

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

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

-and-

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

IN THE MATTER OF AN 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

**SUPPLEMENTAL MOTION RECORD OF THE RECEIVER,
ALBERT GELMAN INC.**

October 31, 2024

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TO: SERVICE LIST

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Court File No. CV-23-00710795-00CL

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SUPERIOR COURT OF JUSTICE
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SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED

FRESH AS AMENDED NOTICE OF MOTION (LIEN CLAIMS PROCESS)

Albert Gelman Inc., in its capacity as receiver and manager (in such capacity, the “**Receiver**”) of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (together, the “**Debtors**”) including the real property listed in Schedule “A” (the “**Real Property**”) to the order of Justice Cavanagh, dated December 21, 2023 (the “**Receivership Order**”), will make a motion to a Judge presiding over the Commercial List on November 5, 2024 at 9:30 am, or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THE MOTION IS FOR:

- (a) An Order substantially in the form included as Tab 3 to the Supplemental Motion Record of the Receiver (the “**Lien Claim Order**”) establishing a claims process for determining the validity and quantum of the construction liens that were registered against title to the Real Property with respect to services or materials supplied to the Project (as defined below) (this process being the “**Lien Claims Process**”);
- (b) An order approving the third report of the Receiver, dated August 6, 2024 (the “**Third Report**”) and the Receiver’s conduct and activities set out therein;
- (c) An order approving the supplemental report to the third report of the Receiver, dated October 31, 2024 (the “**Supplemental Report**”) and the Receiver’s conduct and activities set out therein;
- (d) An order approving the Receiver’s interim statement of receipts and disbursements, for the period from December 21, 2023 to August 4, 2024;
- (e) An order approving the fees and disbursements of the Receiver and its counsel as set out in the Third Report;
- (f) The Receiver’s costs of this motion as against the Sutherland Law Clients (as defined below); and

- (g) Such further relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

A. *Background*

- (a) Pursuant to the Receivership Order, Albert Gelman Inc. was appointed as receiver and manager of all present and future assets, undertakings and personal property of the Debtors including the Real Property (collectively, the “**Property**”);
- (b) The Real Property is the site of a 96-unit residential real estate development project known as Richmond Hill Grace (the “**Project**”), which is the principal asset of the Debtors. Presently, the Project is only partially constructed;
- (c) The Receiver is in the process of completing the Project for the benefit of the Debtors’ stakeholders;

B. *Lien Claims*

- (d) As of the Receiver’s appointment, the Debtors were significantly behind in paying its construction suppliers and trade payables. This resulted in the registration of numerous liens (collectively, the “**Lien Claims**”) against title to the Real Property by various construction suppliers, trades and others (collectively, the “**Lien Claimants**”);
- (e) The key provisions of the proposed Lien Claims Process are as follows:
- (i) The Lien Claims Process applies to both:

- 1) Claims for lien registered against the Property on or before the date of this Order; and
 - 2) Claims against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;
- (ii) each Lien Claimant must submit their Lien Claim on the prescribed Proof of Lien Claim Form together with the requisite supporting documentation within 30 days following the making of the Lien Claim Order (collectively, the “**Lien Documentation**”), after which any Lien Claimant who has not submitted the required Lien Documentation will be barred from asserting their Lien Claim;
- (iii) Included in the required Lien Documentation is a proof of lien claim form which requires the Lien Claimant to set out, among other things, the amount claimed by the Lien Claimant in respect of services and materials supplied to the Project before the date of the Receivership Order and the amount claimed by the Lien Claimant in respect of services and materials supplied to the Project on or after the date of the Receivership Order;
- (iv) the Receiver will review the Lien Claim of each Lien Claimant and evaluate the timeliness and quantum of each Lien Claim,

distinguishing between Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023 (these Claims being “**Pre-Receivership Claims**”) and Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 (these Claims being “**Post- Receivership Claims**”);

- (v) the Receiver will provide each Lien Claimant that filed Lien Documentation with a notice setting out the Receiver’s determination as to the validity and quantum of, as applicable, the Lien Claimant’s Pre-Receivership Claim and/or Post-Receivership Claim (a “**Notice of Evaluation**”);
- (vi) Lien claimants will have an opportunity to dispute any part of the Receiver’s assessment set out in a Notice of Evaluation by providing the Receiver with a notice setting out full particulars of the dispute (the “**Notice of Dispute**”) within 30 days of service of the Notice of Evaluation (the “**Dispute Bar Date**”); and
- (vii) If the Receiver and the relevant Lien Claimants and stakeholders are unable to resolve a Lien Claim on consent, a hearing will be held before an adjudicator to be appointed by the Receiver for:
 - 1) In the case of Pre-Receivership Claims, the final and binding determination of the outstanding Pre-Receivership Claims by

an independent adjudicator on an appellate standard of review; and

- 2) In the case of Post-Receivership Claims, a hearing *de novo* before an independent adjudicator, with a further right of appeal to the Court therefrom;
-
- (f) The Lien Claims Process also provides that the Receiver may retain the assistance of counsel with expertise in construction liens, to assist the Receiver with its review of the Lien Claims, any documentation provided through this process and any Notice of Dispute;
 - (g) The proposed Lien Claims Process, if approved, will result in a timely determination of the Pre- and Post-Receivership Lien Claims, particularly having regard to the current restrictions on court time and availability of judges;
 - (h) The Receiver believes that the proposed Lien Claims Process is an appropriate and cost-effective process for the determination of the validity and quantum of the Pre- and Post-Receivership Lien Claims, and recommends that this Court grant the order sought;

C. *Proposed Interim Resolution*

- (i) Since August 2024, the Receiver has, through counsel, engaged in extensive consultation efforts with Lien Claimants to develop a form of order

that is satisfactory to all Lien Claimants and balances the interests of Lien Claimants in a fair and thorough adjudication of their Lien Claims with the interests of other stakeholders and the judicial system in an efficient and cost-effective resolution to these Lien Claims;

- (j) As a result of these consultation efforts, the Receiver has significantly amended the initial order being sought to reflect Lien Claimant feedback and the majority of the Lien Claimants have expressed support for, or are taking no position on, the Receiver's proposed Lien Claims Process Order;
- (k) The Lien Claims Process Order remains contested by Edg Cor Inc., Core Constructors Ltd., Stephenson's Rental Services Inc., Mendoza Santiago Alfredo and Wyecroft Trim & Doors Group Inc. (collectively, the "**Sutherland Law Clients**") all of whom are clients of the Sutherland Law Group;
- (l) The Sutherland Law Clients' main objection to the Lien Claims Process Order is that for a Pre-Receivership Lien Claim, a Lien Claimant will only have one right of appeal from the Receiver's initial determination of the Lien Claim. It is proposed that the appeal will be to an adjudicator with expertise in construction lien matters who is agreeable to the Lien Claimants and the Receiver or otherwise appointed by the court;
- (m) As a means of expediently resolving this motion, prior to the previous return of this motion on October 4, 2024 (and repeatedly since then), the Receiver proposed a form of order that would have preserved the Sutherland Law Clients' rights to contest the appeal process for pre-receivership Lien

Claims within 30 days from the date that they are in receipt of all information that they reasonably requested from the Receiver;

- (n) This proposed provision was explicitly without prejudice to any position either the Sutherland Law Clients or the Receiver may take on this appeal process issue, thereby preserving the rights of both parties;
- (o) This interim resolution was first proposed to the Sutherland Law Clients by the Receiver's counsel on October 3, 2024, following Sutherland Law's letter to the Receiver's counsel of that same date. The Sutherland Law Clients have refused this interim resolution;

D. *The Interim SRD*

- (p) The Receiver has received and paid monies on behalf of the Debtors for the benefit of all stakeholders, as set out in the Interim SRD;
- (q) This Court should approve the Interim SRD;

E. *Professional Fees and Disbursements*

- (r) In carrying out its duties pursuant to the Receivership order, the Receiver and the Receiver's counsel have incurred professional fees and disbursements;
- (s) Paragraph 18 of the Receivership Order authorizes the receiver to periodically pay its fees and disbursements, and that of its counsel, subject to approval by the Court;

- (t) This Court should approve the fees of the Receiver and its Counsel to fund the Receiver's continued activities for the benefit of all stakeholders;
- (u) The provisions 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 and the inherent and equitable jurisdiction of this Court;
- (v) Rules 2.03, 3.02, 37 and 57 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (w) Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Third Report, the Supplemental Report and the appendices attached thereto; and
- (b) such further and other evidence as the lawyers may advise and this Honourable court may permit.

October 31, 2024

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TO: THE SERVICE LIST

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Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**FRESH AS AMENDED NOTICE OF MOTION (LIEN
CLAIMS PROCESS)**

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

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Court File No.: CV-23-00710795-00CL

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SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED**

FIRST SUPPLEMENT TO THE THIRD REPORT OF THE RECEIVER

(Dated October 31, 2024)

A. Introduction

1. This supplemental report (the “**Supplemental Report**”) is filed to provide an update to the Receiver’s third report to Court dated August 6, 2024 (the “**Third Report**”). This Supplemental Report is filed by Albert Gelman Inc., in its capacity as receiver and manager (the “**Receiver**”) appointed, without security, of all present and future property assets, undertakings of 2011836 Ontario Corp. (“**201Co.**”) and Jefferson Properties Limited Partnership (“**JPLP**” and, together with 201Co., the “**Debtors**”) including the real properties known municipally as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the “**Jefferson Properties**”) (or otherwise referred to as the “**Project**”) by Order of the Ontario Superior Court of Justice, Commercial List (the “**Court**”), dated December 21, 2023 (the “**Appointment Order**”), made pursuant to section 243(1) of the Bankruptcy and Insolvency Act R.S.C. 1985, c. B-3, as amended (“**BIA**”) and section 101 of the Courts of Justice Act, R.S.O 1990, c. 43, as amended.

B. Scope and Terms of Reference

2. This Supplemental Report has been prepared solely for the purposes described in this report. Accordingly, the reader is cautioned that this Supplemental Report may not be appropriate for any other purpose.

3. Any capitalized terms not defined in this Supplemental Report have the meanings ascribed to them in the Third Report.

C. Purpose of Report

4. The Purpose of this Supplemental Report is to provide the Court with an update on the extensive consultation efforts undertaken by the Receiver with lien claimants in

connection with the Receiver's Lien Claims Process Motion. As set out below, the Receiver has been able to reach a consensus on a form of order with all Lien Claimants, except the Sutherland Law Clients (as defined below).

5. In the Receiver's view, the proposed form of order is the product of the balancing of the interests of all stakeholders, including the Lien Claimants, and provides for a fair and efficient means of resolving the Lien Claims, while preserving judicial resources.

D. Consultation Efforts

6. As set out in the Third Report, a significant number of Lien Claims have been registered against title to the Jefferson Properties. In August 2024, the Receiver commenced the within motion for a Lien Claims Process Order to facilitate the efficient adjudication of these Lien Claims.

7. Since August 2024, the Receiver has, through counsel, engaged in extensive consultation efforts with Lien Claimants to develop a form of order that is satisfactory to all Lien Claimants and balances the interests of Lien Claimants in a fair and thorough adjudication of their Lien Claims with the interests of other stakeholders and the judicial system in an efficient and cost-effective resolution to these Lien Claims.

8. As a result of these consultation efforts, the Receiver has significantly amended the initial order being sought to reflect Lien Claimant feedback and the following Lien Claimants have expressed support for, or are taking no position on, the Receiver's proposed Lien Claims Process Order:

- (a) Eco Barriers Inc.;

- (b) Leblon Carpentry Inc.;
- (c) Vinyl Window Designs Ltd.;
- (d) Cooper Equipment Rentals Limited;
- (e) Rama Ideal Construction Inc.;
- (f) Lumber City Inc.;
- (g) JCL Concrete Pumping Limited;
- (h) P.C. Caulking & Restorations Inc.;
- (i) Rafat General Contractor Inc.;
- (j) Ontario Trucking and Disposal Ltd.;
- (k) Maven Group Inc.;
- (l) Lala Glass & Railing Ltd.;
- (m) Direct Underground Inc.;
- (n) Oakdale Drywall & Acoustics Ltd.;
- (o) Don Fry Scaffold Service Inc.;
- (p) 2035755 Ontario Ltd, Metro Air Ltd, 1822873 Ontario Inc, Hera Services Inc., Matthew Merla; and

(q) Emergency Propane Services Inc., Arthur Aerial Lifts Inc., 207875 Ontario Ltd.

9. Attached hereto as **Appendix “A”** is a clean version of the Lien Claims Process Order being sought in this motion (the **“November 5 Draft”**).

10. Attached hereto as **Appendix “B”** is a blackline of the November 5 Draft being sought on this motion against the original Lien Claims Process Order sought by the Receiver in August 2024. This blackline demonstrates the significant changes that have been made to the Lien Claims Process Order at the request of various Lien Claimants.

11. The Receiver notes, as well, that the Debtors’ senior secured lender, Cameron Stephens Mortgage Capital Ltd., supports the proposed Lien Claims Process Order.

12. The Lien Claims Process Order remains contested by Edg Cor Inc., Core Constructors Ltd., Stephenson’s Rental Services Inc., Mendoza Santiago Alfredo and Wyecroft Trim & Doors Group Inc. (collectively, the **“Sutherland Law Clients”**) all of whom are clients of the Sutherland Law Group.

13. The Sutherland Law Clients’ main objection to the Lien Claims Process Order is that for a Pre-Receivership Lien Claim (as defined in the November 5 Draft), a Lien Claimant will only have one right of appeal from the Receiver’s initial determination of the Lien Claim. It is proposed that the appeal will be to an adjudicator with expertise in construction lien matters who is agreeable to the Lien Claimants and the Receiver or otherwise appointed by the court (the **“Adjudicator”**).

14. In respect of a Post-Receivership Lien Claim, it is proposed that, following the Receiver's determination, Lien Claimants will have an opportunity for a hearing *de novo* before the Adjudicator and a further appeal to this court.

15. In both instances, the Lien Claims Process provides Lien Claimants with a right of appeal. For Post-Receivership Claims, the Lien Claims Process contemplates that less deference will be afforded to the Receiver's evaluation because, unlike for Pre-Receivership Claims, the Receiver itself was, at least notionally, engaged in retaining or hiring the services of the Lien Claimants in connection with Post-Receivership Claims.

E. Information Requests

16. As the Receiver understands it, the Sutherland Law Clients' principal reason for contesting the Lien Claims Process Order (and specifically, the rights of appeal for Pre-Receivership Claims contemplated therein) is their position that their requests for information from the Receiver have not been adequately addressed.

17. In particular, on October 3, 2024, the Sutherland Law Clients requested the production of information concerning the construction lien holdbacks maintained by the Debtors and the advances made to the Debtors by its secured lender. A copy of this correspondence is attached hereto as **Appendix "C."**

18. The Receiver is of the view that the production of this information is irrelevant to this stage of the proceeding, given that the purpose of the Lien Claims Process, in the case of Pre-Receivership Claims, is only to value the claims, without determining their priority or providing for distribution. Nevertheless, the Receiver has provided the Sutherland Law Clients with this information. Copies of correspondence from the

Receiver's counsel to the Sutherland Law Clients' counsel attaching this information is attached hereto as **Appendix "D,"** alongside relevant enclosures.

19. The Receiver understands that the Sutherland Law Clients would also like information on the deficiency in the holdback maintained by the Debtors and is endeavouring to provide this information as soon as reasonable practicable.

F. Proposed Interim Resolution

20. The Receiver's motion for a Lien Claims Process Order was originally scheduled to be heard on August 19, 2024, which hearing was then adjourned to October 4, 2024.

21. On October 3, 2024, counsel for the Sutherland Law Clients sent a letter to counsel for the Receiver objecting to the Lien Claims Process Order then sought by the Receiver. A copy of this letter is attached hereto as **Appendix "E."**

22. As a means of expediently resolving this motion, prior to the return of this motion on October 4, 2024 (and repeatedly since then), the Receiver proposed a form of order that would have preserved the Sutherland Law Clients' rights to contest the appeal process for Pre-Receivership Lien Claims within 30 days from the date that they are in receipt of all information that they reasonably requested from the Receiver (the "**Interim Resolution**").

23. The Interim Resolution was explicitly without prejudice to any position either the Sutherland Law Clients or the Receiver may take on this appeal process issue, thereby preserving the rights of both parties.

