

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

- and -

30 ROE INVESTMENTS CORP.

Respondent

**MOTION RECORD
(Motion Under Rule 15.04 for Removal as Lawyer of Record
returnable March 10, 2023)**

March 3, 2023

BLANEY McMURTRY LLP
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AND TO: ROEHAMPTON CAPITAL CORPORATION
2 Bloor Street East
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AND TO: RAYMOND ZAR
227 Joicey Blvd.
North York, ON M5M 2V4

AND TO: MARY-AM HOSPITALITY CORPORATION
2 Bloor Street East
Suite 3500
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AND TO: MARYAM TRAVEL INC.
170 Willowdale Avenue
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AND TO: MARY-AM CORPORATION
170 Willowdale Avenue
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AND TO: MARYAM MAIDS INC.
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Toronto, ON M4W 1A8

AND TO: 170 WILLOWDALE INVESTMENTS CORPORATION
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8

AND TO: ZAR ADVISORY CORP.
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8

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TAB 1

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

- and -

30 ROE INVESTMENTS CORP.

Respondent

**NOTICE OF MOTION
(Motion Under Rule 15.04 for Removal as Lawyer of Record)**

THE MOVING PARTY, Blaney McMurtry LLP (“**Blaneys**”), lawyers for the Respondent, will make a motion before a Judge of the Commercial List at 10:30 am on Friday, March 10, 2023, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard by judicial video conference via Zoom co-ordinates to be provided prior to the motion date.

THE MOTION IS FOR:

1. an order abridging the time for service of this Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;

2. an Order pursuant to Rule 15.04 of the *Rules of Civil Procedure*, removing Blaneys as lawyer of record for 30 Roe Investment Corp. (“**30 Roe**”) in the application herein (the “**Application**”), and in four other matters currently before the Ontario Superior Court of Justice in which Blaneys is retained by Raymond Zar and the Remaining Zar Companies (defined herein), as set out in Schedule “A” attached hereto; and
3. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Raymond Zar (“**Zar**”) is the principal of the Respondent 30 Roe. Zar, 30 Roe, and a number of other corporations of which Zar is the principal (the “**Remaining Zar Companies**”) have retained Blaneys on a number of completed and on-going matters, five of which are which are currently before the Ontario Superior Court of Justice.
2. there has been a material breakdown in trust and confidence in the lawyer-client relationship between Zar and Blaneys, such that Blaneys can no longer act for Zar, 30 Roe, and the Remaining Zar Companies;

3. [REDACTED]
[REDACTED]
[REDACTED];

4. [REDACTED]
[REDACTED];

- 3 -

5. Zar, 30 Roe, and the Remaining Zar Companies will not suffer prejudice if Blaneys is removed as lawyers of record in this Application, or any other matters where Blaneys is acting for Zar, 30 Roe, or the Remaining Zar Companies;
6. Rules 1.04, 3.02, 15.04 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
7. Rules 3.7-1, 3.7-2, 3.7-3, 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*; and
8. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. the Affidavit of Chad Kopach sworn March 1, 2023; and
2. such further evidence as counsel may advise and this Honourable Court may permit.

March 3, 2023

BLANEY McMURTRY LLP
Barristers & Solicitors
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Lawyers for the Respondent

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AND TO: ROEHAMPTON CAPITAL CORPORATION
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Suite 3500
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AND TO: ZAR ADVISORY CORP.
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Toronto, ON M4W 1A8

SCHEDULE "A"

005
B-1-1321

Blaneys Lawyer	Court File No. Location Internal File No.	Title of Proceedings	Opposing Counsel	Status
<p>Lou Brzezinski</p> <p>Lucas Strezos</p>	<p>CV-22-00674810-00CL</p> <p>Toronto</p> <p>113501-0001</p>	<p>KINGSETT MORTGAGE CORPORATION</p> <p>Applicant - and -</p> <p>30 ROE INVESTMENTS CORP.</p> <p>Respondent</p>	<p>BENNETT JONES LLP Barristers and Solicitors 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Richard B. Swan Tel: (416) 777-7479 swanr@bennettjones.com</p> <p>Sean Zweig Tel: (416) 777-6254 zweigs@bennettjones.com</p> <p>Joshua Foster Tel: (416) 777-7906 fosterj@bennettjones.com</p> <p>Lawyers for the applicant</p> <p>GOODMANS LLP Barristers and Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Christopher G. Armstrong Tel: (416) 979-2211 carmstrong@goodmans.ca</p> <p>Lawyers for KSV Restructuring Inc. in its Capacity as Court- appointed Receiver</p> <p>CHAITONS LLP Barristers and Solicitors</p>	<p>Approval and Vesting Order Motion heard February 13, 2023.</p> <p>Notice of Appeal was served and filed February 24, 2023.</p> <p>No outstanding motions.</p>

			<p>5000 Yonge Street 10th Floor Toronto, ON M2N 7E9 Darren Marr Tel: (416) 218-1136 dmarr@chaitons.com</p> <p>Lawyers for the Canadian Imperial Bank of Commerce</p>	
<p>Varoujan Arman</p>	<p>CV-22- 00685217- 00000</p> <p>Toronto</p> <p>113264- 0006</p>	<p>ESMAEIL MEHRABI and MEHRABI LAW OFFICE</p> <p>Plaintiffs</p> <p>- and -</p> <p>RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION, 30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION, MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC., 170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.</p> <p>Defendants</p>	<p>KESTENBERG SIEGAL LIPKUS LLP Barristers and Solicitors 65 Granby Street Toronto, ON M5B 1H8</p> <p>MARC KESTENBERG (LSO #48932A) marc@ksllaw.com</p> <p>KEVIN SCHOENFELDT (LSO #77472N) kschoenfeldt@ksllaw.com</p> <p>Tel: (416) 597-0000</p> <p>Lawyers for the plaintiffs</p>	<p>Defence delivered January 6, 2023.</p> <p>Pleadings closed.</p> <p>Affidavit of Documents have not been delivered.</p> <p>No outstanding motions.</p>

<p>David Greenwood</p>	<p>CV-22-00677148-0000 Toronto 202713-0003</p>	<p>ALEXIS GIRGIS Plaintiff - and - RAYMOND ZAR, ZAR ADVISORY CORPORATION and ROEHAMPTON CAPITAL</p>	<p>LEVITT SHEIKH LLP 130 Adelaide St. W., Suite 801 Toronto ON M5H 3P5 Muneeza Sheikh LSO#55374C Tel: 416.594.3900 E: msheikh@levittllp.com Katherine Golobic LSO#82709S T: 416.597.7874 E:: kgolobic@levittllp.com Lawyers for the Plaintiff</p>	<p>Defence delivered May 11, 2022 Pleadings closed. Affidavit of Documents have not been delivered No outstanding motions.</p>
<p>Brendan Jones</p>	<p>CV-22-00676835-0000 Toronto 200462-0003</p>	<p>JACK FONG and ANGELA FONG Plaintiffs - and - 170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR Defendants</p>	<p>LOOPSTRA NIXON LLP Barristers and Solicitors 135 Queens Plate Drive, Suite 600 Toronto ON M9W 6V7 Ryan J. Wilson Tel: (416) 748-4191 rwilson@loonix.com Lawyers for the Plaintiffs</p>	<p>Defence delivered May 6, 2023. Pleadings closed. Affidavit of Documents exchanged. Discoveries were scheduled for February 15, 2023. Plaintiffs' counsel seeking to reschedule discoveries.</p>

Chad Kopach	CV-21-00671802-0000 Toronto 113621-0002	EPIC PAVING & CONTRACTING LTD. Plaintiff - and - 170 WILLOWDALE INVESTMENTS CORP. c.o.b as THE WILLOWDALE HOTEL, RAYMOND ZAR and 729171 ALBERTA INC. Defendants	DRUDI ALEXIOU KUCCHAR LLP Barristers and Solicitors 7050 Weston Road Suite 610 Vaughan ON L4L 8G7 Connor Marino (LSO #79657H) Tel: (905) 850-6116 Fax: (905) 850-9146 cmarino@dakllp.com Lawyers for the Plaintiff	Defence delivered March 31, 2022 Pleadings closed. Affidavit of documents have not been delivered. No outstanding motions. Opposing counsel is requesting consent for an Order for Reference.
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TAB 2

Court File No. CV-21-00671802-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF the Construction Act, R.S.O. 1990, C. c.30

B E T W E E N:

EPIC PAVING & CONTRACTING LTD.

Plaintiff

- and -

170 WILLOWDALE INVESTMENTS CORP. c.o.b. as
THE WILLOWDALE HOTEL, RAYMOND ZAR
and 729171 ALBERTA INC.

Defendants

NOTICE OF MOTION

THE MOVING PARTY, Blaney McMurtry LLP (“**Blaneys**”), lawyers for the defendnats, will make a motion before a Judge of the Commercial List at 10:30 am on Friday, March 10, 2023, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard by judicial video conference via Zoom co-ordinates to be provided prior to the motion date.

THE MOTION IS FOR:

1. an order abridging the time for service of this Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;

2. an Order pursuant to Rule 15.04 of the *Rules of Civil Procedure*, removing Blaneys as lawyer of record for the defendants in this action and in four other matters currently before the Ontario Superior Court of Justice in which Blaneys is retained by Raymond Zar and the Remaining Zar Companies (defined herein), as set out in Schedule “A” attached hereto; and
3. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Raymond Zar (“**Zar**”) is the principal of 30 Roe Investments Corp. Zar, 30 Roe and a number of other corporations of which Zar is the principal (the “**Remaining Zar Companies**”) have retained Blaneys on a number of completed and on-going matters, five of which are which are currently before the Ontario Superior Court of Justice.
2. Zar is a personal defendant in this action and the principal of the defendant, 170 Willowdale Investments Corp., c.o.b. The Willowdale Hotel.
3. there has been a material breakdown in trust and confidence in the lawyer-client relationship between Zar and Blaneys, such that Blaneys can no longer act for the defendants;
4. [REDACTED]
[REDACTED];
5. [REDACTED]
[REDACTED];
6. the defendants will not suffer prejudice if Blaneys is removed as lawyers of record in this action, or any other matters where Blaneys is acting for the defendants;

7. Rules 1.04, 3.02, 15.04 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194;
8. Rules 3.7-1, 3.7-2, 3.7-3, 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*; and
9. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. the Affidavit of Chad Kopach sworn March 1, 2023, in Court File No. CV-22-00674810-00CL;
and
2. such further evidence as counsel may advise and this Honourable Court may permit.

