

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

Applicants

**RESPONDING MOTION RECORD
(Returnable March 28, 2024)**

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

George Benchetrit (LSO #34163H)
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**Court-Appointed Lender Representative
Counsel**

To: The Service List

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Court File No.: CV-00713245-00CL

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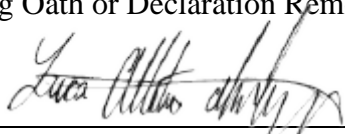
**AFFIDAVIT OF DAVID IM
(sworn March 26, 2024)**

I, David Im, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a law student at the law firm of Chaitons LLP, which was appointed by the Ontario Superior Court of Justice (Commercial List) in this proceeding as representative counsel for the Applicants' secured lenders (in such capacity, the "**Lender Representative Counsel**").
2. Attached hereto and marked as **Exhibit "A"** are sample email communications received from secured lenders to the Lender Representative Counsel, redacted by removal of the identities of such secured lenders and other information to protect their privacy. The inclusion of these communications in this affidavit and the filing of this affidavit in this proceeding are not intended to, and shall not have the effect of, waiving any privilege between the secured lenders and Lender Representative Counsel.

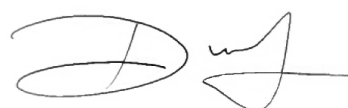
3. Attached hereto and marked as **Exhibit “B”** are certain media articles and social media posts regarding the Applicants, directors, officers and representatives.

SWORN REMOTELY by David Im stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on March 26, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Luca Imbrogno
Commissioner for Taking Affidavits
(or as may be)

**Luca Alberto Imbrogno,
a Commissioner, etc., Province of Ontario,
while a Student-at-Law.
Expires August 8, 2026.**



DAVID IM

**THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT
OF DAVID IM SWORN BEFORE ME THIS
26TH DAY OF MARCH, 2024.**

A handwritten signature in black ink, appearing to read "Luca Altieri", written over a horizontal line.

A Commissioner, etc.

Email Communications from Lenders to Lender Representative Counsel

Good morning

My name is [REDACTED]. I was privy to the zoom meeting last night as a secure lender involving DSPLN (Aruba Butt).

It was quite evident that a number of us feel that Windrose is complicit in the financing of SID companies. I personally had sent an email to Windrose Group back in November expressing my concerns based on all the correspondence I had received from them. It should also be noted one interest payment was made from Lion Share Group (Claire Drage) which begs the question is Lion Share holding money for SID companies?

I feel the DIP should be used to pay taxes, utilities and insurance. I am opposed that any money given for renovations. My concern would be the money would pass through Robert Clarke or any associate and or Windrose (Lion Share). I do not believe that any renovation would be done up to par, to date most of the renovations have been dismal at best. Obviously, to bring on an independent renovation company that the lenders agreed upon would take time and as you said in the meeting TIME IS MONEY. Any way you look at it whether Robert Clarke had a hand in the renovations or an independent company it would still take up valuable time.

All secure members should have their own representation as a group. I lent "Aruba Butt" money for a first mortgage based on Windroses's recommendation, independent appraisal I received from Windrose, my own lawyer verifying the documents, and the LTV of 80%. At no time was I aware that I would be part of large "SYNDICATE". Therefore, I believe that even though I did my due diligence I was enticed into this deal under false (Fraudulent) pretences and I do NOT want to be lumped with unsecured lenders.

Please feel free to forward this email to any or all SECURED lenders.

Regards

[REDACTED]

I am a secured lender via a 1st mortgage on a property in Timmins.

I know you spoke with my friend [REDACTED] earlier today.

I just wanted to give you the heads up that no doubt in my mind Robbie Clark and Aruba have spent significant sums of money while in default doing luxurious travelling etc.

While they were defaulting on their payments they were busy posting their travels on instrgram etc. See below:

https://x.com/re_marketwatch/status/1754667844782915598?s=42&t=j2E_XaZWH6vz4ggM9QXCww

I am sure this is not news that you are unaware.

I am [REDACTED] and there is no doubt in my mind that they misused a significant amount of funds. Anyways they are not to be trusted. If you ever want to talk I can give you a call.

Thanks for your help in recovering funds from these bandits.

Have a great day!

[REDACTED]

Hi there,

Windrose Group has sent me to you for my questions that I've been asking them over the last few weeks.

1/ is [REDACTED] currently tenanted

It's a 6 to 8 Plex and had a rental income of over \$3000 when it was purchased two years ago. Is that still the case?

2/ Is it in the middle of a renovation? If so, how much of the building is in the middle of renovation and at what stage is it in? what needs to be completed for it to be habitable?

3/ Is it possible to enter the property to view it?

I had planned (weeks ago) to go up there on Tuesday (today) to see the building and assess the value myself seeing as I haven't been getting any information from the mortgage company regarding this. Even though I had planned this trip far in advance - Tuesday is now today so I'm assuming this will not be possible.

I'm in first position on this mortgage and I was told at the time of renewal that it was around 55% loan to value value so I'm hopeful I will be able to get my money out. Especially considering this is ALL the money I have in the world . I don't have mutual funds or RRSP's or anything else.

I'm a self-employed, single mom, whose business was hit very hard during Covid and I've been in recovery mode ever since.

I've been recently using the interest payments to live off of because im currently recovering from unexpected/emergency surgery and have not been able to work. Obviously those payments have stopped. I'm imagining this process is going to take several months. I've been borrowing money from my mom to survive right now but I can't keep doing that.

Do you have any idea of timeline on this?

When the payout happens are we all going to have to give up on the interest payments/late fees, we should have received in addition to possibly losing our principal Loan amounts?

Will the businesses have any recourse? Will they be required to pay back the people who are possibly going to lose everything?

