

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688  
SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. AND  
2226 ROYAL WINDSOR LP

Respondents

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

**FACTUM OF THE RECEIVER**

**(MOTION FOR SALE PROCESS APPROVAL ORDER)**

June 22, 2026

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Lawyers for the Receiver

## PART I - NATURE OF THE MOTION

1. On May 30, 2024, the Ontario Superior Court of Justice (the “**Court**”) issued an order (the “**Receivership Order**” and as amended and restated on November 15, 2024 and April 28, 2025, the “**A&R Receivership Order**”) appointing AlixPartners Restructuring, Inc.<sup>1</sup> as the receiver and manager (the “**Receiver**”), without security, of certain real property (the “**Real Property**”) and all present and future assets, undertakings and personal property, with the exception of certain security granted by 759 Winston Churchill GP Inc. (“**Churchill GP**”) to the Toronto-Dominion Bank in connection with certain letters of credit (together with the Real Property, the “**Property**”) belonging to: Churchill GP, 759 Winston Churchill L.P. (“**Churchill LP**” and, together with Churchill GP, “**Churchill**”), 688 Southdown GP Inc., 688 Southdown LP, 2226 Royal Windsor GP Inc., and 2226 Royal Windsor LP (collectively, the “**Debtors**”).

2. Each of the Debtors are privately held real estate development entities, which prior to these receivership proceedings were engaged in developing various projects on their respective Real Property, all of which is located in Mississauga, Ontario.

3. The Receiver brings this motion in order to commence two sales processes in respect of Property owned by Churchill and located on the Churchill Lands (as defined below) (collectively, the “**Sale Processes**”):

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<sup>1</sup> Effective June 1, 2026, AlixPartners Restructuring, Inc. was substituted in place of KSV Restructuring Inc. as Receiver in these proceedings, pursuant to an order of the Court dated June 3, 2026. The professionals involved in this mandate prior to this order being granted remain unchanged.

- (a) the “**B3 Sale Process**,” in respect of a fully leased industrial building owned by Churchill located on the Churchill Lands at the address municipally known as 705 Hazelhurst Road, Mississauga, Ontario (“**Building 3**”) and the related lands; and
- (b) the “**EP Sale Process**,” in respect of an approximately 3.5-acre parcel of land owned by Churchill and located on the Churchill Lands at 0 Hazelhurst Road, Mississauga, Ontario (the “**Excess Parcel**”).

4. Accordingly, the Receiver seeks an order (the “**Sale Process Approval Order**”), which will, among other things, approve the proposed Sales Processes. The proposed Sales Processes are designed to maximize the recovery obtained in respect of the Property which is subject to the Sales Processes for the benefit of all of Churchill’s stakeholders, and should be approved by the Court.

## **PART II - SUMMARY OF FACTS**

5. The facts are more fully set out in the Fifth Report of the Receiver.<sup>2</sup>

### **A. Background to the Sale Processes**

#### **(a) The Churchill Lands and the Churchill Project**

6. Churchill LP and Churchill GP are privately held entities which are collectively the registered and beneficial owners of the Churchill Lands. Prior to these proceedings, Churchill intended to develop “the **Churchill Project**,” a real-estate development project which was being developed on approximately 47.15 acres of lands located in Mississauga, Ontario, owned by

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<sup>2</sup> Fifth Report of the Receiver dated June 18, 2026 [Fifth Report]. Capitalized terms not otherwise defined herein have the same meanings ascribed to them as in the Fifth Report. Dollar amounts are given in Canadian dollars unless otherwise specified.

Churchill (the “**Churchill Lands**”). The Churchill Lands include the Excess Parcel, which is a 3.5-acre parcel on which no construction has been commenced to date.<sup>3</sup>

7. The Churchill Lands were intended to be developed into 750,354 square feet of industrial facilities, comprised of three industrial buildings. Of these buildings, Building 3 is complete, fully leased, and the subject of the proposed B3 Sale Process (along with the lands related thereto). The other two buildings (the “**Remaining WC Buildings**”) are being constructed within the receivership proceedings pursuant to the A&R Receivership Order.<sup>4</sup>

8. On April 24, 2026 this Court granted the “**Lease Relief Order**,” which, among other things, authorized the Receiver to enter into leases with respect to the Remaining WC Buildings, subject to the satisfaction of certain conditions. The construction of the Remaining WC Buildings and the leasing process are currently ongoing, and the Receiver intends to seek Court approval of a sale process with respect to the Remaining WC Buildings following their completion (which is anticipated to occur in July 2026).<sup>5</sup>

**(b) Completion of the Extension**

9. Prior to the commencement of these receivership proceedings, access to Building 3 was intended to be provided by way of an extension of Hazelhurst Road to Winston Churchill Boulevard (the “**Extension**”), which remained unfinished as of the date of the Receivership Order.<sup>6</sup> Notwithstanding that Building 3 was fully completed and leased as at the date of the

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<sup>3</sup> Fifth Report at para. 2.2.1, 2.2.3.

