



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-25-00736577- 00CL DATE: October 23, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: FUKIAGE et al v. CLEARVIEW GARDEN ESTATES INC. et al

BEFORE: Justice Steele

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Amanda McLachlan	Counsel for Applicant Mizue Fukiage, et al.	mclachlana@bennettjones.com
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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
David Sieradzki Jordan Wong	Receiver, KSV Restructuring Inc.	dsieradzki@ksvadvisory.com jwong@ksvadvisory.com

ENDORSEMENT OF JUSTICE Steele:

[1] Kwang-Cheng (Tony) Wei, in his personal capacity as a Taiwanese Investor and as agent for the 45 other Taiwanese Investors, brings a motion seeking an amended and restated receivership order expanding the appointment of the Receiver to include the Additional Property, and a Representative Counsel Order appointing Gowling WLG as Representative Counsel of all Investors, other than the Opt-Out Investors in respect of the Claim and all related matters.

[2] The Receiver also brings a motion, following Mr. Wei's motion, for three orders: (i) an Approval and Vesting Order in respect of the sale of the Specified Real Property; (ii) a Claims Procedure Order; and (iii) an Ancillary Order approving certain reports and professional fees.

[3] No person opposes the relief sought, despite notice having been provided.

[4] Capitalized terms used in this endorsement that are not defined herein, have the meaning set out in Mr. Wei's factum, or the Receiver's factum.

Mr. Wei's Motion

[5] In March 2025, KSV was appointed as Receiver over certain assets and properties of the Respondents related to the Land Banking Program. The Taiwanese Investors invested about \$1.8 million into various real estate properties in Ontario through the Land Banking Program between 2006 and 2023. Five of the properties are already subject to these proceedings. However, the HP Property and the NFP Property are not (the Real Properties). The Real Properties have been subject to improper dealings without the knowledge or consent of the Taiwanese Investors. Following these improper dealings, the Taiwanese Investors, who had acquired beneficial interests in the Real Properties, are now major stakeholders of the Nominee Respondents and Operator Respondents with a sufficient interest in the Additional Property, which they seek to have covered by the receivership.

[6] For the reasons set out at para. 39 of Mr. Wei's factum, I am satisfied that it is just or convenient to expand the appointment of KSV as Receiver to include the Additional Property. Among other things, expanding the receivership is necessary to protect the Taiwanese Investors' interests in the Additional Property. In addition, the Receiver's mandate in respect of the Additional Property will complement its current mandate under the Receivership Order, which was granted in similar circumstances.

[7] Under s. 10.01(1) of the *Rules of Civil Procedure* the court has the authority to appoint a person to represent a class of persons who are unascertained or who have a present, future, contingent or unascertained interest in or may be affected by a proceeding and who cannot be readily ascertained, found or served, where, among other things, it appears necessary or desirable.

[8] As noted by the Supreme Court of Nova Scotia in *Quadriga Fintech Solutions Corp. (Re)*, 2019 NSSC 65, at para. 9, there are two primary reasons why representative counsel may be appointed in CCAA proceedings:

The first is to provide effective communication with stakeholders and ensure that their interests are brought to the attention of the Court and other CCAA participants. The second is to bring increased efficiency and cost effectiveness to the proceeding as a whole. This latter objective can be attained by streamlining notification to stakeholders through their representatives and eliminating the need for multiple counsel to be retained by individual stakeholders to represent their interests.

[9] Courts generally apply the factors set out in *Canwest Publishing Inc.*, 2010 ONSC 1328, at para. 21, in determining whether a representation order is appropriate:

- a. The vulnerability and resources of the group sought to be represented;
- b. Any benefit to the debtor company;
- c. Any social benefit to be derived from representation of the group;
- d. The facilitation of the administration of the proceeding and efficiency;
- e. The avoidance of multiplicity of legal retainers;
- f. The balance of convenience and whether it is fair and just including to the creditors of the estate;
- g. Whether representative counsel has already been appointed for those who have similar interests to the group seeking representation and who is prepared to act for the group seeking the order; and
- h. The position of other stakeholders and the court-appointed officer.

