



Court File No. CV-21-00663051-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)
JUSTICE OSBORNE)
TUESDAY, THE 20TH
DAY OF DECEMBER, 2022

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

SUNRISE ACQUISITIONS (HWY 7) INC.

Respondent

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

ORDER
(Repayment of Amounts Owing)

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties of Sunrise Acquisitions (Hwy 7) Inc. (the "**Company**") acquired for or used in relation to a business carried on by the Company and the proceeds therefrom, for an Order, *inter alia*, directing payment of certain amounts due and owing to the Company, was heard this day at 330 University Avenue, Toronto, Ontario.

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ON READING the Motion Record of the Receiver dated August 5, 2022, the Responding Motion Record of the responding parties dated September 16, 2022, the Supplementary Responding Motion Record of the responding parties dated October 18, 2022, the Further Supplementary Responding Motion Record of the responding parties dated November 23, 2022, the Reply Motion Record of the Receiver dated November 30, 2022, the Brief of Transcripts dated November 30, 2022, the Factum and Authorities of the Receiver dated December 2, 2022, the Responding Factum of the responding parties dated December 12, 2022, and the Reply Factum and Authorities of the Receiver dated December 16, 2022, and on hearing the submissions of counsel for the Receiver and counsel for the responding parties, and such other counsel that were present, with Nayyar Shabbar not appearing although properly served,

AND UPON BEING ADVISED that each of Muzammil Kodwavi, Sajjad Hussain, SH & MK Management Inc., Sunrise Homes Ltd., Sunrise Acquisitions (Bronte) Inc., Sunrise Acquisitions (Unionville) Inc., Sunrise Acquisitions (Keswick) Inc., Sunrise Acquisitions (Keswick II) Inc., Sunrise Acquisitions (Tisdale) Inc., Sunrise Acquisitions (Tisdale II) Inc., Sunrise Acquisitions Inc., Sunrise Acquisitions (Burlington) Inc., IKH Holdings Inc., Amal Financial Inc., and 2303484 Ontario Inc. (collectively, the "**Acknowledged Debtors**") and the Receiver consent to this Order,

AND UPON BEING FURTHER ADVISED that the balance of the relief sought on the Receiver's motion, including, without limitation, with respect to the issues of joint and several liability and the Receiver's entitlement to Occupancy Fees (as defined in the Receiver's Notice of Motion dated July 6, 2022), costs and interest are to be adjourned to January 31st, 2023, with the Acknowledged Debtors being at liberty to file a supplementary factum of no longer than 10-pages (but no additional evidence) provided at least CAD\$500,000 is paid to the Receiver by the



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Acknowledged Debtors by no later than December 29, 2022, and the Receiver being at liberty to file a further reply factum of no longer than 10-pages (but no additional evidence),

REPLACEMENT OF THE EXISTING REPAYMENT ORDER

1. **THIS COURT ORDERS** that the Order of the Honourable Justice Kimmel in these proceedings dated November 2, 2022 is hereby vacated and replaced with this Order.

JUDGMENT ON ACKNOWLEDGED DEBT AND THE DEBT OF NAYYAR SHABBAR

2. **THIS COURT ORDERS** that the amount of CAD\$14,359,012 is due and payable to the Receiver forthwith, with liability of the Acknowledged Debtors as noted below:

- (a) CAD\$2,701,966 payable forthwith by Muzammil Kodwavi,
- (b) CAD\$2,475,423 payable forthwith by Sajjad Hussain,
- (c) CAD\$1,803,154 payable forthwith by SH & MK Management Inc.,
- (d) CAD\$613,650 payable forthwith by Sunrise Homes Ltd.,
- (e) CAD\$2,490,550 payable forthwith by Sunrise Acquisitions (Bronte) Inc.,
- (f) CAD\$1,528,100 payable forthwith by Sunrise Acquisitions (Unionville) Inc.,
- (g) CAD\$1,247,475 payable forthwith by Sunrise Acquisitions (Keswick) Inc.,
- (h) CAD\$282,200 payable forthwith by Sunrise Acquisitions (Keswick II) Inc.,
- (i) CAD\$281,300 payable forthwith by Sunrise Acquisitions (Tisdale) Inc.,