24. This Interim Resolution was first proposed to the Sutherland Law Clients by the Receiver's counsel on October 3, 2024, following Sutherland Law's letter to the Receiver's counsel of that same date. The Sutherland Law Clients have refused this Interim Resolution despite the fact that it fully preserved the Sutherland Law Clients' rights concerning Post-Receivership Claims.

25. A copy of this proposed Lien Claims Process Order contemplated by this Interim Resolution is attached hereto as **Appendix "F."**

26. On October 23, 2024, counsel to the Receiver advised counsel to the Sutherland Law Clients that the Receiver would be seeking costs against the Sutherland Law Clients on the basis of their refusal to accept the Interim Resolution. A copy of this correspondence is attached hereto as **Appendix "G."**

G. Order Requested

27. The Receiver respectfully requests that the Court grant an Order in the form of the November 5 Draft.

All of which is respectfully submitted this 31st day of October, 2024,

**ALBERT GELMAN INC., solely in its
capacity as Court-Appointed Receiver
of each of the Debtors and the Jefferson Properties
and not in any other capacity**

 Bryan
Gelman

Per: _____

Bryan Gelman, *CIRP, LIT*
Senior Managing Director

APPENDIX A

Court File No. CV-23-00710795-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	TUESDAY, THE 5 th
)	
JUSTICE CAVANAGH)	DAY OF NOVEMBER, 2024

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

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AMENDED

**ORDER
(LIEN CLAIMS PROCESS)**

THIS MOTION by Albert Gelman Inc., in its capacity as court-appointed receiver and manager of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (in such capacities, the "**Receiver**"), for an Order, among other things, establishing a claims process (the "**Lien Claims Process**") for determining the timeliness and quantum of the construction liens registered against title to the real property listed in Schedule "A" to the order of Justice Cavanagh

dated December 21, 2023 (the "**Property**"), was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated August 6, 2024 (the "**Third Report**"), the Supplement to the Third Report of the Receiver dated October 31, 2024 (the "**Supplemental Report**") and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Candace Baumtrog, dated August 7, 2024.

A. DEFINITIONS

1. **THIS COURT ORDERS** that, for the purposes of this Order,

(a) "**Claim**" means:

(i) A claim for lien registered against the Property on or before the date of this Order; or

(ii) A claim against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;

(b) "**Claimant**" means a person or entity that possesses a Claim;

(c) "**Court**" means the Ontario Superior Court of Justice;

- (d) **“Initial Order”** means the Order of Justice Cavanagh appointing the Receiver dated December 21, 2023;
- (e) **“Newspaper Notice”** means a notice of this Order to be published in the National Post (National Edition) in accordance with paragraph 3 of this Order;
- (f) **“Post-Receivership Claims”** means Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024; and
- (g) **“Pre-Receivership Claims”** means Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023.

B. SERVICE AND NOTICE

- 2. **THIS COURT ORDERS** that the time for service of the Receiver’s Amended Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.
- 3. **THIS COURT ORDERS** that the Receiver shall arrange for the Newspaper Notice to be published in the National Post (National Edition) as soon as reasonably practicable after the date of this Order.

C. FILING CLAIMS

- 4. **THIS COURT ORDERS** that the Lien Claims Process described in the Third Report, as modified herein, is hereby approved.

5. **THIS COURT ORDERS AND DIRECTS** that, subject to paragraph 6 of this Order, in order to file a Claim pursuant to the Lien Claims Process described herein, a Claimant shall complete the Proof of Lien Claim Form attached as Schedule "A" hereto and, where applicable, provide the information set out in Schedule "1" to the Proof of Lien Claim Form (with the Proof of Claim Form, the "**Lien Documentation**") to the Receiver after the date of this Order and before 5:00 p.m. Toronto time on December 5, 2024 (the "**Claims Bar Date**").
6. **THIS COURT ORDERS** that, in connection with the Lien Claims Process, any Claimant that has delivered documentation to the Receiver in response to the Receiver's Notices to Trades shall have no obligation to submit the Lien Documentation that it has already submitted to the Receiver (but, for certainty, must submit a Proof of Lien Claim Form in accordance with paragraph 5) and that all documentation delivered in response to the Notices to Trades shall and are hereby deemed to be Lien Documentation within the meaning of this Order for the purpose of this Lien Claims Process, provided that to the extent that a Claimant intends to rely on any Lien Documentation submitted prior to the making of this Order, the Claimant must identify on its Proof of Lien Claim Form the date(s) and manner in which it submitted such Lien Documentation to the Receiver.
7. **THIS COURT ORDERS** that any Claimant who does not provide the necessary Lien Documentation to the Receiver by the Claims Bar Date shall be forever barred from asserting its Claim against the Respondents, the Receiver, the Property, and any "owner" (as defined in the *Construction Act*) of the Property, and such Claim shall be forever discharged and extinguished, and any such Claimant shall not be

entitled to receive, in respect of its Claim, any distribution from the Receiver, if any, in respect of the proceeds of sale of the Property and shall be deemed to not be a participant in this Lien Claims Process.

8. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to use its reasonable discretion as to the adequacy of compliance with the manner in which the Lien Documentation is provided.
9. **THIS COURT ORDERS** that the Receiver is authorized and empowered to, in its reasonable discretion, direct any Claimant to provide any additional documents or information with respect to matters which are relevant to the quantum and timeliness of that Claimant's Claim and respond to any written questions that the Receiver may have or submit to an examination under oath. A Claimant shall not have the right to examine the Receiver under oath except with leave of the Court.

D. INITIAL DETERMINATION OF CLAIMS

10. **THIS COURT ORDERS** that in respect of each Claim, the Receiver shall, as soon as reasonably practicable but no later than 90 days after the Claims Bar Date unless otherwise ordered by this Court or otherwise agreed to by the Receiver and the applicable Claimant (the "**Initial Review Date**"), review the Lien Documentation received by the Claims Bar Date and evaluate the timeliness and quantum of each Claim and, if applicable for a given Claim, revise the allocation between Pre-Receivership Claims and Post-Receivership Claims.
11. **THIS COURT ORDERS** that no later than 14 days after the Initial Review Date, the Receiver shall provide the Claimant with a written notice setting out the

Receiver's determination as to the timeliness and quantum of, as applicable, the Claimant's Pre-Receivership Claim and/or Post-Receivership Claim (a "**Notice of Evaluation**"), including the reasons for the determination.

12. **THIS COURT ORDERS** that within 30 days following the delivery to the Claimant of a Notice of Evaluation (a "**Dispute Bar Date**"), or such date as the Receiver may agree in writing, the Claimant may dispute any part the Receiver's determination of the Claim evaluated in the Notice of Evaluation by providing the Receiver with a written notice setting out full particulars of the dispute (the "**Notice of Dispute**").
13. **THIS COURT ORDERS** that in the event that a Claimant does not deliver a Notice of Dispute by the Dispute Bar Date, then the Claimant shall be barred from disputing the determination in the Notice of Evaluation.
14. **THIS COURT ORDERS** that, notwithstanding anything in this Order, at anytime whatsoever, the Receiver may attempt to consensually resolve any Claim or part thereof (a "**Settlement**"), regardless of whether it is a Pre-Receivership Claim or Post-Receivership Claim, with a Claimant, and may, but is not obligated to, rely on supporting documentation provided to the Receiver by the Claimant before the date of this Order.
15. **THIS COURT ORDERS** that, in respect of Post-Receivership Claims only, the Receiver is authorized to pay to a Claimant the amount determined in a Notice of Evaluation that is not disputed, the amount agreed to in a Settlement, or the amount determined in accordance with the Lien Claims Process set out in this

Order, as soon as is reasonably practicable but no later than 28 days following receipt of funds pursuant to the Receiver's borrowing in accordance with paragraph 20 of the Initial Order as amended, without any further order of the Court. Receipt of payment for part of a Claim does not release or waive the right of the Claimant to prove the unpaid/disputed portion of the Claim in this Lien Claims Process, unless the Claimant agrees otherwise.

E. PRE-RECEIVERSHIP CLAIMS APPEAL

16. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Pre-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule an appeal (the "**Appeal**") with such person as is agreeable to the Claimants and the Receiver or as may be appointed by the Court (the "**Adjudicator**") for the determination of each Claim that has not been resolved. At the hearing of each Appeal, the Adjudicator's standard of review of the Receiver's Notice of Evaluation is that of an appellate court such that the Receiver's Notice of Evaluation are only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

17. **THIS COURT ORDERS** that the decision of the Adjudicator shall be final and binding with no right of appeal therefrom provided that any one or more of EDG Cor Inc., Core Constructions Ltd., Stephenson's Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wycroft Trim & Doors Group Inc. aka Wycroft Trim and Doors Group Inc. (the "Sutherland Law Clients") may advise the Receiver, within 30 days from the date that they are in receipt of all information

requested reasonably from the Receiver, that they wish to seek a further right of appeal to the Court and, if they so elect, then the making of this Order shall be completely without prejudice to any position that they or the Receiver may wish to take at any hearing to address the appeal rights under this process.

18. **THIS COURT ORDERS** that, in respect of each Appeal hearing, one half of the Adjudicator's fees shall be paid by the Receiver and one half of the Adjudicator's fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a "**Pre-Receivership Disputing Party**") at least 14 days prior to the subject Appeal.
19. **THIS COURT ORDERS** that the Adjudicator shall have the jurisdiction to:
 - (a) award costs against the Pre-Receivership Disputing Party or against the Receiver if the Adjudicator determines that the Receiver acted grossly negligent or engaged in wilful misconduct; and
 - (b) direct that the Pre-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 18 of this Order;
20. **THIS COURT ORDERS** that the Receiver is hereby authorized and empowered to:
 - (a) in its reasonable discretion, apply for an order from the Adjudicator requiring security for costs from a Pre-Receivership Disputing Party that wishes to

have its Pre-Receivership Claim and/or Notice of Dispute reviewed by the Adjudicator; and

- (b) deduct any costs or fees ordered by the Adjudicator to be payable by any Pre-Receivership Disputing Party in connection with an Appeal, pursuant to paragraphs 18 and 19 of this Order, from any amount due and owing to that party.

F. POST-RECEIVERSHIP CLAIMS HEARING

- 21. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Post-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule a hearing (the “**Hearing**”) with the Adjudicator for the determination of each Post-Receivership Claim that has not been resolved. The Hearing shall not be an appeal and the Adjudicator shall instead review the Post-Receivership Claim on a *de novo* basis.
- 22. **THIS COURT ORDERS** that in respect of each Hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a “**Post Receivership Disputing Party**”) at least 14 days prior to the subject Hearing.
- 23. **THIS COURT ORDERS** that parties to a Hearing shall have a right to appeal (a “**Post Appeal**”) the decision of the Adjudicator to the Court (the “**Post Appeal Adjudicator**”). At the hearing of a Post Appeal, the Post Appeal Adjudicator’s standard of review of the Adjudicator’s decision of a Post-Receivership Claim shall

be that of an appellate court such that the Adjudicator's decision is only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

24. **THIS COURT ORDERS** that both the Adjudicator and the Post Appeal Adjudicator shall have the jurisdiction to:
- (a) award costs against any Post-Receivership Disputing Party or against the Receiver in respect of a Post-Receivership Claim, provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of the Adjudicator's fees;
 - (b) direct that a Post-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 22 of this Order; and
 - (c) direct that the Receiver shall be required to pay a greater proportion of, as the case may be, the Adjudicator's fees than the amount provided for in paragraph 22 of this Order provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of fees;
25. **THIS COURT ORDERS** that if there is an outstanding cost award (or outstanding cost awards) against the Receiver made under this Order at any time that the Receiver receives funds borrowed or is already in receipt of funds borrowed under

paragraph 20 of the Initial Order, as amended, then the Receiver shall first apply such borrowed and received funds to the payment of such cost award(s).

G. ADMINISTRATIVE ISSUES

26. **THIS COURT ORDERS** that all documents required to be served herein shall be served by electronic mail to the address for service set out in the service list or the Claimant's Lien Documentation.
27. **THIS COURT ORDERS** that the Receiver shall incur no personal liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the within Lien Claims Process, except as may be otherwise ordered or determined in accordance with the Lien Claims Process.
28. **THIS COURT ORDERS** that the Receiver may apply to the Court for directions regarding the carrying out of the within Lien Claims Process.
29. **THIS COURT ORDERS** that within the Lien Claims Process, and participation in it, is without prejudice to the right(s) of any Claimant to commence or continue any claim or proceeding against any person (save for the Receiver) with respect to the issues of the Claimants' priority over any secured creditor or mortgagees, breach of trust, negligence, breach of contract or quantum meruit ("**Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Claimant may have in any such Proceedings. Notwithstanding the above, the Lien Claims Process also does not affect any substantive or procedural rights that any defendant may have to defend Proceedings, save and except that

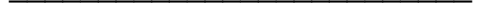
the defendant may not assert in the Proceedings that the claim of any Claimant ought to be dismissed or stayed on grounds of res judicata (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Claimant asserting a Claim in the Lien Claims Process.

H. FEES, RECEIPTS AND DISBURSEMENTS

30. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from December 21, 2023 to August 4, 2024 be and is hereby approved.
31. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Third Report, the fee affidavit of Bryan Gelman, sworn August 6, 2024, and the Fee affidavit of Beatrice Loschiavo, sworn August 1, 2024, are hereby approved.

I. GENERAL

32. **THIS COURT ORDERS** that the Third Report, the Supplemental Report and the conduct and activities of the Receiver set out therein be and is hereby approved, provided that such approval shall not prevent the Adjudicator or the Post Appeal Adjudicator from making determinations as to the conduct of the Receiver, in its capacity as receiver and manager, in the Lien Claims Process for purposes of a cost award as provided for and contemplated by paragraph 24.
33. **THIS COURT ORDERS** that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Third Report detailed in paragraph 32 above.



Schedule "A" – Proof of Lien Claim Form

PROOF OF CLAIM

*Terms not otherwise defined herein shall have the meanings ascribed to them in the order of Justice Cavanagh dated November 5, 2024 (the "**Lien Claims Process Order**").*

A. PARTICULARS OF THE CLAIMANT:

- (1) Full Legal Name of the Claimant (include trade name, if different):

.....

(the "**Claimant**"). The full legal name should be the name of the Claimant notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Lien Claims Process Order.

- (2) Full Mailing Address of Claimant: (The mailing address should be the mailing address of the Claimant and not any assignee)

.....

- (3) Telephone Number of Claimant:

.....

- (4) E-mail Address of Claimant:

.....

- (5) Attention (Contact Person):

Has the Claim set out herein been sold, transferred or assigned by the Claimant to another party?

Yes: [] No: []

B. PARTICULARS OF THE ASSIGNEE(S) (IF APPLICABLE)

.....

If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet which contains all of the required information set out below for each assignee.

(1) Full Legal Name of the Assignee:

.....

(2) Full Mailing Address of the Assignee:

.....

(3) Telephone Number of Assignee:

(4) E-mail Address of Assignee:

(5) Attention (Contact Person):

C. PROOF OF CLAIM

THE UNDERSIGNED HEREBY MAKES OATH AND SAYS AS FOLLOWS:

(1) That I:

am a Claimant with respect to real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the "**Property**") or (*if applicable*) am the:

.....
(state position or title)

of

.....
(Name of Claimant)

(2) That I have knowledge of all of the circumstances connected with the Claim described and set out below:

(3) The Claimant seeks payment of \$..... [*Insert \$ value of claim*] CAD on account of services and materials supplied to an improvement on the Property **on or after** December 21, 2023 (the Appointment Date) and before June 1, 2024; and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

Has the Claimant registered a lien against the Property on or before the date of the Lien Claims Process Order

Yes: [] No: []

(4) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of Claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **before** December 21, 2023 (the "**Appointment Date**") and

\$..... on account of interest on the same [*Provide particulars of interest claim and calculation of same*]

(5) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **on or**

after December 21, 2023 (the Appointment Date) and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

NOTE: Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as of the date of the Lien Claims Process Order.

D. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached in the form of the Documentation (as defined in the order of Justice Cavanagh, dated November 5, 2024)

SWORN BEFORE ME at the)
)
 _____ in the)
 Province of _____)
 this _____ day of _____)
)
 _____)
 A Commissioner, or Notary Public, etc.)

Name of Deponent

[or if sworn via video conferencing]

SWORN REMOTELY by)
)
 _____ at the)
)
 _____)
 in the _____)
 on _____, 2024)
 in accordance with O. Reg. 431/20,)
 Administering Oath or Declaration Remotely)

A Commissioner, or Notary Public, etc.