Or will they be able to operate as-is after this fiasco?

What about Windrose Group? Many of us have been misled by this mortgage company and have made major financial decisions based on the information given to us from them, which has turned out to be not 100% true. It's unclear whether they knew of everything or whether the borrowers were lying to Windrose to get more money. There's also the question that because the mortgage company was also lending to the borrowers that they were just trying to keep things

afloat (like a ponzi scheme) so that they wouldn't lose their own money because they had a lot to lose...

Any answers to my questions would be much appreciated.

Thank you,

████████████████████

How is this even allowed ? They owe hundreds of people millions of dollars but not all of their assets are included in the effort to pay off their debts?!

Maybe the money they got from innocent investors actually paid for these investments?

Has the investigation even started to find out where all the money went?

This is way to shady and not getting less shady every day

<https://www.sootoday.com/local-news/out-of-town-company-selling-off-sault-properties-including-gore-street-eyesore-8450333>

Sent from Yahoo Mail for iPhone

Believing that investing in bricks and mortar would offer a secure pathway, I placed my faith in this venture, utilizing my Savings, Tax-Free Savings Account, and other investments, with the hope of safeguarding my family's future.

Thinking that I had done my due diligence, by investing with different companies I assumed that was pretty safe. However, the borrowers I lent money to, misused my funds in a dishonest and very poorly managed manner.

The mortgages in the properties I funded, which were intended to be my safety net, are now being siphoned away to cover their legal expenses, CCAA proceedings, to pay for the DIP loan and all other debts, leaving me and all other lenders with no recourse.

The devastating consequences of entrusting approximately \$1.7 million of my hard-earned savings into real estate mortgage investments have shattered not only my financial stability but also my life.

With no alternate income, I am unable to meet even basic necessities of my daily life, let alone pay the interest on the line of credit taken against my home. Forcing me and my family to forever alter our lives.

The ramifications extend beyond mere financial strain. My dreams for my 13-year-old son's future as a pilot, once supported by my savings, have evaporated. Instead of aspirations, he now faces nightmares, emblematic of the turmoil engulfing our family.

My marriage, however strong, is under the weight of this crisis, compounded by traumatized mental health, sleepless nights, panic attacks, and an inability to focus.

As a retired individual, restarting is not a very viable and feasible option. The life I meticulously built has crumbled before my eyes, leaving me adrift in a sea of despair.

I do hope that the outcome and resolution for a fast mandate will be resolved in the next few months, so that we can all proceed with our new lives and try to rebuild what was stolen from all of us lenders.

Regards,



Good Morning

While I understand that everyone is busy and trying to navigate through this CCAA I feel like the lenders are sitting ducks. The communication at best has been minimal and the fact that SID Renos (Robby Clarke) is receiving 7.5% of the gross monthly rentals is appalling. I have heard that there are some secured lenders that are looking at selling their homes as they are not receiving any monthly income from their investments. Why do I feel that Robbie Clark and his cronies are being protected??? There needs to be more transparency and it should start with all secured lenders being made aware of what funds Robbie and his team are receiving?

I will be sharing this email to the press

Regards

████████████████████

Good Morning

I am wondering if the “companies” sell off the properties that I have a mortgage on, are they to pay out the mortgage to me?

I have been seeing reports of them selling off properties not listed under the ones listed in the CCAA and also wondering if those properties have been purchased with any of the monies collected from the lenders affected by this proceeding?

Can we do anything in regards to the mortgage broker that totally mislead us into investing? When I questioned them about these people, I was assured they were “good and my money was safe” Obviously they lied and they had to have known about the financial struggles prior to us lending the money if they had been lending millions on top of what they were already getting (80-100%) of the home values. Where has all this money gone if they haven’t been paying utilities, taxes, repairs, vendors and lenders?

My life savings were invested with these people and the interest was keeping a roof over my head.

It sickens me to know that they get to continue living their lives while I worry about becoming homeless and broke.

Hopefully someone can answer some of these questions/concerns that I have

Thank you

████████████████████

As we enter into day 60 of the CCAA proceedings, I feel the need to share with you the implications this entire debacle is having on my family and our livelihood the longer it drags out.

As a child, my family and I immigrated to Canada and spent many years as renters. At a young age this inspired me to one day provide affordable, well-kept housing that individuals could be proud to call home. Fast forward and many years later we were in a financial position to invest in real estate and opted to do so by diversifying our money across various companies that had a similar philosophy - "identify properties that are under market value and typically owned by tired landlords or home owners that have not kept the properties well maintained....Providing safe secure housing for Canadians!"- Dylan Suitor

We believed that by diversifying our money and investing only in 1st mortgages, we would be limiting our exposure to risk. What we didn't know was that these Companies were actually all tied together and not conducting business as advertised in their investment packages.

In 2023, after seeing the media coverage of how these Companies were treating tenants, many missed payments and countless empty promises of a refinance, we began legal proceedings. We were in the process of obtaining possession on the properties we invested in when the CCAA hit and we were no longer able to do so. All of a sudden what began as an individual investment venture, turned into a team sport with 150+ other people that we have never met.

When the CCAA commenced, we thought this might be a positive turn of events but it has been everything but that! After speaking with other lenders and to members of the communities impacted by this we discovered that many of the properties we invested in are actually sitting empty and boarded up. Many of the properties were actually never renovated, taxes were never paid and yet countless mortgages and promissory notes were taken out for these exact reasons? Where did the money go!?!?

My mind doesn't turn off, I'm constantly crunching numbers and going over different scenarios. Day and night, this has completely taken over our lives, and even though it's our money that is tied up in all of this, there is nothing we can do to expedite this process or resolve it.

These funds were meant to pay for our children's school and provide them with opportunities in life that we never had. Instead we're left with no properties as collateral and the uncertainty of what (if any) money we'll actually get back.

