



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

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00740673-00CL

DATE: March 03 and 13, 2026.

TITLE OF PROCEEDING: KSV RESTRUCTURING INC. v. CHANG-SANG et al.

BEFORE: JUSTICE JANA STEELE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Daniel Rosenbluth	Lawyer for the Receiver, KSV Restructuring Inc.	<u>daniel.rosenbluth@paliareroland.com</u>

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Chris Kinnear Hunter	Lawyer for the Defendant, Andrew David Chang-Sang	<u>ckhunter@torys.com</u>

ENDORSEMENT OF JUSTICE STEELE:

[1] KSV Restructuring Inc., in its capacity as court appointed receiver and manager of Productivity Media Inc. (“PMI”) and Productivity Media Income Fund I LP (the “Fund”), seeks default judgment against Myron LLC, DECS Trust by its trustee, DECS Limited, and DECS Limited.

[2] Default judgment is not sought against the other defendant, Andrew Chang-Sang.

- [3] Mr. Chang-Sang denies wrongdoing and has filed a Statement of Defence. The Plaintiff confirms that it is not seeking any relief against Mr. Chang-Sang on this motion.
- [4] Given that no relief is sought against him, Mr. Chang-Sang takes no position on the substantive relief sought on the motion. Mr. Chang-Sang requested that the Court's endorsement "expressly note that any findings apply exclusively as between the plaintiff and the Myron and DECS parties and are not intended to apply in any way, shape or form beyond those parties." The Court is mindful that it cannot, on this motion, bind a trial judge either to apply or not apply any findings made herein.
- [5] After hearing submissions on this issue from counsel for the Receiver and for Mr. Chang-Sang at the initial hearing, the Court was advised at the March 13 return hearing that the parties had resolved this issue on the basis set out in the remainder of this paragraph, which the Court is satisfied is appropriate in the circumstances: no finding is made on this motion as to the extent, if any, to which any findings or orders made on this motion can be used subsequently as against Mr. Chang-Sang or any other person. The findings and orders made on this motion are not made with the intent of binding Mr. Chang-Sang in the future; equally, these findings and orders are not intended to preclude the Receiver from making any submissions as to the effect, if any, of this motion decision in any future proceedings. I am aware of the Court of Appeal's holding in *Correia v Canac Kitchens*, 2008 ONCA 506 at para 110 that deemed admissions of facts resulting from a failure to defend is a legal fiction that does not bind other defendants, and that deemed admissions by defendants are not admissible as against other defendants (*OZ Merchandising Inc. v Canadian Professional Soccer League Inc.*, 2021 ONCA 520 at para 29). This endorsement and resulting order are intended to be without prejudice to any party's position on this issue in any further proceedings.
- [6] The other three defendants (Myron LLC, DECS Limited, and DECS Trust, collectively the "Responding Parties") did not defend the action. They were served at their registered addresses. Two of the three engaged Toronto counsel to threaten a jurisdiction motion.¹ However, they decided not to proceed with that motion.
- [7] Capitalized terms used in this endorsement that have not been defined herein have the meaning set out in the plaintiff's factum and supplemental factum.
- [8] For the reasons set out below, default judgment is granted.

Background

- [9] On or about November 19, 2024, KSV was appointed as Receiver of PMI, the Fund, and Productivity Media Lending Corp. I ("PMLC").
- [10] In the summer of 2004, an anonymous whistleblower complaint was made, prompting the engagement of PricewaterhouseCoopers LLP ("PwC") to investigate the allegations in the report. PwC's investigation ultimately led to the Receiver commencing proceedings on behalf of PMI and the Fund against William Santor (then the CEO and a founding shareholder of the Productivity Media business), his spouse, and related companies.

¹ As noted by KSV, as a result of counsel's involvement (Bryan McLeese, a partner with Chernos Flaherty Svonkin LLP in Toronto), there can be no doubt that the Responding Parties have actual notice of this proceeding.

- [11] On or about February 7, 2025, the Receiver started this action against Mr. Chang-Sang, Myron LLC, DECS Limited, and the DECS Trust, by its trustee, DECS Limited. The Responding Parties are related to Mr. Chang-Sang. Mr. Chang-Sang was formerly the Chief Financial Officer and was one of three founding shareholders of the Productivity Media business (along with Mr. Santor and John Hills).
- [12] The Responding Parties were served with the Statement of Claim in person Saint Kitts and Nevis on March 21, 2025. The action principally concerns allegations that Mr. Chang-Sang received benefits of a fraudulent scheme and directed them to the other defendants.
- [13] DECS Trust was noted in default on September 17, 2025. DECS Limited and Myron LLC were noted in default on January 21, 2026.

Analysis

- [14] The only issue before the court is whether to grant default judgment.
- [15] Rule 19.02 of the Rules of Civil Procedure provides that:

- (1) A defendant who has been noted in default,
 - a. is deemed to admit the truth of all allegations of fact made in the statement of claim; and
 - b. shall not deliver a statement of defence or take any other step in the action, other than a motion to set aside the noting of default or any judgment obtained by reason of the default, except with leave of the court or the consent of the plaintiff.

- [16] Rules 19.05 and 19.06 of the Rules of Civil Procedure provides:

- (1) Where a defendant has been noted in default, the plaintiff may move before a judge for judgment against the defendant on the statement of claim in respect of any claim for which default judgment has not been signed.
- (2) A motion for judgment under subrule (1) shall be supported by evidence given by affidavit if the claim is for unliquidated damages.
- (3) On a motion for judgment under subrule (1), the judge may grant judgment, dismiss the action or order that the action proceed to trial and that oral evidence be presented.
- (4) Where an action proceeds to trial, a motion for judgment on the statement of claim against a defendant noted in default may be made at the trial.

