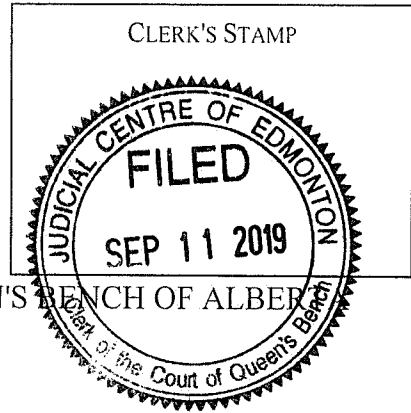


FORMS 27 AND 32
[RULES 6.3, 6.31, 6.32 AND 10.52(1)]



COURT FILE NUMBER 1903-08169
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF FORTIS LGS STRUCTURES INC.
DEFENDANTS STATION POINT DEVELOPMENTS LTD. and
BCM DEVELOPMENTS LTD.

DOCUMENT APPLICATION – APPROVAL OF
CONSTRUCTION MANAGEMENT
CONTRACT AND ORDER RESTRICTING
COURT ACCESS

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
3200 Telus House
South Tower, 10020 – 100th Street
Edmonton, Alberta T5J 0N3

Attention: Katherine Fisher and Sean Zweig
Telephone No.: (780) 917-4268/ (416) 777-6254
Fax No.: (780) 421-7591

NOTICE TO RESPONDENTS:

This application is made against you. You are a respondent.

The Applicant wishes to apply for, *inter alia*, an order restricting access to court proceedings or records.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: September 19, 2019
Time: 11:00 a.m.
Where: Alberta Court of Queen's Bench Edmonton
Before Whom: The Honourable Mr. Justice M.J. Lema

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Applicant, KSV Kofman Inc., as Trustee and Receiver and Manager of certain property of Station Point Developments Ltd. (in all such capacities, the "**Receiver**") pursuant to an Order of the Court of Queen's Bench of Alberta dated June 18, 2019, seeks an Order substantially in the from attached hereto as **Schedule "A"**, among other things:
 - (a) abridging the time for service of the Application and deeming such service good and sufficient;
 - (b) approving the construction management contract between the Receiver and RSM Building Inc. ("**RSM**") dated September 11, 2019 (the "**Contract**");
 - (c) authorizing and directing the parties to the Contract to comply with the terms of the Contract and authorizing the Receiver to take such steps and to execute such documents as may be necessary or incidental to give effect to the Contract;
 - (d) sealing the confidential Proposal Summary (the "**Confidential Proposal Summary**") appended to the First Report of the Receiver, dated September 11, 2019 (the "**First Report**"), notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*; and
 - (e) such further and other relief as counsel may advise and this Honourable Court may permit.

Grounds for making this application:

Approval of Construction Management Contract

2. In or around 2012, BCM Developments Ltd. ("**BCM**") entered into negotiations and subsequently an agreement of purchase and sale (the "**Agreement**") to purchase the real property municipally described as 403 Belvedere Gate NW Edmonton (the "**Real Property**") from the City of Edmonton. Prior to closing, the Agreement was assigned by BCM to Station Point Developments Ltd. (the "**Company**").

3. In 2016, the Company obtained a construction loan from KingSett Mortgage Corporation ("**KingSett**") to develop and construct on the Real Property a 112 unit residential apartment building, together with a ground floor retail space (the "**Project**"). Construction of the Project commenced in 2016 and was expected to be completed in 2018.
4. The Project is approximately 78% complete. The principal purpose of these proceedings is to complete the Project in order to maximize recovery for the Company's stakeholders.
5. The Project has been delayed by several issues, including cost overruns, builders' liens registered against title to the Real Property and a dispute between the Company and Fortis LGS Structures Inc., the Project's previous general contractor.
6. In order to facilitate completion of the Project, the Receiver solicited proposals from five construction managers (collectively, the "**Proponents**"), including BCM, to act as construction manager for the Project, by way of a Request for Proposals.
7. Four of the Proponents submitted proposals. The Receiver invited the two Proponents with the best proposals to submit a further proposal. One of these two Proponents, RSM, improved its second-round offer, while the other party left its proposal unchanged.
8. The Receiver selected the RSM proposal because:
 - (a) RSM is a local and experienced contractor;
 - (b) RSM's fees were similar or lower than the other Proponents;
 - (c) RSM appeared more familiar with the Project than other Proponents (other than BCM) as a result of the due diligence that it had performed;
 - (d) RSM has experience completing projects in the context of insolvency proceedings; and
 - (e) KingSett, a primary economic stakeholder in these proceedings and the party funding the Receiver to fund the construction costs during the receivership, has

advised the Receiver that it consents to the retention of RMS and the terms of the Contract.