Thankfully my children are very young and do not understand the severity of this situation and its implications on our family. But they notice that I'm distracted and not always present, that my eyes are constantly red from crying and that many of the fun things we once did have now stopped. This isn't their fault, yet they seem to be paying a bigger price than the applicants themselves. Its heart wrenching!!!

I'm writing this email to you with the intention that it serves as a reminder that we the Lenders are NOT a huge corporation with endless financial resources. We are individual people who made an investment with the intention to better our lives and the lives of our families. And that should matter when it comes to this process and the importance of having it resolved promptly!

Thank you

Hello George, my name is [REDACTED] and my spouse is [REDACTED]. We are one of the many lenders that you represent under these proceedings via the finance of a first mortgage over [REDACTED].

We are reaching out to you because we have not heard anything about what is going on and we are not doing that well. The last communication we received was that a committee was appointed but we have not received any news or updates from them. We are in the dark and getting pretty desperate. Our faith and trust is with you and the court to truly represent our interests since we have no other way out.

We are not in a very good position and we need your help to get our money back. Since this happened we have not gotten paid and our line of credit payments continue to accrue. This mortgage was leveraged and now we can't afford the payments. We did this because we thought we were able to act on our first charge if we did not get paid and we knew it would take a few months but we were prepared to handle that on a temporary basis. We did not know about CCAA and what that all means. We are running on fumes, I just retired after 35 years of working on October 2023 and I am now back at work because instead of having my interest payments cover the line of credit and have a surplus to support our income, we now have to make payments on a \$310,000 line of credit balance. [REDACTED] has heart failure and is on long term disability and this is not helping him with the added stress. I know it's not your fault, it's ours. However, we are now feeling almost hostage of a situation that we know nothing about.

Rents are kicking, where are they going? when will we know anything? the DIP loan?? how is it being used? more money against title that I did not have a chance to approve or not.

Our lives have changed because of this. My retirement is no more. This was an investment that we utilized to help us with our retirement. We knew it was not very liquid but we never thought our full principal was at risk. I mean the house is there and the markets did not go down that much. We thought we were financing a home but it seems we were financing 402 homes as our first charge on our property means nothing alone. We can't afford to remove ourselves from the CCAA now as the costs are already running on all this legal proceedings and taking away at our equity even more. We feel trapped and scared.

Please help us! When can we expect to have any information? What is the expected time to get our money back?

I hope to hear from you soon.

[REDACTED]

I am writing to you to let you know about the effects that this case has had on both myself personally and my family.

We had plans to retire at the beginning of 2023 to spend more time with our children and private lending was to form the majority of our income for the first few years until we could find more conservative forms of income. We were new to private lending and we did not have a network of our own personal borrowers yet so we had to rely on the expertise and network of brokers. We engaged Claire Drage as one of our brokers and, after receiving a presentation from her followed by a q&a session, we began to trust her.

Within only a few months, our retirement plans started to unravel as the borrowers that Claire promised she had vetted herself, met with weekly and knew all of their financials in detail, began to default on three of our private Lends totaling \$700k. Communication and trust in Claire and her team eroded significantly as they continued to paint a positive picture, telling us that our payments were going to come soon without telling us when.

We could no longer balance our budget with these missing payments. Panic set in and I, personally, became frustrated, worried and stressed as bills became due and we did not have the income to pay them. My relationship with my wife became very difficult as I tried to cut back on all expenses within our household, questioning even the small things such as which dish soap we should buy. My relationship with my children was strained as I began working long hours trying to figure out how I could balance our budget. Every day, prior to CCAA filing, I logged in online to our bank accounts multiple times a day, hopeful that we would get payments from these borrowers that might, this month, prevent us from depleting what little savings we had.

When the borrowers closed their accounts without telling us, I knew it was the end of any further payments. We were forced to dip into our last remaining savings to start legal proceedings for a power of sale on all three of our mortgages that were in default. The hope was that we would have enough to cover legal costs to force a power of sale before our savings ran dry.

Today, we are bleeding money every month still however, we have both found part-time jobs to make ends almost meet while we wait for this CCAA process to complete.

It has been an incredibly emotional roller coaster ride over the past year and we feel as though we have been lied to by both Claire and all of the applicants right from the start.

Regards,

████████████████████

As retirees who diligently saved over the years, we found ourselves in a position of financial security, having accumulated over \$1 million in savings with no debts or mortgage to burden us. Hearing about Claire's investment opportunity, we saw potential and entrusted our life savings, totaling \$1.6 million after leveraging our home, to what we believed was a legitimate venture.

However, unbeknownst to us, we fell victim to the deceptive practices of the Windrose group and its associated companies, which turned out to be a Ponzi scheme. As a result, our financial stability crumbled, leaving us in a dire situation with no income to sustain us. The value of our 30 year home, once a cornerstone of our security, has depreciated to approximately \$800K amidst market fluctuations, adding to our distress.

Compounding our challenges, my wife is battling Barrett's esophagus, a condition that demands medical support and is further influenced by the stress of our financial situation. The stress of our financial predicament weighs heavily on both of us, leading to sleepless nights and deteriorating health. I find myself reliant on antidepressants and stomach medications to cope with the anxiety and strain, which I have never previously used. In addition to our financial woes, we are overwhelmed with embarrassment and shame before our family and friends. Having prided ourselves on our careful financial planning and stability, we now face the humiliating reality of our naivety and vulnerability to deceit.

With depleted savings and no foreseeable income, we face the looming threat of losing our home, a place of cherished memories spanning three decades as we can only survive another 3-4 months with the line of credit we have remaining. Desperate for a solution, we are looking for assistance in reclaiming our lost funds and securing a path forward that allows us to maintain our dignity and stability in our twilight years.

