



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-24-00714543-00CL

DATE: May 30, 2024

NO. ON LIST: 5

TITLE OF PROCEEDING: KINGSETT MORTGAGE CORP. v. 759 WINSTON CHURCHILL GP  
INC. et al

BEFORE: JUSTICE CAVANAGH

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

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## **ENDORSEMENT OF JUSTICE CAVANAGH:**

- [1] The Applicant brings this application for an order pursuant to subsection 243 (1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act* appointing KSV Restructuring Inc. as receiver and manager of the property and assets of the Debtors described in the requested form of order.
- [2] The application was originally returnable on February 20, 2024. Concurrent with the receivership application, the Debtors brought a competing application under the *CCAA*. Following discussions between the Applicants and the Debtors, on February 28, 2024, the parties entered into a forbearance agreement (the “Forbearance Agreement”). Following execution of the Forbearance Agreement, the parties agree to adjourn the receivership application.
- [3] With the standstill period about to expire, the Applicant is seeking a receivership order. In accordance with the terms of the Forbearance Agreement, the Debtors have consented to the requested form of order. There is no opposition.
- [4] The Debtors continued to be in default of their obligations under the loan and security documents described in the application materials. They are unable to repay the indebtedness owed to the Applicant. The Debtors have failed to make any payments against the indebtedness and interest continues to accrue at a significant rate, which serves to jeopardize the Applicant’s security position.
- [5] I am satisfied that it is just and convenient for a receiver to be appointed. The appointment of a receiver will provide the stability, structure and supervision required to preserve the value of the property, including each of the projects described in the application materials.
- [6] Mr. Kraft represents a tenant at one of the buildings. He does not oppose the requested order, but asked to have recorded his client’s position this non-opposition does not affect his client’s right to oppose a vesting order that would vest out the interest of his client if this issue arises. The Applicant does not object to this endorsement, for clarity.
- [7] Order to issue in form of Order signed by me today.