

**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 FORME DEVELOPMENT GROUP
INC. AND THE OTHER COMPANIES LISTED ON
SCHEDULE "A" HERETO
(the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED

**MOTION RECORD OF JAMES GROUP PROFESSIONAL CORP. and
LERNERS LLP
(Motion returnable March 30, 2020)**

March 16, 2020

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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TAB 1

**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 FORMER DEVELOPMENT GROUP
INC. AND THE OTHER COMPANIES LISTED ON
SCHEDULE "A" HERETO
(the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED

**AMENDED NOTICE OF MOTION
(Returnable March 30, 2020)**

James Grout Professional Corporation and Lerner's LLP will make a motion before the Honourable Mr. Justice Hailey on March 30, 2020 at 10:00 a.m. or as soon after that time as the motion can be heard, at the Commercial List at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

THE MOTION IS FOR:

- (a) An order authorizing and directing ~~Cassels-Brock and Blackwell LLP ("CBB")~~ to pay the outstanding fees and disbursements of James Grout Professional Corp. ("**Grout Corp.**") and Lerner's LLP ("**Lerner's**"), the amounts of which are attached in Schedule "A". ~~Such amounts would be,~~

to be paid from funds held in trust by ~~GBB (the "Trust Account")~~ Bennett Jones LLP ("Bennett Jones") pursuant to an undertaking dated March 11, 2019 (the "Undertaking"), and amended most recently by an order of Justice Hainey dated February 20, 2020. Grout Corp. acted as insolvency counsel for the principal of Forme Development Group ("**Forme**"), Yuan Hua (Mike) Wang ("**Mr. Wang**"), between approximately February 2019 and January 2020. Lerner acted as litigation counsel for Mr. Wang between approximately April 2019 and January 2020.

- (b) Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) Forme owns various real estate development projects in Ontario (the "**Projects**"). Forme financed the acquisition and development of the Projects through mortgage loans (the "**Mortgages**") from numerous lenders (each a "**Mortgagee**").
- (b) Mr. Wang is subject to personal guarantee claims for certain of the Mortgages.
- (c) Certain of the Projects are owned by the Applicants and three other entities that have filed notices of intention to make proposals under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("**BIA**"). Other Projects are owned by members of Forme that are not subject to the present or *BIA* proceedings (the "**Non Applicants**").
- (d) The Projects owned by the Non-Applicants are being sold by their first Mortgagee or the relevant member of Forme. GBB Cassels Brock and Blackwell LLP ("**CBB**") is was counsel to the Non-Applicants. Pursuant to the Undertaking given to this court by Forme and Mr. Wang, and until the order of Justice Hainey dated February 20, 2020, CBB is was holding in trust the proceeds of sale of the Non-Applicants, after payment of closing costs and the applicable Mortgages (the "**Surplus Funds**").

- (e) Mr. Wang required insolvency advice regarding the present proceeding and the Non-Applicants. James Grout of Grout Corp. was retained as insolvency counsel for Mr. Wang personally in February 2019.
- (f) Mr. Wang required litigation advice regarding the present proceeding and the Non-Applicants. Lerner was retained as litigation counsel for Mr. Wang personally in April 2019.
- (g) On August 7, 2019, Lerner brought a motion on behalf of itself and Grout Corp. to amend the Undertaking and allow for the fees and disbursements of Grout Corp. and Lerner to be paid from the ~~Trust Account~~ Surplus Funds.
- (h) Pursuant to an endorsement dated August 7, 2019, Justice Hainey adjourned the motion *sine die*, but allowed the fees and disbursements of Grout Corp. incurred up to June 30, 2019 and the fees and disbursements of Lerner incurred up to July 24, 2019 to be paid from the ~~Trust Account~~ Surplus Funds. Justice Hainey also ordered that the return of the motion could be scheduled following certain terms, and in the meantime, Grout Corp. and Lerner would be entitled to be paid an additional \$20,000 each from the ~~Trust Account~~ Surplus Funds.
- (i) Following the August 7, 2019 order, Lerner and Grout Corp. continued to do work for Mr. Wang, including:
 - (i) Leading up to and during the motion heard on October 22, 2019 brought by the Monitor regarding the claims procedure;
 - (ii) Advising Mr. Wang in respect of the sale of properties for which he personally guaranteed the mortgages, as well as the claims process;
 - (iii) Assisting Mr. Wang in providing a statutory declaration to the Monitor of his assets, income and interests;

- (iv) Leading up to and during the 9:30 attendance before Justice Hainey on the November 21, 2019; and
- (v) Responding to the Monitor's request for cross-examination of Mr. Wang on his statutory declaration, including providing requested documents. The oral examination was originally set for December 17, 2019 but later cancelled.
- (j) On January 6, 2020, Lerner and Grout Corp. brought a motion to remove Lerner and Grout Corp. as lawyers of record for Mr. Wang. The motion was granted by Justice McEwen, removing Lerner and Grout Corp. as lawyers of record for Mr. Wang.
- (k) Justice McEwen further ordered that notwithstanding the removal of Lerner and Grout Corp. as lawyers of record, Lerner and Grout Corp. could bring a motion to this court with respect to payment of their outstanding fees and disbursements.
- (l) Grout Corp. and Lerner have aimed to not duplicate services. To the extent there was any unreasonable duplication of services, only one firm would be entitled to be paid by the Non-Applicants from the Surplus Funds.
- (m) Pursuant to an order dated February 20, 2020, Justice Hainey amended the Undertaking to direct CBB to transfer the Surplus Funds to Bennett Jones, counsel to the Monitor.
- (n) The only source of funding for Grout Corp. and Lerner are the funds in the Trust Account Surplus Funds, pursuant to the Undertaking. CBB Bennett Jones is currently holding an excess of \$11 million in trust pursuant to the Undertaking. Additional funds will likely be generated from the sales of the Non-Applicants, after payment of closing costs and mortgages. These funds will also be held in trust by CBB Bennett Jones.

- (o) The claims bar date has now passed and Grout Corp. and Lerner's have filed accounts of their fees incurred on behalf of Mr. Wang, satisfying the conditions set by Justice Hainey in the August 7, 2019 order.
- (p) Rule 37 of Ontario's *Rules of Civil Procedure*, RRO 1990, Reg 194.
- (q) Such further and other grounds as counsel may advise and this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The affidavit of Emily Y. Fan sworn February 5, 2020, with exhibits;
- (b) The supplementary affidavit of Emily Y. Fan sworn March 16, 2020, with exhibits;
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

~~February 20, 2020~~ March 16, 2020

James Grout Professional Corp.
24 McMaster Avenue
Toronto, ON M4V 1A9

James H. Grout LS#: 22741H 1B
Jimhgrout@gmail.com
Tel: 416.505.6765

LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5

Cynthia B. Kuehl LS#: 43509V
ckuehl@lerner's.ca
Tel: 416.601.2350 / Fax: 416.867.2402

Emily Y. Fan LS#: 59788H
efan@lerner's.ca
Tel: 416.601.2390 / Fax: 416.867.2452

TO: Yuan Hua (Mike) Wang
Forme Development Group
7100 Woodbine Avenue, Suite 206
Markham, ON L3R 5J2

AND TO: THE SERVICE LIST

SCHEDULE "A"

James Grout Professional Corporation	
Period	Outstanding fees and disbursements
July 1, 2019 – July 24, 2019	\$7,051.20
October 1, 2019 – December 31, 2019	\$18,260.80
TOTAL	\$25,312.00

