

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

**B E T W E E N:**

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

Applicants

- and -

**MAPLEQUEST VENTURES INC. AND DIGRAM DEVELOPMENTS CALEDON INC.**

Respondents

**IN THE MATTER OF AN 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**

**FACTUM OF THE RECEIVER**

September 15, 2025

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not in its personal capacity

**TO: THE SERVICE LIST**

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## PART I: OVERVIEW

1. This factum is filed by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver and manager (in such capacities, the “**Receiver**”), without security, of the Property (as defined in the Receivership Order dated June 26, 2024 (the “**Receivership Order**”)), of Maplequest Ventures Inc. (“**Maplequest**”) and Digram Developments Caledon Inc. (“**Digram**”) and together with Maplequest, the “**Debtors**”), in support of its motion for the following relief:

- (a) an order (the “**Approval and Vesting Order**”), among other things:
  - (i) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Lakhvir Kaur, as purchaser (the “**Purchaser**”), dated July 31, 2025 (the “**APS**”); and
  - (ii) upon the Receiver’s delivery of the Receiver’s certificate substantially in the form attached as Schedule “A” to the proposed Approval and Vesting Order (the “**Receiver’s Certificate**”), transferring and vesting all of Digram’s right, title and interest in and to the assets described in the APS (the “**Purchased Assets**”), to the Purchaser, free and clear of all liens, charges, security interests and encumbrances, other than any permitted encumbrances; and
- (b) an order (the “**Distribution, Sealing and Ancillary Matters Order**”), among other things:
  - (i) authorizing and directing the Receiver to make certain payments and distributions, and maintain certain reserves from the Phyllis Proceeds (as defined below);
  - (ii) approving, *nunc pro tunc*, the Settlement Agreement and Release dated as of August 7, 2025 (the “**Settlement Agreement**”), between the Receiver (for and on behalf of Digram), Mayfield West Developers Group Inc. (in such capacity, the “**Trustee**”) and Yeoman Developments Inc. (“**Yeoman**”);

- (iii)amending the Receivership Order, *nunc pro tunc*, to add certain additional personal property of Digram to the definition of “Property” (the “**Receivership Order Amendment**”);
- (iv)approving the Second Report of the Receiver dated September 10, 2025 (the “**Second Report**”), and the conduct and activities of the Receiver set out therein; and
- (v) sealing the Confidential Appendix (as defined below), until the earlier of: (i) the closing of the Transaction, or (ii) further order of the Court.

2. The Receiver believes that the relief sought in the within motion is fair, reasonable, and in the best interests of stakeholders. The relief sought is supported by the Debtors’ senior secured creditors and the Receiver is not aware of any opposition from any other party.

## **PART II: FACTS**

3. The facts underlying this motion are more fully set out in the Second Report.<sup>1</sup> All capitalized terms used but not defined herein have the meanings ascribed to them in the Second Report.

### **A. Background**

4. The Debtors consist of Maplequest and Digram, each of which is a real estate development company that owns certain of the Real Property (as defined in the Receivership Order, and together, the “**Real Properties**”) subject to these proceedings, on which it intended to develop certain residential projects (each a “**Project**” and collectively, the “**Projects**”).<sup>2</sup>

5. As of the date of the Receivership Order, construction had not yet commenced on any of the Real Properties, except for the Real Property owned by Digram, located at 54 Phyllis Drive,

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<sup>1</sup> Second Report of the Receiver dated September 10, 2025 [**Second Report**], Motion Record of the Receiver dated September 10, 2025 Tab 2 [**Motion Record**].

<sup>2</sup> Second Report, *ibid* at s. 2.0, paras 3-4, Motion Record at Tab 2.

Caledon, Ontario, being PIN 14235-6773 and PIN 14235-5967 (LT) (collectively, the “**Phyllis Real Property**”).<sup>3</sup>

6. KingSett Mortgage Corporation (“**KingSett**”) and First Source Financial Management Inc. (“**First Source**” and together with KingSett, the “**Mortgagees**”) are the senior secured creditors of Maplequest and Digram.<sup>4</sup>

7. The Mortgagees each extended loan facilities to Maplequest in connection with the development of its Projects on the Heritage Real Property (the “**Heritage Loan**”) and the Countryside Real Property (the “**Countryside Loan**”), respectively.<sup>5</sup>

8. In connection with the Heritage Loan, Digram and Maplequest granted KingSett various security interests, which include, among other things:

- (a) a first ranking mortgage charge against the Heritage Real Property;
- (b) a first ranking mortgage charge over various Real Properties owned by Digram, being the Phyllis Real Property, Dotchson Real Property, the Portman Real Property, and the Breckonwood Real Property, which were each given as collateral security;
- (c) an Assignment of Profit and Equity relating to the Projects known as Mayfield West Phase 1 Development and Mayfield West Phase 2 and 3 Development (the “**Assignment of P&E**”); and
- (d) a second ranking mortgage charge (behind First Source) against the Countryside Real Property.<sup>6</sup>

9. In connection with the Countryside Loan, First Source’s security interests include, among other things, a first ranking mortgage charge against the Countryside Real Property.<sup>7</sup>

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<sup>3</sup> Second Report, *ibid* at s. 2.0, para 5, Motion Record at Tab 2.

<sup>4</sup> Second Report, *ibid* at s. 1.0, para 2, Motion Record at Tab 2.

<sup>5</sup> Second Report, *ibid* at s. 3.1, para 1, Motion Record at Tab 2.

<sup>6</sup> Second Report, *ibid* at s. 3.1, para 3; s. 7.0, para 1; Appendix “E”, Motion Record at Tab 2; Tab 2E.

<sup>7</sup> Second Report, *ibid* at s. 3.1, para 4, Motion Record at Tab 2.

