

Court File No. CV-23-00696362-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 19TH
)
JUSTICE STEELE) DAY OF MAY, 2023
)

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES
REGULATORY AUTHORITY OF ONTARIO**

Applicant

- and -

FIRST SWISS MORTGAGE CORP.

Respondent

APPLICATION UNDER SECTION 37 OF THE *MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006*, S.O. 2006, c. 29, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

**ORDER
(Ancillary Order)**

THIS MOTION, made by KSV Restructuring Inc. ("**KSV**") as receiver (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of First Swiss Mortgage Corp. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, for an Order pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29, as amended (the "**MBLAA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), was heard this day by judicial videoconference via Zoom.

ON READING the Motion Record of the Receiver dated May 12, 2023, including the Second Report of the Receiver dated May 12, 2023 (the "**Second Report**") and on hearing the submissions of counsel for the Receiver and such other parties in attendance at the hearing of this motion,

SERVICE

1. THIS COURT ORDERS that the time for service of the Motion Record of the Receiver is hereby abridged and validated, and service is hereby validated, so that this Motion is properly returnable today, and hereby dispenses with further service thereof.

DEFINED TERMS

2. THIS COURT ORDERS that capitalized terms used within this Order and not expressly defined herein shall have the meanings set forth in the Second Report.

PAYMENT OF INTEREST

3. THIS COURT ORDERS that each borrower with an active mortgage registered in favour of the Debtor (each, a "**Borrower**") is hereby directed to pay to the Receiver all principal, interest and other payments as and when due under such Borrower's mortgage.

PRODUCTION OF INFORMATION

4. THIS COURT ORDERS that Shinhan Bank Canada is hereby directed to provide the Receiver with all information requested by the Receiver related to the accounts of the Debtor and the accounts of 6807771 Canada Corp. ("**680**"), including, without limitation, all statements, cheque images and details regarding payees and deposits.

5. THIS COURT ORDERS that each of Reza Nezami-Nia, Syed A. Raza Professional Corporation and 680 is hereby directed to provide the Receiver with all books and records in its possession or control related to the Debtor and/or 680, provided however that nothing in this paragraph shall require the delivery of books or records, or the granting of access to books or records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that Bank of Montreal is hereby directed to (i) provide the Receiver with all available information regarding the Debtor's and 680's historical accounts with the Bank of Montreal since January 1, 2014, and (ii) advise the Receiver whether account 00022/1565844 is owned or controlled by Reza Nezami-Nia, Patrick Dookram, Yana Papanyan or Eugene Trounev, or any other principal of the Debtor or their relatives, and if so, to provide the Receiver with account statements for the last 12 months or such longer period as the Receiver may request.

7. THIS COURT ORDERS that nothing in this Order shall limit in any way the Receiver's rights and powers pursuant to the Appointment Order.

EXAMINATIONS

8. THIS COURT ORDERS that, if served with a Notice of Examination by the Receiver, Patrick Dookram, Yana Papanyan and/or any other parties with information relevant to the Debtor and these proceedings are hereby directed to (i) attend for an examination at the Receiver's offices or such other place acceptable to the Receiver, regardless of whether they have obtained counsel; and (ii) provide the Receiver at such examination with any non-privileged information requested by the Receiver related in any way to the Debtor and/or 680.

APPROVAL OF RECEIVER'S FEES AND ACTIVITIES

10. THIS COURT ORDERS that the Receiver's activities as set out in (i) its First Report dated March 31, 2023, and (i) the Second Report be and are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

11. THIS COURT ORDERS that the fees and disbursements of the Receiver and the Receiver's legal counsel, Bennett Jones LLP ("**Bennett Jones**"), as set out in the Second Report

and as more particularized within the fee affidavits of the Receiver and Bennett Jones be and are hereby approved.

GENERAL

12. THIS COURT ORDERS that the Receiver and Bennett Jones shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of carrying out the provisions of this Order, except to the extent such losses, claims, damages or liability results from the gross negligence or wilful misconduct of the Receiver or Bennett Jones, as determined by this Court. Nothing in this Order shall derogate from the protections afforded to the Receiver under the Appointment Order or any other Order of this Court.

13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

14. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

15. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order without the need for entry or filing.

CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO and **FIRST SWISS MORTGAGE CORP.**

Applicant

Respondent

Court File No.: CV-23-00696362-00CL

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

Proceedings commenced in Toronto

**ANCILLARY ORDER
(May 19, 2023)**

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