DEMANDS ALL COPIES OF DOCUMENTS REGARDING 935 QUEEN STREET WEST. RUPARELL REFUSES TO COMPLY

### February 10, 2021: Zar Email to Ruparell's Counsel

101. On February 10, 2021, given that Ruparell was denying the validity of the documents his own counsel drafted, I became concerned that Ruparell might try to use the trove of documents (many undated) in the 935 Queen matter against me. I demanded copies. Here is that email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Feb 10, 2021 at 10:46 AM  
Subject: Re: Queen St West Fund I Inc., and 2692201 Ontario - 935 Queen St West  
To: James McKeon <JMckeon@dickinson-wright.com>  
Cc: Lawrence Thacker <lthacker@litigate.com>, Jeffrey M. Warren <jwarren@blaney.com>, Brian N. Radnoff <BRadnoff@dickinson-wright.com>

Mr. McKeon,

As you know, your client has been attempting to renege on the agreements he made concerning the Loan for 170 Willowdale. While he has yet to be examined under oath and perjure himself by denying our telephone conversations, he has continued an increasingly confrontational approach.

Yesterday, in response to an email from Mr. Thacker containing a signed document that you personally prepared, Mr. Radnoff moved beyond the pale of revisionist history and onto the fiction and fantasy genre by suggesting the document is written in a foreign language. Perhaps you, as the author, can translate for Mr. Radnoff and also explain why he would look foolish in front of a Judge to suggest that the Loan was not extended and amended while conceding that the interest rate was reduced from 18% to 12% from February 28, 2020, onward, which would mean the Lender rewarded the Borrower with a \$30,000 annual savings for defaulting and not repaying the Loan.

While Mr. Radnoff's suggestion has no bearing on the facts, it gives rise to the prospect that your firm is prepared to go as far as denying the existence or authenticity of documents that you authored.

In light of these turns of events, I am increasingly concerned about what exactly you made me sign when you summoned me to your office on April 24, 2019, at 2 pm. See attached email.

There were hundreds of pages of documents about incorporating several companies, purchasing property, loan documents from 729171 Alberta Inc., share certificates, and more. You promised to provide me with a copy of all of the documents. You failed to do so despite countless requests, including the below email left without a response from you for 18 months, other than to say that you used some of the undated signed documents from me to remove me as a Director. Even so, you closed the transaction under my name in the land registry and refused to provide me with copies of everything.

I trusted you to honour your professional obligations since you insisted there was no time to have me consult with my lawyer, given you were facing a deadline to close the transaction and required my signature to do so. I also note there was another Solicitor present in the meeting, Rajeev Ruparell.

Approximately three months after the below email, your client funded the Loan for 170 Willowdale, and I showed more patience in waiting to hear back from you.

My patience is at an end. You must produce electronic copies of all of the documents you made me sign by no later than 5 pm February 11, 2021.

If you fail to do so by the deadline, I will immediately contact the Law Society.

**ROEHAMPTON**  
CAPITAL

**Raymond Zar, MBA**  
CEO

rz@roehamptoncapital.com | D: 416-322-8509



**30 ROE ASKS KINGSETT FOR THE DEAL STRUCTURE APPROVED UNDER THE FIRST AMENDMENT (INCREASE LOAN BY \$500K AND TAKE BOTH 30 ROE AND WILLOWDALE AS SECURITY)**

**February/March 2021 Discussions with KingSett:**

102. Throughout February and early March 2021, I advised KingSett that we wanted to take them up on their agreement the prior year outlined in the First Amendment and thereby increase the KingSett Loan by \$500,000 so we can payout the Ruparell Loan. In return, and as contemplated under the First Amendment, KingSett's security would significantly increase because it would hold second-position charges on both 30 Roe and The Willowdale Hotel.

**KINGSETT REFUSES TO PROVIDE 30 ROE ANY ASSISTANCE**

**March 15, 2021: Call with Justin Walton**

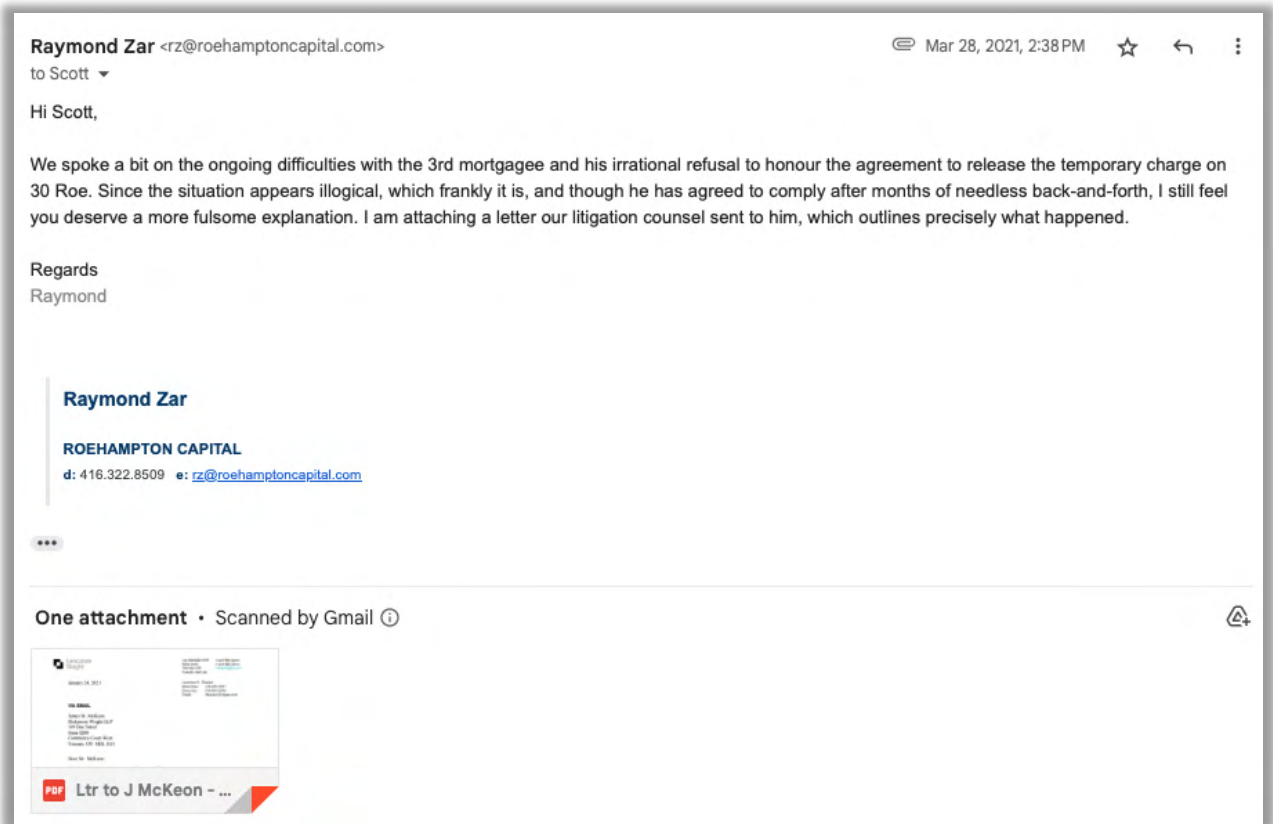
103. Justin Walton informed me that after extensive review, it was the unanimous decision of KingSett's management committee (on which Jon Love, Rob Kumer, Scott Coates and others sit) to decline our request for the \$500,000 increase in return for increased security on 30 Roe and The Willowdale Hotel, despite these same terms having been offered to us at a much more risky time period back in March 2020 - the height of COVID19.

104. Justin Walton said that this decision has been made, and no one wants to go back on it.

### 30 ROE PROVIDES KINGSETT WITH COPY OF JANUARY 24, 2021 LENCZNER SLAGHT LETTER TO RUPARELL

#### March 28, 2021: Email to Scott Coates

105. On March 28, 2021, I emailed Scott Coates and confirmed the fact that I had discussions with KingSett in respect of the Ruparell Loan and specifically the difficulties we faced with Ruparell and his irrational behaviour. I went on to state that I felt KingSett deserved a more fulsome explanation, and thus, I attached a copy of the January 24, 2021, Letter from our counsel, Lawrence Thacker, to Ruparell. That letter is attached to this affidavit in the section further above.



### **March 28, 2021: Email Confirmation of Receipt from Scott Coates**

106. Scott Coates replied a few minutes later, confirming receipt of the Lenczner letter and confirming that he would read the Lenczner letter later in the evening. Here is that email:

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Sun, Mar 28, 2021 at 2:41 PM  
Subject: RE: Call Together / Next Steps  
To: Raymond Zar <rz@roehamptoncapital.com>

Thank you Raymond. I will read the letter later this evening. Thanks so much for sharing. Hope your Sunday is going well ... and that you have a good umbrella!

Scott

**Scott Coates**  
Group Head  
Mortgage Investments

### **EVIDENCE OF RUPARELL DEPLETING EQUITY OF 935 QUEEN STREET WEST BY \$10 MILLION THREE HOURS AFTER MY FEBRUARY 10, 2021 EMAIL ABOVE**

#### **March 29, 2021: Parcel Register Search Reveals Illicit Steps by Ruparell**

107. On March 29, 2021, my lawyer at Blaneys, Jeffrey Warren, conducted a parcel register search on 935 Queen Street West. Attached hereto as [Exhibit "F"](#) is a copy of the March 29, 2021, Parcel Register Report for 935 Queen St West, Toronto (the "**935 Queen Parcel Register**").

108. The 935 Queen Parcel Register showed that a \$10,000,000.00 mortgage was registered in favour of Ruparell on February 10, 2021:

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
AT5120250	2019/04/25	RESTRICTION-LAND		*** COMPLETELY DELETED *** 1027017 ONTARIO LIMITED	
REMARKS: NO TRANSFER OR CHARGE OR REGISTRATIONS WITHOUT THE WRITTEN CONSENT OF JAMES MICHAEL UWE MCKEON					
AT5147197	2019/05/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA	
REMARKS: CA600214.					
AT5249242	2019/09/27	APL (GENERAL)		*** COMPLETELY DELETED *** 1027017 ONTARIO LIMITED	2692201 ONTARIO INC.
REMARKS: AT5120250 - DELETED					
AT5249519	2019/09/27	APL (GENERAL)		*** COMPLETELY DELETED *** 1027017 ONTARIO LIMITED	262201 ONTARIO INC.
AT5249580	2019/09/27	TRANSFER	\$7,250,000	1027017 ONTARIO LIMITED	2692201 ONTARIO INC.
REMARKS: PLANNING ACT STATEMENTS.					
AT5647466	2021/02/10	CHARGE	\$10,000,000	2692201 ONTARIO INC.	729171 ALBERTA INC.

109. Given that on that same day (February 10, 2021) at 10:46 am, I had sent a demand letter and direct threat of litigation in respect of 935 Queen West to Ruparell (outlined in the section further above), it was essential to know what time the \$10 million mortgage was registered.

**March 29, 2021: Instrument Detail Report Confirms \$10 million mortgage was in reaction to the threat of litigation by Raymond Zar**

110. In this regard, Blaneys pulled the instrument detail report for the said \$10 million mortgage. Attached hereto as [Exhibit “G”](#) is a copy of the March 29, 2021, Instrument Detail Report for 935 Queen St West, Toronto (the “**935 Queen Instrument Report**”).

According to Blaneys, the \$10 million mortgage was registered on title by Ruparell at 2:17 pm on February 10, 2021 – just about three hours after my threat of litigation to Ruparell:

From: Jeffrey M. Warren <jwarren@blaney.com>  
 Date: Mon, Mar 29, 2021 at 12:48 PM  
 Subject: RE: 30 Roehampton  
 To: Raymond Zar <rz@roehamptoncapital.com>

The charge was registered at 2:17 p.m.

Jeffrey M. Warren  
[jwarren@blaney.com](mailto:jwarren@blaney.com)  
 ☎ 416-593-3962 | © 416-594-2434

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Mar 29, 2021 at 12:12 PM  
Subject: Re: 30 Roehampton  
To: Jeffrey M. Warren <jwarren@blaney.com>

Please pull the instrument details for the \$10 million charge on Feb 10, 2021.

## **KINGSETT AGAIN DECLINES TO ASSIST 30 ROE IN ANY WAY, SHAPE OR FORM**

### **March 29, 2021: Call with Scott Coates**

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Mon, Mar 29, 2021 at 4:01 PM  
Subject: Timing Update  
To: Raymond Zar <rz@roehamptoncapital.com>

Hi Raymond,

We're having a credit call on two unrelated matters at 5pm, one of which is your request for a loan increase and extension of term. I'll be in touch afterwards. No need to reply. Just keeping you in loop.

Scott

**Scott Coates**  
Group Head  
Mortgage Investments

111. Scott Coates called and informed me that the result of a wider discussion at KingSett was that they do not want to give 30 Roe more money.

112. Scott Coates advised that KingSett is not prepared to extend or increase the KingSett loan and that the KingSett Loan is due May 1, 2021 (one month away).

**KINGSETT AGAIN DENIES KNOWING RUPARELL OR DOING BUSINESS WITH RUPARELL (CALL RECORDING)**

**March 30: 2021: Another Call with Scott Coates**

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Tue, Mar 30, 2021 at 5:55 PM  
Subject: Re: KingSett Postponement - The Willowdale Hotel  
To: Raymond Zar <rz@roehamptoncapital.com>

Would 6:30pm work?

Scott

Scott Coates  
KingSett Capital  
W: 416-687-6702  
M: 416-258-7074

On Mar 30, 2021, at 4:35 PM, Raymond Zar <[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)> wrote:

Can you chat sometime today?

113. On March 30, 2021, I had another call with Scott Coates wherein he informed me that KingSett will not revisit its decision not to assist 30 Roe.

114. I reminded Scott Coates about all of the issues Ruparell was causing us, as outlined in the January 24, 2021, Lenczner Slaght Letter, and I questioned Scott Coates about how come at the height of the pandemic, KingSett was willing to give us more money (\$500,000 increase) so we could payout Ruparell, but now, with Ruparell trying to destroy us, KingSett is unable to lend.

115. Scott Coates answered that KingSett could not give us more money and “[He] doesn’t have to lend to people just because they got themselves in a jam.”

116. Scott Coates' statement was consistent with what Rob Kumer had told me during our call back in March 2020, wherein Rob Kumer said that KingSett would only do something for someone if KingSett had something to gain.

117. Rob Kumer told me he does not know or do business with Ruparell.

118. During this call, after having read the January 24, 2021, Lenczner Slaght letter, Scott Coates asked me, "what is going on with [Ruparell]?" in reference to Ruparell's bizarre behaviour.

119. I answered by first asking Scott Coates a direct question to ensure once again that there was no conflict of interest: "Do you guys [KingSett] do business with him [Ruparell] at all?"

120. Scott Coates replied: "No. Never heard of [Ruparell], I don't know who they are".

121. I then replied: "That's a good thing".

122. I relied on and took steps based on KingSett's representations that it did not know and/or do business with Ruparell.

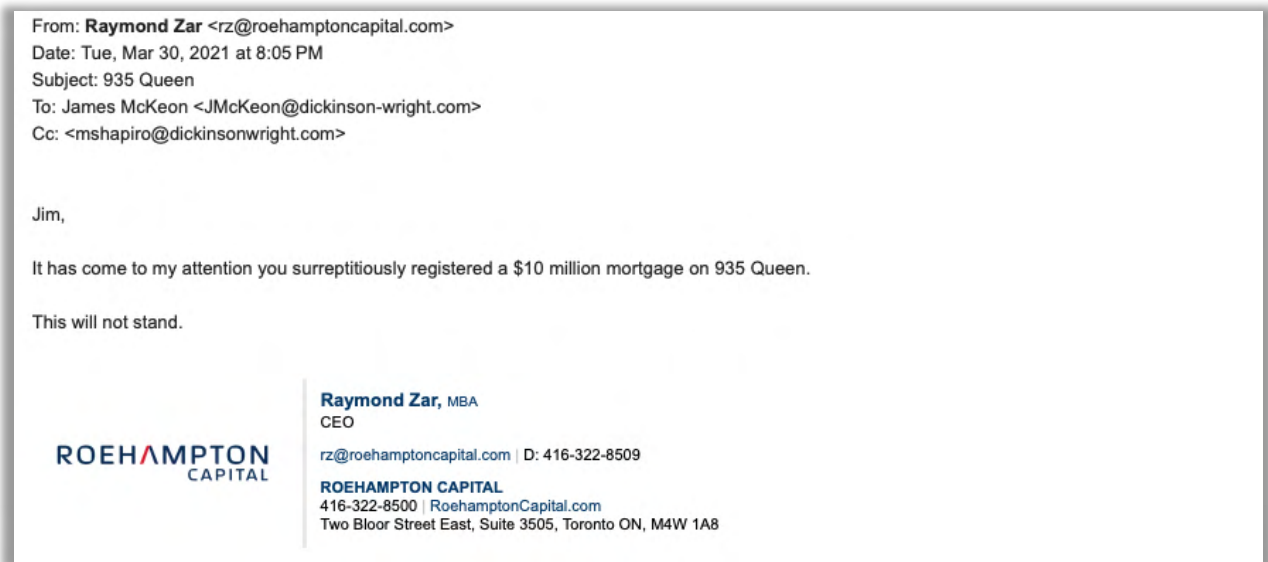
123. Attached hereto as [Exhibit "H"](#) is a copy of the above-noted March 30, 2021, Call Recording between Raymond Zar and Scott Coates.

124. The call ended with Scott Coates reaffirming that KingSett cannot lend 30 Roe more money and that he had to go as he had an investor call he had to take.

## RAYMOND ZAR THREATENS LEGAL ACTION AGAINST RUPARELL IN RESPECT OF THE ILLICIT \$10 MILLION MORTGAGE REGISTERED ON 935 QUEEN ST WEST

### March 30, 2021: Email to Ruparell's Counsel

125. On March 30, 2021, I wrote to counsel for Ruparell and advised them that it had come to my attention that Ruparell had surreptitiously registered a \$10 million mortgage on 935 Queen St West and that this would not stand – in reference to legal action I would take:



### March 31, 2021: Email from Ruparell's Counsel Confirming Receipt

126. On March 31, 2021, Ruparell's counsel replied and asked that we provide notice of any actions we plan to take:



**From:** James M. McKeon [mailto:[JMcKeon@dickinson-wright.com](mailto:JMcKeon@dickinson-wright.com)]  
**Sent:** March 31, 2021 10:38 AM  
**To:** Jeffrey M. Warren <[jwarren@blaney.com](mailto:jwarren@blaney.com)>  
**Cc:** Dee Ruparell <[deepakruparell@rogers.com](mailto:deepakruparell@rogers.com)>; Brian N. Radnoff <[BRadnoff@dickinson-wright.com](mailto:BRadnoff@dickinson-wright.com)>  
**Subject:** 729171 loan to 170 Willowdale

Hi Jeff,

We have received the attached emails from your client. Please advise him that we require notice of any actions he plans to take, which we will defend vigorously. Jim

**James M. McKeon Partner**

199 Bay Street                      Phone 416-777-4019  
Suite 2200                              Fax 844-670-6009  
Commerce Court West              Email [JMcKeon@dickinsonwright.com](mailto:JMcKeon@dickinsonwright.com)  
Toronto ON M5L 1G4

[Profile](#) [V-Card](#)

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**DICKINSON WRIGHT** LLP  
ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA  
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

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**RUPARELL RETALIATES: THREATENS TO CONTACT OTHER LENDERS UNLESS  
RAYMOND ZAR GIVES UP OWNERSHIP OF 935 QUEEN ST WEST**

**April 5, 2021: Email from Ruparell’s Counsel**

127. On April 5, 2021, Ruparell’s counsel wrote to my counsel at Blaneys and advised that Ruparell had “spoken to a couple of receivers” and needed an overall picture of the value of the assets and liabilities. The email went on to outline a list of documentary information Ruparell said he required in order to take enforcement steps against me and my Roehampton companies.

128. Most critically, Ruparell's counsel threatened to contact the other lenders of Roehampton and me, including CIBC, BDC, KingSett and others and to "tell them why we need this information" in reference to Ruparell's intention to enforce and thus cause a default on 12 properties worth over \$20 million.

129. It was clear to me that this email was in retaliation to my earlier decision to decline Ruparell's forbearance agreement, which would, amongst other things, require me to give up my interest in 935 Queen St West.

**From:** James M. McKeon [mailto:[JMcKeon@dickinson-wright.com](mailto:JMcKeon@dickinson-wright.com)]  
**Sent:** April 5, 2021 4:59 PM  
**To:** Jeffrey M. Warren <[jwarren@blaney.com](mailto:jwarren@blaney.com)>  
**Cc:** Brian N. Radnoff <[BRadnoff@dickinson-wright.com](mailto:BRadnoff@dickinson-wright.com)>  
**Subject:** RE: EXTERNAL: Re: FW: 729171 loan to 170 Willowdale

Jeffrey,

We have spoken to a couple of receivers and we need to get an overall picture of the value of the assets and the amount of any liabilities. In that regard can you provide:

1. Mortgage statements from CIBC, BDC, Kingsett and any other lenders and contact details for each lender
2. Proof of payment of the realty taxes on all of the properties
3. Confirmation that all government remittances are up to date and copies of the notices of assessment for the various companies that comprise the Borrower and guarantors
4. Copies of any appraisal reports you have for the properties subject to our client's security

Please provide this information as soon as possible. If we do not hear from you by Wednesday at noon we will be contacting all of the other lenders ourselves to request this information, and we expect that we will have to tell them why we need this information if your client has not already advised them. Jim McKeon

## **ROEHAMPTON AND RAYMOND ZAR REFUSE TO BE BULLIED AND INSTRUCT COUNSEL TO COMMENCE LEGAL ACTION AGAINST RUPARELL**

### **April 7, 2021: Email from Jeffrey Warren to Ruparell's Counsel**

130. On April 7, 2021, my counsel responded to Ruparell and advised, amongst other things, that his request for information to use against me and Roehampton was inappropriate, that we declined their forbearance agreement as it required me to give up my interest in 935 Queen West, and that I intended to commence an action regarding my interest in the 935 Queen property. Here is that email:

From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Wed, Apr 7, 2021 at 2:49 PM  
Subject: RE: EXTERNAL: 729171 Alberta Inc. loan to 170 Willowdale Investments Corp.  
To: James M. McKeon <JMKeon@dickinson-wright.com>

Jim,

Your request for information relating to the properties and the prior mortgages from my client for the purpose of facilitating enforcement action against the borrower is not appropriate and the requested information will not be provided. My client cannot agree to a forbearance as one of your client's required terms is a release of the lender of all claims, which my client cannot agree to in light of the pending action regarding the Queen Street West property. It is our position that your client is not in a position to take any steps in enforcement and any costs being incurred are therefore at your client's expense and should not be included in the payout statement. In any event, I have instructions to have all costs assessed.