19.06 A plaintiff is not entitled to judgment on a motion for judgment or at trial merely because the facts alleged in the statement of claim are deemed to be admitted, unless the facts entitle the plaintiff to judgment.

[17] In *Elekta Ltd. v. Rodkin*, 2012 ONSC 2062, at para. 14, the court set out the inquiry to be undertaken by the court on a motion for default judgment:

- i. What deemed admissions of fact flow from the facts pleaded in the Statement of Claim?
- ii. Do those deemed admissions of fact entitle the plaintiffs, as a matter of law, to judgment on the Claim?
- iii. If they do not, has the plaintiff adduced admissible evidence which, when combined with the deemed admissions, entitles it to judgment on the pleaded claim?

[18] The Court has confirmed that to obtain default judgment “the deemed admissions of fact, together with any facts adduced at the hearing must entitle the plaintiff to judgment on the claim as a matter of law:” *Churchill v. Aero Auction Sales Inc.*, 2019 4766, at para. 18. The court must be satisfied that this standard is met. “If the court finds the evidence to be lacking in credibility or lacking ‘an air of reality’, the court can refuse to grant judgement or grant partial judgement:” *Elekta Ltd. v. Rodkin*, 2012 ONSC 2062, at para. 13.

[19] The plaintiff seeks judgment for:

- i. An amount equivalent to USD \$1,810,000, which the plaintiff states is the amount that Myron LLC received from Mr. Santor’s company, Erbschaft, and applied against the Spanish Property; and
- ii. An amount equivalent to USD \$1,200,000, which the plaintiff states is the amount of the Overpayment.

[20] The Plaintiff states that both claims are for liquidated damages. In this regard the Plaintiff points to *Holdon Day Wilson v. Ashton*, 1993 CanLII 8513 (Div. Court.): “A claim is liquidated ‘whenever the amount to which the plaintiff is entitled (if he is entitled to anything) can be ascertained by calculation [...]’”.

[21] For the Spanish Property, the amount claimed is the amount that the Plaintiff states was misappropriated from the Fund and/or PMI and used to buy the Spanish Property (\$1,810,000 USD).

[22] For the Overpayment, the amount sought as a measure of damages (\$1.2 million USD) corresponds to the damage sustained. It is based on a straight calculation.

[23] With regard to the Spanish Property, the Plaintiff’s evidence is that the funds used to acquire the property came from wrongful diversion of funds from the Productivity Media business. Mr. Kofman’s affidavit discusses the evidence found through PwC’s investigation, which showed how Fund money was diverted to one or more of the Responding Parties, and ultimately used for the purchase of the Spanish Property. The sequence of the transactions is summarized at paras. 18-24 of KSV’s factum (it is detailed in the affidavit of Mr. Kofman).

[24] By failing to defend, the Responding Parties are each deemed to admit the allegations in the Statement of Claim. Among other things, the Responding Parties are deemed to admit para. 30 of the Statement of Claim: “The Defendants also knew or ought to have known that the funds used to purchase the Spanish Property were the fruits of fraud, or alternatively, took those benefits while either reckless or wilfully blind with respect to the source of the funds, or alternatively, with constructive knowledge of their fraudulent nature.”

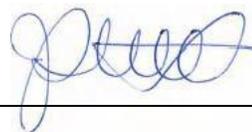
[25] With regard to the Overpayment, paragraphs 49-59 of the Statement of Claim, which the Responding Parties are deemed to admit, allege the following:

- i. The compensation of the co-founders of Productivity Media was to be calculated based on the value of PMI's AUM. The fraudulent loans made it appear that the Fund was more successful than it was, artificially increasing the NAV of the Fund and the Fund's AUM.
- ii. The artificial increases resulted in increases to Mr. Chang-Sang's compensation.
- iii. Each fraudulent loan resulted in the Fund paying closing fees to PMI which increased PMI's revenue and increased the bonuses and dividends payable to Mr. Chang-Sang.
- iv. The Plaintiff asserts that Mr. Chang-Sang was overcompensated by at least USD \$1.2 million.
- v. The Plaintiff pleads that the Responding Parties "received benefits as a result of the Fraudulent Scheme and knew or ought to have known that the funds were fruits of fraud."

[26] Paragraph 64 of the Statement of Claim, which the Responding Parties are deemed to admit provides: "The Defendants received all or part of the Erbschaft Funds, the Overpayment, other proceeds of the Fraudulent Scheme, or assets acquired thereby, with knowledge, actual or constructive, of the Fraudulent Scheme and the misstatement of PMI's AUM. They hold all such funds or assets as constructive trustees for the benefit of the Plaintiff."

[27] At the return on March 13, 2026, at the Court's request, the Plaintiff made further submissions on the appropriate date on which pre-judgment interest started to accrue. For the Overpayments, the Receiver seeks pre-judgment interest calculated on the basis that the "date the cause of action arose" within the meaning of s. 128(1) of the *Courts of Justice Act* is November 19, 2024, being the date that the Receiver was appointed². I agree with the Receiver's submission that this date is fair and reasonable. For the Spanish Property, the Receiver proposes that the closing date for the purchase of the property is the date the cause of action arose. I agree.

[28] The Receiver is entitled to its partial indemnity costs, fixed in the amount of \$25,194.60 (inclusive of taxes and disbursements).



Date of Release: March 16, 2026

² At the March 3, 2026 appearance, the proposed calculation of pre-judgment interest was premised on an earlier date upon which pre-judgment interest started to accrue, which date appeared to the court to be arbitrary. The Court asked the Receiver to either propose a pre-judgment interest amount based on actual calculations of when the Overpayment amounts were received or use the date of the appointment of the Receiver.