

Court File No.: CV-25-00736577-00CL

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

B E T W E E N:

MIZUE FUKIAGE, AKIKO KOBAYASHI, YOSHIKI FUKIAGE, KOBAYASHI
KYOHODO CO., LTD. and TORU FUKIAGE

Applicants

- and -

CLEARVIEW GARDEN ESTATES INC., TALBOT CROSSING INC., NIAGARA
ESTATES OF CHIPPAWA II INC., LONDON VALLEY INC., LONDON VALLEY II
INC., LONDON VALLEY III INC., LONDON VALLEY IV INC., LONDON VALLEY V
INC., FORT ERIE HILLS INC., 2533430 ONTARIO INC., CGE CAPITAL
MANAGEMENT INC., TGP-TALBOT CROSSING INC., NEC II CAPITAL
MANAGEMENT INC., LV CAPITAL MANAGEMENT INC., LV II CAPITAL
MANAGEMENT INC., LV III CAPITAL MANAGEMENT INC., LV IV CAPITAL
MANAGEMENT INC., LV V CAPITAL MANAGEMENT INC., and FORT ERIE HILLS
CAPITAL MANAGEMENT INC.

Respondents

**FACTUM OF KWANG-CHENG (TONY) WEI,
in his personal capacity as a Taiwanese Investor and as agent for the other Taiwanese
Investors**

(Returnable October 23, 2025)

October 14, 2025

GOWLING WLG (CANADA) LLP

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Lawyers for Kwang-Cheng (Tony) Wei, in
his personal capacity and as agent for other
Taiwanese Investors

TO: THE SERVICE LIST

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PART I - INTRODUCTION

1. This is a motion by Kwang-Cheng (Tony) Wei in his personal capacity as an investor
and in his capacity as agent for 45 other Taiwanese Investors.

2. Capitalized but undefined terms are defined in the Affidavit of Kwang-Cheng (Tony) Wei, affirmed August 1, 2025.
3. Mr. Wei seeks:
 - (a) an Amended and Restated Receivership Order expanding the appointment of the Receiver pursuant to section 101 of the *Courts of Justice Act*, R.S.O 1990, c. C.43, as amended (the “*CJA*”) to include the Additional Property, being:
 - (i) all of the assets, undertakings and property of HP acquired for, or used, or held in relation to, or as a result of, a business carried on by HP and the proceeds therefrom, including, without limitation, all of HP’s claims, entitlements, choses in action, legal, beneficial, equitable, vendor-take-back or other mortgage or other interests directly or indirectly related to the HP Property;
 - (ii) all of the assets, undertakings, and property of NFP, acquired for, or used, or held in relation to, or as a result of, a business carried on by NFP and the proceeds therefrom, including, without limitation, any of NFP’s legal, beneficial, or equitable interest in, and all of NFP’s choses in action related to, the NFP Property;
 - (iii) all of the monies paid or invested, or caused to be paid or invested, by Investors, including the Taiwanese Investors, of any of the NFP

Property into or intended for the Concept Planning Fund, as determined by the Receiver;

- (iv) all of the income derived in any way from the ownership, operation, use, leasing, financing, refinancing, sale of, development and/or any other dealing whatsoever with respect to any of the Real Properties, except for any such income derived after the applicable Real Property's sale to any *bona fide* purchaser;
 - (v) all of the assets, undertakings, and property of the Operator Respondents used in connection with, or arising from or out of, or which are necessary to access or use, or otherwise related to, the Segregated Funds; and
- (b) a Representative Counsel Order appointing Gowling WLG as Representative Counsel of all Investors, other than the Opt-Out Investors, in respect of the Claims and all related matters, pursuant to subsection 10.01(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules**”).

PART II – FACTS

a) Background

4. On March 6, 2025, KSV was appointed as Receiver over certain assets and properties of the Respondents related to the Land Banking Program.¹
5. The Land Banking Program is an investment program promoted and operated by the Respondents and / or their affiliates. Under the program, special purpose companies acquired undeveloped real property across Canada and solicited investments.²
6. The Taiwanese Investors invested approximately \$1,816,400 into various real estate properties in Ontario through the Land Banking Program between 2006 and 2023.³
7. These properties are the HP Property, the NFP Property (*i.e.*, the Real Properties), the LV Property, the LV II Property, the LV IV Property, the NEC Property, and the NEC Phase II Property. The latter five (5) properties are already subject to these proceedings.⁴
8. Under the investment structure:
 - (a) legal title to these properties was held by the applicable Nominee Respondents in trust for Investors;⁵

¹ Affidavit of Kwang-Cheng (Tony) Wei, affirmed on August 1, 2025 at para 4, at Tab 2 of the Motion Record of Kwang-Cheng (Tony) Wei dated August 27, 2025 [Wei Affidavit].