Lemmers LLP	
Period	Outstanding fees and disbursements
July 25, 2019 – August 8, 2019	\$14,027.82
October 25, 2019 – December 20, 2019	\$17,960.04
TOTAL	\$31,987.86

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

AMENDED NOTICE OF MOTION
(Returnable March 30, 2020)

James Grout Professional Corp.
24 McMaster Avenue
Toronto, ON M4V 1A9
James H. Grout LS#: 22741H 1B
Jimhgrout@gmail.com
Tel: 416.505.6765

LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5
Cynthia B. Kuehl LS#: 43509V
ckuehl@lernal.com
Tel: 416.601.2350 / Fax: 416.867.2402
Emily Y. Fan LS#: 59788H
efan@lernal.com
Tel: 416.601.2390 / Fax: 416.867.2452

TAB 2

**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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO
(the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**AFFIDAVIT OF EMILY Y. FAN
(Sworn February 5, 2020)**

I, Emily Y. Fan, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a partner with Lerner LLP, counsel to Yuan Hua (Mike) Wang ("**Mr. Wang**") from approximately April 2019 to January 2020. I worked with lead counsel, Cynthia Kuehl, and as such have knowledge of the matters to which I hereinafter depose.

2. In late April 2019, Mr. Wang retained Lerner in respect of possible actions on personal guarantees he allegedly provided for mortgages on properties owned by members of the Forme Development Group Inc. (the "**Forme Group**"). Certain companies that were part of the Forme Group were in CCAA proceedings, for which KSV Advisory is the Monitor (the "**Monitor**"). Other companies that are part of the Forme Group were denied the protection of the CCAA proceedings due to the opposition of the mortgagees (the "**Non Applicants**") and are represented by Cassels Brock & Blackwell ("**CBB**").

3. By that time, Mr. Wang had also retained James Grout Professional Corp. ("**Grout Corp.**") as his personal insolvency counsel. It was always understood that these retainers were solely on behalf of Mr. Wang personally, and not on behalf of any members of the Forme Group.

4. I am advised by Ms. Kuehl and do verily believe that, by the time of our initial retainer, Mr. Grout and Ms. Kuehl believed that certain funds being held in trust by CBB would be available for payment of our legal fees.

5. I am advised by Ms. Kuehl and do verily believe that as a result of a sale of real estate properties owned by the Non Applicants, there was, as of Fall 2019, in excess of \$11 million held in trust by CBB (the "**Trust Account**"). Those funds are currently being held in trust as a result of a voluntary undertaking that Mr. Wang provided to the Monitor (the "**Undertaking**") which subsequently formed part of a court order. The voluntary Undertaking provided that the funds would be held in trust by CBB pending the outcome a contemplated claims process.

6. But for the Undertaking, the monies held in trust by CBB would have been paid out to the Non Applicants. As I understand there are no judgments against the Non Applicants, the funds would have been available to be paid out to Mr. Wang as the sole shareholder/owner of the non-applicant companies. In short, but for the Undertaking, Mr. Wang would have access to the funds in the Trust Account.

7. I am advised by Mr. Grout, and do verily believe that he was involved, together with counsel from CBB, with the negotiation and execution of the Undertaking. I am further advised by Mr. Grout and do verily believe that although CBB's fees could be paid pursuant to the terms of the Undertaking, through inadvertence, the Undertaking is silent as to payment for any fees of Mr. Wang's personal counsel, including Mr. Grout. I am also advised by Mr. Grout that at the time of our initial retainer it was understood that we would be able to make an application to the court to amend the Undertaking in order to ensure that any accounts rendered by Grout Corp. or Lerners would be paid.

8. On August 7, 2019, Lerners brought a motion on behalf of itself and Grout Corp. to amend the Undertaking to ensure payment. The motion was formally opposed by one creditor. The motion was adjourned *sine die* by Justice Hainey. A copy of Justice Hainey's endorsement dated August 7, 2019 is attached as **Exhibit "A"**.
9. In the same endorsement, Justice Hainey allowed the fees and disbursements of Grout Corp. incurred up to June 30, 2019, and the fees and disbursements of Lerners incurred up to July 24, 2019, to be paid from the Trust Account. Until the motion for payment was heard, Justice Hainey also ordered that Grout Corp. and Lerners would be entitled to each be paid an additional \$20,000 from the Trust Account.
10. A claims procedure order was issued on October 22, 2019. Initially, the claims bar date was to be November 25, 2019. However, on November 21, 2019, the claims bar date was extended to January 10, 2020 at the request of the Monitor. A copy of Justice Hainey's order dated November 21, 2019 is attached as **Exhibit "B"**.
11. Grout Corp. and Lerners continued to do work for Mr. Wang following the August 7, 2019 order. In particular, Grout Corp. and Lerners continued to act for Mr. Wang:
- (a) Leading up to and during the motion heard on October 22, 2019 brought by the Monitor regarding the claims procedure. This included numerous discussions and/or meetings with Mr. Wang and with the Monitor in respect of the language of the draft order, and attending on the motion;
 - (b) Advising Mr. Wang in respect of the sale of properties for which he personally guaranteed the mortgages, as well as the claims process;
 - (c) Advising Mr. Wang and assisting in providing a statutory declaration to the Monitor of his assets, income and interests;
 - (d) Advising Mr. Wang and engaging in a number of discussions (including at least one meeting) with the Monitor, leading up to and during the 9:30 attendance before Justice Hainey on the November 21, 2019; and

- (e) Responding to the Monitor's request for the cross-examination of Mr. Wang on his statutory declaration and in negotiating its terms. The oral examination was originally set for December 17, 2019 but later cancelled.

12. Due to the substantial amount of work required, the budget provided in the August 7, 2019 order was well exceeded and additional fees were incurred by Grout Corp. and Lerner on Mr. Wang's behalf. None of those fees have been authorized for payment and remain outstanding to this day.

13. In addition, not all fees from Grout Corp. and Lerner were paid in respect of work completed in July and August 2019. I am advised by Mr. Grout and Ms. Kuehl and do verily believe that this included, but was not limited to, discussions and meeting with Mr. Wang, the Monitor and counsel in respect of the motion that was returnable August 7, 2019, and attendance on that motion.

14. On January 6, 2020, Grout Corp. and Lerner brought a motion to remove Grout Corp. and Lerner as lawyers of record for Mr. Wang on the basis that, due to an impasse between the Monitor and Mr. Wang, there was no prospect that Grout Corp. and Lerner would be paid for services rendered on a go-forward basis and services rendered in the past had either not been invoiced (because there was no prospect of payment) or were unpaid. The motion was granted by Justice McEwen, removing Grout Corp. and Lerner as lawyers of record for Mr. Wang. Justice McEwen further ordered that notwithstanding the removal of Grout Corp. and Lerner as lawyers of record, Grout Corp. and Lerner could bring a motion to this court with respect to payment of their outstanding fees and disbursements. A copy of Justice McEwen's order dated January 6, 2020 is attached as **Exhibit "C"**.

15. Mr. Wang has repeatedly advised that he does not have the financial ability to pay Lerner or Grout Corp. as counsel, absent access to the funds held by CBB.