10. As at September 30, 2024, KingSett was owed approximately \$51.6 million under the Heritage Loan (the “**KingSett Indebtedness**”), and First Source was owed approximately \$49 million under the Countryside Loan (interest and fees continue to accrue on these amounts). The Receiver understands that KingSett holds a participation interest of approximately \$31.5 million in the Countryside Loan, with its participation interest in the first position within the loan structure. As such, KingSett is the principal financial stakeholder in both the Heritage Loan and the Countryside Loan.<sup>8</sup>

11. In addition to the Mortgagees, the Receiver understands that there are certain other creditors of the Debtors, including, among others, Penco Drywall Ltd., which has registered a construction lien on the Phyllis Real Property (the “**Penco Lien**”). The Receiver further understands that Maplequest and Digram owe certain amounts related to unremitted source deductions to the CRA. In connection with the foregoing, the CRA has asserted a priority trust claim in connection with certain amounts it says are owing by Maplequest and Digram (the “**Digram CRA Trust Claim**”).<sup>9</sup>

## **B. The Receivership Proceedings**

12. Following the Debtors’ respective defaults under certain commitment letters, the Mortgagees sought and, on June 26, 2024, obtained the Receivership Order, pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Ontario Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), among other things, appointing KSV as the Receiver of the Property.

13. The Receivership Order, *inter alia*:

- (a) granted a first-ranking super-priority charge (the “**Receiver’s Charge**”) over the Property in favour of the Receiver and the Receiver’s counsel to secure their fees and disbursements in respect of these proceedings;

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<sup>8</sup> Second Report, *ibid* at s. 3.1, para 2, Motion Record at Tab 2.

<sup>9</sup> Second Report, *ibid* at s. 3.1, para 5; s. 3.2, para 1, Motion Record at Tab 2.

- (b) granted a second-ranking super-priority charge over the Property for the purpose of funding the exercise of the powers and duties conferred upon the Receiver pursuant to the proposed Receivership Order;
- (c) authorized and empowered the Receiver to act at once in respect of the Property, including to:
  - (i) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free of any liens or encumbrances;
  - (ii) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property;
  - (iii) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors in connection with the Property; and
  - (iv) 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, and with the Mortgagees' consent, may deem appropriate; and
- (d) directed the Receiver to hold all funds, monies and other forms of payment received or collected, including from the sale of all or any of the Property, net of any disbursements to be paid in accordance with the Receivership Order, or any further order of this Court.<sup>10</sup>

14. On October 7, 2024, the Receiver obtained an order (the “**Sale Process Approval Order**”), which, among other things, approved a sales process (the “**Sale Process**”) for all of the Debtors’ Property, except for the Phyllis Real Property. The Receiver advised in its First Report to the Court dated September 30, 2024 (the “**First Report**”), that it was considering various alternative realization options for the Phyllis Real Property.<sup>11</sup>

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<sup>10</sup> Second Report, *ibid* at Appendix “A”, paras 4, 15, Motion Record at Tab 2A.

<sup>11</sup> Second Report, *ibid* at s. 1.0, para 3, Motion Record at Tab 2.



## C. The Proposed Transaction and Vesting Order

### 1. The Phyllis Real Property

15. Prior to the receivership, Digram was developing a single-family detached home on the Phyllis Real Property, which was approximately 90% complete when construction ceased.<sup>12</sup>

16. At the outset of these proceedings, the Receiver was advised by Ali Muhammad Memon, a director of both of the Debtors, that he was prepared to fund the remaining construction of the home at no cost to the receivership estate, enabling the Receiver to close the sale with the existing pre-sale purchaser.<sup>13</sup> The Receiver agreed to explore this option with Mr. Ali Memon and followed up with Mr. Ali Memon multiple times in this respect. This offer was the Receiver's principal consideration for carving out the Phyllis Real Property from the Sale Process.<sup>14</sup>

17. However, following the passing of significant time, the Receiver received an offer from a third party that it understood to be directly or indirectly related to Mr. Ali Memon proposing instead to provide a first-ranking mortgage loan in order to complete construction on the Phyllis Real Property. This new offer was inconsistent with the prior discussions and unacceptable to the Mortgagees. Accordingly, the Receiver chose to consider alternate realization options for the Phyllis Real Property, culminating in the proposed Transaction.<sup>15</sup>

18. On or around January 16, 2025, the Receiver was approached by the Purchaser, the individual who had previously entered into a pre-sale agreement for the home being constructed on the Phyllis Real Property. The Purchaser advised that it would be willing to either: (i) complete the transaction originally contemplated by its pre-sale purchase agreement dated August 15, 2020 (the "**Pre-Sale Agreement**"); or (ii) complete an "*as-is, where-is*" purchase of the Phyllis Real Property.<sup>16</sup>

19. After reviewing the Pre-Sale Agreement, the Receiver identified several issues related to completing the transaction outlined therein, including:

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<sup>12</sup> Second Report, *ibid* at s. 2.1, para 1, Motion Record at Tab 2.

<sup>13</sup> Second Report, *ibid* at s. 2.1, para 2, Motion Record at Tab 2.

<sup>14</sup> Second Report, *ibid* at s. 2.1, para 3, Motion Record at Tab 2.

<sup>15</sup> Second Report, *ibid* at s. 2.1, para 3, Motion Record at Tab 2.

<sup>16</sup> Second Report, *ibid* at s. 4.0, para 1, Motion Record at Tab 2.

- (a) the vendor in the Pre-Sale Agreement was a company affiliated with Mr. Ali Memon, rather than Digram, the owner of the Phyllis Real Property;
- (b) the Pre-Sale Agreement provided for deposits of \$175,000, however, the Purchaser alleges that Mr. Ali Memon had agreed to credit the Purchaser a total of \$385,000 on closing in lieu of amounts allegedly owing to the Purchaser from unrelated transactions; and
- (c) the Pre-Sale Agreement provided for the delivery of a completed home, however, the existing structure is incomplete.<sup>17</sup>

20. Given the aforementioned challenges with completing the transaction contemplated by the Pre-Sale Agreement, including the significant costs and risks associated with completing the ongoing construction or undertaking a protracted marketing process that would not likely result in a higher or better offer, the Receiver determined that an “*as-is, where-is*” sale of the Phyllis Real Property to the Purchaser pursuant to the terms of the APS would yield the best outcome for all stakeholders and presented the most viable path forward.<sup>18</sup>

21. Following the Receiver’s decision, the Receiver and the Purchaser proceeded to negotiate definitive documents, ultimately resulting in the APS.<sup>19</sup>

## **2. The Transaction**

22. Subject to this Court’s approval, the Receiver has agreed to sell, assign, convey and transfer to the Purchaser, and the Purchaser has agreed to purchase, the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances (each as defined in the APS).<sup>20</sup> The Purchased Assets include:

- (a) the Lands, being the Phyllis Real Property, including the partially constructed building thereon;

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<sup>17</sup> Second Report, *ibid* at s. 4.0, para 2, Motion Record at Tab 2.

