

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE SNOWIE) THURSDAY, THE 12th DAY
OF NOVEMBER, 2015.

BETWEEN:

FIRST SOURCE MORTGAGE CORPORATION

Applicant

- and -

**2267 INDUSTRIAL STREET INVESTMENTS LTD.,
FRED WEIDNER and MARLENE JOAN DOTZLAW**

Respondents

ORDER

THE WITHIN APPLICATION made by the Applicant for relief pertaining to the Mortgage held by the Applicant over the lands and premises municipally known as 2267 Industrial Street, Burlington, Ontario (the "Mortgaged Premises) and which lands and premises are more particularly described in Schedule "A" to this Order was heard this day at Brampton, Ontario.

ON READING the Affidavit of David Mandel, filed, and on hearing the submissions of counsel for the Applicant:

1. **THIS COURT ORDERS** that pursuant to Section 101 of the *Courts of Justice Act* and Rule 41 of the *Rules of Civil Procedure*, Collins Barrow

Toronto Limited be and the same is hereby appointed Receiver and Manager without security of the Mortgaged Premises.

2. **THIS COURT ORDERS** that, subject to the terms of this Order and any further Order of the Court:
 - (a) the Receiver may, but shall not be deemed or obligated to, take possession of, exercise control over, operate or manage the Mortgaged Premises or any business or affairs of the owner of the Mortgaged Premises, and
 - (b) the Receiver shall undertake the marketing and sale of the Mortgaged Premises.

3. **THIS COURT ORDERS** that in the event the Receiver wishes possession of the Mortgaged Premises, the Respondent 2267 Industrial Street Investments Ltd. shall deliver possession of the Mortgaged Premises to the Receiver and the Receiver is entitled to receive and collect all rental income being generated from the Mortgaged Premises. In that regard, the Receiver shall have and leave is hereby granted for the issuance of a Writ of Possession against the Respondents.

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to take such action as it deems necessary or desirable in furtherance of the marketing and sale of the Mortgaged Premises and, without in any way limiting the generality of the foregoing, the Receiver may:
 - (a) market the Mortgaged Premises, with or without advertising, and solicit offers in respect of the Mortgaged Premises and negotiate terms and conditions of sale;

- (b) sell, convey, transfer, lease or assign the Mortgaged Premises out of the ordinary course of business with the approval of this Court;
- (c) take physical inventories of any inventory or thing found on the Mortgaged Premises and retain security personnel and place such insurance coverage with respect to the Mortgaged Premises as may be necessary or desirable;
- (d) apply for any Vesting Order or other Orders necessary to convey the Mortgaged Premises to a purchaser thereof, free and clear of any Liens or encumbrances affecting the Mortgaged Premises;
- (e) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise in powers and duties conferred by this Order;
- (f) execute, assign, issue and endorse documents of whatever nature in respect of the Mortgaged Premises, in the Receiver's name for any purpose pursuant to this Order;
- (g) undertake environmental and such other assessments, reviews and investigation of the Mortgaged Premises and operations as the Receiver deems necessary or advisable;
- (h) report to, meet with and discuss with the Applicant and the advisors of the Applicant as the Receiver deems appropriate on all matters relating to the marketing and sale of the Mortgaged Premises;
- (i) register a copy of this Order and any other Orders in respect of the Mortgaged Premises against title;

(j) take any steps reasonably incidental to the exercise of these powers;

and in each case where the Receiver takes any such actions or steps it shall be exclusively authorized and empowered to do so, to the exclusion of all other persons, including the Parties to this Application and without interference from any other Person.