March 3, 2023

BLANEY McMURTRY LLP
Lawyers
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Toronto, ON M5C 3G5

Chad Kopach (LSO #48084G)
Tel: 416-593-2985
ckopach@blaney.com

Lawyers for the Defendants

TO: **170 WILLOWDALE INVESTMENTS
CORP. c.o.b. AS THE WILLOWDALE
HOTEL**
2 Bloor Street East, Suite 3500
Toronto, ON M4W 1A8

AND TO: **RAYMOND ZAR**
227 Joicey Blvd
North York, ON
M5M 2V4

SCHEDULE "A"

Blaneys Lawyer	Court File No. Location Internal File No.	Title of Proceedings	Opposing Counsel	Status
<p>Lou Brzezinski</p> <p>Lucas Strezos</p>	<p>CV-22-00674810-00CL</p> <p>Toronto</p> <p>113501-0001</p>	<p>KINGSETT MORTGAGE CORPORATION</p> <p>Applicant - and -</p> <p>30 ROE INVESTMENTS CORP.</p> <p>Respondent</p>	<p>BENNETT JONES LLP Barristers and Solicitors 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Richard B. Swan Tel: (416) 777-7479 swanr@bennettjones.com</p> <p>Sean Zweig Tel: (416) 777-6254 zweigs@bennettjones.com</p> <p>Joshua Foster Tel: (416) 777-7906 fosterj@bennettjones.com</p> <p>Lawyers for the applicant</p> <p>GOODMANS LLP Barristers and Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Christopher G. Armstrong Tel: (416) 979-2211 carmstrong@goodmans.ca</p> <p>Lawyers for KSV Restructuring Inc. in its Capacity as Court- appointed Receiver</p> <p>CHAITONS LLP Barristers and Solicitors</p>	<p>Approval and Vesting Order Motion heard February 13, 2023.</p> <p>Notice of Appeal was served and filed February 24, 2023.</p> <p>No outstanding motions.</p>

			<p>5000 Yonge Street 10th Floor Toronto, ON M2N 7E9 Darren Marr Tel: (416) 218-1136 dmarr@chaitons.com</p> <p>Lawyers for the Canadian Imperial Bank of Commerce</p>	
<p>Varoujan Arman</p>	<p>CV-22- 00685217- 00000</p> <p>Toronto</p> <p>113264- 0006</p>	<p>ESMAEIL MEHRABI and MEHRABI LAW OFFICE</p> <p>Plaintiffs</p> <p>- and -</p> <p>RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION, 30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION, MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC., 170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.</p> <p>Defendants</p>	<p>KESTENBERG SIEGAL LIPKUS LLP Barristers and Solicitors 65 Granby Street Toronto, ON M5B 1H8</p> <p>MARC KESTENBERG (LSO #48932A) marc@ksllaw.com</p> <p>KEVIN SCHOENFELDT (LSO #77472N) kschoenfeldt@ksllaw.com</p> <p>Tel: (416) 597-0000</p> <p>Lawyers for the plaintiffs</p>	<p>Defence delivered January 6, 2023.</p> <p>Pleadings closed.</p> <p>Affidavit of Documents have not been delivered.</p> <p>No outstanding motions.</p>

<p>David Greenwood</p>	<p>CV-22-00677148-0000 Toronto 202713-0003</p>	<p>ALEXIS GIRGIS Plaintiff - and - RAYMOND ZAR, ZAR ADVISORY CORPORATION and ROEHAMPTON CAPITAL</p>	<p>LEVITT SHEIKH LLP 130 Adelaide St. W., Suite 801 Toronto ON M5H 3P5 Muneeza Sheikh LSO#55374C Tel: 416.594.3900 E: msheikh@levittllp.com Katherine Golobic LSO#82709S T: 416.597.7874 E:: kgolobic@levittllp.com Lawyers for the Plaintiff</p>	<p>Defence delivered May 11, 2022 Pleadings closed. Affidavit of Documents have not been delivered No outstanding motions.</p>
<p>Brendan Jones</p>	<p>CV-22-00676835-0000 Toronto 200462-0003</p>	<p>JACK FONG and ANGELA FONG Plaintiffs - and - 170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR Defendants</p>	<p>LOOPSTRA NIXON LLP Barristers and Solicitors 135 Queens Plate Drive, Suite 600 Toronto ON M9W 6V7 Ryan J. Wilson Tel: (416) 748-4191 rwilson@loonix.com Lawyers for the Plaintiffs</p>	<p>Defence delivered May 6, 2023. Pleadings closed. Affidavit of Documents exchanged. Discoveries were scheduled for February 15, 2023. Plaintiffs' counsel seeking to reschedule discoveries.</p>

Chad Kopach	CV-21-00671802-0000 Toronto 113621-0002	EPIC PAVING & CONTRACTING LTD. Plaintiff - and - 170 WILLOWDALE INVESTMENTS CORP. c.o.b as THE WILLOWDALE HOTEL, RAYMOND ZAR and 729171 ALBERTA INC. Defendants	DRUDI ALEXIOU KUCCHAR LLP Barristers and Solicitors 7050 Weston Road Suite 610 Vaughan ON L4L 8G7 Connor Marino (LSO #79657H) Tel: (905) 850-6116 Fax: (905) 850-9146 cmarino@dakllp.com Lawyers for the Plaintiff	Defence delivered March 31, 2022 Pleadings closed. Affidavit of documents have not been delivered. No outstanding motions. Opposing counsel is requesting consent for an Order for Reference.
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TAB 3

Court File No. CV-22-00676835-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

JACK FONG and ANGELA FONG

Plaintiffs

- and -

170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR

Defendants

NOTICE OF MOTION

THE MOVING PARTY, Blaney McMurtry LLP (“**Blaneys**”), lawyers for the defendants, will make a motion before a Judge of the Commercial List at 10:30 am on Friday, March 10, 2023, at 330 University Avenue, Toronto, Ontario.

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3. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Raymond Zar (“**Zar**”) is the principal of 30 Roe Investments Corp. Zar, 30 Roe and a number of other corporations of which Zar is the principal (the “**Remaining Zar Companies**”) have retained Blaneys on a number of completed and on-going matters, five of which are which are currently before the Ontario Superior Court of Justice.
2. Raymond Zar (“**Zar**”) is a personal defendant in this action and the principal of the defendant, 170 Willowdale Investments Corp.
3. there has been a material breakdown in trust and confidence in the lawyer-client relationship between Zar and Blaneys, such that Blaneys can no longer act for the defendants;
4. [REDACTED]
[REDACTED];
5. [REDACTED]
[REDACTED];
6. the defendants will not suffer prejudice if Blaneys is removed as lawyers of record in this action, or any other matters where Blaneys is acting for the defendants;

7. Rules 1.04, 3.02, 15.04 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194;
8. Rules 3.7-1, 3.7-2, 3.7-3, 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*; and
9. such further and other grounds as counsel may advise and this Honourable Court may permit.

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and
2. such further evidence as counsel may advise and this Honourable Court may permit.

March 3, 2023

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SCHEDULE "A"

Blaneys Lawyer	Court File No. Location Internal File No.	Title of Proceedings	Opposing Counsel	Status
<p>Lou Brzezinski</p> <p>Lucas Strezos</p>	<p>CV-22-00674810-00CL</p> <p>Toronto</p> <p>113501-0001</p>	<p>KINGSETT MORTGAGE CORPORATION</p> <p>Applicant - and -</p> <p>30 ROE INVESTMENTS CORP.</p> <p>Respondent</p>	<p>BENNETT JONES LLP Barristers and Solicitors 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Richard B. Swan Tel: (416) 777-7479 swanr@bennettjones.com</p> <p>Sean Zweig Tel: (416) 777-6254 zweigs@bennettjones.com</p> <p>Joshua Foster Tel: (416) 777-7906 fosterj@bennettjones.com</p> <p>Lawyers for the applicant</p> <p>GOODMANS LLP Barristers and Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Christopher G. Armstrong Tel: (416) 979-2211 carmstrong@goodmans.ca</p> <p>Lawyers for KSV Restructuring Inc. in its Capacity as Court-appointed Receiver</p> <p>CHAITONS LLP Barristers and Solicitors</p>	<p>Approval and Vesting Order Motion heard February 13, 2023.</p> <p>Notice of Appeal was served and filed February 24, 2023.</p> <p>No outstanding motions.</p>

			<p>5000 Yonge Street 10th Floor Toronto, ON M2N 7E9 Darren Marr Tel: (416) 218-1136 dmarr@chaitons.com</p> <p>Lawyers for the Canadian Imperial Bank of Commerce</p>	
<p>Varoujan Arman</p>	<p>CV-22- 00685217- 00000</p> <p>Toronto</p> <p>113264- 0006</p>	<p>ESMAEIL MEHRABI and MEHRABI LAW OFFICE</p> <p>Plaintiffs</p> <p>- and -</p> <p>RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION, 30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION, MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC., 170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.</p> <p>Defendants</p>	<p>KESTENBERG SIEGAL LIPKUS LLP Barristers and Solicitors 65 Granby Street Toronto, ON M5B 1H8</p> <p>MARC KESTENBERG (LSO #48932A) marc@ksllaw.com</p> <p>KEVIN SCHOENFELDT (LSO #77472N) kschoenfeldt@ksllaw.com</p> <p>Tel: (416) 597-0000</p> <p>Lawyers for the plaintiffs</p>	<p>Defence delivered January 6, 2023.</p> <p>Pleadings closed.</p> <p>Affidavit of Documents have not been delivered.</p> <p>No outstanding motions.</p>

<p>David Greenwood</p>	<p>CV-22-00677148-0000 Toronto 202713-0003</p>	<p>ALEXIS GIRGIS Plaintiff - and - RAYMOND ZAR, ZAR ADVISORY CORPORATION and ROEHAMPTON CAPITAL</p>	<p>LEVITT SHEIKH LLP 130 Adelaide St. W., Suite 801 Toronto ON M5H 3P5 Muneeza Sheikh LSO#55374C Tel: 416.594.3900 E: msheikh@levittllp.com Katherine Golobic LSO#82709S T: 416.597.7874 E:: kgolobic@levittllp.com Lawyers for the Plaintiff</p>	<p>Defence delivered May 11, 2022 Pleadings closed. Affidavit of Documents have not been delivered No outstanding motions.</p>
<p>Brendan Jones</p>	<p>CV-22-00676835-0000 Toronto 200462-0003</p>	<p>JACK FONG and ANGELA FONG Plaintiffs - and - 170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR Defendants</p>	<p>LOOPSTRA NIXON LLP Barristers and Solicitors 135 Queens Plate Drive, Suite 600 Toronto ON M9W 6V7 Ryan J. Wilson Tel: (416) 748-4191 rwilson@loonix.com Lawyers for the Plaintiffs</p>	<p>Defence delivered May 6, 2023. Pleadings closed. Affidavit of Documents exchanged. Discoveries were scheduled for February 15, 2023. Plaintiffs' counsel seeking to reschedule discoveries.</p>

Chad Kopach	CV-21-00671802-0000 Toronto 113621-0002	EPIC PAVING & CONTRACTING LTD. Plaintiff - and - 170 WILLOWDALE INVESTMENTS CORP. c.o.b as THE WILLOWDALE HOTEL, RAYMOND ZAR and 729171 ALBERTA INC. Defendants	DRUDI ALEXIOU KUCCHAR LLP Barristers and Solicitors 7050 Weston Road Suite 610 Vaughan ON L4L 8G7 Connor Marino (LSO #79657H) Tel: (905) 850-6116 Fax: (905) 850-9146 cmarino@dakllp.com Lawyers for the Plaintiff	Defence delivered March 31, 2022 Pleadings closed. Affidavit of documents have not been delivered. No outstanding motions. Opposing counsel is requesting consent for an Order for Reference.
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TAB 4

Court File No. CV-22-00677148-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ALEXIS GIRGIS

Plaintiff

-and-

**RAYMOND ZAR, ZAR ADVISORY CORPORATION and
ROEHAMPTON CAPITAL**

Defendants

NOTICE OF MOTION

THE MOVING PARTY, Blaney McMurtry LLP (“**Blaneys**”), lawyers for the defendants, will make a motion before a Judge of the Commercial List at 10:30 am on Friday, March 10, 2023, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard by judicial video conference via Zoom co-ordinates to be provided prior to the motion date.