<sup>18</sup> Second Report, *ibid* at s. 4.0, paras 4-5, Motion Record at Tab 2.

<sup>19</sup> Second Report, *ibid* at s. 4.0, para 5, Motion Record at Tab 2.

<sup>20</sup> Second Report, *ibid* at s. 4.0, para 5, Motion Record at Tab 2.

- (b) prepaid expenses or deposits relating to the Lands;
- (c) the Permits, to the extent transferable; and
- (d) all intellectual property, if any, owned by Digram related to the Lands.<sup>21</sup>

23. The Transaction is on an “*as-is, where-is*” and “*without recourse*” basis, with minimal representations, warranties, and conditions, and no surviving representations or warranties made by the Receiver.<sup>22</sup> The only material conditions to closing are the issuance of the proposed Approval and Vesting Order and the Town Consent (as defined in the APS).<sup>23</sup>

24. The proposed Approval and Vesting Order vests the Purchased Assets upon the delivery of the Receiver’s Certificate. The net proceeds of the Transaction (the “**Phyllis Proceeds**”) are proposed to stand in the place and stead of the Purchased Assets.

25. Pursuant to the terms of the APS, if approved, the Receiver and the Purchaser will work to close the Transaction within ten business days following the receipt of the proposed Approval and Vesting Order.<sup>24</sup>

## **D. The Proposed Distribution, Sealing and Ancillary Matters Order**

### **1. The Confidential Appendix**

26. The Receiver seeks to seal the Confidential Appendix “1” to the Second Report, which consist of the unredacted copy of the APA (the “**Confidential Appendix**”) until the earlier of: (i) the closing of the Transaction, or (ii) further order of the Court. The Confidential Appendix sets out the purchase price accepted for the Phyllis Real Property (the “**Purchase Price**”). Disclosing the Purchase Price could adversely impact the future marketability of the Phyllis Real Property should the Transaction not close.<sup>25</sup> Accordingly, sealing the Confidential Appendix is necessary for ensuring recoveries in these proceedings are maximized.<sup>26</sup>

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<sup>21</sup> Second Report, *ibid* at s. 4.0, para 5(d); Appendix “B”, Motion Record at Tab 2; Tab 2B.

<sup>22</sup> Second Report, *ibid* at s. 4.0, para 5(e), Motion Record at Tab 2.

<sup>23</sup> Second Report, *ibid* at s. 4.0, para 5(e), Motion Record at Tab 2.

<sup>24</sup> Second Report, *ibid* at s. 4.0, para 5(f), Motion Record at Tab 2.

<sup>25</sup> Second Report, *ibid* at s. 4.2, para 1, Motion Record at Tab 2.

<sup>26</sup> *Ibid*, Motion Record at Tab 2.

27. The public interest in maximizing the value of the Phyllis Real Property, as a matter of proportionality, significantly outweighs any prejudice that may result from the temporary sealing of the Confidential Appendix.<sup>27</sup>

## **2. The Proposed Distributions to KingSett**

28. The payment and performance of the Debtors' obligations in respect of the Heritage Loan are secured by, among other things, a first ranking mortgage charge on the Phyllis Real Property, granted by Digram in favour of KingSett (the "**Phyllis Charge**").<sup>28</sup>

29. Pursuant to the terms of the proposed Distribution, Sealing and Ancillary Matters Order, the Receiver is seeking authorization to distribute the balance of the Phyllis Proceeds, after reserving and creating holdbacks for certain closing costs, the costs of these proceedings secured by the Receiver's Charge, the amounts claimed under the Digram CRA Trust Claim, and the Penco Lien, to KingSett as partial repayment of the KingSett Indebtedness outstanding under the Heritage Loan (the "**KingSett Distributions**").<sup>29</sup> KingSett will not be fully repaid from the proposed KingSett Distributions, and will only receive proceeds or funds up to the amount secured by the Phyllis Charge.

30. Bennett Jones LLP, counsel to the Receiver, has reviewed the security granted by the Debtors and provided an opinion to the Receiver that, subject to standard assumptions, qualifications and limitations customary security opinions of this nature, the Phyllis Charge constitutes a valid mortgage and fixed charge on the Phyllis Real Property to the extent of the principal, interest and costs secured thereby.<sup>30</sup>

## **3. The Settlement Agreement**

31. Digram, Yeoman and the Trustee, among others, are party to a Cost Sharing Agreement dated April 10, 2008 (as amended from time to time, the "**CSA**") which governs a land development in the Town of Caledon.<sup>31</sup>

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<sup>27</sup> Second Report, *ibid* at s. 4.2, para 2, Motion Record at Tab 2.

<sup>28</sup> Second Report, *ibid* at s. 5.0, para 2, Motion Record at Tab 2.

<sup>29</sup> Second Report, *ibid* at s. 5.0, para 3, Motion Record at Tab 2.

<sup>30</sup> Second Report, *ibid* at s. 5.0, para 3, Motion Record at Tab 2.

<sup>31</sup> Second Report, *ibid* at s. 6.0, para 1, Motion Record at Tab 2.

32. In April of 2025, counsel to the Trustee advised the Receiver that: (i) it was holding the Digram Funds (as defined in the Settlement Agreement) which were earmarked for Digram pursuant to the terms of the CSA; and (ii) Yeoman was asserting one or more claims related to the Digram Funds.<sup>32</sup>

33. In an effort to settle all matters related to the Digram Funds consensually and in a cost-efficient manner, counsel to the Receiver, Yeoman and the Trustee negotiated and finalized the Settlement Agreement. In accordance with the proposed Distribution, Sealing and Ancillary Matters Order, the Receiver is now seeking approval of the Settlement Agreement, *nunc pro tunc*, along with relief authorizing and directing the Trustee to pay the Digram Funds in accordance with the Settlement Agreement.<sup>33</sup>

#### **4. The Amendment to the Receivership Order**

34. KingSett's security interest granted in connection with the Assignment of P&E was registered pursuant to the *Personal Property Security Act*, R.S.O. 1990, c. P.10 (Ontario).<sup>34</sup>

35. At the time the Receivership Order was sought, the security contemplated by the Assignment of P&E (the "**Additional Personal Property**") was not included within the definition of "Property".<sup>35</sup> In an effort to continue to best administer these receivership proceedings for the benefit of the Debtors' creditors in the most efficient manner possible, the Receiver is now seeking the Receivership Order Amendment on the terms set forth in the proposed Distribution, Sealing and Ancillary Matters Order, such that the Receivership Order will include, *nunc pro tunc*, the Additional Personal Property within the definition of "Property".<sup>36</sup>

#### **5. The Receiver's Activities**

36. Pursuant to the proposed Distribution, Sealing and Ancillary Matters Order the Receiver is seeking approval of the Second Report as well as its activities and conduct as described therein.<sup>37</sup>

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<sup>32</sup> Second Report, *ibid* at s. 6.0, para 2, Motion Record at Tab 2.

