



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-21-00663051-00CL **DATE:** 8 May 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: **KINGSETT MORTGAGE CORPORATION v. SUNRISE
ACQUISITIONS (HWY 7) INC. et al**
BEFORE JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
JOSEPH BLINICK, JOSHUA FOSTER	KSV RESTRUCTURING Court appointed receiver	blinickj@bennettjones.com fosterj@bennettjones.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
SARA MOSADEQ	RESPONDENTS	Sara@rarlitigation.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
MARY PATERSON	FAAN MORTGAGE ADMINISTRATORS INC. Court appointed Trustee	mpaterson@osler.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. The Receiver seeks today a settlement approval order approving the proposed settlement between the Receiver and the Responding Parties, as well as an order authorizing distributions to the Sorrenti Trustee, the first ranking secured creditor.
2. The relief sought today is unopposed. It is, not surprisingly, fully supported by the Trustee. The Responding Parties fully support and consent to the settlement approval order, and do not oppose the distribution order (those parties have no interest in the proceeds in any event).
3. Defined terms in this Endorsement have the meaning given to them in the motion materials, in my earlier Endorsements made in this matter, and/or in the Fourth Supplement to the Third Report dated April 28, 2023.
4. For all of the reasons set out in the motion materials, and particularly in the First Report of the Receiver, the Third Report, and the Second, Third and Fourth Supplements to the Third Report, as well as based on the submissions of counsel today, the relief is granted.
5. I granted an order on December 20, 2022, on the consent of the Responding Parties directing them to repay the aggregate amount of \$14,359,012 to the Receiver, with certain issues relating to joint and several liability of the Responding Parties and other ancillary issues, reserved to another day.
6. Remaining issues were scheduled to be determined by motion on April 14, 2023. The parties appeared again before me on that date and advise that negotiations between and among them had resulted in a potential resolution of various matters in dispute. The Proposed Settlement was agreed to on April 13 and the Settlement Agreement was signed on April 14, 2023.
7. As against that settlement, and again on consent of the Responding Parties, the Receiver sought and I granted on April 14, 2023 an order restating the December 2022 Order and requiring the Responding Parties to pay on a joint and several basis to the Receiver the sum of \$14,510,545.24. The Receiver advised the Court on that date that it would prepare materials with a view to bringing back before the Court shortly a motion to have the Proposed Settlement and Settlement Agreement approved. That is the motion before me today.
8. The Settlement Agreement itself is appended to the Fourth Supplement to the Third Report as Exhibit "C" (CaseLines E14740).
9. The Settlement Agreement contemplates, among other things, that the Responding Parties will pay to the Receiver the sum of \$10,500,000 in consecutive instalments of no less than \$2 million each, with the first such instalment due to be paid by the later of 60 days from the execution of the Settlement Agreement or 30 days following the granting of the Settlement Approval Order sought today. Subsequent instalments are due in successive 60 day increments thereafter until the Settlement Amount is paid in full.
10. In the event that the Responding Parties fail to pay the Settlement Payments as required, or breach certain other terms of the Settlement Agreement, the Receiver may immediately enforce the April 2023 Order referred to above.
11. In all the circumstances, I am satisfied that the Settlement Agreement should be approved. It represents, obviously, a compromise. The Settlement Amount is less than the amount agreed to be owing pursuant to the earlier orders. On the other hand, the agreement of the Responding Parties, and the voluntary payments, represent an efficient and cost-effective resolution of this matter which ought to benefit all

stakeholders through expediency and the minimizing of additional litigation costs. There are downside protections for the Receiver in the event of default. The payment now stops the continuing accrual of interest and therefore is also to the benefit of the stakeholders.

12. Moreover, the Settlement Amount will be sufficient to repay FAAN in full. The Receiver has obtained a security opinion in respect of the priority interest of the Trustee.
13. As noted above, there is no opposition to the approval of the Settlement Agreement, and there is the support of the Trustee, the senior ranking creditor.
14. The Settlement Agreement is approved.
15. For many of the same reasons, the distribution is also approved. There is no reason to delay the distribution to the senior secured creditor and this relief, also, is unopposed.
16. Order to go in the form signed by me today, which is effective immediately and without the necessity of issuing and entering.

A handwritten signature in black ink that reads "Owen, J." The signature is written in a cursive style with a large, looped initial 'O'.