

Court File No.:

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

MORRISON FINANCIAL MORTGAGE CORPORATION

Applicant/Respondent in Appeal

- and -

**AG (1000 & 1024 DUNDAS ST. E.) GP INC., AG (1000 & 1024 DUNDAS ST. E.) LP and
AG (1000 & 1024 DUNDAS ST. E.) INC.**

Respondents/Appellants in Appeal

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT*, R.S.C. 1985, c.B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

NOTICE OF APPEAL

**THE APPELLANTS, AG (1000 & 1024 DUNDAS ST. E.) GP INC., AG (1000 & 1024
DUNDAS ST. E.) LP and AG (1000 & 1024 DUNDAS ST. E.) INC., APPEAL** to the Court of
Appeal for Ontario at 130 Queen Street West, Toronto, Ontario M5H 2N5, from the Order of
Justice Dietrich of the Superior Court of Justice (Commercial List) made July 10, 2026 and issued
July 13, 2026 as the Order (Lease Termination and Ancillary Relief) (the “Order”).

THE APPELLANTS ASK that the appeal be allowed, that paragraphs 2 through 7 of the Order
below be set aside, that upon the setting aside of paragraph 3 of the Order that any purported
termination thereof and any steps taken in reliance thereon be of no force and effect, a declaration

that all proceedings under the Order are stayed pending disposition of this appeal; costs of the appeal and the motion below; and such further and other relief as counsel may advise.

THE GROUNDS FOR THE APPEAL are as follows:

1. The Order was made without jurisdiction, during the currency of a statutory stay. A Notice of Appeal dated April 9, 2026 was filed in respect of the Order of Justice Dunphy dated April 1, 2026 (Court of Appeal File No. COA-26-CV-0537). Pursuant to section 195 of the *Bankruptcy and Insolvency Act* (BIA), all proceedings under the order appealed from were thereby stayed except to the extent ordered otherwise. No order lifting the stay was sought or made. The learned motion judge lacked jurisdiction to grant the relief in the Order while the statutory stay remained in effect, or in the alternative erred in law in doing so.
2. The Appellants seek to set aside the following paragraphs of the Order for errors of law and errors of mixed fact and law: 2, 3, 4, 5, 6 and 7.
3. The Receiver's reports, activities and conduct were approved (paragraph 2) in the face of unanswered written interrogatories ordered by the Honourable Court. The receiver had refused to answer interrogatories on the basis that Justice Dunphy had approved previous reports, even though he specifically stated that his approval did not include the conduct of the Receiver and there had been no cross-examination on affidavits regarding activities apparently done in the subsequent reporting period. The Receiver's real estate broker had marketed the property as deliverable vacant on closing before any termination of the lease existed and any order authorizing one.

4. The learned judge authorized the termination of a pertinent lease (paragraphs 3, 4 and 5) in circumstances where the only expert who had served a Form 53 had opined on the value of a tenanted property, termination was premature as there were no offers to the receiver asking for vacant possession of the property, the Receiver had sought to examine the expert and had failed to comply with the rules with respect to the cross-examination (witness fees and personal service of the notice of examination). The learned judge instead accepted the untested and unsworn belief of the Receiver's real estate broker as relayed through the Receiver and the Receiver purported to terminate the lease.
5. The mandatory remittance and production order (6 and 7) were made against "all Persons" including a named non-party individual and unidentified "entities directly or indirectly controlled" by him. The Receiver had agreed to forego cross-examination of the individual and his evidence accordingly stood untested by the Receiver's own election. The orders were duplicative to the receivership order but also imposed new obligations, a compressed ten-day deadline and enlarged exposure for the non-party individual and "entities directly or indirectly controlled" by him.
6. The Appellants seek a declaration that all proceedings under the Order are stayed pursuant to section 195 of the BIA. The Appellants request that this appeal be consolidated and case-managed with COA-26-CV-0537 (the pending appeal of the April 1, 2026 order).

7. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

1. Section 6(1)(b) of the *Courts of Justice Act* R.S.O. 1990 c. C.43.
2. Sections 193(c) and 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the property involved in the appeal exceeds \$10,000).
3. The Order appealed from is a final order of the Superior Court of Justice and leave is not required for this appeal.
4. To the extent leave is required, this Notice of Appeal constitutes and includes the Appellants' application for leave to appeal pursuant to section 193(e) of the BIA.

DATE: July 20, 2026

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ONTARIO**

Proceeding Commenced at
Toronto

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