Jeffrey M. Warren

[jwarren@blaney.com](mailto:jwarren@blaney.com)

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## **RUPARELL ASKS ALAM PIRANI TO BROKER A RESOLUTION**

### **April 7, 2021 at 4:21 pm: Call from Alam Pirani**

131. On April 7, 2021 at 4:21 pm (just under two hours after the email above), I received a call from a mutual contact of mine and Ruparell: Alam Pirani – the Canada Hotel Practice Group Head at Colliers International (“**Alam Pirani**”).

132. Until recently, I did not know that Alam Pirani misled me to believe that Ruparell was merely one of his many hotel owner/investor contacts and no different than the hundreds of other hotel owners Alam Pirani deals with. The discovery of recent evidence has proven that this was a misrepresentation and that Alam Pirani was an integral part of Ruparell’s business, a very close confidant and family friend, and someone who routinely travelled to India with the Ruparell Family.

133. Alam Pirani asked me what I planned to do. In reliance on Alam Pirani’s representation that he is an impartial third party and not knowing the extent of his relationship with Ruparell, I divulged to Alam Pirani the following information.

134. I told Alam Pirani that given KingSett has noted 30 Roe in default of the KingSett Loan due to the presence of the Ruparell Collateral Charge, Ruparell is liable for the damages arising thereunder, including KingSett’s unwillingness to extend and increase the KingSett Loan.

135. It became clear to Alam Pirani that I intended to use KingSett’s refusal to extend and increase the KingSett Loan to sue Ruparell, all while proceeding with my 935 Queen Street West claim.

**KINGSETT MYSTERIOUSLY APPROVES A LOAN INCREASE AND EXTENSION,  
ENOUGH TO PREVENT US FROM SUING RUPARELL FOR DAMAGES BUT NOT  
ENOUGH TO PAYOUT RUPARELL ENTIRELY AND SUE FOR 935 QUEEN W**

**April 8, 2021: Email from Justin Walton of KingSett**

136. On April 8, 2021, a company that had vowed never to “give something in return for nothing” did just that. Justin Walton informed me that KingSett had approved a \$375,000 increase and a 6-month extension, with no requirement for a second position charge on the Willowdale Hotel.

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Thu, Apr 8, 2021 at 4:58 PM  
Subject: RE: 30 Roe - KingSett - Increase and Extension  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>

Raymond,

Further to our conversation, we have approved a loan increase of \$375,000 to the existing facility subject to the interest rate for the entire facility increasing to 9.00% and also two 3-month extensions effective May 1, 2021 subject to a 1% extension fee payable for each 3-month extension. We will have you a formal amendment letter next week with some additional conditions outlined.

Thanks,

Justin Walton  
KingSett Capital

137. This meant that KingSett would increase its exposure but not increase its security.

138. Had KingSett maintained its position and not approved an increase and extension of the KingSett Loan, the KingSett Loan would be in default as a result of Ruparell’s breach of contract in refusing to discharge the Ruparell Collateral Charge and thereby frustrating 30 Roe’s ability to refinance 30 Roe.

### **THIRD AMENDMENT TO THE KINGSETT LOAN (DATED APRIL 20, 2021)**

#### **April 20, 2021: KingSett Issues Third Amendment**

139. On April 20, 2021, KingSett emailed me the Third Amendment to the KingSett Loan. Attached hereto as [Exhibit "I"](#) is a copy of the April 20, 2021, Third Amendment to the KingSett Loan (the "**Third Amendment**").

140. The Third Amendment to the KingSett Loan can be summarized as follows:

- (a) Principal increased to \$1,875,000 (\$375,000 increase).
- (b) KingSett Collateral Charge on Willowdale (2<sup>nd</sup> mortgage) discharged.
- (c) Maturity date extended by six months to November 1, 2021.
- (d) Lender's fee reduced by 100 bps to 100bps.

141. KingSett only imposed one material condition on the Third Amendment: the discharge of the Ruparell Collateral Charge on 30 Roe (3<sup>rd</sup> position).

142. KingSett also added language in the Third Amendment stating that in the event of default, 30 Roe consented to the appointment of a court-appointed receiver.

**RUPARELL GETS RELEASE FROM ZAR ON ANY STAKE IN 935 QUEEN ST WEST.**

**May 10, 2021: Release Executed in Favour of Ruparell**

143. Based on KingSett and Ruparell's misrepresentations and concealment of their relationship with each other and 935 Queen St West, and under pressure from KingSett due to KingSett's noting of 30 Roe in default due to the Ruparell Collateral Charge, I was tricked into giving up my ownership in 935 Queen St West and signed a release in favour of Ruparell – little did I know that KingSett not only knew Ruparell, but had an interest in 935 Queen St West – a fact I discovered in December 2022, detailed further below.

144. Attached hereto as [Exhibit "J"](#) is a copy of the May 10, 2021, Release in favour of Ruparell (the "**Ruparell Release**").

## EVENTS LEADING UP TO KINGSETT'S SECRET RECEIVERSHIP APPLICATION

### KINGSETT MAKES REPRESENTATIONS TO 30 ROE REGARDING THE KINGSETT LOAN

#### September 27, 2021: Call with Scott Coates and Justin Walton (recorded)

145. In September 2021, 30 Roe sought to refinance both the CIBC first and KingSett second mortgage on 30 Roe, given that the 30 Roe Units and Business had increased in value to as much as \$13,500,000 and there was significant equity to obtain a new first mortgage and payout both CIBC and KingSett, thereby reducing overall interest expense. This increase in value was based upon higher revenue being generated by 30 Roe as a result of effective management.

146. Specifically, during a taped telephone call on September 27, 2021, KingSett made the following representations and commitments to 30 Roe and accepted 30 Roe's statements (collectively hereinafter the "**Coates Commitments**") and referenced with the page number and line number of the call recording transcript:

- (a) 30 Roe invested \$130,000 in capital expenditures to increase guest satisfaction and revenue.

*Transcript: 3.25*

- (b) 30 Roe's management increased revenue by 56% compared to before the pandemic.

*Transcript: 4.8*



- (c) The higher revenue altered 30 Roe's refinancing strategy. Due to significantly higher EBITDA than before, the valuation of the asset as a business, based on the income approach, and a CAP rate of 5%, became \$11 million (\$2.5 million more than the value assumed till that point).

*Transcript: 4.13*

- (d) 30 Roe has abandoned the refinancing efforts with CIBC in favour of commercial financing because CIBC's mortgages are residential and do not care that the valuation is far higher under the income approach (residential appraisals are based on direct-comparison, not income).

*Transcript: 4.19*

- (e) KingSett responded by saying that all of the above is "great news."

*Transcript: 5.9*

- (f) KingSett asked why the refinancing was taking so long but said that it is "not losing sleep or anything over loan-to-value or anything like that obviously," which means that it had no concern about its security.

*Transcript: 6.7*

- (g) 30 Roe says that it has been the hold-up because 30 Roe wants to take advantage of the significantly higher loan-to-value (LTV) possible now with the considerably higher income 30 Roe is generating.

*Transcript: 6.12*

- (h) KingSett confirms its understanding that 30 Roe's refinancing strategy has changed entirely, in that 30 Roe is no longer interested in merely refinancing to pay out KingSett, but that 30 Roe is refinancing to payout KingSett AND take equity out.

*Transcript: 7.13*

- (i) 30 Roe adds that at a 4% CAP rate, the value is \$13.5 million (a \$5 million increase).

*Transcript: 7.17*

- (j) 30 Roe provides the explanation for continually renewing the KingSett loan, which is almost triple the interest rate of CIBC (and any refinancing), in that the prospect of getting refinancing on a valuation of \$13 million versus \$8 million makes it worth it for 30 Roe to continue incurring higher interest expense with KingSett.

*Transcript: 9.15*

- (k) 30 Roe reiterates that CIBC won't do it, and so 30 Roe has abandoned the refinancing effort with CIBC and is pursuing another path through commercial lenders in order to get higher LTVs based on income (further explaining why 30 Roe doesn't care about paying KingSett higher interest and continually extending the loan).

*Transcript: 9.20*

- (l) KingSett says "Okay".

*Transcript: 9.25*

- (m) 30 Roe asks how KingSett feels about further extending the loan and if KingSett needs the money back for something else. KingSett answers: "No, no, no, no...".

*Transcript: 10.1*

- (n) KingSett confirms that all extensions would be at the same interest rate (9%).

*Transcript: 10.7*

- (o) KingSett confirms that there is no need to worry about extensions.

*Transcript: 10.13*

- (p) KingSett and 30 Roe jointly agree to pressure the other lenders working on 30 Roe's refinancing by continuing to put wording in the KingSett amendments/extensions, pretending that the extension is the last extension and that there is no further ability to extend. KingSett agrees with this by responding, "yes."

*Transcript: 10.15*

(collectively the "**Coates Commitments**")

147. Attached hereto as [Exhibit "K"](#) is a copy of the above-noted September 27, 2021 Call Recording between Raymond Zar, Scott Coates and Justin Walton.

148. Attached hereto and marked as [Exhibit "L"](#) is a copy of the call recording transcript.

## **KINGSETT'S SELF-SERVING ALTERATIONS TO THE PAPERWORK**

### **30 ROE EXTENDS THE KINGSETT LOAN UNTIL DECEMBER 1, 2021**

#### **October 18, 2021: Email to KingSett Requesting 30-day Extension**

149. On October 18, 2021, I emailed Justin Walton, in accordance with the Coates Commitment and agreement we made concerning loan extensions in 30-day increments (to pressure other lenders to speed up the refinancing), during our call on September 27, 2021 (above). I informed Justin Walton that we will need a 30-day extension [to December 1, 2021].



From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Oct 18, 2021 at 7:22 PM  
Subject: Re: 30 Roe - KingSett Second Mortgage  
To: Justin Walton <JWalton@kingsettcapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>

Hi Justin,

We will need that 30-day extension.

Thanks  
Raymond

#### **October 29, 2021: Email from Justin Walton containing Extension Agreement**

150. On October 29, 2021, Justin Walton emailed me and attached an extension agreement dated October 25, 2021. Attached hereto as [Exhibit "M"](#) is a copy of the October 25, 2021 Extension Agreement to the KingSett Loan (the "**Extension Agreement**").

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Fri, Oct 29, 2021 at 9:40 AM  
Subject: RE: 30 Roe - KingSett Second Mortgage  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>

Hi Raymond,

Attached is the extension agreement for your review and signature.

Thanks,

Justin Walton  
KingSett Capital

151. While the Extension Agreement was dated Monday, October 25, 2021, and signed by Justin Walton and another KingSett executive that same day (according to the time stamps on their signatures), it was only sent to me on Friday, October 29, 2021 – four days later, and with no time provided to review it prior to the stipulated deadline.

152. Upon review, I noted at least two issues.

153. KingSett had the extension fee listed as 200% of what it was supposed to be.

154. Most alarming of all, KingSett had purported to add The Willowdale Hotel as a guarantor.

155. Neither of these changes were agreed upon and, in any event, were in violation of the Coates Commitment.

### **November 9-15, 2021: Emails**

156. In the following emails between November 9 and 15, 2021, KingSett blames the self-serving alterations on an inadvertent error from a “previous extension.”

157. The Problem for KingSett is that I now know for a fact there is no previous document between KingSett and 30 Roe that entails a 4% lender fee or extension fee, nor do any of the loan extensions previously signed list The Willowdale Hotel as a guarantor.

158. While at the time I had no reason to question KingSett's explanation or deny it the benefit of the doubt, today, that is not the case given the evidence we have discovered, which will be outlined further down in this affidavit.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Nov 9, 2021 at 12:51 PM  
Subject: Re: Loan Extension - Check In  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <jwalton@kingsettcapital.com>

Hi Scott and Justin,

Thank you for your patience. It is my understanding that the interest for November 2021 was paid on time. I have reviewed the fourth amendment and the only item I noticed was the extension fee stated as 4% as opposed to 2%

Regards  
Raymond

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Tue, Nov 9, 2021 at 7:47 PM  
Subject: RE: Loan Extension - Check In  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Hi Raymond,

Can you please sign the extension letter and send back to Justin's attention asap, please. Thanks.

The fee should not be 4%. Please feel free to change the fee by hand to half of what is in the letter now and initial this change ... and then sign the letter and send it back to Justin. The loan has matured. We need to process this paperwork.

Thanks for making your interest payment for November 1, appreciated.

Scott

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Nov 10, 2021 at 12:35 PM  
Subject: Re: Loan Extension - Check In  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <jwalton@kingsettcapital.com>

Hi Scott,

Unfortunately, there are more issues with the amendment, such as the inclusion of an entity that is not a guarantor. I am sure these are simply drafting errors. I have sent the document for a more detailed review and will get back to you when I hear back. Until then, I am unable to sign it, and so there is no agreement.

Regards  
Raymond

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Wed, Nov 10, 2021 at 1:34 PM  
Subject: RE: Loan Extension - Check In  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Ok – I will look into this on my end as well.

But please note, we extended this loan to November 1, 2021 in good faith in the spirit of helping you out. Our relationship needs to be a two-way street; not one way where we are making accommodations and then chasing you around when time runs out. So, once we get the letter in shape, there is no excuse for not signing it. I am not thrilled that it is not signed and it is November 10. I sincerely apologize for our role in the delay.

We will make this a priority. I am requesting you to do so as well.

Thanks, Raymond.

P.S. Let me know if we need a phone call together.

Scott

## **FOURTH AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 10, 2021)**

### **November 10, 2021: KingSett Issues Corrected Fourth Amendment**

159. On November 10, 2021, KingSett emailed me the corrected Fourth Amendment, which I signed and sent back to KingSett on November 15, 2021.

160. Attached hereto as [Exhibit “N”](#) is a copy of the November 10, 2021, Fourth Amendment to the KingSett Loan (the “**Fourth Amendment**”).

161. I continued working on the refinancing and relied on the Coates Commitment that extensions were not an issue and that loan extensions would be on the same terms (i.e. 9% interest rate).

### **CONFESSION: RUPARELL MAKES SHOCKING CONFESSION**

#### **November 18, 2021: Call with Deepak Ruparell (recorded)**

162. On November 18, 2021, I had a call with Ruparell to discuss another matter.

163. Contrary to Ruparell and KingSett’s mutual representations to me that they did not know or do business with each other, Ruparell confessed that it was all a ruse and that Ruparell did, in fact, have a relationship with KingSett.

164. Ruparell went on to say that he was so close with Jon Love and Rub Kumer that he went to basketball games with them and that he had influence over them.

165. Hereinafter, the “**Ruparell Confession.**”

166. This was deeply troubling because eight months earlier, in March 2021, I gave up my interest in 935 Queen St West based on representations that KingSett and Ruparell did not know or do business with each other.



167. At all material times, KingSett represented to me that it had no idea who Ruparell was and had no communication or involvement with him.

168. This confession and revelation left me concerned about why KingSett hid its relationship with Ruparell from me and what else KingSett was hiding.

169. Attached hereto as [Exhibit "O"](#) is a copy of the above-noted November 18, 2021 Call Recording between Raymond Zar and Deepak Ruparell.

## **KINGSETT ASKS FOR A CALL**

### **November 19, 2021: Email from KingSett Confirming Fee Debit and Requesting Call**

170. On November 19, 2021, only one day after the Ruparell Confession, Justin Walton emailed me asking me to confirm that KingSett is allowed to debit the extension fee from our bank account, as had been our standard practice. Justin Walton also requested to have a call to discuss the refinancing.

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Fri, Nov 19, 2021 at 10:09 AM  
Subject: RE: Loan Extension - Check In  
To: Raymond Zar <rz@roehamptoncapital.com>, Scott Coates <SCoates@kingsettcapital.com>  
Cc: Hire Abdi <HAbdi@kingsettcapital.com>

Raymond, please confirm we can debit the extension fee from your account.

Also, let's plan to jump on a call next week to discuss timing of the refinance. Do you have sometime Monday afternoon around 5pm?

Justin Walton  
KingSett Capital

## November 19, 2021: Email to KingSett Confirming Debit But Avoiding Call

171. I was still processing the shocking Ruparell Confession that occurred the day before. I was confused, hurt, and scared.

172. I did not want to speak with anyone at KingSett so soon. I was still processing what had happened and did not want to say something I would regret.

173. As such, I replied to Justin Walton and advised him that debiting the extension fee was approved, that the refinance was still in progress and that a direct comparison appraisal report came in higher than expected (\$9.525 million).

174. I reminded Justin Walton that interest on the KingSett Loan continues to be current and suggested that Scott Coates and Justin Walton have much more important files to deal with and that it would be best if we had a call later next week when there was something more tangible to discuss in respect of the refinancing. Here is my email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Nov 19, 2021 at 2:19 PM  
Subject: Re: Loan Extension - Check In  
To: Justin Walton <jwalton@kingsettcapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>, Hire Abdi <HAbdi@kingsettcapital.com>

Hi Justin,

Yes, please proceed with debiting the extension fee.

The refinance is still in progress. The direct-comparison appraisal came in significantly higher than expected: \$9,525,000, which means KingSett's loan is ~60% LTV.

Interest is and has always been up to date, and I am sure you and Scott have much more important files to review. Let's connect later next week when I have something more tangible on the refinancing.

Regards  
Raymond

## **30 ROE EXTENDS THE KINGSETT LOAN UNTIL JANUARY 1, 2022**

### **November 29, 2021: Email to KingSett Requesting 30-day Extension**

175. On November 29, 2021, I emailed Justin Walton, in accordance with the Coates Commitment and agreement we made concerning loan extensions in 30-day increments (to pressure other lenders to speed up the refinancing), during our call on September 27, 2021 (above). I informed Justin Walton that we will need another of the 30-day extensions [to January 1, 2022].



## **FIFTH AMENDMENT TO THE KINGSETT LOAN (DATED NOVEMBER 29, 2021)**

### **November 29, 2021: KingSett Issues Fifth Amendment Containing Error, Again**

176. On November 29, 2021, about an hour after my email, KingSett emailed me an extension agreement. Attached hereto as [Exhibit “P”](#) is a copy of the November 29, 2021, Fifth Amendment to the KingSett Loan (the “**Fifth Amendment**”).

177. Unfortunately, the document contained errors, and I could not sign it.

178. Contrary to the Coates Commitment, the interest rate indicated in the Fifth Amendment was written as 9.50% instead of 9%.

179. This new error reminded me of the previous mistakes in the Extension Agreement (replaced by the Fourth Amendment) a few weeks prior and how KingSett had mysteriously tried to add The Willowdale Hotel as a guarantor.

### **CONFRONTATION: RAYMOND ZAR CONFRONTS KINGSETT ABOUT RUPARELL**

180. Given the disturbing evidence of deceit found in the Ruparell Confession and the repeated so-called “errors” in paperwork drafted by KingSett, I grew increasingly concerned about why KingSett would lie to me all this time about Ruparell and what other lies KingSett had told me.

### **December 6, 2021 Email and Demand from KingSett**

181. On December 6, 2021, KingSett responded to my cautious posture and apparent reluctance to have a call with them by threatening to demand repayment of the KingSett Loan if I did not sign the Fifth Amendment and thereby agree with the increased interest rate. Here is the email:

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Mon, Dec 6, 2021 at 4:14 PM  
Subject: Notice of Default / 30 Roe Investments Corp.  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Justin Walton <JWalton@kingsettcapital.com>, Hire Abdi <HAbdi@kingsettcapital.com>, Daniel Pollack <DPollack@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Hi Raymond,

Please see the attached letter. Your loan is in default. Pursuant to the attached letter, if you don't make payment by 4:00pm this Wednesday, December 8, 2021, it is our intent to formally demand the repayment of the loan and to enforce our security to facilitate same.

Justin Walton has asked for a call with you at 5:30pm today. By return email to all, please let us know if this is possible.

Respectfully,

**Scott Coates**  
Group Head  
Mortgage Investments

## **December 10, 2021 Email from Raymond Zar to KingSett Revealing Ruparell Confession**

182. I did not appreciate being provoked in that manner and had had enough.

183. On December 10, 2021, I emailed Scott Coates and told him that I discovered KingSett's lie to me about not knowing or doing business with Ruparell, that I was trying to look the other way, but that KingSett's provocations were making that difficult.

184. Given the gravity of the matter, I advised Scott Coates that I would be taking the weekend to reflect and suggested that he and KingSett do the same. Here is the email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Dec 10, 2021 at 4:35 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <jwalton@kingsettcapital.com>

I was recently made aware of Rob's surreptitious conversations with Deepak. I have been trying to look the other way. You are making that difficult: first with your insulting 50 basis point penalty, and now with this nonsense with Lax. I will take the weekend to reflect; perhaps you should do the same. If, however, you want to litigate, I suggest you look to the suburbs for a firm that won't have a conflict.

**Raymond Zar**

**ROEHAMPTON CAPITAL**

d: 416.322.8509 e: [rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)

## **30 ROE EXTENDS THE KINGSETT LOAN UNTIL APRIL 1, 2022**

### **December 16, 2021: Email to KingSett Requesting Three Month Extension**

185. After reflecting on the matter for a few days, I determined that I would get to the bottom of the Ruparell Confession and KingSett's deception later – for now, I needed to reduce my interactions with Scott Coates, and these monthly extensions kept bringing up errors in the drafting

of the documents (made by KingSett), which made Scott Coates angry – anger that I did not want directed my way, especially after revealing to Scott Coates that I knew about KingSett’s deception concerning Ruparell.

186. As such, I emailed Scott Coates on December 16, 2021 and advised him that rather than extend in 30-day increments, we would extend the KingSett Loan for three additional months to April 1, 2022, focus on our refinancing to payout the KingSett Loan entirely on or before April 1, 2022.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Dec 16, 2021 at 6:24 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <jwalton@kingsettcapital.com>

Hi Scott,

We have shared your letter with CIBC to impress upon them to expedite the refinancing and work through the next steps.

In order to focus our efforts on CIBC, and while our intention remains to payout KingSett as soon as our refinancing is complete, we request an extension to **April 1, 2022**.


Regards  
Raymond

## **KINGSETT ACCEPTS LOAN EXTENSION TO APRIL 1, 2022**

### **December 16, 2021: KingSett Sends 30 Roe Billing Statement Confirming Extension**

187. On December 16, 2021, KingSett emailed 30 Roe a Billing Statement (the “**Billing Statement**”), which corrected the interest rate of the KingSett Loan back to 9% (it was erroneously listed as 9.5% on the Fifth Amendment).

188. The Billing Statement also confirmed that KingSett would debit both the current and the following months' interest payment from 30 Roe's bank account on January 1, 2022. Here is the Billing Statement:

		<b>Billing Statement</b>	
<b>KingSett Mortgage Corporation</b> Scotia Plaza, 40 King Street West, Suite 3700, PO Box 110, Toronto. ON M5H 3Y2		December 16, 2021	
<b>30 Roe Investments Corp</b>			
Dear Sir/Madam:			
RE:	<b>In0515</b> <b>Minto 30 Roe</b>		
Please be advised that a payment is due on your mortgage loan on January 01, 2022			
As Of 12/01/2021			\$13,869.86
12/01/2021 - 12/31/2021	31 Days	9.00%	\$1,875,000.00
			<b>Total Interest due</b> <input type="text" value="\$28,202.05"/>
			<b>Interest to be collected by pre-authorized debit</b> <input type="text" value="\$28,202.05"/>
We ask that you have \$28,202.05 available so we can process the pre-authorized payment on January 01, 2022.			

