

From: Cavanagh, Justice Peter (SCJ) <Peter.Cavanagh@scj-csj.ca>

Sent: February 22, 2021 11:24 AM

To: Fred Tayar <fred@fredtayar.com>; Tim Duncan <tduncan@foglers.com>; 'fplatt_plattlawoffice.com' <fplatt@plattlawoffice.com>; Calvin Ho <cho@laishleyreed.com>; Allan Fogul <afogul@gertlerlawyers.com>

Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Subject: RMilevsky et al. v. Esther Dick et al (Court File CV-20-00648284-00CL) and in the matter of the Bankruptcy of Esther Dick (Court File No. 31-2232248) |

Endorsement:

Counsel attended today on a Zoom conference to settle the order arising from my endorsement dated February 15, 2021. My endorsement provides for an order appointing a receiver in substantially the form of order appended at tab 3 to the Application Record. This form of order provides for appointment of Zeifman Partners Inc. as receiver.

At the hearing of the motion, counsel for the Trustee raised the issue of whether Zeifman is in a conflict or whether there is an appearance of a conflict because a principal of the second mortgagee is also a principal of Zeifman. After the hearing, counsel for the second mortgagee, Mr. Platt, advised that if I was not disposed to appoint Zeifman, he proposed an alternative receiver and that Mr. Tayar for the applicants is agreeable. Counsel for the second mortgagee had not yet been able to contact counsel for the Trustee. I did not address this issue in my endorsement. Counsel for the Trustee then advised that his client agreed with counsel for the second mortgagee and counsel for the applicants that the proposed alternate receiver be appointed. Counsel for the Trustee then clarified that the suggestion of another receiver was made only by Mr. Platt if I decided not to appoint Zeifman. Submissions were made before me today on this issue.

The receivership is a straightforward one involving the sale of a residential property. The Trustee submits that, based on the market value of the property, a sale would result in full payment of the outstanding mortgages. I am satisfied that in the circumstances of this receivership, Zeifman is not disqualified from acting as receiver.

Order to issue in form of attached order signed by me today.



Cavanagh J.