<sup>33</sup> Second Report, *ibid* at s. 6.0, paras 2-3, Motion Record at Tab 2.

<sup>34</sup> Second Report, *ibid* at s. 7.0, para 1, Motion Record at Tab 2.

<sup>35</sup> Second Report, *ibid* at s. 7.0, para 2, Motion Record at Tab 2.

<sup>36</sup> Second Report, *ibid* at s. 7.0, para 2, Motion Record at Tab 2.

<sup>37</sup> Second Report, *ibid* at s. 1.1, para 1(g), Motion Record at Tab 2.

37. Since the First Report, the Receiver, with the assistance of its counsel, Bennett Jones LLP, has diligently advanced these receivership proceedings, including by, *inter alia*: (a) marketing for sale the Property subject to and in accordance with the Sale Process and the Sale Process Approval Order; (b) negotiating agreements on behalf of the Debtors' estates, including the Settlement Agreement and the APA; and (c) corresponding with representatives of the Debtors and the Mortgagees.<sup>38</sup>

### **PART III: ISSUES**

38. The issues to be considered on this motion are whether this Court should:

- (a) approve the Transaction and grant the Approval and Vesting Order;
- (b) authorize the proposed KingSett Distributions;
- (c) approve the Settlement Agreement;
- (d) amend the Receivership Order to add the Additional Personal Property;
- (e) approve the Second Report and the activities and conduct of the Receiver described therein; and
- (f) seal the Confidential Appendix.

### **PART IV: LAW AND ANALYSIS**

#### **A. The Transaction Should be Approved and the Vesting Order Should be Granted**

39. Section 100 of the CJA authorizes this Court to grant an order vesting "in any person an interest in real or personal property that the Court has authority to order be conveyed".<sup>39</sup> Similarly, subsection 243(1) of the BIA provides courts with discretion to appoint a receiver over debtors and to order the receiver to, among other things, "take any other action that the court considers advisable."<sup>40</sup> The Ontario Court of Appeal has interpreted section 243 of the BIA as conferring

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<sup>38</sup> Second Report, *ibid* at s. 1.2, para 1; s. 4.0; s. 6.0; s. 8.0, para 4, Motion Record at Tab 2.

<sup>39</sup> *Courts of Justice Act*, [R.S.O. 1990, c. C.43](#), as amended, [s. 100](#) [CJA].

<sup>40</sup> *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3](#), as amended, [s. 243\(1\)\(c\)](#) [BIA].

jurisdiction on the courts to make orders not explicitly contemplated by the statute, such as granting a vesting order that transfers property free and clear of encumbrances.<sup>41</sup>

40. Further, paragraph 4(p) of the Receivership Order empowers and authorizes the Receiver to “[...] apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property.”

41. Consistent with its existing powers, the Receiver now seeks approval of the proposed Approval and Vesting Order.

42. In determining whether to approve a sale transaction, this Court has consistently applied the following four factors set out by the Ontario Court of Appeal in *Royal Bank of Canada v. Soundair Corp.* (“*Soundair*”):

- (a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
- (b) the interests of all parties;
- (c) the efficacy and integrity of the process by which offers are obtained; and
- (d) whether there has been unfairness in the working out of the process.<sup>42</sup>

43. Deference is to be afforded to a receiver when evaluating its sales process.<sup>43</sup> Absent a violation of the *Soundair* test or other exceptional circumstances, the court should uphold the business judgment of the receiver, as its court officer.<sup>44</sup>

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<sup>41</sup> *BIA*, *ibid* at s. 243(1). *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, 2019 ONCA 508 at paras 76-77.

<sup>42</sup> *Royal Bank of Canada v Soundair Corp.*, 1991 CanLII 2727 (ON CA) at para 16 [*Soundair*]; *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009 at para 31 [*Elleway*]; *Home Trust Co v 2122775 Ontario Inc.*, 2014 ONSC 1039 at para 11; *Romspen Investment Corp v 6176666 Canada Ltée*, 2012 ONSC 1727 at para 18 [*Romspen*]; *First Source Financial Management v. Chacon Strawberry Fields Inc.*, 2024 ONSC 7229 at para 30 [*Chacon Strawberry*].

<sup>43</sup> *Romspen*, *ibid* at para 18. *9-Ball Interests Inc. v. Traditional Life Sciences Inc.*, 2012 ONSC 2788 at para 28. *Business Development Bank of Canada et al v. 1673747 Ontario Inc. et al.*, 2013 ONSC 286 at para 38, citing *Crown Trust Co. et al. v. Rosenberg et al.*, 1986 CanLII 2760 (ON SC) at para 77 [*Rosenberg*].

<sup>44</sup> *Rosenberg*, *ibid*. *Homedale-Eagle Corporation v. 253 Queen Street Inc.*, 2024 ONSC 6590 at para 35.