### December 21, 2021: Email to KingSett Confirming Agreement

189. On December 21, 2021, I wrote to KingSett confirming that we received the Billing Statement and asking that instead of waiting, KingSett debit December 2021 interest immediately and January 2022 interest on January 1, 2022.

190. Justin Walton replied and advised that KingSett's offices were closed for the holidays until January 3<sup>rd</sup>. Here are the emails

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Dec 21, 2021 at 2:58 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Justin Walton <jwalton@kingsettcapital.com>

Hi Scott,

We received the PAD statement, which says you want to debit the December and January interest on January 1, 2022. We prefer to pay December now, so it is not on our books at year-end. Please confirm that is alright.

Regards  
Raymond

From: **Justin Walton** <JWalton@kingsettcapital.com>  
Date: Tue, Dec 21, 2021 at 4:08 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>

Hi Raymond,

Our offices are currently closed until January 3rd, so we cannot process any debits until our return to the office. If you want to send in a wire for the December 1 payment that's fine. Please send me the wire confirmation once the payment is made.

Thanks,

Justin Walton  
KingSett Capital

## **KINGSETT CONFIRMS INTEREST IS FULLY PAID**

### **January 6-7, 2022: Emails with KingSett**

191. Based upon the below emails, it was my understanding that the KingSett Loan was extended until April 1, 2022, and thus, that any previously issued demand was null and void. KingSett's response to my December 21, 2021, email and the emails exchanged all the way to 11:41 am on January 7, 2022, only reinforced my understanding.



From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Jan 5, 2022 at 2:02 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Justin Walton <jwalton@kingsettcapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>

Hi Justin,

Happy New Year. I just wanted to confirm that interest is up to date?

Thanks  
Raymond

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Wed, Jan 5, 2022 at 3:02 PM  
Subject: RE: Notice of Default / 30 Roe Investments Corp.  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Daniel Pollack <DPollack@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Raymond – yes, we will do so.

Daniel/Justin – per Raymond's request below, can you please arrange for Finance to pull proceeds from Raymond's account that are sufficient in amount to fully cover his Dec 1 and Jan 1 payments. Thank you. It seems to me that we may have pulled his Jan 1 payment per his statement excerpt below but I leave the details to you to sort out including what amount needs to be taken from his account to bring his interest payments current through to and including the Dec 1 and Jan 1 due dates.

Scott

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Thu, Jan 6, 2022 at 5:47 PM  
Subject: RE: Notice of Default / 30 Roe Investments Corp.  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Daniel Pollack <DPollack@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Hi Raymond,

It is my understanding that, per your requests, we have now taken sufficient money from your account to cover your Dec 1 and Jan 1 interest obligation to KingSett. It will take a few days for us to make sure these payments have not returned NSF but I do understand from the team that the "pull" from your account has happened.

Scott

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Jan 7, 2022 at 11:40 AM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Daniel Pollack <DPollack@kingsettcapital.com>, Justin Walton <jwalton@kingsettcapital.com>, Scott Coates <SCoates@kingsettcapital.com>

Thanks, Scott. I can confirm that all four debits have successfully cleared our account.

From: **Scott Coates** <SCoates@kingsettcapital.com>  
Date: Fri, Jan 7, 2022 at 11:41 AM  
Subject: RE: Notice of Default / 30 Roe Investments Corp.  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Daniel Pollack <DPollack@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

Great, thanks for letting us know. Thanks Raymond.

Scott

**Scott Coates**  
Group Head  
Mortgage Investments

### Transaction Search Report

Raymond Zar , ROEHAMPTON CAPITAL C  
Report Creation Date: May 05, 2022 03:12:59PM ET

Date: From **Jan 01, 2022** To **Feb 01, 2022**  
Transaction Amount: From **3,125.00** To **3,125.00**  
Accounts: **1**  
Transaction Type: **All**

Serial Number: From **To**

Sorting Options: **Ascending Account Number**  
**Effective Date**

**Account : ROYAL BANK OF CANADA-03426-1043116-30 ROE** **Currency : CAD**

Description	Effective Date	Serial Number	Debits	Credits
MORTGAGE KingSett	Jan 04, 2022		3,125.00	
MORTGAGE KingSett	Feb 01, 2022		3,125.00	
<b>Account Total:</b>			<b>6,250.00</b>	<b>0.00</b>
<b>CADTotal:</b>			<b>6,250.00</b>	<b>0.00</b>

\*\*\* End of report \*\*\*

**JANUARY 7, 2022: KINGSETT AMBUSHES 30 ROE WITH AN APPLICATION TO APPOINT A RECEIVER**

192. Unfortunately, KingSett had other plans in mind and decided to renege on our deal and wage a campaign to destroy me and 30 Roe, all in an effort to force the signing of a release to protect itself from the effect of the Ruparell Confession.

193. It is now clear to 30 Roe that it was an intentional and strategic decision by KingSett to use the element of surprise and ambush 30 Roe at 3 pm on Friday, January 7, 2022, with a 400-page secretly prepared motion record to appoint a Receiver and only five business days notice of the hearing.

194. There was no interest outstanding, KingSett's security was not at risk, and there was not even an allegation of any misconduct by 30 Roe or its management. Nevertheless, KingSett sought a Receivership.

195. At 2:58 pm on Friday, January 7, 2022, and without any prior notice or valid demand, KingSett sent me a 400-page motion record riddled with falsities and inaccuracies with an arbitrarily selected hearing date of only FIVE BUSINESS DAYS away.

196. Four minutes after receiving the motion record, at 3:02 pm, I emailed Scott Coates of KingSett and said: "*Scott, we had a deal. What are you doing?*"

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Jan 7, 2022 at 3:02 PM  
Subject: Re: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Daniel Pollack <DPollack@kingsettcapital.com>, Justin Walton <jwalton@kingsettcapital.com>

Scott, we had a deal. What are you doing?

**Raymond Zar**

**ROEHAMPTON CAPITAL**

d: 416.322.8509 e: [rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)

197. At 5:54 pm, I emailed Scott Coates of KingSett and said:

*“I tell you I am dealing with personal issues, and you use the time to prepare a motion record to surprise me on a Friday afternoon? **Your interest is up to date. There is no default. There is no issue; why are you needlessly creating one?** If this is about Rob’s surreptitious conversation, I already [told] you I would let it go. This is not right”.*

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Fri, Jan 7, 2022 at 5:54 PM  
Subject: Re: FW: Notice of Default / 30 Roe Investments Corp.  
To: Scott Coates <SCoates@kingsettcapital.com>  
Cc: Jon Love <jlove@kingsettcapital.com>, Justin Walton <jwalton@kingsettcapital.com>

I tell you I am dealing with personal issues, and you use the time to prepare a motion record to surprise me on a Friday afternoon?

Your interest is up to date. There is no default. There is no issue; why are you needlessly creating one?

If this is about Rob's surreptitious conversation, I already you I would let it go. This is not right.

198. While it was mysterious at the time, and while there is much more to learn through the trial of these matters in the coming years, we now have a clearer picture of why KingSett so desperately sought and continues to seek a release from liability and how it abused this Receivership for improper purposes.

## **JANUARY 17, 2022: THE FIRST HEARING**

### **CIBC Supports 30 Roe's Request for an Adjournment at the First Hearing**

199. Between receiving the motion record on January 7, 2022, and the night before the first hearing on January 17, 2022, I made numerous attempts to reach a resolution with KingSett, to no avail. And even though I only had five business days' notice, I contacted three different law firms so that counsel could represent 30 Roe at the January 17, 2022 hearing (the "**First Hearing**"). Unfortunately, all three firms had conflicts.

200. Here is the last part of the last email I sent KingSett on the eve of the First Hearing:

*".....KingSett seeks the court's intervention and an extraordinary remedy that would destroy \$10 million of my assets based on a motion record riddled with falsities and inaccuracies. **If KingSett has nothing to hide, then it should stop obstructing our right to scrutinize the claims and prepare a defence.***

*That KingSett insists on proceeding even though I am unrepresented says more about what KingSett is scared of than it does about me....."*

201. The First Hearing proceeded on January 17, 2022, before the Honourable Justice Peter Cavanagh. Justice Cavanagh agreed with 30 Roe and CIBC that there was no urgency and that five business days was insufficient notice and adjourned the receivership Application to February 22, 2022 (the "**Second Hearing**"). Here is the endorsement:

From: **Cavanagh, Justice Peter (SCJ)** [REDACTED]  
Date: Mon, Jan 17, 2022 at 10:43 AM  
Subject: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL  
To: Joshua Foster <FosterJ@bennettjones.com>, zweigs@bennettjones.com <zweigs@bennettjones.com>, rz@roehamptoncapital.com <rz@roehamptoncapital.com>, carmstrong@goodmans.ca <carmstrong@goodmans.ca>, Darren Marr <DMarr@chaitons.com>  
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

**Appearances:**

Sean Zweig and Joshua Foster for Applicant  
Chris Armstrong for proposed receiver  
Darren Marr for CIBC, first mortgagee  
Raymond Zar – in person - a director of the Respondent and a guarantor

**Endorsement:**

The hearing of this application for the appointment of a receiver is adjourned, at the request of Mr. Zar and supported by CIBC, to February 22, 2022 at 2:00 p.m. for 2 hours. The adjournment is to (i) allow the Respondent to retain counsel and respond to the application; and (ii) give time for CIBC to file responding materials if so advised.



Cavanagh J.

## **KINGSETT'S IMPROPER RECEIVERSHIP APPLICATION CAUSES DEFAULT UNDER THE CIBC FIRST MORTGAGES, FRUSTRATING 30 ROE'S ABILITY TO PAYOUT THE SECOND POSITION KINGSETT LOAN**

### **January 17, 2022: KingSett Destroys Millions of Dollars in Value**

202. The mere issuance of KingSett's Application to appoint a Receiver triggered a default under all nine of the CIBC first position mortgages on the 30 Roe Units.

203. This meant that 30 Roe could no longer solely raise the \$1,875,000 in debt required to payout the KingSett Loan while keeping the CIBC first mortgages in place.

204. With KingSett taking the position that the KingSett Loan is in default and CIBC as a result taking the position that the CIBC mortgages are in default, 30 Roe's ability to raise financing on

the 30 Roe Units became virtually impossible as any prudent lender looks unfavourably at even one let alone two lenders noting the borrower in default.

### **30 ROE ATTEMPTS TO MITIGATE DAMAGES BY SELLING THE UNITS AND TAKING ADVANTAGE OF THE HIGHEST CONDO PRICES IN CANADIAN HISTORY**

#### **January 25, 2022: Email to CIBC Expressing Decision to Sell 30 Roe Units**

205. Given the catastrophic domino effect of KingSett's improper initiation of Receivership proceedings against 30 Roe, and in an effort to mitigate damages, I made the decision to sell the Units.

206. I made my decision known to others, including CIBC. I have attached below an email I sent to CIBC about my decision:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Jan 25, 2022 at 11:07 AM  
Subject: Re: CIBC Mortgages to 30 Roe Investments Corp.  
To: Dunn, Joseph <Joseph.Dunn@cibc.com>

Dear Mr. Dunn,

Thank you for your patience as we worked through this matter.

As you must have heard, we were successful in opposing KingSett's application on Friday.

With that said, and unrelated to anything else, we have decided on a course of action that we trust will close this matter for all parties involved.

We are proceeding with realizing the gains on this asset by selling it.

As such, CIBC will be paid out in full.

Please let me know if you have any questions.

Regards  
Raymond

## **30 ROE ATTEMPTS TO LIST AND SELL THE UNITS, BUT KINGSETT OBSTRUCTS PROCESS BY REFUSING TO GRANT PARTIAL UNIT DISCHARGES**

### **February 8, 2022: Attempted Sale and Partial Discharges**

207. By February 8, 2022, I had emailed my broker at Harvey Kalles Real Estate to commence the process of listing and selling the Units. Based on market research of Toronto resale condominiums in February 2022, it was clear that the Units could be sold for at least a combined \$10 million.

208. Unfortunately, once again, KingSett obstructed the payout of the KingSett Loan, this time, by refusing to grant partial discharges of its mortgage registered on title of all nine 30 Roe Units.

209. While the CIBC mortgages were registered individually on each of the nine 30 Roe Units, the KingSett Loan was registered as one umbrella charge of \$1,875,000 on all nine 30 Roe Units.

210. This meant that on the closing of any individual Unit sale, KingSett would refuse to discharge its mortgage off title unless it received the full \$1,875,000, regardless of which or how many Units were sold.

211. This made it impossible for 30 Roe to complete any sale, and KingSett's decision was in gross violation of its contract with 30 Roe.

212. Indeed, the KingSett Loan document contained a specific provision requiring KingSett to issue partial discharges. KingSett refused to honour the contract.

213. KingSett's breach of contract created additional damages for 30 Roe on top of the damages arising from the improper commencement of Receivership proceedings against 30 Roe.



214. The email with Harvey Kalles is included below:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Feb 8, 2022 at 2:26 PM  
Subject: Penthouses of 30 Roe  
To: André Kutyan <andre@harveykalles.com>

Private & Confidential

Hi Andre,

One of my holding companies, 30 Roe Investments Corp., owns the entire penthouse floor of 30 Roehampton Avenue which consists of nine condominium units, nine parking spots and nine lockers.

We are considering taking advantage of the current condo market and listing the units for sale, but only if the below-listed minimum prices can be achieved.

Unit	Beds	Den	Baths	Exposure	Indoor Sq Ft.	Notes	Sell PPSF	Sell Price
PH01	2	1	2	SW	1085	Corner, custom island	\$ 1,350	\$ 1,464,750
PH02	2	-	2	W	770	Great layout	\$ 1,375	\$ 1,058,750
PH03	2	1	2	NW	940	Corner	\$ 1,350	\$ 1,269,000
PH04	1	1	1	N	608	Unobstructed View	\$ 1,400	\$ 851,200
PH05	1	1	1	N	588	Unobstructed View	\$ 1,400	\$ 823,200
PH06	2	-	2	NE	836	Corner	\$ 1,375	\$ 1,149,500
PH07	1	1	1	E	654	Den is like 2nd BR	\$ 1,400	\$ 915,600
PH08	2	1	2	SE	938	Corner, forever view	\$ 1,350	\$ 1,266,300
PH09	2	-	2	S	843	CN Tower view	\$ 1,375	\$ 1,159,125
					<b>7262</b>			<b>\$ 9,957,425</b>

## FEBRUARY 22, 2022 - THE SECOND HEARING

### KingSett Continues to Frustrate 30 Roe's Ability to Retain Counsel

215. By the first week of February 2022, it became apparent that more time would be needed to finalize the various ongoing matters. Counsel to CIBC, Benjamin Frydenberg of Chaitons, communicated with counsel for KingSett and advised him that “KingSett would not do anything to upset CIBC” and that CIBC wanted more time to settle with 30 Roe, so an adjournment was “virtually guaranteed.” After speaking with counsel for KingSett, Mr. Frydenberg advised me that while KingSett would take the position in court that it opposes another adjournment, it would not

jeopardize it and that KingSett's counsel believed that the "*chances of the Judge not granting an adjournment was one in a billion.*"

216. Despite these assurances, I still had doubts, given how much KingSett had misled me to date. As such, I proceeded to retain counsel for 30 Roe anyway, just in case. I had already spoken to the three law firms before the First Hearing, all of which had conflicts.

217. On or about February 10, 2022, I made a fourth attempt to retain counsel and retained Kevin Sherkin of Miller Thomson. But on or about February 17, 2022, Mr. Sherkin advised me that KingSett objected to his engagement and that, as a result, he could not act.

218. On February 17, 2022, I made a fifth attempt to retain counsel and tried to retain James Renihan of Norton Rose. Unfortunately, on Friday, February 18, 2022, Mr. Renihan advised me that CIBC objected to his engagement and that, as a result, he could not act.


219. On February 18, 2022, I made a sixth attempt to retain counsel by trying to retain David O'Connor of Roy O'Connor. However, on Sunday, February 20, 2022, he advised me that he was travelling out of the province and could not attend the Second Hearing.

220. Finally, on the seventh attempt, on February 21, 2022, 30 Roe signed a retainer agreement with Ken Rosenberg of Paliare Roland, who became counsel of record.

221. Mr. Rosenberg successfully obtained a second adjournment, and Justice Cavanagh adjourned the receivership hearing to March 28, 2022 (the "**Third Hearing**").

222. In doing so, Justice Cavanagh made clear to Paliare Roland that this was the second adjournment and that the Court was finished granting indulgences to 30 Roe, especially now that it had finally retained competent, experienced counsel.

223. Here is the endorsement:

<b><u>COUNSEL SLIP</u></b>	
<b>COURT FILE</b> NO.: <u>CV-22-00674810-00CL</u>	<b>DATE:</b> <u>February 22, 2022</u>
	<b>NO. ON LIST</b> <u>2</u>
<b>TITLE OF PROCEEDING</b>	<b><u>Kingsett Mortgage Corp. v 30 Roe Investments Corp.</u></b>
<b><u>JUDICIAL NOTES:</u></b>	
<p>The applicant brings this application for the appointment of a receiver over real property and other property of the respondent. The application was first before me on January 17, 2022. At that appearance, I granted the request made by Mr. Zar for an adjournment so that the respondent could retain counsel and respond to the application. The hearing was adjourned to today.</p> <p>This morning, Mr. Rosenberg appeared on behalf of the respondent. He had just been retained. There was evidence that the respondent had made other attempts to retain counsel but there were conflicts. Mr. Rosenberg requested an adjournment on behalf of the respondent. In support of this request, the respondent filed the affidavit of Mr. Zar.</p> <p>The request for an adjournment was opposed by the applicant. After reviewing Mr. Zar's affidavit and hearing submissions from counsel, I granted the request for an adjournment.</p> <p>The application is adjourned to March 28, 2022 at 10 o'clock a.m. for two hours. Counsel will agree on a timetable and, if there is difficulty, a case conference before me may be arranged.</p>	
	Digitally signed by Mr. Justice Cavanagh

**KINGSETT'S COUNSEL TURNS 30 ROE'S COUNSEL PALIARE ROLAND LLP INTO WITNESS BY ADMITTING KINGSETT'S REAL AGENDA IN PHONE CALL**

**February 22, 2022: Call with Ken Rosenberg of Paliare Roland**

224. Immediately after the Second Hearing, I had a call with Mr. Rosenberg.

225. Mr. Rosenberg told me that he spoke with Sean Zweig of Bennett Jones LLP, Counsel to KingSett, minutes before the Second Hearing and asked Sean Zweig:

226. MR. ROSENBERG: *“What the F is going on here? You must really hate my client because you are taking a sledgehammer to pound a nail in. [Raymond’s] not in default, and if [he is] in default, he said it’s April, and that’s his sworn evidence, and you’re still proceeding, and you’re fully secure. So what’s going on?”*.

227. Mr. Rosenberg said that Mr. Zweig responded by saying:

228. MR. ZWEIG: *“Listen, [KingSett] wants to get rid of Raymond as a borrower”.... “They want to get rid of him”... “Look, I’m telling you so you know that if we were to do anything, it would be in consent to receivership”...*

229. Mr. Rosenberg also conveyed some of the things Mr. Zweig said about me that Mr. Rosenberg deemed insulting and defamatory.

230. Mr. Rosenberg then told me that, *“I think that you got to have a plan in place that we don’t show up on March 28 and argue this on the basis that we hope to win because I think the Judge will say you had enough rope I’m going to hang you”*.


231. Attached hereto as **Exhibit “Q”** is a copy of the above-noted February 22, 2022, Call Recording between Raymond Zar and Ken Rosenberg.

### 30 ROE CONFRONTS KINGSETT, KINGSETT CONFRONTS ZWEIG, ZWEIG CONFRONTS ROSENBERG

#### February 23-24, 2022: Email Chain of Events

**From:** Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>  
**Sent:** February 24, 2022 4:57 PM  
**To:** Ken Rosenberg <[Ken.Rosenberg@paliareroland.com](mailto:Ken.Rosenberg@paliareroland.com)>  
**Subject:** FW: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL

As discussed.

 **Sean Zweig**  
Partner\*, Bennett Jones LLP  
\*Denotes Professional Corporation  
3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4  
T. 416 777 6254 | F. 416 863 1716  
E. [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

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**From:** Daniel Pollack <[DPollack@Kingsettcapital.com](mailto:DPollack@Kingsettcapital.com)>  
**Sent:** Wednesday, February 23, 2022 5:51 PM  
**To:** Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>  
**Cc:** Scott Coates <[SCoates@kingsettcapital.com](mailto:SCoates@kingsettcapital.com)>  
**Subject:** FW: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL

FYI

**Daniel Pollack**  
KingSett Capital  
Mortgage Investments  
Scotia Plaza, 40 King Street West,  
Suite 3700, PO Box 110  
Toronto, ON M5H 3Y2  
T 416.639.6587 M 416.420.3239

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**From:** Raymond Zar <[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com)>  
**Sent:** Wednesday, February 23, 2022 5:49 PM  
**To:** Scott Coates <[SCoates@kingsettcapital.com](mailto:SCoates@kingsettcapital.com)>  
**Cc:** Justin Walton <[JWalton@kingsettcapital.com](mailto:JWalton@kingsettcapital.com)>; Jon Love <[JLove@kingsettcapital.com](mailto:JLove@kingsettcapital.com)>; Daniel Pollack <[DPollack@Kingsettcapital.com](mailto:DPollack@Kingsettcapital.com)>  
**Subject:** Re: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL

Without Prejudice

Scott,

[REDACTED]


[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

 **Raymond Zar, MBA**  
CEO  
[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com) | D: 416-322-8509

232. As outlined in the email chain above, on February 23, 2022, I emailed KingSett. I cannot disclose the entire email as it was marked without prejudice. However, I can say that the email included my complaint to KingSett for commencing an Application to appoint a Receiver based on improper purposes and for making defamatory statements.

233. It is my understanding that a junior employee at KingSett, who was unintentionally copied on my email to senior KingSett leadership, forwarded this email to KingSett's counsel, Sean Zweig, and that Mr. Zweig, concerned that he was the person who made the referenced defamatory statements, panicked and reached out to Mr. Rosenberg given Mr. Zweig's knowledge that I taped my calls with KingSett and thus may have taped evidence of Mr. Zweig's defamatory statements referenced in the emails.

### **30 ROE INSTRUCTS PALIARE ROLAND TO CONTINUE PREPARING FOR THE RECEIVERSHIP HEARING**

#### **March 1-3, 2022: Emails with Paliare Roland**

234. By this point, I had not put two and two together and realized that Ken Rosenberg was under pressure from Sean Zweig to resign.

235. I continued to follow up with Ken Rosenberg about the status of the responding materials for KingSett's Receivership Application, which was adjourned to the Third Hearing (March 28, 2022). Here are the emails:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Mar 1, 2022 at 1:59 PM  
Subject: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <ken.rosenberg@paliareroland.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

Hi Ken,

I am writing to see if you need any other instructions from me, or are you on track with preparing the responding materials for the Application returnable on March 28, 2022.

Let me know if there are any updates.

