

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

MONDAY, THE 5TH

MR. JUSTICE PATTILLO

)

DAY OF JULY, 2021

B E T W E E N:

497227 ONTARIO LIMITED, 1884340 ONTARIO INC.,
1649750 ONTARIO INC. and 783305 ONTARIO LIMITED

Applicants

-and-

GROSS CAPITAL INC., GROSS PROPERTIES INC., SHELDON GROSS
LIMITED, SGZ HOLDINGS INC., MGZ HOLDINGS INC., JOHN
MORTGAGE CORP., 503 JOHN MORTGAGE CORP., 511 JOHN
MORTGAGE CORP., 515 JOHN STREET INC., 1314244 ONTARIO
LIMITED, CANAMED (MORRISON STREET) LIMITED, CANAMED
(STAMFORD) LIMITED, 65 LARCH HOLDINGS INC., 2009 LONG LAKE
HOLDINGS INC., BURLINGTON HEALTHCARE CENTRE INC.,
CARRIAGE GATE BERKELEY INC., PORTAGE ROAD HOLDINGS
LIMITED, MORRISON STREET HOLDINGS LIMITED, 800 PRINCESS
STREET HOLDINGS LIMITED, 132 SECOND STREET HOLDINGS INC.,
2771839 ONTARIO LIMITED, 132 SECOND STREET PURCHASER
LIMITED, PICTON CLINIC CORPORATION, PINE TRAIL PICTON INC.,
M1 HEALTHCARE PROPERTIES INC., CANNECT INTERNATIONAL
MORTGAGE CORPORATION, formerly known as 1592106 Ontario Inc.,
FAUSTO CARNICELLI, DOMENIC CARNICELLI, MAURO CARNICELLI,
MARK GROSS, SHELDON GROSS and WERNER DINGFELD

Respondents

APPLICATION UNDER Section 248 of the *Business Corporations Act*, R.S.O. 1990, c. B-16,
Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 and
Rule 40.01 of the *Rules of Civil Procedure*

AND

Court File No. 31-2747949

IN THE MATTER OF THE BANKRUPTCY OF GROSS CAPITAL INC.

ORDER

THIS MOTION made by the Applicants for an Order pursuant to section 248(1) of the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended (the “OBCA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing RSM Canada Limited as investigative receiver (in such capacity, the “Receiver”) without security, of certain of the Respondents, was heard this day before a Judge of the Commercial List via zoom videoconference. at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of the Applicants and the Exhibits thereto and on hearing the submissions of counsel for the Applicants, counsel for the Respondents 515 John Street Inc., 1314244 Ontario Limited, Burlington Healthcare Centre Inc., 2771839 Ontario Limited, M1 Healthcare Properties Inc., Fausto Carnicelli, Werner Dingfeld, Carriage Gate Berkeley Inc. Domenic Carnicelli, Mauro Carnicelli, Mark Gross, MGZ Holdings Inc., and counsel for KSV Restructuring Inc in its capacity as trustee in bankruptcy for Gross Capital Inc. and counsel for KPMG Inc. in its capacity as court-appointed receiver and manager of 65 Larch Holdings Inc., 2009 Long Lake Holdings Inc. and certain assets of Gross Properties Inc., and on hearing the consent of RSM Canada Limited to act as the Receiver,

1. THIS COURT ORDERS AND DECLARES:

- (a) the Applicants are hereby authorized to commence seeking and continue seeking Judgment against Gross Capital Inc. (the “**Bankrupt**”) in the Application having Court File No. CV-21-00664789-00CL (the “**Application**”) and the stay of proceedings pursuant to s.69 of the Bankruptcy and Insolvency Act, R.S.C., 1985,

c. B-3 in respect of proceedings against the Bankrupt no longer operates in respect of the Applicants for such purpose only, subject to further order of the Court;

(b) such authorization does not extend to Gross Properties Inc., 2009 Long Lake Holdings Inc. and/or 65 Larch Holdings Inc. to the extent that the relief sought concerns any “Legal Owners”, “Property” or “Records” as such terms are defined in the Order of Justice Dunphy granted on June 29, 2021 in the receivership proceedings bearing Court File No. CV-21-00664273-00CL.

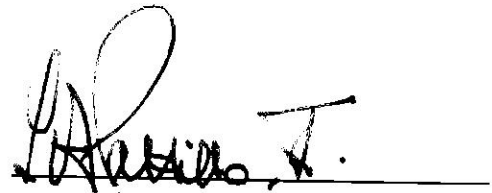
2. THIS COURT ORDERS that the Applicants’ pursuit of Judgment in the Application as against the Bankrupt shall be for the purpose only of establishing the amount for which the Applicants are entitled to prove in the bankruptcy of the Bankrupt as an unsecured claim, such that, for greater certainty, the enforcement of any Judgment obtained by the Applicants as against the Bankrupt remains stayed pending further Order of this Court.

3. THIS COURT ORDERS that nothing in this Order shall be deemed to require KSV Restructuring Inc. (“KSV”), in its capacity as the bankruptcy trustee of the Bankrupt (in such capacity, the “Trustee”), to defend the Application or the Judgment sought therein, or to take any other steps in respect of the Application or the Judgment sought therein, including, without limitation, production of documents or participating in any discovery proceedings or similar proceedings, except as expressly ordered below, and that neither KSV nor the Trustee shall be liable for any costs with respect to the Application or the Judgment sought therein.

4. THIS COURT ORDERS that the Trustee be and is hereby authorized and directed, upon payment by the Applicants to the Trustee as set out below, to examine the Bankrupt’s electronic

and physical records that are within the Trustee's control and provide to the Applicants any such records: (i) to which both the Applicants (or any of them) and the Respondents (or any of them) are parties; or (ii) that in the view of the Trustee, acting reasonably, appear to constitute any of the security or guarantees (if any) referenced in any of the records in (i). All reasonable fees and expenses incurred by the Trustee in connection with attempting to locate, locating and/or providing the foregoing documents, as applicable, shall be paid jointly and severally by the Applicants to the Trustee, including, without limitation, at the regular hourly rates of those representatives of the Trustee engaged with such tasks and any reasonable disbursements in connection with same, and neither KSV nor the Trustee shall incur any liability in connection with any such records.

5. THIS COURT ORDERS that the balance of the relief sought on the Application be adjourned to Thursday July 8, 2021 at 9:00 A.M. for scheduling



497227 ONTARIO LIMITED et al.
Applicants

-and- GROSS CAPITAL INC. et al.
Respondents

Court File No. CV-21-00664789-00C

-and-

IN THE MATTER OF THE BANKRUPTCY OF GROSS CAPITAL INC.

Court File No. 31-2747949

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER

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