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- (j) CAD\$80,650 payable forthwith by Sunrise Acquisitions (Tisdale II) Inc.,
- (k) CAD\$57,040 payable forthwith by Sunrise Acquisitions Inc.,
- (l) CAD\$300 payable forthwith by Sunrise Acquisitions (Burlington) Inc.,
- (m) CAD\$63,432 payable forthwith by IKH Holdings Inc.,
- (n) CAD\$9,079 payable forthwith by Amal Financial Inc., and
- (o) CAD\$250 payable forthwith by 2303484 Ontario Inc.

3. **THIS COURT ORDERS** that the amount of CAD\$724,443 is due and payable to the Receiver forthwith by Nayyar Shabbar.

4. **THIS COURT ORDERS** that all amounts due and payable under this Order bear interest at the rate of 4% percent per year commencing from the date of this Order.

PROHIBITION ON DISSIPATION OF ASSETS

5. **THIS COURT ORDERS** that the Acknowledged Debtors, including, as applicable, their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this Order, are hereby prohibited and enjoined from selling, transferring, conveying, alienating, dissipating, pledging or similarly dealing with any assets outside the ordinary course.

6. **THIS COURT ORDERS** that paragraph 5 of this Order applies to all of the Acknowledged Debtors' assets whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order, the Acknowledged Debtors' assets include

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any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The Acknowledged Debtors are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

SURVIVAL

7. **THIS COURT ORDERS AND DECLARES** that, as against Muzammil Kodwavi and Sajjad Hussain, this Order survives any personal bankruptcy pursuant to and in accordance with subsection 178(1)(d) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").

RECEIVER'S AND TRUSTEE'S RIGHTS AND REMEDIES

8. **THIS COURT ORDERS AND DECLARES** that this Order is made without prejudice to any and all of the Receiver's rights and remedies at law and in equity with respect to any matters not addressed directly in this Order, including with respect to the balance of the outstanding issues on the Receiver's motion (such as the joint and several liability of the Acknowledged Debtors, and the Receiver's entitlement to Occupancy Fees, costs and interest), as well as those of the Company's Licensed Insolvency Trustee in Bankruptcy, including, without limitation, under sections 95-96 of the BIA and under the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29 and *Assignments and Preferences Act*, R.S.O. 1990, c. A.33.

9. **THIS COURT ORDERS** that the portions of the Receiver's motion not addressed in this Order, including, without limitation, with respect to the issues of joint and several liability and the Receiver's entitlement to Occupancy Fees, costs and interests, shall be adjourned to January 31, 2023. Provided that the Acknowledged Debtors pay to the Receiver at least CAD\$500,000 by no



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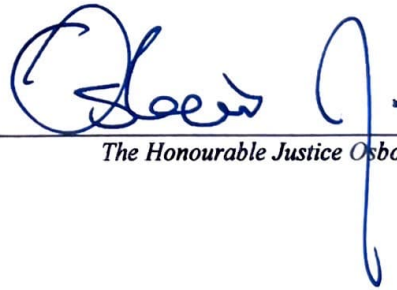
later than December 29, 2022, the Acknowledged Debtors shall be permitted to file a supplementary factum of no longer than 10-pages on or before January 10, 2023. The Receiver may file a reply factum of no longer than 10-pages on or before January 19, 2023.

RD
RW

GENERAL

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

11. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date of this Order, and this Order is enforceable without the need for entry or filing.



The Honourable Justice Osborne

KINGSETT MORTGAGE CORPORATION

Applicant

-and-

SUNRISE ACQUISITIONS (HWY 7) I

Respon

Court File No. CV-21-00663051-00

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

Proceeding commenced at Toronto

**ORDER
(Repayment of Amounts Owing)**

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