Thanks  
Raymond

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Mar 2, 2022 at 11:15 AM  
Subject: Re: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <ken.rosenberg@paliareroland.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

Ken - are you alright?

From: <Ken.Rosenberg@paliareroland.com>  
Date: Wed, Mar 2, 2022 at 4:32 PM  
Subject: Re: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <rz@roehamptoncapital.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

Thanks for asking ..... I am fine, just in the middle of a case this week.

Will be back to you.

Ken

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Mar 3, 2022 at 11:22 AM  
Subject: Re: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <ken.rosenberg@paliareroland.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

I am glad to hear you are alright. What time can you speak today to give me an update on the file? I understand there is some sort of hearing on Tuesday and, of course, the main hearing on the 28th of March.

From: <Ken.Rosenberg@paliareroland.com>  
Date: Thu, Mar 3, 2022 at 6:41 PM  
Subject: RE: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <rz@roehamptoncapital.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

As I have previously told you and I am tied up all week on other matters. It's been a very busy week.

Previously, I also provided my advice. You did not accept that advice. Based on the information you have provided us to date, I am unaware of anything to do or steps to take at this time. The next step is the Case Conference on Tuesday regarding the schedule. At that time, as you know, we will also be bringing forward a motion to have our firm removed as counsel of record. We will be in touch on that point.

Question .... have you looked for and/or obtained alternate counsel? If not, I recommend that you do so ASAP.

Regards

Ken

Paliare Roland Rosenberg Rothstein LLP  
Toronto.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Mar 3, 2022 at 8:37 PM  
Subject: Re: Instructions for KingSett v. 30 Roe Investments Corp.  
To: <ken.rosenberg@paliareroland.com>  
Cc: <Max.Starnino@paliareroland.com>, <Sarita.Sanasie@paliareroland.com>

Ken,

I am aware you are busy - that is why you told me in your last email that Max, the other lawyer we retained, would be working on the file while you are busy. I assumed Max was working on the materials for the upcoming hearing and you will be in a position to tell the Judge that is what you are doing when you appear before him on Tuesday. Otherwise, the Judge would be quite upset and may take it out on your client.

I am confused about this talk concerning getting off of the record. What does that have to do with the scheduling hearing KingSett booked on Tuesday? Don't you have to prepare a motion record, serve it, obtain dates, etc.? Surely you cannot ask for such a motion from the presiding Judge on the Application with only four days' notice, and given the unredacted aspects will hurt your client when the same Judge has to decide the Application.

In any event, I trust with your vast years of experience that you know what you are doing. That is why we retained you.

Please have Max give me an update on the Application and how the responding materials are coming along.

To your last question - no, the Respondent has counsel, Paliare Roland, which it paid a \$25,000 retainer to, and is not in a position to retain alternative counsel and incur double the cost and come up with retainer funds again and expects the counsel it retained to honour the agreement and the rule of law. Not to mention the fast-approaching hearing date and the time it would take to bring a new lawyer up to speed all over again.

Regards  
Raymond



### **30 ROE'S ATTEMPT TO LEAVE THE LAWYERS OUT OF THE DISPUTE WITH KINGSETT**

#### **March 3, 2022: Email to Jon Love**

236. It was Ken Rosenberg's email of March 3, 2022 at 6:41 pm that made me put two and two together and realize that the reason Ken Rosenberg wanted to resign was that Ken Rosenberg felt that he and his firm Paliare Roland had become witnesses in the matter as a result of the statements KingSett's lawyer Sean Zweig of Bennett Jones made to him.

237. As a result, and in an effort to see if we can leave the lawyers out of the matter, on March 3, 2022, I wrote directly to KingSett CEO Jon Love and asked to meet. Unfortunately, Jon Love was out of the country, and the overture did not get anywhere with Scott Coates. Here are the emails:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Mar 3, 2022 at 8:28 PM  
Subject: Re: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL  
To: Jon Love <jlove@kingsettcapital.com>

Jon,

We have a situation on our hands.

One of your junior employees forwarded my below email to Sean Zweig. Here's the problem - Sean Zweig was one of the people that uttered the defamatory statements I referred to in my email. I didn't name him because I have a policy of not going after lawyers.

It gets worst - Sean forwarded the email to my lawyer, putting my lawyer in a terrible position since they both know I record all my calls. After all, my lawyer was in the middle of listening to the recordings of my calls with KingSett, the one where Scott confirmed the loan extension.

Whatever our disagreements, I hope we agree it isn't right to drag either of our lawyers into this.

We need not continue doing business together to adhere to our values. The ending of this business relationship need not be acronymous and can be accomplished without needing to be inconsiderate or high-handed.

I request to have a meeting with you tomorrow at whatever time and location that works best for you, to come to an agreement on ending our business relationship and moving on.

I have extended my hand, and I hope you will unclench your fist.

Regards  
Raymond

**ROEHAMPTON**  
CAPITAL

**Raymond Zar, MBA**  
CEO

rz@roehamptoncapital.com | D: 416-322-8509

**ROEHAMPTON CAPITAL**  
416-322-8500 | RoehamptonCapital.com  
Two Bloor Street East, Suite 3505, Toronto ON, M4W 1A8

From: **Jon Love** <JLove@kingsettcapital.com>  
Date: Thu, Mar 3, 2022 at 9:39 PM  
Subject: Re: In the Matter of the Receivership of 30 Roe Investments Corp. - Receivership Application - CV-222-00674810-00CL  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Scott Coates <SCoates@kingsettcapital.com>

Raymond, thank you for the note. Regrettably I am out of the country and unavailable to meet. I have copied Scott and am asking him to respond.

Best  
Jon

Jon Love  
CEO, KingSett Capital

**PALIARE ROLAND ATTEMPTS TO GET OFF THE RECORD WITH JUST FOUR DAYS' NOTICE; JUSTICE CAVANAGH DENIES REQUEST AND DIRECTS HEARING**

**March 8, 2022: Case Conference with Justice Cavanagh**

238. On March 8, 2022, a case conference was held with Justice Cavanagh for KingSett to seek directions on a litigation schedule for the Third Hearing (scheduled for March 28, 2022).

239. While the case conference was scheduled by KingSett to deal with the timetable, Paliare Roland decided to attempt a “take over” of the case conference and only four days prior, on March 4, 2022, served a motion record seeking an order to be removed from the record.

240. Justice Cavanagh opened the court and made it clear at the onset that there was no chance His Honour would agree to hear Paliare Roland’s motion then and there and that His Honour did not understand what the “urgency” was and that there was only half an hour available for the case conference.

241. Richard Swan of Bennett Jones, counsel to KingSett, began speaking and said, “This [case conference] was initially scheduled as a chambers attendance at the request of [KingSett] to deal with a scheduling issue that has arisen.”

242. As Mr. Swan was continuing to speak, Mr. Rosenberg interrupted and again asked that Justice Cavanagh first deal with Paliare Roland’s motion to get off the record, a motion record Paliare Roland served on March 4, 2022 (four days before the case conference).

243. Mr. Rosenberg then took it upon himself, after having cut off Mr. Swan, to introduce his partner at Paliare Roland, Max Starnino, and said that Mr. Starnino would be presenting the arguments for the motion to remove Paliare Roland.

244. Just as Mr. Starnino began speaking, Mr. Swan cut him off (rightly so) and said: “Well, your Honour, before we hear from Mr. Starnino on the substance in respect to his motion, I think you should hear from me in terms of the details of how we got to this timetable, so you have that information at hand before you decided how to proceed with Mr. Rosenberg and Mr. Starnino’s request to get off the record because there is, on one level, a connection between them. I will foreshadow all of this to say very clearly and not surprisingly that it is KingSett’s position that there should be no further delay and that the latest developments appear as though one might view them as potentially headed in that direction, and we very much don’t want that, so my submission would be that you hear from me first on the procedural steps that have taken place since we last appeared before you, before we get into any of the details about the motion to remove”.

245. Justice Cavanagh was not happy with the conduct of counsel and said that His Honour did not understand what was being asked of him. His Honour was visibly frustrated and said that “there was a history of this” (in relation to the two prior adjournments).

246. Mr. Swan then walked Justice Cavanagh through the procedural history.

247. Justice Cavanagh then said, “What do you want to tell me, Mr. Swan? I understand your client is anxious to preserve that date; it has been set by the court, and we have this issue that has arisen with respect to Mr. Rosenberg’s representation of [30 Roe], so I am not sure what more is there, is there urgency, I am not sure what you want to tell me, because we only have a few minutes.

248. Mr. Swan then went on to say that, “This is a continuing series of events that we don’t want to continue further beyond the immediacy.”

249. Then, Mr. Starnino stated, to the prejudice of his client 30 Roe: “ Your Honour, its Mr. Starnino; if I could just follow up on my partner Mr. Rosenberg’s comments, and Mr. Swans just to say that obviously we (Paliare Roland) don’t expect in the circumstances that you can hear our motion today, not suggesting that, we are prepared to move very quickly, we can have a factum filed tonight if that is what is required, and we can argue this thing from our firms perspective, not speaking for Mr. Zar. Tomorrow, the day after, whenever available, um, its not our intention to upset the schedule; we are sensitive to [KingSett’s] concerns, but as Mr. Rosenberg pointed out, it is somewhat awkward for us as counsel seeking to be removed from the record to be tied to a particular schedule, I would think that the issue is who is the respondents counsel going to be – is it going to be us, is it going to be someone else, is the court going to order Mr. Zar to represent the Respondent, as I say I am entirely sensitive to [KingSett’s] concerns and its not our goal to um um to um upset the apple cart – if the motion [to get off the record] can be scheduled quickly, then it may well be possible to save that date (the Third Hearing).

250. Despite Mr. Starnino’s outright disregard of 30 Roe’s interests and attempt to appease KingSett, Justice Cavanagh determined it would be inappropriate for Paliare Roland to get off of the record in such a rapid manner and that more time was required and that in the meantime, Paliare Roland was to continue to act as counsel to 30 Roe.

251. Justice Cavanagh scheduled Paliare Roland’s motion for April 11, 2022.

252. Justice Cavanagh scheduled KingSett’s Receivership Application for May 6, 2022 (the “**Receivership Hearing**”).

253. Below are the two endorsements of Justice Cavanagh on March 8, 2022:

SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP**

COURT FILE NO.: CV-22-674810-00CL DATE: 8 March 2022

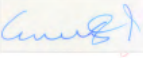
NO. ON LIST: 05


TITLE OF PROCEEDING      KINGSETT MORT CORP    V.    30 ROE  
BEFORE MISTER JUSTICE    P. CAVANAGH

Paliare Roland Rosenberg Rothstein LLP, the lawyers of record for the Respondent 30 Roe Investments Corp., are moving for an order removing them as lawyers for record for the Respondent. The Respondent opposes. After consultation with counsel and with Mr. Zar, a principal of the Respondent, I set the hearing date for this motion to be April 11, 2022 at 10:00 for 90 minutes.

As a result of this motion, the hearing of the Applicant's application for an order appointing a receiver which is scheduled for March 28, 2022 will need to be postponed. This hearing date is vacated.

The Applicant's application will be heard before me on May 6, 2022 at 10:00 for 2 hours. The Respondent is responsible for retaining counsel, if necessary, and following a timetable to meet this hearing date.

 Digitally signed by  
Mr. Justice  
Cavanagh



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP**

COURT FILE NO.: CV-22-674810-00CL DATE: 8 March 2022

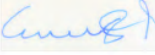
NO. ON LIST: 05

TITLE OF PROCEEDING      KINGSETT MORT CORP    V.    30 ROE  
BEFORE MISTER JUSTICE    P. CAVANAGH

**SUPPLEMENTARY ENDORSEMENT OF JUSTICE P. CAVANAGH:**

Mr. Zar has written seeking clarification of the wording of my endorsement released earlier today.

To be clear, the law firm Paliare Roland is and remains the lawyers of record for the Respondent unless and until an order is made removing the firm. Mr. Zar is not a lawyer. He does not represent the Respondent. Mr. Zar is not a party to this application, and he is not self-represented. He appeared at the hearing today because the Respondent opposes the motion by Paliare Roland.

 Digitally signed by  
Mr. Justice Cavanagh

### **30 ROE FINDS BUYERS FOR SOME UNITS AND REPEATS DEMAND FOR KINGSETT TO GRANT PARTIAL DISCHARGES**

#### **March 29, 2022: Request for Discharge Statement on Each Unit**

254. On March 29, 2022, I repeated 30 Roe's demand that KingSett issue partial discharge statements for each Unit.

255. Below are the nine emails sent to KingSett in this regard:

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 4:57 PM  
Subject: Request for Discharge Statement - PH01-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH01-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 4:58 PM  
Subject: Request for Discharge Statement - PH02-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH02-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 4:59 PM  
Subject: Request for Discharge Statement - PH03-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH03-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:00 PM  
Subject: Request for Discharge Statement - PH04-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH04-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:02 PM  
Subject: Request for Discharge Statement - PH05-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH05-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**



From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:03 PM  
Subject: Request for Discharge Statement - PH06-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH06-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:04 PM  
Subject: Request for Discharge Statement - PH07-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH07-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:05 PM  
Subject: Request for Discharge Statement - PH08-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH08-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

From: **Accounting Roehampton Capital** <accounting@roehamptoncapital.com>  
Date: Tue, Mar 29, 2022 at 5:06 PM  
Subject: Request for Discharge Statement - PH09-30 Roehampton Avenue  
To: KS Mortgage Operations <mortgageoperations@kingsettcapital.com>  
Cc: <SCoates@kingsettcapital.com>, Justin Walton <JWalton@kingsettcapital.com>

March 29, 2022

To: KingSett Mortgage Corporation

Re: Request for Discharge Statement - PH09-30 Roehampton Avenue

The undersigned hereby requests a Partial Discharge Statement for the above-noted unit, in accordance with Schedule C of the Commitment Letter dated March 29, 2019.

Yours truly,

**30 ROE INVESTMENTS CORP.**

## **KINGSETT BREACHES CONTRACT; REFUSES TO GRANT PARTIAL DISCHARGES**

### **March 31, 2022: Email response from KingSett's Counsel**

256. On March 31, 2022, KingSett's counsel responded to our request for nine separate partial discharge statements by providing one discharge statement and specifically stating: "*the borrower should treat the attached payout statement as KingSett's response to each of the various payout statements requested by the borrower.*"

257. This decision by KingSett obstructed 30 Roe from being able to sell the Units individually in order to payout the CIBC and KingSett mortgages on title. Here is the email and payout statement:

**From:** Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>  
**Sent:** March 31, 2022 11:03 AM  
**To:** Ken Rosenberg <[Ken.Rosenberg@paliareroland.com](mailto:Ken.Rosenberg@paliareroland.com)>  
**Cc:** Sarita Sanasie <[Sarita.Sanasie@paliareroland.com](mailto:Sarita.Sanasie@paliareroland.com)>; Max Starnino <[Max.Starnino@paliareroland.com](mailto:Max.Starnino@paliareroland.com)>; Richard Swan <[SwanR@bennettjones.com](mailto:SwanR@bennettjones.com)>; Joshua Foster <[FosterJ@bennettjones.com](mailto:FosterJ@bennettjones.com)>  
**Subject:** RE: 30 Roe

Ken,

The borrower's response failed to address any of the substantive issues raised in my email below, so I trust there is no disagreement there.

Please find attached KingSett's payout statement as at March 31, 2022, which you can forward to the borrower. As I noted below, pursuant to the terms of the Commitment Letter, KingSett is not required to provide partial discharges in the circumstances. Accordingly, the payout statement – which is applicable for each of the units - contemplates the payment of the full indebtedness. To be clear, the borrower should treat the attached payout statement as KingSett's response to each of the various payout statements requested by the borrower.

To the extent the borrower intends to repay the indebtedness owing on the payout statement, please advise what date that is expected to occur on.

I will reiterate that if the borrower would like to provide KingSett with a proposal that would necessitate one or more partial discharges, KingSett will gladly consider any such proposal.

Thank you

**Sean Zweig**

*Partner\**, Bennett Jones LLP

\*Denotes Professional Corporation

3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4

T. [416 777 6254](tel:4167776254) | F. [416 863 1716](tel:4168631716)



March 30, 2022

**MORTGAGE LOAN FULL DISCHARGE STATEMENT - LEGAL PURPOSES**

Roehampton Capital  
2 Bloor Street East, Suite 3500  
Toronto, ON  
M4W 1A8

<b>Mortgage No.:</b>	In0515	<b>Borrower:</b>	30 Roe Investments Corp
<b>Payout Date:</b>	March 31, 2022	<b>Project/Loan Name:</b>	Minto 30 Roe
<b>Maturity Date:</b>	December 1, 2021	<b>Property Address:</b>	30 Roehampton Avenue, Toronto, ON
<b>Interest Rate Type:</b>	Fixed	<b>Variable Rate Spread:</b>	N/A
<b>Floor Rate (if applicable):</b>	N/A	<b>Prime Rate:</b>	
		<b>Payment Type:</b>	Interest Only
		<b>Fixed Interest Rate:</b>	9.00%

The total balance outstanding under the above noted mortgage loan is detailed below:

Date of Last Payment*:	March 1, 2022
<b>Outstanding Principal Balance as at Date of Last Payment:</b>	<b>\$ 1,875,000.00</b>
Accrued Interest: March 1, 2022 to March 31, 2022 30	\$ 13,869.86
Discharge Fee:	\$ 1,000.00
Estimated Legal Fees:	\$ 151,392.73
Estimated Other Professional Fees	\$ 7,220.70
<b>Total Amount Required for Full Discharge on Payout Date by 1:00 PM EST *:</b>	<b>\$ 2,048,483.30</b>
Interest Per Diem applicable for loan repayment received 1PM EST on April 1 :	\$ 462.33
Interest Per Diem applicable for loan repayment received after 1PM EST on April 1 :	\$ 465.75

Notes:  
Fees and expenses may continue to be incurred and may be subject to change. Any such fees and expenses are the sole responsibility of the borrower.

\*The total amount including any applicable per diem must be received in order to obtain a full discharge of the mortgage

This statement has been prepared on the assumption that all payments up to and including the Payout Date have been made and honoured and on the assumption that no further advances or repayments through to the Payout Date have been or will be made.  
If the above noted loan has a variable rate, any rate changes occurring prior to the Payout Date will require a new statement to be issued.  
Funds received after **1:00 PM EST** shall be deemed to be made and received on the next business day and additional per diem to the next business day will be deemed earned.

**Certified funds** are to be delivered by EFT, direct deposit or bank draft to the following account including the reference particulars noted below:

<b>Beneficiary:</b>	KingSett Real Estate Mortgage LP No. 3	Scotia Plaza, 40 King Street West, Suite 3700, PO Box 110, Toronto, ON M5H 3Y2
<b>Bank:</b>	Royal Bank of Canada	200 Bay Street, Main Floor, Toronto, ON M5J 2J5
<b>Transit No:</b>	00002	<b>Account No:</b> 107-171-1
<b>Reference:</b>	ID: In0515	<b>Minto 30 Roe</b>
		<b>Bank No:</b> 00003 <b>SWIFT:</b> ROYCCAT2

This statement is only valid up to: **April 30, 2022** Repayments received after this date will require a new statement. **E & O.E.**

Authorization:

Tanya Lee (Mar 30, 2022 17:59 EDT)  
Tanya Lee - Executive Director, Mortgage Operations

Daniel Pollack (Mar 30, 2022 18:28 EDT)  
Daniel Pollack - Director, Special Loans and Portfolio Management

**PALIARE ROLAND REFUSES TO ACT DESPITE COURT ORDER AND REFUSES TO RETURN RETAINER FUNDS SO 30 ROE COULD RETAIN OTHER COUNSEL DESPITE REFUSING TO ACT**

**April 4, 2022: Letter of Direction to Paliare Roland**

258. Between March 8, 2022, when Paliare Roland first brought its motion to be removed from the record and April 20, 2022, when the Court granted Paliare Roland's motion to be removed from the record, I implored Paliare Roland to honour its obligation and act as counsel of record to 30 Roe.

259. Not only did Paliare Roland refuse to do so, but it demanded that 30 Roe and I sign a release in return for Paliare Roland Returning the \$25,000 in trust funds belonging to 30 Roe.

260. By failing to act while refusing to return the \$25,000 trust funds, Paliare Roland both deprived 30 Roe of the legal representation that 30 Roe paid for and obstructed 30 Roe's ability to pay for alternative counsel, all in the limited timeframe and context of unprecedented difficulty faced by 30 Roe to retain competent counsel without a conflict.

261. Below is a copy of the April 4, 2022, letter of direction I sent Paliare Roland:

**ROEHAMPTON**  
CAPITAL

2 Bloor St East, Suite 3500 T: 416-322-8500  
Toronto Ontario, M4W 1A8 RoehamptonCapital.com

Raymond Zar, MBA  
Chief Executive Officer  
416-322-8509  
rz@roehamptoncapital.com

April 4, 2022

**DELIVERED VIA EMAIL**

Kenneth T. Rosenberg (21102H)  
Paliare Roland Rosenberg Rothstein LLP  
3500-155 Wellington St West  
Toronto ON, M5V 3H1

Dear Mr. Rosenberg,

**Re: Letter of Direction - Trust Funds - 30 Roe Investments Corp. (the "Company")**

On March 8, 2022, your firm brought a motion before the Honorable Justice Peter Cavanagh for an Order to remove your firm as lawyers of record for the Company. Justice Cavanagh refused to grant your motion and adjourned it to April 11, 2022. Moreover, in his supplementary endorsement, his Honour specifically stated that "*Paliare Roland is and remains the lawyers for [the Company] unless and until an order is made removing the firm*" (the "Court Order").

Since the Court Order, the Company has instructed you to act as lawyer of record in the KingSett Mortgage matter for which you were retained and paid a \$25,000 retainer. You have unilaterally refused all instructions and limited your involvement to that of a messenger between the Company and KingSett's counsel. On April 1, 2022, the Company instructed you to prepare and file a one-page standard-form Notice of Appointment for the Assessment KingSett's legal fees under Section 43 of the *Mortgages Act* and facilitate the issuance of revised payout statements. Once again, you refused to do so, even though any future order removing your firm would also apply to the said Notice of Appointment.

Your refusal to act as lawyer of record is in breach of the Court Order and in direct contravention of the *Rules of Civil Procedure*:

*"15.05 A lawyer of record shall act as and remains the lawyer of record for his or her client until... (b) an order removing the lawyer from the record has been entered...."*

We will leave the determination of your motion to be removed as lawyers of record for the Company to the Judge hearing the matter on April 11, 2022.

For now, the Company is directing you to immediately return the CAD 25,000 trust funds (the "Trust Funds") belonging to the Company, which are presently held in your CIBC Trust Account (Transit: 00002, Account: 79 08016, Institution: 010).

You will find our formal Letter of Direction enclosed as "Schedule A" to this letter.

If you fail to follow the Letter of Direction and return our Trust Funds by 4 pm on April 5, 2022, there will be consequences.