16. I am advised by Mr. Grout that Grout Corp. currently has \$25,312.00 outstanding in legal fees and disbursements it incurred on behalf of Mr. Wang. In particular, I am advised by Mr. Grout that:

- (a) Grout Corp.'s fees and disbursements up to June 30, 2019 have been paid from the Trust Account, pursuant to the August 7, 2019 order;
- (b) Grout Corp.'s fees and disbursements incurred between July 1, 2019 – July 24, 2019 are unpaid;
- (c) Grout Corp.'s fees and disbursements incurred between July 25, 2019 – September 30, 2019 have been paid from the Trust Account, pursuant to the \$20,000 allowance in the August 7, 2019 order; and
- (d) Grout Corp.'s fees and disbursements incurred between October 1, 2019 – December 31, 2019 are unpaid.

Copies of Grout Corp.'s Accounts from July 1, 2019 – July 24, 2019 (unpaid), July 25, 2019 – September 30, 2019 (paid), and October 1, 2019 – December 31, 2019 (unpaid) are attached as **Exhibit "D"** (which will be provided to the Court in a sealed envelope to maintain privilege).

17. I am advised by Ms. Kuehl that Lerner's currently has \$31,987.86 outstanding in legal fees and disbursements it incurred on behalf of Mr. Wang. In particular, I am advised by Ms. Kuehl that:

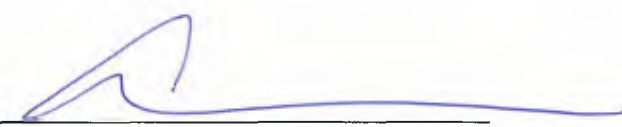
- (a) Lerner's fees and disbursements up to July 24, 2019 have been paid from the Trust Account, pursuant to the August 7, 2019 order;
- (b) Lerner's fees and disbursements incurred between July 25, 2019 – August 8, 2019 are unpaid;
- (c) Lerner's fees and disbursements incurred between August 9, 2019 – October 24, 2019 have been paid from the Trust Account, pursuant to the \$20,000 allowance in the August 7, 2019 order; and
- (d) Lerner's fees and disbursements incurred between October 25, 2019 – December 20, 2019 are unpaid.

Copies of Lerner's Accounts from July 25, 2019 – August 8, 2019 (unpaid), August 19, 2019 – September 25, 2019 (paid), September 26, 2019 – October 22, 2019 (paid), and October 25, 2019 – December 20, 2019 (unpaid) are attached as **Exhibit "E"** (which will also be provided to the Court in a sealed envelope to maintain privilege).

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario, on February 5,
2020.



A Commissioner for taking Affidavits (or as
may be)



Emily Y. Fan

**Lucy Jun Ming Sun, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 7, 2022.**

TAB A

This is Exhibit.....^A.....referred to in the
affidavit of.....Emily Y. Fan.....
sworn before me, this.....^{5th}.....
day of.....February.....20..20



.....
A COMMISSIONER FOR TAKING AFFIDAVITS

**Lucy Jun Ming Sun, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 7, 2022.**



COUNSEL SLIP

COURT FILE NO. CV-18-608313-0001

DATE: Aug 7th, 2019

No. ON LIST 10

TITLE OF PROCEEDING

Prime Development Group Inc. et al. v. Windsor Family Credit Union et al.

COUNSEL FOR:

Phone & Fax No

Plaintiff (s)
Applicant (s)
Petitioner (s)

416 505 6765

COUNSEL FOR:

Phone & Fax No

Defendant (s)
Respondent (s)

416 901 7889

JTGROU JTGROU

Don Michaud for various mortgages on Canville and Ayden

T: 416 860-3795
F: 416 868 0306
E: dmichaud@robapp.com

D.J. Miller for Ferina Construction (mortgage)
(TGF)

T: 416-304-0559
F: 416-304-1313
E: djmiller@tgf.ca

SHAYNE KUKULOWICZ
FOR NON-APPLICANT FORMER ENTITIES

T: 416-860-6463
F: 416-640-3176
E: SKUKULOWICZ@CASSELLSBROCK.COM

Cynthia Kuehl, Lerner LLP
for Mike Wang

T: 416 601 2303
F: 416 867 2433
E: ckuehl@lerner.ca

Sean Zweig
Aiden Nelms

T: 416-777-6254
F: 416-863-1717

For KSV Kofman Inc, in its capacity
as court appointed Monitor

E: zweigs@bennettjones.com

Nancy R. ... in ...

T: 416 895 9823

August 7/19

My Endorsement is
attached.

Harry J

ENDORSEMENT

August 7, 2019

17

pursuant to this endorsement

Mr. Wang's motion is adjourned sine die on the terms set out below, pending and following: (i) the expiry of the claims bar date in the claims order to be sought by the Monitor at a later date, and (ii) the filing of a budget by Mr. Wang's counsel seeking funding for any fees that may be sought to be incurred as part of the claims process, as set out below, at which time the return of Mr. Wang's motion may be scheduled on notice to the Service List, with sufficient time for arguments to be made by all parties who wish to do so (the "Return Date"). Capitalized terms used herein and not otherwise defined are as defined in the Undertaking attached as Schedule "B" to the Order of this Court dated March 18, 2019 (the "Undertaking").

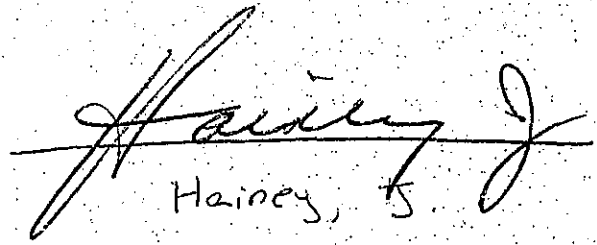
1. Amounts incurred for Mr. Wang personally by Grout to June 30, 2019 (\$127,000) and Lerner's to July 24, 2019 (\$50,000) (collectively, the "Accrued Wang Fees") may be paid from the Trust Account. However, all such payments are subject to an undertaking from the recipient in favour of this Court and the Monitor ~~as reflected in this Endorsement to hold such amounts in trust subject to the same terms as the Undertaking, and to immediately repay any or all of such amounts to the Trust Account if so Ordered by this Court.~~
2. On the basis of no objection by the parties represented by counsel in attendance on this motion, and expressly subject to paragraph 5 herein, Grout and Lerner's shall be entitled to be paid an amount of up to \$20,000 each (including disbursements and taxes) from the Trust Account for the period from and after July 24, 2019 to the Return Date (the "Permitted Payment").
3. Not less than twenty-one days (21) days prior to the Return Date, counsel for Mr. Wang shall prepare and deliver to the Monitor, for delivery to the Service List, a budget outlining the fees expected to be incurred by counsel for Mr. Wang for which reimbursement is sought from the Trust Account (the "Wang Claims Budget"). Without waiver of any privilege, the Wang Claims Budget shall contain sufficient details to permit the Monitor and any interested stakeholder to be able to assess and consider their respective position on the hearing of Mr. Wang's motion on the Return Date.
4. All rights are expressly reserved with respect to the fees incurred by CBB on behalf of the Non-Applicants, as disclosed in the Monitor's Supplement to Seventh Report. For greater certainty, nothing in the Order or in this Endorsement constitutes an approval of such fees or an acknowledgement of their reasonableness in any way whatsoever.
5. All rights are reserved with respect to Mr. Wang's motion to be argued on the Return Date, or any further motion that may be brought or request that may be made for any other amounts sought to be paid to Grout or Lerner's as counsel for Mr. Wang from the Trust Account. For greater certainty, the fact that the Permitted Payment is permitted to be made in accordance with this Endorsement negotiated by counsel shall not in any way prejudice or be perceived as waiving or pre-judging any argument that any party may wish to make on the Return Date

and the terms of paragraph 1 hereof,

the Accrued Wang Fees (as defined above);

that: (i) no amounts whatsoever ought to be paid from the Trust Account until all claims of creditors against Mr. Wang are paid in full, or that (ii) no other amounts, save and except the Permitted Payment hereunder, should be permitted to be paid to Mr. Wang's counsel from the Trust Account, regardless of whether any portion of same may have already been paid from the Trust Account.

