

COUNSEL SLIP

COURT FILE CV-21-00668821-00CL; CV-20-

NO.: ~~00640893-0000~~ CV-22-00674717-00CL DATE: _____

11-FEB-2022

2 and 3

NO. ON LIST _____

TITLE OF
PROCEEDING

Berkid Investments Limited et al. v. Milborne et al.

COUNSEL FOR:

PLAINTIFF(S)

G. Roberts

PHONE _____

APPLICANT(S)

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PETITIONER(S)

EMAIL Greg.roberts@roblaw.ca

COUNSEL FOR:

DEFENDANT(S)

A. Zweig; P. Millar; A. Habas

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OTHER PARTIES

M. Katzman, for Intervening Investors

K. Kraft; A. Rutman, for proposed Receiver Zeifman
Partners Inc.

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Hamilton Steger & Co. Inc.

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JUDICIAL NOTES:

Conway J. Endorsement

There are two proceedings before me – one is an action by Mr. Roberts' clients (various investors) and the other is an application by Mr. Zweig's clients (Gregory Marchant et al). Both concern the proposed development of five properties in the U.S. by Mr. Marchant. There are numerous issues in this litigation but at this point, counsel have agreed on an interim resolution on essentially the following terms:

- Zeifman Partners Inc. will be appointed as the Receiver of the properties. It is hoped and expected that the Receiver will be able to refinance the properties rather than sell them over the next six months, resulting in enhanced value to investors. The form of order contemplates the Receiver taking those steps.
- The Receiver will retain an inspector (Cohen Hamilton Steger & Co Inc.) to examine how the investors' funds have been spent. Mr. Roberts' clients will be funding the investigation in the first instance subject to their right to claim reimbursement at a later date.
- Mr. Roberts' clients' action is stayed pending further court order. While Ms. Habas and Mr. Millar (for two of the defendants in that action) are not opposing the stay, they have advised the court that it is without prejudice to their moving for a lift stay to enable them to bring summary judgment motions to dismiss the action against their clients.
- Mr. Katzman represents various other investors (who are not represented by Mr. Roberts). It is agreed that those investors will intervene in these proceedings. Schedule C of the draft order has now been amended to include additional investors who Mr. Katzman notifies the Receiver should be added as an "Intervening Investor". The updated draft order is to be uploaded to CaseLines.
- All materials will be filed under the CV-22-00674717-00CL file but will use the two style of causes (Court File No. CV-21-00668821-00CL and Court File No. CV-22-00674717-00CL). Mr. Kraft will be working on streamlining the files in CaseLines.

Counsel walked me through the receivership order today. I am satisfied with its terms and have signed it (I amended paragraph 43, last line, to correct the court file number – 22-00674717-00CL).

Order to go as signed by me and attached to this endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

At the appropriate time, counsel may book a scheduling appointment before me, through the Commercial List office, to schedule next steps.

A handwritten signature in blue ink, appearing to read "Conway J.", is written in a cursive style.