



Court File No. CV-19-00622054-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE )

JUSTICE **HAINES** )

FRIDAY, THE 19<sup>TH</sup>

DAY OF July, 2019

**FIRST SOURCE FINANCIAL MANAGEMENT INC.  
and KINGSETT MORTGAGE CORPORATION**

Applicants

- and -

**IDEAL (BC) DEVELOPMENTS INC., IDEAL (BC2) DEVELOPMENTS INC., IDEAL  
DEVELOPMENTS INC., 2490564 ONTARIO INC., 2490568 ONTARIO INC. and  
SHAJIRAJ NADARAJALINGAM**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY  
ACT*, R.S.C., 1985 C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF  
JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ORDER  
(appointing Receiver)**

THIS MOTION made by the Applicants for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing KSV Kofman Inc. as receiver and manager (in such capacities, the "**Receiver**") of the real property of the respondents Ideal (BC) Development Inc., Ideal (BC2) Development Inc., 2490564 Ontario Inc., and 2490568 Ontario Inc., (the "**Debtors**"), known municipally as 8, 10, 12, 14, 16 and 18 Bostwick Crescent, and 2, 6 and 8 Bond Crescent, in the Town of Richmond Hill, Ontario and legally described within PINs 03196-0072 (LT), 03196-0073 (LT), 03196-0074 (LT), 03196-0075

(LT), 03196-0076 (LT), 03196-0077 (LT), 03196-0078 (LT), 03196-0079 (LT), 03196-0080 (LT) (the “**Real Property**”).

ON READING the Application Record of the Applicant, the Responding Record, the Reply Record, the transcripts of the cross-examination of Daniel Pollack and Shajiraj Nadarajalingam, the Compendium from the cross-examination of Shajiraj Nadarajalingam, the additional documents handed up during the hearing, and on hearing the submissions of counsel for the Applicants and Respondents.

### **SERVICE**

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

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver of the Real Property.

### **RECEIVER’S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Real Property and any and all proceeds, receipts and disbursements arising out of or from the Real Property;
- (b) to receive, preserve, and protect the Real Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the engaging of independent security personnel, the taking of

physical inventories and the placement of such insurance coverage with respect to the Real Property as may be necessary or desirable;

- (c) to carry on the business of the Debtors in respect of the Real Property, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, in respect of the Real Property, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors in respect of the Real Property;
- (d) to engage consultants, appraisers, agents, experts, accountants, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, conferred by this Order;
- (e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors with respect to the Real Property and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors in respect of the Real Property;
- (f) to settle, extend or compromise any indebtedness owing to the Debtors in respect of the Real Property;
- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors in respect of the Real Property, the Real Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) subject to the prior approval of the sales process by this Court to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and

conditions of sale as the Receiver in its discretion may deem appropriate and as is approved by this Court;

- (i) upon obtaining the approval of this Court, to sell, convey or transfer, the Real Property out of the ordinary course of business,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be;

- (j) to apply for any vesting order or other orders necessary to convey the Real Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Real Property;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Real Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable or as this Court may require;
- (l) to register a copy of this Order against title to the Real Property;
- (m) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority with respect to the Real Property and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have in respect of the Real Property;
- (o) to make or cause to be made such appraisal and investigation of the Real Property as to enable the Receiver to examine any disposition or transfer of the Real Property prior to the date hereof; and

- (p) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that: (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on the Debtors behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall grant immediate and continued access to the Real Property to the Receiver.

5. THIS COURT ORDERS that the Debtors shall promptly advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Real Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in the Debtors' possession or control with respect to the Real Property, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of such accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to 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 or which do not relate to the Real Property.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto

paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors in respect of the Real Property or the Real Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors in respect of the Real Property or the Real Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Debtors in respect of the Real Property, the Receiver, or affecting the Real Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors in respect of the Real Property, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services to the Debtors in respect of the Real Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors in respect of the Real Property or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from the Real Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence relating to the Real Property, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

13. THIS COURT ORDERS that the Receiver may, but is not obligated to, enter into one or more agreements with any entity that employs individuals who provide services in respect of the

Real Property. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Real Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Real Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser the Real Property shall be entitled to continue to use the personal information provided to it, and related to the Real Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed. No information regarding the Real Property shall be disclosed by the Receiver to any prospective purchaser or bidder until and unless this Court has first approved of a sales process with respect to the Real Property.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of the Real Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario



*Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of the Real Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act* or for failing to adhere to the terms of this Order. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

17. THIS COURT ORDERS that the Receiver and legal counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and legal counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Real Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Real Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its

fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its legal counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$ 175,000 (or such greater amount as this Court may by further Order authorize or the parties agree otherwise) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Real Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed not exceeding \$ 175,000 by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## **SERVICE AND NOTICE**

24. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<[@](#)>’.

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors’ creditors in respect of the Real Property or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

28. THIS COURT ORDERS that the Debtor may obtain replacement financing required to pay out the indebtedness due and owing to the Applicants before a sales process of the Real Property is approved by this Court.

29. 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.

30. 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.

31. THIS COURT ORDERS that the Applicants shall have their costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' security, then on a partial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



A handwritten signature in blue ink, appearing to read "CM Chiba".

**CM CHIBA, Registrar**  
**Superior Court of Justice**

393 UNIVERSITY AVE. 393 AVE. UNIVERSITY  
6TH FLOOR 6E ÉTAGE  
TORONTO, ONTARIO TORONTO, ONTARIO  
M5G 1E6 M5G 1E6

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV Kofman Inc., the receiver (the "**Receiver**") of the real property of the respondents Ideal (BC) Development Inc., Ideal (BC2) Development Inc., 2490564 Ontario Inc., and 2490568 Ontario Inc., (the "**Debtors**"), known municipally as 8, 10, 12, 14, 16 and 18 Bostwick Crescent, and 2, 6 and 8 Bond Crescent, in the Town of Richmond Hill, Ontario and legally described within PINs 03196-0072 (LT), 03196-0073 (LT), 03196-0074 (LT), 03196-0075 (LT), 03196-0076 (LT), 03196-0077 (LT), 03196-0078 (LT), 03196-0079 (LT), 03196-0080 (LT) (the "**Real Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 27<sup>th</sup> day of July 2019 (the "Order") made in an action having Court file number CL-19-00622054-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Real Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Real Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

KSV Kofman Inc., solely in its capacity  
as Receiver of the Real Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

FIRST SOURCE FINANCIAL MANAGEMENT INC. et al.  
Applicants

-and- IDEAL (BC) DEVELOPMENTS INC. et al.  
Respondents

Court File No. CV-19-00622054-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(APPOINTING RECEIVER)**

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