- 6. This Court notes that the Monitor has advised counsel for Mr. Wang that, unless the Monitor is confident that there are sufficient funds in the Trust Account to repay all claims of creditors against Mr. Wang in full and amounts requested for funding, it would not be prepared to consider any request for funding of Mr. Wang's legal fees from the Trust Account, whether on the Return Date or otherwise, unless and until full financial disclosure of all of Mr. Wang's personal assets, income and interests is provided to the Monitor.
- 7. Any objection to the Accrued Wang Fees or any or all of CBB's fees as disclosed in the Supplement to the Monitor's Seventh Report shall be brought to the Monitor's attention not later than seven (7) days' prior to the Return Date, unless otherwise agreed by the parties to the motion.


 Hainey, S

August 7, 2019

TAB B

This is Exhibit.....B.....referred to in the
affidavit of.....Emily Y. Fan.....
sworn before me, this.....5th.....
day of.....February..... 20...20..

..........
A COMMISSIONER FOR TAKING AFFIDAVITS

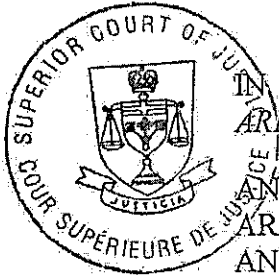
**Lucy Jun Ming Sun, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 7, 2022.**

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.
JUSTICE HAINEY

)
)
)

THURSDAY, THE 21ST DAY
OF NOVEMBER 2019



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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO (the "Applicants")

APPLICATION UNDER THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ORDER

THIS MOTION, made by KSV Kofman Inc., solely in its capacity as Court-appointed monitor (in such capacity, the "Monitor") in the proceedings of the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended ("CCAA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Monitor's Eleventh Report dated November 18, 2019 (the "Eleventh Report"), together with the appendices thereto, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn November 18, 2019, filed,

Service

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and are hereby abridged and validated so that the Motion is properly returnable today.

Claims Procedure Order

2. **THIS COURT ORDERS** that paragraph 2(f) in the Claims Procedure Order of this Court dated October 22, 2019 (the "Claims Procedure Order") shall be deleted in its entirety and replaced with the following:

"Claims Bar Date" means: (i) with respect to a Pre-filing Claim, a D&O Claim, a NOI Claim, a Non-Applicant Claim and a Wang Claim, 5:00 p.m. (Eastern Time) on the later of (A) January 10, 2020, and (B) if applicable, the applicable Sale Triggered Claims Bar Date; and (ii) with respect to a Restructuring Claim, the Restructuring Claims Bar Date;

3. **THIS COURT ORDERS** that paragraph 2(pp) of the Claims Procedure Order shall be deleted in its entirety and replaced with the following:

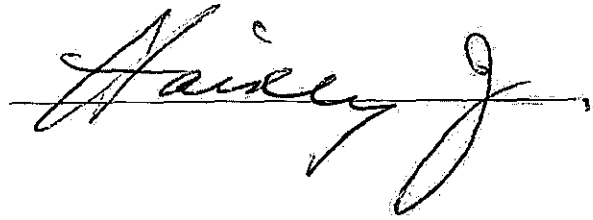
"Restructuring Claims Bar Date" means, with respect to a Restructuring Claim, the later of (i) 5:00 p.m. (Eastern Time) on the Claims Bar Date for Pre-filing Claims, D&O Claims, NOI Claims, Non-Applicant Claims and Wang Claims (which, for greater certainty, is January 10, 2020) and (ii) the date that is ten (10) Business Days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order;

Examination of Yuan Hua Wang

~~4. **THIS COURT ORDERS** that Yuan Hua Wang is directed to submit to a cross-examination by the Monitor in respect of the statutory declaration concerning his financial position provided to the Monitor on November 5, 2019.~~


Non-Applicant General Ledgers and Bank Statements

5. **THIS COURT ORDERS** that each of the 14 companies listed on Schedule "B" hereto is directed to provide its general ledgers and bank statements requested by the Monitor to the Monitor within five (5) business days of this Order.

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

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 21 2019

PER / PAR 

**SCHEDULE "A"
APPLICANTS**

- 3310 Kingston Development Inc.
- 1296 Kennedy Development Inc.
- 1326 Wilson Development Inc.
- 5507 River Development Inc.
- 4439 John Development Inc.
- 2358825 Ontario Ltd.
- 250 Danforth Development Inc.
- 159 Carrville Development Inc.
- 169 Carrville Development Inc.
- 189 Carrville Development Inc.
- 27 Anglin Development Inc.
- 29 Anglin Development Inc.

SCHEDULE "B"
NON-APPLICANTS

- 101 Columbia Development Inc.
- 186 Old Kennedy Development Inc.
- 19 Turff Development Inc.
- 22 Old Kennedy Development Inc.
- 31 Victory Development Inc.
- 35 Thelma Development Inc.
- 376 Derry Development Inc.
- 390 Derry Development Inc.
- 4 Don Hillock Development Inc.
- 4208 Kingston Development Inc.
- 4550 Steeles Development Inc.
- 7397 Islington Development Inc.
- 9500 Dufferin Development Inc.
- 2495393 Ontario Inc.

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 FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO (the "Applicants")

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

Proceeding commenced at Toronto

ORDER

BENNETT JONES LLP
3400 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Sean H. Zweig (LSO #573071)
Tel: (416) 777-6253
Fax: (416) 863-1716

Aiden Nelms (LSO#74170S)
Tel:(416) 777-4642
Fax: (416) 863-1716

Counsel to KSV Kofman Inc., solely in its capacity as Court-appointed monitor and not in its personal capacity

TAB C

This is Exhibit.....^e.....referred to in the
affidavit of.....Emily Y. Fan.....
sworn before me, this.....^{STL}.....
day of.....February.....20.....20

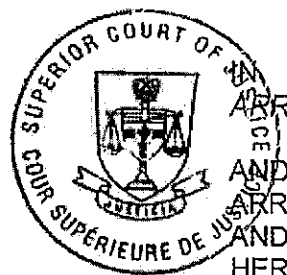


.....
A COMMISSIONER FOR TAKING AFFIDAVITS

**Lucy Jun Ming Sun, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 7, 2022.**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE JUSTICE *T. McEwen*) MONDAY, THE 6TH DAY
) OF JANUARY 2020
)



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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO
(the "Applicants")

APPLICATION UNDER THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ORDER
(RE REMOVAL OF COUNSEL)

THIS MOTION, made by Lerners LLP ("Lerners") and James H. Grout Professional Corporation ("Grout P.C.") for an order removing them as counsel of record for Yuan Hua Wang ("Mr. Wang") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Cynthia Kuehl sworn January 2, 2020, and the exhibits thereto, and on hearing the submissions of counsel Lerners and Grout P.C.,

1. THIS COURT ORDERS THAT Lerners is hereby removed as counsel of record for Mr. Wang, upon service of this Order on him in accordance with paragraph 4 of this Order.
2. THIS COURT ORDERS THAT Grout P.C. is hereby removed as counsel of record for Mr. Wang, upon service of this Order on him in accordance with paragraph 4 of this Order.
3. THIS COURT ORDERS THAT notwithstanding the removal of Lerners and Grout P.C. as counsel of record, Lerners and Grout P.C. may bring a motion to this court with respect to payment of their outstanding fees and disbursement.

