

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. c-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN REPRESENTATIVE OF
URBANCORP INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

MOTION RECORD
(Returnable October 5, 2016)

September 30, 2016

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ONTARIO
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Tab 1

ONTARIO
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NOTICE OF MOTION
(Returnable October 5, 2016)

THE MOVING PARTY, Guy Gissin, the Israeli Court-appointed functionary officer and foreign representative of Urbancorp Inc. (the "**Foreign Representative**"), will make a motion to a judge presiding over the Commercial List on October 5, 2016 at 9:30 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order recognizing the order granted on September 25, 2016, by the District Court in Tel Aviv-Yafo, Israel (the "**Israeli Court**") providing for the extension of the Foreign Representative's mandate until December 22, 2016 (the "**Second Israeli Extension Order**"); and
2. Such further and other relief that the moving party may request and this Honourable Court may consider just.

THE GROUNDS FOR THE MOTION ARE:

1. On April 21, 2016, certain of Urbancorp Inc.'s direct and indirect subsidiaries (the "**NOI Entities**") commenced bankruptcy proposal proceedings pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. C-36, as amended (the "**NOI Proceedings**"). KSV Kofman Inc. ("**KSV**") was appointed as the Proposal Trustee.
2. On April 25, 2016, pursuant to an application under Israel's insolvency regime brought by the indenture trustee of certain notes issued by Urbancorp Inc., the Israeli Court granted an order giving the Foreign Representative certain management powers, authorities and responsibilities over Urbancorp Inc. (the "**Israeli Proceedings**").
3. On May 11, 2016, the Israeli Court granted an order authorizing the Foreign Representative to enter into a protocol between the Foreign Representative and KSV (the "**Protocol**"). The Protocol contemplated, among other things, that the NOI Entities and certain other entities (together, the "**Urbancorp CCAA Entities**") would file for protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**").
4. On May 18, 2016, the Ontario Superior Court of Justice (Commercial List) (the "**Ontario Court**") granted an initial order under the CCAA in respect of the Urbancorp CCAA Entities (the "**Initial Order**") and appointed KSV as monitor (the "**Monitor**"). The Initial Order also approved the Protocol.
5. On May 18, 2016, the Ontario Court also granted two orders under Part IV of the CCAA, which:
 - (a) recognized the Israeli Proceedings as a "foreign main proceeding";
 - (b) recognized the Foreign Representative as the foreign representative of Urbancorp Inc.; and
 - (c) appointed KSV as the Information Officer (the "**Information Officer**").

6. On May 22, 2016, the Israeli Court issued an Order extending the appointment of the Foreign Representative from May 22, 2016, to September 22, 2016 (the “**First Israeli Extension Order**”).
7. On June 15, 2016, the Ontario Court granted an order recognizing the First Israeli Extension Order.
8. On September 25, 2016, the Israeli Court granted the Second Israeli Extension Order.
9. The Foreign Representative is seeking an Order of this Court recognizing the Second Israeli Extension Order.
10. The recognition of the Second Israeli Extension Order will allow for the continued efficient and equitable administration of the proceeding.
11. Part IV of the CCAA.
12. Rules 1.04(1), 1.04(2), 2.03, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. The Second Israeli Extension Order;
2. The Second Report of the Information Officer, dated September 30, 2016; and
3. Such further and other evidence as counsel may advise and this Honourable Court may admit.

September 30, 2016

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TO: THE SERVICE LIST

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED, AND IN THE MATTER OF URBANCORP INC., APPLICATION OF GUY GISSIN, THE FOREIGN REPRESENTATIVE OF URBANCORP INC., UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(Returnable October 5, 2016)**

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Tab 2



**Second Report to Court of
KSV Kofman Inc. as Information Officer
of Urbancorp Inc.**

September 30, 2016

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COURT FILE NO.: CV-16-11392-00CL

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

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC., UNDER SECTION
46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

SEPTEMBER 30, 2016

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. ("St. Clair"), Urbancorp (Patricia) Inc. ("Patricia"), Urbancorp (Mallow) Inc. ("Mallow"), Urbancorp Downsview Park Development Inc. ("Downsview"), Urbancorp (Lawrence) Inc. ("Lawrence") and Urbancorp Toronto Management Inc. ("UTMI") each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "NOI Proceedings"). (Collectively, St. Clair, Patricia, Mallow, Downsview and Lawrence are referred to as the "NOI Entities".) KSV Kofman Inc. ("KSV") was appointed as the Proposal Trustee in the NOI Proceedings.
2. On April 25, 2016, the District Court in Tel Aviv-Yafo (the "Israeli Court") issued a decision (the "April 25th Decision") appointing Guy Gissin as the functionary officer and foreign representative (the "Foreign Representative") of Urbancorp Inc. ("UC Inc.") and granted him certain powers, authorities and responsibilities over UC Inc., the ultimate parent of the NOI Entities, on a preliminary basis (the "Israeli Proceedings"). A copy of the April 25th Decision is attached as Appendix "A".
3. On May 11, 2016, the Israeli Court made an order authorizing the Foreign Representative to enter into a protocol between the Foreign Representative and KSV (the "Protocol"). The Protocol was negotiated during the period that KSV was acting as the Proposal Trustee. The Protocol addresses, *inter alia*, the sharing of information between the Foreign Representative and the Monitor, as well as the manner in which the Foreign Representative is to have input in the restructuring process.

