



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00710267-00CL

DATE: Oct 16, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: MCAP FINANCIAL CORPORATION v. VANDYK-BACKYARD KINGS
MILL LIMITED et al
BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Marleigh Dick	KSV Restructuring Inc.	mdick@osler.com
Dave Rosenblat	KSV Restructuring Inc.	drosenblat@osler.com
Noah Goldstein	KSV Restructuring Inc.	ngoldstein@ksvadvisory.com
Murtaza Tallat	KSV Restructuring Inc.	mtallat@ksvadvisory.com
Marc Wasserman	KSV Restructuring Inc.	mwasserman@osler.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Nicole Maragna	Lido Wall Systems Inc.	nmaragna@bianchipresta.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Heather Fisher	MCAP Financial Corporation	Heather.fisher@gowlingwlg.com
Denise Bambrough	Aviva Insurance Company of Canada	dbambrough@blg.com

ENDORSEMENT OF JUSTICE PENNY:

- [1] In this receivership, the court, in July 2024, approved a sale of real estate assets including a condominium development. Pre-sold purchase agreements for condominium units were not assumed by the purchaser. The Receiver, in conjunction with Tarion and Aviva, now seeks approval of a protocol by which all deposits, with interest, will be returned to those purchasers.
- [2] There are also 21 liens registered, such that a lien claims process is required to determine valid claims and to pay out proven claims.
- [3] I am satisfied that the deposit return protocol is fair and appropriate. It is structured in a similar matter to other like cases which have been approved by this court before. Among other things, the process has been simplified to be as user friendly as reasonably possible. Assistance will be provided to those needing help or who have questions, by both Aviva's agent, MCAP, and by Tarion. The process has also been streamlined to enable deposits to be return as quickly as possible once purchasers submit the necessary paperwork. The deposit return protocol is approved.
- [4] The process for determining, and disputing, lien claims is also structured in a similar manner to earlier cases dealing with the same issue. The process appears to allow sufficient time for claims to be made, and a reasonable and fair process for reviewing and allowing or disallowing claims.
- [5] Orders to issue in the form signed by me this day.

A handwritten signature in blue ink that reads "Penny J." with a stylized flourish at the end.

Penny J.