<sup>4</sup> Fifth Report at paras. 2.2.1, 2.2.2.

<sup>5</sup> Fifth Report at paras. 2.2.4.

<sup>6</sup> Fifth Report at para. 3.1.1.

Receivership Order, the Receiver, in consultation with KingSett Mortgage Corporation (“**KingSett**”), concluded that the completion of the Extension would materially increase the value and marketability of Building 3. The Receiver understands that the Extension is expected to be substantially completed by July 2026.<sup>7</sup>

**(c) Severance of the Churchill Lands**

10. The various buildings being developed on the Churchill Lands currently cannot be sold as separate parcels, but rather require severance approvals in order to create legally distinct parcels capable of being conveyed. The Receiver has therefore been advancing severances of portions of the Churchill Lands in order to facilitate a broader pool of transaction alternatives. The Receiver anticipates that the severances required to create distinct parcels for the lands upon which each of the three buildings on the Churchill Lands are situate and for the Excess Parcel will be completed by August 2026.<sup>8</sup>

**B. The Proposed Sales Processes**

11. In light of the progress and anticipated timing for completion of the Extension and the severance of portions of the Churchill Lands, the Receiver, in consultation with KingSett, is of the view that this is an appropriate time to complete the Sales Processes. It is anticipated that both the Extension and the severance process will be complete prior to the expected closing of a transaction under the Sales Processes, given the timelines set forth therein.<sup>9</sup>

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<sup>7</sup> Fifth Report at paras. 3.1.1-3.1.3.

<sup>8</sup> Fifth Report at paras. 3.2.1-3.2.2.

<sup>9</sup> Fifth Report at para. 4.1.1.

**(a) The B3 Sale Process**

12. The B3 Sale Process sets out the manner in which Building 3 and the lands related thereto will be marketed and sold by the Receiver, with the assistance of Avison Young Commercial Real Estate Services, LP, Brokerage (“**Avison Young**”) and RBC Capital Markets Realty Inc. (“**RBC Realty**”, and together with Avison Young, the “**B3 Listing Agents**”) as joint listing agents.

13. The B3 Sale Process contemplates a four-phase sale process, being (i) underwriting (during which, among other things, marketing materials and a prospect list will be prepared); (ii) marketing (including, among other things, advertising, meetings with prospective bidders and due diligence facilitation); (iii) letter of intent review, negotiations and selection of successful bid; and (iv) Court Approval and Closing.<sup>10</sup>

14. If the Receiver determines, in its sole discretion, that it will assist to maximize recoveries, the Receiver will have the right to: (i) waive strict compliance with the terms of the B3 Sale Process, including the right to amend any of the deadlines in the B3 Sale Process; and (ii) modify and adopt such other procedures that will better promote the sale of Building 3 under the B3 Sale Process or enhance recoveries for stakeholders.<sup>11</sup>

**(b) The EP Sale Process**

15. On or about February 17, 2026, the Receiver received an unsolicited expression of interest in respect of the Excess Parcel. In light of the uncertainty surrounding the timing of the pending land severance approvals for the Excess Parcel, and in the absence of a formal sale process, the Receiver determined it was not appropriate to enter into definitive transaction documents with the

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<sup>10</sup> See Fifth Report at para. 4.3.1 for a detailed summary of the terms of the B3 Sale Process.

