

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

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

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP, A
LIMITED PARTNERSHIP ESTABLISHED UNDER THE
LAWS OF MANITOBA CARRYING ON BUSINESS IN THE
CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF YSL RESIDENCES INC., A
CORPORATION FORMED UNDER THE LAWS OF
ONTARIO CARRYING ON BUSINESS IN THE CITY OF
TORONTO, IN THE PROVINCE OF ONTARIO

MOTION RECORD
(Motion in Writing)

May 14, 2021

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ONTARIO
SUPERIOR COURT OF JUSTICE
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NOTICE OF MOTION
(In Writing)

YG Limited Partnership ("YG LP") and YSL Residences Inc. ("YSL Inc.", and together with YG LP, "YSL"), and will make a motion in writing to a Judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard in writing under subrule 37.12.1(1).

THE MOTION IS FOR:

1. An order (the "**Order**") substantially in the form attached as Tab 2 of the motion record, among other things, authorizing and directing the procedural and substantive consolidation of the proceedings, and such further and other relief as this Honourable Court deems just;

THE GROUNDS FOR THE MOTION ARE:

2. YG LP is a limited partnership formed under the laws of the province of Manitoba. The general partner of YG LP is 9615334 Canada Inc.;
3. YSL Inc. is a corporation incorporated pursuant to the *Business Corporations Act* (Ontario);
4. YSL is the owner and developer of a multi-use retail, office and residential condominium project at the intersection of Yonge Street and Gerrard Street East, in downtown Toronto known as Yonge Street Living Residences (the "**YSL Project**");
5. Pursuant to a Nominee Agreement dated February 16, 2016 (the "**Nominee Agreement**") between YG LP and YSL Inc., YSL Inc. is a bare trustee and nominee of YG LP incorporated for the purpose of holding legal title to the YSL Project lands. YG LP is the beneficial owner of the YSL Project lands;
6. In accordance with the Nominee Agreement, YSL Inc. has been released and indemnified by YG LP for all liabilities arising in connection with its legal ownership of the YSL Project lands and any actions it has been directed to undertake by YG LP. Therefore, any claims against YSL Inc. are ultimately claims against YG LP;
7. Due to ongoing financial crises at YSL and its ownership group, construction on the YSL Project was suspended in 2020 and since that time YSL has been seeking new sources of financing or a potential sale transaction that would permit the YSL Project to resume;
8. On April 30, 2021, YSL Inc. and YG LP each filed notices of intention to make a proposal (the "**NOIs**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**", and such proceedings the "**Proposal Proceedings**");
9. It is intended that the Proposal Proceedings will result in a proposal being put forward on a consolidated basis to YSL's creditors (the "**Proposal**"), to be considered and voted upon at a duly convened creditors' meeting within the timeframes established in the BIA;
10. For the reasons set out in further detail in the Second Report of the Proposal Trustee, the procedural and substantive consolidation of the proceedings is appropriate in this case, because:

- (a) it would promote the administrative and cost efficiency of the Proposal Proceedings;
 - (b) No party will suffer any prejudice as a result of consolidating the Proposal Proceedings;
11. Section 183 *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
 12. Section 138 of the *Courts of Justice Act*, R.S.O. 1990;
 13. Rules 6.01 and 37.12.1(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
 14. Such further and other grounds as counsel may advise and the Court may permit;

THE FOLLOWING DOCUMENTARY EVIDENCE:

15. The following documentary evidence will be used at the hearing of the motion:
 - (a) The First Report of the Proposal Trustee;
 - (b) The Second Report of the Proposal Trustee; and
 - (c) Such further and other evidence as counsel may advise and the Court may permit.