- 4. THIS COURT ORDERS THAT this Order may be served on Mr. Wang by sending copies of it as follows:
 - a) By regular mail to Mr. Wang's business address: 7100 Woodbine Avenue, Suite 206, Markham, Ontario L3R 5J2; and
 - b) By email to: mike@formeddevelopmentgroup.com.
- 5. THIS COURT ORDERS THAT Mr. Wang may be contacted at the addresses stated in paragraph 4, above, and that Mr. Wang's telephone number is 905.604.5766 and fax is 905.604.5768.
- 6. THIS COURT ORDERS THAT there shall be no costs payable on this motion.

NOTE: Rule 15.04 (8) A client who is not a corporation shall, within 30 days after being served with the order removing the lawyer from the record,

- (a) appoint a new lawyer of record by serving a notice under subrule 15.03 (2); or
- (b) serve a notice of intention to act in person under subrule 15.03 (3).

Rule 15.04 (9) If the client fails to comply with subrule (8),

- (a) the court may dismiss the client's proceeding or strike out his or her defence; and
- (b) in an appeal,
 - (i) a judge of the appellate court may, on motion, dismiss the client's appeal, or
 - (ii) the court hearing the appeal may deny the client the right to be heard.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
JAN 06 2020

PER / PAR: 

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

Court File No.: CV-18-608313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

James Grout Professional Corp.
24 McMaster Avenue
Toronto, ON M4V 1A9
James H. Grout LS#: 22741H 1B
Jimhgrout@gmail.com
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LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5
Cynthia B. Kuehl LS#: 43509V
ckuehl@lernalers.ca
Tel: 416.601.2363 / Fax:
416.867.2433
Emily Y. Fan LS#: 59788H
efan@lernalers.ca
Tel: 416.601.2390 / Fax:
416.867.2452
Lawyers for Yuan Hua Wang

TAB D

This is Exhibit.....D.....referred to in the
affidavit of...Emily Y. Fan.....
sworn before me, this.....5th.....
day of.....February.....20..20



.....
A COMMISSIONER FOR TAKING AFFIDAVITS

**Lucy Jun Ming Sun, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 7, 2022.**

This exhibit is provided to the Court in a separate sealed envelope, pending a sealing order.

TAB E

This exhibit is provided to the Court in a separate sealed envelope, pending a sealing order.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**MOTION RECORD OF JAMES GROUT
PROFESSIONAL CORP AND LERNERS LLP
(Returnable March 30, 2020)**

James Grout Professional Corp.
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Toronto, ON M4V 1A9
James H. Grout LS#: 22741H 1B
Jimhgrout@gmail.com
Tel: 416.505.6765

LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5
Cynthia B. Kuehl LS#: 43509V
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Tel: 416.601.2350 / Fax: 416.867.2402
Emily Y. Fan LS#: 59788H
efan@lernalers.ca
Tel: 416.601.2390 / Fax: 416.867.2452

Lawyers for Yuan Hua Wang

TAB 3

**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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO
(the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**SUPPLEMENTARY AFFIDAVIT OF EMILY Y. FAN
(Sworn March 16, 2020)**

I, Emily Y. Fan, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a partner with Lerner's LLP ("**Lerner's**"), counsel to Yuan Hua (Mike) Wang ("**Mr. Wang**") from approximately April 2019 to January 2020. I worked with lead counsel, Cynthia Kuehl, and as such have knowledge of the matters to which I hereinafter depose.

2. I am advised by Ms. Kuehl and do verily believe that James Grout Professional Corp. ("**Grout Corp.**") and Lerner's originally intended to bring this motion for payment of its fees before Justice Hainey on February 20, 2020 and served the motion materials on Bennett Jones LLP ("**Bennett Jones**"), as counsel to the Monitor. However, I am advised by Ms. Kuehl and do verily believe that Ms. Kuehl was informed by counsel that, due to some recent events that transpired, the Monitor would require additional time on February 20 and there would be insufficient time for the motion to be heard. As a result, Grout Corp. and Lerner's did not participate in the proceedings which occurred on February 20, 2020.

3. I reviewed the court orders and endorsement that resulted from the February 20, 2020 attendance and believe the following to be true.

4. Pursuant to an ancillary order by Justice Hainey dated February 20, 2020, the Undertaking executed by Mr. Wang dated March 11, 2019 was amended. Pursuant to this order, Cassels Brock and Blackwell LLP ("**CBB**") was directed to transfer forthwith the surplus funds previously held in trust in CBB's trust account to Bennett Jones. A copy of Justice Hainey's ancillary order dated February 20, 2020 is attached as **Exhibit "A"**.

5. Pursuant to an endorsement of Justice Hainey dated February 20, 2020, the assignments into bankruptcy made on January 28, 2020 by the Forme Group companies that were not involved in the CCAA proceedings (the "**Non-Applicants**") were annulled. The Non-Applicants are now represented by Gardiner Roberts LLP. A copy of Justice Hainey's endorsement dated February 20, 2020 is attached as **Exhibit "B"**.

6. Pursuant to the order of Justice Hainey dated February 25, 2020, the date by which Mr. Wang is required to file a proposal was extended to March 23, 2020. A copy of Justice Hainey's order dated February 25, 2020 is attached as **Exhibit "C"**.

7. I am advised by Mr. Grout that Grout Corp. currently has \$25,312.00 outstanding in legal fees and disbursements it incurred for work on behalf of Mr. Wang. In particular, I am advised by Mr. Grout that:

- (a) The account from July 1, 2019 – July 24, 2019 is in the amount of \$6,240, plus HST of \$811.20, for a total of \$7,051.20. The account reflects 11.8 hours of work at \$800 per hour. Mr. Grout gave advice to Mr. Wang related to the proposed claims process and the ongoing efforts to sell the Kennedy property and the Elm Street properties, had discussions with counsel for the second mortgagee of the Elm Street properties and met with the Monitor and its counsel; and
- (b) The account from October 1, 2019 – December 31, 2019 is in the amount of \$16,160, plus HST of \$2,100.80, for a total of \$18,260.80. The account

reflects 20.2 hours of work at \$800 per hour. Mr Grout gave advice to Mr. Wang related to the claims process, disclosure of his finances, the sale of 68 Elm Street and the ongoing efforts to sell the remaining properties.

8. I am advised by Ms. Kuehl that Lerner's currently has \$31,987.86 outstanding in legal fees and disbursements it incurred for work on behalf of Mr. Wang. In particular, I am advised by Ms. Kuehl that:


- (a) The account from July 25, 2019 – August 8, 2019 is in the amount of \$14,027.82, inclusive of all fees, disbursements and taxes. The fees relate to meetings and review of the claims process with the client; preliminary reviews by an associate of guarantees; and preparation for, negotiations regarding, and attendance at the August 7, 2019 motion by Ms. Kuehl; and
- (b) The account from October 25, 2019 – December 20, 2019 is in the amount of \$17,960.04, inclusive of all fees, disbursements and taxes. The fees relate to the preparation of the known creditor list; work on the statutory declaration; review by an associate of some mortgage documentation in relation to anticipated claims; and meetings, calls and negotiations with the client and counsel for the Monitor regarding an examination on the statutory declaration, including an attendance at one chambers appointment.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario, on March 16, 2020.



