



Court File No.: CV-24-00715321-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 30<sup>TH</sup>

JUSTICE CAVANAGH

)

DAY OF AUGUST, 2024

)

**CONSTANTINE ENTERPRISES INC.**

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND  
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 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**

**APPROVAL AND VESTING ORDER  
(Retail APS)**

**THIS MOTION**, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the “**Second Report**”), and the sale of the Retail APS (as defined in the Second Report) to Constantine Enterprises Inc. (the “**Purchaser**”), and vesting in the Purchaser all of Retail’s right, title and interest in the Retail APS, was heard this day was heard this day by Zoom videoconference.

**ON READING** the Second Report and the Supplemental Report of the Receiver dated August 29, 2024, and on hearing the submissions of counsel for the Receiver, the Purchaser, and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Lauren Archibald sworn August 20, 2024 and August 29, 2024 filed.

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the 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 the Transaction is hereby approved and the execution of the Stalking Horse APA, *nunc pro tunc*, by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such further documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Retail APS to the Purchaser.

3. **THIS COURT ORDERS** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of Retail's right, title and interest in and to the Retail APS shall vest absolutely in the Purchaser, 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024; 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 (all of which are collectively referred to as the "**Encumbrances**", which term shall not include any permitted encumbrances and the Assumed Liabilities, as defined in the Second Report) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Retail APS are hereby expunged and discharged as against the Retail APS.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Retail APS shall stand in the place and stead of the Retail APS, and that from and after the delivery of the Receiver's Certificate all Claims and

Encumbrances shall attach to the net proceeds from the sale of the Retail APS with the same priority as they had with respect to the Retail APS immediately prior to the sale, as if the Retail APS had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

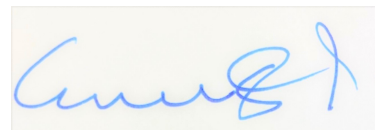
5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Retail APS in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **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.



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**Schedule “A” – Form of Receiver’s Certificate**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**CONSTANTINE ENTERPRISES INC.**

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND  
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 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**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”).

B. Pursuant to an Order of the Court dated [**DATE**], the Court approved the Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the “**Second Report**”), the sale of the Retail APS to Constantine Enterprises Inc. (the “**Purchaser**”), and provided for the vesting in the Purchaser all of Retail’s right, title and interest in and to the Retail APS, which vesting is to be effective with respect to the Retail APS upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the

Purchase Price for the Retail APS; (ii) that the conditions to Closing as set out in sections 4.1, 4.2 and 4.3 of the Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Second Report or the Stalking Horse APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Retail APS payable on the Closing Date pursuant to the Stalking Horse APA;
2. The conditions to Closing as set out in sections 4.1, 4.2 and 4.3 of the Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KSV Restructuring Inc., in its capacity as Receiver of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

CONSTANTINE ENTERPRISES INC. -and-  
Applicant

MIZRAHI (128 HAZELTON INC.) AND  
MIZRAHI 128 HAZELTON RETAIL INC.

Court File No.: CV-24-00715321-00CL

Respondents

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

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER  
(Retail APS)**

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