THE MOTION IS FOR:

1. an order abridging the time for service of this Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;

2. an Order pursuant to Rule 15.04 of the *Rules of Civil Procedure*, removing Blaneys as lawyer of record for the defendants in this action and in four other matters currently before the Ontario Superior Court of Justice in which Blaneys is retained by Raymond Zar and the Remaining Zar Companies (defined herein), as set out in Schedule “A” attached hereto; and
3. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Raymond Zar (“**Zar**”) is the principal of the Respondent 30 Roe. Zar, 30 Roe, and a number of other corporations of which Zar is the principal (the “**Remaining Zar Companies**”) have retained Blaneys on a number of completed and on-going matters, five of which are which are currently before the Ontario Superior Court of Justice.
2. Raymond Zar (“**Zar**”) is a personal defendant in this action and the principal of the defendants, Zar Advisory Corporation and Roehampton Capital.
3. there has been a material breakdown in trust and confidence in the lawyer-client relationship between Zar and Blaneys, such that Blaneys can no longer act for the defendants;
4. [REDACTED]
[REDACTED];
5. [REDACTED]
[REDACTED];
6. the defendants will not suffer prejudice if Blaneys is removed as lawyers of record in this action, or any other matters where Blaneys is acting for the defendants;

7. Rules 1.04, 3.02, 15.04 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194;
8. Rules 3.7-1, 3.7-2, 3.7-3, 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*; and
9. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. the Affidavit of Chad Kopach sworn March 1, 2023, in Court File No. CV-22-00674810-00CL;
and
2. such further evidence as counsel may advise and this Honourable Court may permit.

March 3, 2023

BLANEY McMURTRY LLP
Lawyers
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

David Greenwood (LSO #46888D)
Tel: (416) 596-2879
dgreenwood@blaney.com

Lawyers for the Defendants

TO: RAYMOND ZAR
227 Joicey Blvd.
North York, ON M5M 2V4

AND TO: ZAR ADVISORY CORPORATION
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Suite 3500
Toronto, ON M4W 1A8

AND TO: ROEHAMPTON CAPITAL
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8

SCHEDULE "A"

027
B-1-1346

Blaneys Lawyer	Court File No. Location Internal File No.	Title of Proceedings	Opposing Counsel	Status
<p>Lou Brzezinski</p> <p>Lucas Strezos</p>	<p>CV-22-00674810-00CL</p> <p>Toronto</p> <p>113501-0001</p>	<p>KINGSETT MORTGAGE CORPORATION</p> <p>Applicant - and -</p> <p>30 ROE INVESTMENTS CORP.</p> <p>Respondent</p>	<p>BENNETT JONES LLP Barristers and Solicitors 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Richard B. Swan Tel: (416) 777-7479 swanr@bennettjones.com</p> <p>Sean Zweig Tel: (416) 777-6254 zweigs@bennettjones.com</p> <p>Joshua Foster Tel: (416) 777-7906 fosterj@bennettjones.com</p> <p>Lawyers for the applicant</p> <p>GOODMANS LLP Barristers and Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Christopher G. Armstrong Tel: (416) 979-2211 carmstrong@goodmans.ca</p> <p>Lawyers for KSV Restructuring Inc. in its Capacity as Court- appointed Receiver</p> <p>CHAITONS LLP Barristers and Solicitors</p>	<p>Approval and Vesting Order Motion heard February 13, 2023.</p> <p>Notice of Appeal was served and filed February 24, 2023.</p> <p>No outstanding motions.</p>

			<p>5000 Yonge Street 10th Floor Toronto, ON M2N 7E9 Darren Marr Tel: (416) 218-1136 dmarr@chaitons.com</p> <p>Lawyers for the Canadian Imperial Bank of Commerce</p>	
<p>Varoujan Arman</p>	<p>CV-22- 00685217- 00000</p> <p>Toronto</p> <p>113264- 0006</p>	<p>ESMAEIL MEHRABI and MEHRABI LAW OFFICE</p> <p>Plaintiffs</p> <p>- and -</p> <p>RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION, 30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION, MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC., 170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.</p> <p>Defendants</p>	<p>KESTENBERG SIEGAL LIPKUS LLP Barristers and Solicitors 65 Granby Street Toronto, ON M5B 1H8</p> <p>MARC KESTENBERG (LSO #48932A) marc@ksllaw.com</p> <p>KEVIN SCHOENFELDT (LSO #77472N) kschoenfeldt@ksllaw.com</p> <p>Tel: (416) 597-0000</p> <p>Lawyers for the plaintiffs</p>	<p>Defence delivered January 6, 2023.</p> <p>Pleadings closed.</p> <p>Affidavit of Documents have not been delivered.</p> <p>No outstanding motions.</p>

<p>David Greenwood</p>	<p>CV-22-00677148-0000 Toronto 202713-0003</p>	<p>ALEXIS GIRGIS Plaintiff - and - RAYMOND ZAR, ZAR ADVISORY CORPORATION and ROEHAMPTON CAPITAL</p>	<p>LEVITT SHEIKH LLP 130 Adelaide St. W., Suite 801 Toronto ON M5H 3P5 Muneeza Sheikh LSO#55374C Tel: 416.594.3900 E: msheikh@levittllp.com Katherine Golobic LSO#82709S T: 416.597.7874 E:: kgolobic@levittllp.com Lawyers for the Plaintiff</p>	<p>Defence delivered May 11, 2022 Pleadings closed. Affidavit of Documents have not been delivered No outstanding motions.</p>
<p>Brendan Jones</p>	<p>CV-22-00676835-0000 Toronto 200462-0003</p>	<p>JACK FONG and ANGELA FONG Plaintiffs - and - 170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR Defendants</p>	<p>LOOPSTRA NIXON LLP Barristers and Solicitors 135 Queens Plate Drive, Suite 600 Toronto ON M9W 6V7 Ryan J. Wilson Tel: (416) 748-4191 rwilson@loonix.com Lawyers for the Plaintiffs</p>	<p>Defence delivered May 6, 2023. Pleadings closed. Affidavit of Documents exchanged. Discoveries were scheduled for February 15, 2023. Plaintiffs' counsel seeking to reschedule discoveries.</p>

Chad Kopach	CV-21-00671802-0000 Toronto 113621-0002	EPIC PAVING & CONTRACTING LTD. Plaintiff - and - 170 WILLOWDALE INVESTMENTS CORP. c.o.b as THE WILLOWDALE HOTEL, RAYMOND ZAR and 729171 ALBERTA INC. Defendants	DRUDI ALEXIOU KUCCHAR LLP Barristers and Solicitors 7050 Weston Road Suite 610 Vaughan ON L4L 8G7 Connor Marino (LSO #79657H) Tel: (905) 850-6116 Fax: (905) 850-9146 cmarino@dakllp.com Lawyers for the Plaintiff	Defence delivered March 31, 2022 Pleadings closed. Affidavit of documents have not been delivered. No outstanding motions. Opposing counsel is requesting consent for an Order for Reference.
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TAB 5

Court File No. CV-22-00685217-00000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ESMAEIL MEHRABI and MEHRABI LAW OFFICE

Plaintiffs

- and -

**RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION,
30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION,
MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC.,
170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.**

Defendants

NOTICE OF MOTION

THE MOVING PARTY, Blaney McMurtry LLP (“**Blaneys**”), lawyers for the defendants, will make a motion before a Judge of the Commercial List at 10:30 am on Friday, March 10, 2023, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard by judicial video conference via Zoom co-ordinates to be provided prior to the motion date.

THE MOTION IS FOR:

1. an order abridging the time for service of this Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;

2. an Order pursuant to Rule 15.04 of the *Rules of Civil Procedure*, removing Blaneys as lawyer of record for the defendants in this action and in four other matters currently before the Ontario Superior Court of Justice in which Blaneys is retained by Raymond Zar and the Remaining Zar Companies (defined herein), as set out in Schedule “A” attached hereto; and
3. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Raymond Zar (“**Zar**”) is the principal of the Respondent 30 Roe. Zar, 30 Roe, and a number of other corporations of which Zar is the principal (the “**Remaining Zar Companies**”) have retained Blaneys on a number of completed and on-going matters, five of which are which are currently before the Ontario Superior Court of Justice.
2. Raymond Zar (“**Zar**”) is a personal defendant in this action and the principal of the defendants, Roehampton Capital Corporation, 30 Roe Investments Corporation, Mary-Am Hospitality Corporation, Maryam Travel Inc., Mary-Am Corporation, Maryam Maids Inc., 170 Willowdale Investments Corporation and Zar Advisory Corp.
3. [REDACTED]
[REDACTED];
4. [REDACTED]
[REDACTED];
5. Zar has made an allegation of professional negligence against Blaneys in one of the on-going retainers with Blaneys;

6. the defendants will not suffer prejudice if Blaneys is removed as lawyers of record in this action, or any other matters where Blaneys is acting for the defendants;
7. Rules 1.04, 3.02, 15.04 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194;
8. Rules 3.7-1, 3.7-2, 3.7-3, 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*; and
9. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. the Affidavit of Chad Kopach sworn March 1, 2023, in Court File No. CV-22-00674810-00CL;
and
2. such further evidence as counsel may advise and this Honourable Court may permit.