² Wei Affidavit at paras 12-13.

³ Wei Affidavit at paras 5, 17, 18.

⁴ Wei Affidavit at paras 8, 19.

⁵ Wei Affidavit at para 36.

- (b) day-to-day management of the Real Properties was delegated to the applicable Operator Respondents;⁶ and
 - (c) sale of the Real Properties was subject to restrictions, including the requirement to obtain Investor approval.⁷
9. The Land Banking Program underwent a change of control in June 2024, following its sale by Randy Hoffner, Pauline Hoffner, and Trans Global Partners Limited (*i.e.*, the Former Principals) to FGFC and PFI (the “**June 2024 Transaction**”).⁸
10. The Real Properties have been subject to improper dealings, without knowledge or consent of the Taiwanese Investors. These dealings largely occurred in connection with or following the June 2024 Transaction, and have prejudiced the Taiwanese Investors and the Investors as a whole.⁹
11. The dealings between the Former Principals and FGFC relating to the June 2024 Transaction and FGFC’s alleged defaults of its payment obligations following the June 2024 Transaction are now the subject of extensive litigation before the Court in the Hamilton Proceedings.¹⁰

⁶ Wei Affidavit at para 36.

⁷ Wei Affidavit at para 51.

⁸ Wei Affidavit at paras 23, 85-87. See also Exhibit “E” of the Affidavit of Patryk Sawicki affirmed August 27, 2025, at Tab 3 of the Motion Record of Kwang-Cheng (Tony) Wei dated August 27, 2025 (which contains an Affidavit of Behzad Pilehver affirmed January 20, 2025 that describes the change of control transaction) [Sawicki Affidavit].

⁹ Wei Affidavit at paras 65-124.

¹⁰ Wei Affidavit at paras 83-87.

12. In November 2024, Gowling WLG appeared in the Hamilton Proceedings as counsel to TGP to safeguard the financial interests of the Investors, after TGP assumed certain conservatory obligations following the June 2024 Transaction.¹¹
13. In early 2025, Gowling WLG's engagement by TGP ended and Gowling WLG was removed as lawyer of record for TGP in the Hamilton Proceedings.¹²
14. In May 2025, the Taiwanese Investors retained Gowling WLG to bring a motion before this Court to describe the economic prejudice they had suffered and request the issuance of the Amended and Restated Receivership Order and the Representative Counsel Order.¹³

b) Improper Dealings with HP Property

15. Improper dealings with the HP Property started in 2019.
16. HP sold the HP Property to Milton Inc. in November 2019. While the Investors initially voted to approve the sale, the final terms of the sale were inconsistent with representations contained in the sale proposal materials provided to the Taiwanese Investors (and on which they voted).
17. Specifically, the Taiwanese Investors were informed that the property would be sold to Broccolini Real Estate Group Inc. for \$13,500,000. The Investors approved the sale, but

¹¹ Sawicki Affidavit at paras 5-14, Exhibit "E"; Wei Affidavit at paras 23-29.

¹² Sawicki Affidavit at paras 26-29.

¹³ Sawicki Affidavit at paras 30-34; Wei Affidavit at paras 30-33.

the HP Property was ultimately sold to a different purchaser, Milton Inc., for a reduced price of \$13,000,000, without notice to the Investors.¹⁴

18. Additionally, the consideration for the HP Property was to include a vendor take-back mortgage in the amount of \$9,300,000. The VTB that was actually registered on title was for the reduced amount of \$7,800,000.¹⁵
19. Issues relating to the HP Property increased during the period leading up to and following the June 2024 Transaction.
20. In April 2024, two months before the June 2024 Transaction, HP (then controlled by the Former Principals) improperly assigned its interest in the VTB to FGFC.¹⁶
21. As part consideration, FGFC amended a mortgage charge registered against the Highway 27 Property owned by FGFC (*i.e.*, the Highway 27 Mortgage) to:
 - (a) increase the charge amount from \$45,000,000 to \$52,800,000, the difference reflecting the amount of the VTB; and
 - (b) designate HP as a “joint account holder” with the other mortgagees in respect of the Highway 27 Mortgage.¹⁷

¹⁴ Wei Affidavit at paras 68, 75-76, Exhibit “L”.