**THIS IS EXHIBIT "B" REFERRED TO IN THE AFFIDAVIT
OF DAVID IM SWORN BEFORE ME THIS
26TH DAY OF MARCH, 2024.**

A handwritten signature in cursive script, appearing to read "Luca Altieri". The signature is written in black ink and is positioned above a horizontal line.

A Commissioner, etc.

Articles

Article #1: Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble

Date: February 9, 2024

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News



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Hamilton · CBC Investigates

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble

Former child actor Robby Clark heads a web of corporations that owe \$144M, under bankruptcy protection

[Samantha Beattie](#) · CBC News · Posted: Feb 09, 2024 4:00 AM EST | Last Updated: February 13



Ryan Molony, Robby Clark, Dylan Suitor and Aruba Butt, left to right, have bought hundreds of rental properties across Ontario under a web of corporations. (siddevelopments/Instagram, robbywclark1/Facebook, Dylan Suitor/Facebook, robbywclark1/Facebook)

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News

As his real estate empire showed signs of trouble, a robed Robby Clark appeared in a promotional video, standing at the bow of a yacht, arms raised to the sky as a camera circled overhead.

"You can stick me in the desert with nothing and I'm going to come out owning the desert," Clark is heard saying at another point in the three-minute video.

It was posted to several Instagram accounts like "billionaireclassy" in March 2022 and shows the former YTV child actor- turned-real estate investor living a life of luxury.

He's shown getting into sports cars and relaxing in private jets, smiling next to famous rappers like Kanye West and Rick Ross, and taking in the view from a California mansion.

Maps of Sault Ste. Marie and Sudbury appear — they're among the Ontario communities where he owned an estimated 800 properties and thousands of tenants lived.

"I'm going to have a billion dollars in holdings," Clark says.

WATCH | Robby Clark presents himself as a wealthy, successful investor on social media:

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News



Ontario real estate investor in financial trouble shows wealthy lifestyle on Instagram

▶ 1 month ago 1:16

Former YTV child actor Robby Clark starred in this promotional video talking about his business success, which was posted to Instagram in March 2022.

Clark's business partners from the Hamilton area — [Dylan Sutor](#), Ryan Molony and Aruba Butt — also make appearances.

In the video, Molony and Sutor dance with Clark in nightclubs, and Sutor and Clark take selfies on the sidelines of an NFL game. Butt and Clark stand side by side on the yacht, wearing designer robes and raising their matching tumblers to the camera.

"Ultimately if you're going to work with lenders, and we work with a lot of private lenders on acquisitions, they gotta know you know what you're doing," Clark says in the video.

But behind the scenes, Clark's business, SID Developments, and 11 connected corporations owned by Molony, Sutor and Butt had taken on millions of dollars in debt and were struggling to keep up with payments to lenders, according to documents filed with the Ontario Superior Court of Justice.

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News



Molony and Clark appear together in a 2021 video, and are seen partying at a nightclub. (billionaireclassy/Instagram)

Meanwhile, rundown properties sat vacant, and utility bills, property taxes and contractors went unpaid.

By early 2024, the corporations had only \$100,000 in the bank and owed \$144 million to lenders, faced dozens of lawsuits from creditors and received court-ordered bankruptcy protection.

- **CBC INVESTIGATES** [3 landlords among largest real estate holders in Ontario owe \\$144M, under bankruptcy protection: documents](#)

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News

Since CBC Hamilton reported on the court proceedings last week, Clark, Sutor, Molony and Butt have made many of their social media accounts private, and have not responded to requests for comment.

But court documents and interviews with experts help explain how they became one of the largest holders of residential real estate in Ontario, and now are on the verge of losing it all.

Hamilton mortgage broker arranged many loans

This isn't the first time Clark has faced financial trouble.

He lost the money he earned from acting as a child because of "a lack of financial education," Clark told YouTuber David Meltzer in a 2021 video.

Clark declared bankruptcy in 2009 and then started a meal-kit business, which also failed, he said. He then turned to real estate investing, but his credit score "was a joke," so he had to get "other people to sign on the dotted line" when purchasing his first properties.

In recent years, Clark's company — through Butt, Molony and Sutor's corporations — acquired, renovated and leased or sold over 800 properties, mainly single-family homes, fuelled by more than 1,300 loans, the court documents say.

The vast majority came from Hamilton mortgage broker Claire Drage, according to the documents. Through her companies, The Windrose Group, Windrose Capital and The Lion's Share Group, she brought on private lenders to invest in Butt's, Molony's and Sutor's corporations.

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News



Hamilton-based mortgage broker Claire Drage facilitated the vast majority of loans.
(ClaireDrageTheWindroseGroup/Facebook)

She provided their corporations with secured mortgage loans, which give lenders collateral if borrowers don't meet their debt obligations, according to the court documents. She also provided them with unsecured promissory notes — loans not tied to any collateral.

Drage did not respond to a request for comment, but said in a Facebook post last October that "our borrower eligibility criteria are rigorously upheld, ensuring sound lending practices."

In one instance, she supplied Sutor's corporation, Interlude, with \$23 million in mortgages and another \$29 million in promissory notes.

<https://www.cbc.ca/news/canada/hamilton/investors-bankruptcy-protection-1.7108994>

6/10

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News

In another, she arranged \$6.5 million in mortgages for Butt's corporation, Joint Captain Real Estate. Her son, Sam Drage and daughter-in-law Bronwyn Bullen are shareholders.

She then lent them a further \$3 million in promissory notes.

Sam Drage and Bullen did not respond to requests for comment.

Toronto mortgage broker Ron Butler, who is not connected with the case, said the family ties are a conflict of interest that Drage would be required to disclose to investors.