Yours truly,

**30 ROE INVESTMENTS CORP.**

Per:

  
Raymond Zar

RZ/sc  
Encl. Schedule A - Letter of Direction

## April 6, 2022: Paliare Roland Makes WITH PREJUDICE Offer to 30 Roe

262. On April 6, 2022, Max Starnino of Paliare Roland sent me the below WITH PREJUDICE offer agreeing to return the trust funds only if 30 Roe signs a release in favour of Paliare Roland:

From: <Max.Starnino@paliareroland.com>  
Date: Wed, Apr 6, 2022 at 9:18 PM  
Subject: 30 Roe Investments Corp. ats. Kingsett Mortgages Corporation; Court File No. [IWOV-PRiManage.FID347050]  
To: <rz@roehamptoncapital.com>  
Cc: <michelle.jackson@paliareroland.com>, <Ken.Rosenberg@paliareroland.com>, <Danielle.Glatt@paliareroland.com>

WITH PREJUDICE

Dear Mr. Zar,

Please find enclosed the Supplementary Affidavit of Ken Rosenberg, in support of our motion returnable April 11, 2012.

I also take this opportunity to acknowledge receipt of your email below. As you know, the referenced proceedings are brought pursuant to s. 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, as amended (the "BIA"). The BIA Rules (Rule 14) require that a party wishing to examine another person must obtain leave of the court. Consequently, you will need to address this matter with the sitting judge at the hearing on April 11<sup>th</sup>. We anticipate that there will be a court reporter present and Mr. Rosenberg will be in attendance, so, if leave is granted, you may proceed with your examination at that time.

You should be aware that after conducting a cross-examination, the examining party is not entitled to file any further evidence without leave of the court. Furthermore, an evidentiary foundation is required for the purpose of any factual assertions upon which any questions are premised. At this time you have yet to file any evidence in response to our motion.

Mr. Rosenberg has previously expressed our willingness to enter into a comprehensive settlement of our dispute. Further to that overture, we are willing to settle all matters between us on the following terms:

1. By no later than 5:00 p.m. Eastern Daylight Time on Friday April 8, 2022, you will provide us with the following fully executed instruments in the form appended hereto:
  - a. a Consent to Order removing us as solicitors of record;
  - b. a Release and non-disparagement agreement, releasing us from any and all Claims (as defined in the attached document) existing up to this time, and agreeing not to disparage our firm and other persons as specified (the "Release").
2. We will receive and hold the Release in escrow pending the satisfaction of our obligations set forth below.
3. Upon the court issuing the Order, we will issue an invoice to 30-Roe in the amount of \$1,000 (an amount less than that which you told the Applicant that you paid for our services in connection with our first attendance before the court in these proceedings), plus disbursements not to exceed \$750, plus applicable taxes in respect of the foregoing (collectively, the "Costs"), deduct the amount of the Costs from our \$25,000 retainer, and remit the balance (the "Retainer Balance") to 30-Roe.
4. Upon payment of the Retainer Balance to 30-Roe, the Release shall come out of escrow.

To be clear, this proposal is made with prejudice and will be brought to the attention of the court. If we do not receive 30-Roe's unequivocal acceptance of the foregoing settlement proposal the fully executed Consent and Release and Non-Disparagement Agreement by the time indicated above, we will proceed with our motion, and we will be holding 30-Roe fully accountable for all costs, which are substantially in excess of the \$25,000 retainer that we currently hold as security for our accounts.

## April 9, 2022: 30 Roe Rejects Paliare Roland's WITH PREJUDICE Offer

263. On April 9, 2022, I responded to Paliare Roland, rejected their offer and corrected the numerous errors and falsities in their email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Sat, Apr 9, 2022 at 7:33 PM  
Subject: Re: 30 Roe Investments Corp. ats. Kingsett Mortgages Corporation; Court File No. [IWOV-PRiManage.FID347050]  
To: <Max.Starnino@paliareroland.com>  
Cc: <michelle.jackson@paliareroland.com>, <ken.rosenberg@paliareroland.com>, <Danielle.Glatt@paliareroland.com>

WITH PREJUDICE

Dear Mr. Starnino,

We write in response to your with prejudice email of April 6, 2022, below.

### **BIA DOES NOT APPLY**

Your refusal to allow the examination of Mr. Rosenberg on his affidavit was improper. You provided a misleading reference to a nonapplicable rule. Paliare Roland is not a party to the KingSett Application, and no provision of the BIA applies.

### **CAVANAGH J. GRANTED LEAVE TO EXAMINE**

In the alternative, permission to examine Mr. Rosenberg was granted by Justice Cavanagh on March 8, 2022. I specifically informed Justice Cavanagh that I intended on examining Mr. Rosenberg, and Mr. Rosenberg used my request to examine him as the basis for seeking a longer return date because of his busy March schedule fully booked with the Laurentian matter. On that basis, Justice Cavanagh adjourned the motion to allow for me to examine Mr. Rosenberg in April. That is why Mr. Rosenberg was not examined before the notice emailed to you on April 6, 2022, below. I was merely accommodating Mr. Rosenberg's busy schedule.

As you have refused to produce Mr. Rosenberg for examination, I intend on examining him at the hearing on Monday, April 11, 2022, and rely on the authority granted by Justice Cavanagh to do so. If you dispute that Justice Cavanagh permitted me to examine Mr. Rosenberg, you must make your objection known as soon as possible before the hearing, so I can show your objection to Justice Cavanagh and seek a supplementary endorsement requiring you to produce Mr. Rosenberg for examination on Monday. I remind you that on the basis of *res judicata*, you cannot relitigate a matter that you know another Judge had already ruled on, especially when you were there. The record shows examination was ruled on.

### **SETTLEMENT OFFER REJECTED**

Your settlement offer below is improper and rejected. You are conditioning the return of Trust Funds that do not belong to you on the signing of a self-serving release that prevents your client from suing you should it end up with no counsel of record and a receivership order on May 6, 2022, destroying \$10 million of assets. The only "comprehensive settlement" we would consider is one that includes KingSett. Until then, we will not be providing releases to anyone, especially those considering abandoning us while we are fighting a frivolous application brought by a much larger entity based on a personal vendetta and the misuse of the court as the forum.

### **ORDER TO RETURN TRUST FUNDS**

As you are in breach of the Letter of Direction, we will seek an Order from the Judge on Monday requiring you to follow the Letter of Direction and return our Trust Funds without condition or further delay.

Yours truly,

**30 ROE INVESTMENTS CORP.**

Per: "Raymond Zar"



**PALIARE REMOVAL MOTION: PALIARE ROLAND AND BENNETT JONES  
DEEMED WITNESSES IN THE DISPUTE BETWEEN KINGSETT AND 30 ROE**

**April 11, 2022: In-Camera Motion Before Justice Penny**

264. Paliare Roland's motion to be removed from the record occurred in-camera before the Honourable Justice Penny on April 11, 2022 (the "**Paliare Removal Motion**")

265. As the motion occurred in-camera, I will not, at this time, disclose in detail the submissions made at the hearing.

266. Further, as 30 Roe has pending litigation against Paliare Roland for damages, I will not, at this time, detail every single incident of actionable conduct by Ken Rosenberg, Max Starnino and Paliare Roland that gives rise to liability and damages.

267. I will, however, speak to specific passages from Justice Penny's public endorsement (the "**Penny Endorsement**").

268. At paragraphs 6 and 7 of the Penny Endorsement, His Honour stated:

*"The basis for Paliare Roland's decision to withdraw as counsel for the Client involves highly confidential matters which are no one else's business but the firm and the Client. As a result, the motion was conducted in camera without the participation of other parties to the litigation. Further, I will not be outlining the details of any of the grounds presented or the disagreements discussed during the submissions of both sides.*

*Suffice it to say that, considering the evidence as a whole, I am satisfied that the relationship between the Client, Mr. Zar and Paliare Roland has been irreparably damaged, lacks the fundamental requirements of trust and confidence and cannot continue. Indeed, Mr. Zar went so far as to say that **Paliare Roland (as well as possibly Bennett Jones) may need to testify at the receivership application. On***

*this basis alone, Paliare Roland could not possibly continue to act and Mr. Zar recognized and accepted that.”*

269. Given Justice Penny’s determination that Paliare Roland being deemed a witness at the trial of the KingSett/30 Roe dispute rendered Paliare Roland ineligible to act for 30 Roe, Justice Penny granted the motion removing Paliare Roland as counsel to 30 Roe. This Order was issued on April 20, 2022, meaning Paliare Roland remained counsel of record to 30 Roe through April 20, 2022.

## **JUDGE DIRECTS PALIARE ROLAND TO UNCONDITIONALLY RETURN 30 ROE’S TRUST FUNDS**

### **April 12, 2022: Paliare Roland Retains LawPRO Counsel, Abides by Court Order, Returns Trust Funds**

270. On April 11, 2022, Justice Penny directed Paliare Roland to unconditionally return the \$25,000 in trust funds. Paliare Roland was refusing to return to 30 Roe unless 30 Roe signed a release.

271. On or about April 12, 2022, it became apparent that Paliare Roland had retained LawPRO counsel.

272. On April 12, 2022, after over a month of improperly refusing to return 30 Roe’s trust funds so 30 Roe could retain another lawyer in time for the Receivership Hearing, Paliare Roland finally returned the trust funds. Here is the email exchange with Paliare Roland’s LawPRO counsel:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Apr 11, 2022 at 3:08 PM  
Subject: Re: Kingsett Mortgage Corporation v. 30 Roe Investments Corp. [IWOV-PRiManage.FID347050]  
To: <Max.Starnino@paliareroland.com>, <rstellick@agblp.com>  
Cc: <ken.rosenberg@paliareroland.com>, <michelle.jackson@paliareroland.com>

Never mind, his Honour included the wording I was looking for, and that will suffice to disqualify Bennett Jones.

I trust you will abide by the court order and return our Trust Funds immediately.

From: **Robert Stellick** <RStellick@agblp.com>  
Date: Tue, Apr 12, 2022 at 3:15 PM  
Subject: RE: Kingsett Mortgage Corporation v. 30 Roe Investments Corp. [IWOV-PRiManage.FID347050]  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Simon Bieber <SBieber@agblp.com>

Mr. Zar,

I am writing to advise that the \$25,000 retainer funds are in the process of being wired to your account this afternoon. Payment is being made to the account identified in the Direction you earlier provided to PRRR.

Please confirm when you have received the funds.

Going forward, please direct all communications concerning this matter to our office.

Regards,

Rob



**ROBERT STELLICK**  
*Partner*

D: 416.596.9294 | F: 647.689.2059 | E: [rstellick@agblp.com](mailto:rstellick@agblp.com)  
95 Wellington St. W. Suite 1830 | Toronto ON M5J 2N7

**KINGSETT IMPROPERLY INFLATES LEGAL FEES IN ORDER TO PREVENT 30 ROE FROM PAYING OUT THE KINGSETT LOAN WITHOUT SIGNING A RELEASE**

**April 13-14, 2022: Emails with Bennett Jones Re: Legal Fees**

273. The Paliare Motion encountered complications, and Paliare Roland remained counsel of record to 30 Roe through April 20, 2022. However, Paliare refused to act, and 30 Roe had no other counsel.

274. On April 13, 2022, in the interest of moving matters along, I wrote to Bennett Jones and demanded production of the bills and invoices supporting the \$151,392.73 in legal fees KingSett claimed it incurred as of April 13, 2022 (up until which it had not even argued the Receivership Hearing and had merely served a motion record and had two brief 30-minute Zoom attendances).

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Apr 13, 2022 at 1:28 PM  
Subject: Re: FW: 30 Roe  
To: Richard Swan <SwanR@bennettjones.com>, Sean Zweig (zweigs@bennettjones.com) <zweigs@bennettjones.com>

Mr. Swan and Mr. Zweig,

In the interest of moving other matters forward while the issues in the Paliare Motion are dealt with, I am following up on the below email wherein you submitted the attached payout statement claiming \$151,392.73 in legal fees.

This is our formal demand for the production of the bills and invoices amounting to \$151,392.73.

Please advise as soon as possible when we can expect to receive same.

Yours truly,

**30 ROE INVESTMENTS CORP.**  
Per: "Raymond Zar"

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 14, 2022 at 10:33 AM  
Subject: Re: FW: 30 Roe  
To: Richard Swan <SwanR@bennettjones.com>, Sean Zweig (zweigs@bennettjones.com) <zweigs@bennettjones.com>

May I hear from you.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 14, 2022 at 11:03 AM  
Subject: Re: FW: KingSett/ 30 Roe Investments - CV-22-00674810-00CL  
To: Richard Swan <SwanR@bennettjones.com>, Sean Zweig (zweigs@bennettjones.com) <zweigs@bennettjones.com>

Mr. Swan and Mr. Zweig,

As you are aware, we are awaiting your response in the other email thread in relation to the payout statement you sent us and our demand for the production of the bills and invoices that comprise the \$151,392.73 in legal fees claimed.

It is improper for KingSett to obstruct the Borrower from paying out the KingSett mortgages, and if these unnecessary delays continue, we will seek a court-ordered discharge.

275. On April 14, 2022, Bennett Jones produced a one-page statement that simply listed “Total Due in CAD \$158,894.53” without providing its dockets.

276. I have been advised that a lender’s counsel must provide a borrower with complete dockets for all legal fees it claims to have incurred and that any privileged notations can be simply redacted but that the particulars such as time, rate and activity must be listed.

277. In refusing to do so, KingSett and Bennett Jones deprived 30 Roe of the right to the dockets for \$158,894.59 in costs alleged to have been incurred by KingSett.

278. As of this affidavit (October 2022) and despite countless demands that it do so, KingSett has still yet to produce any supporting documents for its claim to costs, which range widely in amount depending on the day of the week that the question is asked of KingSett.

279. Here are the emails:

From: **Sean Zweig** <ZweigS@bennettjones.com>  
Date: Thu, Apr 14, 2022 at 1:19 PM  
Subject: RE: FW: KingSett/ 30 Roe Investments - CV-22-00674810-00CL  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Richard Swan <SwanR@bennettjones.com>

Mr. Zar,

First, I never said I would be providing a bill of costs.

Second, you had asked for information with respect to the legal fees on the previously provided payout statement, which I said would be provided today. You have now changed your request and asked for all fees to date. We will endeavor to provide that today, but it may not be possible. As I said, it will be provided as soon as possible.

**Sean Zweig**

Partner\*, Bennett Jones LLP

\*Denotes Professional Corporation

3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4

T. 416 777 6254 | F. 416 863 1716



From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 14, 2022 at 1:46 PM  
Subject: Re: FW: KingSett/ 30 Roe Investments - CV-22-00674810-00CL  
To: Sean Zweig <zweigs@bennettjones.com>  
Cc: Richard Swan <SwanR@bennettjones.com>

Mr. Zweig,

We are tired of these delays and KingSett's games.

First, KingSett goes out of its way to pressure three different firms from representing us, not including the other three that had legitimate conflicts. Then, when we finally retain a lawyer and pay a \$25,000 retainer, you have conversations with our lawyer, Mr. Rosenberg, that turns him (and you) into witnesses in the matter and leaves him no choice but to resign (I will not comment on your choice to continue acting despite the conflict).

Having no interest in playing KingSett's games, we request discharge statements for the nine properties so we can be done with this rapacious lender, only to have KingSett refuse to issue them. This is particularly concerning given the representations KingSett made to the court in seeking a receivership. I don't think the court will be impressed with this duplicitous behaviour; on the one hand, claiming to want a receiver to list and sell the nine properties, and on the other, refusing to issue nine separate payout statements to the Borrower, as is required under the loan agreement, and as it would have to do anyways if/as the properties were sold.

Now we are merely asking you to produce the bills/invoices you used to come up with the \$151,392.73 in legal fees claimed by KingSett on the last discharge statement, and you are playing with words to try and form an excuse to delay further. If the bills/invoices exist, they should be produced immediately. The only explanation for the delay is that the bills/invoices do not exist, and you are in the process of manufacturing them, which speaks to the pattern exhibited by KingSett in this matter: shoot first, justify later.

Having played some of the tapes for Justice Penny, I can tell you that his Honour was disgusted, to say the least, with what he heard on those tapes, and I think Justice Cavanagh will be disturbed to find out what is really going on here.

For now, produce the bills and invoices.

From: Sean Zweig <ZweigS@bennettjones.com>  
Date: Thu, Apr 14, 2022 at 4:38 PM  
Subject: RE: FW: KingSett/ 30 Roe Investments - CV-22-00674810-00CL  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Richard Swan <SwanR@bennettjones.com>

Mr. Zar,

I am not going to engage on your email below except to once again say that KingSett categorically denies your various allegations.

As requested, attached please find updated invoices for each of Bennett Jones (counsel to KingSett), KSV (the proposed receiver) and Goodmans (counsel to the proposed receiver). You only asked about "legal fees", but we are including KSV as well which fell into "other professional fees" on the payout statement.

**Sean Zweig**

Partner\*, Bennett Jones LLP

\*Denotes Professional Corporation

3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4

T. 416.777.6254 | F. 416.863.1716



Bennett Jones LLP  
Suite 3400  
1 First Canadian Place  
P.O. Box 130  
Toronto, Ontario M5X 1A4

KINGSETT REAL ESTATE MORTGAGE LP NO. 3  
40 KING STREET WEST  
PI LEVEL, PO BOX 110  
TORONTO, ON M5H3Y2

Re: 30 Roehampton Avenue, Toronto  
Our File Number: 059445.00079

Date: April 14, 2022

**PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:**

Professional Services	\$	138,436.65
Disbursements	\$	1,499.57
Disbursements Incurred As Your Agent (Non Taxable)	\$	229.00
Other Charges	\$	475.75
Total Due before GST/HST	\$	140,640.97
GST/HST	\$	18,253.56
<b>Total Due in CAD</b>	\$	<b><u>158,894.53</u></b>

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at [www.bennettjones.com](http://www.bennettjones.com). GST/HST number: 119346757

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, Apr 14, 2022 at 4:49 PM  
Subject: Re: FW: KingSettl/ 30 Roe Investments - CV-22-00674810-00CL  
To: Sean Zweig <zweigs@bennettjones.com>  
Cc: Richard Swan <SwanR@bennettjones.com>

Mr. Zweig,

You have sent a one-page statement claiming \$158,894.53 in fees without providing any particulars as to time, rate and activity.

Please send your dockets.

**ROEHAMPTON**  
CAPITAL

**Raymond Zar, MBA**  
CEO

rz@roehamptoncapital.com | D: 416-322-8509

**ROEHAMPTON CAPITAL**  
416-322-8500 | RoehamptonCapital.com  
Two Bloor Street East, Suite 3505, Toronto ON, M4W 1A8

From: **Sean Zweig** <ZweigS@bennettjones.com>  
Date: Thu, Apr 14, 2022 at 4:54 PM  
Subject: RE: FW: KingSettl/ 30 Roe Investments - CV-22-00674810-00CL  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Richard Swan <SwanR@bennettjones.com>

Our docket entries are privileged and confidential. They will not be provided.

**Sean Zweig**

Partner\*, Bennett Jones LLP

\*Denotes Professional Corporation

3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4

T. 416 777 6254 | F. 416 863 1716





### **30 ROE STRIKES LANDMARK DEAL CIBC REINSTATING CIBC MORTGAGES BASED ON NEW \$2.8 MILLION FIRM CAPITAL LOAN TO PAYOUT KINGSETT**

#### **Early May, 2022:**

280. In early May 2022, 30 Roe reached a landmark deal with CIBC and Firm Capital, enabling 30 Roe to payout the KingSett Loan and avoid a receivership, all without needing to sign a release in favour of KingSett.

281. Firm Capital agreed to lend \$2.8 million (almost \$1 million more than the KingSett Loan) at an interest rate of 8.00% (100 basis points cheaper than KingSett).

282. Under this deal, CIBC agreed to reinstate all nine of the 30 Roe first mortgages and provide a 30-day standstill for 30 Roe and Firm Capital to complete the refinancing.

283. All that was left to close was KingSett's agreement.

284. Unsurprisingly, KingSett refused to discharge its mortgage and blocked this refinancing from occurring. It instead pushed forward to appoint a Receiver and repeated its demand for a signed release as a condition of honouring its obligations, such as issuing discharge statements and producing supporting documentation for legal fees claimed.

285. Here are the Firm Capital and CIBC letters:

# Firm Capital Corporation

Mortgage Banking • Real Estate Capital  
163 Cartwright Avenue  
Toronto, Ontario M6A 1V5  
Tel: 416-635-0221  
Fax: 416-635-1713

May 4, 2022

**30 Roehampton Capital Attn: Raymond Zar**

2 Bloor Street East, Suite 3505  
Toronto, Ontario  
M4W 1A8

## LETTER OF INTENT

**RE: 30 ROEHAMPTON AVENUE PENTHOUSE UNITS #1, 2, 3, 4, 5, 6, 7, 8, AND 9  
TORONTO, ONTARIO (Collectively the "Property")**

The following outlines the basic terms and conditions under which Firm Capital Corporation ("FCC") is in a position to arrange mortgage financing for the above noted Property based on the information that you have provided.

<b>BORROWER:</b>	<b>30 Roe Investment Corp. and roe Hampton Capital Corp. jointly and severally (the "Borrower")</b>
<b>GUARANTOR(S):</b>	<b>Raymond Zar (the "Guarantor(s)").</b>
<b>LOAN AMOUNT:</b>	<b>A \$2,800,000.00 second mortgage Loan (the "Loan").</b>
<b>INTEREST RATE:</b>	<b>Floating at greater of 8.00% Per Annum or the TD Canada Trust Posted Bank Prime Rate of 4.80% Per Annum</b>
<b>TERM:</b>	<b>1 year, from the interest adjustment date.</b>
<b>AMORTIZATION:</b>	<b>0, Interest Only.</b>
<b>REPAYMENT:</b>	<b>Due monthly, interest only, and being calculated daily, and compounded monthly on each payment date on the total of the principal balance plus accrued interest outstanding on the payment date.</b>
<b>PRIVILEGES:</b>	<b>Closed for the first twelve (6) months, open for repayment on any date thereafter, upon NIL (0) month interest penalty, with thirty (30) days written notice.</b>
<b>LOAN SECURITY:</b>	<b>The Lender shall receive the following primary loan security:</b>

[www.FirmCapital.com](http://www.FirmCapital.com)



REPLY TO: BEN FRYDENBERG  
FILE NO.: 69145  
DIRECT: 416-218-1146  
FAX: 416-218-1146  
EMAIL: [ben@chaitons.com](mailto:ben@chaitons.com)

May 5, 2022

**VIA EMAIL**

30 Roe Investments Corp.  
Raymond Zar, MBA  
CEO  
ROEHAMPTON CAPITAL  
Two Bloor Street East, Suite 3505  
Toronto, Ontario M4W 1A8

**Re: Canadian Imperial Bank of Commerce ("CIBC") and 30 Roe Investments Corp and Raymond Zar**

Dear Sirs,

We are writing to confirm that our client, CIBC, agrees to continue to defer and forbear from taking any enforcement steps in connection with its mortgages for a period of 30 days commencing May 6, 2022, in order to allow 30 Roe Investments Corp. an opportunity to complete its refinancing with Firm Capital Corporation in order to payout KingSett in full, subject to whatever further arrangements which may be agreed upon with KingSett or which may be directed by the court to address any issues of costs between 30 Roe and KingSett.