¹⁵ Wei Affidavit at paras 81-82.

¹⁶ Wei Affidavit at paras 89, 109, 111.

¹⁷ Wei Affidavit at para 93.

22. Just one month following the assignment of the VTB, FGFC borrowed in aggregate \$1,250,000 from third parties and encumbered a portion of its interest in the VTB in favour of these parties as security for this indebtedness, without the knowledge of or consent from the Taiwanese Investors.¹⁸
23. In June 2024, the mortgagees on title of the Highway 27 Property were caused to postpone the repayment of the Highway 27 Mortgage (which by then HP held an interest in) in favour of a new \$10,000,000 collateral mortgage registered against the Highway 27 Property and granted by FGFC in favour of the Former Principals, in connection with the Former Principals' sale of the Land Banking Program to FGFC. This postponement had the effect of subordinating the Taiwanese Investors' interest in the Highway 27 Mortgage or its proceeds, without their knowledge or consent, for the personal gain of FGFC and the Former Principals.¹⁹
24. Finally, in November 2024, FGFC transferred its interest in the VTB to Danny Iandoli, a co-respondent in the Hamilton Proceedings, which Mr. Iandoli then transferred back to FGFC in March 2025, reflecting private dealings between those parties, without the knowledge of or consent from the Taiwanese Investors.²⁰

¹⁸ Wei Affidavit at paras 97, 109, 111.

¹⁹ Wei Affidavit at paras 98-103.

²⁰ Wei Affidavit at paras 104-108.

25. Of concern, all of these events coincided with the non-payment of the final distribution from the sale of the HP Property to the Taiwanese Investors, which had originally been scheduled for the end of 2024.²¹

c) Improper Dealings with NFP Property

26. The Taiwanese Investors' interests in the NFP Property were also the subject of transactions undertaken without their knowledge or consent.²²
27. On July 31, 2024 (following the June 2024 Transaction), the NFP Property was sold to two purchasers for an aggregate purchase price of \$10,000,000, after the mortgagees took steps to sell the NFP Property pursuant to a power of sale.²³
28. Shortly before these sales, FGFC and NFP commenced civil proceedings disputing the mortgagees' exercise of power of sale, which culminated with a consent Order dated July 25, 2024 approving the sales of the NFP Property.²⁴
29. No portion of the sale proceeds was paid to the Taiwanese Investors, nor were the details of the sales of the NFP Property or the Court proceedings disclosed to them.²⁵

²¹ Wei Affidavit at para 110.

²² Wei Affidavit at paras 114-124.

²³ Wei Affidavit at para 116.

²⁴ Wei Affidavit at paras 118-120.

²⁵ Wei Affidavit at paras 122-123.

30. Moreover, FGFC and NFP do not appear to have disclosed the existence of the Taiwanese Investors' beneficial interests in the NFP Property to the Court in connection with obtaining the consent Order.²⁶
31. Each of the above transactions were carried out without notice to, or consent from, the Taiwanese Investors.²⁷

PART III – ISSUES & LEGAL ARGUMENT

32. The issues to be considered on this motion are whether:
- (a) the Taiwanese Investors have standing to bring the herein motion;
 - (b) it is just or convenient for the Court to expand the scope of the Receiver's appointment to include the Additional Property; and
 - (c) Gowling WLG should be appointed as Representative Counsel for the Investors.

a) The Taiwanese Investors Have Standing

33. The *CJA* does not limit applicants strictly to creditors or require the filing of a bankruptcy or a finding of insolvency as a prerequisite to the appointment of a receiver or receiver-manager. Canadian Courts have found that an applicant need only be a “major stakeholder” or have a “sufficient interest” to have standing to bring an

²⁶ Wei Affidavit at paras 122-124.