 A Commissioner for taking Affidavits (or as
 may be) **Valerie Zung Yee Chau, a Commissioner, etc.,**
 Province of Ontario, for
 Lerner's LLP, Barristers and Solicitors.
 Expires July 23, 2021

6173974.2



 Emily Y. Fan

TAB A

This is Exhibit "A" referred to in the
supplementary affidavit of Emily Y. Fan
sworn before me, this 16th
day of March, 2020.

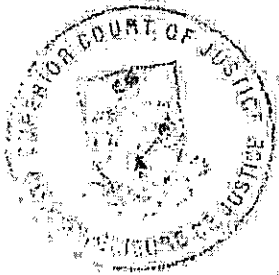


A Commissioner for Taking Affidavits

Valerie Zung Yee Chau, a Commissioner, etc.,
Province of Ontario, for
Lerners LLP, Barristers and Solicitors.
Expires July 23, 2021

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 20th DAY
JUSTICE HAINEY) OF FEBRUARY 2020



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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO (the "Applicants")

APPLICATION UNDER THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ANCILLARY ORDER

THIS MOTION, made by KSV Kofman Inc. ("KSV"), in its capacity as Court-appointed monitor (in such capacity, the "Monitor") of the Applicants in their proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended ("CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Twelfth Report of the Monitor and the Eighth Report of the Proposal Trustee dated February 12, 2020 (the "Report"), together with the appendices thereto and such other materials as were filed by the parties, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn February 13, 2020, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and are hereby abridged and validated so that the Motion is properly returnable today.

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including May 31, 2020.

SEALING

3. **THIS COURT ORDERS** that the Confidential Appendices to the Report shall be sealed and kept confidential pending further Order of this Court.

ANCILLARY RELIEF

4. **THIS COURT ORDERS** that, notwithstanding (i) the Undertaking (as defined in the Report) executed by the companies listed on Schedule "B" hereto (the "Non-Applicants") and Yuan Hua Wang ("Mr. Wang") dated March 11, 2019 and approved by this Court on March 18, 2019; and (ii) the *ex parte* Court Order dated January 31, 2020, amending the Undertaking; and (iii) any prior Order of this Court:

- (a) Gardiner Roberts LLP, or any other past, present or future counsel to the Non-Applicants, Mr. Wang or any other party, are precluded from being paid from the Surplus (as defined below) without further Order of the Court; and

(b) the purchase price (including any deposits) in respect of the sale of any Non-Applicant real property (each a "Non-Applicant Project"), net only of any amounts owing to the mortgage(s) of that Non-Applicant Project, will be delivered forthwith to Bennett Jones LLP ("Bennett Jones") to be held in trust for that Non-Applicant's remaining creditors and form part of the Surplus (as defined below).

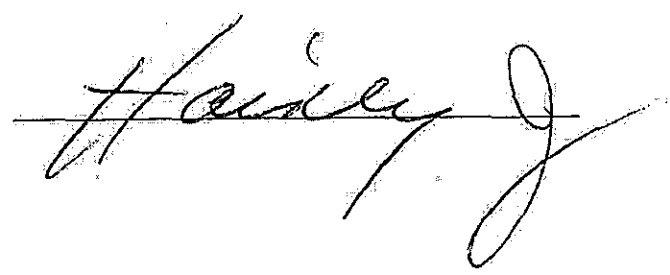
5. **THIS COURT ORDERS** that Cassels Brock & Blackwell LLP ("CBB") is hereby authorized and directed to transfer the surplus funds presently on deposit in CBB's trust account (the "Surplus"), to Bennett Jones without deduction, provided, however, that CBB may take from the Surplus the aggregate sum of \$29,958.13 (inclusive of disbursements and taxes) for payment of the remaining fees of CBB as permitted by the Undertaking and paragraph 3 of the Order of Justice Hainey dated January 31, 2020. Notwithstanding the payment of the fees of CBB as permitted herein, (a) the Monitor and other applicable stakeholders reserve the right to challenge the fees of CBB and (b) CBB reserves the right (i) to dispute the standing or ability of such parties to challenge its fees and (ii) to justify its fees.

6. **THIS COURT ORDERS** that the bankruptcy proceedings of the Bankrupt Non-Applicants (as defined in the Report) bearing Estate Numbers 31-2610122, 31-2610116, 31-2610109 and 31-2610098 are hereby annulled.

7. **THIS COURT ORDERS AND DECLARES** that Grant Thornton Limited be and is hereby discharged in its capacity as the Trustee in Bankruptcy in the bankruptcy proceedings of the Bankrupt Non-Applicants bearing Estate Numbers 31-2610122, 31-2610116, 31-2610109 and 31-2610098.

8. **THIS COURT ORDERS** that the Claims Procedure (as defined in the Report) will continue and that any proven Wang Claims (as defined, and upon being finally determined in the Claims Procedure Order in the within proceedings dated October 22, 2019) will constitute proven claims in the proceedings related to Mr. Wang's Notice of Intention to Make a Proposal filed on January 24, 2020 and in any future bankruptcy of Mr. Wang.

9. **THIS COURT ORDERS** that parties may make brief written cost submissions, to not exceed five (5) pages in length.



SUPERIOR COURT OF JUSTICE
ENTERED
FEB 25 2020 JP
COUR SUPÉRIEURE DE JUSTICE
ENTRÉ

SCHEDULE "A"
APPLICANTS

- 3310 Kingston Development Inc.
- 1296 Kennedy Development Inc.
- 1326 Wilson Development Inc.
- 5507 River Development Inc.
- 4439 John Development Inc.
- 2358825 Ontario Ltd.
- 250 Danforth Development Inc.
- 159 Carrville Development Inc.
- 169 Carrville Development Inc.
- 189 Carrville Development Inc.
- 27 Anglin Development Inc.
- 29 Anglin Development Inc.

SCHEDULE "B"

THE NON-APPLICANTS

- 101 Columbia Development Inc.
- 186 Old Kennedy Development Inc.
- 19 Turff Development Inc.
- 22 Old Kennedy Development Inc.
- 31 Victory Development Inc.
- 35 Thelma Development Inc.
- 376 Derry Development Inc.
- 390 Derry Development Inc.
- 4 Don Hillock Development Inc.
- 4208 Kingston Development Inc.
- 4550 Steeles Development Inc.
- 7397 Islington Development Inc.
- 9500 Dufferin Development Inc.
- 68 Elm Development Inc.

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 FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO (the "Applicants")

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

Proceeding commenced at Toronto

ANCILLARY ORDER

BENNETT JONES LLP
3400 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Sean H. Zweig (LSO #573071)
Tel: (416) 777-6253
Fax: (416) 863-1716

Aiden Nelms (LSO#74170S)
Tel:(416) 777-4642
Fax: (416) 863-1716

Counsel to KSV Kofman Inc., solely in its capacity as Court-appointed monitor and not in its personal capacity

TAB B

This is Exhibit "B" referred to in the
supplementary affidavit of Emily Y. Fan
sworn before me, this 16th
day of March, 2020.