5. **THIS COURT ORDERS** that the Respondents and any other person acting on the instructions of the Respondents shall grant the Receiver and its designees (including without limitation any prospective purchaser of the Mortgaged Premises, provided that they are in the presences of a representative of the Receiver) immediate and continued access to the Mortgaged Premises for the purposes of the marketing and selling of the Mortgaged Premises.
6. **THIS COURT ORDERS** that no proceeding, enforcement process, or extra judicial proceeding or other tribunal (each a "Proceeding") shall be commenced or continued against the Receiver, except with the written consent of the Receiver or with leave of this Court obtained on Motion brought on at least seven (7) days notice to the Receiver.
7. **THIS COURT ORDERS** that no proceeding against or in respect of the Mortgaged Premises shall be commenced or continued, except with the written consent of the Receiver or with leave of this Court obtained on Motion brought on at least seven (7) days notice to the Receiver and the Applicant and any and all Proceedings currently under way in respect of the Mortgaged Premises are hereby stayed and suspended pending further Order of this Court.
8. **THIS COURT ORDERS** that all funds, monies, cheques, instruments and other forms of payments received or collected by the Receiver ("Receipts") from and after the making of this Order from any source whatsoever, including without limitation a sale of the Mortgaged Premises shall be

deposited into one or more new accounts to be opened by the Receiver and shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

9. **THIS COURT ORDERS** that nothing herein contained shall require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management of the Mortgaged Premises which may be environmentally contaminated or might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination, including, without limitation, the Canadian *Environmental Protection Act*, the Ontario *Environmental Protection Act*, the Ontario *Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation") provided, however, that the Receiver shall promptly advise the Ontario Ministry of the Environment of any obvious or known environmental condition existing on the Mortgaged Premises in accordance with applicable Environmental Legislation. Specifically, this Court orders that the Receiver may sell the Mortgaged Premises in an "as is" condition. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in possession of any of the property within the meaning of any Environmental Legislation, unless it is actually in possession.
10. **THIS COURT ORDERS** that any expenditure or liability which shall be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the normal rates and charges of the Receiver and its counsel shall be allowed to it in the passing of its accounts and shall form a First Charge on the Mortgaged Premises and in priority to all security interest, trusts, Liens, Charges and encumbrances, statutory or otherwise, in favour of any person.

11. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time and for this purpose, the accounts of the Receiver and its legal counsel are referred to a Judge of the Ontario Superior Court of Justice at Brampton.
12. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty, from time to time, to apply reasonable amounts out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by the Court.
13. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, provided further that the liability of the Receiver hereunder, save and except for gross negligence or wilful misconduct (the "Receiver's Liabilities") shall not in event exceed the net realizable value of the Mortgaged Premises. The net realizable value of the Mortgaged Premises shall be the proceeds realized from the disposition of the Mortgaged Premises after the remuneration and disbursements of the Receiver and any and all costs incurred by the Receiver in conjunction with the completion of any sale of the Mortgaged Premises.
14. **THIS COURT ORDERS** that in addition to the protections provided to the Receiver by the terms of this Order, Collins Barrow Toronto Limited shall have all protections afforded to a Trustee by Section 14.06 of the *Bankruptcy and Insolvency Act* and by any other applicable legislation.
15. **THIS COURT ORDERS** that the Receiver, the parties and all interested persons may, from time to time, apply to this Court for advice and directions

in connection with the discharge of the Receiver's powers and duties hereunder.

16. **THIS COURT ORDERS** that the Respondent 2267 Industrial Street Investments Ltd. shall pay the costs of this Application to the Applicant fixed in the sum of \$ 4,915.19 *pl*.

17. **THIS COURT ORDERS** that the balance of the relief requested in the Notice of Application, which is not disposed of by this Order, is adjourned *sine die* to be brought on, on seven days notice.

pl

THIS ORDER bears interest on the sum of 4,915.19 (costs) at the rate of 2% per annum commencing on the 12th day of November, 2015.

[Handwritten signature]

ENTERED
AT BRAMPTON
NOV 12 2015
BOOK No. 73-63
INITIALS pl

SCHEDULE "A"

Legal Description

PIN 07134 – 0007 LT

Lot 6, Plan 652;
Subject to 526597
City of Burlington

Address: 2267 Industrial Street
Burlington, Ontario

FIRST SOURCE MORTGAGE CORPORATION
Applicant

and

2267 INDUSTRIAL STREET INVESTMENTS LTD. et al
Respondents

(Short title of proceeding)

Court File No. CV-15-4228-00

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Brampton

ORDER

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