



Court File No. CV-23-00699908-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF SECTION 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

THE HONOURABLE) THURSDAY, THE 30th
)
JUSTICE J. DIETRICH) DAY OF JANUARY, 2025

B E T W E E N :

NHE CAPITAL CORP.

Applicant

- and -

111 SHERWOOD INVESTMENTS INC.

Respondent

ANCILLARY ORDER

THIS MOTION, made by KSV Restructuring Inc. ("**KSV**"), in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**"), without security, of all of the assets, undertakings and properties of 111 Sherwood Investments Inc. (the "**Debtor**"), including, without limitation, the real property owned by the Debtor municipally known as 111 Sherwood Drive, Brantford, Ontario and all proceeds thereof (the "**Property**"), for an order, among other things: (i) authorizing and directing the Receiver to distribute certain sale proceeds and funds held by the Receiver to NHE Capital Corp. ("**NHE**"), subject to the conditions herein, (ii) approving the Second Report of the Receiver dated January 21, 2025 (the "**Second Report**") and the Receiver's activities therein, (iii) approving the fees and disbursements of the Receiver and its

counsel, Bennett Jones LLP ("**Bennett Jones**"), (iv) sealing the Confidential Appendices (as defined in the Second Report), and (v) discharging KSV as the Receiver effective upon the filing of a Discharge Certificate (as defined below) and releasing KSV from any and all liability, as set out in paragraph 14 of this Order, was heard this day by judicial videoconference.

ON READING the Notice of Motion and Motion Record of the Receiver, the Second Report, and the fee affidavits of Noah Goldstein of KSV and Sean Zweig of Bennett Jones (together, the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver, and such other counsel as was present, no one else appearing although properly served, as appears from the affidavit of Jamie Ernst sworn and filed:

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Second Report.

DISTRIBUTIONS

3. **THIS COURT ORDERS** that the Receiver is hereby authorized, following the closing of the Transaction, to distribute the Sale Proceeds to NHE as partial repayment of the secured indebtedness (including, without limitation, all principal, interest, expenses and costs) of the Debtor owing to NHE and secured by NHE's mortgage (the "**NHE Indebtedness**"), less the Fee

Accrual and any accrued and unpaid expenses in these receivership proceedings (the "**Proceeds Distribution**").

4. **THIS COURT ORDERS** that the Fee Accrual is hereby approved and, in connection with the Proceeds Distribution, the Receiver shall retain sufficient funds necessary to satisfy the Fee Accrual or such less amount as the Receiver agrees.

5. **THIS COURT ORDERS** that, after paying the approved fees and disbursements of the Receiver and Bennett Jones (including, without limitation, the Fee Accrual) and the Sale Proceeds to NHE, the Receiver is hereby authorized and directed, without further Order of this Court, to distribute the remaining balance of funds held by the Receiver to NHE on account of and in partial satisfaction of the NHE Indebtedness. For greater certainty, if any portion of the Fee Accrual is not required by the Receiver or Bennett Jones, the Receiver is hereby authorized and directed, without further Order of this Court, to distribute any such unused portion of the Fee Accrual to NHE on account of and in partial satisfaction of the NHE Indebtedness (collectively, and together with the Proceeds Distribution, the "**Distributions**").

6. **THIS COURT ORDERS** that the Receiver, Bennett Jones and other agents are hereby authorized to take all necessary steps and actions to effect each of the Distributions in accordance with the provisions of this Order from time to time and shall not incur any liability as a result of making any of the Distributions.

7. **THIS COURT ORDERS** that the Distributions shall be free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected,

registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by Order in these proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) any assignment in bankruptcy made in respect of the Debtor; and
- (c) the provision of any federal, provincial or other statute;

any Distributions made pursuant to this Order are final and irreversible and shall be binding upon any trustee in bankruptcy or receiver that has been or may be appointed in respect of the Debtor or its property, and shall not be void or voidable by creditors of the Debtor, nor shall any such distributions constitute or be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers-at-undervalue or other reviewable transactions under the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended or any other applicable federal, provincial or other law, nor shall they constitute conduct which is oppressive, unfairly prejudicial to or which unfairly disregards the interests of any person, and shall, upon the receipt thereof, be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to the Debtor or its property.

9. **THIS COURT ORDERS** that the Receiver and its agents shall be entitled to deduct and withhold from any Distribution such amounts as may be required to be deducted or withheld with

respect to the Distribution under the *Income Tax Act* (Canada) or other applicable laws and to remit such amounts to the appropriate governmental authority ("**Governmental Authority**") or other person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Governmental Authority or other person, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order to such person as the remainder of the Distribution in respect of which such withholding or deduction was made.

APPROVAL OF THE RECEIVER'S ACTIVITIES AND FEES

10. **THIS COURT ORDERS** that the Second Report is hereby approved and the activities and conduct of the Receiver as described therein are hereby ratified and approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or utilize in any way such approvals.

11. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and Bennett Jones as set out in the Second Report and the Fee Affidavits be and are hereby approved.

SEALING

12. **THIS COURT ORDERS** that the Confidential Appendices be sealed, kept confidential and not form part of the public record, and that the Confidential Appendices shall be placed separate and apart from all other contents of the Court file, each in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon either further Order of this Court or the closing of the Transaction.

DISCHARGE

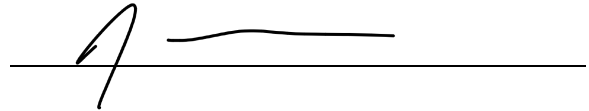
13. **THIS COURT ORDERS** that upon the Receiver filing a certificate substantially in the form attached as Schedule "A" hereto (the "**Discharge Certificate**") certifying that all matters to be attended to in connection with these receivership proceedings of the Debtor have been completed to the satisfaction of the Receiver, the Receiver shall be discharged as receiver and manager of the Debtor, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver in respect of the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of all Orders made in these receivership proceedings, including, without limitation, all approvals and protections and stays of proceedings in favour of KSV in its capacity as Receiver.

14. **THIS COURT ORDERS AND DECLARES** that, upon the filing of the Discharge Certificate, KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver herein, save and except for any liability arising from the gross negligence or willful misconduct on the Receiver's part. Without limiting the generality of the foregoing, upon the filing of the Discharge Certificate, KSV is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or willful misconduct on the Receiver's part.

GENERAL

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order.

A handwritten signature, appearing to be 'A', is written above a horizontal line. The signature is in black ink and is positioned to the left of the line, with the line extending to the right.

Schedule "A"

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B E T W E E N :

NHE CAPITAL CORP.

Applicant

- and -

111 SHERWOOD INVESTMENTS INC.

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice (the "**Court**") dated April 19, 2024, KSV Restructuring Inc. was appointed receiver and manager (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties of 111 Sherwood Investments Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated January 30, 2025, the Court ordered the discharge of the Receiver to become effective (and conditional) upon the Receiver filing a certificate with the Court confirming that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver.

THE RECEIVER CERTIFIES the following:

1. All matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver.

This Certificate was filed by the Receiver with the Court on the _____ day of _____, 2025.

KSV Restructuring Inc., solely in its capacity as Receiver over 111 Sherwood Investments Inc., and not in its personal or corporate capacity

Per: _____

Name:

Title:

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Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ANCILLARY ORDER

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Counsel to KSV Restructuring Inc., solely in its
capacity as Court-appointed Receiver and not in its
personal capacity