



Court File No.: CV-24-00715326-00CL

ONTARIO SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE

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WEDNESDAY, THE 18TH

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JUSTICE STEELE

)

DAY OF DECEMBER, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- and -

SAM M (180 SAW) LP INC. AND
SAM M (180 SAW) 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

DISCHARGE ORDER

THIS MOTION, made by KSV Restructuring Inc. ("**KSV**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of: (i) all partnership interests in Mizrahi Constantine (180 SAW) LP owned by Sam M (180 SAW) LP Inc.; and (ii) all shares in the capital of the Mizrahi Constantine (180 SAW) Inc. owned by Sam M (180 SAW) Inc. and in respect of both (i) and (ii) all dividends, distributions, and proceeds therefrom and substitutions therefor (collectively, the "**Property**"), for an order:

1. approving the activities of the Receiver as addressed in the First Report of the Receiver dated June 14, 2024 (the "**First Report**"), the Supplement to the First Report of the Receiver dated July 8, 2024 (the "**Supplement to the First Report**"), the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), the Supplement to the Second Report of the Receiver dated September 13, 2024 (the "**Supplement to the Second Report**"), and the Third Report

- of the Receiver dated December 10, 2024 (the “**Third Report**”, and collectively with the First Report, the Supplement to the First Report, the Second Report, and the Supplement to the Second Report, the “**Reports**”);
2. approving the fees and disbursements of the Receiver as set out in the affidavit of Robert Kofman sworn December 10, 2024 (the “**Kofman Affidavit**”) and the fees and costs of its counsel, Norton Rose Fulbright Canada LLP (“**NRFC**”) as set out in the affidavit of Jennifer Stam sworn December 7, 2024 (the “**Stam Affidavit**”) and together with the Kofman Affidavit, the “**Fee Affidavits**”) for the period of time set out therein, as well as the estimated fees and disbursements of the Receiver and NRFC estimated to be incurred to the effective time of discharge, such amount estimated not to exceed \$50,000 (including HST) in aggregate (the “**Fee Accrual**”);
 3. discharging KSV as the Receiver of the Property in these proceedings (the “**Proceedings**”);
 4. authorizing the Receiver to distribute any surplus funds from the Fee Accrual to Constantine Enterprises Inc. (“**CEI**”); and
 5. releasing KSV from any and all liability, as set out in paragraph 8 of this Order;

was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Reports, the Fee Affidavits, and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of Lauren Archibald sworn December 10, 2024, filed:

NOTICE AND SERVICE

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

APPROVAL OF ACTIVITIES

2. **THIS COURT ORDERS** that the activities of the Receiver, as addressed in the Reports, are hereby approved.

3. **THIS COURT ORDERS** that only KSV, 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.

APPROVAL OF FEES AND DISBURSEMENTS

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and NRFC incurred from the date of each of their respective engagements in connection with the Proceedings to November 30, 2024, as set out in the Third Report and the Fee Affidavits, are hereby approved.

5. **THIS COURT ORDERS** that the Fee Accrual is hereby approved.

DISTRIBUTION

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to distribute any remaining surplus funds from the Fee Accrual to CEI.

APPROVAL OF DISCHARGE AND RELEASE

7. **THIS COURT ORDERS** that upon the Receiver filing a certificate substantially in the form attached as Schedule "A" hereto (the "**Discharge Certificate**") certifying that it has completed the activities described in the Third Report, KSV shall be discharged as the Receiver of the Property, provided however that notwithstanding its discharge herein (a) KSV shall remain the Receiver for 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 the provisions of all Orders made in the Proceedings, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as the Receiver.

8. **THIS COURT ORDERS** that, effective 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 the Receiver herein,

save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, 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 Proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

GENERAL

9. **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.

Jana
Steele

Digitally signed
by Jana Steele
Date: 2024.12.18
12:48:04 -05'00'

Schedule "A" - Form of Receiver's Discharge Certificate

Court File No. CV-24-00715326-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

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- and -

**SAM M (180 SAW) LP INC. AND
SAM M (180 SAW) 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

WHEREAS, pursuant to an Order of the Court made on June 4, 2024, KSV Restructuring Inc. was appointed as receiver and manager (in such capacities, the "**Receiver**") of: (i) all partnership interests in Mizrahi Constantine (180 SAW) LP owned by Sam M (180 SAW) LP Inc.; and (ii) all shares in the capital of the Mizrahi Constantine (180 SAW) Inc. owned by Sam M (180 SAW) Inc., and in respect of both (i) and (ii) all dividends, distributions, and proceeds therefrom and substitutions therefor (collectively, the "**Property**");

AND WHEREAS, pursuant to an Order of the Court dated [DATE] (the "**Discharge Order**"), the Court, among other things, ordered that the Receiver shall be discharged as the Receiver of the Property upon the filing of this discharge certificate confirming that the remaining matters as set out in the Third Report (as defined in the Discharge Order) have been completed.

THE RECEIVER CERTIFIES that the remaining matters as set out in Section 5.1 of the Third Report have been completed.

DATED as of **[TIME]** on the ____ day of _____, 20____.

KSV Restructuring Inc., in its capacity as the Receiver of the assets, undertakings and properties of Sam M (180 SAW) LP Inc. and Sam M (180 SAW) Inc., and not in its personal capacity

Per:

Name: Robert Kofman

Title: President

10 SAW) LP INC. AND SAM M (18
SAW) INC.

Applicant

Respondents

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

Proceeding commenced at Toronto

DISCHARGE ORDER

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