March 3, 2023

BLANEY MCMURTRY LLP
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- AND TO: ROEHAMPTON CAPITAL CORPORATION**
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- AND TO: RAYMOND ZAR**
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- AND TO: MARY-AM HOSPITALITY CORPORATION**
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Suite 3500
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- AND TO: MARYAM TRAVEL INC.**
170 Willowdale Avenue
Toronto, ON M3N 4Y6
- AND TO: MARY-AM CORPORATION**
170 Willowdale Avenue
Toronto, ON M3N 4Y6
- AND TO: MARYAM MAIDS INC.**
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8
- AND TO: 170 WILLOWDALE INVESTMENTS CORPORATION**
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8
- AND TO: ZAR ADVISORY CORP.**
2 Bloor Street East
Suite 3500
Toronto, ON M4W 1A8

SCHEDULE "A"

Blaneys Lawyer	Court File No. Location Internal File No.	Title of Proceedings	Opposing Counsel	Status
<p>Lou Brzezinski</p> <p>Lucas Strezos</p>	<p>CV-22-00674810-00CL</p> <p>Toronto</p> <p>113501-0001</p>	<p>KINGSETT MORTGAGE CORPORATION</p> <p>Applicant - and -</p> <p>30 ROE INVESTMENTS CORP.</p> <p>Respondent</p>	<p>BENNETT JONES LLP Barristers and Solicitors 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Richard B. Swan Tel: (416) 777-7479 swanr@bennettjones.com</p> <p>Sean Zweig Tel: (416) 777-6254 zweigs@bennettjones.com</p> <p>Joshua Foster Tel: (416) 777-7906 fosterj@bennettjones.com</p> <p>Lawyers for the applicant</p> <p>GOODMANS LLP Barristers and Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Christopher G. Armstrong Tel: (416) 979-2211 carmstrong@goodmans.ca</p> <p>Lawyers for KSV Restructuring Inc. in its Capacity as Court-appointed Receiver</p> <p>CHAITONS LLP Barristers and Solicitors</p>	<p>Approval and Vesting Order Motion heard February 13, 2023.</p> <p>Notice of Appeal was served and filed February 24, 2023.</p> <p>No outstanding motions.</p>

			<p>5000 Yonge Street 10th Floor Toronto, ON M2N 7E9 Darren Marr Tel: (416) 218-1136 dmarr@chaitons.com</p> <p>Lawyers for the Canadian Imperial Bank of Commerce</p>	
<p>Varoujan Arman</p>	<p>CV-22- 00685217- 00000</p> <p>Toronto</p> <p>113264- 0006</p>	<p>ESMAEIL MEHRABI and MEHRABI LAW OFFICE</p> <p>Plaintiffs</p> <p>- and -</p> <p>RAYMOND ZAR, ROEHAMPTON CAPITAL CORPORATION, 30 ROE INVESTMENTS CORPORATION, MARY-AM HOSPITALITY CORPORATION, MARYAM TRAVEL INC., MARY-AM CORPORATION, MARYAM MAIDS INC., 170 WILLOWDALE INVESTMENTS CORPORATION and ZAR ADVISORY CORP.</p> <p>Defendants</p>	<p>KESTENBERG SIEGAL LIPKUS LLP Barristers and Solicitors 65 Granby Street Toronto, ON M5B 1H8</p> <p>MARC KESTENBERG (LSO #48932A) marc@ksllaw.com</p> <p>KEVIN SCHOENFELDT (LSO #77472N) kschoenfeldt@ksllaw.com</p> <p>Tel: (416) 597-0000</p> <p>Lawyers for the plaintiffs</p>	<p>Defence delivered January 6, 2023.</p> <p>Pleadings closed.</p> <p>Affidavit of Documents have not been delivered.</p> <p>No outstanding motions.</p>

<p>David Greenwood</p>	<p>CV-22-00677148-0000 Toronto 202713-0003</p>	<p>ALEXIS GIRGIS Plaintiff - and - RAYMOND ZAR, ZAR ADVISORY CORPORATION and ROEHAMPTON CAPITAL</p>	<p>LEVITT SHEIKH LLP 130 Adelaide St. W., Suite 801 Toronto ON M5H 3P5 Muneeza Sheikh LSO#55374C Tel: 416.594.3900 E: msheikh@levittllp.com Katherine Golobic LSO#82709S T: 416.597.7874 E:: kgolobic@levittllp.com Lawyers for the Plaintiff</p>	<p>Defence delivered May 11, 2022 Pleadings closed. Affidavit of Documents have not been delivered No outstanding motions.</p>
<p>Brendan Jones</p>	<p>CV-22-00676835-0000 Toronto 200462-0003</p>	<p>JACK FONG and ANGELA FONG Plaintiffs - and - 170 WILLOWDALE INVESTMENTS CORP. and RAYMOND ZAR Defendants</p>	<p>LOOPSTRA NIXON LLP Barristers and Solicitors 135 Queens Plate Drive, Suite 600 Toronto ON M9W 6V7 Ryan J. Wilson Tel: (416) 748-4191 rwilson@loonix.com Lawyers for the Plaintiffs</p>	<p>Defence delivered May 6, 2023. Pleadings closed. Affidavit of Documents exchanged. Discoveries were scheduled for February 15, 2023. Plaintiffs' counsel seeking to reschedule discoveries.</p>

Chad Kopach	CV-21-00671802-0000 Toronto 113621-0002	EPIC PAVING & CONTRACTING LTD. Plaintiff - and - 170 WILLOWDALE INVESTMENTS CORP. c.o.b as THE WILLOWDALE HOTEL, RAYMOND ZAR and 729171 ALBERTA INC. Defendants	DRUDI ALEXIOU KUCCHAR LLP Barristers and Solicitors 7050 Weston Road Suite 610 Vaughan ON L4L 8G7 Connor Marino (LSO #79657H) Tel: (905) 850-6116 Fax: (905) 850-9146 cmarino@dakllp.com Lawyers for the Plaintiff	Defence delivered March 31, 2022 Pleadings closed. Affidavit of documents have not been delivered. No outstanding motions. Opposing counsel is requesting consent for an Order for Reference.
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TAB 6

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

- and -

30 ROE INVESTMENTS CORP.

Respondent

AFFIDAVIT OF CHAD KOPACH

I, CHAD KOPACH, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a partner at the law firm Blaney McMurtry LLP (“**Blaneys**”), lawyers for the Respondent herein, 30 Roe Investments Corp. (“**30 Roe**”), pursuant to a limited retainer agreement referenced below. As such, I have knowledge, information and belief of the matters to which I hereinafter depose.

2. Where matters are based on information and belief, I have indicated the source of that information and belief, and verily believe it to be true. To the extent that any information is based on my review of documents, I believe the information in those documents to be true.

Background on the Zar Retainers and Unpaid Legal Fees

3. Raymond Zar (“Zar”) is the principal of the Respondent herein. Zar is also the principal of several other companies that have retained Blaneys on several other different matters (the “Remaining Zar Companies”). Prior to the Receivership herein, Zar had retained Blaneys on several other mandates, both personally and on behalf of several of his companies. Zar provided instructions to Blaneys at all times in the lawyer-client relationship on all of those matters, including the Application herein.

4. The chart below sets out the various matters on which Blaneys is currently acting for Zar personally, 30 Roe and the Remaining Zar Companies, as well as a number of matters where the Blaney retainer is at an end, [REDACTED]

[REDACTED]

[REDACTED]

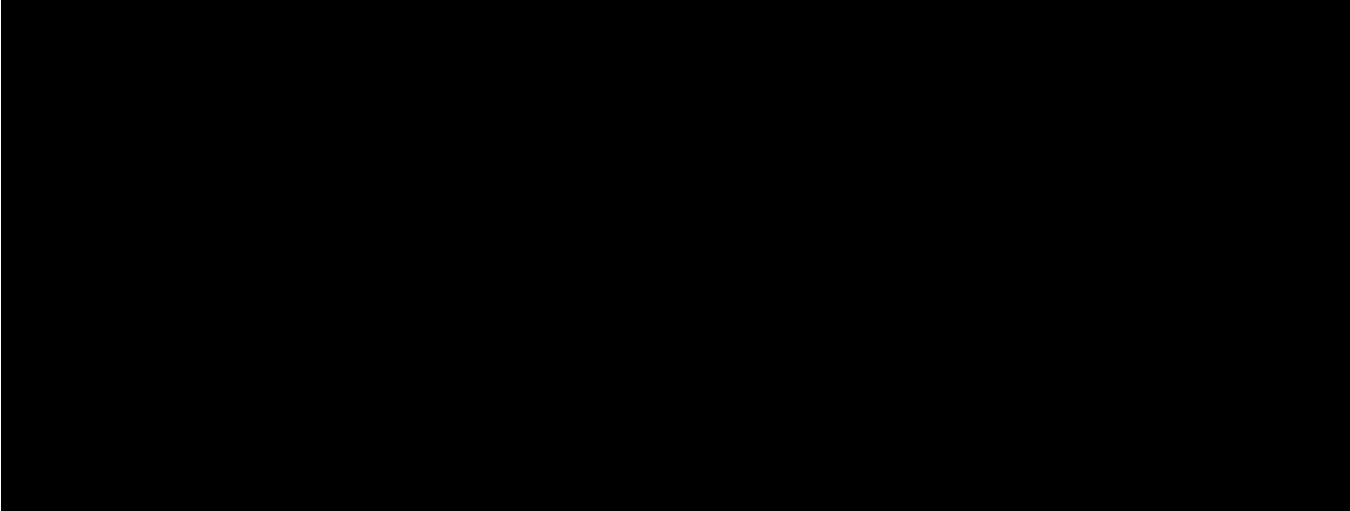
[REDACTED]

[REDACTED].

5. The five highlighted matters are matters currently before the Ontario Superior Court of Justice (not Small Claims Court), including the Application herein (the “SCJ Matters”). The chart also includes [REDACTED]

[REDACTED].

Client No.	Matter No.	Client Name	Matter	Approximate Amount Outstanding
113501	0001	30 Roe Investments Corp	Receivership	[REDACTED]
113264	0006	Raymond Zar	Defence of a Third-Party Claim	
202713	0003	Zar Advisory Corp.	Employment Litigation	
200462	0003	170 Willowdale Investments Corp.	Encroachment and Trespass Litigation	
113621	0002	30 Roe Investments Corp.	Construction Lien	



6. The status of the five SCJ Matters is set out in a separate chart attached as Schedule A to the Notice of Motion herein.

7. [REDACTED]

The 30 Roe Receivership

8. On January 7, 2022, KingSett Mortgage Corporation (“**KingSett**”) commenced the within receivership application against 30 Roe (the “**Receivership**”). On May 9, 2022, KSV Restructuring Inc. (“**KSV**”) was appointed as receiver and manager (the “**Receiver**”) over certain of the assets and undertaking of 30 Roe, including but not limited to certain real property.

- 4 -

9. Blaneys did not initially act for 30 Roe in the Receivership. Prior to Blaneys, several other law firms had acted for 30 Roe in the Receivership. However, pursuant to a limited retainer agreement dated January 17, 2023 (which was necessary because KingSett was also a client of Blaneys, and whose scope and terms are set out at Exhibit “G” to Zar’s affidavit sworn February 6, 2023 in the Receivership proceeding), Blaneys agreed to act for 30 Roe herein, and delivered a Notice of Change of Lawyer dated January 19, 2023.

