

Court File No. CV-23-00710267-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

B E T W E E N:

MCAP FINANCIAL CORPORATION

Applicant

and

VANDYK-BACKYARD KINGS MILL LIMITED

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, C. C.43, AS AMENDED; AND SECTION 68 OF THE CONSTRUCTION ACT, R.S.O. 1990, C. C.30

**AFFIDAVIT**

I, Emily Oladosu, of the City of Toronto, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am a law clerk with the law firm Gowling WLG (Canada) LLP, lawyers for the Applicant in this proceeding, and as such, I have knowledge of the matters contained in this affidavit.

2. On December 11, 2023, Justice Penny made an order (the "**Order**") appointing KSV Restructuring Inc. ("**KSV**") as receiver and manager pursuant to section 243 of the as receiver and manager pursuant to section 243 of the Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3 (the "**BIA**") and section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43 (the "**CJA**") (in such capacity, the "**Receiver**") without security, and Construction

Lien Trustee, pursuant to section 68 of the Construction Act, R.S.O. 1990, c. C.30 (the “**Construction Act**”) (in such capacity, the “**Construction Lien Trustee**”, collectively with the Receiver, the “**Construction Receiver**”), without security, over all property, assets and undertakings of Vandyk-Backyard Kings Mill Limited (“**Vandyk-Kings Mill**” or the “**Debtor**”) acquired for or used in relation to the Debtor’s business and the Project, including the proceeds thereof (collectively, the “**Property**”).

3. Justice Penny ordered the appointment of the Construction Receiver being dependant on the dissatisfaction of those certain conditions as more particularly set out in paragraph 4 of the Order.

4. The conditions set out in paragraph 4 of the Order were not satisfied and, as a result, the Appointment Date for the Construction Receiver is January 8, 2024.

5. I swear this affidavit in support of the appointment of KSV as Construction Receiver and for no improper purpose.

**SWORN** by Emily Oladosu before me at the City of Toronto, in the Province of Ontario, on January 8, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:

*T. Luke Sabourin*

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**LUKE SABOURIN (LSO #84266U)**  
Commissioner for Taking Affidavits

DocuSigned by:

*Emily Oladosu*

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**EMILY OLADOSU**

MCAP Financial Corporation  
Applicant

-and- Vandyk-Kings Mill  
Respondent

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PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF EMILY OLADOSU  
SWORN JANUARY 8, 2024**

**GOWLING WLG (CANADA) LLP**

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Lawyers for the Applicant

**File Number: T1033750**