

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

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

SUPPLEMENTAL APPLICATION RECORD

June 1, 2021

Cassels Brock & Blackwell LLP

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Lawyers for the Applicant

TO: THE SERVICE LIST

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SERVICE LIST

(Current to May 28, 2021)

TO:	<p>Cassels Brock & Blackwell LLP 2100 Scotia Plaza 40 King Street West Toronto, ON M5H 3C2</p> <p>Ryan Jacobs Tel: 416.860.6465 Fax: 416.640.3189 rjacobs@cassels.com</p> <p>Joseph Bellissimo Tel: 416.860.6572 Fax: 416.642.7150 jbellissimo@cassels.com</p> <p>Ben Goodis Tel: 416.869.5312 Fax: 416-640-3199 bgoodis@cassels.com</p> <p><i>Counsel for the Applicant</i></p>
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AND TO:	<p>SUNRISE ACQUISITIONS (HWY 7) INC. 50 West Wilmot Street Suite 100 Richmond Hill, ON L4B 1M5</p> <p>shussain@sunrisehomes.ca mkodwavi@sunrisehomes.ca</p> <p><i>Respondent</i></p>
AND TO:	<p>KSV RESTRUCTURING INC. 150 King Street West Suite 2308 Toronto, ON M5H 1J9</p> <p>Noah Goldstein Tel: 416.932.6207 ngoldstein@ksvadvisory.com</p> <p>Emily Klein Tel: 416.932.6259 eklein@ksvadvisory.com</p> <p><i>Proposed Receiver</i></p>
AND TO:	<p>BENNETT JONES LLP 100 King Street West Suite 3400 Toronto, ON M5X 1A4</p> <p>Sean H. Zweig Tel: 416.777.6254 zweigs@bennettjones.com</p> <p>Aiden C.R. Nelms Tel: 416.777.4642 nelmsa@bennettjones.com</p> <p><i>Counsel to the Proposed Receiver</i></p>
AND TO:	<p>FAAN MORTGAGE ADMINISTRATORS INC. 920-20 Adelaide Street East Toronto, ON M5C 2T6</p> <p>Naveed Manzoor Tel: 416.258.6145 naveed@faanadvisors.com</p> <p>Daniel Sobel Tel: 647.272.8383 daniel@faanadvisors.com</p>

	<p><i>Court-appointed Trustee of the 2nd Mortgagee, Sorrenti Law Professional Corporation</i></p>
AND TO:	<p>OSLER HOSKIN & HARCOURT LLP 100 King Street West 1 First Canadian Place Suite 6200, P.O. Box 50 Toronto, ON M5X 1B8</p> <p>Jeremy Dacks Tel: 416.862.4923 jdacks@osler.com</p> <p>Michael De Lellis Tel: 416.862.5997 mdelellis@osler.com</p> <p><i>Counsel to FAAN Mortgage Administrators Inc.</i></p>
AND TO:	<p>OLYMPIA TRUST COMPANY 125 9th Avenue SE, Suite 2200 Calgary, Alberta T2G 0P6</p>
AND TO:	<p>REHANNA AMEERULLAH AND MANSI KUMARI c/o 6 Dalewood Drive Richmond Hill, ON L5B 3C3</p>
AND TO:	<p>SAJJAD HUSSAIN shussain@sunrisehomes.ca</p>
AND TO:	<p>MUZAMMIL KODWAVI mkodwavi@sunrisehomes.ca</p>
AND TO:	<p>NORMAN WINTER 21 Dundas Sq 11th Floor Toronto, ON M5B 1B7</p> <p>nw@nwinlaw.com</p>
AND TO:	<p>DIRECTOR OF PLANNING AND URBAN DESIGN FOR THE CORPORATION OF THE CITY OF MARKHAM Planning and Urban Design Department 101 Town Centre Boulevard (Thornhill entrance) Markham, ON L3R 9W3</p>

	Tel: 905.475.4861 Fax: 905.479.7768 dsc@markham.ca
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TAB 1

**ONTARIO
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SUPPLEMENTAL AFFIDAVIT OF DANIEL POLLACK SWORN JUNE 1, 2021

I, Daniel Pollack, of the City of Toronto, in the Province of Ontario, MAKE OATH AND

SAY:

1. I am a Senior Director, Special Loans and Portfolio Management, of the Applicant, KingSett Mortgage Corporation (“**KingSett**”). I have responsibility for matters pertaining to the borrowings of the Respondent, Sunrise Acquisitions (Hwy 7) Inc. (“**Sunrise**”) from KingSett and, as such, have personal knowledge of the matters contained in this affidavit. Where I make statements based on information and belief, the source of that information is identified, and I verily believe the statements to be true. I am authorized to swear this affidavit on behalf of KingSett.

