



SUPERIOR COURT OF JUSTICE

ENDORSEMENT

COURT FILE NO.: CV-22-00691528-00CL

DATE: January 8, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: **MARSHALLZEHR GROUP INC., AS ADMINISTRATOR v. 12252856 CANADA INC.**

BEFORE: **JUSTICE CAVANAGH**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Harvey Gary Chaiton	RSM Canada Limited	harvey@chaitons.com
Laura Culleton		laurac@chaitons.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
William Friedman	Consortia Equity Capital Limited	wf@friedmans.ca
Mark Russell		mr@friedmans.ca
Nicolas C. Canizares	12252856 Canada Inc., 12279266	Equinoxgroup@bellnet.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Rajiv Joshi	For various Creditors	rjoshi@srtsllegal.com
Joan Kasozi	For Prime Design Build Corporation, Lien Claimant	jkasozi@cambridgellp.com
Irving Fox	Observer	irving@ontlaw.com
Jeff Berger	Receiver	Jeff.Berger@rsmcanada.com

Steve Graff	MarshallZehr Capital Partners Inc.	sgraff@airdberlis.com
Evan Moore	Top Producer Team Realty Inc.	emoore@moorelawyers.ca
Marco Romeo	Vector Financial Services	Marco.Romeo@gowlingwlg.com
Mir Ali	Observer	mirali@consortia-na.ca
Bryan A. Tannenbaum	Receiver	bryan.tannenbaum@rsmcanada.com

ENDORSEMENT

[1] RSM Canada Limited (“RSM”), is the court-appointed receiver and manager (the “Receiver”) of all of the assets, undertakings and properties of 12252856 Canada Inc. (the “Debtor”).

[2] The Debtor owns the real property municipally known as 0, 227 and 235 King Road, Richmond Hill, Ontario (the “Property”) which it purchased in October 2020 with the intention to construct a 178 unit stacked townhouse development.

[3] The Receiver has brought a motion for, among other things, approval of an Asset Purchase Agreement dated October 26, 2023 (the “MZ APA”), entered into between MarshallZehr Capital Partners Inc. (“MZCP”) and the Receiver, and for an order vesting title to the Purchased Assets (as defined in the MZ APA) in MZCP. The purchase price is for the amount owing by 12252856 Canada Inc. (the “Debtor”) to MarshallZehr Group Inc., as administrator of the first-ranking mortgage on the Property, plus priority payables including, but not limited to, the Receiver’s borrowings and the fees and expenses of the Receiver and its legal counsel.

[4] The Debtor, Consortia Equity Capital Limited (“Consortia”), the fourth mortgagee, and 12279266 Canada Inc. (“1227 Canada”), the fifth mortgagee, originally opposed the motion but now consent to the motion based on the terms described below.

[5] This motion is not opposed by any other party.

[6] I have read the Receiver’s Third Report, the Supplement to the Third Report, the affidavits of Mir Ali, and heard submissions of counsel for the Receiver, the Debtor, Consortia and 1227 Canada, and such other counsel in attendance. I am satisfied that the Receiver’s motion should be granted.

[7] I am advised that the Receiver, MarshallZehr Group Inc., MZCP, the Debtor, Consortia and 1227 Canada have agreed that in the event 1227 Canada, which is a party related to Mir Ali, a shareholder of the Debtor, pays CAD\$25,000,000 to the Receiver’s solicitors in trust, by no later than 5:00 p.m. on February 15, 2024, the Receiver is authorized and directed to enter into the Asset Purchase Agreement dated February 16, 2024 with 1227 Canada (the “1227 APA”), a copy of which has been filed with the Court, and upon closing of the transaction contemplated by that agreement, the MZ APA shall be terminated. On consent of these parties, I so order. If for any reason whatsoever, the Receiver does not enter into the 1227 APA having been authorized to do so, the Receiver’s solicitors shall forthwith return the CAD\$25,000,000, without interest or deduction, to 1227 Canada’s Solicitors or as 1227 Canada may otherwise direct.

[8] The Receiver and 1227 Canada shall attend a case conference on February 16, 2024 at 9:30 a.m. to advise the Court whether the CAD\$25,000,000 purchase price has been paid, and if paid, to obtain an approval and vesting order in respect of the 1227 APA in a form agreed by the parties and approved by the Court.

[9] Further, in the event the CAD\$25,000,000 purchase price under the 1227 APA is not paid to the Receiver’s solicitors in trust by 5:00 p.m. February 15, 2024, the Receiver shall complete the MZ APA in accordance with

its terms and neither 1227 Canada nor any other person shall take any steps to interfere with or delay the completion of the MZ APA.

[10] Orders to issue in forms of Orders signed by me today.

Justice Cavanagh

Date: January 5, 2024