44. In the present case, the Receiver submits that each element of the *Soundair* test has been met for following reasons:

- (a) **Efforts to Obtain the Best Price:** the Receiver engaged Mr. Ali Memon on multiple occasions regarding his funding of the remaining construction of the home on the Phyllis Real Property to permit a closing with the pre-sale purchaser; however, Mr. Ali Memon's final proposal departed from earlier discussions and was unacceptable to the Mortgagees. Faced with this development, the Receiver carefully assessed the available alternatives and concluded, in consultation with KingSett, that completing the Pre-Sale Agreement with the Purchaser would expose the estate to significant additional costs, risks, and delay, and that a further marketing process would be protracted and would likely fail to yield a superior offer. The holding costs for the Phyllis Real Property and other expenses would continue to accrue and there is the chance that the value of the incomplete structure may continue to deteriorate if it remains incomplete. The "*as-is, where-is*" sale pursuant to the APS instead provides a certain, fair and timely outcome. These efforts demonstrate that the Receiver acted prudently to obtain the best possible price, consistent with the principles in *Soundair*;
- (b) **Interests of the Parties:** the Receiver advised in the First Report that it was considering various realization options for the Phyllis Real Property. KingSett, the principal financial stakeholder in respect of the Phyllis Real Property and a firm with significant expertise in the residential real estate sector, was consulted and supports the Transaction. The Receiver does not believe that a wide sales process would yield significantly better results due to the very limited market for a partially complete structure. Furthermore, a wide marketing process would require a real estate broker which would increase selling costs and reduce recoveries, whereas there are no realtor commissions owing under the proposed Transaction;
- (c) **Efficacy and Integrity of the Process:** prior to accepting the Purchaser's offer, the Receiver reviewed real estate listings and recent transactions for similar properties in the Town of Caledon. Based on its significant previous and ongoing experience



with residential real estate, as well as its review of comparable real estate listings, it is the Receiver's view that the proposed Transaction is the highest and best offer available for the Purchased Assets in the present market; and

- (d) **No Unfairness:** in the Receiver's view, there has been no unfairness. The proposed Approval and Vesting Order is largely in the form of the standard Commercial List model order and its issuance is a requirement under the APS. The parties with registered interests being vested out by the proposed Approval and Vesting Order have been given notice of the Receiver's motion, and the proposed Approval and Vesting Order provides that the Phyllis Proceeds shall stand in the place and stead of the Purchased Assets, with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. The proposed Transaction preserves value for the Purchaser by allowing it to complete a transaction for this property at a similar price to what it would have otherwise paid under the Pre-Sale Agreement, after discounting for the remaining costs to complete, which the Receiver views as fair and prudent.<sup>45</sup>

45. A formal sales process is not a prerequisite to a sale of assets by a receiver, and courts will even approve "quick-flip" or immediate sale transactions if the circumstances of a particular case warrant it.<sup>46</sup> In such circumstances, the *Soundair* principles still apply.<sup>47</sup> In addition, this Court has noted that "specific consideration to the economic realities of the business and the specific transactions in question" is warranted in any such context.<sup>48</sup> In particular, courts have approved immediate sales where:

- (a) an immediate sale is the only realistic way to provide maximum recovery for a creditor who stands in a clear priority of economic interest to all others; and

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<sup>45</sup> Second Report, *supra* note 1 at s. 4.0, para 4; s. 4.1, para 1, Motion Record at Tab 2.

<sup>46</sup> *Tool-Plas Systems Inc. (Re)*, 2008 CanLII 54791 [*Tool-Plas*] at para 15. *Elleway*, *supra* note 42 at para 33 *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, 2023 ONSC 5911 at para 48 [*Romspen Investment*].

<sup>47</sup> *Romspen Investment*, *ibid* at para 49. *Elleway*, *ibid* at paras 33-34.

<sup>48</sup> *Elleway*, *ibid* at para 33.

- (b) delay of the transaction will erode the realization of the security of the creditor in sole economic interest.<sup>49</sup>

46. Though the sale in this case is not a “quick-flip” sale, some of the considerations of the Court in such a sale are also applicable to this Transaction. However, it is the view of the Receiver that the burden of justifying this Transaction is lower than a “quick-flip” sale.

47. Justice Morawetz (as he then was), approved a “quick-flip” sale in *Tool-Plas Systems Inc. (Re)*, and in addition to citing the *Soundair* test, he noted as follows:

In considering whether to approve a ‘quick flip’ transaction, the Court should consider the impact on various parties and assess whether their respective positions and the proposed treatment that they will receive in the ‘quick flip’ transaction would realistically be any different if an extended sales process were followed.<sup>50</sup>

48. In this case, the impact of the Transaction on most, if not all, parties is beneficial in that it avoids the risks and costs, including holding costs, associated with completing the ongoing construction or undertaking a protracted marketing process for the Phyllis Real Property. Creditors’ priority status prior to the transaction will remain intact and the Phyllis Proceeds shall stand in the place and stead of the Purchased Assets. KingSett, the principal financial stakeholder in respect of the Phyllis Real Property was consulted and supports the Transaction.<sup>51</sup>

## **B. The Receiver Should be Authorized to Make the Proposed Distributions**

49. The Receiver is seeking authorization to make the proposed KingSett Distributions in accordance with the terms set out in the proposed Distribution, Sealing and Ancillary Matters Order.

50. Courts routinely grants orders authorizing interim distributions in insolvency proceedings.<sup>52</sup>

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<sup>49</sup> *Elleway*, *supra* note 42 at [para 33](#) citing, *Fund 321 Ltd. Partnership v. Samsys Technologies Inc.*, [2006 CanLII 13572 \(ON SC\)](#) and *Bank of Montreal v. Trent Rubber Corp.*, [2005 CanLII 25628 \(ON SC\)](#).

<sup>50</sup> *Tool-Plas*, *supra* note 46 at [para 15](#).

<sup>51</sup> Second Report, *supra* note 1 at s. 4.0, para 4; s. 4.1, para 1, Motion Record at Tab 2.

<sup>52</sup> *Ontario Securities Commission v. Bridging Income Fund L.P.*, [2022 ONSC 4472](#) at [paras 8-12](#). *AbitibiBowater inc. (Arrangement relatif à)*, [2009 QCCS 6461](#) at [paras 71-75](#) [*AbitibiBowater*]. *KingSett Mortgage Corporation v. Churchill Lands United Inc.*, [2024 ONSC 7127](#) at [paras 43-44](#) [*Churchill Lands*]. *Chacon Strawberry*, *supra* note 42 at [para 45](#).