2. On May 28, 2021, I swore an affidavit (the “**First Pollack Affidavit**”) in support of KingSett’s application to appoint KSV Restructuring Inc. (“**KSV**”) as receiver and manager pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the

Courts of Justice Act (Ontario) over all of the assets, undertakings and properties of Sunrise and the proceeds therefrom (the “**Property**”). Capitalized terms used in this affidavit but not defined shall have the meaning given to such terms in the First Pollack Affidavit.

3. Since swearing the First Pollack Affidavit, on June 1, 2021, KingSett received a letter from FAAN, in its capacity as Court-appointed trustee of Sorrenti Law, supporting KingSett’s application to appoint KSV as receiver and manager over the Property and providing further information from FAAN relating to Sunrise. A copy of FAAN’s letter is attached hereto as **Exhibit “A”**.

SWORN BEFORE ME

by videoconference on June 1, 2021 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario



Commissioner for Taking Affidavits
(or as may be)

Commissioner: Benjamin Goodis
LSO# 703030H

}



DANIEL POLLACK

This is Exhibit "A" referred to in the Affidavit of Daniel Pollack
sworn June 1, 2021

A handwritten signature in black ink, appearing to read "Brian Goody". The signature is written in a cursive style with a large initial "B".

Commissioner for Taking Affidavits (or as may be)



June 1, 2021

SENT BY ELECTRONIC MAIL

KingSett Mortgage Corporation
Scotia Plaza, 40 King Street West
Suite 3700, PO Box 110
Toronto, Ontario M5H 3Y2

Attention: Daniel Pollack, dpollack@kingsettcapital.com

On the application of the Law Society of Ontario, on September 30, 2019, FAAN Mortgage Administrators Inc. was appointed as trustee (in such capacity, the “**Trustee**”) over all of the assets, undertakings and properties of Sorrenti Law Professional Corporation and Derek Sorrenti (together, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. and certain related entities (“**SML Administration Business**”), including any real property mortgages registered in the name of Sorrenti, under a court order issued by the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) pursuant to section 49.47 of the *Law Society Act* (Ontario) and section 101 of the *Courts of Justice Act* (Ontario) (“**Appointment Order**”). A copy of the Appointment Order is attached as Exhibit “P” to the Affidavit of Daniel Pollack of KingSett Mortgage Corporation (“**KingSett**”) sworn May 28, 2021 (“**Pollack Affidavit**”) in support of an application (“**Receivership Application**”) seeking an order appointing KSV Restructuring Inc. as receiver and manager of Sunrise Acquisitions (Hwy 7) Inc. (“**Borrower**”), which the Trustee understands is returnable on June 9, 2021.

For the reasons set out in this letter, the Trustee supports the Receivership Application and wishes to provide some additional background including the challenges faced by the Trustee in administrating the Unionvillas SML for the benefit of the Unionvillas Investors (each as defined below).

Background

As at the date of the Appointment Order, Sorrenti was administering approximately \$95 million of syndicated mortgage loans, which funds were advanced by approximately 2,900 individual investors (“**Investors**”) in connection with ten syndicated mortgage loans (“**Sorrenti SMLs**”) made to ten different real estate projects that were in various stages of development. These funds were advanced by members of the general public, many of whom are unsophisticated with respect to their investments and have invested significant portions of their retirement savings in these loans. The Trustee’s mandate is set out in the Appointment Order and includes, among other things, the power to manage, operate and carry on the SML Administration Business. In carrying out its mandate, the Trustee actively engages with borrowers, priority mortgagees and other stakeholders with respect to



the Sorrenti SMLs in an effort to protect the Investors' loan and security positions and to maximize potential recoveries for Investors wherever possible.