He described the huge number of loans arranged by Drage as "frightening," and said while it's not illegal for mortgage brokers to issue riskier promissory notes, he believes it's improper because it puts lenders in "such a bad position" if something happens to their investment.

"I wouldn't touch them with a 10-foot pole," Butler said of promissory notes.

When the Financial Services Regulatory Authority of Ontario — which governs mortgage brokers — was asked if it is investigating Drage, it said in a statement that it is "thoroughly reviewing related concerns."

Many homes 'unsalvageable': Sault Ste. Marie mayor

Despite generating "significant annual revenues" from rental income and the sale of some properties, the corporations didn't have enough money to make their debt payments, the court documents say.

"I don't keep [any capital] in the accounts," Clark said in the YouTube video from 2021.

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News



Clark and Suitor, left to right, are shown in a photo posted on Jan. 3, 2020. (robbywclark1/Facebook)

By that fall, Clark had begun negotiating selling off about a quarter of their properties to another real estate investment and property management company, [Core Developments](#), chief executive officer Corey Hawtin told CBC Hamilton.

The sale closed in May 2022, but Clark's business continued to default on loans and couldn't find a refinancing option, say the court documents. But as interest rates increased and property values fell, Suitor, Molony and Butt continued to take on new debt, the court documents show.

Patty Vanminnen invested in mortgages for Suitor to buy two Sudbury homes last year, but wasn't made aware of everything else going on, she said in an affidavit as part of the bankruptcy protection proceedings.

"We were not advised by Suitor that these mortgages were being granted as part of a larger enterprise," Vanminnen said, "or that there were hundreds of other lenders

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News

being granted mortgages as part of a larger business, or that any of the alleged problems being raised in this proceeding existed."

At the end of the six-month mortgage term, Interlude defaulted on the mortgages, she said.

Vanminnen moved to recoup her money, but then Sutor, Molony and Butt filed for bankruptcy protection. The three now have protection from lawsuits until at least mid-February.

In Sault Ste. Marie, a northern Ontario city of about 73,000, the corporations own about 200 homes, or one per cent of the housing stock, Mayor Matthew Shoemaker told CBC Hamilton. The impact has been overwhelmingly negative.

"I would be happy never to deal with these companies again," he said.

Almost half the homes they own in Sault Ste Marie are in an "unsalvageable" state of disrepair and sit vacant, Shoemaker said. They've fought the city on property standard and fire code violations, and owe \$645,000 in unpaid taxes, say the court documents.

"I think our community will be better off if the assets that they own in Sault Ste. Marie end up in the hands of other landlords, preferably local landlords," Shoemaker said.

Hawtin, Core Developments' CEO, said his company is interested in buying more of the properties and limiting the number of tenants displaced.

While Core has a similar business model to SID Developments, owning 550 properties, it has "appropriate debt-equity ratios," said Hawtin.

Tenants could face eviction if homes are sold to people who want to live in them, lenders want them vacated and it's ordered by the court, or if court proceedings

3/22/24, 12:13 PM

Private jets, yachts and parties: Ontario landlords flaunted lavish lifestyle as business began to crumble | CBC News

drag on and SID Developments can't afford to keep them in a livable condition, Hawtin said.

"I really hope the renters don't get displaced through this process," he said.

Clarifications

- A previous version of the story did not include The Windrose Group among Claire Drage's companies. The Windrose Group facilitated the majority of the loans.
Feb 13, 2024 2:07 PM ET

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Article #2: Court boosts monitor's powers to investigate insolvent rental firm

Date: February 21, 2024

3/22/24, 12:13 PM

Court boosts monitor's powers to investigate insolvent rental firm - The Globe and Mail

THE LISTING

Court boosts monitor's powers to investigate insolvent rental firm

SHANE DINGMAN > REAL ESTATE REPORTER

TORONTO

PUBLISHED FEBRUARY 21, 2024



Former child actor Robby Clark, one owner of a sprawling and now insolvent real estate investment enterprise that owns 405 rental properties in Northern Ontario, is shown in a video on X enjoying a lavish lifestyle of huge houses, yachts and private jets.

HANDOUT

A Superior Court judge has authorized an investigation into the use of \$144-million in borrowed money by the companies and individuals at the centre of a sprawling and now insolvent real estate investment enterprise that owns 405 rental properties in Northern Ontario.

3/22/24, 12:13 PM

Court boosts monitor's powers to investigate insolvent rental firm - The Globe and Mail

Justice Jessica Kimmel of the Ontario Superior Court of Justice extended the stay of proceedings last week against the enterprise, referred to collectively in court documents as Balboa et al, until March 28 as it seeks court protection while it reorganizes. There are currently more than 30 civil claims filed against the various companies. The court has also enhanced the oversight powers of appointed monitor KSV Consulting Inc. to include investigations and consent on the spending of interim financing obtained for the ongoing operations of the rental properties spread across cities and towns such as Sudbury, Sault Ste. Marie and Timmins.

The addition of an investigative mandate is unusual though not unprecedented in a Companies' Creditors Arrangement Act proceeding and gives KSV broad latitude to trace funds, property transactions and "such other matters as may be requested by the lender representatives and agreed by the monitor, in each case, to the extent such investigation relates to the property, the business or such other matters as may be relevant to the proceedings."

A mix of lenders, lawyers and media were in attendance at a hearing on Feb. 15. The principal borrowers – former child actor Robby Clark, his partner Aruba Butt Clark, realtor Dylan Suitor and Ryan Molony – did not appear, though their lawyer Sean Zweig of Bennett Jones LLP said his clients were looking forward to the investigation.

"We do not expect the investigation to turn anything up. The applicants' perspective is that all monies, all funds, that were raised were dealt with properly," said Mr. Zweig. "And in fact, the applicants are pleased to see this investigation taking place because there have been some suggestions or allegations among certain lenders and in the media of impropriety, which is of course, not helpful for people personally."