Name of Deponent

E. FILING OF CLAIM

This Proof of Claim form must be received by the Receiver, Albert Gelman Inc., by no later than 5:00 p.m. (Eastern Standard time) on December 5, 2024 (the “**Claims Bar Date**”) at the following physical address or email address:

Albert Gelman Inc., in its capacity as court-appointed receiver
of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership
(the “**Debtors**”)

250 Ferrand Drive, Suite 403
Toronto, ON M3C 3G8
Attention: Terry Scott
tscott@albertgelman.com

Failure to file your Proof of Claim and any required documentation as directed in relation to any Claim by 5:00 p.m. (Eastern Standard Time) on the Claims Bar Date will result in your Claim being forever barred and extinguished, and you will be prohibited from making or enforcing that Claim against the Property, the Receiver or the Debtors and shall not be entitled to further notice or distribution, if any, in respect of that Claim, and shall not be entitled to participate as a Claimant in these proceedings in respect of that Claim.

Schedule "1" – Documentation

- (a) copy of the Claimant's registered construction lien and any written notice of lien;
- (b) copies of the Claimant's Statement of Claim and Certificate of Action;
- (c) documentation evidencing the last date on which the Claimant provided service, materials or labour to the applicable improvement in the case of a subcontractor or the date of completion, abandonment or termination of the contract in the case of a contractor;
- (d) a copy or particulars of any contract, subcontract, purchase order or agreement upon which the Claimant assert its materials, services and labour were provided under (the "**Contract**"), including the names of the parties to the Contract and the date it was entered into;
- (e) a statement of account under the Contract and particulars and documents substantiating the quantum of the Claim, including:
 - (i) the price of the Contract;
 - (ii) the total amount invoiced by the Claimant, including a copy of the invoices and dates the invoices were sent;
 - (iii) the total amount paid to the Claimant under the Contract, including the date and amount of payments received;
 - (iv) the amount of the Claim that comprises of holdback and amounts invoiced within the scope of the Contract; and
 - (v) the amount of the Claim that comprises of extra to the Contract, along with any relevant documentation substantiating the extra amount sought, such as notice of extras, request for extras, request for change orders, executed change orders, executed change directives, amendments or purchase orders and time and material sheets;
- (f) statutory declaration(s) that attest to the work is complete and performed is in accordance or in compliance with the Contract;
- (g) for Claimants who operated on a time and materials (T&M) basis, evidence of authorization to perform work;
- (h) for Claimants who provided materials, statutory declaration(s) that attest the materials were ordered/requested and delivered;
- (i) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor;

- (j) documentation evidencing service, materials and labour provided to the applicable improvement including, but not limited to, the following:
 - (i) completed and approved timesheets of employees and subcontractors;
 - (ii) subcontractor invoices;
 - (iii) payroll registers and records;
 - (iv) bank statements, electronic fund transfer receipts and cancelled cheques evidencing remittances by the Claimant to employees and subcontractors;

- (k) all documents related to the fulfillment of work agreements including, but not limited to, the following:
 - (i) WSIB clearance certificates for the dates the work was performed;
 - (ii) proof of insurance showing coverage for the dates the work was performed;
 - (iii) shop drawings;
 - (iv) as built(s);
 - (v) schematics;
 - (vi) warranties and guarantees; and,
 - (vii) third party verifications / certifications;

- (l) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with the Lien Claim Process Order.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Lien Claims Process)

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Ryan Shah (LSO# 88250C)

Tel: 416.646-6356

ryan.shah@paliareroland.com

Lawyers for the Receiver, Albert Gelman Inc.

APPENDIX B

Court File No. CV-23-00710795-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) DAY TUESDAY, THE 19TH^{5th}
 JUSTICE STEELE CAVANAGH) DAY OF AUGUST NOVEMBER, 2024

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
 1000162801 ONTARIO CORP., AMERICAN CORPORATION
 and 1000199992 ONTARIO CORP.**

Respondents

IN THE MATTER OF AN 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

**ORDER
 (LIEN CLAIMS PROCESS)**

THIS MOTION by ~~the Receiver, Albert Gelman Inc.~~ (Albert Gelman Inc., in its capacity as court-appointed receiver and manager of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (in such capacities, the "Receiver")), for an Order, among other things, establishing a claims process (the "**Lien Claims Process**") for determining the validity/timeliness and quantum of the construction liens registered against title to the real property listed in Schedule "A"

to the order of Justice Cavanagh dated December 21, 2023 (the "**Property**"), was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated August 6, 2024 (the "**Third Report**"), the Supplement to the Third Report of the Receiver dated October 31, 2024 (the "**Supplemental Report**") and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Candace Baumtrog, dated August 7, 2024.

A. DEFINITIONS

1. THIS COURT ORDERS that, for the purposes of this Order,

(a) "Claim" means:

(i) A claim for lien registered against the Property on or before the date of this Order; or

(ii) A claim against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;

(b) "Claimant" means a person or entity that possesses a Claim;

(c) "Court" means the Ontario Superior Court of Justice;

(d) “Initial Order” means the Order of Justice Cavanagh appointing the Receiver dated December 21, 2023;

(e) “Newspaper Notice” means a notice of this Order to be published in the National Post (National Edition) in accordance with paragraph 3 of this Order;

(f) “Post-Receivership Claims” means Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024; and

(g) “Pre-Receivership Claims” means Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023.

A.B. SERVICE AND NOTICE

4.2. THIS COURT ORDERS that the time for service of the Receiver’s Amended Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.

3. THIS COURT ORDERS that the Receiver shall arrange for the Newspaper Notice to be published in the National Post (National Edition) as soon as reasonably practicable after the date of this Order.

B.C. FILING CLAIMS

2.4. THIS COURT ORDERS that the Lien Claims Process described in the Third Report, as modified herein, is hereby approved.

~~3.5.~~ **THIS COURT ORDERS AND DIRECTS** that, subject to paragraph ~~56~~ of this Order, in order to file a ~~claim~~Claim pursuant to the Lien Claims Process described herein ~~(a “Claim”), an entity with a lien claim (a “Lien-Claimant”)~~ shall complete the Proof of Lien Claim Form attached as Schedule “A” hereto and, where applicable, provide the information set out in Schedule “1” to the Proof of Lien Claim Form (with the Proof of Claim Form, the “**Lien Documentation**”) to the Receiver after the date of this Order and before 5:00 p.m. Toronto time on ~~September 20~~December 5, 2024 (the “**Claims Bar Date**”).

~~4.~~ ~~**THIS COURT ORDERS**~~ that in this Order, ~~“Pre-Receiverhip Claims” shall mean Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023 and “Post-Receiverhip Claims” shall mean Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023.~~

~~5.6.~~ **THIS COURT ORDERS** that, in connection with the Lien Claims Process, any ~~Lien~~ Claimant that has delivered documentation to the Receiver in response to the Receiver’s Notices to Trades shall have no obligation to submit the Lien Documentation ~~that it has already submitted to the Receiver (but, for certainty, must submit a Proof of Lien Claim Form in accordance with paragraph 35)~~ and that all documentation delivered in response to the Notices to Trades shall and are hereby deemed to be Lien Documentation within the meaning of this Order for the purpose of this Lien Claims Process. ~~provided that to the extent that a Lien~~ Claimant intends to rely on any Lien Documentation submitted prior to the making of this Order, the ~~Lien~~ Claimant must identify on its Proof of Lien Claim Form the

date(s) and manner in which it submitted such Lien Documentation to the Receiver.

6.7. **THIS COURT ORDERS** that any ~~Lien~~ Claimant who does not provide the necessary Lien Documentation to the Receiver by the Claims Bar Date shall be forever barred from asserting its Claim against the Respondents, the Receiver, the Property, and any "owner" (as defined in the *Construction Act*) of the Property, and such Claim ~~for Lien~~ shall be forever discharged and extinguished, and any such ~~Lien~~ Claimant shall not be entitled to receive, in respect of its Claim, any distribution from the Receiver, if any, in respect of the proceeds of sale of the Property and shall be deemed to not be a participant in this Lien Claims Process.

7.8. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to use its reasonable discretion as to the adequacy of compliance with the manner in which the Lien Documentation is provided.

8.9. **THIS COURT ORDERS** that the Receiver is authorized and empowered to, in its reasonable discretion, direct any ~~Lien~~ Claimant to provide any additional documents or information with respect to matters which are relevant to the quantum and timeliness of that ~~Lien~~ Claimant's Claim and respond to any written questions that the Receiver may have or submit to an examination under oath. A Claimant shall not have the right to examine the Receiver under oath except with leave of the Court.

C.D. INITIAL DETERMINATION OF CLAIMS

9-10. THIS COURT ORDERS that in respect of each Claim, the Receiver shall, as soon as reasonably practicable but no later than 90 days after the Claims Bar Date unless otherwise ordered by this Court or otherwise agreed to by the Receiver and the applicable Claimant (the "**Initial Review Date**"), review the Lien Documentation received by the Claims Bar Date and evaluate the validity~~timeliness~~ and quantum of each Claim and, if applicable for a given Claim, distinguish~~revise the allocation~~ between Pre-Receivership Claims and Post-Receivership Claims.

10-11. THIS COURT ORDERS that, no later than 14 days after ~~reviewing~~ the Claim including the Lien Documentation in support of a Claim~~Initial Review Date~~, the Receiver shall provide the ~~Lien~~ Claimant with a written notice setting out the Receiver's determination as to the validity~~timeliness~~ and quantum of, as applicable, the ~~Lien~~ Claimant's Pre-Receivership Claim and/or Post-Receivership Claim (a "**Notice of Evaluation**"), including the reasons for the determination.

11-12. THIS COURT ORDERS that within 20~~30~~ days following the delivery to the ~~Lien~~ Claimant of a Notice of Evaluation (a "**Dispute Bar Date**"), or such date as the Receiver may agree in writing, the ~~Lien~~ Claimant may dispute any part the Receiver's evaluation~~determination~~ of the Claim evaluated in the Notice of Evaluation by providing the Receiver with a written notice setting out full particulars of the dispute (the "**Notice of Dispute**").

~~12.13.~~ **THIS COURT ORDERS** that in the event that a ~~Lien~~ Claimant does not deliver a Notice of Dispute by the Dispute Bar Date, then the ~~Lien~~ Claimant shall be barred from disputing the determination in the Notice of Evaluation.

~~13.14.~~ **THIS COURT ORDERS** that, notwithstanding anything in this Order, at anytime whatsoever, the Receiver may attempt to consensually resolve any Claim or part thereof (a “**Settlement**”), regardless of whether it is a Pre-Receivership Claim or Post-Receivership Claim, with a ~~Lien~~ Claimant, and may, but is not obligated to, rely on supporting documentation provided to the Receiver by the ~~Lien~~ Claimant before the date of this Order.

~~14.15.~~ **THIS COURT ORDERS** that, in respect of Post-Receivership Claims only, the Receiver is authorized ~~and directed~~ to pay to a ~~Lien~~ Claimant the amount determined in a Notice of Evaluation that is not disputed ~~or~~, the amount agreed to in a Settlement ~~within 10 business days, or the amount determined in accordance with the Lien Claims Process set out in this Order, as soon as is reasonably practicable but no later than 28 days of, as applicable, the Initial Review Date, the applicable Dispute Bar Date or following receipt of funds pursuant to the date~~ Receiver’s ~~borrowing in accordance with paragraph 20 of the applicable Settlement, and unless otherwise agreed by Initial Order as amended, without any further order of the Lien Claimant in writing, receipt of Court. Receipt of payment~~ ~~offor~~ part of a Claim does not release or waive the right of the ~~Lien~~ Claimant to prove the unpaid/disputed portion of the Claim in this Lien Claims Process, unless the Claimant agrees otherwise.

D.E. PRE-RECEIVERSHIP CLAIMS APPEAL

45-16. THIS COURT ORDERS that, in the event that the Receiver receives one or more Notices of Dispute in respect of Pre-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule an appeal (the “**Appeal**”) with ~~Chad Kopach~~ such person as is agreeable to the Claimants and the Receiver or as may be appointed by the Court (the “**Adjudicator**”) for the determination of each Claim that has not been resolved. At the hearing of each Appeal, the Adjudicator’s standard of review of the Receiver’s Notice of Evaluation is that of an appellate court such that the Receiver’s Notice of Evaluation are only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

46-17. THIS COURT ORDERS that the decision of the Adjudicator shall be final and binding with no right of appeal therefrom provided that any one or more of EDG Cor Inc., Core Constructions Ltd., Stephenson’s Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wyecroft Trim & Doors Group Inc. aka Wyecroft Trim and Doors Group Inc. (the “Sutherland Law Clients”) may advise the Receiver, within 30 days from the date that they are in receipt of all information requested reasonably from the Receiver, that they wish to seek a further right of appeal to the Court and, if they so elect, then the making of this Order shall be completely without prejudice to any position that they or the Receiver may wish to take at any hearing to address the appeal rights under this process.

47-18. THIS COURT ORDERS that, in respect of each Appeal hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s

fees shall be paid by the ~~Lien~~ Claimant that filed a Notice of Dispute (such a party being a “**Pre-Receivership Disputing Party**”) at least 14 days prior to the subject Appeal.

~~18-19.~~ **THIS COURT ORDERS** that the Adjudicator shall have the jurisdiction to:

- (a) award costs against the Pre-Receivership Disputing Party or against the Receiver if the Adjudicator determines that the Receiver acted grossly negligent or engaged in wilful misconduct; and
- (b) direct that the Pre-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator’s fees than the amount provided for in paragraph ~~◆-18~~ of this Order;

~~19-20.~~ **THIS COURT ORDERS** that the Receiver is hereby authorized and empowered to:

- (a) in its reasonable discretion, apply for an order from the Adjudicator requiring security for costs from a Pre-Receivership Disputing Party that wishes to have its Pre-Receivership Claim and/or Notice of Dispute reviewed by the Adjudicator; and
- (b) deduct any costs or fees ordered by the Adjudicator to be payable by any Pre-Receivership Disputing Party in connection with an Appeal, pursuant to paragraphs ~~◆-18~~ and ~~◆-19~~ of this Order, from any amount due and owing to that party.

E.F. POST-RECEIVERSHIP CLAIMS HEARING

20-21. THIS COURT ORDERS that, in the event that the Receiver receives one or more Notices of Dispute in respect of Post-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule a hearing (the “**Hearing**”) with the Adjudicator for the determination of each Post-Receivership Claim that has not been resolved. The Hearing shall not be an appeal and the Adjudicator shall instead review the Post-Receivership Claim on a *de novo* basis.

21-22. THIS COURT ORDERS that in respect of each Hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s fees shall be paid by the ~~Lien~~ Claimant that filed a Notice of Dispute (such a party being a “**Post Receivership Disputing Party**”) at least 14 days prior to the subject Hearing.

22-23. THIS COURT ORDERS that parties to a Hearing shall have a right to appeal (a “**Post Appeal**”) the decision of the Adjudicator to ~~Carol Albert or, if she does not accept such appointment, such other lawyer or retired judge with expertise in construction lien claims as the Receiver may appoint~~Court (the “**Post Appeal Adjudicator**”). At the hearing of a Post Appeal, the Post Appeal Adjudicator’s standard of review of the Adjudicator’s decision of a Post-Receivership Claim shall be that of an appellate court such that the Adjudicator’s decision is only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

23-24. **THIS COURT ORDERS** that both the Adjudicator and the Post Appeal Adjudicator shall have the jurisdiction to:

- (a) award costs against any Post-Receivership Disputing Party; and or against the Receiver in respect of a Post-Receivership Claim, provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of the Adjudicator's fees;
- (b) direct that a Post-Receivership Disputing Party shall be required to pay a greater proportion of, ~~as the case may be,~~ the Adjudicator's ~~or Post Appeal Adjudicator's fees (as the case may be)~~ than the amount provided for in paragraph ~~◆22~~ of this Order; and
- (c) direct that the Receiver shall be required to pay a greater proportion of, as the case may be, the Adjudicator's fees than the amount provided for in paragraph 22 of this Order provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of fees;

25. THIS COURT ORDERS that if there is an outstanding cost award (or outstanding cost awards) against the Receiver made under this Order at any time that the Receiver receives funds borrowed or is already in receipt of funds borrowed under paragraph 20 of the Initial Order, as amended, then the Receiver shall first apply such borrowed and received funds to the payment of such cost award(s).

F.G. ADMINISTRATIVE ISSUES

24-26. THIS COURT ORDERS that all documents required to be served herein shall be served by electronic mail to the address for service set out in the service list or the Lien-Claimant's Lien Documentation.