The Receivership Application is made in connection with a 52-unit townhouse development in Markham, Ontario ("**Unionvillas Project**") that was partially funded by a syndicated mortgage loan in the principal amount of \$8 million ("**Unionvillas SML**"), which was advanced by 145 Investors ("**Unionvillas Investors**") (with investments ranging between \$30,000 and \$400,000) through Sorrenti to the Borrower. The Unionvillas SML is secured by a charge registered on title to certain unsold units in the Unionvillas Project. The Unionvillas SML, which was raised between August 2015 and August 2016, matured in August 2017 and no payments have been made by the Borrower in respect of the loan since that time. As at May 31, 2021, the total amount owing to the Unionvillas Investors is approximately \$10.7 million, including approximately \$2.7 million of unpaid interest.

In addition to the registered charge in favour of the Unionvillas SML, there are prior ranking charges registered on title to unsold units in the Unionvillas Project in favour of KingSett, which relate to the construction financing for the project. The Trustee understands that as of May 10, 2021 there was approximately \$1.1 million owing to KingSett in respect of its construction loans and approximately \$823,000 owing in respect of its loan securing certain letters of credit.

Information Challenges

Since the Trustee's appointment, the Borrower has repeatedly advised the Trustee that the Unionvillas Investors would recover, at a minimum, all of their principal advances. The Borrower provided the Trustee with multiple recovery analyses, each of which confirmed the Borrower's assertions regarding the anticipated recoveries.

On March 10, 2021, the Borrower requested a meeting with the Trustee, at which time a new recovery analysis was provided, which indicated for the first time that the Unionvillas Investors would suffer a significant shortfall on their principal advances. The Borrower did not provide a plausible explanation for the sudden and marked decrease in the expected recovery.

On March 11, 2021, the Trustee sent an email to the Borrower, which was followed up by a letter from the Trustee's legal counsel to legal counsel to the Borrower on March 14, 2021 ("**March 14th Letter**"). The March 14th Letter, among other things, required that the Borrower refrain from completing any further unit closings without the consent of the Trustee and requested information and documents, including, but not limited to, the Borrower's general ledger, closing documents for completed unit sales, bank statements and copies of related cheques, priority mortgagee loan statements, and information related to letters of credit held by the City of Markham and Tarion Warranty Corporation ("**Tarion**").

Although the Borrower provided some of the requested information, the Borrower failed to provide several pieces of requested documentation, including one of the most important documents, the general ledger. The general ledger is necessary to review the transaction history of the Borrower



including a review of its financial activity and sources and uses of cash. The Borrower also did not provide, among other things, requested information concerning the status of the remaining residential units, cheque copies, and the letters of credit held by the City of Markham and Tarion. As a result, the Trustee, as a Court Officer, has significant concerns with the Borrower's lack of transparency.

Based on the Pollack Affidavit and the recent information provided by the Borrower, Sorrenti would be the fulcrum creditor in the proposed receivership proceedings as KingSett anticipates that it will be paid in full. As noted in the Pollack Affidavit, the remaining assets of the Borrower are five residential units in the Unionvillas Project ("**Remaining Units**"). Each of the five Remaining Units appears to be subject to an executed agreement of purchase and sale that has an unusually large deposit, which collectively total \$2.575 million ("**Deposits**"). In most cases, the applicable Deposit is equal to approximately 50% of the proposed selling price, and at least four of the five Remaining Units have been sold to parties related to the Borrower. The Borrower has advised the Trustee that the Deposits have been used by the Borrower, though no support or proper accounting has been provided to the Trustee to date.

As noted above, the Trustee is of the view that the application made by KingSett for the appointment of a receiver is in the best interest of all stakeholders, as such an appointment will bring transparency through the receiver taking possession of the financial records of the Borrower and will maximize value with respect to the disposition of the Remaining Units. Further, the Trustee is supportive of KSV Restructuring Inc. acting as receiver in the proposed proceedings.

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
solely in its capacity as Court-Appointed Trustee
of the SML Administration Business of
Derek Sorrenti or Sorrenti Law Professional Corporation
and in no other capacity**

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Applicant

and

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Respondent

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

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PROCEEDING COMMENCED AT
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