²⁷ Wei Affidavit at para 109.

application for a receivership. There are no preconditions to the appointment of a receiver under section 101 of the *CJA*.²⁸

34. Having invested or having been caused to invest approximately \$1.4 million in the Real Properties, and acquired beneficial interests in the Real Properties, the Taiwanese Investors are major stakeholders of the Nominee Respondents and Operator Respondents and with a sufficient interest in the Additional Property. The Taiwanese Investors therefore have standing to bring this motion.²⁹

b) It is Just and Convenient to Appoint the Receiver Over the Additional Property

35. Subsection 101(1) of the *CJA* enables the Court to appoint a receiver and manager where it is “just or convenient”.³⁰
36. In determining whether it is just or convenient to do so, courts “must have regard to all of the circumstances but in particular the nature of the property and the rights and interests of all parties in relation thereto.”³¹
37. Courts have considered numerous factors in this analysis, including:

²⁸ *Star America DPGI Acquisition Company, Inc v Demand Power Group Inc.* (Court file no. CV-23-00709164-00CL, Endorsement of the Honourable Justice Kimmel dated November 22, 2023) [at paras 11, 14](#); *Hands-On Capital Investments Inc v DMCC Holdings Inc*, 2023 ONSC 2417 [at para 75](#); *King (Township) v Rolex Equipment Co*, 90 DLR (4th) 442 [at para 22](#) (ON SC Gen Div).

²⁹ Wei Affidavit at para 18.

³⁰ *Bank of Nova Scotia v Freure Village of Clair Creek*, [1996 CanLII 8258 at para 10](#) (Ont SCJ) [Freure].

³¹ Freure at [para 10](#).

- (a) whether irreparable harm might be caused if no order is made;
- (b) the nature of the property;
- (c) the apprehended or actual waste of the debtor's assets;
- (d) the preservation and protection of the property pending judicial resolution;
- (e) the balance of convenience to the parties;
- (f) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- (g) the effect of the order upon the parties;
- (h) the conduct of the parties;
- (i) the cost to the parties;
- (j) the likelihood of maximizing return to the parties; and
- (k) the goal of facilitating the duties of the receiver.³²

38. It is not essential that the moving party establish, prior to the appointment of a receiver, that it will suffer irreparable harm or that the situation is urgent.³³

³² *RioCan REIT v RioCan HBC LP*, [2025 ONSC 3642 at para 6](#).

³³ *Canadian Equipment Finance and Leasing Inc v The Hypoint Company Limited*, [2022 ONSC 6186 at para 26](#).

39. The Taiwanese Investors submit that it is just and convenient to expand the appointment of KSV as Receiver to include the Additional Property, including for the following reasons:

- (a) Expanding the receivership is necessary to protect the Taiwanese Investors' interests in the Additional Property. The undisclosed and unauthorized transactions, together with the non-payment of the final distribution from the sale of the HP Property, have been carried out for the benefit of the Former Principals, FGFC, and their affiliates, and to the detriment of the Investors. Without oversight from a court-appointed receiver, monies that belong to the Taiwanese Investors will likely be further mismanaged and they will suffer additional harm. The Additional Property is at substantial risk of continued deterioration, including through the expiration of any applicable limitation periods;³⁴
- (b) Because the Real Properties have been conveyed away from the Nominee Respondents, the nature of the Additional Property is narrowly confined to the personal property of the Nominee Respondents and Operator Respondents directly related to the business they carried on, as well as all choses in action and related interests. The Court is not being asked to determine the existence or validity of those interests or entitlements. Rather, the Receiver will be empowered to review and determine what investigatory and recovery efforts in

³⁴ Wei Affidavit at paras 64-124.

respect of the VTB proceeds, or undisclosed and unauthorized transactions are appropriate to preserve, protect, and realize on the Additional Property in the interim, pending entitlement determination at a future stage;³⁵

- (c) The conduct of the Nominee Respondents, the Operator Respondents and their principals has led the Investors to lose confidence in their ability or willingness to appropriately manage the Real Properties, Segregated Funds, or their proceeds in the Investors' best interests;³⁶
- (d) The Taiwanese Investors are a disparate group of foreign, largely elderly individuals. Commencing and undertaking a complex litigation or pursuing private enforcement proceedings on their own will be cost-prohibitive. They require this Court's equitable intervention to protect their rights;³⁷
- (e) It would be appropriate and efficient to expand the receivership to include the Additional Property. The Receiver's mandate in respect of the Additional Property will be complementary to its current mandate under the Receivership Order, which the Court granted in largely similar circumstances;³⁸

³⁵ Wei Affidavit at para 125(a) and (c).