Yours truly,  
CHAITONS LLP

A handwritten signature in black ink, appearing to be "BF", written over a light blue horizontal line.

**Ben Frydenberg**  
PARTNER

BF/lc

**30 ROE RETAINS COUNSEL TO BRING A CROSS-MOTION REQUIRING KINGSETT  
RETAIN ALTERNATIVE COUNSEL AND TO ACCEPT REPAYMENT OF THE  
KINGSETT LOAN AND HAVE COSTS ASSESSED**

**May 2022:**

286. With limited time left until the May 6, 2022, Receivership Hearing and a dozen familiar firms either conflicted out or unavailable, 30 Roe was forced to retain a lawyer it was unfamiliar with and had no background information about other than seeing its name on a lawyer directory and having little time left to search. On May 2, 2022, 30 Roe attended the law office of Solomon Rothbart Tourgis Slodovnick LLP (“**Solmon Firm**”) and met with Mr. Zucker, who held himself out as a member of the Solmon Firm.

287. On the representation that Mr. Zucker was a member of the Solmon Firm and that Mr. Zucker had experience with receivership applications (both of which turned out to be untrue) and would bring a cross-motion to remove Bennett Jones as counsel to KingSett and a cross-motion seeking an order requiring KingSett to discharge its mortgage off of the title and have costs assessed by the court at a hearing for costs (based on a determination of whether the Application was brought properly or not), 30 Roe retained Mr. Zucker and the Solmon Firm as counsel for the May 6, 2022 hearing, which Mr. Zucker assured would be adjourned so there was time to prepare responding materials properly, and for KingSett to retain new counsel.

288. Unfortunately, Mr. Zucker did not do as he promised, either because he did not care or did not know how to. As Mr. Zucker’s communication and struggle to draft basic legal documents soon revealed, he did not have the required skills, knowledge or infrastructure to prepare materials related to a receivership. Mr. Zucker was in over his head.

289. I have included below some of my email exchanges with Mr. Zucker, which demonstrates that Mr. Zucker provided me and 30 Roe with entirely incorrect legal advice by assuring us that

*“if we lose we appeal to the court of appeal which is as of right.”*

290. 30 Roe and I relied on and acted upon this incorrect legal advice.

291. Mr. Zucker also acted inappropriately by continually pressuring me to abandon the Firm Capital financing offer in favour of financing from Mr. Zucker’s brother (chairman of Clifton Blake). I did not feel comfortable with that.

292. To make matters worse, Mr. Zucker tarnished the financing in the eyes of the court by taking it upon himself, without my authorization, to upload a watermarked “draft” unsigned offer to financing from Clifton Blake onto Case Lines, which contradicted the terms of the signed Firm Capital offer.

293. The below email exchange illustrates the situation:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, May 5, 2022 at 3:33 AM  
Subject: Re: 2022.05.04 Affidavit of R.Zar DRAFT  
To: Symon Zucker <sz@bondlaw.net>  
Cc: Bernadette Escujuri <bescujuri@bondlaw.net>

Attached is the V1 redline. I think it still needs a lot of work. I am unsure what order/relief we are seeking on Friday. I didn't see anything in reference to asking the court for a 30 days extension and a separate hearing to deal with costs and whether the application was brought properly or not.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, May 5, 2022 at 6:15 PM  
Subject: Requested relief / with prejudice offer to KingSett  
To: Symon Zucker <sz@bondlaw.net>

Where is the requested relief or with prejudice offer to KingSett? It is still unclear to me how you are proposing to state our ask for a 30 days window to complete the refinancing and then hold a hearing to assess costs based on whether the application was warranted or not.

From: **Symon Zucker** <sz@bondlaw.net>  
Date: Thu, May 5, 2022 at 6:21 PM  
Subject: RE: Requested relief / with prejudice offer to KingSett  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Nancy Tourgis <ntourgis@srtlegal.com>

That have not accepted our proposal.. I put in our factum and that I was seeking a 30 day and I put the two offers on caselines... so the judge already has them... they are not going to accept our offer so either we get the adjournment or we argue the matter.. if we lose we appeal to the court of appeal which is as of right... does not seem we need a stay but they can seek to lift the stay..; that all takes time... is my current reading of the legislation...my inhouse people are looking at it now.. I have one of the top insolvency lawyers.. not a litigator at my office .. Jules Berman.. I need to tell you as well that if we get the 30 days I will not likely be available so I have Nancy Tourgis who will assist on this... she and Mel Solmon are top insolvency people as well.. Nancy will be on the call tomorrow so I am copying her to introduce you

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, May 5, 2022 at 6:27 PM  
Subject: Re: Requested relief / with prejudice offer to KingSett  
To: Symon Zucker <sz@bondlaw.net>  
Cc: Nancy Tourgis <ntourgis@srtlegal.com>

Could you send me the offers? I haven't seen them.

I would prefer we formalize the order we are seeking in advance.

Also, can you also ensure that you are prepared to require they provide an undertaking as to damages? Both Ken Rosenberg and Bob Thornton advised me that the moving party in a receivership must provide an undertaking as to damages but Swan has avoided the topic - it is critical we are able to confront him on this and not allow him to escape the question. I am concerned there may be some procedure we need to follow in order to get that undertaking, so please look into it and let me know tonight.

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Thu, May 5, 2022 at 6:46 PM  
Subject: Re: Requested relief / with prejudice offer to KingSett  
To: Symon Zucker <sz@bondlaw.net>

Also, could we remove the Clifton Blake letter from the record? I didn't know you were sharing it with them. It says draft on it and it isn't a good look that it is so much lower than the \$2.8 million Firm offered.

294. Mr. Zucker did not respond.

## **RECEIVERSHIP HEARING BEFORE THE HONOURABLE JUSTICE CAVANAGH**

### **May 6, 2022: Receivership Hearing**

295. On May 6, 2022, Justice Cavanagh heard the Receivership Application.

296. Mr. Zucker failed to bring a cross-motion to remove Bennett Jones as counsel to KingSett (Paliare Roland was removed as counsel due to its needing to testify about what Bennett Jones said to them; thus, Bennett Jones also had a conflict).

297. Mr. Zucker also failed to bring a cross-motion seeking in respect of KingSett's continual improper refusal to discharge its mortgage and to account for its legal fees claimed.

298. As such, Justice Cavanagh refused Mr. Zucker's adjournment request and heard the Application despite virtually no responding materials filed by My Zucker on behalf of 30 Roe and KingSett's materials receiving no scrutiny, including no cross-examination.

### **May 9, 2022: Receivership Order Granted**

299. Justice Cavanagh released his endorsement on May 9, 2022, at approximately 4 pm, granting the Receivership Order.

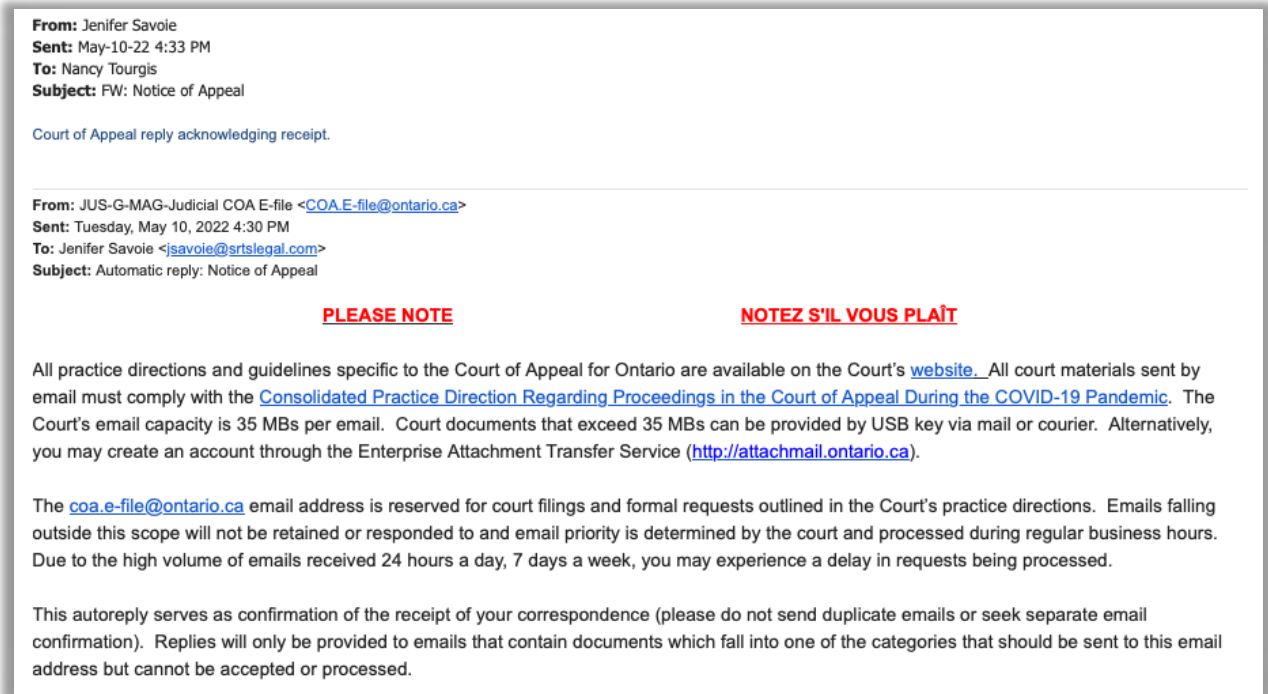
## **30 ROE'S NOTICE OF APPEAL FILED THE NEXT DAY**

### **May 10, 2023: 30 Roe Appeals the Receivership Order of Justice Cavanagh**

300. On the advice of counsel that the appeal is as of right, I instructed counsel to proceed with filing the Notice of Appeal, staying the Receivership Order.

301. The Court of Appeal confirmed receipt of the Notice of Appeal at 4:33 pm on May 10, 2022.

302. Attached hereto as [Exhibit “R”](#) is a copy of 30 Roe’s Amended Notice of Appeal.



**KSV RETALIATES BY RUSHING TO THE PROPERTY AND MISREPRESENTING ITSELF TO RESIDENTS BY CLAIMING “THE OWNER HAS CHANGED”**

**May 11, 2022: At 4:40 pm – Video of KSV Misrepresentation**

303. In retaliation to the the filing of the Notice of Appeal, in which 30 Roe took the position that the Receivership Order was stayed, KSV rushed to the property and misrepresented itself as the new owner of 30 Roe.



304. Attached hereto as [Exhibit "S"](#) is a copy of the above-noted May 11, 2022 KSV Misrepresentation Video.

### **THREATENING EMAIL RECEIVED FROM "EARL. E. DEMIZE"**

#### **May 21, 2022: Email**

305. On May 21, 2022, I received an email from "Earl E. Demize". I have included the email below.

306. I recall that an Earl Demize or Demise attended the First Hearing but had the video off and did not respond to Justice Cavanagh, but attended and watched the entire hearing.

From: **Earl E. Demize** <demizeearl@gmail.com>  
Date: Sat, May 21, 2022 at 10:19 PM  
Subject: Advice  
To: <rz@roehamptoncapital.com>

If you wish to conduct business in this city, you must show respect for those that run it.

Abandon the appeal and show that you have learned from your mistakes.

## **THE CITY OF TORONTO AUDIT FINDS THAT HOTELS USED AS COVID SHELTERS IMPROPERLY OVERBILLED THE CITY BY OVER \$13 MILLION**

### **May 31, 2022: Toronto Star Article**

307. According to [this hyperlinked Toronto Star article](#), the owners of the Hotels that the City rented as COVID homeless shelters overcharged the City at least \$13 million.

308. Ruparell was the largest single owner of Hotels that were leased to the City of Toronto.

309. Following this article, virtually all of the Ruparell-owned COVID Hotel homeless shelter contracts were terminated.

## **KINGSETT PREVENTS 30 ROE'S APPEAL FROM BEING HEARD ON PROCEDURAL GROUNDS**

### **June 13, 2022: KingSett's Motion to Quash at the Court of Appeal for Ontario**

310. Before 30 Roe's appeal could be heard, KingSett brought a motion to quash 30 Roe's appeal on the basis that leave was required to appeal. This was contrary to the advice we received from Symon Zucker outlined above.

311. In reviewing the reasons of Justice Cavanagh dated May 9, 2022, counsel informed 30 Roe that the reasons disclosed that only one of four prongs of the test to appoint a Receiver was met, and the one prong met was subjective, not objective. Those prongs, with the corresponding section of the reasons, are below:

- (a) Prong 1: The lenders' security is at risk of deteriorating:
  - (i) *Reasons:* At paragraph 31 of the reasons, Justice Cavanagh confirms that there is no evidence that the mortgages against the Property are at risk of deteriorating;
  
- (b) Prong 2: There is a need to stabilize and preserve the debtor's business:
  - (i) *Reasons:* Again, at paragraph 31 of the reasons, Justice Cavanagh confirms that the Units are rented, and rents are being paid. Notably, Justice Cavanagh finds that the Company is continuing to pay interest on the mortgage debt.
  
- (c) Prong 3: The positions and interests of other creditors:
  - (i) *Reasons:* Again, at paragraph 31 of the reasons, Justice Cavanagh found that CIBC, the first mortgagee, is continuing to defer and forbear from taking any enforcement steps.

312. The only prong of the test Justice Cavanagh stated was satisfied was the fourth prong: loss of confidence in the debtor's management. To make this finding, Justice Cavanagh relied upon one line in an affidavit signed by Daniel Pollack. This KingSett employee had no direct relationship or communication with 30 Roe or its management. Justice Cavanagh relied upon conflicting evidence that had not been cross-examined upon. At paragraph 41, the Pollack Affidavit states that "KingSett has lost all confidence in the [Company's] management to continue to satisfy the [Company's] obligations, obtain refinancing and manage the Property."

313. 30 Roe was deeply troubled by the errors in the reasons. If a creditor could force a debtor into Receivership simply by signing an affidavit claiming to have lost confidence, then the real loss of confidence would be that of the legal system.

314. First, 30 Roe was fulfilling its obligations. No interest was outstanding when KingSett commenced its application for a Receiver. Interest only became outstanding from the day the Receiver was appointed. Second, KingSett was well aware and supportive of 30 Roe's refinancing strategy. Third, 30 Roe had credible reasons for believing that the loan was extended to April 1, 2022, given that KingSett had taken the extension fee and interest payment for the months past the alleged expiry date of December 1, 2021. Fourth, by commencing an application for a Receiver, KingSett frustrated 30 Roe's refinancing efforts, and in the months leading to the Receivership hearing, it obstructed 30 Roe's right to payout the loan unless 30 Roe signed a release and paid exuberant fees and waived statutory assessment rights.

315. On the advice of counsel, 30 Roe instructed counsel to appeal the decision of Justice Cavanagh.

316. The appeal never saw the light of day as KingSett immediately brought a motion to quash the appeal on the basis that leave to appeal was required. Despite this, 30 Roe advanced a bulletproof argument to meet the test for leave to appeal: parking units.

317. The evidence before the Court of Appeal was that 30 Roe's parking units were each worth \$50,000. Each parking unit is individually titled and thus could be sold individually. Counsel advised 30 Roe that this is very uncommon in Receiverships as property less than \$250,000 could not be worth the time and cost of a Receiver to deal with. However, given that the order appointing the Receiver contained a clause stating that the Receiver can sell any property under \$250,000

without court approval, and given the parking units constituted property and were worth \$50,000 each, the appeal of the order was as of right pursuant to Section 193(c) of the BIA. In *RBC v. Bodanis*, the Court of Appeal for Ontario found that section 193(c) is clearly invoked where the debtor's property had been taken out of its control and could be sold without further approval of the court.

318. This was virtually the only argument counsel for 30 Roe raised and consumed virtually all the time for oral submissions. However, this argument is not mentioned in either KingSett's responding factum or the Court of Appeal decision granting KingSett's motion to quash. 30 Roe's factum outlining this argument is also missing from the Receiver's website. It is as though 30 Roe never made this argument.

## **RECEIVERSHIP OF 30 ROE FORMALLY TAKES EFFECT**

### **June 13, 2022: Court of Appeal Decides that Leave Required In 30 Roe's Case**

319. With the Court of Appeal declining to hear 30 Roe's appeal, the Receivership formally took effect and KSV's mandate as Receiver commenced (I will use the terms KSV and Receiver interchangeably given KSV was appointed Receiver).

320. 30 Roe and I immediately offered our complete cooperation to the Receiver and repeatedly asked for the KSV to speak with us. KSV Refused to speak with us.

Between June 13, 2022, and July 6, 2022 – KSV, as the Receiver, had extensive discussions with KingSett but not a single conversation or email exchange with me and, thereby, 30 Roe.

## **BRIEF PRIMER ON THE DUTIES OF COURT-APPOINTED RECEIVERS IN CANADA<sup>1</sup>**

Court-appointed receivers are officers of the court and must report to the court on their activities, as well as seek the approval of the court as appropriate or required throughout the course of the receivership. [Section 247](#) of the [BIA](#) expressly provides that the receiver must act honestly and in good faith and deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner. Moreover, court-appointed receivers have a fiduciary duty to act honestly and fairly on behalf of all claimants with an interest in the debtor's property, including the debtor and any shareholders.

321. The court will not, however, afford the same level of deference to receivers in reviewing the reasonableness of their fees. Receivers bear the burden of proving that their fees are fair and reasonable.

322. A court-appointed receiver is also usually empowered to disclaim contracts and to operate the debtor's business as a going-concern.

323. **Court-appointed receivers are independent from the appointing creditor and should retain independent counsel to avoid any issues of conflict of interest.**

324. The receiver's costs and expenses will ultimately be borne from proceeds of sale (or the appointing creditor in the event of a shortfall), which will reduce the net realization available for the appointing creditor and other stakeholders. This can also be significant for debtors because less

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<sup>1</sup> Karen Perron, *The ABCs of Appointing a Receiver*, 2019 39th Annual Civil Litigation Conference 12A, 2019 CanLIIDocs 3839, <<https://canlii.ca/t/sqd4>>

recovery to the creditors may increase the debtor's exposure pursuant to other security instruments, in particular, personal guarantees.

**ALLEGATIONS 30 ROE REFUSED TO COOPERATE WITH THE RECEIVER ARE ENTIRELY WITHOUT MERIT**

**June 16, 21, and 29, 2022 Letters from 30 Roe to Receiver's Counsel**

325. Much has been made about records requests and supposed refusals to comply with the Receiver's request for records. These assertions are entirely false and unsupported by evidence.

326. I wish to be absolutely clear: I have never refused to cooperate with the Receiver. I have never refused to provide documentation the Receiver requested of me that I had in my possession and that the Receiver could not obtain from any other source.

327. Recall that upon appointment, it is the Receiver that is accountable to the stakeholders, not the other way around. It is the obligation of the Receiver to fulfil its duty of care to 30 Roe.

328. I find it incredibly irresponsible on the part of the Receiver to make repeated bald allegation against me without supporting evidence. For the Receiver to accuse me of failing to provide it with information or documents, it must first show evidence that I possess the said information or documents and that the Receiver cannot possibly obtain the said information or documents from any other source despite its vast powers and resources under the Receivership Order.

329. If there is any document or information request from the Receiver that I have not fulfilled, it is either because the information or documents in question do not exist or I do not have sufficient knowledge or possession of them.

330. In any event, I have sent the Receiver three detailed letters responding with all the information I had and I did so promptly within days of the the Receivership going into force after the motion to quash on June 13, 2022.

331. Attached hereto as [Exhibit "T"](#) is a copy of my letters to the Receiver's counsel dated June 16, 21 and 29, 2022.

### **30 ROE AGAIN SECURES FINANCING, AND KINGSETT AGAIN INFLATES ITS COSTS TO BLOCK THE REFINANCING**

#### **June 21 to July 11, 2022, emails**

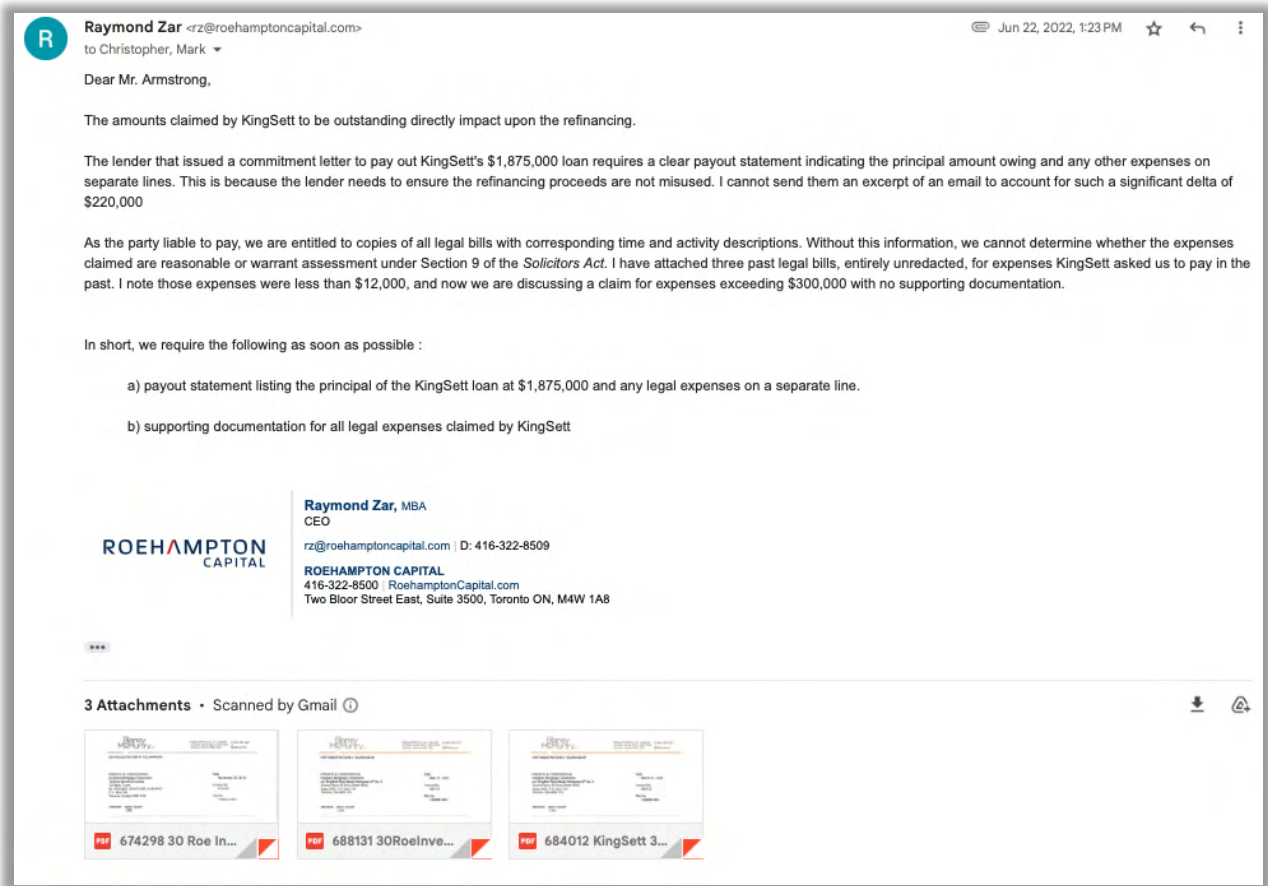
332. On June 21, 2022, at the request of 30 Roe, the Receivers counsel emailed the Receiver's fees and expenses along with a payout statement from KingSett, all to effect a discharge of the Receivership given 30 Roe had once again secured financing, and hopefully this time, KingSett could not block it. This email (after my corrections) claimed a principal of \$1,875,000 and costs of \$337,702 for KingSett, \$25,275 for KSV and \$57,435 for Goodmans (a total of \$397,412 in costs only one week after the Receivership took effect).