51. In determining whether it is appropriate to authorize an interim distribution the court may consider: (a) whether the proposed recipient's security is valid and enforceable; (b) whether the amounts that are owed to the proposed recipient exceed the proposed interim distribution amount; and (c) whether the proposed interim distribution would result in interest savings.<sup>53</sup>

52. The facts in this case support approving the proposed KingSett Distributions, including:

- (a) KingSett is the principal financial stakeholder of the Debtors, and holds security over the Phyllis Real Property, which is the subject of the Transaction;
- (b) the Receiver's counsel has provided an opinion that KingSett's security is valid and enforceable, subject to the usual qualifications and assumptions; and
- (c) KingSett will not be fully repaid from the proposed KingSett Distributions, and will only receive proceeds or funds up to the amount secured by the Phyllis Charge. By repaying a portion of the Heritage Loan, there will be interest savings.<sup>54</sup>

### **C. The Settlement Agreement Should be Approved**

53. There is an overriding public interest that favours the settlement of disputes.<sup>55</sup> Courts encourage and facilitate such settlements because it is sound judicial policy which contributes to the effective administration of justice.<sup>56</sup>

54. Pursuant to the Distribution, Sealing and Ancillary Matters Order, the Receiver is seeking approval of the Settlement Agreement, *nunc pro tunc*.

55. As recently noted by Chief Justice Morawetz in *Ontario Securities Commission v. Bridging Finance Inc.*, in determining whether to approve a settlement in the context of a receivership, the Court generally considers:

- (a) whether the settlement is fair and reasonable;

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<sup>53</sup> *Abitibibowater*, *ibid* at [para 75](#). *Chacon Strawberry*, *ibid* at [para 45](#). *Churchill Lands*, *ibid* at [para 44](#).

<sup>54</sup> Second Report, *supra* note 1 at s. 5.0, Motion Record at Tab 2.

<sup>55</sup> *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013 SCC 37 at [paras 11-12](#).

<sup>56</sup> *Ibid*.

- (b) whether the settlement provides substantial benefits to other stakeholders; and
- (c) whether the settlement is consistent with the purpose and spirit of the relevant legislation.<sup>57</sup>

56. Further, as noted in *Bridging Finance*, in receiverships, the Court frames the test for settlement approval through the lens of the long-established *Soundair* test.<sup>58</sup>

57. To satisfy the *Soundair* criteria in the settlement context, a receiver must consider the available information and use its expertise to determine how to maximize the value of the rights subject to the settlement.<sup>59</sup> When a receiver wishes to settle a claim for or against the receivership estate, it will meet its obligations so long as the proposed compromise is commercially reasonable.<sup>60</sup>

58. The Receiver submits that the Settlement Agreement conforms with the aforementioned criteria and principles, given that the settlement is the product of extensive negotiations through counsel. The Settlement Agreement is fair and reasonable and eliminates the costs and delays that would be associated with litigating the subject matter therein and provides finality and certainty for all applicable stakeholders.<sup>61</sup> The Settlement Agreement is consistent with the purpose and spirit of the BIA.<sup>62</sup>

59. KingSett, the principal financial stakeholder in both the Heritage Loan and the Countryside Loan, is supportive of the proposed Settlement Agreement.<sup>63</sup>

60. At this stage, no distributions of the Digram Funds recovered in connection with the Settlement Agreement are being proposed.<sup>64</sup>

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<sup>57</sup> *Ontario Securities Commission v. Bridging Finance Inc.*, 2025 ONSC 539 at para 13 [*Bridging Finance*], citing *Maple Bank GmbH (Re)*, 2016 ONSC 7218 at para 8. *Two Shores Capital Corp. v. Productivity Media Inc. et al.*, (July 15, 2025), Toronto, Court File No.: CV-24-00730869-00CL, *Endorsement of Justice J. Dietrich* (Settlement Approval Order) at para 30 [*Endorsement of Justice J. Dietrich*].

<sup>58</sup> *Soundair*, *supra* note 42 at para 16. *Bridging Finance*, *ibid* at para 14. *Endorsement of Justice J. Dietrich*, *ibid* at para 31.

<sup>59</sup> *IWHL Inc., Re*, 2011 ONSC 5672 at paras 5-6.

<sup>60</sup> *Ibid* at para 6.

<sup>61</sup> Second Report, *supra* note 1 at s. 6.0, para 3, Motion Record at Tab 2.

<sup>62</sup> Second Report, *supra* note 1 at s. 6.0, para 3, Motion Record at Tab 2.

<sup>63</sup> Second Report, *supra* note 1 at s. 6.0, para 4, Motion Record at Tab 2.

<sup>64</sup> Second Report, *supra* note 1 at s. 5.0, para 1, Motion Record at Tab 2.

**D. The Amendment to the Receivership Order Should be Approved**

61. Subsection 243(1) of the BIA and section 101 of the CJA provide that the Court may appoint a receiver where it is “just or convenient” to do so.<sup>65</sup>

62. The determination of whether the appointment is “just and convenient” lies within the discretion of the court. In making this determination, the Court will consider all of the evidence before it, including, but not limited to, the following factors, which have previously been summarized and applied in these proceedings when granting the Receivership Order:

- (a) whether irreparable harm may result if no order is made although, a creditor need not establish irreparable harm where the appointment is authorized by the security documentation;
- (b) the nature of the property;
- (c) any actual or apprehended waste or dissipation of the debtor’s assets;
- (d) the need to preserve and protect the property pending judicial resolution;
- (e) the balance of convenience as between the parties;
- (f) whether the creditor has a contractual right to appointment under the loan or security documentation;
- (g) whether the security holder has encountered, or is likely to encounter, difficulties in enforcing its rights against the debtor;
- (h) the principle that the appointment of a receiver should be exercised with caution; and
- (i) whether a court-appointed receiver is necessary to enable the receiver to carry out its duties effectively.<sup>66</sup>

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<sup>65</sup> [CJA](#), *supra* note 39 at [s. 101\(1\) and \(2\)](#). [BIA](#), *supra* note 40 at [s. 243\(1\)](#).

<sup>66</sup> *KingSett Mortgage Corp. v. Maplevue Developments Ltd.*, et al., [2024 ONSC 1983](#) at [para 24](#).