The claims made in the legal filings haven't been tested in court.

In the days since filing for insolvency, multiple social media videos have surfaced showing Mr. Clark and his co-applicants flying on private jets, sailing on yachts and partying at huge galas in Las Vegas.

The bulk of the financing for purchases of single-family homes and rental properties came from nonbank private mortgages lent by individuals – 390 of them are first mortgages worth \$81.5-million – most of which appear to be brokered by The

3/22/24, 12:13 PM

Court boosts monitor's powers to investigate insolvent rental firm - The Globe and Mail

Windrose Group and principal broker Claire Drage. A recent town hall meeting of these first-position or secured lenders had more than 160 lenders in attendance. There are also 121 second mortgages on the properties, worth about \$8.6-million, brokered by Lift Capital Inc. principal Avinash Rajkumar. Many of those second mortgages are syndicated, and it's not yet clear how many people are a party to them. Ms. Drage has not responded to requests for comment since the financial issues with Mr. Clark's companies came to light.

There's also a third group of unsecured lenders who lent \$54-million by way of 802 promissory notes that were not registered on title of the properties. George Benchetrit of Chaitons LLP was initially appointed on Jan. 23 to represent the interests of all the lenders, but in consultation with the secured lenders and the monitor, on Thursday the court approved a motion to remove Chaitons as counsel for those unsecured lenders.

Issues of potential conflict and the more tenuous legal position of the promissory note lenders were at the root of the move. At present, there is no replacement counsel for those lenders though KSV undertook to arrange meetings with them soon.

"We know that there are many individual unsecured lenders with many questions about this process and concerns regarding their rights and potential outcomes," Mr. Benchetrit said in court.

He said a complicating factor is that Ms. Drage and her promissory note company, Lion's Share Group Inc., make up about 70 per cent of the unsecured notes. "Another issue I think is causing a lot of confusion is that there are many concerned individuals that



A mix of lenders, lawyers and media were in attendance at a hearing on Feb. 15, but the principal borrowers, including Robby Clark, pictured, his partner Aruba Butt Clark, realtor Dylan Suitor and Ryan Molony, did not appear.

HANDOUT

3/22/24, 12:13 PM

Court boosts monitor's powers to investigate insolvent rental firm - The Globe and Mail

are holding unsecured promissory notes that are actually not creditors of these applicants," Mr. Benchetrit said. "We may well see a separate proceeding down the road to deal with that debt."

According to Ontario's mortgage broker regulatory body, the Financial Services Regulatory Authority of Ontario, Ms. Drage's promissory note activities at Lion's Share fall under the enforcement mandate of the Ontario Securities Commission but it is acting on other complaints about her mortgage business.

"As of Feb. 16, 2024, FSRA has received five complaints regarding this broker," according to FSRA spokesperson Russ Courtney. "FSRA is currently conducting a thorough review of the activities of Claire Drage to assess her conduct. ... However, it would be inappropriate to provide further details at this time while our review is ongoing."

A key part of the investigation by KSV will be whether there were transactions ahead of the CCAA filing that removed rental properties from the dozen or so insolvent companies – which are Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., The Mulligan Inc., Horses In The Back Inc., Neat Nests Inc. and Joint Captain Real Estate Inc.

The court order states KSV should examine "prefiling transactions conducted by the applicants and/or their principals and affiliates" and report to the court or lender's counsel when appropriate.

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Article #3: 'They duped me': Local contractors owed thousands by out-of-town landlords

Date: February 26, 2024

3/22/24, 12:11 PM

'They duped me': Local contractors owed thousands by out-of-town landlords - Sault Ste. Marie News

SOOTODAY.com

'They duped me': Local contractors owed thousands by out-of-town landlords



[James Hopkin](#)

Feb 26, 2024 1:31 PM



1 / 6 108 Albert Street East is one of 152 properties in Sault Ste. Marie owned by corporations affiliated with SID Developments. A total of 11 SID-related corporations filed for creditor protection in January. | James Hopkin/SooToday

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00:08:43

The City of Sault Ste. Marie may have managed to [recoup \\$616,000](#) in outstanding property taxes owed by a group of insolvent out-of-town real estate investors with the help of the courts, but local

<https://www.sootoday.com/local-news/they-duped-me-local-contractors-owed-thousands-by-out-of-town-landlords-8357220>

1/7

3/22/24, 12:11 PM

"They duped me": Local contractors owed thousands by out-of-town landlords - Sault Ste. Marie News

contractors who were stiffed thousands of dollars by the same group haven't been as fortunate.

As [first reported by SooToday](#), the directors behind 11 insolvent corporations — Aruba Butt, Ryan Molony and Dylan Sutor — filed for protection from creditors in the Ontario Superior Court of Justice in late-January, claiming they owe approximately \$147 million in unpaid loans and have less than \$100,000 in the bank amid rising interest rates and falling home prices.

Approximately \$775,000 of those debts were accrued in Sault Ste. Marie, where a number of local contractors that performed repairs on many of the 152 properties owned by the now-insolvent landlords are owed an estimated \$80,000 between them.

But that number could be much larger: Rapid City Repair is listed in court documents as a creditor that's owed more than \$14,000 — but in reality, that debt is more like \$33,355.87. Owner and operator Cory Furkey says his business has yet to recoup any of that amount owed for a number of heating and hot water tank repairs that were completed at more than a dozen properties in town.

Furkey says he and other Sault-based contractors he's spoken with who are owed money by these companies have no idea how to go about recouping the outstanding balances. Earlier this month, the Ontario Superior Court granted a motion to drop all unsecured lenders from the court-appointed legal counsel, meaning that local contractors will now have to shell out money to obtain their own lawyers if they want to recoup any debts through ongoing Companies' Creditors Arrangement Act proceedings.