333. On June 21, 2022, I responded by noting the errors in KingSett's payout statement and requested a corrected statement so we could provide it to our new lender.



334. On June 21, 2022, the Receivers counsel advised that KingSett's counsel continues to refuse to produce his dockets.

335. While all these emails are in the exhibit noted below, I am pasting this one as it is very important for context:



336. The emails run until July 11, 2022, by which date, 30 Roe had produced an updated commitment letter from Firm Capital, direct confirmation from CIBC that it would reinstate the mortgages, and all that was left was for KingSett's counsel to produce its dockets so we could review the legal fees claimed.

337. As of the Receiver Counsel's July 11, 2022 email and KingSett payout statement attached therein, total enforcement costs had purportedly increased to \$563,896 (up \$166,484 in the span of only two weeks). This was in direct reaction to my refusing to sign a release in favour of KingSett and instead seeking an unconditional discharge.

338. KingSett was and continues to be obligated to produce dockets for the legal fees it claimed. In failing to honour this obligation, KingSett directly caused financing to fall through and for the Receivership to needlessly continue and, with it, 30 Roe to incur millions of dollars in damages for which KingSett is liable.

339. Attached hereto as [Exhibit "U"](#) is a copy of the email chain referenced above for the period of June 21, 2022, to July 11, 2023, and the KingSett Payout Statement dated July 10, 2022.

## **CALL RECORDING: KSV MADE MISREPRESENTATIONS TO THE COURT AND COMMITTED NEGLIGENCE**

### **July 6, 2022, at 4:46 pm: Raymond Zar Call with Noah Goldstein, Murtaza Tallat of KSV and Chris Armstrong of Goodmans**

340. On July 6, 2023, at 4:43 pm, after nearly a month of the Receiver formally commencing its mandate, I had my very first call with Noah Goldstein and Murtaza Tallat of KSV. Also on the call was Chris Armstrong of Goodmans.

341. By this point, I was misled to believe that Chris Armstrong had no conflict and was the independent counsel to what was supposed to be the independent court-appointed Receiver. Little

did I know that Chris Armstrong is a KingSett lawyer with a sworn duty of loyalty to KingSett (detailed further below).

342. In this call, amongst other things, KSV as Receiver:

- (a) At 37:00: Admits negligence by stating that it has not yet fulfilled its duty of care to stakeholder to be able to seek court approval for a sale process but that it is proceeding anyway.
- (b) At 46:00: Has no response for all the chaos it caused, all while imposing severely rushed timelines upon 30 Roe and me to respond.
- (c) At 47:00 Has no response to its actions that disregarded the interests of 30 Roe as a stakeholder.
- (d) At 1:00:40: Makes misrepresentations about the July 18, 2022 motion.
- (e) At 1:01:00: Hears direct warning from me that its misguided proposed sales process (residential unit sale instead of going concern sale) would create significant HST liability for the estate.
- (f) At 1:02:00: Specifically asks follow-up question about the HST warning I made and admits that he does not know the answer.
- (g) At 1:03:00: Has no answer for why he is interviewing residential realtors instead of the much more qualified practice groups such as at Colliers and CBRE.
- (h) At 1:04:30: Shows it is not qualified for this mandate and has no idea what it is doing.
- (i) At 1:06:00: I made what turned out to be an accurate prediction about the eventual disastrous result of the Receiver's negligent conduct and failure to obtain professional advice from qualified appraisers, business valuers and taxation experts prior to making recommendations to the court.
- (j) At 1:06:40: Admits that it has not conducted a basic assessment to determine if 30 Roe is worth more as a going concern or as an asset sale.

- (k) At 1:07:00: Admits that it is rushing to kill the Roe Suites operation and business before conducting analysis to determine what would yield the highest value for stakeholders.
- (l) At 1:07:50: Lies to me about its intention once receiving the keys to the Units.
- (m) At 1:08:20: Shows a complete lack of appreciation for the Roe Suites operations and obligations to distribution partners and their customers.
- (n) At 1:09:25: Admits that its recommendations to court will be based on its emotions and gut feelings instead of qualified professional advice and financial analysis.
- (o) At 1:10:00: I make a plea to the Receiver to consider acting in a more prudent and professional manner.

343. Attached hereto as [Exhibit "V"](#) is a copy of the above-noted July 6, 2022, 4:43 pm Call Recording between Raymond Zar, Noah Goldstein, Murtaza Tallat and Chris Armstrong.

**July 6, 2022, at 6:48 pm: KSV Distributes Memo on Proposed Sale Process**

344. Despite all that was discussed on our call only an hour prior, KSV proceeded to distribute to stakeholders its first and only idea for the sale process and neglected to even consider the new information and clear warning provided to it on our call including notice of major HST liability if the Receiver sold 30 Roe as individual units instead of as a going concern business.

345. Here is KSV/Goodmans email and my response:

From: **Armstrong, Christopher** <camstrong@goodmans.ca>  
Date: Tue, Jul 5, 2022 at 6:48 PM  
Subject: Receivership of 30 Roe Investments Corp. - Memo from Receiver re: Proposed Sale Process  
To: Ben Frydenberg <Ben@chaitons.com>, Sean Zweig <ZweigS@bennettjones.com>, Raymond Zar <rz@roehamptoncapital.com>  
Cc: Noah Goldstein <ngoldstein@ksvadvisory.com>, Murtaza Tallat <mtallat@ksvadvisory.com>

Counsel/Mr. Zar,

Please see enclosed memorandum from the Receiver regarding the proposed sale process for the Units for your consideration. As indicated, please provide any feedback for consideration by the Receiver by 5pm tomorrow.

\*\*\*\* Attention \*\*\*\*

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, or wish to unsubscribe, please advise us immediately at [privacyofficer@goodmans.ca](mailto:privacyofficer@goodmans.ca) and delete this email without reading, copying or forwarding it to anyone. Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON, M5H 2S7. [www.goodmans.ca](http://www.goodmans.ca) You may unsubscribe to certain communications by clicking [here](#).

---

**Chris Armstrong**

Goodmans LLP

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Wed, Jul 6, 2022 at 8:41 PM  
Subject: Re: Receivership of 30 Roe Investments Corp. - Memo from Receiver re: Proposed Sale Process  
To: Armstrong, Christopher <camstrong@goodmans.ca>  
Cc: Ben Frydenberg <Ben@chaitons.com>, Sean Zweig <ZweigS@bennettjones.com>, Noah Goldstein <ngoldstein@ksvadvisory.com>, Murtaza Tallat <mtallat@ksvadvisory.com>

Dear Mr. Armstrong,

Thank you for your email.

I wonder if it would be more efficient to focus our collective efforts on the refinancing before discussing a potential sale. It would be highly unlikely that a sale would need to occur now that the Company has provided the Receiver with a copy of its approved commitment letter for refinancing, and I have agreed to personally fund the delta required to discharge the Receiver, including all costs.

I raise this also because in reviewing the Receiver's July 5, 2022 memorandum, the Company is concerned it is premature to seek approval for a sales process. Amongst other things, the Receiver's memo is missing the fundamental analysis required to determine whether the Company should be sold for parts or as a going concern. The Company would be pleased to provide the Receiver with the information it needs to conduct such an analysis and engage the hospitality groups at Colliers and CBRE that are more experienced than HomeLife when it comes to hospitality businesses such as Roe Suites.

The Company was asked to raise funds to payout KingSett and other costs and payments to discharge the Receiver. The Company has done so. In the unlikely event refinancing is unsuccessful, efforts can divert to a sale process. For now, we ask that the July 18, 2022, court date be used for a motion to discharge the Receiver, and we agree that it would be most efficient for your firm to bring that motion.

We hope all parties will agree with us that the next steps in these matters are conducted consensually and without unnecessary delay. However, should the Receiver seek to proceed despite these critical issues, the Company will need to retain counsel to represent it as that would be entirely different from the consensual motion to discharge previously discussed.

**ROEHAMPTON**  
CAPITAL

**Raymond Zar**, MBA  
CEO

[rz@roehamptoncapital.com](mailto:rz@roehamptoncapital.com) | D: 416-322-8509

**ROEHAMPTON CAPITAL**  
416-322-8500 | [RoehamptonCapital.com](http://RoehamptonCapital.com)  
Two Bloor Street East, Suite 3500, Toronto ON, M4W 1A8

## **SALES PROCESS APPROVAL MOTION BEFORE JUSTICE MCEWEN**

### **July 18, 2022: Approval of the Receiver's Sales Process**

346. On July 18, 2022, without compiling any financial statements or conducting an analysis to determine all the facts, the Receiver sought approval for a Sales Process to list and sell the Units individually through a residential HomeLife real estate agent with no experience dealing with corporate housing businesses.

347. The evidence in the July 6, 2022 phone call recording shows that the Receiver had specific knowledge of the HST liability it would create by pursuing an individual unit sale approach and carelessly continued down that misguided path even when it knew or ought to have known that doing so would destroy value for the estate.

348. The Receiver misrepresented the facts to the Court and negligently withheld the HST information from the Court even though by its own admission today, the HST comprises of \$1.1 million in losses stakeholders – losses that could have been avoided were it not for the Receiver's carelessness, negligence and misconduct.

349. If that were not enough, even the Receiver's chosen plan to sell the Units individually turned out to be a disaster. In the five months the Units were listed on the MLS with the HomeLife agent, the Receiver was unable to sell a single Unit. The Receiver attributed this to its misguided decision to offer cooperating brokers only 2% commission instead of the prevailing 2.5% almost all listings on MLS offer as commission.

350. The Receiver has not produced value for the estate – it has produced revenue for itself and its counsel all at our expense.

## CONFLICT OF INTEREST: CHRIS ARMSTRONG IS A KINGSETT LAWYER

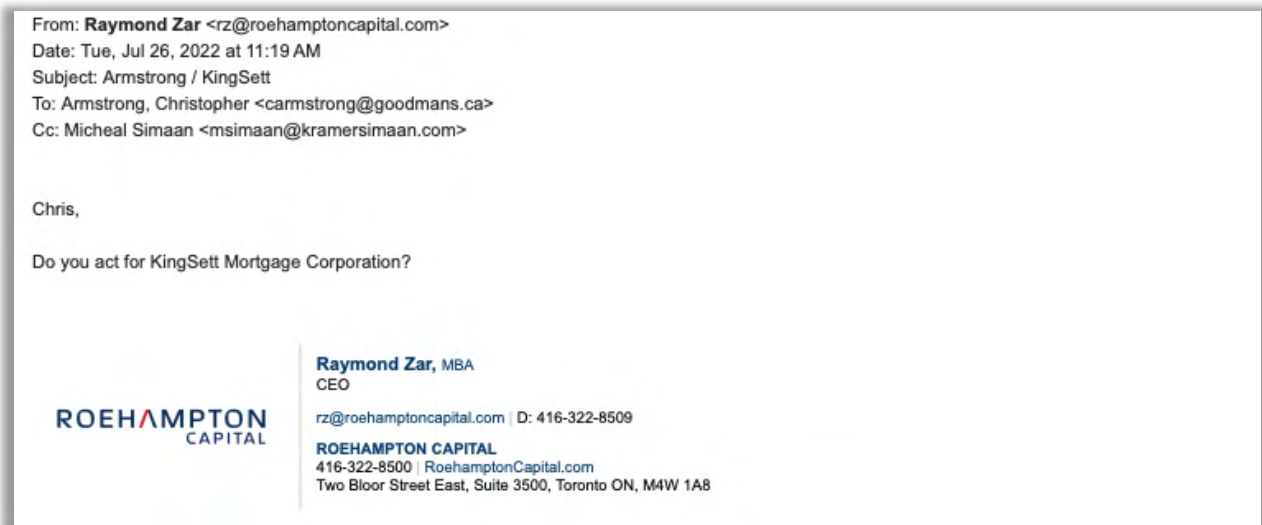
### July 26, 2022: Email to Chris Armstrong

351. By July 26, 2022, after speaking to Chris Armstrong a few times and having watched him make submissions in court during the July 18, 2022 Sales Process Approval Motion, I got the distinct feeling that he was a little too eager to please KingSett.

352. For example, while the July 18, 2022 motion was by the Receiver seeking approval for its sales process, Mr. Armstrong (taking advantage of his position as Receiver counsel) spent than half of his time allotment to attack me by walking the Judge through the Paliare Roland motion to be removed from the record – a matter having zero relevant to the motion by the Receiver.

353. In drafting this affidavit, I note that at 0:35:30 in [Exhibit “V”](#) – Chris Armstrong even says “if I put my KingSett hat on” when going on to speak in detail about KingSett’s interests.

354. On July 26, 2022, I decided to ask Chris Armstrong the questions directly and sent him the below email. Chris Armstrong refused to be truthful:



355. I provided Chris Armstrong four more opportunities to be truthful; he refused to do so.

356. I asked KingSett this same question and KingSett also refused to be truthful.

357. I asked KSV as Receiver this same question, and KSV also refused to be truthful.

358. I managed to uncover the truth in September 2022.

359. I can now advise this Honourable Court that the Receiver's counsel, Christopher Armstrong of Goodmans is a KingSett lawyer and pursuant to the *Rules of Professional Conduct*, has a sworn duty of loyalty to KingSett and thus has always lacked independence.

360. Neither KSV as Receiver, Mr. Armstrong or KingSett disclosed this conflict of interest to the Court or to 30 Roe. Their intentional refusal to disclose the truth, especially when confronted in July, August and September 2022, ought to bear consequences – anything less would make a mockery of the court and the court's duty to supervise its court-appointed officers.

361. This is yet another instance of KSV acting improperly and negligently to the detriment of the Company it was entrusted protect.

362. Attached hereto and marked as [Exhibit "W"](#) is a motion record in the Ontario Superior Court of Justice bearing court file number CV-18-08313-00CL proving that Christopher Armstrong is a solicitor of record for KingSett Mortgage Corporation.

363. Mr. Armstrong has not denied this evidence nor heeded calls to step down, so the Receiver retains intendent counsel.



**AUGUST 2022: 30 ROE SECURES \$3 MILLION IN UNCONDITIONAL FINANCING TO DISCHARGE THE RECEIVER, AND FINALLY SUE KINGSETT FOR DAMAGES.**

364. My patience with KingSett's antics was at an end. Every time we secured financing to payout the KingSett Loan, KingSett prevented us from doing so by magically increasing its purported legal fees on its payout statement at the last minute and thereby making our financing, on paper, appear to be insufficient to payout the KingSett Loan.

365. As such, by August 10, 2022, I spent and focused all of my remaining energy and resources into accomplishing what many believed was impossible for a company in Receivership. I secured \$3 million in unconditional financing and had it deposited into a lawyer's trust account and tendered it to bring KingSett and the Receiver's games to an end.

366. The \$3 million represented 160% of the KingSett Loan thus more than sufficient sufficient to payout KingSett and and its absurd costs, costs that would be paid in protest and assessed later.

367. Given the Receivership litigation with KingSett ended upon the granting of the Receivership Order, 30 Roe was no longer in direct litigation with KingSett and discharging the Receiver did not constitute a conflict as KingSett was now merely a creditor. This was Blaneys representation and legal advice to me and 30 Roe.

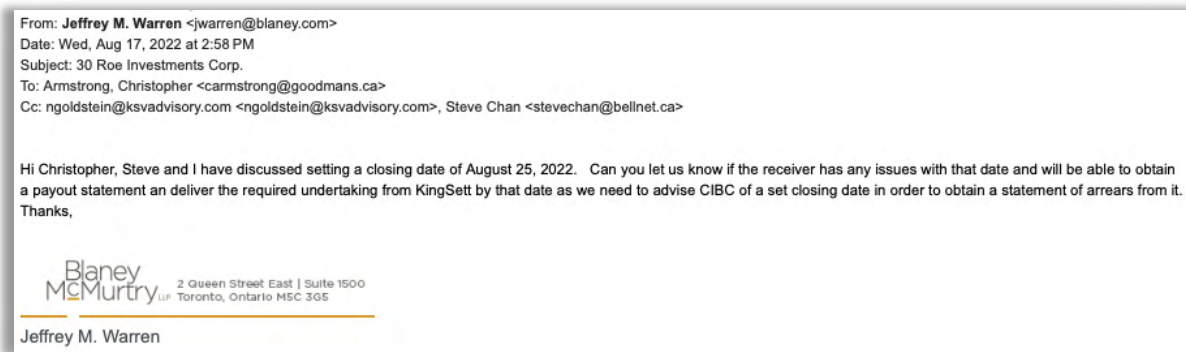
368. On that basis, I retained Jeffrey Warren of Blaney McMurtry to act for 30 Roe as counsel to complete the financing, and if the Receiver refused to bring a motion to discharge the Receivership, then for Blaneys to bring that motion on behalf of 30 Roe (the "**Discharge Order**").

369. On August 11, 2022, Jeffrey Warren wrote to the Receiver and its counsel to introduce himself as our counsel and advise that 30 Roe was proceeding to payout KingSett and thus discharge the Receiver.

370. Throughout the week, there were various discussions between the parties including the Receiver's bizarre demand to physically see the \$3 million in cash (disrespectfully not accepting the statement of the lenders solicitor). Despite the improper request, and in view of stopping further damages inflicted upon 30 Roe, we nonetheless satisfied the Receiver by sending it a copy of the bank draft for \$3 million (below):



371. By August 17, 2022, a closing date of August 25, 2022 set, in part, to satisfy a condition of CIBC as it needed a firm date in order to once again issue statements reinstating the first position CIBC mortgages on 30 Roe:



372. By August 24, 2022, Jeffrey Warren wrote to counsel to the Receiver, Chris Armstrong, and provided him with the written confirmation of CIBC agreeing to reinstate the mortgages and confirmed that *“we appear to be in good shape to fund the loan tomorrow”* and that *“there are sufficient proceeds from the loan to repay all required parties.”*

373. Jeffrey Warren then went on to remind Chris Armstrong that the Receiver has yet to fulfil its end of the agreement and that we were still waiting for the undertaking of the Receiver to bring a motion to for a Discharge Order, amongst other things.

374. Unsurprisingly, Jeffrey Warren also had to note the issues with KingSett’s payout statements and its improper position that it somehow is not bound to the laws and regulations of the rest of the country and that it can demand whatever amounts it wants for its counsel, Bennett Jones, all without even having to provide copies of its dockets.

375. Jeffrey Warren reminded Chris Armstrong that, unlike the Receiver and Receiver counsel fees, KingSett is a private creditor, and its counsel fees are not subject to the passing of accounts

process and that before paying its alleged legal fees, we had the right to know that they were properly incurred:

From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Wed, Aug 24, 2022 at 4:40 PM  
Subject: 30 Roehampton  
To: Armstrong, Christopher <carmstrong@goodmans.ca>  
Cc: stevechan@bellnet.ca <stevechan@bellnet.ca>, zweigs@bennettjones.com <zweigs@bennettjones.com>

Christopher,

My client and his lender have been proceeding diligently to fund the loan tomorrow. We have substantially settled the loan documents and appear to be in good shape to fund the loan tomorrow. Attached is the arrears statement from CIBC in the event that you have not received it from CIBC. I will send a statement of funds shortly but my calculations disclose that there are sufficient proceeds from the loan to repay all required parties. I note that we require the following from the receiver in order to proceed with closing:

1. The undertaking of the receiver to bring a motion seeking a discharge order and an undertaking of KingSett to support the motion. Steve Chan has requested that the undertaking include an undertaking to delete the Order appointing the receiver from title (Instrument Number AT6073332). Steve Chan has requested that this be completed within 1 month after closing. Please provide drafts at your earliest opportunity.
2. The In Preparation Discharge of Charge to discharge the charge/mortgage in favour of KingSett, the collateral security thereto and financing change statements to discharge the related PPSA registrations. Steve Chan requires drafts of the discharge documentation and has advised the he will prepare a 3 party DRA.
3. We reiterate our request for a revised payout statement from KingSett delineating the outstanding principal amount of the loan and the fees that have been included therein as well copies of invoices or dockets so that my client can confirm that the fees incurred by KingSett, the receiver and its counsel were properly incurred. In particular, the fees of KingSett's counsel will not be subject to the passing of accounts in the receivership and my client is entitled to know that these fees were properly incurred.

Attached is a draft of the authorization that you have requested regarding the insurance policies.

I look forward to hearing from you in respect of the foregoing at your earliest opportunity so that it does not hold up the funding of the loan.

Thanks,

 2 Queen Street East | Suite 1500  
Toronto, Ontario M5C 3G5

Jeffrey M. Warren

376. On August 25, 2022, Chris Armstrong wrote back and said that the Receiver required that the Discharge Order be “*satisfactory to the Receiver in its sole and absolute discretion*”.

**From:** Armstrong, Christopher <carmstrong@goodmans.ca>  
**Sent:** Thursday, August 25, 2022 9:36 AM  
**To:** Jeffrey M. Warren <jwarren@blaney.com>  
**Cc:** stevechan@bellnet.ca; zweigs@bennettjones.com; Caldwell, Brennan <bcaldwell@goodmans.ca>  
**Subject:** RE: 30 Roehampton

Thanks Jeffrey. We're fine with your comments on the Receiver Undertaking except for the change in the preamble to s. 1 – the Discharge Order to be sought will be in form and substance satisfactory to the Receiver in its sole and absolute discretion. When will you have a statement of funds and advice on closing to us?