<sup>11</sup> Fifth Report at para. 4.3.2(d).

interested party (the “**EP Bidder**”) for the Excess Parcel at that time. Further, the Receiver did not consider it prudent to initiate a formal sale process for the Excess Parcel prior to obtaining greater certainty regarding the completion of the severance of the Excess Parcel.<sup>12</sup>

16. In or around May 2026, the Receiver was advised that the severance process for the Excess Parcel was expected to be complete by August 2026. The Receiver accordingly engaged with Avison Young to assist with the development of terms for a sale process for the Excess Parcel. Given the size, location, nature, relative lack of complexity, and expected uses of the Excess Parcel, Avison Young advised that the Excess Parcel does not require extended market exposure. The EP Bidder was advised that a formal sale process would commence shortly, and the EP Bidder confirmed that it remained interested in participating in the sale process.<sup>13</sup>

17. Following these discussions, the Receiver, in consultation with KingSett, engaged Avison Young as listing agent for the Excess Parcel. The Receiver, in consultation with KingSett, began marketing the Excess Parcel by way a solicitation of potential bidders, which commenced on June 3, 2026.<sup>14</sup>

18. Pursuant to the terms of the proposed EP Sale Process, the Excess Parcel will be marketed by way of listing the property on MLS and other relevant online commercial real estate platforms, the preparation and distribution of a marketing flyer to Avison Young’s database of investors and industry contacts, direct outreach to potentially interested parties, and signage on the property. A draft form of Agreement of Purchase and Sale will be provided to potential bidders, and no bids will be considered before July 8, 2026, following which the Receiver, in consultation with Avison

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<sup>12</sup> Fifth Report at para. 4.5.2.

<sup>13</sup> Fifth Report at paras. 4.5.3-4.5.4.

<sup>14</sup> Fifth Report at para. 4.5.5-4.5.6(a).

Young and KingSett, will evaluate the bids received, and may elect to pursue negotiations with one or more bidders. The Receiver will seek Court approval of any successful bid.<sup>15</sup>

### PART III - THE ISSUES AND THE LAW

19. This Factum addresses whether the Court should approve the Sale Processes.

#### A. The Sale Processes Should be Approved

20. The purpose of a receivership under section 243 of the *Bankruptcy and Insolvency Act* is to “enhance and facilitate the preservation and realization of the assets for the benefit of creditors,” a purpose which is generally achieved through the liquidation of the debtors’ assets.<sup>16</sup> In determining whether to approve proposed sale processes, the court considers the factors set out in *Royal Bank v. Soundair*, namely:<sup>17</sup>

- (a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
- (b) the efficacy and integrity of the process by which offers are obtained;
- (c) whether there has been unfairness in the working out of the process; and,
- (d) the interests of all parties.

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<sup>15</sup> Fifth Report at para. 4.5.6.

<sup>16</sup> *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#) at para. 73.

<sup>17</sup> *Royal Bank of Canada v. Soundair Corp.*, [1991 CanLII 2727 \(ON CA\)](#) at para. 16 [*Soundair*]; *CCM Master Qualified Fund v. blutip Power Technologies*, [2012 ONSC 1750](#) at para. 6.

21. Each of these factors are satisfied in respect of the proposed Sale Processes:

- (a) **Fairness, Transparency, and Integrity:** The Sale Processes represent fair, open, and transparent processes which were developed with input from selected listing agents, and will canvas the market broadly. The Sale Processes include procedures commonly used to sell industrial real estate, including by Alix in other Court-supervised real property sale processes.<sup>18</sup>
  
- (b) **Commercial Efficacy:** The Receiver will be assisted in the Sale Processes by the B3 Listing Agents (in the case of the B3 Sale Process), and Avison Young (in the case of the EP Sale Process). Avison Young is intimately familiar with the Churchill Lands and Churchill Project, and has extensive experience marketing industrial properties for sale and lease in the Greater Toronto Area and the broader Canadian and international market, while RBC Realty has significant institutional relationships, strong underwriting capabilities and the ability to facilitate financing options. The Receiver is of the view that the hiring of joint listing agents for the B3 Sale Process is consistent with best practices for the disposition of complex, high-value industrial assets and is likely to result in the highest and best available outcome for stakeholders. With respect to the EP Sale Process, the Receiver engaged Avison Young as the listing agent for the Excess Parcel after consultation with KingSett, and after considering, among other things, broker qualifications and experience selling comparable projects.<sup>19</sup> The Receiver views the commission

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<sup>18</sup> Fifth Report at para. 4.7.1(a), (c).