4. Pursuant to an order made by the Ontario Superior Court of Justice (Commercial List) (the "Court") dated May 18, 2016 (the "Initial Order"), the NOI Entities, UTMI and the entities listed on Schedule "A" attached to this Report (collectively, the "Urbancorp CCAA Entities") were granted protection under the CCAA and KSV was appointed monitor (the "Monitor"). The Initial Order also approved the Protocol.
5. On May 18, 2016, the Court also issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a "foreign main proceeding";
 - b) recognized Mr. Gissin as Foreign Representative of UC Inc.; and
 - c) appointed KSV as the Information Officer.
6. On May 22, 2016, the Israeli Court issued an Order extending the appointment of the Foreign Representative from May 22, 2016 to September 22, 2016 ("First Extension Order"). On June 15, 2016, this Court granted an order recognizing the First Extension Order.
7. This report (the "Report") is filed in KSV's capacity as Information Officer.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information on these proceedings;
 - b) discuss, and provide an unofficial translated copy of, an order made by the Israeli Court extending the appointment of the Foreign Representative from September 22, 2016 to December 22, 2016 (the "Second Extension Order"); and
 - c) recommend the Court issue an order recognizing the Second Extension Order.

2.0 Background

1. UC Inc. was incorporated on June 19, 2015 for the purpose of raising capital in the public markets in Israel. Pursuant to a deed of trust dated December 7, 2015, UC Inc. made a public offering of debentures (the "IPO") in Israel for NIS 180,583,000 (approximately C\$64 million based on the exchange rate at the time of the IPO) (the "Bonds"). The Bonds traded on the Tel Aviv Stock Exchange (the "TASE"). UC Inc. is alleged to have defaulted on the Bonds and trading in the Bonds has been suspended by the TASE.
2. The majority of the proceeds from the Bonds were used to provide loans to the NOI Entities so that the NOI Entities could in turn repay their loan obligations owing at the time. The loan agreements set out that these advances are unsecured and functionally subordinated to certain other obligations of the NOI Entities.

3. In addition to the Urbancorp CCAA Entities, UC Inc. is also the parent company of Edge Residential Inc., Edge on Triangle Park Inc., Bosvest Inc. Urbancorp Cumberland 2 L.P. and Urbancorp Cumberland 2 G.P. Inc., which are subject to NOI proceedings in which The Fuller Landau Group Inc. ("Fuller Landau") is the Proposal Trustee (the "Edge Proceedings"). The Foreign Representative and Fuller Landau have also entered into a protocol governing the sharing of information in the Edge Proceedings.

2.1 Update on CCAA Proceedings

1. The Urbancorp CCAA Entities own vacant land on which the Urbancorp CCAA Entities were intending to develop residential homes. On June 30, 2016, the Court issued an order approving a sale process ("Sale Process") for the real property held by St. Clair, Patricia, Lawrence and Mallow (collectively, the "Properties"). On September 15, 2016, the Court made orders, *inter alia*, approving the sale of the Properties (the "Transactions"). The Transactions are scheduled to close by October 11, 2016.
2. On September 15, 2016, the Court approved a process to solicit, determine and adjudicate claims against the Urbancorp CCAA Entities, including any claims by UC Inc. ("Claims Process").
3. The Monitor has kept the Foreign Representative apprised of the status of the main issues in the CCAA proceedings from the outset, which generally fall into the following categories:
 - a) issues concerning the ownership of various assets by the Urbancorp CCAA Entities, including assets known as the "geothermal assets";
 - b) the process for and the selection of a realtor in the Sale Process;
 - c) the offers received in the Sale Process and how the Monitor intended to negotiate with the offerors;
 - d) the debtor-in-possession financing solicitation process, including the number of offers received and the selection of the DIP lender; and
 - e) the Claims Process.

3.0 Israeli Proceedings Update

1. Since the commencement of the Israeli Proceedings, the Foreign Representative has filed five reports with the Israeli Court to, *inter alia*, keep it apprised of the status of the CCAA proceedings. An unofficial translation of the Foreign Representative's Fifth Report dated September 15, 2016 ("Fifth Report") is attached as Appendix "B".

2. The Foreign Representative's Fifth Report sought an order from the Israeli Court extending its appointment by 120 days.
3. On September 26, 2016, the Israeli Court made the Second Extension Order, but extended the Foreign Representative's appointment by 90 days versus the 120 day extension sought by the Foreign Representative. An unofficial translation of the Second Extension Order is provided in Appendix "C". The Foreign Representative is seeking an order from the Court recognizing the Second Extension Order. The Information Officer supports the relief requested by the Foreign Representative.

4.0 Conclusion and Recommendation

1. Based on the foregoing, the Information Officer respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (1)(c) of this Report.

* * *

All of which is respectfully submitted,



**KSV KOFMAN INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
URBANCORP INC.
AND NOT IN ITS PERSONAL CAPACITY**

Schedule "A"

Urbancorp (952 Queen West) Inc.

King Residential Inc.

Urbancorp 60 St. Clair Inc.

High Res. Inc.

Bridge on King Inc.

Urbancorp Power Holdings Inc.

Vestaco Homes Inc.

Vestaco Investments Inc.

228 Queen's Quay West Limited

Urbancorp Cumberland 1 LP

Urbancorp Cumberland 1 GP Inc.

Urbancorp Partner (King South) Inc.

Urbancorp (North Side) Inc.

Urbancorp Residential Inc.

Urbancorp Realtyco Inc.