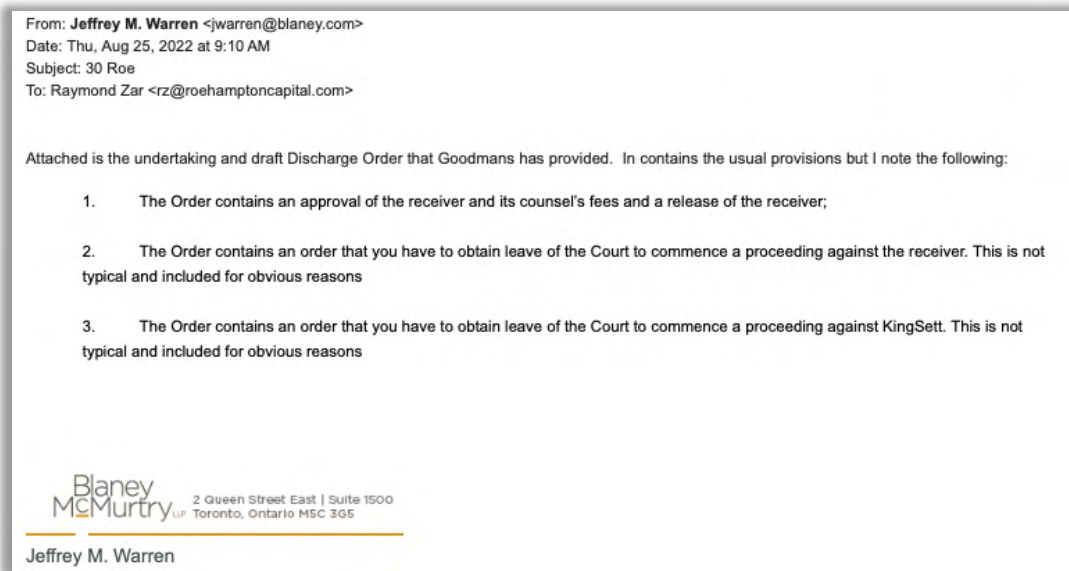
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**Chris Armstrong**  
Goodmans LLP

377. On August 25, 2022, Jeffrey Warren forwarded me the draft Discharge Order as prepared by the Receivers counsel Chris Armstrong. The Draft Discharge Order contained unprecedented revisions and deviations from the model order of the Court that entirely benefited KingSett to the detriment of 30 Roe. This Discharge Order was drafted by none other than the Receiver's counsel, Chris Armstrong (hereinafter the "**Armstrong Draft Discharge Order**").

378. Attached hereto and marked as [Exhibit "X"](#) is a redline Armstrong Draft Discharge Order showing the changes made as against the Court's model receiver discharge order.

379. Here is the email describing Exhibit X:



380. Amongst other things, the Armstrong Draft Discharge Order contained a provision that NO ONE could ever sue KingSett or ANY of its partners, directors, employees, affiliates, shareholders or lawyers in relation to any matter arising from or related to the KingSett Loan or the receivership proceedings, except with prior leave of the Commercial List Court:

**13. THIS COURT ORDERS that no action or other proceeding shall be commenced against KingSett or any of its partners, directors, employees, affiliates, shareholders, or lawyers in any way arising from or related to the KingSett Loan (as defined in the Second Report) or the within receivership proceedings, except with prior leave of this Court on a motion served on not less than twenty (20) days' prior notice to KingSett and any other applicable above referenced person.**

381. On August 25, 2022, Jeffrey Warren wrote back to Chris Armstrong and advised that we are still waiting for KingSett's updated payout statement in order to close the refinancing, and that he was awaiting instructions on how to deal with "Bennett Jones' refusal to provide supporting evidence to confirm how it incurred over \$350,000 in legal fees to address a [alleged] default under a mortgage of condominium units and the inclusion of the provision in the [Armstrong Draft] Discharge Order requiring [30 Roe] to seek leave of the Court in order to obtain an accounting and transparency from KingSett regarding the fees [30 Roe] is being required to pay without supporting evidence."

382. Here is that email:

From: **Jeffrey M. Warren** <jwarren@blaney.com>  
Date: Thu, Aug 25, 2022 at 10:30 AM  
Subject: RE: 30 Roehampton  
To: Armstrong, Christopher <carmstrong@goodmans.ca>  
Cc: stevechan@bellnet.ca <stevechan@bellnet.ca>, zweigs@bennettjones.com <zweigs@bennettjones.com>, Caldwell, Brennan <bcaldwell@goodmans.ca>, Ben Frydenberg <ben@chaitons.com>

Christopher, we are working diligently with the lender to complete the re-financing today and I will let you know when the lender will be proceeding to fund.

We still require KingSett's updated payout statement in order to close. I am waiting for instructions from my client regarding Bennett's Jones refusal to provide supporting evidence to confirm how it incurred over \$350,000 in legal fees to address a default under a mortgage of condominium units and the inclusion of the provision in the Discharge Order requiring my client to seek leave of the Court in order to obtain an accounting and transparency from KingSett regarding the fees he is being required to pay without supporting evidence.

383. By August 29, 2022, we continued reviewing the matter and particularly Chris Armstrong's improper advocacy of KingSett's interests to the determined of 30 Roe by inserting the release language in the Armstrong Draft Discharge Order as a condition of the Receiver agreeing to bring the motion to discharge the Receivership. Blaneys had also commenced the process to bring the motion seeking the Discharge Order, if the Receiver refused remove the improper alternations it made.

384. On August 29, 2022, I wrote directly to Noah Goldstein of KSV as Receiver and made it clear to him that I was not interested in settling with KingSett and that no more time should be wasted on discussing releases. I gave him the benefit of the doubt as a court-appointed officer and characterized the improper revisions shown in the Armstrong Draft Discharge Order as merely "drafting errors".

385. In doing so, it was my hope that Noah Goldstein would be reminded of his fiduciary to act honestly and fairly on behalf of stakeholders, including the debtor and shareholders. This meant remaining neutral and not advocating for one side or the other.

386. Here is my email:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Mon, Aug 29, 2022 at 9:21 PM  
Subject: Re: Property Taxes - 30 Roe  
To: Noah Goldstein <ngoldstein@ksvadvisory.com>  
Cc: Murtaza Tallat <mtallat@ksvadvisory.com>

Without Prejudice

Noah,

I have given it some thought and think it's best we terminate the settlement talks commenced by KingSett. Let's proceed with the payout and forget about releases.

Thank you for agreeing to send us your and Goodmans invoices tomorrow, I presume with dockets. Please ask Sean to do the same for Bennett Jones.

I will instruct Blaneys to prepare to tender the principal of the KingSett loan and pay all costs in trust pending assessment and seek a discharge on that basis.

The draft discharge order Goodmans prepared contains a clause barring claims against KingSett. I trust that was a drafting error, and a 9:30 will not be necessary as our draft order will not contain such a provision. Please confirm.

387. Noah Goldstein wrote back in a tone and tenor unbecoming of an officer for the court. I perceived the second sentence of his email below as a threat to me and 30 Roe. The term “best of luck” was clearly in relation to the uphill battle I would have discharging the Receiver without the Receiver’s cooperation – cooperation which the Receiver conditioned on settling with KingSett.

From: **Noah Goldstein** <ngoldstein@ksvadvisory.com>  
Date: Tue, Aug 30, 2022 at 6:28 PM  
Subject: Re: Property Taxes - 30 Roe  
To: Raymond Zar <rz@roehamptoncapital.com>  
Cc: Murtaza Tallat <mtallat@ksvadvisory.com>

That won't work Raymond. Sorry. You have our position. Best of luck.

Noah Goldstein  
416.844.4842

388. As a result of the Receiver’s negligent and improper conduct in refusing to bring a discharge motion without the requirement that 30 Roe give up its rights, I instructed Blaneys to proceed with bringing the Discharge Motion:

From: **Raymond Zar** <rz@roehamptoncapital.com>  
Date: Tue, Aug 30, 2022 at 7:42 PM  
Subject: Re: Property Taxes - 30 Roe  
To: Noah Goldstein <ngoldstein@ksvadvisory.com>  
Cc: Murtaza Tallat <mtallat@ksvadvisory.com>

Noah, what part of I don't want to settle with KingSett or negotiate costs do you not understand. Blaneys has my instructions re: discharge.



389. It is important to note that the \$3 million in funds were secured to discharge the KingSett Loan and the Receiver and to then recover the inflated costs through an assessment or other legal remedy. Therefore, any notion of 30 Roe having to give up any legal rights, including the guaranteed right to commence an action (absent a requirement for leave), would alter the entire basis upon the \$3 million was secured.

390. The insertion of this clause, found at paragraph 13 of the Armstrong Draft Discharge Order effectively derailed the refinancing transaction and thereby deprived 30 Roe from discharging the Receiver and minimizing the losses to 30 Roe including the value loss caused by the sale of even one Unit given the Units comprised an entire floor and an entire floor resulted in a premium.

391. KingSett, KSV and Goodmans are liable to 30 Roe for the damages that resulted because of their breach of duties, negligence and misconduct.

**SEPTEMBER 2022: CALL RECORDINGS: KINGSETT THREATENS OUR LAWYER AT BLANEYS TO DERAILED THE FINANCING TO PREVENT 30 ROE FROM PAYING OUT KINGSETT WITHOUT SIGNING A RELEASE**

392. Following the above emails, I instruction to Blaneys to bring the motion to obtain the Discharge Order – the motion which the Receiver improperly refused to bring unless it included the release language in favour of KingSett.

393. On numerous occasions, including on a recorded telephone call attached below, Blaneys represented to me that it had gone through the conflict process and that it determined there was no conflict in Blaneys acting for 30 Roe in respect of bringing a motion seeking the Discharge Order.

394. But KingSett’s interference in our affairs knew no bounds.

395. In order to prevent 30 Roe and me from paying out the KingSett Loan without signing a release, KingSett threatened to take away the business they gave Blaneys partner Steven Jeffrey unless he intervened and forced Blaneys to not act, even though there was no conflict.

396. For context, Steven Jeffrey (mentioned on the call recordings) is a partner in the real estate practice group at Blaneys and KingSett’s primary lawyer at Blaneys. Jeffrey Warren was my primary lawyer at Blaneys.


397. Attached hereto as [Exhibit “Y”](#) is a copy of the above-noted August 30 2022, Call Recording between Raymond Zar and Jeffrey Warren of Blaneys.

398. Attached hereto as [Exhibit “Z”](#) is a copy of the above-noted September 1, 2022, Call Recording between Raymond Zar and Jeffrey Warren of Blaneys.

**DECEMBER 2022: EVIDENCE OF KINGSETT'S DIRECT INVOLVEMENT AND INTEREST IN 935 QUEEN STREET WEST (2692201 ONTARIO INC.)**

399. The truth always has a way of revealing itself. In December 2022, I found documentary evidence proving KingSett's direct involvement and interest in 935 Queen Street West:

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement local



**ISSUE DATE:** February 11, 2020      **CASE NO(S):** PL190324

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended


Appellant: The Governing Council of the University of Toronto  
Appellant: 2692201 Ontario Inc.  
Appellant: KingSett Capital Inc.  
Appellant: Knightstone Capital Management Inc  
Appellant: Minto Communities Inc.  
Subject: Proposed Official Plan Amendment No. OPA 453

Municipality: City of Toronto  
LPAT Case No.: PL190324  
LPAT File No.: PL190324  
LPAT Case Name: 2692201 Ontario Inc. v. Toronto (City)

**Heard:** January 27, 2020 in Toronto, Ontario

**APPEARANCES:**

<u>Parties</u>	<u>Counsel</u>
City of Toronto	Joanna Wice Jason Davidson
Minto Communities Inc.	Michael Foderick
KingSett Capital Inc. 2692201 Ontario Inc.	Eileen Costello
Knightstone Capital Management Inc.	David Bronskill



## DECEMBER 7, 2022: ROEHAMPTON RELEASES STATEMENT IN RELATION TO KINGSETT AND KSV

400. On December 7, 2022,, we broke our silence and released our first semi-public statement on the KingSett dispute and KSV's misconduct:



### A STATEMENT FROM ROEHAMPTON CAPITAL IN RELATION TO KINGSETT CAPITAL

December 7, 2022

Roehampton Capital is grateful for the support of our senior lenders, clients and investors over the last twelve months.

At Roehampton, we believe that companies, like people, have the right to self-determination. If relationships are the currency of business, interference devalues the relationship as inflation devalues the dollar.

While we prefer to talk with our opponents and not about our opponents, the misinformation filling the void formed by our restraint has necessitated this response and, if necessary, further public statements.

Although we are disappointed with KingSett and will have more to say in due course, the state of that relationship is not a license for other parties to take advantage and break laws.

The attached security camera footage shows representatives of KSV Advisory (KSV), acting under the guise of independent court-appointed officers, entering Roehampton-owned properties at 30 Roe to cause panic and chaos by spreading false information about a change of ownership. These misrepresentations are categorically false, and Roehampton remains the sole owner of 30 Roe.

KSV's regulator has been informed of these events, and we call on all parties to cooperate with the investigation and with the motion to appoint a substitute.

Link to video: <https://vimeo.com/779052831>

**DECEMBER 9 2022: NOAH GOLDSTEIN OF KSV KNOWINGLY LIES TO TORONTO  
POLICE IN ORDER TO EFFECT THE ARREST OF RAYMOND ZAR'S MOTHER**

401. The Receiver KSV has not been truthful in its reports to the Court. The evidence herein shows that contrary to their claims and lies to the court, the Receiver Noah Goldstein of KSV knew exactly who the person in PH01 and PH07 was and the video evidence adduced herein proves it.

402. On the Exhibit Z video captured at 12:49 pm on December 9, 2022, Noah Goldstein is captured on video stating the following:

*"Its the person for PH07*

*OH. MY. GOD.*

*Oh my god.*

*Its the person for PH07 is in PH01! (smirk on his face).*

*She just opened the door.*

***Because its Raymond's mother.***

*I guarantee it.*

*Do you understand what I am saying?"*

**Exhibit "AA"** *PZ*

403. Attached hereto as Exhibit "Z" is a copy of the above-noted video recording depicting Noah Goldstein.

404. Only about two hours later at 3 pm, Noah Goldstein comes back to the 30 Roe property, this time with four police officers, and is captured on video misleading Toronto Police which resulted in several hours of my mother being brutally tormented, assaulted, and abused.

405. The events on the video are so traumatic that I have difficulty using words to describe them.

406. After having to watch the video again now to finish this affidavit, I am deeply disturbed and not able to continue writing.

407. The reader can watch the videos in Exhibit BB and determine for themselves if the conduct of Noah Goldstein and KSV captured on these videos is conduct that we as Canadian's expect to see from individuals that have the privilege to be officers of the court in our country.

408. Attached hereto as **Exhibit "BB"** is a copy of the above-noted video recordings depicting the abuse of Maryam Rezaee at the hands of Toronto Police caused by Noah Goldstein of KSV.

**DAMAGES SUSTAINED BY 30 ROE**

409. 30 Roe and I and all others that have suffered at the hands of KingSett, KSV, and their lawyers will have more to say at trial.

410. For now, I have calculated the equity available in the Company both before and after the Receivership, which is set forth below:

**Before the Receivership (January 2022)**

Asset Value:	\$12,500,000
CIBC Debt:	\$ 4,300,000
KingSett Debt:	<u>\$ 1,875,000</u>
EQUITY:	\$ 6,325,000

**After the Receivership (October 2023)**

Notes:

Sale Price:	\$ 7,327,000	Net of HST due to Receiver's negligence
CIBC Debt:	\$ 4,370,000	Fully paid out.
KingSett Debt:	<u>\$ 1,875,000</u>	30 Roe disputes that KingSett is owed anything more than \$1.875 million.
EQUITY:	\$ 1,082,000	

411. This does not consider the operating costs, realtor commission, and lost rental revenue. At a minimum, we have suffered \$6,325,000 in damages.

412. I swear this affidavit in support of 30 Roe’s motion and imposition of the Receiver’s motion on November 14, 2023, and for no improper purpose.

**SWORN (OR AFFIRMED OR DECLARED)**  
remotely by Raymond Zar, stated as being located in the City of Toronto, Province of Ontario, on November 7, 2023, in accordance with O.Reg. 431/20, Administering the Oath or Declaration remotely.



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*Brinda Patel*  
*A Commissioner for Taking Affidavits, etc.*  
*and Notary Public of Ontario*  
*My commission does not expire*  
*LSO# 72343F*

---

**RAYMOND ZAR**





## **APPENDIX “D”**

3. On August 7, 2022, the Company advised the Receiver that it was pursuing a different refinancing and subsequently delivered a commitment letter from a new lender in the amount of \$3 million. Over the course of the balance of August 2022, the Receiver and its counsel engaged in various correspondence and negotiations with the Company, the proposed new lender, CIBC, KingSett and their respective counsel regarding the potential refinancing, including negotiating and preparing draft documentation regarding a potential consensual discharge of the Receiver upon the completion of the refinancing. On the understanding that the refinancing was targeted to close on August 25, 2022, the Receiver agreed to pause the Sale Process for a brief period and delist the Unit that had been listed for sale to facilitate the potential refinancing. The proposed refinancing failed to close on August 25, 2022. Further discussions and negotiations ensued over the course of the following several days without the refinancing closing. On August 30, 2022, counsel to the Receiver advised counsel to the Company, the proposed lender, CIBC and KingSett that as the refinancing had not closed, the Receiver was continuing the Sale Process.

### **3.4 Zar's Allegations**

1. During the course of the receivership proceedings, Zar has made numerous baseless allegations in respect of the Receiver, its counsel, HomeLife and KingSett. The Receiver and its counsel have responded to these allegations as they consider appropriate. The Receiver has also advised Zar that it does not intend to respond to his allegations on an ongoing basis, and that if he believes he has some basis for a complaint, the matter should be raised with the Court and will be addressed by the Receiver in that context. The Receiver does not intend to address these matters in detail as it does not believe they are relevant to the relief sought on the present motion, but reserves the right to do so at a later date and/or in reply should any allegations be made by the Company or Zar before the Court.

### **3.5 Potential Marketing of the Units as a "Hospitality Business"**

1. The Company and Zar have previously taken the position that the Units should be marketed *en bloc* as a going concern hospitality business. Prior to the Sale Process approval hearing, by email dated July 10, 2022, the Receiver's counsel invited the Company to provide any information it wished to provide to the Receiver for consideration in respect of a potential going concern or *en bloc* transaction for the Units. No information was received from the Company in response to this request. Following the Sale Process hearing, the July 19 Letter followed up on the Receiver's request for information in this regard. Again, no information was received in response to this request. The July 25 Letter confirmed that as no information, including financial information, had been received in response to these requests, the Receiver was unable to assess the viability of selling the Units as a going concern hospitality business and intended to proceed with the sale of two Units in accordance with the Sale Process.

## **APPENDIX “E”**

## 3.0 Update on Receivership Proceedings

### 3.1 Zar's Conduct

1. Zar is the sole director of the Company, although the Receiver understands that there has been litigation between Zar and Rezaee over the right to control the Company. Zar has complicated the Receiver's mandate by failing to cooperate with the Receiver contrary to the terms of the Receivership Order and a further Court order issued on July 18, 2022, requiring, among other things, Zar to provide records of the Company to the Receiver (the "Property and Records Order"), and by making various allegations against the Receiver, its counsel and other stakeholders in this proceeding. As a result of the issues caused by Zar, the Receiver, its counsel and KingSett's counsel have incurred significant costs, which continue to erode the amounts that may ultimately be available to KingSett, the fulcrum creditor in these proceedings. A summary of the issues caused by Zar was included in the Third Report and has also been detailed in prior Reports and is therefore not repeated herein.

### 3.2 Appeal of PH04 and PH09 Approval and Vesting Orders by the Company

1. On February 7, 2023, the Court granted two Approval and Vesting Orders in connection with the sales of PH04 and PH09 (the "PH04 & PH09 AVOs") as well as an order granting related ancillary relief (collectively, the "February 7 Orders"). The Receiver's motion was contested by the Company on the basis that, among other things, the Units should have been marketed *en bloc* as a going concern hospitality business, rather than as individual Units. On February 13, 2023, Justice Steele issued an Endorsement providing the reasons for the granting of the February 7 Orders, a copy of which is attached as Appendix "I".
2. The Receiver requested provisional execution of the PH04 & PH09 AVOs as it was concerned that the Company would appeal the PH04 & PH09 AVOs and – as it had with respect to the Receivership Order – erroneously take the position it was entitled to an automatic stay, with the result that the closing of the sales of PH04 and PH09 (originally scheduled for the end of February 2023) could be imperiled. On February 16, 2023, Justice Steele issued an Endorsement that dismissed the Receiver's request for provisional execution of the PH04 & PH09 AVOs.
3. On February 23, 2023, the Company filed a Notice of Appeal in the Court of Appeal purporting to appeal the PH04 & PH09 AVOs as of right and taking the position that it was entitled to an automatic stay of the PH04 & PH09 AVOs (the "Purported Appeal"). The Purported Appeal advanced substantially the same argument that was made previously by the Company, being that the Units should be marketed *en bloc* as a going concern hospitality business and that the Units are part of a larger commercial enterprise.
4. On March 1, 2023, the Receiver filed a motion with the Court of Appeal seeking, *inter alia*, to quash the Purported Appeal on the basis, among other things, that the Company required leave to appeal the PH04 & PH09 AVOs (the "Motion to Quash").

## **APPENDIX “F”**

5. On March 3, 2023, the Company's then counsel, Blaney McMurtry LLP ("Blaney"), filed a motion seeking to remove itself as lawyers of record for the Company. Blaney sought removal as the Company's counsel both in various matters pending in this Court (including these receivership proceedings) and in the Purported Appeal.
6. On March 10, 2023, this Court issued an order removing Blaney as the lawyers of record for the Company as it relates to matters before this Court, including this receivership proceeding. A copy of the Court's Endorsement is attached as Appendix "J".
7. The Receiver opposed Blaney's motion at the Court of Appeal to the extent it would lead to a delay in resolving the Purported Appeal or the hearing of the Receiver's Motion to Quash. On March 20, 2023, the Court of appeal denied Blaney's motion to be removed as lawyers of record on the Purported Appeal and required Blaney to remain counsel of record for the Company pending hearing of the Receiver's Motion to Quash on March 27, 2023. A copy of the Court of Appeal's Endorsement is attached as Appendix "K".
8. The Receiver's Motion to Quash was heard on March 27, 2023. On March 29, 2023, the Court of Appeal issued a decision (the "March 29th Decision") granting the Receiver's Motion to Quash and denying the Company leave to appeal the PH04 & PH09 AVOs. A copy of the March 29th Decision is attached as Appendix "L". Among other things, the Court of Appeal held that:
  - a) the Company had no right to appeal the PH04 & PH09 AVOs absent leave being granted, and denied the Company leave to appeal (paragraphs 39 and 43);
  - b) the *en bloc* sale position taken by the Company amounted to a collateral attack on the Sale Process Approval Orders (paragraph 35);
  - c) by failing to appeal and set aside the Sale Process Approval Orders, the Company had lost the legal basis to advance an argument that the PH04 & PH09 AVOs – or subsequent approval orders for other individual Units – would create a loss of value by reason of the individual-unit marketing and sales methodology used by the Receiver (paragraph 38); and
  - d) "One therefore is left with the distinct impression that [the Company's] attempt to appeal the [PH04 & PH09 AVOs] is nothing more than a delay tactic." (paragraph 42).

### 3.3 PH04 and PH09 Closings

1. The sales of PH04 and PH09 were originally scheduled to close on February 28, 2023. As a result of the Purported Appeal, the Receiver agreed with the applicable purchasers to amend the respective agreements of purchase and sale to provide for a closing following the hearing of the Motion to Quash. The sales of PH09 and PH04 closed on March 31, 2023, and April 5, 2023, respectively.

**KINGSETT MORTGAGE CORPORATION**  
Applicant

and

**30 ROE INVESTMENTS CORP**  
Respondent

Court File No. CV-22-006748100-00CL

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

Proceeding Commenced at Toronto

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**RESPONDENT'S AIDE MEMOIRE**

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