



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-00722148-00CL DATE: OCTOBER 3, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: **KINGSETT MORTGAGE CORPORATION et al v. MAPLEQUEST VENTURES INC.**

BEFORE: **JUSTICE W.D. BLACK**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Dave Rosenblat	Counsel to Applicants	drosenblat@osler.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Khaled Gheddai	Counsel to Respondents	kg@friedmans.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Linda Fraser-Richardson	Counsel to Receiver	fraserrichardsonl@bennettjones.com
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Murtaza Tallat	KSV Restructuring, Receiver	mtallat@ksvadvisory.com

ENDORSEMENT

[1] This was a motion by KSV Restructuring Inc. ("KSV"), in its capacity as the Receiver, (in this endorsement I will use this, and other terms as defined in the materials before me).

- [2] The Receiver seeks an order, among other things:
- (a) Approving the Transaction contemplated by the APS between the Receiver as vendor and Lakhvir Kaur as purchaser; and
 - (b) Following the Receiver's delivery of the Receiver's Certificate, transferring and vesting all of Digram's right, title and interest in and to the Purchased Assets to the Purchaser free and clear of all liens, charges, security interests and encumbrances, other than permitted encumbrances.
- [3] This motion was part of the relief sought before Steele J. on September 17, 2025, (Her Honour granted other relief on an unopposed basis that day).
- [4] With respect to the relief remaining at issue before me today, counsel for the Respondents sent to counsel to the Receiver, on September 16, 2025, the day before the motion on September 17, the Respondents' APS, and requested an adjournment of this aspect of the motion (and offering, in effect, that the Respondents would become the purchaser of the Phyllis Property). Later, on September 16, the Respondents served the Respondents' Motion Materials seeking an order approving the Respondents' APS (i.e., rather than the AVO sought by the Receiver with respect to the Phyllis Transaction).
- [5] Following discussions between counsel for the Receiver and counsel for the Respondents, the Receiver, in consultation with the applicant (and fulcrum creditor) Kingsett, agreed, notwithstanding the last-minute delivery of the email request/offer and Respondents' Motion Materials, to adjourn the AVO (and related distribution portion of the Receiver's motion), and to consider the Respondents' APS, the Respondents' Motion Materials, and to further engage and consult with interested parties.
- [6] The Receiver did so expeditiously, and late in the day on September 18 sent an email to Respondents' counsel, pointing out concerns about the Respondents' APS but inviting the Respondents to submit a revised offer to address those concerns, and advising that the Receiver would, if it received a revised offer from the Respondents, "seek advice and directions from the Court as to which agreement of purchase and sale should be completed in the circumstances."
- [7] The Receiver requested that a Revised Offer, if any, be submitted by September 22.
- [8] The Receiver did not receive a Revised Offer by September 22, nor any response to its August 18 email, and so sent a follow-up email on September 23. On September 26, 2025, the Receiver delivered the Supplement to the Second Report, in which it described the correspondence with Respondents' counsel, noted no further response from the Respondent (or its counsel) by that date, and recommended that the court grant the AVO with respect to the Phyllis APS.
- [9] On September 29, 2025, 11 calendar days after its September 18 email, and three days after delivering the Receiver's Supplement to the Second Report, the Receiver's counsel received an email from Respondents' counsel attaching a revised Respondents' APS and a copy of a bank draft provided by Auriga in connection with its deposit of \$120,000.
- [10] While the revised form of the Respondents' APS did address certain of the deficiencies and issues identified by the Receiver in the September 18 email, the Respondents did not provide any evidence of Auriga's financial wherewithal to pay the balance of the purchase price contemplated under the revised Respondents' APS. The Receiver's counsel corresponded with the Respondents' counsel again that same day, reiterating the request for evidence of Auriga's financial ability to close the transaction.

