

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

THE HONOURABLE MR.

)

WEDNESDAY, THE 24th DAY

)

JUSTICE HAINEY

)

OF FEBRUARY, 2021

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY
JADE-KENNEDY DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

ORDER

THIS MOTION, made by RSM Canada Limited, in its capacity as the Court-appointed trustee over the lands and premises owned by Jade-Kennedy Development Corporation pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "**Trustee**"), was heard this day virtually by Zoom videoconference due to the COVID-19 crisis.

ON READING the Twenty-Eighth Report of the Trustee dated February 18, 2021 (the "**Twenty-Eighth Report**") and the appendices thereto, and on hearing the submissions of counsel

for the Trustee, no one else appearing for any other person on the service list, although served as evidenced by the affidavit of service filed with the Court,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Trustee's notice of motion and motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF REPORT AND ACTIVITIES

2. **THIS COURT ORDERS** that the Twenty-Eighth Report, and the conduct and activities of the Trustee as set out therein, be and are hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the fees and disbursements of the Trustee and its counsel, including the estimate fees to complete the administration of the estate, as set out in the Twenty-Eighth Report, the Affidavit of Bryan Tannenbaum sworn February 3, 2021, and the Affidavit of Sam Rappos sworn February 17, 2021, be and are hereby approved.

APPROVAL OF STATEMENT OF RECEIPTS AND DISBURSEMENTS

4. **THIS COURT ORDERS** that the Trustee's Statement of Receipts and Disbursements attached as Appendix "C" to the Twenty-Eighth Report is hereby approved.

AM-STAT

5. **THIS COURT ORDERS** that the right, title and interest of the Respondent to any refund or distribution that it now is or may be entitled to receive under the South Unionville Planning District Landowners Agreement be and is hereby assigned to and vested in Am-Stat Corporation

(“**Am-Stat**”), up to the maximum amount of indebtedness owed by the Respondent to Am-Stat. Am-Stat shall provide to RSM Canada Limited a full accounting of any funds received.

DISCHARGE AND RELEASE

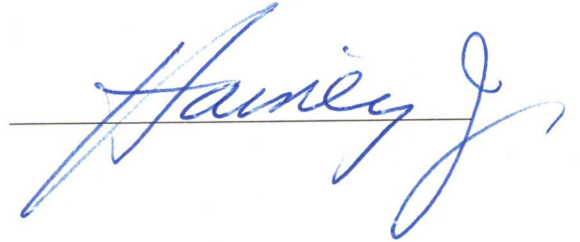
6. **THIS COURT ORDERS** that, upon the Trustee filing a certificate certifying that it has completed the administration of the estate, the Trustee shall be discharged as Trustee of the undertaking, property and assets of the Respondent, provided however that notwithstanding its discharge herein (a) the Trustee shall remain Trustee for the performance of such incidental duties as may be required to complete the administration of the proceeding herein, and (b) the Trustee shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of RSM Canada Limited in its capacity as Trustee.

7. **THIS COURT ORDERS AND DECLARES** that RSM Canada Limited is hereby released and discharged from any and all liability that RSM Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of RSM Canada Limited while acting in its capacity as Trustee herein, save and except for any gross negligence or wilful misconduct on the Trustee's part. Without limiting the generality of the foregoing, RSM Canada Limited is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within proceeding, save and except for any gross negligence or wilful misconduct on the Trustee's part.

GENERAL

8. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with

Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be, when the Court returns to regular operations.

A handwritten signature in blue ink, appearing to read "Hamey J.", is written over a horizontal line. The signature is cursive and stylized.

**IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY JADE-KENNED DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1)
OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

Court File No. CV15-10882-00CL

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

Proceedings commenced at Toronto

ORDER

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Sam Rappos (LSO #51399S)
Tel: (416) 218-1137
Fax: (416) 218-1837
E-mail: samr@chaitons.com

**Lawyers for RSM Canada Limited
Court-appointed Trustee**