May 14, 2021

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Lawyers for the Applicants

TO: SERVICE LIST

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP, A LIMITED PARTNERSHIP ESTABLISHED UNDER THE LAWS OF MANITOBA CARRYING ON BUSINESS IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

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Estate/Court File Nos.: 31-459200, 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

Proceedings commenced in Toronto

NOTICE OF MOTION

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Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
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THE HONOURABLE MADAM) , THE
JUSTICE GILMORE) DAY OF MAY, 2021

**IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY*
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**ORDER
(Consolidation)**

THIS MOTION made by YSL Residences Inc. ("**YSL Inc.**"), and YG Limited Partnership ("**YG LP**", and together with YSL Inc., "**YSL**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the "**BIA**"), was heard in writing in accordance with the endorsement of Justice Gilmore dated May 7, 2021 and Rule 37.12.1(1) of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

ON READING the Second Report of KSV Restructuring Inc. (the "**Proposal Trustee**") in its capacity as proposal trustee of YSL dated May 14, 2021 and the written submissions of counsel for YSL, no one else appearing although duly served as appears from the affidavit of Daphne Porter dated May 14, 2021;

NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record be and is hereby abridged so that the Motion is properly returnable today, and that further service thereof be and it is hereby dispenses with further service thereof.

CONSOLIDATION OF ESTATES

2. **THIS COURT ORDERS** that with respect to:

- (a) The matter of the notice of intention to make a proposal of YG LP, Estate number 31-459200, and
- (b) The matter of the notice of intention to make a proposal of YSL Inc., Estate number 31-2734090, (collectively, the "**Proposal Proceedings**"),

the Proposal Proceedings shall be procedurally and substantively consolidated and the Proposal Trustee shall be directed to administer the Proposal Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the *BIA*.

3. **THIS COURT ORDERS** that the single court file number 31-2734090 (the "Consolidated Court File") and the following title of proceeding shall be assigned to the Proposal Proceedings:

"
**IN THE MATTER OF THE NOTICES OF
INTENTION TO MAKE A PROPOSAL OF YG
LIMITED PARTNERSHIP AND YSL
RESIDENCES INC.**

"

4. **THIS COURT ORDERS** that a copy of this Order shall be filed by YSL in the court file for each of the Proposal Proceedings, but that any other document required to be filed in any of the Proposal Proceedings shall hereafter only be required to be filed in Court file number 31-2734090.

5. **THIS COURT ORDERS** that the substantive consolidation of the Proposal Proceedings shall not: (i) affect the separate legal status and corporate structures of YG LP or YSL Residences Inc.; (ii) cause YG LP or YSL Inc. to be liable for any claim for which it is not

otherwise liable; and (iii) affect the Proposal Trustee's right to disallow any claim, in whole or in part, including on the basis that such claim is a duplicative claim.

GENERAL

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, partnerships, governmental, municipal and regulatory authorities against whom it may be enforceable.

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ORDER
(Consolidation)

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Tab 3

From: Gilmore, Madam Justice Cory (SCJ) <Cory.Gilmore@scj-csj.ca>
Sent: May 7, 2021 2:10 PM
To: jdietrich@cassels.com; mwunder@cassels.com; slaubman@lolg.ca; Jeremy Bornstein <jbornstein@cassels.com>; rschwill@dwpv.com; Harry Fogul <hfogul@airdberlis.com>; asoutter@tgf.ca; dgruber@bennettjones.com
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>
Subject: 2504670 Canada Inc. et al. v. Cresford Capital Corporation et al. Court file no. CV-21-00661386-00CL

Endorsement of Gilmore, J.

There are currently three outstanding applications in this matter and two NOI proceedings. As the assigned scheduling judge I took the view that Mr. Laubman and Mr. Soutter's clients' Applications have been stayed as a result of the NOI proceedings and that any lift/stay motion must be heard in the context of the proposal proceedings. Mr. Laubman takes the position that the Applications are not stayed. I confirmed that I have taken the position that they are stayed for scheduling purposes only and have made no finding in that regard.

The lift/stay motion is therefore scheduled for June 1, 2021 at 10:00 a.m. for two hours. The judge hearing this motion may wish to conduct a conference with the parties after releasing his/her decision as the result of that motion will impact next steps.

The sanction hearing and the applications (assuming the stay is lifted) will be heard on June 23, 2021 for three hours at 10:00 a.m. This time allotment may need to be adjusted depending on the result of the lift/stay motion.

The consolidation of the NOI proceedings can likely be done by way of unopposed motion in writing. That may be placed before me when counsel are ready.

May 7, 2021



Madam Justice Cory A. Gilmore
Ontario Superior Court of Justice
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4th Floor
Toronto, Ontario M5G 1T3

cory.gilmore@scj-csj.ca

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