- [11] On September 30, 2025, counsel for the Respondents provided the Receiver with a conditional mortgage approval letter from Affinity dated September 30, 2025, and advised that it understood all conditions to be satisfied.
- [12] On October 1, 2025, counsel to the Respondents provided the Receiver with a copy of an email from Affinity dated September 30, 2025, confirming that all broker conditions were satisfied, and attached the Supplementary Affidavit in which Ali Memon asserted that the transaction proposed in the form of the revised Respondents' APS was in the best interest of all stakeholders, as it would maximize recoveries for the applicants.
- [13] Notwithstanding this assertion, the Receiver has the following concerns, all of which I accept as legitimate and significant:
- (a) The Approval Letter requires a downpayment of \$375,000, whereas the deposit held by Respondents' counsel is \$120,000, and there is no evidence that Auriga has the additional \$255,000 to fund the downpayment. I asked Respondents' counsel about this issue in the course of the hearing, and his answer was not responsive;
 - (b) The Purchase Price in the Approval Letter is noted as \$1,500,000, which is overstated relative to the price set out in the revised Respondents' APS by about \$250,000. The Receiver expresses the concern that Auriga may have inflated the purchase price to Affinity to avoid having to put down the full required downpayment while at the same time securing a larger mortgage commitment in order to satisfy the purchase price. Again, when I asked Respondents' counsel about this issue, no answer was forthcoming;
 - (c) The Receiver advises that it has had prior and ongoing negative experience, in other unrelated receivership matters where Auriga has submitted offers to purchase but has been unable or unwilling to ultimately tender the funds to close a transaction. While this is of course indirect hearsay evidence, when it is raised by an officer of the court it cannot be entirely discounted;
 - (d) To somewhat similar effect, the Receiver notes that there are concerns about the Respondents' obstructive behaviour and attempts to intimidate the Purchaser (as described summarily in the Supplemental Report). In that regard, there was an unusual development during the course of the hearing. That is, in the early part of the hearing, it was evident from one of the "Zoom boxes" on the screen, that the proposed purchasers in the Phyllis APS (for which the Receiver seeks the AVO), were in attendance. During his submissions, counsel for the Respondents took me to an email exchange from mid-September in which the Phyllis APS purchasers appeared to express a preference to close the purchase with Auriga. This was contrary to the Receiver's submissions, and I noted that there was no correspondence after mid-September as to the Phyllis APS purchaser's mindset. Oddly, at the time that Respondents' counsel was making that submission, the Phyllis APS purchasers dropped out of the Zoom session. In the circumstances I asked the Receiver's representative in attendance to advise me as to his understanding of the Phyllis APS purchasers' wishes. The Receiver's representative, Mr. Tallat, advised that to his knowledge the Phyllis APS purchasers wished to close the Transaction (i.e., with the Receiver), and that they had been intimidated by the Respondents into saying what they had in the mid-September emails. Consistent with that notion, the Phyllis APS purchasers sent a text to Mr. Tallat just as he was speaking at my request, saying that they had dropped out of the session because of their concern that Respondents' counsel was referring to the evidence of the mid-September emails which had

been coerced out of them. Again, given the hearsay nature of this evidence, I cannot place much weight on it, but suffice it to say that whatever its impact, it does not assist the Respondents.

- [14] Given these concerns and given the lack of a meaningful substantive response from the Respondents, I would be wary of forestalling the Transaction in favour of the revised Respondents' APS with its surrounding uncertainty.
- [15] Moreover, notwithstanding that the Purchase Price in the Respondents' APS, to the extent it can be credited, is modestly higher than the Purchase Price in the Phyllis APS, the applicant Kingsett, echoes the Receiver's concerns about the Respondents (and the Respondents' APS), and entirely supports the Receiver's recommendation that the court should grant the AVO sought.
- [16] The impact of the Receiver's recommendation itself is not to be understated. That is, a reputable officer of the court, charged and empowered with the responsibility for determining the most advantageous disposition of assets for all stakeholders, is unequivocally recommending that the court make the AVO order relative to the Transaction.
- [17] The court would never lightly disregard the Receiver's recommendation and would only ever do so in the face of compelling evidence of good reason to do so.
- [18] Here there is no such evidence. Rather, the Receiver's approach to the exercise complies with the *Soundair* criteria and is reasonable and appropriate in the circumstances.
- [19] For these reasons, as I advised the parties at the conclusion of the hearing, I am granting the order sought by the Receiver, a signed copy of which is attached.



W.D. BLACK J.

RELEASED: OCTOBER 7, 2025