10. On February 7, 2023, the Receiver brought a motion for, *inter alia*, two approval and vesting orders (the “**AVO Motion**”) in respect of the sale of two condominium units pursuant to the Appointment Order in the Receivership (the “**Transactions**”). The Receiver also sought provisional execution in respect of the two condominium units on the AVO Motions.

11. The AVO Motions were argued on February 7, 2023. The Court adjourned the argument on the issue of provisional execution to February 13, 2023, by which date a decision on the AVO Motion was expected. On February 13, 2023, the provisional execution issue was again adjourned to February 16, 2023, following the illness of one of 30 Roe’s lawyers at Blaneys, Lou Brzezinski.

12. In an Endorsement dated February 13, 2023, Justice Steele approved the Transactions and granted the approval and vesting orders (the “**AVOs**”). Attached hereto and marked as **Exhibit “A”** to this affidavit is the endorsement of Justice Steele dated February 13, 2023, and the AVOs dated February 7, 2023.

- 5 -

13. On February 16, 2023, the provisional execution issue was argued, and the following day Justice Steele released an Endorsement wherein she dismissed that portion of the Receiver's motion. Attached hereto and marked as **Exhibit "B"** to this affidavit is a copy of the Endorsement of Justice Steele dated February 17, 2023 (the "**Provisional Execution Endorsement**").

14. On or about February 17, 2023, [REDACTED].

15. However, as set out above, and notwithstanding the Notice of Change of Lawyers delivered by Blaneys on January 19, 2023, its retainer in the Receivership was limited.

16. On February 23, 2023, Blaney served a Notice of Appeal in respect of the AVOs, but advised Zar that [REDACTED]. Attached hereto and marked as **Exhibit "C"** to this affidavit is a copy of the Notice of Appeal dated February 23, 2023.

17. [REDACTED]

18. The Notice of Appeal in respect of the AVOs was filed on February 24, 2023. There is ample time for 30 Roe to retain alternate counsel and perfect the Appeal. There are no other approaching deadlines in the Receivership, nor in the other four SCJ Matters for that matter.

Material Breakdown in Relationship

19. There has been an irreparable breakdown in trust and confidence in the lawyer-client relationship between Zar and Blaneys, such that Blaneys can no longer act for Zar, 30 Roe or the Remaining Zar Companies.

20. On February 3, 2023, Jeffery Warren, a partner at Blaneys, and the partner who initiated the firm’s relationship with Zar, wrote to Zar advising [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Attached hereto and marked as **Exhibit “D”** to this affidavit is a copy of the email from Mr. Warren dated February 3, 2023.

No Prejudice if Blaneys is Removed from the Record

21. In my view, there will be no prejudice to 30 Roe, Zar and the Remaining Zar Companies if Blaneys is permitted to withdraw as lawyers of record on the Application herein and the remaining SCJ Matters. [REDACTED]

[REDACTED]

[REDACTED]

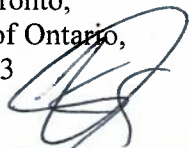
[REDACTED].

22. Given the timelines, 30 Roe, Zar and the Remaining Zar Companies can retain alternative counsel without material disruption or delay to perfect the Appeal, and to proceed with the four remaining SCJ Matters.

23. Upon obtaining an Order removing Blaneys from the record in the Receivership and the remaining SCJ Matters, Blaneys will comply with all of its obligations respecting the manner of withdrawal under Rules 3.7-8 and 3.7-9 of the Law Society of Ontario's *Rules of Professional Conduct*, to facilitate the orderly transfer of carriage of this proceeding and the remaining SCJ Matters to new counsel once appointed.

24. I swear this Affidavit in support of an Order removing Blaneys as lawyers of record and for no other or improper purpose.

SWORN before me in person
at the City of Toronto,
in the Province of Ontario,
on March 1, 2023



A Commissioner for Taking Affidavits
Lucas Strezos (LSO #84438K)

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CHAD KOPACH

**THIS IS EXHIBIT "A" REFERRED
TO IN THE AFFIDAVIT OF CHAD KOPACH
SWORN BEFORE ME THIS 1ST
DAY OF MARCH, 2023.**



A Commissioner of Oaths
Lucas Strezos (LSO #84438K)



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENTCOURT FILE NO.: CV-22-00674810-00CL DATE: **07-FEB-2023**NO. ON LIST: 8

TITLE OF PROCEEDING: KINGSETT MORTGAGE CORP V 30 ROE INVESTMENT

BEFORE JUSTICE: Madam Justice STEELE

PARTICIPANT INFORMATION**For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
Chris Armstrong	KSV Restructuring Inc.	carmstrong@goodmans.ca
Noah Goldstein	KSV Restructuring Inc.	ngoldstein@ksvadvisory.com
Mark Dunn	KSV Restructuring Inc.	mdunn@goodmans.ca
Murtaza Tallat	KSV Restructuring Inc.	mtallat@ksvadvisory.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Sean Zweig	Kingsett Mortgage	zweigs@bennettjones.com
Ben Frydenberg	CIBC	ben@chaitons.com
Lou Brzeninski	30 Roe Investment Corp	lbrzezinski@blaney.com
Lucas Strezos	30 Roe Investment Corp	LStrezos@blaney.com
Daniel Pollak	Kingsett Mortgage	DPollack@Kingsettcapital.com
Raymond Zar	30 Roe Investment Corp	rz@roehamptoncapital.com
Darren Marr	CIBC	dmarr@chaitons.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE STEELE:

1. Motion by the Receiver for, among other things, approval of the sale of two of the properties: PH04 and PH09. The proposed sale was opposed by 30 Roe Investments Corp. (the “Company” or the “Debtor”).
2. The facts of this case are well known to the parties and do not need to be repeated here.

The Proposed Sale

3. The sales process was approved by Justice McEwen in July 2022. The amended sales process was approved in December 2022. Among other things, the Receiver was empowered to determine, in its sole discretion, which and how many of the units are to be listed for sale and the listing prices for the units.
4. The Receiver determined, with advice from the realtor, that the preferred course was not to flood the market with all of the condo units being listed at the same time. Accordingly, the Receiver implemented the sales process in respect of 2 of the condo units and now has firm sale agreements for PH04 and PH09. The Receiver seeks an approval and vesting order in respect of these sales.
5. The Debtor has made the same argument on this motion with regard to the proposed sale as was made before Justice McEwen when the sales process was determined. Specifically, the Debtor is of the view that the 9 condo units at 30 Roehampton Avenue ought to be sold as a going concern hospitality business, not sold as individual units. That argument was rejected by Justice McEwen. I note that the Debtor reserved its right to object to future sales of the units on the basis that an *en bloc* sale would generate more value.
6. The Receiver asked the Debtor for evidence supporting the Debtor’s view that a going concern sale would be preferable. This was not provided to the Receiver. There is correspondence from the Receiver following up on the request, including a list of what was required, but the Debtor did not provide the information. Accordingly, the Receiver made its own assessment based on the information it had available.
7. On the evening before this motion, the Debtor filed some evidence, which the Receiver asks the Court to disregard because the purported valuation that the Debtor provided was not prepared by a valuation expert, it was not supported by any of the underlying financial records of the Company and it is more than two years stale. The Receiver states that there is no evidence that the Debtor obtained the gross rents the report is premised on. The Receiver submits that what is most noteworthy about the late-breaking information is what is not there – the Debtor has still not provided up to date financial statements for the Company or information about the market for this type of business, among other things.

8. The Debtor also raised the issue of HST on the condo sales. The Debtor argues that if the units are sold individually HST will be levied, whereas if they are sold as a going concern business, there should not be HST. The Receiver acknowledged that HST may be an issue and has tried to analyze the issue. However, the Receiver states that the Debtor has not provided the Receiver with the information necessary to determine this issue. Further, the Receiver notes that there is no evidence that a going concern type of transaction would be available.
9. The Receiver states that the sales that have been secured will start to return money to the creditors whose interests are at stake. The proposed transactions will see CIBC, as first mortgagee, repaid its related mortgage loans in full. They are also supported by KingSett, the fulcrum secured creditor of the Company.
10. I also note that the Debtor previously asked for some time to permit refinancing, which was granted, and the sales process was paused. However, this did not come to fruition, and the sales process was restarted. It has been more than a year since the receivership application was first served.
11. The Debtor also argues that it tried to repay the debt to KingSett, but the Receiver asked for the insertion of a clause in the discharge order that prohibited the Company from taking any action against KingSett except with leave of the Court. The Debtor argues that the insertion of this clause effectively stopped the transaction, however it is not clear how. Further, the Receiver states that no money was tendered to either the Receiver or KingSett.
12. Under section 100 of the *Courts of Justice Act* (Ontario) the Court has the power to vest in any person an interest in real or personal property that the Court has the authority to order be disposed of, encumbered or conveyed.
13. Paragraph 3(1) of the receivership order expressly empowers and authorizes the Receiver “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.”
14. The Court of Appeal in *Royal Bank of Canada v. Soundair Corporation*, 1991 CanLII 2727 (Ont. C.A.) set out the criteria to be applied when considering the approval of a sale by a receiver:
 - a. Whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
 - b. Whether the interests of all parties have been considered;
 - c. The efficacy and integrity of the process by which offers are obtained; and
 - d. Whether there has been unfairness in the workout of the process.
15. Initially HomeLife was engaged as the listing agent. HomeLife took steps to market the two units, including staging them, as needed, arranging for painting and minor repairs, and arranging for professional photographing of the units and a 3D virtual tour available on a dedicated website.
16. The two units were listed on MLS from about August 11, 2022 to about October 18, 2022. There were approximately 24 viewings of PH04 during this period, but no offers were received. There were approximately 18 views of PH09 during this period, but no offers were received. Feedback was provided that buyer agents advised that the asking prices were too high. Following the expiry of the listing agreement with HomeLife, RE/MAX was engaged as the new listing brokerage.

17. The Receiver planned to re-list PH04 at a reduced price on January 9, 2023. However, prior to such listing, the Receiver received an unsolicited offer. The Receiver and its agent negotiated with the potential buyer (including making two counter-offers), which resulted in the PH04 APS.
18. PH09 was re-listed at a reduced price on January 11, 2023. An offer was received on January 19, 2023. The Receiver and its agent negotiated with the potential buyer (including making a counter-offer), which resulted in the PH09 APS.
19. The Receiver recommends the Court approve the Transactions for several reasons. The Receiver states that:
 - a. The market for PH04 and PH09 has been extensively canvassed by qualified real estate agents with considerable experience in the midtown Toronto condo market at multiple listing prices;
 - b. The purchase prices under the Transactions are not materially different from the most recent intended listing price (in the case of PH04) and most recent listing price (in the case of PH09);
 - c. Remax believes the Transactions are the best ones available in the present market and they are consistent with recent comparable transactions in the market;
 - d. The Transactions represent the best (and only) offers received for the units to date;
 - e. The Receiver does not believe that further time spent marketing the units will result in a superior transaction, including because the units are vacant and property taxes, condominium fees and other expenses continue to accrue; and
 - f. KingSett, the fulcrum creditor, supports the Transactions.
20. The Ontario Court of Appeal has emphasized that in assessing a sale by a court-appointed receiver, the Court must rely on the expertise and business judgment of the receiver and should only interfere in exceptional circumstances: *Soundair*, at paras. 16 and 58.
21. The Receiver sets out in detail at paragraph 44 of its factum how the *Soundair* criteria have been satisfied.
22. I am satisfied that the *Soundair* criteria have been met. The sale transactions are approved.