"Basically, all of these contractors kind of feel defeated," said Furkey, adding that any optimism they had is now beginning to fade. "Right now we don't know what to do, other than not work for them anymore."

Rapid City Repair was first contacted by SID Renos — one of many companies affiliated with the now-insolvent landlords — in 2022. At first, the working relationship was good: Furkey's business would secure a deposit before doing any work, and receive the balance of the money owed upon completion.

But that working relationship would eventually sour. Furkey says SID Renos and SID Management rushed Rapid City Repair into doing repairs, citing an immediate need to get tenants housed.

"Against my better judgment, we started these jobs without getting down payments — so we have a lot of jobs that are half paid, and then a lot that they didn't pay anything at all," said Furkey. "I guess they duped me into trusting them. It went good for awhile, and then it didn't.

"When you call them back for payment or an overdue account, you get to realize how many people they have working for them that can pass the buck."

3/22/24, 12:11 PM

"They duped me": Local contractors owed thousands by out-of-town landlords - Sault Ste. Marie News

SID Management began routinely withholding up to 10 per cent of the money owed to Furkey's business for completed work as a "management fee" that was paid out to other SID-affiliated companies.

"They would just hold back that much and switch the vendor to one of these other companies, and they just kept popping up and popping up," Furkey said.

Finally, after getting his bookkeeper to hound the SID companies repeatedly for outstanding balances, Rapid City Repair got an email notifying him that they had entered creditor protection.

March 22, 2024



Furkey said some of the work was performed while money was still owed to Rapid City Repair due to the fact that he knew some of the tenants, and didn't want to see them go without heat as winter approached.

Now, he's openly wondering how the out-of-town property owners will ever be able to do business in the Sault again after earning a less-than-stellar track record among contractors locally.

"These tenants, some of them were without heat. It didn't seem like there was much effort put into resolving that at all," said Furkey. "As winter approached we completed some of these jobs hoping to get paid and keep these people warm — so we finished some of these jobs, I guess in good faith to keep the tenants happy.

"But it didn't seem to matter. We just simply didn't get paid."

3/22/24, 12:11 PM

"They duped me": Local contractors owed thousands by out-of-town landlords - Sault Ste. Marie News

The now-insolvent corporations helmed by Butt, Molony and Sutor are affiliated with SID Developments, SID Management and SID Renos, all of which are based in Burlington, Ont. Together, they are referred to in court documents as a group of companies "specializing in the acquisition, renovation and leasing of distressed residential real estate in undervalued markets throughout Ontario."

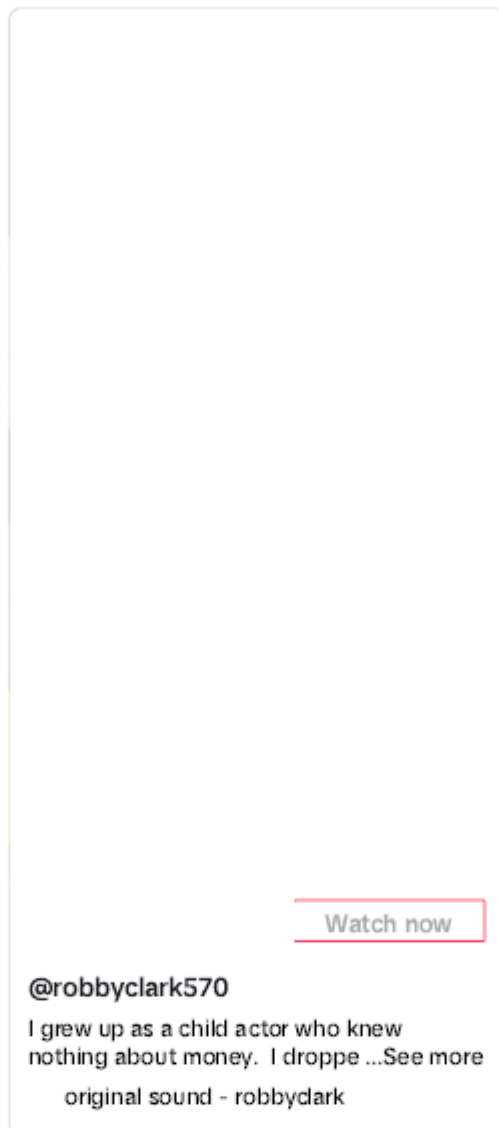
The group owns more than 600 rental units in housing markets across Ontario with lower average costs of living, including Timmins, Sudbury and the Sault.

The SID family of companies was founded by Robert 'Robby' Clark, a former child actor known for his starring role on *The Zack Files*, a Canadian sci-fi television series which aired on YTV from 2000 to 2002.

Clark now fashions himself as a social media influencer, sharing several videos in which he doles out advice for real estate investment while trumpeting a high-profile lifestyle with cameos by hip hop artists like Rick Ross, Tyga and 6ix9ine.

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He also uses the videos on social media to carve out his own rags-to-riches story.

"So I actually grew up in the entertainment industry, and I knew nothing about money," Clark said in a Tiktok video from November 2023. "I managed to gross seven figures, but still went bankrupt at 21. I was a high school dropout with six credits, and at the time I was serving tables, bartending, just to get by."

Clark went on to claim that he encountered yet another roadblock nearly three years ago after he "lost everything" in a lawsuit. "I had half a million dollars in debt, a 420 credit score and felt like I

3/22/24, 12:11 PM

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was starting over from scratch again," adding that he could've just "packed it in."

"But honestly, failure is just not an option for me," he said.

