

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

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

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant

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**

AFFIDAVIT OF RAYMOND ZAR

I, Raymond Zar, of the City of Toronto, in the Province of Ontario, hereby AFFIRM as follows.

1. I am the Chief Executive Officer of the Respondent, 30 Roe Investments Corp. (“**Roe**”), and as such I have knowledge of the matters referred to in this affidavit. Where my knowledge is based upon information provided to me by others, I have stated the source of that information and I believe it to be true.

2. I am swearing this affidavit in support of a request for a further adjournment of this applicaiton, having finally been able to retain counsel to represent Roe just yesterday. Roe would like the opportunity to instruct counsel, tender comprehensive evidence in response, and, if necessary, cross-examine the Applicant's affiants.

3. Prior to the last attendance before this court, Roe consulted 3 different lawyers (Lawrence Thacker of Lenczner Slaght; Catherine Francis of Minden Gross; and, Chad Kopach of Blaney McMurtry). None of these lawyers were able to represent Roe due to perceived conflicts of interest with either the Applicant, Kingsett Mortgage Corporation ("Kingsett").

4. Following the last attendance before this court, Roe attempted to retain three other lawyers:

(a) Kevin Sherkin of Miller Thomson. Roe retained Mr. Sherkin on or about February 10, 2022. On or about February 17, 2022, Mr. Sherkin advised me that Kingsett objected to his engagement by Roe and that, as a result, he could not act.

(b) James Renihan of Norton Rose. I immediately attempted to retain Mr. Renihan, on February 17, 2022. Unfortunately, on Friday, February 18, 2022, he advised me that he could not represent Roe in this matter due to a conflict with Canadian Imperial Bank of Commerce ("CIBC"), which CIBC would not waive.

(c) David O'Connor of Roy O'Connor. I next attempted to retain Mr. O'Connor on February 18, 2022. However, on the morning of Sunday, February 20, 2022, he advised me that he was unavailable to attend the hearing today, February 22, 2022.

5. Finally, yesterday, February 21, 2022, I was able to sign a retainer agreement with Ken Rosenberg of Paliare Roland, subject to providing a monetary retainer in advance of the hearing today. Funds were wired yesterday evening and received this morning.

6. If given the opportunity to respond, Roe's position will be that Kingsett agreed to extend its mortgage (or at least forebear in its enforcement), until April 1, 2022. Kingsett's agreement is evidenced by, among other things, its withdrawal of an extension fee from Roe's account.

7. I do not perceive any prejudice to Kingsett by virtue of the proposed adjournment having regard to the following facts.

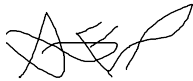
(a) In November 2021, the subject properties were appraised for a total value of \$9,125,000, indicating that after the debts owing to CIBC (approximately \$4 million) and Kingsett (approximately \$1.875 million), there is approximately \$3.25 million in equity.

(b) The Properties are fully leased and generate positive cash flow.


(c) All interest under the Kingsett mortgage has been paid. There is no interest outstanding.

8. CIBC has not noted Roe in default, nor has it filed any materials in response to this Application or taken an adverse position against Roe. Discussions with respect to refinancing the Kingsett mortgage with CIBC are ongoing.

AFFIRMED remotely by Raymond Zar at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on this 22nd day of February, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Ahmed Elahi, Commissioner for Taking Affidavits



Raymond Zar

Ahmed Elahi, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires August 25, 2024.

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R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS
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PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF RAYMOND ZAR
SWORN FEBRUARY 22, 2022

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Lawyers for the Respondent