Interim Distributions

23. The Receiver proposes to make interim distributions, relying upon *AbitibiBowater Inc. (Arrangement relatif á)*, 2009 QCCS 6461 (CanLII), at para 87. The Debtor opposes the proposed interim distributions and states that the *AbitibiBowater* case is inapplicable to the facts. That case concerns a motion for the approval of DIP financing and the interim distribution of certain proceeds.
24. This is court monitored process. In my view, the Receiver ought to return to Court to seek approval for any distributions sought once the transactions have closed and the Receiver has additional information, in the usual way.

Removal of the Monitoring Equipment

25. The penthouse floor, where the 9 condominium units are located, contains security equipment, including camera and audio surveillance equipment (the "Monitoring Equipment"). The Company's principal, Mr. Zar, has continued to access the Monitoring Equipment following the commencement of the

receivership. The Receiver proposes to disconnect and remove the Monitoring Equipment, which is opposed by the Debtor and Mr. Zar.

26. Mr. Zar takes the position that as a director of the condominium corporation he has the right to view the Monitoring Equipment and all cameras in the building as they are in the common elements.
27. The Receiver states that based on discussions with the property manager, the Receiver understands that the Monitoring Equipment is owned by the Company, not the condominium corporation. Accordingly, the Receiver is of the view that the Monitoring Equipment is “Property” within the meaning of the receivership order such that the Receiver may take possession and dispose of it.
28. The Receiver provided the Court with an email sent from the condominium corporation’s counsel, dated Feb. 6, 2023, which stated:

I can confirm that the Corporation will not be taking a position in the context of your upcoming motion.

The Corporation does not have, nor does it claim, any interest in the monitoring equipment referred to in your materials. This equipment does not belong to, and was not installed by or for the Corporation, despite said equipment having been installed on common elements. The Corporation has requested from Mr. Zar that the recording equipment be removed.

29. The receivership order empowers and authorizes the Receiver to, among other things, “...take possession of and exercise control over the Property [...] where the Receiver considers it necessary or desirable...”. “Property” is defined to include “...all of the assets, undertakings and properties of [the Company] acquired for, used in connection with, situate at, or arising from the ownership, development, use or disposition of, the Real Property...”
30. I am satisfied that the Monitoring Equipment is “Property” within the meaning of the receivership order such that the Receiver may take possession of it and dispose of it.

Request for a Sealing Order

31. The Receiver seeks an order sealing the confidential appendices to the Third Report, which are copies of the unredacted agreements for the sale of PH04 and PH09, Remax’s recommendations to the Receiver in respect of the transactions and the Receiver’s Waterfall Analysis. The Receiver’s request is that the sealing order be time limited pending closing of the transactions or further order of the court. There is no opposition to the Receiver’s request for a sealing order.
32. Subsection 137(2) of the *Courts of Justice Act* provides that the Court may order that any document filed in a civil proceeding be treated as confidential, sealed, and not form part of the public record.
33. The Supreme Court of Canada, in *Sherman Estate v. Donovan*, 2021 SCC 25, at para. 38, articulated the test applicable when determining whether a sealing order ought to be granted:
 1. Court openness poses a serious risk to an important public interest;
 2. The order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
 3. As a matter of proportionality, the benefits of the order outweigh its negative effects.

34. Courts have acknowledged that there is public interest in maximizing recoveries in an insolvency that goes beyond the individual case: *Danier Leather Inc., Re*, 2016 ONSC 1044, at para. 84. In *Yukon (Government of) v. Yukon Zinc Corporation*, 2022 YKSC 2, the Yukon Supreme Court determined that generally where there is a sale process, all aspects of the bidding or sales process ought to be kept confidential:

Courts have found this appropriately meets the *Sierra Club* test as modified by *Sherman Estate*, as sealing this information ensures the integrity of the sales and marketing process and avoids misuse of information by bidders in a subsequent process to obtain an unfair advantage. The important public interest at stake is described as the commercial interests of the Receiver, bidders, creditors and stakeholders in ensuring a fair sales and marketing process is carried out, with all bidders on a level playing field.

35. With regard to the second principle from *Sherman Estate*, this Court has recognized that public disclosure of a purchase price may jeopardize dealings with future prospective purchasers, which would pose a serious risk to stakeholders and the sale process. The Receiver states that if the purchase price of the two units were made publicly available, this could negatively impact the selling price if one or both of the transactions failed to close. Further, as noted above, there are other condominium units to be marketed and sold.

36. I agree that the benefits of the sealing order outweigh the negative effects. Importantly, the sealing order will preserve the integrity of the sale process. This greatly outweighs any negative effect that may result from temporarily restricting public access to a limited amount of information.

37. The requested sealing order is granted.

Provisional Execution Provision

38. On February 3, 2023, the Receiver served an updated version of the form of Order requested, which contained a new provision:

“THIS COURT ORDERS that this Order is subject to provisional execution notwithstanding any appeal brought in respect of this Order, pursuant to section 195 of the BIA.”

39. The respondents objected to the inclusion of this provision in the Order.

40. At the hearing of the motion on February 7, 2023, this issue was adjourned to February 13, 2023 to give the Company the opportunity to respond. The respondents gave an undertaking that they would not file a Notice of Appeal until this issue had been addressed by the Court.

41. On February 13, 2023, the hearing of this issue was further adjourned *sine die* on consent.

42. Orders to go in accordance with the attached.

Dated: February 13, 2023



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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 7th
)
JUSTICE STEELE) DAY OF FEBRUARY, 2023

B E T W E E N:

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-13, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**APPROVAL AND VESTING ORDER
(PH04)**

THIS MOTION, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of (i) the real property legally described in Schedule “A” to the Order (Appointing Receiver) of this Court dated May 9, 2022 (the “**Real Property**”), (ii) all 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**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (as amended, the “**Sale Agreement**”) between the Receiver and Kevin Matthew Windsor, Carolyn Dunn-Windsor and Randall Windsor (collectively, the “**Purchaser**”) dated January 6, 2023, and appended to the Third Report of the Receiver dated January 26, 2023 (the “**Third Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the Real Property described in Schedule B hereto (the “**Purchased Units**”), was heard this day by Zoom videoconference.

ON READING the Third Report and on hearing the submissions of counsel for the Receiver, counsel for the Debtor, counsel for the Canadian Imperial Bank of Commerce, counsel for KingSett Mortgage Corporation and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Brennan Caldwell sworn January 27, 2023, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved *nunc pro tunc*, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Units to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Units described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims,

whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh in the within proceedings dated May 9, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the “**Encumbrances**”, provided “Claims” shall not include the permitted encumbrances, easements, restrictive covenants, and other matters listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Units are hereby expunged and discharged as against the Purchased Units.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Purchased Units identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to such Purchased Units all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Units shall stand in the place and stead of the Purchased Units, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Units with the same priority as they had with respect to the Purchased Units immediately prior to the sale, as if the Purchased Units had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

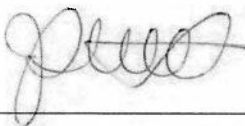
7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Units in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **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.



Schedule A – Form of Receiver’s Certificate

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

- and -

30 ROE INVESTMENTS CORP.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated May 9, 2022 (the “**Receivership Order**”), KSV Restructuring Inc. was appointed as the receiver and manager (in such capacity, the “**Receiver**”) without security, of (i) the real property legally described in Schedule “A” to the Receivership Order (the “**Real Property**”), (ii) all 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**”).

B. Pursuant to an Order of the Court dated [DATE] (the “**Sale Approval Order**”), the Court approved the agreement of purchase and sale made as of January 6, 2023 (as amended, the “**Sale Agreement**”) between the Receiver and Kevin Matthew Windsor, Carolyn Dunn-Windsor and Randall Windsor (collectively, the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Units, which vesting is to be effective with respect to the Purchased Units upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Units; and (ii) the Transaction (as defined in the Sale Approval Order) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Units payable pursuant to the Sale Agreement; and
2. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**KSV Restructuring Inc., in its capacity as
receiver and manager of certain property of
30 Roe Investments Corp. and not in its
personal or corporate capacity**

Per: _____
Name:
Title:

Schedule B – Legal Description of Purchased Units

Dwelling Unit:

PIN 76559-0511 (LT)

UNIT 4, LEVEL 34, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Parking Unit:

PIN 76559-0585 (LT)

UNIT 62, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Storage Unit:

PIN 76559-0624 (LT)

UNIT 101, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Schedule C – Claims to be deleted and expunged from title to the Purchased Units

1. Instrument No. AT4477090, registered February 1, 2017, being a Charge in favour of Canadian Imperial Bank of Commerce (“CIBC”) securing the principal amount of \$368,462.
2. Instrument No. AT4477178, registered February 1, 2017, being a Notice of Assignment of Rents: General in favour of CIBC.
3. Instrument no. AT5110272, registered April 8, 2019, being a Charge in favour of Kingsett Mortgage Corporation (“KS”) securing the principal amount of \$1,875,000 (the “KS Charge”).
4. Instrument no. AT5110273, registered April 8, 2019, being a Notice of Assignment of Rents: General in favour of KS.
5. Instrument no. AT5731082, registered May 7, 2021, being a Notice in favour of KS in respect of the KS Charge.
6. Instrument no. AT6073332, registered May 10, 2022, being an Application to Register Court Order in respect of the Order (Appointing Receiver) of the Ontario Superior Court of Justice (Commercial List) dated May 9, 2022

For the avoidance of doubt, each of the aforementioned instruments is to be deleted and expunged from each of the PINs identified on Schedule B hereto.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Purchased Units**

(unaffected by the Vesting Order)

1. Encumbrances for real property taxes (which term includes charges, rates and assessments) for amounts the payment of which is not yet due or delinquent;
2. permits, reservations, covenants, water course, right of water, right of access or user licenses, easements, rights of way, restrictions, building schemes, licenses, restrictive covenants and servitudes, rights of access or user, airport zoning regulations and other similar rights in land (including, without limitation, licenses, easements, rights of way, servitudes and rights in the nature of easements for walkways, sidewalks, public ways, sewers, drains, gas, soil, steam and water mains or pipelines, electrical lights and power, telephone, television and cable conduits, poles, wires or cables) granted to, reserved or taken by any person;
3. title defects or irregularities which do not materially impair the use or marketability of the Purchased Units;
4. any rights of expropriation, access or use, or any other right conferred or reserved by or in any statute of Canada or the Province of Ontario;
5. improvements on adjoining lands encroaching onto any portion of the Purchased Units, and/or improvements situated on the Purchased Units encroaching onto any portion of an adjoining property, in both instances in a non-material manner;
6. any subdivision agreements, site plan control agreements, development agreements or other similar agreements with governmental authorities affecting the development or the use of the Purchased Units;
7. any facility, cost sharing, servicing, reciprocal or other similar agreements, which are necessary or of advantage to the use, operation, and/or enjoyment of the Purchased Units;
8. all rights reserved to or vested in any governmental authority or public or private utility by the terms of any lease, licence, franchise, grant, agreement or permit held by such authority or utility affecting the Purchased Units, or by any statutory provision to terminate any such lease, licence, franchise, grant, agreement or permit or to require annual or periodic payments as a condition of the continuance thereof or to distrain against or to obtain a lien on any property in the event of failure to make such annual or other periodic payments;
9. any subsisting restrictions, exceptions, reservations, limitation, provisos and conditions (including, without limitation, royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown and any statutory limitations, exceptions, reservations and qualifications;

10. the provisions of applicable law including, without limitation, zoning, land use and building restrictions, by-laws, regulations and ordinances of governmental authorities, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations, public or private, by-laws and regulations and other restrictions as to the use of the Purchased Units;
11. the declaration, description, by-laws, and rules and regulations of the condominium corporation, and all leases, service, maintenance or license agreements of portions of common elements of the condominium; and
12. save and except for the Encumbrances listed in Schedule "C" to this Order, all other registrations against title to the Purchased Units, or any one of them.