Appendix “A”

25/04/2016

"A"



The District Court in Tel-Aviv - Yaffo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eltan Orenstein, Vice President

On the matter of: the Companies Act, 5759-1999

And on the matter of: the Companies Regulations (Request for Compromise or Arrangement), 5762-2002

And on the matter of: Article 350 of the Companies Act, 5759-1999

And on the matter of: Reznik Paz Nevo Trusts Ltd.
Trustee of holders of bonds (class A) of the company
By its representatives: Yoel Freilich, Adv., Yael Herschkowitz,
Adv., Inbar Hakmian-Nahari, Adv., and Evgeniya Gluchman,
Adv.

The Applicant

And on the matter of: Urbancorp Inc.
By its representative: Gad Ticho, Adv.

The Company

And on the matter of: the Official Receiver
By its representative: Roni Hirschenzon, Adv.

Decision

General

1. Before me is an urgent request for the provision of temporary reliefs and for the appointment of a functionary in Urbancorp Inc. (hereinafter: "the Company"), pursuant to Regulation 14(a) of the Companies Regulations ((Request for Compromise or Arrangement), 5762-2002 (hereinafter: "the Arrangement Regulations") and Article 350 of the Companies Act, 5759-1999 (hereinafter: "the Companies Act").

Summary of the Facts

2. The Company incorporated in Canada and it is registered in the county of Ontario. Its main occupation is leasing and initiating real-estate for residential and commercial



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The District Court in Tel-Aviv - Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

purposes at the location of its incorporation. The Company operates geothermal systems in several of its projects, which are used for providing heating and cooling for the properties, while using green energy. It is in the control of Mr. Alan Saskin, a citizen of Canada and a resident thereof (hereinafter: "the Controlling Party").

In December 2015 the Company raised bonds from the Israeli public, amounting to approximately 180 million ILS, with an interest of 8.15%. The bonds were raised pursuant to a prospectus dated 30/11/2015 and later completions thereof, and were registered for trade at the Tel-Aviv Stock Exchange. It shall be stated that Midroog Ltd. has granted the bonds a rating of A3, a medium-high rank. The underwriter of the issuance was Apex Issuances Ltd., the prospectus was drafted by Shimonov & Co. Law Firm, and the Deloitte firm Brightman, Almagor, Zohar & Co., Accountants. The trustee for the bond holders is Reznik Paz Nevo Trusts Ltd., which has submitted the application (hereinafter: "the Trustee").

The consideration of the issuance was intended to serve for shareholders' loan for the Company's subsidiaries which are also incorporated in Canada (hereinafter: "the Subsidiaries") and for providing equity for paying off loans in their various projects, as specified in the bill of trust, as well as for the payment of taxes.

The application states that during the months following the issuance, there has been a severe deterioration in the Company's financial state and in its capability to sustain itself, which is the result of a number of events, when according to the Applicant it is impossible to rule out that the share of those had already been known prior to the issuance, but they were not reported. The outcome was that all Company directors, apart from the Controlling Party, have resigned; the Company's trade in securities has ceased; the ranking has ceased, and more. In light of the foregoing, there has been very intensive contact with the Controlling Party, who was supposed to sign a Stand-Still document, and has asked to delay the taking of actions against the Company. Nevertheless, the Trustee was surprised to find out that the Subsidiaries, which excess cash flows were supposed to serve the debt for the holders of bonds, have recently begun an insolvency proceeding in Canada, and a trustee on behalf of the court there has been appointed to them.

The Request

3. The Trustee points in his request, to a series of severe failures in the Company's conduct, which also constitute a breach of the bill of trust, and give rise to a cause for providing



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the debt for immediate repayment and taking proceedings against the Company. For this matter, it has been claimed that it is necessary to immediately intervene in the Company's businesses by appointing a functionary, who shall be granted the authorities of the Company's directorate; who shall exercise the Company's power of control in its Subsidiaries; who shall examine the insolvency proceedings taken by the Subsidiaries; who shall negotiate with the trustee appointed to them; who shall act to obtain all required information pertaining to raising the capital; who shall formulate a recovery plan for the Company, inasmuch as it shall be possible; and who shall enter the Company's premises and its offices and shall seize its assets, including accounts and financial deposits.

4. The request was submitted on 24/04/2016, during the Passover recess, and I have instructed holding an urgent discussion today in the presence of the Company, its former functionaries who provide services to it, the Israeli Securities Authority, the Official Receiver and more. In my decision from yesterday, an order for the prohibition of disposition was also granted, according to which the Company and anyone on its behalf is prevented from making any transaction, of any sort and type whatsoever, with its property.

The Court Discussion

5. The following were present at the discussion: the Trustee and its representatives; the representative of the recently resigned Company directors; the Company's former legal consultants; the representative of the Tel-Aviv Stock Exchange and members of its legal department; the representative of the Official Receiver, as well as Gad Ticho, Adv., on behalf of the Company, who has notified that he had taken on representing the Company the previous evening.

The Trustee's representative, Yoel Freilich, Adv., has repeated the request during the discussion, and has emphasized the need for granting the urgent reliefs. He clarified that the Trustee has engaged with a law firm in Canada, which shall assist the functionary, should he be appointed, in fulfilling his position; that there is no conflict of interests for the intended functionary; and more.

According to the Company's representative, its client does not object to leaving the order of prohibition of disposition effective, however she does not see the need for appointing a functionary and for granting the requested authorities, and she objects to the identity of



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The District Court in Tel-Aviv – Yafo

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the suggested functionary due to conflict of interests. In addition, the Company's representative has claimed that there is no need for the drastic requested reliefs, that the Company should be given leave to submit a proper response, that in any case a meeting of the holders of bonds is scheduled for May 1, 2016 – in which the meeting shall decide with regards to continuing the proceeding – and that no irreversible damage shall occur should the order not be granted.

