

Court of Appeal No. COA-22-CV-0451
Court File No. BK-21-02734090-0031

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3 AS
AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

COMPENDIUM OF THE PROPOSAL TRUSTEE

March 23, 2023

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1.	<i>Appendix D to the Seventh Report of the Proposal Trustee – CBRE Notice</i>



**Seventh Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of YG Limited Partnership and
YSL Residences Inc.**

September 12, 2022

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Appendix “D”



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February 10, 2022

DELIVERED BY EMAIL AND REGISTERED MAIL

Elie Laskin
Gowling WLG (Canada) LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Ms. Laskin:

Re: The Proposal of YSL Residences Inc. and YG Limited Partnership (together, the “Company”)

KSV Restructuring Inc., in its capacity as proposal trustee of the Company, acknowledges receipt of the proof of claim filed in your capacity as counsel to CBRE Limited in the amount of \$1,239,377.40.

We have disallowed the claim for the reasons outlined in the attached notice.

Should you have any questions regarding this matter, do not hesitate to contact the undersigned.

Yours very truly,

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YSL RESIDENCES INC. AND YG LIMITED PARTNERSHIP
AND NOT IN ITS PERSONAL CAPACITY

Per: Mitch Vininsky

MV:rk
Encl.



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Estate File No.: 31-2734090

**IN THE MATTER OF THE PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF DISALLOWANCE OF CLAIM
(Subsection 135(3) of the *Bankruptcy and Insolvency Act* (“Act”))**

TAKE NOTICE THAT, as Proposal Trustee acting in the matter of the Proposal of YSL Residences Inc. (“Residences”) and YG Limited Partnership Inc. (the “Partnership” and together with Residences, the “Companies”), we have this day disallowed your claim. The reason for the disallowance is as follows:

- The claim is in respect of an invoice submitted by CBRE Limited (“CBRE”) to “Cresford” dated October 13, 2021 in the amount of \$1,096,794.16 plus HST (the “Invoice”). The Invoice refers to services rendered by CBRE in connection with serving as the exclusive listing brokerage for the land located at 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, (the “Property”). The Property was to be developed by the Companies into a significant condominium project.
- A demand letter dated November 26, 2021 from CBRE to the Companies (the “CBRE Letter”) references that the Invoice was issued in respect of an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement”) between CBRE and the Companies, pursuant to which the Companies “agreed to pay commission equivalent to 0.65% of the Gross Sale Price of the Property” (the “Commission”). The CBRE Letter further states that “CBRE has complied with and performed its obligations under the Agreement.” The term of the Agreement is six months from February 20, 2020 to August 20, 2020 (the “Term”). The Agreement is appended to the CBRE Letter and it is unsigned.
- The Property was conveyed on or about July 22, 2021 (the “Conveyance”) to Concord Adex Inc., an entity related to Concord Properties Developments Corp., the eventual sponsor (“Sponsor”) of the Companies’ Proposal proceedings which were commenced on April 30, 2021.

- Dave Mann, CFO of the Cresford Group of Companies (“Cresford”) advised the Proposal Trustee that CBRE introduced Cresford to the Sponsor. The Sponsor advised the Proposal Trustee that “Cresford, through its representative Ted Dowbiggin, first approached Concord in early 2020 to discuss four of Cresford's distressed projects, however Concord did not have any interest in the YSL project at this time.” and that “In September/October 2020, Cresford re-engaged Concord to discuss the YSL project, after it had canvassed a number of other developers. After this outreach in fall 2020 until the time of the proposal proceedings, Cresford and Concord were consistently engaged to explore potential alternatives for the YSL project”.
- The Agreement states the following with regards to the Commission:
 - *“The Commission shall be earned by the Brokerage in the event that **during the Term:** (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation, partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.”*
- Furthermore, the Agreement has a holdover clause which states that:
 - *“The Owner further agrees to pay the Brokerage the Commission **if, within 90 calendar days after the expiration of the Term,** the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage.”*
- The Proposal Trustee has disallowed the claim in full as:
 - The Agreement is not signed and therefore is not binding;
 - The Sponsor advised that at all times it dealt directly with the Companies and that it did not have any dealings with CBRE;
 - The Conveyance does not meet the definition of an event giving rise to a Commission; and
 - To the extent any Commission could apply, which is denied, the Commission was not earned during the Term, or within the 90 calendar days following the expiration of the Term.

AND FURTHER TAKE NOTICE, that if you are dissatisfied with our decision in disallowing your claim as set out above, you may appeal to the Ontario Superior Court of Justice ("Court") within the 30-day period after the day on which this notice is served, or within such other period as the Court may, on application made within the same 30-day period, allow.

DATED at Toronto, Ontario, this 10th day of February, 2022.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
AND NOT IN ITS PERSONAL CAPACITY**

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