25-27. THIS COURT ORDERS that the Receiver shall incur no personal liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the within Lien Claims Process-, except as may be otherwise ordered or determined in accordance with the Lien Claims Process.

26-28. THIS COURT ORDERS that the Receiver may apply to the Court for directions regarding the carrying out of the within Lien Claims Process.

27-29. THIS COURT ORDERS that within the Lien Claims Process, and participation in it, is without prejudice to the right(s) of any Lien-Claimant to commence or continue any claim or proceeding against any person (save for the Receiver) with respect to the issues of the Lien-Claimants' priority over any secured creditor or mortgagees, breach of trust, negligence, breach of contract or quantum meruit ("**Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Lien-Claimant may have in any such Proceedings. Notwithstanding the above, the Lien Claims Process also does not affect any substantive or procedural rights that any defendant may have to defend Proceedings, save and except that the defendant may not assert in the Proceedings that the claim of any Lien-Claimant ought to be dismissed or stayed

on grounds of res judicata (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the [Lien-Claimant](#) asserting a Claim in the Lien Claims Process.

G.H. FEES, RECEIPTS AND DISBURSEMENTS

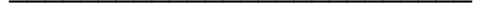
28-30. THIS COURT ORDERS that the Receiver's Interim Statement of Receipts and Disbursements for the period from December 21, 2023 to August 4, 2024 be and is hereby approved.

29-31. THIS COURT ORDERS that the fees and disbursements of the Receiver and its legal counsel as described in the Third Report, the fee affidavit of Bryan Gelman, sworn August 6, 2024, and the Fee affidavit of Beatrice Loschiavo, sworn August 1, 2024, are hereby approved.

H.I. GENERAL

30-32. THIS COURT ORDERS that the Third Report, [the Supplemental Report](#) and the conduct and activities of the Receiver set out therein be and is hereby approved, [provided that such approval shall not prevent the Adjudicator or the Post Appeal Adjudicator from making determinations as to the conduct of the Receiver, in its capacity as receiver and manager, in the Lien Claims Process for purposes of a cost award as provided for and contemplated by paragraph 24.](#)

31-33. THIS COURT ORDERS that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Third Report detailed in paragraph [◆-32](#) above.



Schedule "A" – Proof of Lien Claim Form

[attach form here]

PROOF OF CLAIM

Terms not otherwise defined herein shall have the meanings ascribed to them in the order of Justice Cavanagh dated November 5, 2024 (the "Lien Claims Process Order").

A. PARTICULARS OF THE CLAIMANT:

(1) Full Legal Name of the Claimant (include trade name, if different):

.....
.....

(the "Claimant"). The full legal name should be the name of the Claimant notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Lien Claims Process Order.

(2) Full Mailing Address of Claimant: (The mailing address should be the mailing address of the Claimant and not any assignee)

.....
.....

(3) Telephone Number of Claimant:

.....

(4) E-mail Address of Claimant:

.....

(5) Attention (Contact Person):

Has the Claim set out herein been sold, transferred or assigned by the Claimant to another party?

Yes: [] No: []

B. PARTICULARS OF THE ASSIGNEE(S) (IF APPLICABLE)

.....
If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet which contains all of the required information set out below for each assignee.

(1) Full Legal Name of the Assignee:

.....
(2) Full Mailing Address of the Assignee:

.....
(3) Telephone Number of Assignee:

(4) E-mail Address of Assignee:

(5) Attention (Contact Person):

C. PROOF OF CLAIM

THE UNDERSIGNED HEREBY MAKES OATH AND SAYS AS FOLLOWS:

(1) That I:

am a Claimant with respect to real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the "Property") or (if applicable) am the:

.....
(state position or title)

of

.....
(Name of Claimant)

(2) That I have knowledge of all of the circumstances connected with the Claim described and set out below:

(3) The Claimant seeks payment of \$..... [Insert \$ value of claim] CAD on account of services and materials supplied to an improvement on the Property **on or after** December 21, 2023 (the Appointment Date) and before June 1, 2024; and

\$..... on account of interest and legal fees on the same [Provide particulars of interest claim and calculation of same along with particulars of legal fee claim]

Has the Claimant registered a lien against the Property on or before the date of the Lien Claims Process Order

Yes: [] No: []

(4) The Claimant seeks payment in respect of a lien of \$..... [Insert \$ value of Claim] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **before** December 21, 2023 (the "Appointment Date") and

\$..... on account of interest on the same [Provide particulars of interest claim and calculation of same]

(5) The Claimant seeks payment in respect of a lien of \$..... [Insert \$ value of claim] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **on or**

after December 21, 2023 (the Appointment Date) and

\$..... on account of interest and legal fees on the same [Provide particulars of interest claim and calculation of same along with particulars of legal fee claim]

NOTE: Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as of the date of the Lien Claims Process Order.

D. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached in the form of the Documentation (as defined in the order of Justice Cavanagh, dated November 5, 2024)

SWORN BEFORE ME at the)
)
 _____ in the)
 Province of _____)
 this _____ day of _____)
)
 _____)
 A Commissioner, or Notary Public, etc.)

Name of Deponent

[or if sworn via video conferencing]

SWORN REMOTELY by)
)
 _____ at the)
)
 _____)
 in the)
 on _____, 2024)
 in accordance with O. Reg. 431/20.)
 Administering Oath or Declaration Remotely)

A Commissioner, or Notary Public, etc.

Name of Deponent

E. FILING OF CLAIM

This Proof of Claim form must be received by the Receiver, Albert Gelman Inc., by no later than 5:00 p.m. (Eastern Standard time) on December 5, 2024 (the “Claims Bar Date”) at the following physical address or email address:

Albert Gelman Inc., in its capacity as court-appointed receiver of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (the “Debtors”)

250 Ferrand Drive, Suite 403
Toronto, ON M3C 3G8
Attention: Terry Scott
tscott@albertgelman.com

Failure to file your Proof of Claim and any required documentation as directed in relation to any Claim by 5:00 p.m. (Eastern Standard Time) on the Claims Bar Date will result in your Claim being forever barred and extinguished, and you will be prohibited from making or enforcing that Claim against the Property, the Receiver or the Debtors and shall not be entitled to further notice or distribution, if any, in respect of that Claim, and shall not be entitled to participate as a Claimant in these proceedings in respect of that Claim.

Schedule "1" – Documentation

- (a) copy of the Claimant's registered construction lien and any written notice of lien;
- (b) copies of the Claimant's Statement of Claim and Certificate of Action;
- (c) documentation evidencing the last date on which the Claimant provided service, materials or labour to the applicable improvement in the case of a subcontractor or the date of completion, abandonment or termination of the contract in the case of a contractor;
- (d) a copy or particulars of any contract, subcontract, purchase order or agreement upon which the Claimant assert its materials, services and labour were provided under (the "**Contract**"), including the names of the parties to the Contract and the date it was entered into;
- (e) a statement of account under the Contract and particulars and documents substantiating the quantum of the Claim, including:

 - (i) the price of the Contract;
 - (ii) the total amount invoiced by the Claimant, including a copy of the invoices and dates the invoices were sent;
 - (iii) the total amount paid to the Claimant under the Contract, including the date and amount of payments received;
 - (iv) the amount of the Claim that comprises of holdback and amounts invoiced within the scope of the Contract; and
 - (v) the amount of the Claim that comprises of extra to the Contract, along with any relevant documentation substantiating the extra amount sought, such as notice of extras, request for extras, request for change orders, executed change orders, executed change directives, amendments or purchase orders and time and material sheets;
- (f) statutory declaration(s) that attest to the work is complete and performed is in accordance or in compliance with the Contract;
- (g) for Claimants who operated on a time and materials (T&M) basis, evidence of authorization to perform work;
- (h) for Claimants who provided materials, statutory declaration(s) that attest the materials were ordered/requested and delivered;
- (i) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor;

- (a) documentation evidencing service, materials and labour provided to the applicable improvement including, but not limited to, the following:

 - (i) completed and approved timesheets of employees and subcontractors;
 - (ii) subcontractor invoices;
 - (iii) payroll registers and records;
 - (iv) bank statements, electronic fund transfer receipts and cancelled cheques evidencing remittances by the Claimant to employees and subcontractors;

- (b) all documents related to the fulfillment of work agreements including, but not limited to, the following:

 - (i) WSIB clearance certificates for the dates the work was performed;
 - (ii) proof of insurance showing coverage for the dates the work was performed;
 - (iii) shop drawings;
 - (iv) as built(s);
 - (v) schematics;
 - (vi) warranties and guarantees; and,
 - (vii) third party verifications / certifications;

- (c) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with the Lien Claim Process Order.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Lien Claims Process)

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1
Tel: 416.646.4300
Fax: 416.646.4301

Jeffrey Larry (LSO# 44608D)

Tel: 416.646.4330

jeff.larry@paliareroland.com

Kartiga Thavaraj (LSO# 75291D)

Tel: 416.646.6317

kartiga.thavaraj@paliareroland.com

Ryan Shah (LSO# 88250C)

Tel: 416.646-6356

ryan.shah@paliareroland.com

Lawyers for the Receiver, Albert Gelman Inc.

APPENDIX C

From: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>
Sent: Thursday, October 3, 2024 6:13 PM
To: Jeff.Larry@paliareroland.com
Cc: Jawad Janmohamed <jjanmohamed@sutherlaw.com>; bgelman@albertgelman.com; tmcelroy@albertgelman.com; Rob Moubarak <rmoubarak@sutherlaw.com>
Subject: Re: Jefferson Properties - Revised Draft Order - Don Fry Scaffold Position [PVC-ACTIVE.FID687135] [DM-LSDOCS.FID1139650]

Thanks for the call Jeff

We have some very limited instructions at this point while the holdback issue remains outstanding

As you know, I am on trial right now also and am not available to attend court tomorrow.

Please revise the order and defer the issue of appeal rights regarding pre receivership and post receivership determinations until after the lenders and receiver have admitted to what they say is the minimum holdback fund for both pre and post receivership

Once those amounts are determined, we will be able to give a position regarding the appeal right issue.

Unfortunately, We cannot agree that the order goes as is without prejudice to our argument of a different appeal right.

Thanks

On Oct 3, 2024, at 5:50 PM, Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com> wrote:

Jeff

Pls Call me when you are free

My clients wants to know the value of the holdback for the lenders as of the date of the receivership and the value of holdback from the date of receivership to present.

Once my clients have that information, they will be able to provide me with instructions regarding the sticking point in respect of the appeal being final and binding regarding pre receivership claims

We cannot agree to make any interim adjudication decision, whether it be by the receiver or Carol Albert, be final and binding given that minimum holdback liability has not been determined/admitted by the lenders/receiver as of yet.

If it has, then please advise of the amount admitted.

This information is within the power, possession and control of the receiver, not the lien claimants. The information being sought by the receiver from the lien claimants has no bearing on establishing the holdback fund/obligation of the lenders

Therefore, until my clients have the holdback information, both the pre and post receiverships determinations should be interim decisions with normal rights of appeal

Pls, have the lenders and receiver quantify holdback for pre receiverships and post receivership advances made to the owner

None of our section 39 demands have been responded to by the lenders.

We don't think that this is a big ask as this information should be readily available.

Thanks

APPENDIX D

Ryan Shah

From: Ryan Shah
Sent: October 31, 2024 11:32 AM
To: Jonathan L. Frustaglio; Jawad Janmohamed; Karla Toma
Cc: Jeff Larry; Janae Pina Trasvina; Rob Moubarak
Subject: RE: History of Advances - Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Jonathan:

The Receiver understands this to be a list of all advances made by Cameron Stephens to the Debtors/Receiver in connection with Richmond Hill Grace, with the value of each advance being in the "Applied To Principal" category.

The Receiver does not agree with you that this necessarily establishes the basic minimum holdback at the number you have identified.

The holdback applies to payments made under a contract or subcontract, both as defined under the *Construction Act*. While a portion of the funds advanced by a lender to a builder will ultimately be used in payments under a contract or subcontract, it is incorrect to equate the two.

We have previously provided your office with information on the holdbacks maintained by the Debtors/Receiver. I am copying this information below:

1. A consultant to the Debtors conducted an interim payment review in November 2023 and concluded that, at that time, the net amount of the hold back retained was \$1,116,679. This was the most proximate review to the date of the receivership (December 21, 2023).
2. The Receiver has retained a further \$453,379 since the start of the receivership such that the total amount of the hold back being retained is \$1,570,058.

More fundamentally, however, the information you are requesting is irrelevant to this stage of the proceeding. The purpose of the lien claims process is not to establish the priority of your clients' claims as against the many other creditors with claims against the Debtors. This would be impossible, given that no other creditors' claims have been valued (some of which, including the Receiver's Fee Charge and the Receiver's Borrowing Charge, continue to change).

In the context of pre-receivership claims, the purpose of the lien claims process is merely to quantify the lien claims and establish their validity, which will then, later, enable the parties to establish the appropriate waterfall of distributions, if and when it becomes appropriate to do so.

While we appreciate the information that you are requesting is important to your clients, it is completely irrelevant to the value of the labour and materials that your clients have supplied to the Project, which is the function and purpose of the lien claims process order now being sought.

The Receiver will continue to work with your clients in good faith to produce the information that they reasonably require. This being said, we note that:

1. The Receiver is a court-appointed officer in control of the business of the Debtors and does not have all of Debtors' records (many of which, we understand, are disorganized or non-existent); and

2. The production of this information, or lack thereof, is not an appropriate basis upon which for your clients to oppose the lien claims process given, as I have noted above, it is not relevant to the quantification of the value of your client's lien or the timeliness of your clients' registration.

Accordingly, we invite your clients to consent to the Order being sought by the Receiver and remind you that, if your client fail to do so, the Receiver will be seeking its costs against them.

Regards,

Ryan Shah

647-865-4702

Paliare Roland Rosenberg Rothstein LLP

From: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>

Sent: October 31, 2024 6:24 AM

To: Ryan Shah <ryan.shah@paliareroland.com>; Jawad Janmohamed <jjanmohamed@sutherlaw.com>; Karla Toma <ktoma@sutherlaw.com>

Cc: Jeff Larry <Jeff.Larry@paliareroland.com>; Janae Pina Trasvina <jtrasvina@sutherlaw.com>; Rob Moubarak <rmoubarak@sutherlaw.com>

Subject: Re: History of Advances - Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

External Sender - From: ("Jonathan L. Frustaglio"
<jfrustaglio@sutherlaw.com>)

This message came from outside your organisation.

Good morning,

Thank you for this.

Please provide clarity on what the documents mean.

It appears that as of November 14, 2023 (pre receivership), the sum of **\$47,798,902.55** was advanced by the lender to the owner.

10 % of \$47,798,902.55 = **\$4,779,890.25** (Basic minimum holdback).

Therefore, is the receiver and lender acknowledging that the basic minimum level of holdback based on the advances outlined in the attached documents made prior to receivership is **\$4,779,890.25?**

Please confirm if our understanding is correct.

Please also confirm if said moneys are currently retained as a holdback or whether there is a deficiency in same? I

If there is a deficiency in said holdback, please advise how much that deficiency is and what the receiver and lender intend to do to protect said sums for the benefit of lien claimants.

We look forward to hearing from the receiver and lender in this regard.

Thanks

Yours truly,



Jonathan L. Frustaglio

Partner

Phone: (905) 695-5500 Ext. 2760

Fax : (905) 695-5501

Email: jfrustaglio@sutherland.com

Law Clerk: Josie DiStefano at Ext. 2930

or jdistefano@sutherland.com

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

www.sutherland.com

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From: ryan.shah@paliaroland.com <ryan.shah@paliaroland.com>

Sent: Wednesday, October 30, 2024 10:08 PM

To: Jonathan L. Frustaglio <jfrustaglio@sutherland.com>; Jawad Janmohamed <jjanmohamed@sutherland.com>; Karla Toma <ktoma@sutherland.com>

Cc: Jeff.Larry@paliaroland.com <Jeff.Larry@paliaroland.com>

Subject: History of Advances - Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Counsel:

I attach a summary of advances made by Cameron Stephens to Jefferson Properties Limited Partnership and the Receiver, in respect of Richmond Hill Grace.

I note that this document was prepared by Cameron Stephens and has not been independently evaluated by the Receiver.

I trust the foregoing is satisfactory.