7336550

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

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

KINGSETT MORTGAGE -and- **30 ROE INVESTMENTS CORP.**

CORPORATION

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER
(PH04)

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Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

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Tel: (416) 979-2211
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Lawyers for KSV Restructuring Inc. in its capacity
as Court-appointed Receiver

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 7th
)
JUSTICE STEELE) DAY OF FEBRUARY, 2023

B E T W E E N:

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-13, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**APPROVAL AND VESTING ORDER
(PH09)**

THIS MOTION, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of (i) the real property legally described in Schedule “A” to the Order (Appointing Receiver) of this Court dated May 9, 2022 (the “**Real Property**”), (ii) all 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**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (as amended, the “**Sale Agreement**”) between the Receiver and Mingjun Hu (the “**Purchaser**”) dated January 19, 2023, and appended to the Third Report of the Receiver dated January 26, 2023 (the “**Third Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the Real Property described in Schedule B hereto (the “**Purchased Units**”), was heard this day by Zoom videoconference.

ON READING the Third Report and on hearing the submissions of counsel for the Receiver, counsel for the Debtor, counsel for the Canadian Imperial Bank of Commerce, counsel for KingSett Mortgage Corporation and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Brennan Caldwell sworn January 27, 2023, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved *nunc pro tunc*, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Units to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Units described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured,

unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh in the within proceedings dated May 9, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the “**Encumbrances**”, provided “Claims” shall not include the permitted encumbrances, easements, restrictive covenants, and other matters listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Units are hereby expunged and discharged as against the Purchased Units.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Purchased Units identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to such Purchased Units all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Units shall stand in the place and stead of the Purchased Units, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Units with the same priority as they had with respect to the Purchased Units immediately prior to the sale, as if the Purchased Units had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

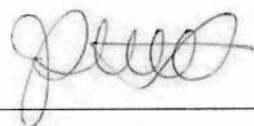
7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Units in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **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.



Schedule A – Form of Receiver’s Certificate

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E N:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

30 ROE INVESTMENTS CORP.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated May 9, 2022 (the “**Receivership Order**”), KSV Restructuring Inc. was appointed as the receiver and manager (in such capacity, the “**Receiver**”) without security, of (i) the real property legally described in Schedule “A” to the Receivership Order (the “**Real Property**”), (ii) all 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**”).

B. Pursuant to an Order of the Court dated [DATE] (the “**Sale Approval Order**”), the Court approved the agreement of purchase and sale made as of January 19, 2023 (as amended, the “**Sale Agreement**”) between the Receiver and Mingjun Hu (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Units, which vesting is to be effective with respect to the Purchased Units upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Units; and (ii) the Transaction (as defined in the Sale Approval Order) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Units payable pursuant to the Sale Agreement; and
2. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**KSV Restructuring Inc., in its capacity as
receiver and manager of certain property of
30 Roe Investments Corp. and not in its
personal or corporate capacity**

Per: _____
Name:
Title:

Schedule B – Legal Description of Purchased Units

Dwelling Unit:

PIN 76559-0516 (LT)

UNIT 9, LEVEL 34, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Parking Unit:

PIN 76559-0590 (LT)

UNIT 67, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Storage Unit:

PIN 76559-0629 (LT)

UNIT 106, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2559 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT4423506; CITY OF TORONTO

Schedule C – Claims to be deleted and expunged from title to the Purchased Units

1. Instrument No. AT4476987, registered February 1, 2017, being a Charge in favour of Canadian Imperial Bank of Commerce (“CIBC”) securing the principal amount of \$494,722.
2. Instrument No. AT4477148, registered February 1, 2017, being a Notice of Assignment of Rents: General in favour of CIBC.
3. Instrument no. AT5110272, registered April 8, 2019, being a Charge in favour of Kingsett Mortgage Corporation (“KS”) securing the principal amount of \$1,875,000 (the “KS Charge”).
4. Instrument no. AT5110273, registered April 8, 2019, being a Notice of Assignment of Rents: General in favour of KS.
5. Instrument no. AT5731082, registered May 7, 2021, being a Notice in favour of KS in respect of the KS Charge.
6. Instrument no. AT6073332, registered May 10, 2022, being an Application to Register Court Order in respect of the Order (Appointing Receiver) of the Ontario Superior Court of Justice (Commercial List) dated May 9, 2022

For the avoidance of doubt, each of the aforementioned instruments is to be deleted and expunged from each of the PINs identified on Schedule B hereto.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Purchased Units**

(unaffected by the Vesting Order)

1. Encumbrances for real property taxes (which term includes charges, rates and assessments) for amounts the payment of which is not yet due or delinquent;
2. permits, reservations, covenants, water course, right of water, right of access or user licenses, easements, rights of way, restrictions, building schemes, licenses, restrictive covenants and servitudes, rights of access or user, airport zoning regulations and other similar rights in land (including, without limitation, licenses, easements, rights of way, servitudes and rights in the nature of easements for walkways, sidewalks, public ways, sewers, drains, gas, soil, steam and water mains or pipelines, electrical lights and power, telephone, television and cable conduits, poles, wires or cables) granted to, reserved or taken by any person;
3. title defects or irregularities which do not materially impair the use or marketability of the Purchased Units;
4. any rights of expropriation, access or use, or any other right conferred or reserved by or in any statute of Canada or the Province of Ontario;
5. improvements on adjoining lands encroaching onto any portion of the Purchased Units, and/or improvements situated on the Purchased Units encroaching onto any portion of an adjoining property, in both instances in a non-material manner;
6. any subdivision agreements, site plan control agreements, development agreements or other similar agreements with governmental authorities affecting the development or the use of the Purchased Units;
7. any facility, cost sharing, servicing, reciprocal or other similar agreements, which are necessary or of advantage to the use, operation, and/or enjoyment of the Purchased Units;
8. all rights reserved to or vested in any governmental authority or public or private utility by the terms of any lease, licence, franchise, grant, agreement or permit held by such authority or utility affecting the Purchased Units, or by any statutory provision to terminate any such lease, licence, franchise, grant, agreement or permit or to require annual or periodic payments as a condition of the continuance thereof or to distrain against or to obtain a lien on any property in the event of failure to make such annual or other periodic payments;
9. any subsisting restrictions, exceptions, reservations, limitation, provisos and conditions (including, without limitation, royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown and any statutory limitations, exceptions, reservations and qualifications;

10. the provisions of applicable law including, without limitation, zoning, land use and building restrictions, by-laws, regulations and ordinances of governmental authorities, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations, public or private, by-laws and regulations and other restrictions as to the use of the Purchased Units;
11. the declaration, description, by-laws, and rules and regulations of the condominium corporation, and all leases, service, maintenance or license agreements of portions of common elements of the condominium; and
12. save and except for the Encumbrances listed in Schedule "C" to this Order, all other registrations against title to the Purchased Units, or any one of them.

7341580

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

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

KINGSETT MORTGAGE CORPORATION -and- **30 ROE INVESTMENTS CORP.**

KINGSETT MORTGAGE CORPORATION

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(PH09)**

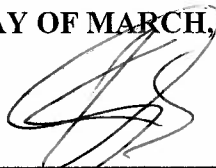
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Christopher Armstrong LSO#: 55148B
carmstrong@goodmans.ca

Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for KSV Restructuring Inc. in its capacity
as Court-appointed Receiver

**THIS IS EXHIBIT "B" REFERRED
TO IN THE AFFIDAVIT OF CHAD KOPACH
SWORN BEFORE ME THIS 1ST
DAY OF MARCH, 2023.**



A Commissioner of Oaths
Lucas Strezos (LSO #84438K)



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENTCOURT FILE NO.: CV-22-00674810-00CL DATE: **16-FEB-2023**NO. ON LIST: 8

TITLE OF PROCEEDING: KINGSETT MORTGAGE CORP V 30 ROE INVESTMENT

BEFORE JUSTICE: Madam Justice STEELE

PARTICIPANT INFORMATIONFor Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Chris Armstrong	KSV Restructuring Inc.	carmstrong@goodmans.ca
Noah Goldstein	KSV Restructuring Inc.	ngoldstein@ksvadvisory.com
Murtaza Tallat	KSV Restructuring Inc.	mtallat@ksvadvisory.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Sean Zweig	Kingsett Mortgage	zweigs@bennettjones.com
Mervyn Abramowitz	30 Roe Investment Corp	mabramowitz@blaney.com
Lucas Strezos	30 Roe Investment Corp	LStrezos@blaney.com
Raymond Zar	30 Roe Investment Corp	rz@roehamptoncapital.com
Darren Marr	CIBC	dmarr@chaitons.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF Justice STEELE:

1. Further to my endorsement, dated February 13, 2023, the parties returned on February 16, 2023 to address the issue of whether the Orders ought to include the following provision requested by the Receiver:

THIS COURT ORDERS that this Order is subject to provisional execution notwithstanding any appeal brought in respect of this Order, pursuant to section 195 of the BIA.