The representative of the Official Receiver holds the opinion that the state of the Company justifies granting a relief against it, similar to other cases in which the court has instructed appointing a functionary, even if it is for a limited period of time, until the situation is clarified.

Discussion and Ruling

6. We are dealing with a request which was submitted urgently during the Passover recess, and which requires an urgent decision, therefore I shall suffice with a brief reasoning.

The Rule

The request, by nature, is a request for temporary relief, and prior to submitting the primary proceeding. Therefore, it should be examined by the rules used for temporary reliefs, namely, does the Applicant meet the test of *prima facie* reliable evidence in the cause of the action as well as the balance of convenience test, and as set in the Civil Procedure Regulations, 5744-1984 and in rulings, when between the two there is a "parallelogram of forces" (see Civil Leave of Appeal 2174/13 **D.K. Shops for Rent in Herzlia HaTze'ira Ltd. Vs. Avraham Cohen & Co. Contracting Company Ltd.** (published on the website of the Judicial Authority, 19/04/2016).

I shall emphasize, that under the circumstances of the request before me, when the primary relief has not yet been requested, the court is required to take extra precautions when ruling on a request for temporary relief, especially given the drastic temporary reliefs requested therein.

The request is accompanying to a primary proceeding which the Trustee is intending to submit pursuant to the provisions of Article 350 of the Companies Act, which deals with an arrangement between a company and its creditors, a proceeding which, according to the word of the law, can also be taken by a creditor of the company, in addition to the company itself, or a participant or a liquidator. As is known, it is possible to appeal for



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The District Court in Tel-Aviv – Yafo

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temporary reliefs even before beginning the primary proceeding, provided that the applicant has met the required conditions stated above.

Another basis for the request, as mentioned, is Regulation 14(a) of the Arrangement Regulations, which authorizes the court to appoint a functionary when discussing a request for arrangement in accordance with Article 350 of the Companies Act, saying:

“To appoint a functionary, who shall have all authorities and duties which shall be determined by the court, including managing the company or supervising its management, keeping its assets, as well as examining claims of debt and claims for amending the registry of shareholders in the method specified in Chapter C; the court shall appoint a functionary once it was convinced that the candidate is suitable for the position due to his skills or his experience in formulating compromise arrangements or an arrangement[...].”

From the General to the Specific

7. Viewing the statements of claim and their appendixes paints a grim picture, to say the least, of the state of the Company.

On the surface it appears that it is failing to meet the conditions of the bill of trust, in a way which gives rise to a cause for providing the debt for immediate repayment. For this matter, I shall list the breaches, each of which is sufficient to give rise to the stated cause, let alone when put together: the trade in the Company's bonds has been stopped; the Company's rating by Midroog Ltd. has also been stopped; all of the Company's Israeli directors have resigned, as well as its legal consultants and its internal auditor;

And severe failures in the Company's activity have been found, as specified in the report it submitted pertaining to its financial data, dated April 20, 2016. Amongst those: a loss of 15 million Canadian Dollars compared with the current activity in the last quarter of 2015; a decrease in the value of the right of the Controlling Party assigned to the Company to receive loans from corporations in his control, thus from an estimated value of approximately eight million Dollars, the value is expected to drop to an insignificant amount; concern that the Company shall decrease the value of the geothermal assets at a total ranging between four and six million Canadian Dollars. The end of the report even



25/04/2016



The District Court in Tel-Aviv – Yafo

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states that it is possible that the Company's state is far worse and that its losses shall be high.

Another event teaching of failures in the Company which should be stated, is the decision of the Canadian Home Organization Trion dated April 4, 2016, to not extend the Company's license, namely, the Company is not entitled to continue its activity of initiating and selling planned projects.

This is joined by the fact stated above, that the Subsidiaries have recently begun a stay of proceedings in Canada, as part of which a trustee was appointed to them. The Company and the Controlling Party have not brought this important fact to the knowledge of the Trustee, let alone given details pertaining to the proceeding taken, its significance, its implication on the Company and such.

The conclusion drawn from the stated above is that there is total uncertainty with regards to the Company's financial state, its equity, its capability of sustaining itself, and concern for the fate of the investments made by the holders of bonds. Another conclusion is that there is a substantial lack of information pertaining to the occurrences in the Company, and the Trustee is forced to seek in the dark, all when there is concern for the fate of the Company and its assets, including with regards to the occurrences in the Subsidiaries and their assets, which have enjoyed the monies of capital raised by the holders of bonds.

In my opinion, the stated above is sufficient basis for appointing a functionary to the Company, who shall be authorized to receive all information pertaining to the Company, its activity, its property and its rights, including the Subsidiaries and the proceedings conducted in Canada. Simultaneously, the functionary shall be able to track the Company's property, to locate it, to seize it and to prevent making irreversible actions. I shall add that obtaining the information shall also enable making an educated decision regarding taking appropriate proceedings with regards to the Company, to minimize damages and to redirect, as much as possible, the monies which would be could be paid to the holders of bonds.

Needless to say, the Company is in the twilight zone of insolvency, when there is concern for its fate and for the fate of the monies of investors, unless urgent actions are taken. As stated by the representative of the Official Receiver, the court discussing insolvency has a wide range of reliefs at its disposal, which also apply to a situation where the Company is in the twilight zone of insolvency. In this regard I shall refer to a recent ruling by the



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Supreme Court, as said by the Honorable Justice E. Hayut in Civil Appeal 3791/15 Synergy Cables vs. Hever, paragraph 8 (published on the website of the Judicial Authority on 19/04/2016):

The District Court has not ruled pursuant to which legal authority it appoints the respondent, but as rightfully stated by the respondent, reality shows that there are cases [...] where the court appoints functionaries in proceedings in which the corporation is in the “zone of insolvency”, even prior to issuing an order for stay of proceedings or for the liquidation of the company (compare, for example: Liquidation File (Tel-Aviv) 36681-04-13 Hermetic Trusts (1975) Ltd. vs. IDB Development Ltd. (30/04/2013), in which the District Court in Tel-Aviv (Justice E. Orenstein) has decided to appoint a functionary who was defined as an “observer” for the company, while relying for this purpose of the wide authority granted to him in accordance with Regulation 14(a)(1) of the Companies Regulations [...]