[10] For the reasons set out at para. 45 of Mr. Wei's factum, I am satisfied that it is appropriate to appoint Representative Counsel for all the Investors. Among other things, the Taiwanese Investors are a vulnerable group, most of whom are elderly, not proficient in English, and reside outside of Canada. They lack access to centralized information and require an effective means to obtain such information. Further, it would be cost prohibitive (and inefficient) to require each of the investors to retain their own legal counsel in Canada. As noted by Mr. Wei, appointing representative counsel would facilitate the efficient administration of the Receivership Proceedings. Among other things, Representative Counsel would engage with the Receiver on critical matters, communicate with Investors, and identify additional Investors.

[11] I am also satisfied that it is appropriate to appoint Gowling WLG as the Representative Counsel for the reasons set out at para. 46 of Mr Wei's factum. Among other things, Gowling WLG is the counsel of choice for the Taiwanese Investors, which representation could be extended to the other Investors. Further, Gowling WLG has background knowledge of the facts, which would promote procedural efficiency. As noted by Mr. Wei, there is no conflict between this proposed mandate and Gowling WLG's prior representation of TGP.

[12] Two orders granted and attached.

Receiver's Motion

[13] The Receiver seeks an AVO in respect of the Specified Real Property further to an agreement of purchase and sale between the Receiver, Farhi Farming Corporation and Farhi Holdings Corporation. The Receiver also seeks a sealing order with respect to the Confidential Appendices.

[14] For the reasons set out at para. 32 of the Receiver's factum, I am satisfied that the marketing process conducted by JLL was fair and reasonable, and that the *Soundair* principles have been satisfied. As noted by the Receiver, JLL's marketing process was commercially reasonable. The Specified Real Property was marketed for more than 30 days, including being listed on Multiple Listing Services. The Receiver is of the view that further marketing efforts will add incremental cost and put the current proposed Transaction at risk. The Receiver notes that JLL is of the view that the purchase price is reasonable. The Receiver recommends that the Court approve the Transaction.

[15] I am satisfied that the time limited, and limited in scope, sealing order that is sought satisfies the test set out in *Sienna Club of Canada v. Canada (Minister of Finance)* as modified by *Sherman Estate v. Donovan*. It is common to temporarily seal commercially sensitive material when assets are to be sold under a court process. The Receiver seeks to temporarily seal details regarding JLL's marketing efforts and interest received for the Specified Real Property, and an unredacted copy of the agreement of purchase and sale for the proposed Transaction. The proposed sealing order is time limited to the earlier of the closing of the proposed transaction or further court order. The disclosure of the confidential appendices could have a detrimental impact on any future sale process should one be required. No stakeholder will be materially prejudiced by the requested sealing order, which applies to only a limited amount of information for a short period of time.

[16] The Receiver is directed to provide the sealed confidential appendices to the Court clerk at the filing office in an envelope with a copy of this endorsement and the signed order (with the relevant provisions highlighted) so that the confidential appendices can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.

[17] The Receiver also seeks a Claims Procedure Order to assist the Receiver in identifying certain claims against the Respondents and confirming with Interest Holders certain Interest Holder Holdings Information.

[18] Courts have routinely approved claims processes in the context of receiverships under the BIA, the CJA, and in the context of CCAA proceedings (see examples at footnote 53 of the Receiver). The Kobayashi Group and Gowling WLG support the relief sought.

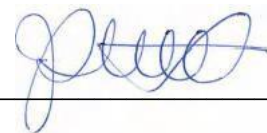
[19] I am satisfied that the Claims Procedure Order should be granted.

[20] The proposed Claims Procedure Order incorporates a "negative process" for the confirmation of Interest Holder Holdings Information, which is simple and efficient. If an Interest Holder agrees with the information delivered to them by the Receiver, they don't need to take any additional steps. If an Interest Holder disagrees with the Receiver's information, the Claims Procedure provides for a process for them to correct their Interest Holder Holdings Information. As noted by the Receiver, the proposed Claims Procedure appropriately balances fairness and efficiency and will ensure that all stakeholders are treated in accordance with the remedial objectives of section 101 of the CJA. It will allow the Receiver to continue to move forward to making a distribution to Interest Holders and other stakeholders in accordance with a court approved methodology.

[21] Finally, the Receiver seeks the Ancillary Order approving the Receiver's Third Report, Supplement to the Third Report, Second Supplement to the Third Report and the Fourt Report and the fees and disbursements of the Receiver and its counsel.

[22] The Reports and activities are approved, as are the fees and disbursements of the Receiver and its counsel.

[23] Three orders granted and attached.



Date: October 23, 2025