³⁶ Wei Affidavit at para 125(b).

³⁷ Wei Affidavit at para 126(a) and (b).

³⁸ *Fukiage, Mizue et al v Clearview Garden Estates Inc et al*, Court File No. CV-25-00736577-00CL, [Endorsement of the Honourable Justice Steele dated March 6 and 7, 2025](#).

- (f) The Receiver is familiar with the structure of the Land Banking Program, as well as the participants and assets involved. Expanding the receivership would maximize recoveries for the Investors;³⁹ and
- (g) As a result of all these dealings, the Taiwanese Investors have lost all confidence in the Nominee Respondents', Operator Respondents', or their principals' ability or willingness to manage the Real Properties, the Segregated Funds, or their proceeds in good faith and in the best interests of the Investors.⁴⁰

c) Gowling WLG Should be Appointed as Representative Counsel

- 40. Subrule 10.01(1) of the *Rules* gives courts 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.
- 41. Two primary rationales for the appointment of representative counsel in proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, for instance, are: (i) to provide effective communication with stakeholders and ensure that their interests are brought to the attention of the Court and other participants; and (ii) to bring increased efficiency and cost effectiveness to the proceeding as a whole.⁴¹

³⁹ Wei Affidavit at para 125(d) and (e).

⁴⁰ Wei Affidavit at paras 108, 125(b), 128.

⁴¹ *Quadriga Fintech Solutions Corp (Re)*, [2019 NSSC 65 at para 9](#) [*Quadriga*].

42. Generally, in determining whether a representation order is appropriate, courts apply the *Canwest* factors, which include:

- (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.⁴²

43. The issue of whether to appoint representative counsel is one of equity and, therefore, the above listed factors can be informative but “there can be no hard and fast rules governing any particular case”.⁴³

⁴² *Canwest Publishing Inc*, [2010 ONSC 1328 at para 21](#) [*Canwest Publishing*]; *In the Matter of the Proposal of Metroland Media Group Ltd*, [2023 ONSC 5805 at para 18](#).

⁴³ *Urbancorp Inc (Re)*, [2016 ONSC 5426 at para 12](#).

44. In *Canwest Publishing*, the fact that the monitor in those proceedings had extensive responsibilities pursuant to the initial order granted favoured the appointment of representative counsel for a group of unsecured creditors as it was “unrealistic” to expect the monitor to be fully responsive to their needs in an efficient and timely manner.⁴⁴
45. Based on the factors listed above, it is appropriate to appoint Representative Counsel for all the Investors for the following reasons:
- (a) The Taiwanese Investors are a vulnerable group, most of whom are elderly, not proficient in English, and reside outside of Canada. They are not professional or institutional investors. Importantly, these investors lack access to centralized information and require an effective means of obtaining such centralized information to protect their own interests and make informed decisions;⁴⁵
 - (b) Requiring the Investors to individually retain legal counsel in Canada would be cost prohibitive. It would also be repetitive and inefficient given the similarity in interests between them;⁴⁶
 - (c) The Investors are the primary stakeholder group in the Receivership Proceedings, yet their identities are unknown to the Receiver;⁴⁷

⁴⁴ *Canwest Publishing* [at para 24](#).

⁴⁵ Wei Affidavit at para 126(a).

⁴⁶ Wei Affidavit at para 126(b).

⁴⁷ Wei Affidavit at para 126(b).

- (d) Appointing representative counsel would facilitate the efficient administration of the Receivership Proceedings. Representative Counsel would be responsible for engaging with the Receiver on critical matters, communicating with the Investors and providing them with updates, identifying additional Investors, establishing a case website for Investors, and assisting Investors with filing Claims in the Investor claim identification process. In doing so, Representative Counsel will enable the Receiver to focus on maximizing recovery in the Receivership Proceedings and assist the Receiver by streamlining the notice and consultation process;⁴⁸ and
- (e) Since its appointment, the Receiver has undertaken significant investigative efforts to maximize stakeholder value and would continue to do so if appointed over the Additional Property. The appointment of Representative Counsel would alleviate the pressure on the Receiver to communicate with potentially hundreds of Investors.⁴⁹

46. It is appropriate to appoint Gowling WLG as Representative Counsel in these proceedings, for the following reasons:

⁴⁸ Wei Affidavit at para 126(c) and (d).