(Emphasis not in the original – E.O.)

This rule also applies to the matter before us.

In my opinion, the circumstances of the case meet the tests required for granting a temporary relief. For this matter, the Company has allegedly breached its undertakings towards the holders of bonds in a way which grants the holders of bonds the right to provide the debt for immediate repayment, and to claim the reliefs due as a result thereof. I shall add that the balance of convenience also leans towards granting the temporary relief. In this context, I shall state that according to the Company’s representative, these days a substantial transaction is to be executed, of selling the Company’s property, which should provide it with a substantial amount of money; it is not improbable that the consideration shall not be given to the holders of bonds, despite the order of prohibition of disposition, in the absence of practical capability for enforcement, thus causing irreversible damage. Therefore, only a functionary who could also track the stated transaction, could possibly prevent irreversible damage to the holders of bonds.

This conclusion is emphasized noticing the recent problematic conduct of the Controlling Party. As is evident in the request, he has failed to disclose to the Trustee during contacts



25/04/2016



The District Court in Tel-Aviv - Yafa

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

conducted these days that the Subsidiaries intend on taking the proceeding of insolvency as they have done.

In fact, the Company has no management core, whereas all directors, apart from the Controlling Party, have resigned, it has no internal auditor, and even the legal consultants have terminated their engagement with it. In this state of affairs, the Company is given to the good will of the Controlling Party, and in light of the problems I have pointed pertaining to him, and in the absence of supervision on his conduct, it would be best to appoint an authority who shall take the Company's reigns and shall supervise the occurrences in the Company at least until the picture is clarified.

I have not ignored the claim made by the Company's representative regarding the damage which could be caused to the Company due to appointing the functionary, but I have not seen that it leads to a different conclusion. I believe that the weight of the reasons I have specified above, exceeds by far the concern raised by Advocate Ticho in this regard. In any case, it is possible to find the required balance between guaranteeing the Company's conduct and the argued damage, by limiting the authorities which shall be granted to the Trustee and the period of time in which he shall be appointed. I shall emphasize that the concern raised by Advocate Ticho, which, according to him, may be a result of appointing a temporary liquidator to the Company, can be abated by not appointing a temporary liquidator, which has not even been requested.

I have also answered the argument made by Advocate Ticho regarding the conflict of interest in which the offered functionary is allegedly in, due to him representing the Trustee. I have not found this argument sufficient reason for not appointing Advocate Gissin, and I shall clarify: Gissin & Co. Law Firm has accepted the representation of the Trustee only recently, as Advocate Freilich has said in the discussion. The firm has not represented the Trustee in the process of preparing the prospectus, its publication and the issuance of the bonds, nor in the following period, but only following the Company's getting into trouble. Therefore, it is impossible to say that he is involved in proceedings preceding this request. In addition, should it be found out in the future, that there is a conflict of interest, the argument shall be made before the court and shall be examined by itself, and the argument shall not prevent the appointment at the preliminary stage we are in.



25/04/2016



The District Court in Tel-Aviv – Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

8. To complete the picture I shall state that there is no dispute regarding the authority of the court in Israel to grant the requested relief. In this context, I shall refer to the various documents attached by the Trustee to the request, including the prospectus and the bill of trust, which state that the Company acknowledges the authority of the court in Israel to grant the reliefs (see clause 34 of the bill). In addition, I shall state that Article 39a of the Securities Law, 5728-1968, which applies to the prospectus, rules that the provisions of the Companies Act shall apply to any foreign company which has issued securities. Needless to say, the authority of the court to discuss the request is also pursuant to the court ruling given in a case with similar circumstances, and I shall refer to Civil Appeal 2706/11 **Sybil Germany Public Co. Limited vs. Hermetic Trusts (1975) Ltd.** (published on the website of the Judicial Authority on 04/09/2015).

9. In light of the foregoing I hereby instruct as follows:

I appoint Advocate Gissin as functionary in Urbancorp Inc. and grant him the authority to exercise the Company's authorities, for all following actions:

- * To locate, to track and to seize all Company assets, of any sort and type whatsoever, including its monies and rights in the Subsidiaries;
- * To exercise the Company's power of control in the Subsidiaries;
- * To obtain all information, of any sort and type whatsoever, pertaining to the Company's activity, its property and its rights; the same applies to the Subsidiaries;
- * To negotiate with the Subsidiaries' trustee, and for this purpose, to also approach the Canadian court as an authorized representative of the Company;
- * To track the Company's activities prior to the prospectus and thereafter.

For the purpose of exercising these authorities, the functionary is hereby authorized to appear in the Company's name before any body, authority or person in Israel and abroad; to obtain any information whatsoever from any of the Company's factors, from the Controlling Parties, from the authorities and from any person who has provided or is providing services for the Company; and to obtain from them all documents he believes shall be required for fulfilling his position.



25/04/2016



The District Court in Tel-Aviv – Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

The functionary shall be authorized to formulate an initial outline of a creditors' arrangement.