A Commissioner for Taking Affidavits
Valerie Zung Yee Chau, a Commissioner, etc.,
Province of Ontario, for
Lerners LLP, Barristers and Solicitors.
Expires July 23, 2021

**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 FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO**

**APPLICATION UNDER THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

- Sean Zweig / Aiden Nelms for Moving Party (KSV as Monitor)
- D.J. Miller / Alex Soutter for Moving Party (Ferina)
- Adam Slavens for Tarion Warranty Corporation
- Dom Michaud for -various mortgagees in claims process
- Chris Besant for Non-Applicant companies
- Bobby Sachdeva / Stephanie DiCarie for Grant Thornton, Trustee in Bankruptcy
- Jeffrey Larry for First Source Mortgage
- George Benchetrit for Home Trust Company
- John N. Birch for Cassels Brock
- Mario Forte for CCAA entities

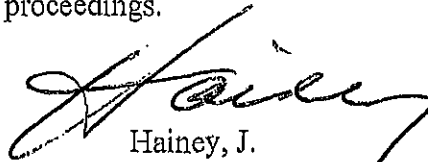
**ENDORSEMENT OF MR. JUSTICE HAINEY
DATED FEBRUARY 20, 2020**

1. The Monitor brings a motion for relief to be reviewed below. The motion is supported by all stakeholders represented by counsel recorded on the Counsel Slip except the Non Applicant companies represented by Mr. Besant who opposes the motion.
2. At the outset of the motion the Monitor's counsel, at my direction, suggested to Mr. Besant that the order could be granted without prejudice to his client's position. Mr. Besant declined to proceed in this fashion and insisted that the motion proceed.
3. Despite Mr. Besant's submissions, I granted the order for the following reasons:
 - (i) The Kennedy approval and vesting order and the distribution order were not opposed and I am satisfied the sale and proposed distribution are in the best interest of the stakeholders;


- (ii) The ancillary order is appropriate and the time for service of the motion record is abridged. No one is prejudiced by this order as the motion record was served 8 days before the motion was heard.
- (iii) I am satisfied that the stay period should be extended to May 31, 2020. The *Applicants have acted in good faith and circumstances exist that make the order appropriate because it will permit the Monitor to maximize stakeholder recovery for the reasons set out at paragraph 53 of the Monitor's Factum.
- (iv) The confidential appendices of the Monitor's Twelfth Report contain sensitive commercial information that should be sealed in accordance with the test in *Sierra Club*. That aspect of the Order is not opposed.
- (v) The undertaking dated March 11, 2019 should be amended by order of the Court to substitute Bennett Jones LLP, the Monitor's legal counsel, to hold the surplus funds currently held in Cassels Brock & Blackwell LLP's ("CBB") trust account and any further realizations from the Non-Applicants unsold real property. CBB is therefore ordered to transfer these funds to Bennett Jones LLP forthwith on the terms set out in the order.
- (vi) I am satisfied that I should make an order pursuant to section 181(1) of the BIA annulling the assignments into bankruptcy made on January 28, 2020 by the Non-Applicant companies without any notice to the Monitor for the following two reasons;
 - (a) the Non-Applicant companies were not demonstrably insolvent persons. Each company has sold its real property generating sufficient proceeds to repay its mortgage debt in full and to fund the surplus funds currently held in CBB's trust account in the amount of approximately \$11 million. The only evidence before the Court is that the value of the Non-Applicant's assets exceeds their liabilities. This is not a "clear cut situation" of insolvency that is "clearly established by sound and convincing evidence"; and
 - (b) in my view the assignments into bankruptcy are all entirely duplicative and serve no valid purpose. The Non-Applicant's creditor relationships are already being managed in these CCAA proceedings and the Court supervised claims process, all of which was consented to by Mr. Wang, the controlling mind of the Non-Applicants. If these assignments are not annulled, they will stay the Court approved claims process at the expense of creditors and the Court and will not accomplish anything already achieved by these unique and heavily negotiated CCAA proceedings. The claims process is one of several integral "building blocks" in the CCAA proceedings and, in my view, must be respected. The assignments must not be permitted to undermine this important building block [see Chief Justice Morawetz's Reasons at paragraph 81 in *Target Canada Co.*, 2015 ONSC 303].

- (vii) I am satisfied that this CCAA claims process should continue and that proven Wang claims will be admitted as proven claims in the proceedings related to the Wang NOI.
- (viii) Finally, without further order of the Court the surplus funds to be transferred from CBB to the Monitor's counsel shall not be used to pay any parties' legal fees.
- (ix) In my view, this is an appropriate case to make an order as to costs. I have requested counsel provide me with short written cost submissions.
- (x) I thank all counsel for their helpful submissions.

- References to "Applicants" acting in good faith in this context refers to the Monitor, as it is a super-Monitor in these CCAA proceedings.



Hainey, J.
February 20, 2020



COUNSEL SLIP

COURT FILE

NO.: CV-18-00608313-00CL

DATE: February 20, 2020

NO. ON LIST 9

TITLE OF PROCEEDING

FORME DEVELOPMENT GROUP INC et al v. WINDSOR FAMILY CREDIT UNION et al

COUNSEL FOR:

- PLAINTIFF(S)
- APPLICANT(S)
- PETITIONER(S)

Sean Zwick formerly part
Aiden Ndims RSV Redman Inc (the Monitor)

PHONE 416-777-6254

FAX 416-865-1116

EMAIL zwick@donnetjones.com

D.J. Miller (TRF) for moving party
Alex Sackler Ferina

T: 416-304-0559

F: 416-304-1313

COUNSEL FOR:

- DEFENDANT(S)
- RESPONDENT(S)

PHONE _____

FAX _____

EMAIL _____

JUDICIAL NOTES:

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FOR TARION WARRANTY CORPORATION

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F 416 865 7310

aslavens@torys.com

Chris Besant
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GRUP.com

DON MICHAUD

for various mortgages in clients process

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F 416 888 0306

donrichard@r.besant.com

Bobby Sachelava

Stephanie N. Carie
for Grant Thornton, Trustee in Bankruptcy

Major file for re CC&A activities

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F: " " 3320

Jeffrey Larry

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George Berchert

for Home Trust Company

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F - (4) 218-1841

E - george@chertons.com

John N. Birch

for Birchs, Birchs, Black & Blackwell LLP

T 416 860 5225

F 416 640 3057

Feb. 20, 2020 5:01 PM EST

Court File Number: CV-18-608313-0001

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

IN THE MATTER OF A PLAN OF
Plaintiff(s)
AND
COMPROMISE OF FORMER DEVELOPMENT GROUP
Defendant(s)
JNC

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

① The Monitor brings a motion for relief to be reviewed below. The motion is supported by all stakeholders represented by counsel

Date

Judge's Signature

Additional Pages _____

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsement Continued

recorded on the counsel
 slip except the Non-
 Applicant companies
 represented by Mr
 Bevan who opposes
 the Motion.
 ② At the outset of the
 Motion the Monitor's
 counsel, at my direction,
 suggested to Mr Bevan

Page 2 of _____

Judges Initials _____

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

That the order could be granted without prejudice to his clients' positions. Mr Berant declined to proceed in this fashion and insisted that the Motion proceed.

③ Despite Mr Berant's submission, I granted the order for the

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Judges Endorsment Continued

Following reasons:

① The remedy approval and vesting order and the distributions order were not opposed and I am satisfied the sale and proposed distributions are in the best interests of the stakeholders.

