

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101
OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C. 43, AS AMENDED

AND IN THE MATTER OF THE APPOINTMENT OF A RECEIVER OVER THE
PROPERTY, ASSETS AND UNDERTAKING OF 2067166 ONTARIO INC.,
2265132 ONTARIO INC., ASHCROFT HOMES – LA PROMENADE INC.,
2195186 ONTARIO INC., 1384274 ONTARIO INC. AND 1019883 ONTARIO
INC.

**FACTUM OF ACM ADVISORS LTD.
(Motion for Sale Approval and Vesting Order and
Distribution and Ancillary Relief Order – Envie I,
Returnable July 31, 2025)**

July 29, 2025

CASSELS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4

Jeremy D. Bornstein LSO #: 65425C
Tel: 416.869.5386
Email: jbornstein@cassels.com

Stephanie S. Fernandes LSO #: 85819M
Tel: 416.860.6481
Email: sfernandes@cassels.com

Lawyers for ACM Advisors Ltd.

TO: THE SERVICE LIST

1. ACM¹ is the second-priority mortgage lender to 2195186 Ontario Inc. with outstanding indebtedness of approximately \$12 million and is the fulcrum creditor.²
2. ACM's loan is secured against 2195186 Ontario Inc.'s primary asset, a 29-storey student housing apartment building with 185 residential units located at 101 Champagne Avenue South in Ottawa ("**Envie I**").³
3. The Transaction, together with the proposed Approval and Vesting Order and Distribution and Ancillary Relief Order, provides the only certainty for Envie I to emerge from these proceedings. The Transaction was heavily negotiated by KSV Restructuring Inc. in its capacity as interim receiver and subsequently as receiver of 2195186 Ontario Inc. (the "**Receiver**") in consultation with Envie I's mortgagees and maximizes stakeholder value in the circumstances.⁴
4. No other viable solution has emerged since the pre-receivership sale process began approximately eight months ago in November 2024.⁵
5. In connection with the Approval and Vesting Order, the Receiver is seeking to vest Envie I in the Purchaser (or its designee) free and clear of all encumbrances (other than permitted encumbrances), including the leases with residential tenants of Envie I (the "**Residential Tenants**").⁶ It is well established that a mortgagee's interests are an important aspect in a

¹ ACM Advisors Ltd. is an alternative asset manager that creates and manages pooled Canadian commercial mortgage funds. ACM Commercial Mortgage Fund ("**ACM**") is a pooled commercial mortgage fund managed and represented by ACM Advisors Ltd. in these proceedings.

² Fourth Report of the Receiver dated July 23, 2025 (the "**Fourth Report**"), at para 2.0.7.

³ Fourth Report, at para 1.0.7.

⁴ Fourth Report, at paras 4.1.4 and 4.2.26-27.

⁵ Fourth Report, at paras 4.1.5 and 5.2.1(d).

⁶ Fourth Report, at para 1.1.1(g).

consideration of the equities in determining whether to vest out interests in real property through an approval and vesting order.⁷

6. If the Receiver's motion is not granted, there will be material prejudice to ACM in light of (a) the significant additional carrying costs incurred each month closing is delayed and (b) the possibility that the Purchaser will seek to terminate the Transaction or renegotiate a reduced Purchase Price if the Transaction does not close by the October 1, 2025 outside date. In circumstances where the Transaction is terminated, there would also be no path to complete an alternative transaction or the Mould Remediation, and the Mould Issues will continue to negatively impact residents and value in Envie.

7. As fulcrum creditor, the above noted costs and value erosion directly impact ACM's recovery. The purchase price under the Transaction is likely to result in a shortfall to ACM under its mortgage.

8. For all of the foregoing reasons, in addition to the reasons set out at paragraphs 16-19, 90 and 95 of the Receiver's factum for the within motion, the equities favour approving the Transaction, which is fair, reasonable, and appropriate.

9. ACM respectfully requests that the Receiver's motion be granted in its entirety.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of July 2025.



CASSELS BROCK & BLACKWELL LLP

⁷ *Third Eye Capital Corporation v Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#) [*Dianor*] at paras 97-99, citing *Meridian Credit Union Ltd. v 984 Bay Street Inc.*, [2006 CanLII 26476](#) (Ont Sup Ct J) at para 20 and *Romspen Investment Corp. v Woods Property Development Inc.*, [2011 ONSC 3648](#) at paras 186-193, rev'd on other grounds [2011 ONCA 817](#). The complete legal test from *Dianor* to determine whether it is appropriate to vest out interests in real property through an approval and vesting order is set out in the Receiver's factum for the within motion at paragraph 94.

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#)
2. *Meridian Credit Union Ltd. v 984 Bay Street Inc.*, [2006 CanLII 26476](#) (Ont Sup Ct J)
3. *Romspen Investment Corp. v Woods Property Development Inc.*, [2011 ONSC 3648](#)
4. *Romspen Investment Corp. v Woods Property Development Inc.*, [2011 ONCA 817](#)

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date July 29, 2025


Signature

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Court File No: CV-24-00098058-0000

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PROCEEDING COMMENCED AT
OTTAWA

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