The functionary shall approach the court if necessary, and shall request its permission to exercise Company authorities not expressly specified in the decision.

For the avoidance of doubt: the functionary is not authorized to realize the Company's property.

A condition for the appointment is the functionary depositing a personal bond at a total of 250,000 ILS.

The functionary shall do all that he can for obtaining the required information in the coming days, so that it can be presented, as much as possible, before the meeting of holders of bonds set for next Sunday, May 1, 2016.

At this point I set the appointment until May 22, 2016 or as shall be otherwise decided.

A first report of the functionary's actions shall be submitted by May 8, 2016.

The case has been set for discussion for May 22, 2016 at 11:30.

The secretariat shall notify of the decision by telephone and shall also send it by fax.

Given today, 17 Nisan 5776 (25th of April 2016), *ex parte*.

Eitan Orenstein, Justice
Vice President



Appendix “B”

**At the District Court
In Tel-Aviv**

**Liquidation Case 44348-04-16
Motion no. 21
Before the Honorable President Eitan Orenstein**

On the matter of: **The Companies Law, 5759-1999** **The Law**

 The Companies Regulations (Application **Compromise or**
 for Compromise or Arrangement), 5762- **Arrangement**
 2002 **Regulations**

And on the matter of: **Urbancorp Inc., Canadian company no.** **The Company**
 2471774

And on the matter of: **Attorney Guy Gissin – temporary** **The Functionary**
 Functionary of Urbancorp Inc.
 By his representatives attorneys Yael
 Hershkovitz and/or Inbar Hakimian-Nahari
 and/or Yevgenia Gluchman and/or Sandra
 Schneider
 Of Gissin & Co. Law Firm
 38B HaBarzel Street, Tel-Aviv 69710
 Telephone: 03-7467777; fax: 03-7467700

And on the matter of: **The Official Receiver** **The Official Receiver**
 2 HaShlosha Street, Tel-Aviv
 Telephone: 03-6899695; fax: 02-6462502

Update Report on behalf of the Functionary

And a Request for Extending the Appointment for a Period of 120 Days

(Following Activity Report no. 5 Submitted on behalf of the Functionary)

The Functionary of Urbancorp Inc. (hereinafter and respectively: the "**Functionary**" or the "**Company**"), hereby reports to the Honorable Court, following the Functionary's report no. 5 dated 31/08/2016, that these very days the realization process of four of the Company's Back-up Assets¹ is being completed, and they are expected to yield significant amounts to the Company in loan and investment returns.

After completing the sales transactions of the Back-Up Assets and completing the debt claims process by KSV Advisory Inc. (hereinafter: "**the Monitor**"), in most of the Company's

¹ The Lawrence Project, the Mallow Project, the Patricia Project and the St. Claire Project. The Downsview Project was defined in the prospectus as a back-up project, but selling procedures in its regard have not begun yet (see also the Functionary's report no. 4), thus it will not be included in the definition of "backing assets" in this report.

subsidiaries, as shall be specified hereinafter, the Functionary could estimate and provide details with respect to the expected returns to be received by the Company and its creditors, and to bring an offer to the court regarding an initial outline for a debt arrangement.

Thus, the Functionary hereby submits in advance a request for extending the appointment, in accordance with the appointment order given on 25/04/2016 (hereinafter: the "**Appointment Order**"), for a period of 120 days, for the purpose of completing the realization process of most of the Company's subsidiaries' assets, and formulating an offer for creditors' arrangement as stated.

The motion's submission date is also the result of the need to bring it before the Canadian court so that it recognizes the extension of the Functionary's appointment prior to its expiry, on 22/09/2016.

A. Update – Completing the Sales Process of the Backing Assets

1. As specified in the Functionary's report no. 5, after holding a competitive Sales Process pertaining to the Back-Up Assets, binding offers and deposits were received regarding all assets, and the Canadian court has given its approval on 29/08/2016 for the continued management of the sales procedures².
2. As stated, based on the information available to the Functionary, the intakes of the sale of the Back-Up Assets, in accordance with the received offers, are expected to be sufficient for covering the debts of the subsidiaries holding those assets, including loans provided by the Company to the subsidiaries, at a total sum of approximately 36 million Dollars.
3. Following the receipt of the purchasers' offers, binding purchase agreements have recently been signed pertaining to all assets (hereinafter: "**the Purchase Agreements**"), which shall be submitted to the Canadian court on 15/09/2016 for approval.
4. It shall be stated that the original home purchasers in the Back-Up Assets (hereinafter: the "**Home Purchasers**"), have simultaneously submitted a request for deferring the date of approving the Purchase Agreements, supported by the Canadian Home Organization (Tarion), to enable the Home Purchasers' effective representation on the matter, since the discussion for approving their representation was also set for 15/09/2016.
5. Thus, currently there is no certainty as for the time for approving the Purchase Agreements by the Canadian court.
 - A copy of the motion submitted to the Canadian court, including report no. 5 by KSV dated 08/09/2016, is attached herein as **Appendix 1**.

² The details of the Back-Up Assets' sales transactions, including their expected consideration amounts, have remained confidential at this point as per the Monitor's request, to prevent thwarting their completion.

- A copy of the request for deferring the date for approving the Purchase Agreements by the Home Purchasers' and a letter by the Canadian Home Organization, are attached herein as **Appendix 2**.