2. The Receiver requests the inclusion of the provisional execution clause largely as a result of the history of this matter. There have been numerous delays and adjournments. Further, after the receivership order was granted 30 Roe Investment Corp. (the “Company”) filed a Notice of Appeal and took the position that it had an automatic right of appeal under section 193 of the *Bankruptcy and Insolvency Act* (the “BIA”) and accordingly was entitled to an automatic stay under section 195 of the BIA pending the disposition of the appeal. KingSett brought a motion successfully quashing the Company’s appeal.
3. The Receiver is concerned about further delays, as the sales of PH04 and PH09 are scheduled to close on February 28, 2023. It is a condition of closing that the relevant approval and vesting order be in full force and effect on the closing date.
4. Sections 193 and 195 of the BIA provide:


193. Unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge or the court in the following cases:

- (a) If the point at issue involves future rights;
- (b) If the order or decision is likely to affect other cases of a similar nature in the bankruptcy proceedings;
- (c) If the property involved in the appeal exceeds in value ten thousand dollars;
- (d) From the grant or a refusal to grant a discharge if the aggregate unpaid claims of creditors exceed five hundred dollars; and
- (e) In any other case by leave of a judge of the Court of Appeal.

195. Except to the extent that an order or judgment appealed from is subject to provisional execution notwithstanding any appeal therefor, all proceedings under an order or judgment appealed from shall be stayed until the appeal is disposed of, but the Court of Appeal for a judge thereof may vary or cancel the stay or the order for provisional execution if it appears that the appeal is not being prosecuted diligently, or for such other reason as the Court of Appeal or a judge thereof may deem proper.

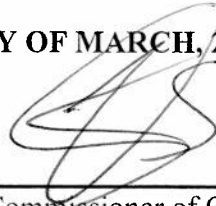
5. Although the Receiver does not believe that the Company would have an automatic right of appeal, and an automatic stay from the February 13, 2023 Orders, the Receiver is concerned that the Company will take the contrary position in light of the history of this matter.
6. The Court has the jurisdiction to make an order for provisional execution, however, such jurisdiction ought to be “exercised sparingly and with caution, given the normal operation of a notice of appeal:” *Century Services Inc. v. Brooklin Concrete Products Inc.*, [2005] O.J. No. 1246, 10 C.B.R. (5th) 169, at para. 5.
7. The Receiver points to the recent case, *YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 5206 (“*YSL*”), where this Court ordered provisional execution in the context of approving a BIA order. In *YSL* the Court found that provisional execution was appropriate for two reasons. First, there were delays and the Court wanted to preclude any further delay by way of a “simple expedient of filing a Notice of Appeal”. In that case the receivership application had been adjourned for about nine months pending the negotiation and approval of the debtor’s proposal. Second, provisional execution brought a “degree of uniformity” between BIA and *Companies’ Creditors Arrangement Act* proceedings, as there is no automatic stay pending appeal in CCAA proceedings.
8. The *YSL* matter involved a large project for an 85-story complex planned in downtown Toronto. There had been pre-sales of numerous condo units and the demolition of the old structures and shoring up of the excavation had been largely completed. The project had ground to a halt and was on hold at a point where it was just a big hole in the ground. When the provisional execution order was sought it had been about nine months since the adjournment of receivership application. The Court was concerned about further delays. The *YSL* matter involved a huge project that had essentially been put on hold, impacting numerous stakeholders.
9. The Receiver also relied upon *Computershare Trust Company of Canada v. Beachfront Developments Inc. and Beachfront Realty Inc.*, 2010 ONSC 4833. In that case, the Court permitted the order to be subject to provisional execution. In finding that the order could include the provisional execution clause the Court noted the concern of the receiver that there was a substantial risk that Canada Post, a tenant in the premises at issue, would not renew its lease and would move elsewhere. If this were to occur, “the value of the property under receivership would likely deteriorate substantially without Canada Post being a tenant.”
10. *YSL* and *Computershare* both involved extraordinary circumstances. That is not the case here.
11. The Receiver acknowledges that the circumstances do not appear extraordinary. However, the Receiver argues that the lengths the debtor has gone to in order to thwart the receivership process have been extreme.
12. The Company argues that the unusual and rare relief of provisional execution is not appropriate in this case.
13. The Company submits that following the release of my judgment on February 13, 2023, it has 10 days to contemplate whether to appeal and whether to take the position that an automatic stay applies. The respondents are considering whether to appeal and require time to consider. It argues that the Court should not cut short the respondents’ appeal rights. The Receiver’s position is that the respondents would still have time to seek leave from the Court of Appeal if the provision is included.

14. The Company further submits that the parties who purchased the condo units were aware that they are subject to an approval and vesting process, which could delay their closing. Further, the Company argues that the respondents will be potentially prejudiced by the inclusion of this provision.
15. I agree with the Company. The sales of properties subject to approval and vesting orders are common occurrences in insolvency proceedings. The fact that there is an upcoming closing date for a sale of a property is not sufficient as to constitute the type of extraordinary circumstances necessary to alter a party's appeal rights. There is a statutory scheme regarding appeals in the BIA. Although section 195 of the BIA contemplates that an order may be subject to provisional execution, it is clear from the few cases cited that this is an extraordinary provision.
16. The Receiver's request to include the provisional execution provision in the Orders is dismissed.



Digitally signed
by Jana Steele
Date: 2023.02.16
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**THIS IS EXHIBIT "C" REFERRED
TO IN THE AFFIDAVIT OF CHAD KOPACH
SWORN BEFORE ME THIS 1ST
DAY OF MARCH, 2023.**



A Commissioner of Oaths
Lucas Strezos (LSO #84438K)

Court of Appeal File No.
Commercial List Court File No. CV-22-00674810-00CL

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant / Respondent in Appeal

- and -

30 ROE INVESTMENTS CORP.

Respondent / Appellant in Appeal

NOTICE OF APPEAL

THE APPELLANT appeals to the Court of Appeal from the order of the Honourable Justice Steele (the “**Motion Judge**”), of the Superior Court of Justice (Commercial List), dated February 16, 2023 (“**Order**”), and made at Toronto, authorizing and approving the sale of certain real property (“**the Units**”) belonging to the Appellant, by KSV Restructuring Inc., in its capacity as Court-appointed Receiver of the Respondent (the “**Receiver**”), and vesting title to the Units in certain purchasers (the “**Purchasers**”), pursuant to two agreements of purchase and sale;

THE APPELLANTS ASK that the Order be set aside and an Order be granted as follows:

1. Dismissing the motion brought by the Receiver;

2. Awarding the Appellants' costs of this appeal, and the motion below, on a substantial indemnity basis; and
3. Such further and other relief as counsel may request and that seems just to this Honourable Court.

THE GROUNDS OF APPEAL are as follows:

1. the Motion Judge erred in granting the Order;
2. the decision to approve the sale of the Units and vest title in the Purchasers was clearly wrong;
3. the evidence on the motion was clear that the Units were part of a larger commercial enterprise (the “**Enterprise**”), and ought not to have been sold off separately, “piecemeal”;
4. the Receiver ought not to have marketed the Units, or offered them for sale, as separate properties, but ought to have marketed them, and offered them for sale all, together, as one entire Enterprise;
5. the failure by the Receiver to market the Units and offer them for sale together led to a marked diminution in value of the Enterprise;
6. the Motion Judge failed to appreciate the entire concept of the Enterprise and the loss in value of the Enterprise, if the Units were sold off separately;
7. the Motion Judge failed to apply the “Soundair” test to the facts of this case, and failed to find, in particular, that the process by which the Units were offered for sale was not a fair process, as the Units ought not to have been marketed or offered for sale in the first place;

8. the Motion Judge failed to find that the marketing and offering of the Units for sale here, on their own, would not be in the best interests of the creditors or the other stakeholders here;
9. the Motion Judge failed to find that it would be best here, in this case, to market and offer the entire Enterprise for sale, comprising all nine of the condominium units together, as that would maximize value for the creditors and the other stakeholders;
10. section 193 of the *Bankruptcy and Insolvency Act* (“**BIA**”); and
11. such further and other grounds as counsel may advise and this Court permit.

THE BASIS OF THE JURISDICTION OF THE COURT OF APPEAL IS:

12. this is an appeal as of right pursuant to s. 193 (a) – (c) of the BIA;
13. the Order appealed from is a final order. It is a sale approval and vesting order and authorizes the sale of the Units to two separate arms length purchasers;
14. Leave is not required for the commencement of this appeal under ss. 193(a) to (c) as:
 - a. Matters raised in the within appeal involve future rights, including the manner in which the Units, as well as the other seven condominium units in the same building, and which are part of the Appellant’s Enterprise and the receivership, are to be sold.
 - b. The Order is likely to affect other cases of a similar nature in the proceeding. The Units are part of a larger hospitality enterprise, which includes seven other condominium units in the same building. Other sale approval and vesting orders are likely to be sought in this proceeding by the Receiver, and the appeal herein and the rights to be determined will impact those sales, and other aspects of this proceeding.

c. The value of the property that is the subject of the Order and that is involved in this appeal exceeds ten thousand dollars. The Order is a final order and is not procedural in nature, and the grounds of appeal are substantive, concerning the manner in which the sale of the Units and the other units that are part of the receivership proceeding will proceed. The Appellant stands to lose millions of dollars if the appeal is not granted and the sale of the Units, and the other units, goes ahead.

15. in the alternative, if leave is required under section 193(e) of the BIA, the Appellants seek leave to appeal the Order, and ask that the leave application be heard at the same time as the appeal;

16. it is appropriate that leave be granted because the appeal:

- a. Is of general importance to the practice of bankruptcy/insolvency matters and/or to the administration of justice as a whole;
- b. Is *prima facie* meritorious; and
- c. Would not unduly hinder the progress of the herein proceedings.

17. this appeal raises issues that go beyond the parties themselves and are of general importance to the practice of insolvency law, namely the manner in which the Units and the Enterprise itself may and ought to be marketed and sold;

18. in addition, the appeal concerns issues important to the administration of justice as a whole;

19. the appeal is *prima facie* meritorious because the Motion Judge made a number of factual and legal errors in reaching the conclusion to approve the sale of the Units, separate and apart from the other units that are part of the overall Enterprise; and

20. the appeal would not unduly hinder the proceedings in a meaningful way. The Receiver's job is to get the best value for the assets under its control. The entire manner in which the Receiver has proceeded with respect to these assets under its control is in question here, and the Court ought to prevent the sale of the Units on a piecemeal basis.

Date: February 23, 2023

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KingSett Mortgage Corporation
(Respondent in Appeal)

30 Roe Investments Corp (Appellants in Appeal)
and

Court of Appeal File No.
Court File No. CV-20-00651299-00CL

COURT OF APPEAL FOR ONTARIO
Proceeding Commenced in Toronto

NOTICE OF APPEAL


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**THIS IS EXHIBIT "D" REFERRED
TO IN THE AFFIDAVIT OF CHAD KOPACH
SWORN BEFORE ME THIS 1ST
DAY OF MARCH, 2023.**



A Commissioner of Oaths
Lucas Strezos (LSO #84438K)

B-1-1410

Court File No. CV-22-00674810-00CL
30 ROE INVESTMENTS CORP.

KINGSETT MORTGAGE CORPORATION

and

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD
(Motion Under Rule 15.04 for Removal as
Lawyer of Record returnable March 10, 2023)**

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