

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE
MR. JUSTICE HAINEY

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THURSDAY, THE 2nd DAY OF
MAY, 2019



BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947 ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION

Respondents

APPLICATION UNDER SECTION 37 OF THE *MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT*, 2006, S.O. 2006, c. 29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

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

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

TEXTBOOK (445 PRINCESS STREET) INC.

Respondent

**IN THE MATTER OF THE RECEIVERSHIP OF
TEXTBOOK (445 PRINCESS STREET) INC.**

**AND IN THE MATTER OF AN 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**

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

B E T W E E N:

**KSV KOFMAN INC. IN ITS CAPACITY AS RECEIVER AND MANAGER
OF CERTAIN PROPERTY OF SCOLLARD DEVELOPMENT
CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER)
LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858
ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525
PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET)
INC.**

Plaintiff

- and -

**AEOLIAN INVESTMENTS LTD., JOHN DAVIES IN HIS PERSONAL
CAPACITY AND IN HIS CAPACITY AS TRUSTEE OF BOTH THE
DAVIES ARIZONA TRUST AND THE DAVIES FAMILY TRUST,
JUDITH DAVIES IN HER PERSONAL CAPACITY AND IN HER
CAPACITY AS TRUSTEE OF THE DAVIES FAMILY TRUST, AND
GREGORY HARRIS SOLELY IN HIS CAPACITY AS TRUSTEE OF THE
DAVIES FAMILY TRUST**

Defendants

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

B E T W E E N:

GRANT THORNTON LIMITED, IN ITS CAPACITY AS THE COURT-APPOINTED TRUSTEE OF TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947 ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION AND HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION, AND KSV KOFMAN INC., IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER AND MANAGER OF CERTAIN PROPERTY OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO LTD., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC., TEXTBOOK (555 PRINCESS STREET) INC., TEXTBOOK (445 PRINCESS STREET) INC., MCMURRAY STREET INVESTMENTS INC., TEXTBOOK (774 BRONSON AVENUE) INC. AND TEXTBOOK ROSS PARK INC.

Plaintiffs

- and -

AEOLIAN INVESTMENTS LTD., JOHN DAVIES IN HIS PERSONAL CAPACITY AND IN HIS CAPACITY AS TRUSTEE OF BOTH THE DAVIES ARIZONA TRUST AND THE DAVIES FAMILY TRUST, JUDITH DAVIES IN HER PERSONAL CAPACITY AND IN HER CAPACITY AS TRUSTEE OF THE DAVIES FAMILY TRUST, GREGORY HARRIS IN HIS PERSONAL CAPACITY AND IN HIS CAPACITY AS TRUSTEE OF THE DAVIES FAMILY TRUST, HARRIS + HARRIS LLP, NANCY ELLIOT, ELLIOT LAW PROFESSIONAL CORPORATION, WALTER THOMPSON, 1321805 ONTARIO INC., BRUCE STEWART, THE TRADITIONS DEVELOPMENT COMPANY LTD., DAVID ARSENAULT, JAMES GRACE, BHAKTRAJ SINGH A.K.A. RAJ SINGH, RS CONSULTING GROUP INC., TIER 1 TRANSACTION ADVISORY SERVICES INC., JUDE CASSIMY, FIRST COMMONWEALTH MORTGAGE CORPORATION, MEMORY CARE INVESTMENTS LTD., TEXTBOOK SUITES INC., TEXTBOOK STUDENT SUITES INC. AND MICHAEL CANE

Defendants

SETTLEMENT APPROVAL ORDER

THIS MOTION, made by KSV Kofman Inc., solely in its capacity as receiver (in such capacity, the “**Receiver**”), of certain property of Scollard Development Corporation, Memory Care Investments (Kitchener) Ltd., Memory Care Investments (Oakville) Ltd., 1703858 Ontario Inc., Legacy Lane Investments Ltd., Textbook (525 Princess Street) Inc. and Textbook (555 Princess Street) Inc., Textbook (445 Princess Street) Inc., Textbook (774 Bronson Avenue) Inc., Textbook Ross Park Inc. and McMurray Street Investments Inc., and not in its personal capacity or in any other capacity, and Grant Thornton Limited, solely in its capacity as the Court-appointed trustee (in such capacity, the “**Trustee**”) of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation, and not in its personal capacity or in any other capacity, for an Order:

- (a) approving and giving effect to the terms of settlement as set out in the settlement agreement (the “**Settlement Agreement**”) as between the Receiver and the Trustee, on the one hand, and the defendants, John Davies in his personal capacity and in his capacity as trustee of the Davies Family Trust (the “**Family Trust**”) and the Davies Arizona Trust (the “**Arizona Trust**”) (in all such capacities, “**Mr. Davies**”), Judith Davies in her personal capacity and in her capacity as trustee of the Family Trust (in all such capacities, “**Ms. Davies**”), and Aeolian Investments Ltd. (“**Aeolian**”, and together with Mr. Davies and Ms. Davies, the “**Mareva Defendants**”), on the other hand, resolving and settling solely the Mareva injunction granted by the Honourable Justice Myers on August 30, 2017 and the appeal of the decision of the Honourable Justice Myers relating to the Mareva injunction, in accordance with the terms set out in the Settlement Agreement; and
- (b) authorizing and directing the Receiver and the Trustee to take any and all steps necessary to give effect to the Settlement Agreement,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Receiver and the Trustee, the Eighteenth Report of the Receiver dated April 24, 2019, the Factum of the Receiver and the Trustee, and on hearing the submissions of counsel for the Receiver, counsel for the Trustee and counsel for the Mareva Defendants, and such other counsel as were present, and no one appearing for any other party, although duly served, as appears from the affidavit of service of Joseph Blinick sworn April 26, 2019,

SERVICE

1. THIS COURT ORDERS that to the extent necessary, the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE SETTLEMENT AGREEMENT

2. THIS COURT DECLARES that the Settlement Agreement is fair and reasonable in all the circumstances and for the purposes of these proceedings.

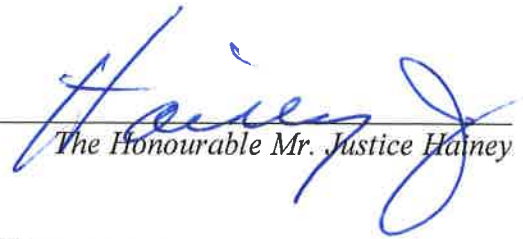
3. THIS COURT ORDERS AND DECLARES that the Settlement Agreement is hereby approved, and the Receiver and the Trustee are hereby authorized and directed to comply with their obligations thereunder and to take such further acts and steps as may be necessary to give effect to the terms of the Settlement Agreement and this Order.

4. THIS COURT ORDERS that the Receiver and the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers, duties and obligations under the Settlement Agreement and hereunder.

AID AND RECOGNITION OF FOREIGN COURTS

5. 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, the Trustee and their respective 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 and the Trustee, as officers of this Court, as may be necessary or desirable to give effect to this Order or

to assist the Receiver, the Trustee and their respective agents in carrying out the terms of this Order.



The Honourable Mr. Justice Hainey

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 02 2019

PER / PAR:



Stacey Hutchison
Registrar Superior Court of Justice

THE SUPERINTENDENT OF FINANCIAL SERVICES
Applicant

- and -

TEXTBOOK STUDENTS SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION et al.
Respondents

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

Court File No: CV-17-11689-00CL

IN THE MATTER OF THE RECEIVERSHIP OF TEXTBOOK (445 PRINCESS STREET) INC.

AND IN THE MATTER OF AN APPLICATION PURSUANT TO 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

Court File No: CV-17-589078-00CL

KSV KOFMAN INC. in its capacity as Receiver and Manager of Certain Property of Scollard Development Corporation, et al.
Plaintiff

v.

JOHN DAVIES et al.
Defendants

Court File No: CV-17-11822-00CL

GRANT THORNTON LIMITED, in its capacity as Trustee of Textbook Student Suites (525 Princess Street) Trustee Corporation et al.
Plaintiffs

v.

JOHN DAVIES et al.
Defendants

Court File No: CV-18-606314-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO

ORDER
(Settlement Approval)

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Lawyers for KSV Kofman Inc., solely in its capacity as the Court-Appointed Receiver of certain property of Scollard Development Corporation, Memory Care Investments (Kitchener) Ltd., Memory Care Investments (Oakville) Ltd., 1703858 Ontario Inc., Legacy Lane Investments Ltd., Textbook (525 Princess Street) Inc., Textbook (555 Princess Street) Inc., and Textbook (445 Princess Street) Inc. and in its capacity as Proposed Court-Appointed Receiver of Textbook (Ross Park) Inc., Textbook (774 Bronson Avenue) Inc. and McMurtry Street Investments Inc.

Lawyers for Grant Thornton Limited, solely in its capacity as court-appointed Trustee of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keck Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation