

Court File No. CV-24-00714866-00CL

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

THE HONOURABLE

)

MONDAY, THE 7TH

JUSTICE KIMMEL

)

DAY OF OCTOBER, 2024

)

B E T W E E N :

FORGESTONE MORTGAGE FUND LP

Applicant

- AND -

**72 JAMES INVESTMENTS INC., FORGE & FOSTER HOLDINGS INC. and CLIFTON
BLAKE PARTNERS LP**

Respondents

**APPLICATION UNDER Section 243 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**

ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of: (i) the assets, undertakings and properties of 72 James Investments Inc. (the “**Property**” and the “**Debtor**” respectively) including the real property municipally known as 72-76 James Street North, Hamilton, Ontario (the “**Real Property**”); and (ii) the right, title and interest in the Real Property of the beneficial owners of the Real Property, Clifton Blake

Partners LP and Forge & Foster Holdings Inc., for an order, *inter alia*, authorizing the Receiver to assign the Debtor into bankruptcy, was heard this day.

ON READING the Receiver's Third Report to the Court dated August 30, 2024 and appendices thereto (the "**Third Report**"), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Alexciya Blair affirmed August 30, 2024, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and 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 Third Report, and the activities of the Receiver described therein are hereby approved provided 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 approval.
3. **THIS COURT ORDERS** that (i) the Receiver is hereby authorized to file an assignment in bankruptcy in respect of the Debtor pursuant to the provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended naming KSV Restructuring Inc. ("**KSV**") as trustee in bankruptcy (in such capacity, the "**Trustee**"), and to take any steps reasonably incidental thereto, and (ii) KSV is hereby authorized and empowered to act as Trustee.

4. **THIS COURT ORDERS** that the Trustee is hereby authorized and empowered to fund the costs of administering the bankruptcy estate of the Debtor, including the fees and disbursements of the Trustee and its counsel, from the Property, including the Surplus (as defined in the Receiver's Third Report to the Court dated August 30, 2024).

5. **THIS COURT ORDERS** that each of the Receiver's Charge and the Receiver's Borrowings Charge (each as defined in the order appointing the Receiver dated February 26, 2024 (the "**Receivership Order**")), shall not be affected by the Debtor's bankruptcy and shall continue to enjoy the same priority such charges have in respect of the Property pursuant to the terms of the Receivership Order following the bankruptcy of the Debtor.

6. **THIS COURT ORDERS** that all proceeds of the Property of the Debtor realized by the Receiver prior to, on or after the bankruptcy of the Debtor, other than Property which has already been distributed pursuant to an order of this Court, are deemed to form part of the bankruptcy estate of the Debtor.

7. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from April 20, 2024 to and including July 31, 2024, as set out in the Affidavit of Robert Kofman attached at Appendix "C" to the Third Report, be and are hereby approved.

8. **THIS COURT ORDERS** that the fees and disbursements of Paliare Roland Rosenberg Rothstein LLP from April 20, 2024 to and including July 31, 2024, as set out in the Affidavit of Alexciya Blair attached at Appendix "D" to the Third Report, be and are hereby approved.

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.

10. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

FORGESTONE MORTGAGE FUND LP

-and-

72 JAMES INVESTMENTS INC. et al.

Applicant

Respondents

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER

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