9. The Receiver and RSM have been working on the terms of the Contract since mid-July, due to the changes required to the standard form construction contract to make them appropriate for a receivership proceeding. If the Contract is not approved, the Receiver would be required to negotiate with another party, which would delay the re-commencement of construction and result in additional professional fees and other carrying costs.

Sealing of the Confidential Proposal Summary

10. The Confidential Proposal Summary contains details of the proposals submitted by the various Proponents to the Receiver. Such information is commercially sensitive, the publication or dissemination of which could negatively affect these receivership proceedings. In particular, should the Court not approve the Contract, the Receiver may need to solicit additional proposals. If future proponents have access to the Confidential Proposal Summary, it could unfairly influence the resubmission process.
11. The Receiver is not aware of any party that will be prejudiced if the information contained in the Confidential Proposal Summary is sealed.
12. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

13. The pleadings and proceedings in this action;
14. The First Report, filed; and
15. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

16. Part 6, Division 4 of the *Alberta Rules of Court*; and
17. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

18. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3;
19. The *Judicature Act*, RSA 2000, c J-2; and
20. Such further another Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

21. None.

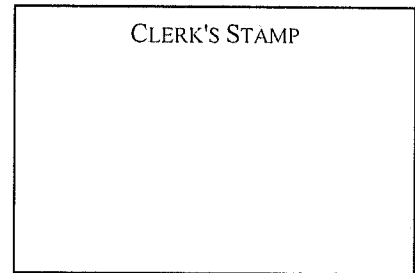
How the application is proposed to be heard or considered:

22. In person before the Honourable Mr. Justice M.J. Lema on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"



COURT FILE NUMBER 1903-08169

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF(S) FORTIS LGS STRUCTURES INC.

DEFENDANT(S) STATION POINT DEVELOPMENTS LTD. and
BCM DEVELOPMENTS LTD.

DOCUMENT **ORDER (APPROVING CONSTRUCTION
MANAGEMENT CONTRACT AND
RESTRICTING COURT ACCESS)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT **BENNETT JONES LLP**
Barristers and Solicitors
3200 Telus House
South Tower, 10020 – 100th Street
Edmonton, Alberta T5J 0N3

Attention: Katherine Fisher and Sean Zweig
Telephone No.: (780) 917-4268/ (416) 777-6254
Fax No.: (780) 421-7591

DATE ON WHICH ORDER WAS PRONOUNCED: September 19, 2019

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice J.M. Lema

LOCATION OF HEARING: Edmonton, Alberta

UPON the application (the "**Application**") of the trustee, receiver and manager, KSV Kofman Inc. (in such capacities, the "**Receiver**"); AND UPON reading the First Report of the Receiver dated September 11, 2019 (the "**First Report**"); AND UPON hearing the submissions of counsel for the Receiver and any other person present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of this Application is hereby abridged and deemed good and sufficient, and this Application is properly returnable today.

APPROVAL OF CONSTRUCTION MANAGEMENT CONTRACT

2. The construction management contract between the Receiver and RMS Building Inc. dated September 11, 2019 (the "**Contract**"), in the form attached as Appendix "C" to the First Report, be and is hereby approved.
3. The parties to the Contract are authorized and directed to comply with the terms of the Contract, and the Receiver is authorized to take such steps and execute such documentation as may be necessary or incidental to give effect to the Contract.
4. Notwithstanding any provision of this Order, nothing herein shall affect, vary, derogate from, limit or amend, and the Receiver and its counsel shall continue to have the benefit of, the approvals and protections in favour of the Receiver at law, pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, the *Builders' Lien Act*, R.S.A. 2000 c. B-7, the *Judicature Act*, R.S.A. 2000 c. J-2, the Order Appointing Builders' Lien Trustee and Receiver and Manager dated June 18, 2019, and any other order of this Court in these proceedings, all of which are expressly continued and confirmed, including any actions taken by the Receiver pursuant to this Order.
5. The Confidential Proposal Summary appended to the First Report of the Receiver (the "**Confidential Exhibit**") as Confidential Appendix "1" shall be sealed on the Court file, kept confidential and not form part of the public record, notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*, until the conclusion of these proceedings pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.
6. The Clerk of the Court shall file the Confidential Exhibit in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED
IN COURT FILE NO. 1903-08169. THE CONFIDENTIAL MATERIALS

ARE SEALED PURSUANT TO THE SEALING ORDER GRANTED BY THE HONOURABLE MR. JUSTICE M.J. LEMA ON SEPTEMBER 19, 2019, AND ARE NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE, UNTIL THE CONCLUSION OF THESE PROCEEDINGS PURSUANT TO THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, C B-3, AS AMENDED.

7. Leave is hereby granted to any person or party affected by this Order to apply to this Honourable Court for a further order modifying or varying the terms of paragraphs 5 and 6 of this Order, with such application to be brought on no less than seven (7) days' notice to the Receiver and any other affected party pursuant to the *Alberta Rules of Court*.

Justice of the Court of Queen's Bench of Alberta