B. The Subsidiaries' Debt Claims Process

6. In order to enable the distribution of the consideration from the sale of the Back-Up Assets, the Monitor must hold debt claims process with the subsidiaries he manages, in a way that he will have the true and full state of the subsidiaries' debts, before making any returns to the creditors (the Monitor's current data is based on information provided by the Company).
7. On 15/09/2016, an offer for managing the subsidiaries' debt claims process shall be brought for the approval of the Canadian court. The offer states that the date for submitting all claims is 21/10/2016, or 30 days from the day of publishing all relevant details for the Monitor to be able to submit the claims process.
8. The Company is acting in order to submit debt claims for the full amounts provided by it to the subsidiaries and for realizing any other right it has pertaining to the intakes which may result from the sale of the Back-Up Assets.

C. Request for Extending the Appointment for a Period of 120 Days

9. As stated above, as specified in the Functionary's report no. 5, the Functionary, in cooperation with the Monitor and the Canadian trustee appointed for an additional group of the Company's subsidiaries, Fuller Landau LLP, have been acting in recent months to manage the procedures of realizing the Company's subsidiaries' assets, which shall enable formulating a creditors arrangement for the Company. In addition, the Functionary intends to examine, during the appointment extension period, the option of realizing additional assets belonging to the Company's subsidiaries.
10. The Functionary shall ask to refer the Honorable Court's attention to the fact that as of the date of his appointment, the Functionary is the only person who is entitled to make decisions and act on behalf of the Company, whereas all of the Company's officers and directors have resigned prior to his appointment, apart from the controlling shareholder, who is apparently greatly responsible for the circumstances which have led to the Company's collapse.
11. Under the circumstances described herein, the Honorable Court is requested to extend the Functionary's appointment for the requested period of time, among others, until there is sufficient information about the returns expected from selling the Back-Up Assets, for the

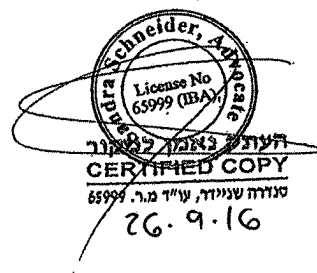
purpose of formulating an initial outline for a creditors' arrangement, in accordance with the Appointment Order.

Yael Herschkowitz, Advocate

Sandra Schneider, Advocate

Counsels for the Functionary for Urbancorp Inc.

Today, September 15, 2016, Tel-Aviv



Appendix “C”

The Tel Aviv District Court

LF 44348-04-16 Reznik Paz Nevo Trustees Ltd. v. Urbancorp Inc. Canadian Company
2471774

Motion 21

Before the Honorable Chief Justice Eitan Orenstein

In Re: **Section 350 of the Companies Law, 1999**

And in re: **The Companies Regulations (Motion for Compromise or
Arrangement), 2002**

And In Re: **Urbancorp Inc.,**

The Company

And In Re: **Adv. Guy Gissin – Provisional functionary officer of the Company**

The Officer

And In Re: **The Official Receiver**

The Official Receiver

Decision

Before me there is a motion to extend the appointment of Adv. Guy Gissin as a provisional functionary officer of the company for a period of 120 days. I shall note that the functionary officer was appointed by me on April 25, 2016 and that on May 22, 2016 I extended his appointment until September 22, 2016.

Upon filing of the motion I ordered the Official Receiver to respond and extended the appointment temporarily until September 26, 2016.

The Official Receiver filed his response according to which it was agreed by him and the functionary officer that the appointment shall be extended based on the arguments of the motion for an additional period of 90 days. In addition, the Official Receiver made clear that at the end of this extension 8 months will have passed from the filing of the main motion and accordingly, if an additional extension will be asked for, it should be orderly and justified in light of section 350 B of the Companies Law, 1999.

After reviewing the motion and on the basis of its arguments, I hereby accede to the motion as said in the Official Receiver's response.

Accordingly, the appointment of Adv. Gissin as functionary officer is hereby extended until December 22, 2016.

Granted today, September 25, 2016, ex parte.

(-----)

Eitan Orenstein, Chief Justice

Tab 3

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) WEDNESDAY, THE 5TH
)
JUSTICE NEWBOULD) DAY OF OCTOBER, 2016

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. c-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN REPRESENTATIVE OF
URBANCORP INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

RECOGNITION ORDER
(Extension Order)

THIS MOTION, made by Guy Gissin, the Israeli Court-appointed functionary officer and foreign representative of Urbancorp Inc. (the "**Foreign Representative**"), for an order recognizing certain orders granted by the District Court in Tel Aviv-Yafo, Israel (the "**Israeli Court**") in the insolvency proceedings commenced against Urbancorp Inc. (the "**Israeli Proceedings**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Information Officer dated September 30, 2016 (the "**Second Report**"), filed, and upon hearing the submissions of counsel for the Foreign Representative and counsel for the Information Officer, no one else appearing although duly served as appears from the affidavit of service of Vanja Ginic sworn September 30, 2016.

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record herein be and it is hereby abridged so that this Motion is properly returnable today and any further service of the Motion Record on any interested party is hereby dispensed with.

RECOGNITION OF EXTENSION ORDER

2. **THIS COURT ORDERS AND DECLARES** that the order granted by the Israeli Court on September 25, 2016, a copy of which is attached as Schedule "A" hereto, extending the mandate of the Foreign Representative until December 22, 2016, is hereby recognized pursuant to Section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-43, as amended ("CCAA").

MISCELLANEOUS

3. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada and outside Canada.