⁴⁹ *London Valley IV Inc, by its Court-Appointed Receiver And Manager, KSV Restructuring Inc v Randy Hoffner* ([Order \(Certificate of Pending Litigation\) of the Honourable Justice W.D. Black, dated April 10, 2025](#)); *London Valley IV Inc, by its Court-Appointed Receiver And Manager, KSV Restructuring Inc v Pilehver et al* ([Order of the Honourable Justice J. Dietrich, dated August 7, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated August 7, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated August 15, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated September 9, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated September 23, 2025](#)).

- (a) Gowling WLG is the counsel of choice for the Taiwanese Investors, who have already developed a relationship of trust and confidence with the firm, given the work undertaken by Gowling WLG in the Hamilton Proceedings, and elsewhere, to protect the interests of investors involved. This representation could be extended to the Investors as a whole;⁵⁰
- (b) Gowling WLG has a significant international presence (including in China and Southeast Asia), which will be beneficial to both the Investors and Receiver in identifying, locating, and communicating with predominately foreign investors residing in Asia;⁵¹
- (c) Appointing Gowling WLG would promote procedural efficiency, given that the firm possesses background knowledge of the facts, including through its prior involvement in the Hamilton Proceedings. Gowling WLG maintains open lines of communication with the Investors involved in the Land Banking Program. Appointing Gowling WLG would streamline coordination with the Receiver and avoid duplication of legal efforts, which is supported by the Receiver;
- (d) Gowling WLG is familiar with overlaps in the Investor base between these receivership proceedings and other ongoing proceedings. The firm will work

⁵⁰ Wei Affidavit at para 127.

⁵¹ Sawicki Affidavit at para 38(a) and (b).

closely with the professionals in other proceedings to help identify and locate additional investors;⁵² and

- (e) Gowling WLG and the individual professionals at the firm have substantive experience as representative counsel in insolvency proceedings, such as in *Bridging Finance* and in the *QuadrigaCX* Bankruptcy.⁵³

- 47. Importantly, there is no conflict of interest between this proposed mandate and Gowling WLG's prior representation of TGP.
- 48. The general "bright line" rule states that a lawyer or a law firm may not concurrently represent clients adverse in interest without obtaining their consent. Where the bright line rule is inapplicable, the question becomes whether the concurrent representation of clients creates a "substantial risk that the lawyer's representation of the client would be materially and adversely affected by the lawyer's own interests or by the lawyer's duties to another current client, a former client, or a third person."⁵⁴
- 49. In this case, the bright line rule is inapplicable and there is no substantial risk that the Gowling WLG's representation of the Investors would be materially and adversely affected by its prior representation of TGP.

⁵² Sawicki Affidavit at para 38(c).

⁵³ Sawicki Affidavit at para 39; *Ontario Securities Commission v Bridging Finance Inc*, [2023 ONSC 715](#); *Quadriga*.

⁵⁴ *Canadian National Railway Co v McKercher LLP*, [2013 SCC 39 at para 8](#).

50. Gowling WLG's objective of protecting the Investors' interests in the proposed mandate is consistent with, and not adverse to, its prior representation of TGP, which retained Gowling WLG in its capacity as *agent* for certain Investors.⁵⁵ The duties that Gowling WLG owed to TGP, therefore, were synonymous with the duties that Gowling WLG owed to those Investors.

51. Additionally, the mandate of Representative Counsel is specific and narrow in scope and was developed in consultation with the Receiver. The Representative Counsel Order expressly excludes leading or commencing litigation against third parties. Accordingly, there is no meaningful prospect of a conflict of interest in this case.⁵⁶

PART V – ORDERS REQUESTED

52. In light of the foregoing, it is respectfully requested that this Court grant the Amended and Restated Receivership Order and Representative Counsel Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of October, 2025.



GOWLING WLG (CANADA) LLP

⁵⁵ Sawicki Affidavit at paras 30-34; Wei Affidavit at para 24.

⁵⁶ Sawicki Affidavit at para 40.