Regards,



Paliare Roland

Ryan Shah
Associate

Phone: 647-865-4702

Email: ryan.shah@paliareroland.com

155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

paliareroland.com

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Candace Baumtrog

From: Jeff Larry
Sent: Monday, October 7, 2024 9:25 AM
To: Jonathan L. Frustaglio
Cc: Jawad Janmohamed; bgelman@albertgelman.com; tmcclroy@albertgelman.com; Rob Moubarak; tscott@albertgelman.com
Subject: RE: Jefferson Properties - Revised Draft Order - Don Fry Scaffold Position [PVC-ACTIVE.FID687135] [DM-LSDOCS.FID1139650]

Jonathan:

The Glyn Group advises the Receiver that based on an earlier budget of \$95,850,000, the last report prior to the date of receivership stated that gross costs were \$74,487,444, \$2,782,500 in holdbacks had been collected and \$1,665,821 had been released (with the net amount being \$1,116,679).

Can you please confirm if you are agreeable to the draft language for paragraph 17 of the draft Order so that we can get the Order signed and move forward with the claims process (as all lien claimants want). If you do not agree, let me know your timing today to appear before Justice Cavanagh first thing in the morning this week.

Thanks,

From: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>
Sent: Friday, October 4, 2024 4:40 PM
To: Jeff Larry <Jeff.Larry@paliareroland.com>
Cc: Jawad Janmohamed <jjanmohamed@sutherlaw.com>; bgelman@albertgelman.com; tmcclroy@albertgelman.com; Rob Moubarak <rmoubarak@sutherlaw.com>; tscott@albertgelman.com
Subject: Re: Jefferson Properties - Revised Draft Order - Don Fry Scaffold Position [PVC-ACTIVE.FID687135] [DM-LSDOCS.FID1139650]

External Sender - From: ("Jonathan L. Frustaglio"
<jfrustaglio@sutherlaw.com>)
This message came from outside your organisation.

Jeff

We need to know how much money was advanced.

The numbers below seem to indicate that only \$11-15 million dollars have been advanced combined in respect of pre and post receivership.

We find this hard to believe if one lender is saying that advanced over \$35million dollars.

We need proper responses to our section 39 demands, which the lenders should be responding to.

Jawad,

Please send Jeff the section 39 demand.

Jeff,

We can certainly have a chat early next week once we receive section 39 responses and the lenders and receivers position on min holdback and any deficiency in same.

Thanks all

On Oct 4, 2024, at 4:24 PM, Jeff.Larry@paliarerland.com wrote:

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jonathan

In response to your questions, the Receiver advises that:

1. A consultant to the debtor conducted an interim payment review in November 2023 and concluded that, at that time, the net amount of the hold back retained was \$1,116,679. This was the most proximate review to the date of the receivership (December 21, 2023).
2. The Receiver has retained a further \$453,379 since the start of the receivership such that the total amount of the hold back being retained is \$1,570,058.

As you likely heard from Jawad, Justice Cavanagh was happy to include language at the end of paragraph 17 of the Order to provide that the Order would be fully without prejudice to your client's rights to seek to modify that term. Justice Cavanagh also seemed to agree that your client would not be prejudiced in any way by such Order. That said, he did not want to Order that unless you were in agreement.

I proposed therefore that we add the following language to the end of paragraph 17 "provided that the making of this Order is without prejudice to [insert names of your clients'] right to seek to vary the appellate procedure in this paragraph within 30 days."

If we cannot reach agreement on the language, Justice Cavanagh said that we can attend before him for 30 minutes next week to argue the point. Given that all lien claimants and counsel want to get this Order finalized and the process started, I will want to go to court next week to argue this point if for some reason we cannot agree on language.

I remain hopeful that we can reach this agreement now and send the Order to Justice Cavanagh for his signature.

Please let me know.

I confirm again that for a post-receivership claim, there is already an appeal right to the court (see para. 23)

From: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>

Sent: Thursday, October 3, 2024 6:13 PM

To: Jeff Larry <Jeff.Larry@paliarerland.com>

Cc: Jawad Janmohamed <jjanmohamed@sutherlaw.com>; bgelman@albertgelman.com; tmcelroy@albertgelman.com; Rob Moubarak <rmoubarak@sutherlaw.com>

Subject: Re: Jefferson Properties - Revised Draft Order - Don Fry Scaffold Position [PVC-ACTIVE.FID687135] [DM-LSDOCS.FID1139650]

Thanks for the call Jeff

We have some very limited instructions at this point while the holdback issue remains outstanding

As you know, I am on trial right now also and am not available to attend court tomorrow.

Please revise the order and defer the issue of appeal rights regarding pre receivership and post receivership determinations until after the lenders and receiver have admitted to what they say is the minimum holdback fund for both pre and post receivership

Once those amounts are determined, we will be able to give a position regarding the appeal right issue.

Unfortunately, We cannot agree that the order goes as is without prejudice to our argument of a different appeal right.

Thanks

On Oct 3, 2024, at 5:50 PM, Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com> wrote:

Jeff

Pls Call me when you are free

My clients wants to know the value of the holdback for the lenders as of the date of the receivership and the value of holdback from the date of receivership to present.

Once my clients have that information, they will be able to provide me with instructions regarding the sticking point in respect of the appeal being final and binding regarding pre receivership claims

We cannot agree to make any interim adjudication decision, whether it be by the receiver or Carol Albert, be final and binding given that minimum holdback liability has not been determined/admitted by the lenders/receiver as of yet.

If it has, then please advise of the amount admitted.

This information is within the power, possession and control of the receiver, not the lien claimants. The information being sought by the receiver from the lien claimants has no bearing on establishing the holdback fund/obligation of the lenders

Therefore, until my clients have the holdback information, both the pre and post receiverships determinations should be interim decisions with normal rights of appeal

Pls, have the lenders and receiver quantify holdback for pre receiverships and post receivership advances made to the owner

None of our section 39 demands have been responded to by the lenders.

We don't think that this is a big ask as this information should be readily available.

Thanks

On Oct 3, 2024, at 4:27 PM, Jonathan L. Frustaglio
<jfrustaglio@sutherlaw.com> wrote:

Jeff

Im free now if you are

On Oct 3, 2024, at 1:42 PM, Jonathan L. Frustaglio
<jfrustaglio@sutherlaw.com> wrote:

Will do

On Oct 3, 2024, at 1:37 PM,
Jeff.Larry@paliareroland.com wrote:

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks – if your trial ends early and you are able to speak before 5, please let me know

From: Jonathan L. Frustaglio
<jfrustaglio@sutherlaw.com>
Sent: Thursday, October 3, 2024 1:33 PM
To: Jeff Larry
<Jeff.Larry@paliareroland.com>
Cc: Jawad Janmohamed
<jjanmohamed@sutherlaw.com>;
bgelman@albertgelman.com;
tmcelroy@albertgelman.com
Subject: Re: Jefferson Properties - Revised Draft Order - Don Fry Scaffold Position [PVC-ACTIVE.FID687135] [DM-LSDOCS.FID1139650]

Should be fine

LOAN HISTORY
 3930-92-JEFFERSON PROPERTIES LIMITED PARTNERSHIP

Date Received	Date Due	Reference	ACH/Electronic Payment	Has Notes	Payment Code	Total Amount Received	Applied To Interest	Applied To Principal	Principal Balance	Days Late	Notes
04/26/2022	04/26/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$568,202.00	\$568,202.00	0	LC Funding
05/20/2022	05/20/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$900,000.00	\$1,468,202.00	0	LC Advance

LOAN HISTORY
3930-DEF-JEFFERSON PROPERTIES LIMITED PARTNERSHIP

Date Received	Date Due	Reference	ACH/Electronic Payment	Has Notes	Payment Code	Total Amount Received	Applied To Interest	Applied To Principal	Principal Balance	Days Late	Notes
12/22/2023	12/22/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,000,000.00	\$1,000,000.00	0	Receiver funding
01/10/2024	01/10/2024	FUNDING		1	Funding	\$0.00	\$0.00	-\$4,703,965.27	\$5,703,965.27	0	Funding
02/16/2024	02/16/2024	FUNDING		1	Funding	\$0.00	\$0.00	-\$3,796,052.23	\$9,500,017.50	0	Funding
08/02/2024	08/02/2024	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,153,828.00	\$10,653,845.50	0	Funding
09/26/2024	09/26/2024	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,040,000.00	\$11,693,845.50	0	Funding
10/28/2024	10/28/2024	FUNDING		1	Funding	\$0.00	\$0.00	-\$500,000.00	\$12,193,845.50	0	Funding

LOAN HISTORY
3930-41-JEFFERSON PROPERTIES LIMITED PARTNERSHIP

Date Received	Date Due	Reference	ACH/Electronic Payment	Has Notes	Payment Code	Total Amount Received	Applied To Interest	Applied To Principal	Principal Balance	Days Late	Notes
03/24/2022	03/24/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$22,908,849.00	\$22,908,849.00	0	Initial Advance
04/08/2022	04/08/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$921,220.00	\$23,830,069.00	0	Advance #2
05/06/2022	05/06/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,914,259.00	\$25,744,328.00	0	Advance #3
06/02/2022	06/02/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$887,103.00	\$26,631,431.00	0	Advance #4
07/05/2022	07/05/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,204,695.00	\$27,836,126.00	0	Advance #5
12/09/2022	12/09/2022	IR FUNDING		1	Funding	\$0.00	\$0.00	-\$653,359.75	\$23,422,326.22	0	IR Funding
12/19/2022	12/19/2022	FUNDING		1	Funding	\$0.00	\$0.00	-\$6,638,168.00	\$30,060,494.22	0	Advance
02/06/2023	02/06/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$218,845.33	\$28,741,485.55	0	Advance
03/08/2023	03/08/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$3,538,722.00	\$32,280,207.55	0	Advance
04/04/2023	04/04/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$2,558,542.00	\$34,838,749.55	0	Advance
05/03/2023	05/03/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,145,521.00	\$35,984,270.55	0	Advance
06/02/2023	06/02/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$2,434,642.00	\$38,418,912.55	0	Funding
06/30/2023	06/30/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,671,161.00	\$40,090,073.55	0	Advance
10/05/2023	10/05/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$3,646,528.00	\$43,736,601.55	0	Funding
10/27/2023	10/27/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$1,378,119.00	\$45,114,720.55	0	Funding
11/14/2023	11/14/2023	FUNDING		1	Funding	\$0.00	\$0.00	-\$2,681,182.00	\$47,795,902.55	0	Funding

APPENDIX E

**SUTHERLAND LAW**

Litigation Lawyers

October 3, 2024

Delivered via email to: jeff.larry@paliareroland.com, ryan.shah@paliareroland.com, and
Service List

TO: Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto, ON
M5V 3H1

AND TO: Service List

Attention: Jeffrey Larry & Ryan Shah

Re: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario
Corp. et al.

Court File No.: CV-23-00710795-00CL

Our File No.: 24040, 24066, 24073, 24118, 24181

As you are aware, we are the lawyers for the lien claimants (collectively, the “**Lien Claimants**”): EDG Cor Inc., Core Constructions Ltd., Stephenson’s Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wyecroft Trim & Doors Group Inc. aka Wyecroft Trim and Doors Group Inc. We write to you following discussions between counsel and in response to the Lien Claims Process Order dated September 22, 2024. Many of the issues were previously raised but have been reiterated below for further clarity and emphasis:

1. At paragraph 7, please confirm that the Lien Documentation is limited to the Proof of Lien Claim Form;
2. At paragraph 15, the Receiver has failed to contemplate the undisputed holdback which shall be released to the Claimant as soon as practicable;
3. At paragraph 16, the Lien Claimants do not approve to the form and content of same and maintain that said Appeal should be preliminary and interim in nature as it shall not affect the lien rights of the Lien Claimants;
4. At paragraph 17, the Lien Claimants do not approve for the Adjudicator’s decision to be final and binding with no right of appeal as said Appeal shall be regarded as preliminary and interim in nature and the Lien Claimants must not be barred from exercising their rights to further appeal at the appellate courts;
5. At paragraph 19, the Lien Claimants dispute the sole authority of the Adjudicator to award costs against the Pre-Receivership Disputing Party and state that the Adjudicator’s fees should be equally shared between the parties;

3300 Highway No. 7 | Suite 904 | Vaughan | ON | L4K 4M3 | P 905.695.5500 | F 905.695.5501

6. At paragraph 20, the Lien Claimants dispute the form and content of same and state that the Receiver shall not be unilaterally empowered to exercise said rights with regards to requiring security for costs from a Pre-Receivership Disputing Party. The Lien Claimants do not approve this paragraph in its entirety;
7. At paragraph 21, the Lien Claimants require further clarification as to the necessity of a different standard for hearing multiple Notices of Dispute in respect to Post-Receivership Claims by the Dispute Bar Date and state that the standard of review shall be an appeal, preliminary in nature, and consistent with the Pre-Receivership Claims;
8. At paragraph 24, the Lien Claimants dispute the authority being vested in the Adjudicator and the Post Appeal Adjudicator to be able to award costs against any Post-Receivership Disputing Party as the hearing before the Adjudicator and the Post Appeal Adjudicator is to be preliminary and interim in nature;

The draft Lien Claims Process Order seeks to unnecessarily strip the Lien Claimants off their rights that are afforded to them under applicable law and the *Construction Act*, without providing any justification for such removal. Accordingly, the Lien Claimants object to form and content of said draft Lien Claims Process Order as outlined above and reserve their rights to further challenge its contents upon receipt of the Receiver's response and further rely on submissions made by counsel for other lien claimants.

We look forward to receiving your response.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

SUTHERLAND LAW

Per:



JONATHAN L. FRUSTAGLIO

jfrustaglio@sutherlaw.com

JLF/JJ

APPENDIX F

Court File No. CV-23-00710795-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	FRIDAY, THE 4TH
)	
JUSTICE CAVANAGH)	DAY OF OCTOBER, 2024

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

IN THE MATTER OF AN 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

**ORDER
(LIEN CLAIMS PROCESS)**

THIS MOTION by Albert Gelman Inc., in its capacity as court-appointed receiver and manager of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (in such capacities, the "**Receiver**"), for an Order, among other things, establishing a claims process (the "**Lien Claims Process**") for determining the timeliness and quantum of the construction liens registered against title to the real property listed in Schedule "A" to the order of Justice Cavanagh

dated December 21, 2023 (the "**Property**"), was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated August 6, 2024 (the "**Third Report**") and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Candace Baumtrog, dated August 7, 2024.

A. DEFINITIONS

1. **THIS COURT ORDERS** that, for the purposes of this Order,

(a) "**Claim**" means:

- (i) A claim for lien registered against the Property on or before the date of this Order; or
- (ii) A claim against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;

(b) "**Claimant**" means a person or entity that possesses a Claim;

(c) "**Court**" means the Ontario Superior Court of Justice;

- (d) “**Initial Order**” means the Order of Justice Cavanagh appointing the Receiver dated December 21, 2023;
- (e) “**Newspaper Notice**” means a notice of this Order to be published in the National Post (National Edition) in accordance with paragraph 3 of this Order;
- (f) “**Post-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024; and
- (g) “**Pre-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023.

B. SERVICE AND NOTICE

- 2. **THIS COURT ORDERS** that the time for service of the Receiver’s Amended Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.
- 3. **THIS COURT ORDERS** that the Receiver shall arrange for the Newspaper Notice to be published in the National Post (National Edition) as soon as reasonably practicable after the date of this Order.

C. FILING CLAIMS

- 4. **THIS COURT ORDERS** that the Lien Claims Process described in the Third Report, as modified herein, is hereby approved.

5. **THIS COURT ORDERS AND DIRECTS** that, subject to paragraph 6 of this Order, in order to file a Claim pursuant to the Lien Claims Process described herein, a Claimant shall complete the Proof of Lien Claim Form attached as Schedule "A" hereto and, where applicable, provide the information set out in Schedule "1" to the Proof of Lien Claim Form (with the Proof of Claim Form, the "**Lien Documentation**") to the Receiver after the date of this Order and before 5:00 p.m. Toronto time on November 4, 2024 (the "**Claims Bar Date**").
6. **THIS COURT ORDERS** that, in connection with the Lien Claims Process, any Claimant that has delivered documentation to the Receiver in response to the Receiver's Notices to Trades shall have no obligation to submit the Lien Documentation that it has already submitted to the Receiver (but, for certainty, must submit a Proof of Lien Claim Form in accordance with paragraph 5) and that all documentation delivered in response to the Notices to Trades shall and are hereby deemed to be Lien Documentation within the meaning of this Order for the purpose of this Lien Claims Process, provided that to the extent that a Claimant intends to rely on any Lien Documentation submitted prior to the making of this Order, the Claimant must identify on its Proof of Lien Claim Form the date(s) and manner in which it submitted such Lien Documentation to the Receiver.
7. **THIS COURT ORDERS** that any Claimant who does not provide the necessary Lien Documentation to the Receiver by the Claims Bar Date shall be forever barred from asserting its Claim against the Respondents, the Receiver, the Property, and any "owner" (as defined in the *Construction Act*) of the Property, and such Claim shall be forever discharged and extinguished, and any such Claimant shall not be

entitled to receive, in respect of its Claim, any distribution from the Receiver, if any, in respect of the proceeds of sale of the Property and shall be deemed to not be a participant in this Lien Claims Process.

8. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to use its reasonable discretion as to the adequacy of compliance with the manner in which the Lien Documentation is provided.
9. **THIS COURT ORDERS** that the Receiver is authorized and empowered to, in its reasonable discretion, direct any Claimant to provide any additional documents or information with respect to matters which are relevant to the quantum and timeliness of that Claimant's Claim and respond to any written questions that the Receiver may have or submit to an examination under oath. A Claimant shall not have the right to examine the Receiver under oath except with leave of the Court.

D. INITIAL DETERMINATION OF CLAIMS

10. **THIS COURT ORDERS** that in respect of each Claim, the Receiver shall, as soon as reasonably practicable but no later than 90 days after the Claims Bar Date unless otherwise ordered by this Court or otherwise agreed to by the Receiver and the applicable Claimant (the "**Initial Review Date**"), review the Lien Documentation received by the Claims Bar Date and evaluate the timeliness and quantum of each Claim and, if applicable for a given Claim, revise the allocation between Pre-Receivership Claims and Post-Receivership Claims.
11. **THIS COURT ORDERS** that no later than 14 days after the Initial Review Date, the Receiver shall provide the Claimant with a written notice setting out the

Receiver's determination as to the timeliness and quantum of, as applicable, the Claimant's Pre-Receivership Claim and/or Post-Receivership Claim (a "**Notice of Evaluation**"), including the reasons for the determination.

12. **THIS COURT ORDERS** that within 30 days following the delivery to the Claimant of a Notice of Evaluation (a "**Dispute Bar Date**"), or such date as the Receiver may agree in writing, the Claimant may dispute any part the Receiver's determination of the Claim evaluated in the Notice of Evaluation by providing the Receiver with a written notice setting out full particulars of the dispute (the "**Notice of Dispute**").
13. **THIS COURT ORDERS** that in the event that a Claimant does not deliver a Notice of Dispute by the Dispute Bar Date, then the Claimant shall be barred from disputing the determination in the Notice of Evaluation.
14. **THIS COURT ORDERS** that, notwithstanding anything in this Order, at anytime whatsoever, the Receiver may attempt to consensually resolve any Claim or part thereof (a "**Settlement**"), regardless of whether it is a Pre-Receivership Claim or Post-Receivership Claim, with a Claimant, and may, but is not obligated to, rely on supporting documentation provided to the Receiver by the Claimant before the date of this Order.
15. **THIS COURT ORDERS** that, in respect of Post-Receivership Claims only, the Receiver is authorized to pay to a Claimant the amount determined in a Notice of Evaluation that is not disputed, the amount agreed to in a Settlement, or the amount determined in accordance with the Lien Claims Process set out in this

Order, as soon as is reasonably practicable but no later than 28 days following receipt of funds pursuant to the Receiver's borrowing in accordance with paragraph 20 of the Initial Order as amended, without any further order of the Court. Receipt of payment for part of a Claim does not release or waive the right of the Claimant to prove the unpaid/disputed portion of the Claim in this Lien Claims Process, unless the Claimant agrees otherwise.

E. PRE-RECEIVERSHIP CLAIMS APPEAL

16. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Pre-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule an appeal (the "**Appeal**") with such person as is agreeable to the Claimants and the Receiver or as may be appointed by the Court (the "**Adjudicator**") for the determination of each Claim that has not been resolved. At the hearing of each Appeal, the Adjudicator's standard of review of the Receiver's Notice of Evaluation is that of an appellate court such that the Receiver's Notice of Evaluation are only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

17. **THIS COURT ORDERS** that the decision of the Adjudicator shall be final and binding with no right of appeal therefrom provided that any one or more of EDG Cor Inc., Core Constructions Ltd., Stephenson's Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wyecroft Trim & Doors Group Inc. aka Wyecroft Trim and Doors Group Inc. (the "Sutherland Law Clients") may advise the Receiver, within 30 days from the date that they are in receipt of all information

requested reasonably from the Receiver, that they wish to seek a further right of appeal to the Court and, if they so elect, then the making of this Order shall be completely without prejudice to any position that they or the Receiver may wish to take at any hearing to address the appeal rights under this process.

18. **THIS COURT ORDERS** that, in respect of each Appeal hearing, one half of the Adjudicator's fees shall be paid by the Receiver and one half of the Adjudicator's fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a "**Pre-Receivership Disputing Party**") at least 14 days prior to the subject Appeal.
19. **THIS COURT ORDERS** that the Adjudicator shall have the jurisdiction to:
 - (a) award costs against the Pre-Receivership Disputing Party or against the Receiver if the Adjudicator determines that the Receiver acted grossly negligent or engaged in wilful misconduct; and
 - (b) direct that the Pre-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 18 of this Order;
20. **THIS COURT ORDERS** that the Receiver is hereby authorized and empowered to:
 - (a) in its reasonable discretion, apply for an order from the Adjudicator requiring security for costs from a Pre-Receivership Disputing Party that wishes to

have its Pre-Receivership Claim and/or Notice of Dispute reviewed by the Adjudicator; and

- (b) deduct any costs or fees ordered by the Adjudicator to be payable by any Pre-Receivership Disputing Party in connection with an Appeal, pursuant to paragraphs 18 and 19 of this Order, from any amount due and owing to that party.

F. POST-RECEIVERSHIP CLAIMS HEARING

- 21. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Post-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule a hearing (the “**Hearing**”) with the Adjudicator for the determination of each Post-Receivership Claim that has not been resolved. The Hearing shall not be an appeal and the Adjudicator shall instead review the Post-Receivership Claim on a *de novo* basis.
- 22. **THIS COURT ORDERS** that in respect of each Hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a “**Post Receivership Disputing Party**”) at least 14 days prior to the subject Hearing.
- 23. **THIS COURT ORDERS** that parties to a Hearing shall have a right to appeal (a “**Post Appeal**”) the decision of the Adjudicator to the Court (the “**Post Appeal Adjudicator**”). At the hearing of a Post Appeal, the Post Appeal Adjudicator’s standard of review of the Adjudicator’s decision of a Post-Receivership Claim shall

be that of an appellate court such that the Adjudicator's decision is only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

24. **THIS COURT ORDERS** that both the Adjudicator and the Post Appeal Adjudicator shall have the jurisdiction to:

- (a) award costs against any Post-Receivership Disputing Party or against the Receiver in respect of a Post-Receivership Claim, provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of the Adjudicator's fees;
- (b) direct that a Post-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 22 of this Order; and
- (c) direct that the Receiver shall be required to pay a greater proportion of, as the case may be, the Adjudicator's fees than the amount provided for in paragraph 22 of this Order provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of fees;

25. **THIS COURT ORDERS** that if there is an outstanding cost award (or outstanding cost awards) against the Receiver made under this Order at any time that the Receiver receives funds borrowed or is already in receipt of funds borrowed under

paragraph 20 of the Initial Order, as amended, then the Receiver shall first apply such borrowed and received funds to the payment of such cost award(s).

G. ADMINISTRATIVE ISSUES

26. **THIS COURT ORDERS** that all documents required to be served herein shall be served by electronic mail to the address for service set out in the service list or the Claimant's Lien Documentation.
27. **THIS COURT ORDERS** that the Receiver shall incur no personal liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the within Lien Claims Process, except as may be otherwise ordered or determined in accordance with the Lien Claims Process.
28. **THIS COURT ORDERS** that the Receiver may apply to the Court for directions regarding the carrying out of the within Lien Claims Process.
29. **THIS COURT ORDERS** that within the Lien Claims Process, and participation in it, is without prejudice to the right(s) of any Claimant to commence or continue any claim or proceeding against any person (save for the Receiver) with respect to the issues of the Claimants' priority over any secured creditor or mortgagees, breach of trust, negligence, breach of contract or quantum meruit ("**Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Claimant may have in any such Proceedings. Notwithstanding the above, the Lien Claims Process also does not affect any substantive or procedural rights that any defendant may have to defend Proceedings, save and except that

the defendant may not assert in the Proceedings that the claim of any Claimant ought to be dismissed or stayed on grounds of res judicata (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Claimant asserting a Claim in the Lien Claims Process.

H. FEES, RECEIPTS AND DISBURSEMENTS

30. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from December 21, 2023 to August 4, 2024 be and is hereby approved.

31. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Third Report, the fee affidavit of Bryan Gelman, sworn August 6, 2024, and the Fee affidavit of Beatrice Loschiavo, sworn August 1, 2024, are hereby approved.

I. GENERAL

32. **THIS COURT ORDERS** that the Third Report and the conduct and activities of the Receiver set out therein be and is hereby approved, provided that such approval shall not prevent the Adjudicator or the Post Appeal Adjudicator from making determinations as to the conduct of the Receiver, in its capacity as receiver and manager, in the Lien Claims Process for purposes of a cost award as provided for and contemplated by paragraph 24.

33. **THIS COURT ORDERS** that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Third Report detailed in paragraph 32 above.



Schedule “A” – Proof of Lien Claim Form

PROOF OF CLAIM

Terms not otherwise defined herein shall have the meanings ascribed to them in the order of Justice Cavanagh dated October 4, 2024 (the “Lien Claims Process Order”).

A. PARTICULARS OF THE CLAIMANT:

(1) Full Legal Name of the Claimant (include trade name, if different):

.....

(the “**Claimant**”). The full legal name should be the name of the Claimant notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Lien Claims Process Order.

(2) Full Mailing Address of Claimant: (The mailing address should be the mailing address of the Claimant and not any assignee)

.....

(3) Telephone Number of Claimant:

.....

(4) E-mail Address of Claimant:

.....

(5) Attention (Contact Person):

Has the Claim set out herein been sold, transferred or assigned by the Claimant to another party?

Yes: [] No: []

B. PARTICULARS OF THE ASSIGNEE(S) (IF APPLICABLE)

.....

If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet which contains all of the required information set out below for each assignee.

(1) Full Legal Name of the Assignee:

.....

(2) Full Mailing Address of the Assignee:

.....

(3) Telephone Number of Assignee:

(4) E-mail Address of Assignee:

(5) Attention (Contact Person):

C. PROOF OF CLAIM

THE UNDERSIGNED HEREBY MAKES OATH AND SAYS AS FOLLOWS:

(1) That I:

am a Claimant with respect to real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the “**Property**”) or (*if applicable*) am the:

.....
(state position or title)

of

.....
(Name of Claimant)

(2) That I have knowledge of all of the circumstances connected with the Claim described and set out below:

(3) The Claimant seeks payment of \$..... [*Insert \$ value of claim*] CAD on account of services and materials supplied to an improvement on the Property **on or after** December 21, 2023 (the Appointment Date) and before June 1, 2024; and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

Has the Claimant registered a lien against the Property on or before the date of the Lien Claims Process Order

Yes: [] No: []

(4) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of Claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **before** December 21, 2023 (the “**Appointment Date**”) and

\$..... on account of interest on the same [*Provide particulars of interest claim and calculation of same*]

(5) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **on or**

after December 21, 2023 (the Appointment Date) and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

NOTE: Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as of the date of the Lien Claims Process Order.

D. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached in the form of the Documentation (as defined in the order of Justice Cavanagh, dated October 4, 2024)

SWORN BEFORE ME at the)
)
 _____ in the)
 Province of _____)
 this _____ day of _____)
)
 _____)
 A Commissioner, or Notary Public, etc.)

Name of Deponent

[or if sworn via video conferencing]

SWORN REMOTELY by)
)
 _____ at the)
)
 _____)
 in the _____)
 on _____, 2024)
 in accordance with O. Reg. 431/20,)
 Administering Oath or Declaration Remotely)

A Commissioner, or Notary Public, etc.

Name of Deponent

E. FILING OF CLAIM

This Proof of Claim form must be received by the Receiver, Albert Gelman Inc., by no later than 5:00 p.m. (Eastern Standard time) on November 4, 2024 (the “**Claims Bar Date**”) at the following physical address or email address:

Albert Gelman Inc., in its capacity as court-appointed receiver
of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership
(the “**Debtors**”)

250 Ferrand Drive, Suite 403
Toronto, ON M3C 3G8
Attention: Terry Scott
tscott@albertgelman.com

Failure to file your Proof of Claim and any required documentation as directed in relation to any Claim by 5:00 p.m. (Eastern Standard Time) on the Claims Bar Date will result in your Claim being forever barred and extinguished, and you will be prohibited from making or enforcing that Claim against the Property, the Receiver or the Debtors and shall not be entitled to further notice or distribution, if any, in respect of that Claim, and shall not be entitled to participate as a Claimant in these proceedings in respect of that Claim.

Schedule "1" – Documentation

- (a) copy of the Claimant's registered construction lien and any written notice of lien;
- (b) copies of the Claimant's Statement of Claim and Certificate of Action;
- (c) documentation evidencing the last date on which the Claimant provided service, materials or labour to the applicable improvement in the case of a subcontractor or the date of completion, abandonment or termination of the contract in the case of a contractor;
- (d) a copy or particulars of any contract, subcontract, purchase order or agreement upon which the Claimant assert its materials, services and labour were provided under (the "**Contract**"), including the names of the parties to the Contract and the date it was entered into;
- (e) a statement of account under the Contract and particulars and documents substantiating the quantum of the Claim, including:
 - (i) the price of the Contract;
 - (ii) the total amount invoiced by the Claimant, including a copy of the invoices and dates the invoices were sent;
 - (iii) the total amount paid to the Claimant under the Contract, including the date and amount of payments received;
 - (iv) the amount of the Claim that comprises of holdback and amounts invoiced within the scope of the Contract; and
 - (v) the amount of the Claim that comprises of extra to the Contract, along with any relevant documentation substantiating the extra amount sought, such as notice of extras, request for extras, request for change orders, executed change orders, executed change directives, amendments or purchase orders and time and material sheets;
- (f) statutory declaration(s) that attest to the work is complete and performed is in accordance or in compliance with the Contract;
- (g) for Claimants who operated on a time and materials (T&M) basis, evidence of authorization to perform work;
- (h) for Claimants who provided materials, statutory declaration(s) that attest the materials were ordered/requested and delivered;
- (i) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor;

- (j) documentation evidencing service, materials and labour provided to the applicable improvement including, but not limited to, the following:
 - (i) completed and approved timesheets of employees and subcontractors;
 - (ii) subcontractor invoices;
 - (iii) payroll registers and records;
 - (iv) bank statements, electronic fund transfer receipts and cancelled cheques evidencing remittances by the Claimant to employees and subcontractors;

- (k) all documents related to the fulfillment of work agreements including, but not limited to, the following:
 - (i) WSIB clearance certificates for the dates the work was performed;
 - (ii) proof of insurance showing coverage for the dates the work was performed;
 - (iii) shop drawings;
 - (iv) as built(s);
 - (v) schematics;
 - (vi) warranties and guarantees; and,
 - (vii) third party verifications / certifications;

- (l) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with the Lien Claim Process Order.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Lien Claims Process)

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1
Tel: 416.646.4300
Fax: 416.646.4301

Jeffrey Larry (LSO# 44608D)

Tel: 416.646.4330

jeff.larry@paliareroland.com

Kartiga Thavaraj (LSO# 75291D)

Tel: 416.646.6317

kartiga.thavaraj@paliareroland.com

Ryan Shah (LSO# 88250C)

Tel: 416.646-6356

ryan.shah@paliareroland.com

Lawyers for the Receiver, Albert Gelman Inc.

APPENDIX G

Ryan Shah

From: Jeff Larry
Sent: October 23, 2024 10:51 AM
To: Jawad Janmohamed; Jonathan L. Frustaglio
Cc: Ryan Shah; Bryan Gelman (bgelman@albertgelman.com); Tom McElroy
Subject: FW: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]
Attachments: AG_ Jefferson_ Lien Claims Process Order - Oct 22.DOCX

Jonathan/Jawad

We have now secured the return date of November 5.

