

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

THE HONOURABLE MR.) WEDNESDAY, THE 27th
)
JUSTICE KOEHNEN) DAY OF OCTOBER, 2021

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

SECOND SALE PROCESS AND DISCLAIMER ORDER

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, including, without limitation, certain real property owned by the Company in Markham, Ontario, for an order, among other things: (i) abridging and validating service of the Notice of Motion and Motion Record herein; (ii) approving the proposed Second Sale Process (as defined and described in the Third Report of the



Receiver dated October 20, 2021 (the "**Third Report**")); and (iii) terminating, repudiating and/or disclaiming the PSAs (as defined in the Third Report), was heard this day by videoconference due to the COVID-19 pandemic.

ON READING the Third Report (including the appendices thereto), and on hearing the submissions of counsel for the Receiver, and such other counsel as were present, no one else appearing although properly served, as appears from the affidavit of Aiden Nelms sworn and filed.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Third Report.

SECOND SALE PROCESS

3. **THIS COURT ORDERS** that the proposed Second Sale Process be and is hereby approved. The Receiver is hereby authorized to carry out the Second Sale Process and to take such steps as it considers necessary or desirable in carrying out its obligation thereunder.
4. **THIS COURT ORDERS** that the Receiver and its affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing its duties under the Second Sale Process, except to the extent such losses,

claims, damages or liability arises or results from the gross negligence or wilful misconduct of the Receiver, as determined by this Court.

DISCLAIMER OF EXISTING PSAs AND CONTINUATION OF LEASE AGREEMENTS

5. **THIS COURT ORDERS** that the PSAs shall be and are hereby deemed to be terminated, repudiated and/or disclaimed effective as of the date of this Order.

6. **THIS COURT ORDERS** notwithstanding paragraph 5 of this Order, the Lease Agreements shall continue on a month-to-month basis, but effective as of the date of this Order, the Company shall be the landlord and the Tenants' counterparty under the Lease Agreements for all purposes, including that the Company shall have the right to terminate each Lease Agreement in accordance with its terms or as may otherwise be permitted by law.

DISTRIBUTIONS

7. **THIS COURT ORDERS** that following the delivery of any Receiver's Certificate contemplated by the Approval and Vesting Order granted in this proceeding on the date hereof (the "**Approval and Vesting Order**"), the Receiver is:

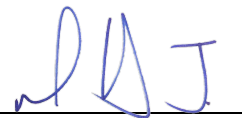
- (a) first, authorized and directed to create and hold a reserve in the amount of the Deposit in respect of each Remaining Unit (the "**Deposit Holdback**") which Deposit Holdback may not be distributed to any party without the agreement of the Receiver, the Spouses and FAAN Mortgage Administrators Inc. ("**FAAN**"), in its capacity as Sorrenti Trustee, or further order of the Court;

- (b) second, authorized to pay commissions to Cityscape in respect of commissions owing, being 3.25% of the sale price of each Remaining Unit contemplated by the relevant Sale Agreement (as that term is defined in the Approval and Vesting Order), plus HST;
- (c) third, authorized to make one or more distributions to KingSett Mortgage Corporation, or as it may direct, up to the amount owing under its registered mortgage on the Remaining Units, if any; and
- (d) fourth, authorized to make one or more distribution to FAAN, in its capacity as Sorrenti Trustee, or as it may direct, up to the amount owing under the Sorrenti Charge registered on the Remaining Units.

GENERAL

8. **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.

9. **THIS COURT ORDERS** that this Order and all of its provision are effective as of 12:01 a.m. on the date of this Order.



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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

SECOND SALE PROCESS AND DISCLAIMER ORDER

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Court-appointed Receiver and not in its personal capacity