That's when Clark began educating himself on real estate investing. "Now, when I first started I told the same agent that I use today that I was going to have a hundred properties one day," he said in the video. "I didn't know how I was going to do it, but I was going to find a way to get there — and this year, we're buying 700 properties in areas that need it most, creating value in every single one of them."






Sault Mayor Matthew Shoemaker certainly doesn't see that value.

"I think they have been an overall disaster for the community," Shoemaker told *SooToday* earlier this month, referring to the now-insolvent companies. "I think that we would be better off if their assets were ordered to be liquidated by the courts and bought up by reputable landlords who had some connection to the community, because clearly these corporate entities — these shell corporations — have no regard for the well-being of the community."

Clark has not replied to an interview request from *SooToday*.

The group of corporations under the SID banner recently had its court-ordered creditor protection extended until March 28.

What's next?

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@shanedingman

What explains the dramatic expansion of former YTV child actor Robby Clark's rental reno/flip real estate biz where he ended up insolvent owning 405 homes in Timmins, Sudbury and Sault Ste Marie? It starts with Claire Drage, the Windrose Group mortgage broker. /1

10:03 AM · Mar 4, 2024 · **10.9K** Views

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10



28



10



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**Shane Dingman** @shanedingman · Mar 4

As detailed in the original stories, Clark's business took a huge step forward in 2019, 2020, piling up house after house... so many in fact that when the group sold 200 of them to Core Development Group they still owned hundreds. /2



From theglobeandmail.com



1



4



789

**Shane Dingman** @shanedingman · Mar 4

In the initial filing it's clear Claire Drage and Windrose Group arranged the majority of these private mortgages, 390 loans by individuals and small corporations pooling together \$89-million to buy these houses. /3



1



3



888





Shane Dingman @shanedingman · Mar 4



Clark - along with Aruba Butt and Dylan Sutor - used holding companies to sign for LOTS of loans

Balboa Inc. 35 loans, \$7M

DSPLN Inc. 100! \$20.8M

Happy Gilmore Inc. 79 for \$15.4M

Interlude Inc. 99 \$23.5

The Pink Flamingo Inc. 18 \$2.2M

Joint Captain Real Estate Inc. 32 \$6.5M

/4



799



Shane Dingman @shanedingman · Mar 4



But these same companies and parties also collected a lot of promissory notes, A LOT:

Balboa Inc. 37 notes \$1.6M

DSPLN Inc. 144 \$7.9M

Happy Gilmore Inc. 113 \$5.6

Interlude Inc. 364 \$29M

Multiville Inc. 33 \$2M

Joint Captain Real Estate Inc. 46 \$3M

/5



729



Shane Dingman @shanedingman · Mar 4



In total, Clark, Butt, Sutor, etc. signed for \$54M in promissory notes. These were arranged by Lion's Share Group, also owned by Claire Drage. Strangely, when you get into the paperwork, Drage herself is the named lender on 75 per cent of those prom notes /6



806



Shane Dingman @shanedingman · Mar 4



Why was Lion's Share loaning \$37M in unsecured debt to Robby Clark (and arranging other lenders to loan directly to Balboa et al): if you're familiar with BRRR, it's all right there: Buy, reno (that's where prom notes come in, to fund the rehab), rent, refinance, repeat. /7



685





Shane Dingman @shanedingman · Mar 4



I've spoken to several prom note lenders, oftentimes they started with a private mortgage brokered by Drage - with loans secured against a property title - but they also do a prom note at 12-15% rates. The risk was great, but so were returns. /8



2



2



635



Shane Dingman @shanedingman · Mar 4



Lion's Share's 802 Clark notes aren't paying interest, but Drage is not declaring insolvency or bankruptcy, and so is not protected from civil court claims like Clark et al is (because of the CCAA court ordered stay). Then she stopped paying on all prom notes on Feb. 9 /9



1



2



618



Shane Dingman @shanedingman · Mar 4



That's when the lawsuits started coming. The details are astonishing: One lender signed a \$450,000 prom note with Lion's Share on Jan. 10: his first payment was missed by Drage on Feb. 10 (because, she stopped paying everyone). Story here: theglobeandmail.com/canada/article... /10



From theglobeandmail.com



1





3



607



-  **Shane Dingman** @shanedingman · Mar 4 ...
- Some of the claims -- which are public record -- are staggering, one woman signs over \$500,000 in notes in the fall of 2023 (by which time many Clark lenders are already badgering Drage on late mortgage payments and late prom note payments) /11
- 1 1 553
-
-  **Shane Dingman** @shanedingman · Mar 4 ...
- Several members of the Ferraiuolo family in Hamilton have loaned a collective \$1.5-million to Drage and Lion's Share. One claim is from a member of Windrose Group's staff: Ashley Bingham is demanding repayment of \$175,000 in prom note cash. /12
- 2 2 582
-
-  **Shane Dingman** @shanedingman · Mar 4 ...
- This detail's not in the story, but early in 2023 Drage sends some lenders T5 tax forms, and claims Lion's Share has paid out about \$11-million in interest in 2023. But that figure, if true, suggests Lion's Share was almost entirely dedicated to Clark's business. /13
- 1 1 529
-
-  **Shane Dingman** @shanedingman · Mar 4 ...
- Clark's companies borrowed \$54M in prom notes at rates of 12-20%. Assuming the lowest rates were most common, almost two-thirds of the Lion's Share interest paid in 2023 may have been by Clark's companies (maybe more). /14
- 1 1 526
-
-  **Shane Dingman** @shanedingman · Mar 4 ...
- On Feb. 21 Drage sent another email to prom note lenders saying she hoped to restart paying interest soon, but it's unclear where the money to pay comes from if so much of the portfolio is stuck in the CCAA. /15
- 1 2 635

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

Applicant

Court File No.: CV-00713245-00CL

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