63. Having regard to the foregoing considerations, in the case at bar, it is just and convenient that KSV be appointed as receiver and manager of the Additional Personal Property, given that, the Additional Personal Property is part of the additional security granted by Digram in favour of KingSett to secure the Heritage Loan.<sup>67</sup> In an effort to continue to administer these receivership proceedings for the benefit of the Debtors' creditors, including KingSett, in the most efficient manner possible, the Receiver is now seeking the Receivership Order Amendment, such that the Receivership Order will include, *nunc pro tunc*, the Additional Personal Property within the definition of "Property".<sup>68</sup>

64. KingSett is supportive of the proposed Receivership Order Amendment.<sup>69</sup>

#### **E. The Second Report Should be Approved**

65. This Court has the inherent jurisdiction to approve a court-appointed receiver's reports and present and past activities.<sup>70</sup> This Court frequently grants such approval in the context of receivership proceedings, recognizing that it:

- (a) brings the receiver's activities before the court;
- (b) enables the court to satisfy itself that the receiver's activities have been conducted prudently and diligently;
- (c) allows the concerns of stakeholders to be considered and addressed;
- (d) provides stakeholders with an opportunity to bring to the forefront any concerns they may have regarding the receiver's diligence and prudence;
- (e) provides protection for the receiver not otherwise provided by statute or the appointing order;
- (f) permits the receiver to move forward with the next steps in the proceedings; and

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<sup>67</sup> Second Report, *supra* note 1 at s. 7.0, para 1, Motion Record at Tab 2.

<sup>68</sup> Second Report, *supra* note 1 at s. 7.0, para 2, Motion Record at Tab 2.

<sup>69</sup> Second Report, *supra* note 1 at s. 7.0, para 3, Motion Record at Tab 2.

<sup>70</sup> *BIA*, *supra* note 40, s. 183(1); *Re Hanfeng Evergreen Inc*, 2017 ONSC 7161 at paras 15-17, 21. *Triple-I Capital Partners Limited v 12411300 Canada Inc*, 2023 ONSC 3400 at paras 65-66.

- (g) protects creditors from the delay and expense that would be caused by: (i) the re-litigation of the steps taken in the proceedings to date; and (ii) potential indemnity claims by the receiver.<sup>71</sup>

66. The proposed Distribution, Sealing and Ancillary Matters Order limits the benefit of any such approval of the Receiver's activities to only the Receiver, in its personal capacity, as is customary in receivership proceedings.

67. The activities of the Receiver described in the Second Report were carried out in good faith in accordance with the Receivership Order and were in each case undertaken in the best interest of the stakeholders of the Debtors. Given the aforementioned benefits of approving a court appointed receiver's activities, the Receiver submits that it is appropriate for this Court to exercise its jurisdiction to approve the Second Report and its activities and conduct therein.<sup>72</sup>

#### **F. The Confidential Appendix Should be Sealed**

68. Pursuant to the CJA, the Court has the discretion to order that any document filed in a civil proceeding be treated as "confidential", sealed and not form part of the public record.<sup>73</sup>

69. In *Siera Club of Canada v. Canada (Minister of Finance)*, commonly applied in the insolvency context, the Supreme Court of Canada held that courts should exercise their discretion to grant sealing orders where:

- (a) the order is necessary to prevent a serious risk to an important interest, including a commercial interest, because reasonable alternative measures will not prevent the risk; and
- (b) the salutary effects of the order outweigh its deleterious effects, including the effects on the right to free expression, which includes public interest in open and accessible court proceedings.<sup>74</sup>

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<sup>71</sup> *Churchill Lands*, *supra* note 52 at [para 45](#).

<sup>72</sup> Second Report, *supra* note 1 at s. 1.1, para 1, Motion Record at Tab 2.

<sup>73</sup> *CJA*, *supra* note 39 at [s. 137\(2\)](#).

<sup>74</sup> *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002 SCC 41](#) at [para 53](#).

70. In *Sherman Estate v Donovan*, the Supreme Court of Canada noted that a person asking a court to exercise discretion in a way that limits the open court presumption must establish that:

- (a) court openness poses a serious risk to an important public interest (which captures a broad array of public objectives, including commercial interests);
- (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonable alternative measures will not prevent this risk; and
- (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.<sup>75</sup>

71. Courts have consistently recognized that the disclosure of purchase price information in insolvency proceedings jeopardizes dealings with future prospective purchasers, contrary to the important public interests in facilitating the maximization of value of debtors' assets and preserving the integrity of distressed sale processes.<sup>76</sup>

72. Here, the sealing relief is the only practical means by which the commercially sensitive information in the Confidential Appendix can be protected, and is necessary to maximize the value of the Phyllis Real Property in any future marketing efforts should the Transaction not close. Therefore, sealing this information is necessary for ensuring recoveries in these proceedings are maximized.<sup>77</sup> To mitigate its potential negative effects, the sealing relief in the proposed Distribution, Sealing and Ancillary Matters Order is temporally limited.<sup>78</sup>

73. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is not aware of any party that will be prejudiced if the information is sealed or any public interest that will be served if such details are disclosed in full. The Receiver is of the view that the proposed sealing is consistent with

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<sup>75</sup> *Sherman Estate v. Donovan*, 2021 SCC 25 at paras 30, 38, 41.

<sup>76</sup> *Yukon (Government of) v Yukon Zinc Corporation*, 2022 YKSC 2 at para 39. *Ontario Securities Commission v Bridging Finance Inc.*, 2021 ONSC 4347 at para 23. *Elleway*, *supra* note 42 at para 48.

<sup>77</sup> Second Report, *supra* note 1 at s. 4.2, para 1, Motion Record at Tab 2.

<sup>78</sup> Second Report, *supra* note 1 at s. 4.2, para 1, Motion Record at Tab 2.



the aforementioned principles. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendix is appropriate in the circumstances.<sup>79</sup>

**PART V: RELIEF REQUESTED**

74. The Receiver submits that the relief sought on the within motion is appropriate in the circumstances and respectfully requests that the proposed forms of the Approval and Vesting Order and the Distribution, Sealing and Ancillary Matters Order be granted.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 15<sup>TH</sup> DAY OF SEPTEMBER, 2025**

***Bennett Jones LLP***  
**BENNETT JONES LLP**

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<sup>79</sup> Second Report, *supra* note 1 at s. 4.2, para 2, Motion Record at Tab 2.