SCHEDULE “A” – LIST OF AUTHORITIES

1. *Star America DPGI Acquisition Company, Inc v Demand Power Group Inc.* (Court file no. CV-23-00709164-00CL, [Endorsement of the Honourable Justice Kimmel dated November 22, 2023](#))
2. *Hands-On Capital Investments Inc v DMCC Holdings Inc*, [2023 ONSC 2417](#)
3. *King (Township) v Rolex Equipment Co*, [90 DLR \(4th\) 442 \(ON SC Gen Div\)](#)
4. *Bank of Nova Scotia v Freure Village of Clair Creek*, [1996 CanLII 8258 \(Ont SCJ\)](#)
5. *RioCan REIT v RioCan HBC LP*, [2025 ONSC 3642](#)
6. *Canadian Equipment Finance and Leasing Inc v The Hypoint Company Limited*, [2022 ONSC 6186](#)
7. *Fukiage, Mizue et al v Clearview Garden Estates Inc et al*, Court File No. CV-25-00736577-00CL, [Endorsement of the Honourable Justice Steele dated March 6 and 7, 2025](#)
8. *Quadriga Fintech Solutions Corp (Re)*, [2019 NSSC 65](#)
9. *Canwest Publishing Inc*, [2010 ONSC 1328](#)
10. *In the Matter of the Proposal of Metroland Media Group Ltd*, [2023 ONSC 5805](#)
11. *Urbancorp Inc (Re)*, [2016 ONSC 5426](#)
12. *London Valley IV Inc, by its Court-Appointed Receiver And Manager, KSV Restructuring Inc v Randy Hoffner* (Court file no. CV-25-00740869-00CL, [Order \(Certificate of Pending Litigation\) of the Honourable Justice W.D. Black, dated April 10, 2025](#))
13. *London Valley IV Inc, by its Court-Appointed Receiver And Manager, KSV Restructuring Inc v Pilehver et al* (Court file no. CV-25-00748799-00CL, [Order of the Honourable Justice J. Dietrich, dated August 7, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated August 7, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated August 15, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated September 9, 2025](#); [Endorsement of the Honourable Justice J. Dietrich, dated September 23, 2025](#))
14. *Ontario Securities Commission v Bridging Finance Inc*, [2023 ONSC 715](#)
15. *Canadian National Railway Co v McKercher LLP*, [2013 SCC 39](#)



PATRYK SAWICKI

I am satisfied as to the authenticity of every authority cited in the factum.

SCHEDULE “B” – TEXT OF STATUTES

Courts of Justice Act, R.S.O. 1990, c. C.43

Interlocutory Orders

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

Rules of Civil Procedure, R.R.O. 1990, Reg. 194

Rule 10 Representation Order

Representation of an Interested Person Who Cannot Be Ascertained

Proceedings in which Order may be Made

10.01 (1) In a proceeding concerning,

- (a) the interpretation of a deed, will, contract or other instrument, or the interpretation of a statute, order in council, regulation or municipal by-law or resolution;
- (b) the determination of a question arising in the administration of an estate or trust;
- (c) the approval of a sale, purchase, settlement or other transaction;
- (d) the approval of an arrangement under the *Variation of Trusts Act*;
- (e) the administration of the estate of a deceased person; or
- (f) any other matter where it appears necessary or desirable to make an order under this subrule,

a judge may by order appoint one or more persons to represent any person or class of persons who are unborn or unascertained or who have a present, future, contingent or unascertained interest in or may be affected by the proceeding and who cannot be readily ascertained, found or served.

MIZUE FUKIAGE et al

- and -

CLEARVIEW GARDEN ESTATES INC. et al

Applicants

Respondents

	ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) PROCEEDINGS COMMENCED AT TORONTO
	FACTUM OF KWANG-CHENG (TONY) WEI (Returnable October 23, 2025)
	Gowling WLG (CANADA) LLP Barristers & Solicitors 1 First Canadian Place 100 King Street West, Suite 1600 Toronto ON M5X 1G5 Clifton P. Prophet (LSO# 34845K) Tel: 416-862-3509 Email: clifton.prophet@gowlingwlg.com Asim Iqbal (LSO# 61884B) Tel: 416-862-4693 Email: asim.iqbal@gowlingwlg.com Patryk Sawicki (LSO# 88028I) Tel: 416-369-7246 Email: patryk.sawicki@gowlingwlg.com Lawyers for Kwang-Cheng (Tony) Wei, in his personal capacity and as agent for other Taiwanese Investors