4. **THIS COURT REQUESTS** the aid, recognition and assistance of other courts in Canada in accordance with Section 17 of the CCAA, and requests that the Federal Court of Canada and the courts and judicial, regulatory and administrative bodies of or by the provinces and territories of Canada, the Parliament of Canada, the United States of America, the states and other subdivisions of the United States of America including, without limitation, the U.S. Bankruptcy Court, and other nations and states act in aid, recognition and assistance of, and be complementary to, this Court in carrying out the terms of this Order and any other Order in this proceeding. The Applicant shall be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other court and judicial, regulatory and administrative bodies, and take such other steps, in Canada or the United States of America, as may be necessary or advisable to give effect to this Order.

Schedule "A"

**Liquidation Case 44348-04-16 Reznik Paz Nevo Trusts Ltd. VS. Urbancorp Inc.
Canadian company 2471774**

Motion no. 21

Before the Honorable Justice Eitan Orenstein, President

On the matter of:	The Companies Law, 5759-1999	<u>The Law</u>
	The Companies Regulations (Application for Compromise or Arrangement), 5762-2002	<u>Compromise or Arrangement Regulations</u>
And on the matter of:	Urbancorp Inc.	<u>The Company</u>
And on the matter of:	Attorney Guy Gissin – temporary functionary of Urbancorp Inc.	<u>The Functionary</u>
And on the matter of:	The Official Receiver	<u>The Official Receiver</u>

Decision

Placed before me is a motion to order the extension of appointment of advocate Guy Gissin as the temporary functionary of the Company, for an additional period of 120 days. I note that the functionary was appointed by me on the date of 25/04/2016, and on 22/05/2016, I ordered the extension of his appointment until the date of 22/09/2016.

Upon the filing of the motion, I have ordered that the position of the Official Receiver shall be submitted to court, thus I extended the appointment on a temporary basis until 09/26/2016.

The Official Receiver submitted his position, pursuant to which it has agreed with the functionary that the appointment would be extended for the reasons of the motion for another 90 days. However, the Official Receiver has clarified that at the end of this extension, a period of eight (8) months from the filing of the main proceedings would elapse, and therefore to the extent a further extension would be requested it should be arranged and reasoned in accordance with Section 350B of the Companies Law, 5759-1999.

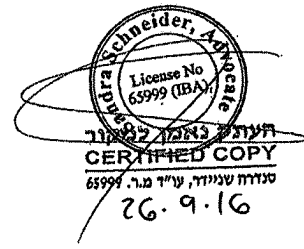
After having examined the motion and for the reasons stated therein, I accede to the motion in accordance with the position of the Official Receiver.

Therefore, the duration of the appointment of advocate Gissin as functionary is hereby extended until the date of 22.12.2016.

Issued today, Twenty-two Elul, year 5775, September 25, 2016, in absence of parties.

(-)

Eitan Orenstein, President





בית המשפט המחוזי בתל אביב - יפו

פר"ק 16-04-44348 רזניק פז נבו נאמנויות בע"מ נ' Urbancorp Inc. חברה בקנדה
2471774 ואח'

בקשה 21

לפני כב' השופט איתן אורנשטיין, נשיא

בעניין: סעיף 350 לחוק החברות, התשנ"ט-1999

ובעניין: תקנות החברות (בקשה לפשרה או הסדר), התשס"ב-2002

ובעניין: Urbancorp Inc.

החברה

ובעניין: עו"ד גיא גיסין – בעל התפקיד הזמני לחברה

בעל התפקיד

ובעניין: כונס הנכסים הרשמי

הכנ"ר

החלטה

1 מונחת לפניי בקשה להאריך את מינויו של עו"ד גיא גיסין כבעל תפקיד זמני לחברה וזאת לתקופה
2 נוספת של 120 ימים. אציין שבעל התפקיד מונה על-ידי ביום 25.4.16, וביום 22.5.16 הוריתי על
3 הארכת מינויו עד ליום 22.9.16.

4

5 עם הגשת הבקשה, הוריתי על קבלת עמדת הכנ"ר וכן הארכתי את תוקף המינוי באופן ארעי עד ליום
6 26.9.16.

7

8 הכנ"ר הגיש עמדתו ולפיה הוסכם בינו לבין בעל התפקיד כי המינוי יוארך מטעמי הבקשה לתקופה
9 נוספת של 90 ימים. לצד זאת הבהיר הכנ"ר כי בסיומה של הארכה זו ימלאו 8 חודשים להגשת הבקשה
10 העיקרית ומשכך ככל שתתבקש ארכה נוספת עליה להיות סדורה ומנומקת לאור הקבוע בסעיף 350
11 לחוק החברות, התשנ"ט-1999.

12

13 לאחר שעיינתי בבקשה ומטעמיה, אני נעתר לבקשה לפי האמור בעמדת הכנ"ר.

14

15 משכך, מינויו של עו"ד גיסין כבעל תפקיד מוארך בזאת עד ליום 22.12.16.

16

17 ניתנה היום, כ"ב אלול תשע"ו, 25 ספטמבר 2016, בהעדר הצדדים.

18

19

איתן אורנשטיין, נשיא

20



בית המשפט המחוזי בתל אביב - יפו

פר"ק 16-04-44348 רזניק פז נבו נאמנויות בע"מ נ' Urbancorp Inc. חברה בקנדה
2471774 ואח'
בקשה 21
לפני כב' השופט איתן אורנשטיין, נשיא

- 1
- 2
- 3

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED, AND IN THE MATTER OF URBANCORP INC., APPLICATION OF GUY GISSIN, THE FOREIGN REPRESENTATIVE OF URBANCORP INC., UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

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

Proceeding commenced at Toronto

**RECOGNITION ORDER
Second Israeli Extension**

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Lawyers for the Applicant

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

Proceeding commenced at Toronto

**MOTION RECORD
(Returnable October 5, 2016)**

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