<sup>19</sup> Fifth Report at paras. 4.2.1, 4.6.1-4.6.3; 4.7.1(d).

structures under the Listing Agreements , as reasonable and in line with “market” fees for similar projects.<sup>20</sup>

- (c) **Best Possible Price:** The Sale Processes were designed to test the market on an efficient basis, in order to obtain the highest and best price for the benefit of Churchill’s stakeholders. KingSett, Churchill’s senior secured creditor, is supportive of the proposed Sale Processes. Further, the duration of the Sale Processes provides sufficient time for interested parties to conduct due diligence and submit offers, while also maintaining efficiency. The Sales Processes also provide the Receiver with the timelines, procedures and flexibility that it believes will facilitate the maximization of the value of Churchill’s Property.<sup>21</sup>

22. Solicitation under the EP Sale Process commenced on June 3, 2026, given the simplicity of the Excess Parcel and the continued interest of the EP Bidder, which the Receiver had determined should be considered within the context of a formal sale process.<sup>22</sup> Approval of a sale process in which the solicitation phase had already commenced accords with prior practice of this Court.<sup>23</sup>

23. The Receiver submits that the Sale Processes should be approved for the reasons outlined above. The proposed Sale Processes are fair, open, transparent and commercially reasonable processes which will maximize the recovery received by Churchill’s stakeholders. The commercial

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<sup>20</sup> Fifth Report at paras. 4.4.2, 4.6.3.

<sup>21</sup> Fifth Report at para. 4.7.1(a), (b), (e).

<sup>22</sup> Fifth Report at paras. 4.5.2-4.5.6.

<sup>23</sup> See, e.g., *Just Energy Group Inc. et al. (Re)*, (August 18, 2022), Ont S.C.J. [Commercial List], Court File No. CV-21-0068423-00CL ([SISP Approval Order](#)), Schedule “B” at para. 6, in which a sale process was approved on August 18, 2022, in respect of which the solicitation process had commenced on August 4, 2022.

decisions of a receiver regarding a proposed sale process are afforded broad deference by the courts, which have held that it is not “necessary or desirable for the Court to micro-manage the intricacies of every step of a proposed sales process.”<sup>24</sup> Where a receiver acts reasonably, prudently and not arbitrarily, the court should not sit in appeal from the receiver’s decision or conduct a detailed review of every element of the procedure leading to a receiver’s decision.<sup>25</sup>

**PART IV - NATURE OF THE ORDER SOUGHT**

24. For the reasons set out above, the Receiver requests that this Court grant the proposed Sale Process Approval Order, substantially in the form set out in the Motion Record.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 22<sup>nd</sup> day of June, 2026:



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**TO: THE SERVICE LIST**

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<sup>24</sup> *iSpan Systems LP*, [2023 ONSC 6212](#) at para. 45.

<sup>25</sup> *Bank of Montreal v. Dedicated National Pharmacies Inc. et al*, [2011 ONSC 4634](#) at para. 43.

## SCHEDULE "A": LIST OF AUTHORITIES

1. *Bank of Montreal v. Dedicated National Pharmacies Inc. et al.*, [2011 ONSC 4634](#)
2. *CCM Master Qualified Fund v. blutip Power Technologies*, [2012 ONSC 1750](#)
3. *iSpan Systems LP*, [2023 ONSC 6212](#)
4. *Just Energy Group Inc. et al. (Re)*, (August 18, 2022), Ont S.C.J. [Commercial List], Court File No. CV-21-0068423-00CL ([SISP Approval Order](#))
5. *Royal Bank of Canada v. Soundair Corp.*, [1991 CanLII 2727 \(ON CA\)](#)
6. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#)

I certify that I am satisfied as to the authenticity of every authority.

Date June 22, 2026



*Signature*  
Davis Haugen

**SCHEDULE “B”  
TEXT OF STATUTES, REGULATIONS & BY-LAWS**

***BANKRUPTCY AND INSOLVENCY ACT***

R.S.C., 1985, c. B-3, as amended

**Court may appoint receiver**

**243 (1)** Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person’s or bankrupt’s business; or
- (c) take any other action that the court considers advisable.

**Restriction on appointment of receiver**

**(1.1)** In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

**Definition of receiver**

**(2)** Subject to subsections (3) and (4), in this Part, receiver means a person who

- (a) is appointed under subsection (1); or
- (b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
  - (i) an agreement under which property becomes subject to a security (in this Part referred to as a “security agreement”), or
  - (ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

**Definition of receiver — subsection 248(2)**

(3) For the purposes of subsection 248(2), the definition receiver in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

**Trustee to be appointed**

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

**Place of filing**

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

**Orders respecting fees and disbursements**

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

**Meaning of disbursements**

(7) In subsection (6), disbursements does not include payments made in the operation of a business of the insolvent person or bankrupt.

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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  
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**PROCEEDING COMMENCED AT TORONTO**

**FACTUM OF THE RECEIVER**

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