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Judges Endorsement Continued

② The ancillary order is appropriate and the time for service of the Motion Record is abridged. No one is prejudiced by this order as the Motion Record was served eight days before the Motion was heard.

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Judges Endorsement Continued

③ I am satisfied that
 The stay period should
 be extended to May 31, 2020.
 The applicants have acted
 in good faith and
 circumstances exist that
 make the order
 appropriate because it
 will permit the Plaintiff
 to maximize stakeholder

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Judges Endorsment Continued

recovery for the awards
set out at para 53 of
the Monitor's report.

④ The confidential appendices
of the Monitor's Twelfth
Report contain sensitive
commercial information
that should be sealed
in accordance with the
test in *Sierra Club*. They

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Judges Endorsment Continued

aspect of the order is not
opposed.

⑤ The Undertaking
dated March 14, 2019
should be amended by
Order of the Court to
substitute Bennett & Jones
LLP, the Monitor's legal
counsel, to hold the
surplus funds currently

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Judges Endorsment Continued

held in Carol Brock &
 Blackwell FFP's ("CBB")
 Trust account and any
 further realizations
 from the Non-applicants'
 unold real property.
 CBB is therefore ordered
 to transfer these funds
 to Bennett Jones FFP
 forthwith on the terms set

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Judges Endorsment Continued

out in the order.

⑥ I am satisfied that

I should make an

order pursuant to

s. 181(1) of the BIA

annulling the arrangements

into bankruptcy made

on January 28, 2020

by the Non-Applicants

companies without any

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Judges Endorsment Continued

motion to the Monitor for
the following two
reasons:

(a) The Non-Applicant
companies were not
demonstrably insolvent
persons. Each company
has sold its real
property generating
sufficient proceeds to

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Judges Endorsment Continued

repay its mortgage debt
 in full and to permit
 the surplus funds
 currently held in
 CBB's trust account in
 the amount of approximately
 \$11 Million. The only
 evidence before the
 court is that the value
 of the non-applicants' assets

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Judges Endorsment Continued

exceeds their liabilities.

This is not a "clean
out situation" of

insolvency that is

"clearly established by

sound and convincing

evidence."; and

(b) In my view

the assignments into

bankruptcy are an

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Judges Endorsment Continued

abuse of process because
 There is an ongoing
 claims process, approved
 by Meq. To address
 any remaining claims
 against the Non-applicants,
 and distributions will
 not require a
 bankruptcy. The
 arrangements are

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FILE/DIRECTION/ORDER

Judges Endorsment Continued

entirely duplicative
 and serve no useful
 purpose. The non
 applicants' creditor
 relationships are already
 being managed in
 these CAA proceedings
 and the Court-supervised
 claims process, all
 of which was consented

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Judges Endorsment Continued

To be by Mr. Wang, The
 controlling mind of
 The Not-Applicants.
 If these assignments are
 not annulled, they
 will stay the court-
 approved claims
 process at the expense
 of creditors and the
 court and will not

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Judges Endorsment Continued

accomplishes everything
 already scheduled by
 These unique and heavily
 negotiated CCAA proceedings
 The claims process
 is one of several
 integral "building blocks"
 in the CCAA proceedings
 and, in my view,
 must be respected.

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Judges Endorsment Continued

The assignments must not be permitted to undermine this important building block. [see Chief Justice Morneau's reasons at para 81 in Target Canada Co, 2015 ONSC 303]

⑦ I am satisfied that the CAA claims

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Judges Endorsment Continued

~~Claims~~ process should
 continue and that
 proven Wang claims
 will be admitted as
 proven claims in the
 proceedings related to
 the Wang NO 9.

⑧ Finally, without
 further order of the
 court the surplus funds

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Judges Endorsment Continued

To be transferred from
CBB to The Monitor's
counsel shall not
be used to pay any
parties' legal fees.

⑨ In my view, this
is an appropriate
case to make an order
as to costs. I have
requested counsel

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Judges Endorsment Continued

provide me with
short written costs
submissions.

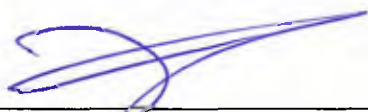
⑩ I thank all counsel
for their helpful
submissions.

Justice J

February 20, 2020

TAB C

This is Exhibit "C" referred to in the
supplementary affidavit of Emily Y. Fan
sworn before me, this 16th
day of March, 2020.



A Commissioner for Taking Affidavits

Valerie Zung Yee Chau, a Commissioner, *etc.*,
Province of Ontario, for
Lerners LLP, Barristers and Solicitors.
Expires July 23, 2021

Court File No.: 31-2610052
Estate No. 31-2610052

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3,
AS AMENDED
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
YUAN HUA (MIKE) WANG
APPLICATION UNDER THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-
3, AS AMENDED

Court File No. CV-18-608313-00CL

**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
**FORME DEVELOPMENT GROUP INC. AND OTHER COMPANIES LISTED ON
SCHEDULE "A"**
APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

ENDORSEMENT

1. Ferina Construction Limited ("Ferina") served a motion on February 19, 2020 to terminate the time set out in section 50.4(8) of the *Bankruptcy and Insolvency Act* for Yuan Hua (Mike) Wang ("Mr. Wang") to make a proposal. Mr. Wang also served a motion on February 19, 2020 to extend the time for him to make a proposal. Each of these motions was stated to be returnable on February 20, 2020 to coincide with the return of motions brought by the court-appointed Monitor and the Non-Applicant companies in the related CCAA proceeding. The motions brought by Ferina and Mr. Wang were not heard that day pursuant to my direction, and were to be scheduled by counsel.
2. Counsel have now attended on this 9:30 Chambers attendance to schedule the motions. The motions brought by Ferina and Mr. Wang will be heard together on March 25, 2020 at 10 a.m. for a total of 90 minutes. 31
3. Given the related nature of these motions to the Forme Development Group Inc. *et al* CCAA proceeding of which I am seized, I am also seized of these motions. 44

4. I am advised that the time period within which Mr. Wang may make a proposal currently expires on February 26, 2020. That time period is hereby extended to March 23, 2020 on a without prejudice basis, including to any argument that Ferina or any other party or participant on the motion may make. If, prior to the return of the motions, Mr. Wang files a proposal, Ferina's motion may proceed as a motion pursuant to section 50(12) of the BIA, rather than section 50.4(8), without the need for any further or amended Notice of Motion being filed.

5. The following conditions apply to the Ferina motion and the motion brought by Mr. Wang:

a. Mr. Wang may be served with any materials by e-mailing him a copy at mike@formeddevelopmentgroup.com;

b. Unless and until such time as Mr. Ullmann advises counsel for Ferina that his firm no longer represents Mr. Wang, a copy of any materials served by e-mail on Mr. Wang will also be served by e-mail on Mr. Ullmann at dullmann@blaney.com

c. the March ³¹ 23, 2020 motion date and all dates set out below are preemptory to Mr. Wang, regardless of whether he continues to be represented by his current counsel.

Nothing in this Endorsement or the order required Blaney identify to remain as counsel to Mr. Wang;

6. The parties will each adhere to the following timetable:

Step to be completed	By which party	Date to be completed
Responding Motion Record, if any	Any	March 2, 2020
Cross-Examinations, if any	All	March 9, 2020
Answers to Undertakings	All	March 12, 2020
Factum/Book of Authorities	All	March 17, 2020

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

AFFIDAVIT OF EMILY Y. FAN

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**MOTION RECORD
(Motion returnable March 30, 2020)**

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