If your clients do not agree to the attached form of Order, then the Receiver will be arguing on November 5 for: (i) an Order without the proposed revisions to paragraph 17 (in the attached redline draft) which preserve your clients' rights; and (ii) costs against your client on the basis that their refusal to agree to the attached form of Order (which fully preserves their rights) was unreasonable and has resulted in unnecessary costs over the past month.

From: Jeff Larry
Sent: Tuesday, October 22, 2024 2:32 PM
To: 'Jawad Janmohamed' <jjanmohamed@sutherlaw.com>
Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Rob Moubarak <rmoubarak@sutherlaw.com>; Ryan Shah <ryan.shah@paliareroland.com>; Candace Baumtrog <Candace.Baumtrog@Paliareroland.com>; Beatrice Loschiavo <beatrice.loschiavo@paliareroland.com>
Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Jawad:

I provided the attached Order yesterday which, I thought, incorporated all of your comments.

I note again that the intent of the Order is not to decide the appeal rights (including the standard of review) in the Receiver's favour or in your clients' favour. Rather, the idea is to preserve the rights to argue about this later if your clients wish to do so after they get the information that they seek. I believe that the attached Order accomplishes this, including by making specific reference to the standard of review issue that Rob raised yesterday.

I say again that I truly believe this accomplishes your clients' objectives to put this potential fight over to later date if necessary (after getting the info they need) while preserving all their rights to argue about any appeal process they want.

If you think I have missed anything, I ask that you please give me a call as there may be a misunderstanding developing in these back and forth emails. I find talking an issue through can be helpful.

I look forward to hearing from you.

From: Jawad Janmohamed <jjanmohamed@sutherlaw.com>
Sent: Tuesday, October 22, 2024 9:53 AM

To: Jeff Larry <Jeff.Larry@paliarerland.com>
Cc: Jonathan L. Frustaglio <jfrustaglio@sutherland.com>; Rob Moubarak <rmoubarak@sutherland.com>; Ryan Shah <ryan.shah@paliarerland.com>; Candace Baumtrog <Candace.Baumtrog@Paliarerland.com>; Beatrice Loschiavo <beatrice.loschiavo@paliarerland.com>
Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

External Sender - From: (Jawad Janmohamed <jjanmohamed@sutherland.com>)
 This message came from outside your organisation.

Hi Jeff,

Please provide us with the revised draft order with the proposed amendments based on our recent email exchanges – we will review and revert to you thereafter.

Kind regards,



Jawad Janmohamed

Associate Lawyer

Phone: (905) 695-5500 Ext. 2601

Fax : (905) 695-5501

Email: jjanmohamed@sutherland.com

3300 Highway 7, Suite 904
 Vaughan, Ontario L4K 4M3

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From: Jeff.Larry@paliarerland.com <Jeff.Larry@paliarerland.com>

Sent: Tuesday, October 22, 2024 8:21 AM

To: Rob Moubarak <rmoubarak@sutherland.com>; Jonathan L. Frustaglio <jfrustaglio@sutherland.com>

Cc: ryan.shah@paliarerland.com; Candace.Baumtrog@Paliarerland.com; beatrice.loschiavo@paliarerland.com;

Jawad Janmohamed <jjanmohamed@sutherland.com>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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I have assured you that I am and will get your clients the information. I hear their concern and built this into the exception that we are making just for them in this process.

Why can't anyone tell me for the past 3 weeks what is wrong with the language that preserves 100% of your clients' rights and arguments about the appropriate appeal process until after they get this information. That is what you wanted, I thought?

I am bending over backwards to be accommodating (and will continue to do so by getting you the information even if it is not at my client's fingertips) yet I getting no assistance in return. This is beyond frustrating.

At the same time, I am getting an earful from every other stakeholder who is upset that the lien claim process cannot proceed so claimants can get paid.

Again – if there is something wrong with the language I have proposed, please have the courtesy to return my calls and let's address this and finalize this on the call.

Jonathan/Jawad – we must speak today to finalize this language. Please confirm when you can be available.

From: Rob Moubarak <rmoubarak@sutherlaw.com>

Sent: Tuesday, October 22, 2024 8:12 AM

To: Jeff Larry <Jeff.Larry@paliareroland.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>

Cc: Ryan Shah <ryan.shah@paliareroland.com>; Candace Baumtrog <Candace.Baumtrog@Paliareroland.com>; Beatrice Loschiavo <beatrice.loschiavo@paliareroland.com>; Jawad Janmohamed <jjanmohamed@sutherlaw.com>

Subject: Re: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Jonathan/Jawad will deal with Jeff, sorry this is not my file, I'm trying and the clients wish to deal with counsel either carriage.

Yesterday, to be frank, I got an earful from two of them, saying why on earth instead of all the emails and calls, the receiver does not give us a s.39 outlined breakdown so we can review it now. They are not content.

They want to know the holdback quantum now.

Deserving and rightfully so, they should have had this. When I say the receiver does not have this and the records are a mess, it falls on deaf ears.

It's the lenders records that can reveal what money was advanced. To say this is not readily available to the receiver, is not flying with these sophisticated lien claimants with experienced credit managers.

Larry, I'm not jeopardizing Jonathan client relations and potential negligence.

Please have the information provided.

Sincerely,

Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800**Fax :** (905) 695-5501**Email:** rmoubarak@sutherlaw.com

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

www.sutherlaw.com

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From: Jeff.Larry@paliareroland.com <Jeff.Larry@paliareroland.com>

Sent: Tuesday, October 22, 2024 8:03:37 AM

To: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>

Cc: Rob Moubarak <rmoubarak@sutherlaw.com>; ryan.shah@paliareroland.com <ryan.shah@paliareroland.com>; Candace.Baumtrog@Paliareroland.com <Candace.Baumtrog@Paliareroland.com>; beatrice.loschiavo@paliareroland.com <beatrice.loschiavo@paliareroland.com>; Jawad Janmohamed <jjanmohamed@sutherlaw.com>

Subject: Re: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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What is the problem with the language of the draft Order that preserves all your clients rights to deal with the appeal related issues down the road? Please tell me and I will address it.
Sent from my iPhone

On Oct 22, 2024, at 7:54 AM, Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com> wrote:

Good morning All, Further to my colleague, Mr. Moubarak's email, can the court kindly confirm when the judge's fall seminar is over? We will certainly coordinate mutually convenient dates with my friends and the court.

Good morning All,

Further to my colleague, Mr. Moubarak's email, can the court kindly confirm when the judge's fall seminar is over?

We will certainly coordinate mutually convenient dates with my friends and the court.

Are there available dates for the case conference for next week being October 28, 2024 to November 1, 2024?

If not, are there dates available after the Judge's Fall Seminar?

Please confirm.

Thanks

Yours truly,

<Outlook-3ypp44pl.png>

Jonathan L. Frustaglio

Partner

Phone: (905) 695-5500 Ext. 2760

Fax : (905) 695-5501

Email: jfrustaglio@sutherlaw.com<<mailto:jfrustaglio@sutherlaw.com>>

Law Clerk: Josie DiStefano at Ext. 2930

or jdistefano@sutherlaw.com<<mailto:jdistefano@sutherlaw.com>>

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

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From: Rob Moubarak <rmoubarak@sutherlandlaw.com>

Sent: Monday, October 21, 2024 3:49 PM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>; ryan.shah@paliareroland.com <ryan.shah@paliareroland.com>; Jeff.Larry@paliareroland.com <Jeff.Larry@paliareroland.com>

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; Candace.Baumtrog@Paliareroland.com <Candace.Baumtrog@Paliareroland.com>; beatrice.loschiavo@paliareroland.com <beatrice.loschiavo@paliareroland.com>; Jawad Janmohamed <jjanmohamed@sutherlandlaw.com>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

When is judges fall seminar over?

Sincerely,

<image001.png>

Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlaw.com<<mailto:rmoubarak@sutherlaw.com>>

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From: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Sent: Monday, October 21, 2024 2:53 PM

To: Rob Moubarak <rmoubarak@sutherlaw.com>; ryan.shah@paliareroland.com; Jeff.Larry@paliareroland.com

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Candace.Baumtrog@Paliareroland.com;

beatrice.loschiavo@paliareroland.com; Jawad Janmohamed <jjanmohamed@sutherlaw.com>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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Please note that week of November 4-judges fall seminar.

Thank you

Alsou Anissimova

Superior Court of Justice

Commercial list Trial coordinator

330 University Ave 7th floor

Civil Trial office

Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email: MAG.CSD.To.SCJCOM@ONTARIO.CA<mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA>

Toronto Commercial List – Commencing May 9, 2022 , Ministry Zoom coordinates will be used, created and uploaded by court staff into CaseLines. Zoom coordinates for hearings will no longer need to be provided by the parties.

Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc) request form to all required counsel.

From: Rob Moubarak <rmoubarak@sutherlaw.com<mailto:rmoubarak@sutherlaw.com>>

Sent: Monday, October 21, 2024 11:07 AM

To: ryan.shah@paliaroland.com<<mailto:ryan.shah@paliaroland.com>>; JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca<<mailto:MAG.CSD.To.SCJCom@ontario.ca>>>;

Jeff.Larry@paliaroland.com<<mailto:Jeff.Larry@paliaroland.com>>

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com<<mailto:jfrustaglio@sutherlaw.com>>>;

Candace.Baumtrog@Paliaroland.com<<mailto:Candace.Baumtrog@Paliaroland.com>>;

beatrice.loschiavo@paliaroland.com<<mailto:beatrice.loschiavo@paliaroland.com>>; Jawad Janmohamed

<jjanmohamed@sutherlaw.com<<mailto:jjanmohamed@sutherlaw.com>>>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

I am sorry but none of the 3 dates below were cleared with counsel!

I am not counsel on the matter

Mr. Frustaglio has advised he is on trial this week!

These dates were selected without clearance as directed below.

Dates the following week or the week of Nov. 4th would work.

Sincerely,

<image001.png>

Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlaw.com<<mailto:rmoubarak@sutherlaw.com>>

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

www.sutherlaw.com<https://urldefense.proofpoint.com/v2/url?u=http-3A_www.sutherlaw.com_&d=DwMGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ChKH0LJom404KGM5XvhyNs2mpaZfRzLTeW1E0RTZ7jg&m=VEiZJxaVuoXY15SknorFw6_qNsVOWVDAOsMtIXS0vfu3iX7rEMFREjReApEsrp_8&s=eEfY1Wv58oolf1j-0c7hRLedGBQvUovp5qoK-2vdP50&e=>>

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From: ryan.shah@paliarerland.com<<mailto:ryan.shah@paliarerland.com>>
<ryan.shah@paliarerland.com<<mailto:ryan.shah@paliarerland.com>>>
Sent: Monday, October 21, 2024 11:04 AM
To: MAG.CSD.To.SCJCom@ontario.ca<<mailto:MAG.CSD.To.SCJCom@ontario.ca>>;
Jeff.Larry@paliarerland.com<<mailto:Jeff.Larry@paliarerland.com>>
Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com<<mailto:jfrustaglio@sutherlaw.com>>>;
Candace.Baumtrog@Paliarerland.com<<mailto:Candace.Baumtrog@Paliarerland.com>>;
beatrice.loschiavo@paliarerland.com<<mailto:beatrice.loschiavo@paliarerland.com>>; Rob Moubarak
<rmoubarak@sutherlaw.com<<mailto:rmoubarak@sutherlaw.com>>>
Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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Good morning:

Please find a hearing request form in connection with the above noted matter attached, on behalf of the Receiver.

Thank you very much,

Ryan Shah

647-865-4702

Paliare Roland Rosenberg Rothstein LLP

From: JUS-G-MAG-CSD-Toronto-SCJ Commercial List

<MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca>>

Sent: October 18, 2024 10:56 AM

To: Jeff Larry <Jeff.Larry@paliareroland.com<mailto:Jeff.Larry@paliareroland.com>>

Cc: Ryan Shah <ryan.shah@paliareroland.com<mailto:ryan.shah@paliareroland.com>>;

jfrustaglio@sutherlaw.com<mailto:jfrustaglio@sutherlaw.com>; Candace Baumtrog

<Candace.Baumtrog@Paliareroland.com<mailto:Candace.Baumtrog@Paliareroland.com>>; Beatrice Loschiavo

<beatrice.loschiavo@paliareroland.com<mailto:beatrice.loschiavo@paliareroland.com>>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Please provide me with request form , 3 dates available for all counsel , I will follow up with His Honour Thank you Also Anissimova Superior Court of Justice Commercial list Trial coordinator 330 University Ave 7th floor Civil Trial office

Please provide me with request form , 3 dates available for all counsel , I will follow up with His Honour

Thank you

Also Anissimova

Superior Court of Justice

Commercial list Trial coordinator

330 University Ave 7th floor

Civil Trial office

Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email: MAG.CSD.To.SCJCOM@ONTARIO.CA<mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA>

Toronto Commercial List – Commencing May 9, 2022 , Ministry Zoom coordinates will be used, created and uploaded by court staff into CaseLines. Zoom coordinates for hearings will no longer need to be provided by the parties.

Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc) request form to all required counsel.

-----Original Message-----

From: Jeff.Larry@paliarerland.com<mailto:Jeff.Larry@paliarerland.com>
<Jeff.Larry@paliarerland.com<mailto:Jeff.Larry@paliarerland.com>>

Sent: Friday, October 18, 2024 10:40 AM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List
<MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca>>

Cc: ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com>;
jfrustaglio@sutherlaw.com<mailto:jfrustaglio@sutherlaw.com>;
Candace.Baumtrog@Paliarerland.com<mailto:Candace.Baumtrog@Paliarerland.com>;
beatrice.loschiavo@paliarerland.com<mailto:beatrice.loschiavo@paliarerland.com>

Subject: Re: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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His Honour said that he could accommodate us at 9 am one morning before his trial started for the day.

Thank you

Sent from my iPhone

On Oct 18, 2024, at 7:35 AM, JUS-G-MAG-CSD-Toronto-SCJ Commercial List
<MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca>> wrote:

Hello! Are you looking first available date before Justice Cavanagh after completion of his long trial ? Thank you Also
Anissimova Superior Court of Justice

Hello!

Are you looking first available date before Justice Cavanagh after completion of his long trial ?

Thank you

Also Anissimova

Superior Court of Justice

Commercial list Trial coordinator

330 University Ave 7th floor

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Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email: MAG.CSD.To.SCJCOM@ONTARIO.CA<mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA>

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Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail, please copy (cc) request form to all required counsel.

From: ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com>
<ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com>>

Sent: Friday, October 18, 2024 9:19 AM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List
<MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca>>

Cc: Jeff.Larry@paliarerland.com<mailto:Jeff.Larry@paliarerland.com>;
jfrustaglio@sutherlaw.com<mailto:jfrustaglio@sutherlaw.com>;
Candace.Baumtrog@Paliarerland.com<mailto:Candace.Baumtrog@Paliarerland.com>;
beatrice.loschiavo@paliarerland.com<mailto:beatrice.loschiavo@paliarerland.com>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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Good morning: I just wanted to follow up on the below.

Thank you very much,

Ryan Shah

647-865-4702

Paliare Roland Rosenberg Rothstein LLP

From: Ryan Shah

Sent: October 15, 2024 4:34 PM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List

<MAG.CSD.To.SCJCom@ontario.ca<<mailto:MAG.CSD.To.SCJCom@ontario.ca><<mailto:MAG.CSD.To.SCJCom@ontario.ca>%3c<mailto:MAG.CSD.To.SCJCom@ontario.ca>>>>>

Cc: Jeff Larry

<Jeff.Larry@paliarerland.com<<mailto:Jeff.Larry@paliarerland.com><<mailto:Jeff.Larry@paliarerland.com>%3c<mailto:Jeff.Larry@paliarerland.com>>>>>

<jfrustaglio@sutherlaw.com<<mailto:jfrustaglio@sutherlaw.com><<mailto:jfrustaglio@sutherlaw.com>%3c<mailto:jfrustaglio@sutherlaw.com>>>>>

<Candace.Baumtrog@Paliarerland.com<<mailto:Candace.Baumtrog@Paliarerland.com><<mailto:Candace.Baumtrog@Paliarerland.com>%3c<mailto:Candace.Baumtrog@Paliarerland.com>>>>>

<beatrice.loschiavo@paliarerland.com<<mailto:beatrice.loschiavo@paliarerland.com><<mailto:beatrice.loschiavo@paliarerland.com>%3c<mailto:beatrice.loschiavo@paliarerland.com>>>>>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Thank you for your reply.