## SCHEDULE A – LIST OF AUTHORITIES

### *Cases Cited*

1. *9-Ball Interests Inc. v. Traditional Life Sciences Inc.*, [2012 ONSC 2788](#).
2. *AbitibiBowater inc. (Arrangement relatif à)*, [2009 QCCS 6461](#).
3. *Bank of Montreal v. Trent Rubber Corp.*, [2005 CanLII 25628 \(ON SC\)](#).
4. *Business Development Bank of Canada et al v. 1673747 Ontario Inc. et al.*, [2013 ONSC 286](#).
5. *Crown Trust Co. et al. v. Rosenberg et al.*, [1986 CanLII 2760 \(ON SC\)](#).
6. *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, [2013 ONSC 7009](#).
7. *First Source Financial Management v. Chacon Strawberry Fields Inc.*, [2024 ONSC 7229](#).
8. *Fund 321 Ltd. Partnership v. Samsys Technologies Inc.*, [2006 CanLII 13572 \(ON SC\)](#).
9. *Home Trust Co v 2122775 Ontario Inc*, [2014 ONSC 1039](#).
10. *Homedale-Eagle Corporation v. 253 Queen Street Inc*, [2024 ONSC 6590](#).
11. *IWHL Inc., Re*, [2011 ONSC 5672](#).
12. *KingSett Mortgage Corp. v. Mapleview Developments Ltd., et al.*, [2024 ONSC 1983](#).
13. *KingSett Mortgage Corporation v. Churchill Lands United Inc.*, [2024 ONSC 7127](#).
14. *Maple Bank GmbH (Re)*, [2016 ONSC 7218](#).
15. *Ontario Securities Commission v Bridging Finance Inc.*, [2021 ONSC 4347](#).
16. *Ontario Securities Commission v. Bridging Finance Inc.*, [2025 ONSC 539](#).
17. *Ontario Securities Commission v. Bridging Income Fund L.P.*, [2022 ONSC 4472](#).
18. *Re Hanfeng Evergreen Inc*, [2017 ONSC 7161](#).
19. *Romspen Investment Corp v 6176666 Canada Ltée*, [2012 ONSC 1727](#).
20. *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, [2023 ONSC 5911](#).
21. *Royal Bank of Canada v Soundair Corp.*, [1991 CanLII 2727 \(ON CA\)](#).
22. *Sable Offshore Energy Inc. v. Ameron International Corp.*, [2013 SCC 37](#).
23. *Sherman Estate v. Donovan*, [2021 SCC 25](#).
24. *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002 SCC 41](#).
25. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#).
26. *Tool-Plas Systems Inc. (Re)*, [2008 CanLII 54791](#).
27. *Triple-I Capital Partners Limited v 12411300 Canada Inc*, [2023 ONSC 3400](#).
28. *Two Shores Capital Corp. v. Productivity Media Inc. et al.*, (July 15, 2025), Toronto, Court File No.: CV-24-00730869-00CL, [Endorsement of Justice J. Dietrich](#) (Settlement Approval Order).
29. *Yukon (Government of) v Yukon Zinc Corporation*, [2022 YKSC 2](#).

I certify that I am satisfied as to the authenticity of every authority.

Dated: September 15, 2025

*Linda Fraser-Richardson*

Signature

**SCHEDULE B – STATUTES AND REGULATIONS RELIED ON**

**Bankruptcy and Insolvency Act, R.S.C. 1985, c C-36**

**Section 183**

***Courts vested with jurisdiction***

(1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

- (a) in the Province of Ontario, the Superior Court of Justice;
- (b) [Repealed, 2001, c. 4, s. 33]
- (c) in the Provinces of Nova Scotia and British Columbia, the Supreme Court;
- (d) in the Provinces of New Brunswick and Alberta, the Court of Queen's Bench;
- (e) in the Province of Prince Edward Island, the Supreme Court of the Province;
- (f) in the Provinces of Manitoba and Saskatchewan, the Court of Queen's Bench;
- (g) in the Province of Newfoundland and Labrador, the Trial Division of the Supreme Court; and
- (h) in Yukon, the Supreme Court of Yukon, in the Northwest Territories, the Supreme Court of the Northwest Territories, and in Nunavut, the Nunavut Court of Justice.

***Superior Court jurisdiction in the Province of Quebec***

(1.1) In the Province of Quebec, the Superior Court is invested with the jurisdiction that will enable it to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during its term, as it is now, or may be hereafter, held, and in vacation and in chambers.

***Courts of appeal — common law provinces***

(2) Subject to subsection (2.1), the courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act.

***Court of Appeal of the Province of Quebec***

(2.1) In the Province of Quebec, the Court of Appeal, within its jurisdiction, is invested with power and jurisdiction, according to its ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the Superior Court.

***Supreme Court of Canada***

(3) The Supreme Court of Canada has jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

**Section 243**

***Court may appoint receiver***

(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
- (c) take any other action that the court considers advisable.

***Restriction on appointment of receiver***

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

***Definition of receiver***

(2) Subject to subsections (3) and (4), in this Part, receiver means a person who

- (a) is appointed under subsection (1); or
- (b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
  - (i) an agreement under which property becomes subject to a security (in this Part referred to as a “security agreement”), or
  - (ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

***Definition of receiver — subsection 248(2)***

(3) For the purposes of subsection 248(2), the definition receiver in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

***Trustee to be appointed***

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

***Place of filing***

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

***Orders respecting fees and disbursements***

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

***Meaning of disbursements***

(7) In subsection (6), disbursements does not include payments made in the operation of a business of the insolvent person or bankrupt.

**Courts of Justice Act, R.S.O. 1990, c. C.43**

**Section 100**

***Vesting orders***

**100** A court may by order vest in any person an interest in real or personal property that the court has authority to order be disposed of, encumbered or conveyed.

**Section 101**

***Injunctions and receivers***

(1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

***Terms***

(2) An order under subsection (1) may include such terms as are considered just.

**Section 137**

***Documents public***

(1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

***Sealing documents***

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record. Court lists public.

***Court lists public***

**(3)** On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

***Copies***

**(4)** On payment of the prescribed fee, a person is entitled to a copy of any document the person is entitled to see.

**IN THE MATTER OF AN 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**

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

and

**MAPLEQUEST VENTURES INC. AND DIGRAM DEVELOPMENTS CALEDON  
INC.**

Applicants

Respondents

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceedings commenced in Toronto

**FACTUM OF THE RECEIVER**  
**(Returnable September 17, 2025)**

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