My understanding is that his Honour was contemplating slotting in this hearing at the very beginning of the day prior to the start of his Honour's regularly scheduled court matters.

It would be greatly appreciated if this could be accommodated. If not, we would respectfully request that the hearing be set for a soon thereafter as it can be heard.

Thank you again,

Ryan Shah

647-865-4702

Paliare Roland Rosenberg Rothstein LLP

From: JUS-G-MAG-CSD-Toronto-SCJ Commercial List

<MAG.CSD.To.SCJCom@ontario.ca<<mailto:MAG.CSD.To.SCJCom@ontario.ca><<mailto:MAG.CSD.To.SCJCom@ontario.ca>%3c

[3cmailto:MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>>>

Sent: October 15, 2024 4:30 PM

To: Ryan Shah

ryan.shah@paliarerland.com<<mailto:ryan.shah@paliarerland.com><<mailto:ryan.shah@paliarerland.com>%3cmailto:ryan.shah@paliarerland.com>>>>

Cc: Jeff Larry

Jeff.Larry@paliarerland.com<<mailto:Jeff.Larry@paliarerland.com><<mailto:Jeff.Larry@paliarerland.com>%3cmailto:Jeff.Larry@paliarerland.com>>>>

jfrustaglio@sutherlaw.com<<mailto:jfrustaglio@sutherlaw.com><<mailto:jfrustaglio@sutherlaw.com>%3cmailto:jfrustaglio@sutherlaw.com>>>>

Candace Baumtrog
<Candace.Baumtrog@Paliarerland.com<<mailto:Candace.Baumtrog@Paliarerland.com><<mailto:Candace.Baumtrog@Paliarerland.com>%3cmailto:Candace.Baumtrog@Paliarerland.com>>>>

Beatrice Loschiavo
<beatrice.loschiavo@paliarerland.com<<mailto:beatrice.loschiavo@paliarerland.com><<mailto:beatrice.loschiavo@paliarerland.com>%3cmailto:beatrice.loschiavo@paliarerland.com>>>>

Subject: RE: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

Hello! Please note that Justice Cavanagh is hearing a long trial next week . Thank you Also Anissimova Superior Court of Justice Commercial list Trial coordinator

Hello!

Please note that Justice Cavanagh is hearing a long trial next week .

Thank you

Also Anissimova

Superior Court of Justice

Commercial list Trial coordinator

330 University Ave 7th floor

Civil Trial office

Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email:

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Please note when providing the request form for scheduling via e-mail , please copy (cc) request form to all required counsel.

From:

ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com%3cmmailto:ryan.shah@paliarerland.com>>
<ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com<mailto:ryan.shah@paliarerland.com%3cmmailto:ryan.shah@paliarerland.com>>>

Sent: Tuesday, October 15, 2024 4:27 PM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List

<MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca<mailto:MAG.CSD.To.SCJCom@ontario.ca%3cmmailto:MAG.CSD.To.SCJCom@ontario.ca>>>

Cc:

Jeff.Larry@paliarerland.com<mailto:Jeff.Larry@paliarerland.com<mailto:Jeff.Larry@paliarerland.com%3cmmailto:Jeff.Larry@paliarerland.com>>;
jfrustaglio@sutherlaw.com<mailto:jfrustaglio@sutherlaw.com<mailto:jfrustaglio@sutherlaw.com%3cmmailto:jfrustaglio@sutherlaw.com>>;
Candace.Baumtrog@Paliarerland.com<mailto:Candace.Baumtrog@Paliarerland.com<mailto:Candace.Baumtrog@Paliarerland.com%3cmmailto:Candace.Baumtrog@Paliarerland.com>>>

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Subject: Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp. et al. - CV-23-00710795-00CL [IMAN-PRIMANAGE.FID404153]

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Good afternoon:

I am counsel to the receiver in the above noted matter. Parties to the above noted matter attended before Justice Cavanagh on October 4, 2024 for the hearing of the receiver's motion for a lien claims process order. This hearing was adjourned.

His Honour advised the parties that, if the parties could not come to an agreement on the form of order, they were to write to the Court and request a 30-minute return of the motion before his Honour to take place at the very beginning of the day.

The parties have not been able to come to such a resolution and, accordingly, the receiver respectfully requests that such a hearing be scheduled at his Honour's earliest convenience next week.

Thank you very much,

<image001.png>

Ryan Shah

Associate

Phone: 647-865-4702

Email:

ryan.shah@paliarerland.com<<mailto:ryan.shah@paliarerland.com><<mailto:ryan.shah@paliarerland.com><<mailto:ryan.shah@paliarerland.com><<mailto:ryan.shah@paliarerland.com><<mailto:ryan.shah@paliarerland.com>>>>>>>

155 Wellington St. West, 35th Floor

Toronto, ON M5V 3H1

paliareroland.com<<http://www.paliareroland.com/>>

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Court File No. CV-23-00710795-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	DAY, THE <u>21ST</u> <u>4TH</u>
)	
JUSTICE CAVANAGH)	DAY OF OCTOBER, 2024

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

IN THE MATTER OF AN 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

**ORDER
(LIEN CLAIMS PROCESS)**

THIS MOTION by Albert Gelman Inc., in its capacity as court-appointed receiver and manager of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (in such capacities, the "**Receiver**"), for an Order, among other things, establishing a claims process (the "**Lien Claims Process**") for determining the timeliness and quantum of the construction liens registered against title to the real property listed in Schedule "A" to the order of Justice Cavanagh

dated December 21, 2023 (the "**Property**"), was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated August 6, 2024 (the "**Third Report**") and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Candace Baumtrog, dated August 7, 2024.

A. DEFINITIONS

1. **THIS COURT ORDERS** that, for the purposes of this Order,

(a) "**Claim**" means:

(i) A claim for lien registered against the Property on or before the date of this Order; or

(ii) A claim against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;

(b) "**Claimant**" means a person or entity that possesses a Claim;

(c) "**Court**" means the Ontario Superior Court of Justice;

- (d) “**Initial Order**” means the Order of Justice Cavanagh appointing the Receiver dated December 21, 2023;
- (e) “**Newspaper Notice**” means a notice of this Order to be published in the National Post (National Edition) in accordance with paragraph 3 of this Order;
- (f) “**Post-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024; and
- (g) “**Pre-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023.

B. SERVICE AND NOTICE

- 2. **THIS COURT ORDERS** that the time for service of the Receiver’s Amended Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.
- 3. **THIS COURT ORDERS** that the Receiver shall arrange for the Newspaper Notice to be published in the National Post (National Edition) as soon as reasonably practicable after the date of this Order.

C. FILING CLAIMS

- 4. **THIS COURT ORDERS** that the Lien Claims Process described in the Third Report, as modified herein, is hereby approved.

5. **THIS COURT ORDERS AND DIRECTS** that, subject to paragraph 6 of this Order, in order to file a Claim pursuant to the Lien Claims Process described herein, a Claimant shall complete the Proof of Lien Claim Form attached as Schedule "A" hereto and, where applicable, provide the information set out in Schedule "1" to the Proof of Lien Claim Form (with the Proof of Claim Form, the "**Lien Documentation**") to the Receiver after the date of this Order and before 5:00 p.m. Toronto time on November 22, 2024 (the "**Claims Bar Date**").
6. **THIS COURT ORDERS** that, in connection with the Lien Claims Process, any Claimant that has delivered documentation to the Receiver in response to the Receiver's Notices to Trades shall have no obligation to submit the Lien Documentation that it has already submitted to the Receiver (but, for certainty, must submit a Proof of Lien Claim Form in accordance with paragraph 5) and that all documentation delivered in response to the Notices to Trades shall and are hereby deemed to be Lien Documentation within the meaning of this Order for the purpose of this Lien Claims Process, provided that to the extent that a Claimant intends to rely on any Lien Documentation submitted prior to the making of this Order, the Claimant must identify on its Proof of Lien Claim Form the date(s) and manner in which it submitted such Lien Documentation to the Receiver.
7. **THIS COURT ORDERS** that any Claimant who does not provide the necessary Lien Documentation to the Receiver by the Claims Bar Date shall be forever barred from asserting its Claim against the Respondents, the Receiver, the Property, and any "owner" (as defined in the *Construction Act*) of the Property, and such Claim shall be forever discharged and extinguished, and any such Claimant shall not be

entitled to receive, in respect of its Claim, any distribution from the Receiver, if any, in respect of the proceeds of sale of the Property and shall be deemed to not be a participant in this Lien Claims Process.

8. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to use its reasonable discretion as to the adequacy of compliance with the manner in which the Lien Documentation is provided.
9. **THIS COURT ORDERS** that the Receiver is authorized and empowered to, in its reasonable discretion, direct any Claimant to provide any additional documents or information with respect to matters which are relevant to the quantum and timeliness of that Claimant's Claim and respond to any written questions that the Receiver may have or submit to an examination under oath. A Claimant shall not have the right to examine the Receiver under oath except with leave of the Court.

D. INITIAL DETERMINATION OF CLAIMS

10. **THIS COURT ORDERS** that in respect of each Claim, the Receiver shall, as soon as reasonably practicable but no later than 90 days after the Claims Bar Date unless otherwise ordered by this Court or otherwise agreed to by the Receiver and the applicable Claimant (the "**Initial Review Date**"), review the Lien Documentation received by the Claims Bar Date and evaluate the timeliness and quantum of each Claim and, if applicable for a given Claim, revise the allocation between Pre-Receivership Claims and Post-Receivership Claims.
11. **THIS COURT ORDERS** that no later than 14 days after the Initial Review Date, the Receiver shall provide the Claimant with a written notice setting out the

Receiver's determination as to the timeliness and quantum of, as applicable, the Claimant's Pre-Receivership Claim and/or Post-Receivership Claim (a "**Notice of Evaluation**"), including the reasons for the determination.

12. **THIS COURT ORDERS** that within 30 days following the delivery to the Claimant of a Notice of Evaluation (a "**Dispute Bar Date**"), or such date as the Receiver may agree in writing, the Claimant may dispute any part the Receiver's determination of the Claim evaluated in the Notice of Evaluation by providing the Receiver with a written notice setting out full particulars of the dispute (the "**Notice of Dispute**").
13. **THIS COURT ORDERS** that in the event that a Claimant does not deliver a Notice of Dispute by the Dispute Bar Date, then the Claimant shall be barred from disputing the determination in the Notice of Evaluation.
14. **THIS COURT ORDERS** that, notwithstanding anything in this Order, at anytime whatsoever, the Receiver may attempt to consensually resolve any Claim or part thereof (a "**Settlement**"), regardless of whether it is a Pre-Receivership Claim or Post-Receivership Claim, with a Claimant, and may, but is not obligated to, rely on supporting documentation provided to the Receiver by the Claimant before the date of this Order.
15. **THIS COURT ORDERS** that, in respect of Post-Receivership Claims only, the Receiver is authorized to pay to a Claimant the amount determined in a Notice of Evaluation that is not disputed, the amount agreed to in a Settlement, or the amount determined in accordance with the Lien Claims Process set out in this

Order, as soon as is reasonably practicable but no later than 28 days following receipt of funds pursuant to the Receiver's borrowing in accordance with paragraph 20 of the Initial Order as amended, without any further order of the Court. Receipt of payment for part of a Claim does not release or waive the right of the Claimant to prove the unpaid/disputed portion of the Claim in this Lien Claims Process, unless the Claimant agrees otherwise.

E. PRE-RECEIVERSHIP CLAIMS APPEAL

16. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Pre-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule an appeal (the "Appeal") with such person as is agreeable to the Claimants and the Receiver or as may be appointed by the Court~~Carol Albert~~ (the "Adjudicator") for the determination of each Claim that has not been resolved. At the hearing of each Appeal, the Adjudicator's standard of review of the Receiver's Notice of Evaluation is that of an appellate court such that the Receiver's Notice of Evaluation are only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

17. **THIS COURT ORDERS** that the decision of the Adjudicator shall be final and binding with no right of appeal therefrom provided that any one or more of EDG Cor Inc., Core Constructions Ltd., Stephenson's Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wycroft Trim & Doors Group Inc. aka Wycroft Trim and Doors Group Inc. (the "Sutherland Law Clients") may advise the Receiver, within 30 days from the date that they are in receipt of all information

requested reasonably from the Receiver, that they wish to seek a further right of appeal to the Court and, if they so elect, then the making of this Order shall be completely without prejudice to any position that they or the Receiver may wish to take at any hearing to address the appeal rights under this process.

47.18. **THIS COURT ORDERS** that, in respect of each Appeal hearing, one half of the Adjudicator's fees shall be paid by the Receiver and one half of the Adjudicator's fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a "Pre-Receivership Disputing Party") at least 14 days prior to the subject Appeal.

48.19. **THIS COURT ORDERS** that the Adjudicator shall have the jurisdiction to:

- (a) award costs against the Pre-Receivership Disputing Party or against the Receiver if the Adjudicator determines that the Receiver acted grossly negligent or engaged in wilful misconduct; and
- (b) direct that the Pre-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 18 of this Order;

49.20. **THIS COURT ORDERS** that the Receiver is hereby authorized and empowered to:

- (a) in its reasonable discretion, apply for an order from the Adjudicator requiring security for costs from a Pre-Receivership Disputing Party that wishes to

have its Pre-Receivership Claim and/or Notice of Dispute reviewed by the Adjudicator; and

- (b) deduct any costs or fees ordered by the Adjudicator to be payable by any Pre-Receivership Disputing Party in connection with an Appeal, pursuant to paragraphs 18 and 19 of this Order, from any amount due and owing to that party.

F. POST-RECEIVERSHIP CLAIMS HEARING

20-21. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Post-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule a hearing (the “**Hearing**”) with the Adjudicator for the determination of each Post-Receivership Claim that has not been resolved. The Hearing shall not be an appeal and the Adjudicator shall instead review the Post-Receivership Claim on a *de novo* basis.

21-22. **THIS COURT ORDERS** that in respect of each Hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a “**Post Receivership Disputing Party**”) at least 14 days prior to the subject Hearing.

22-23. **THIS COURT ORDERS** that parties to a Hearing shall have a right to appeal (a “**Post Appeal**”) the decision of the Adjudicator to the Court (the “**Post Appeal Adjudicator**”). At the hearing of a Post Appeal, the Post Appeal Adjudicator’s standard of review of the Adjudicator’s decision of a Post-Receivership Claim shall

be that of an appellate court such that the Adjudicator's decision is only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

23-24. **THIS COURT ORDERS** that both the Adjudicator and the Post Appeal Adjudicator shall have the jurisdiction to:

- (a) award costs against any Post-Receivership Disputing Party or against the Receiver in respect of a Post-Receivership Claim, provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of the Adjudicator's fees;
- (b) direct that a Post-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 22 of this Order; and
- (c) direct that the Receiver shall be required to pay a greater proportion of, as the case may be, the Adjudicator's fees than the amount provided for in paragraph 22 of this Order provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of fees;

24-25. **THIS COURT ORDERS** that if there is an outstanding cost award (or outstanding cost awards) against the Receiver made under this Order at any time that the Receiver receives funds borrowed or is already in receipt of funds borrowed under

paragraph 20 of the Initial Order, as amended, then the Receiver shall first apply such borrowed and received funds to the payment of such cost award(s).

G. ADMINISTRATIVE ISSUES

25-26. **THIS COURT ORDERS** that all documents required to be served herein shall be served by electronic mail to the address for service set out in the service list or the Claimant's Lien Documentation.

26-27. **THIS COURT ORDERS** that the Receiver shall incur no personal liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the within Lien Claims Process, except as may be otherwise ordered or determined in accordance with the Lien Claims Process.

27-28. **THIS COURT ORDERS** that the Receiver may apply to the Court for directions regarding the carrying out of the within Lien Claims Process.

28-29. **THIS COURT ORDERS** that within the Lien Claims Process, and participation in it, is without prejudice to the right(s) of any Claimant to commence or continue any claim or proceeding against any person (save for the Receiver) with respect to the issues of the Claimants' priority over any secured creditor or mortgagees, breach of trust, negligence, breach of contract or quantum meruit ("**Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Claimant may have in any such Proceedings. Notwithstanding the above, the Lien Claims Process also does not affect any substantive or procedural rights that any defendant may have to defend Proceedings, save and except that

the defendant may not assert in the Proceedings that the claim of any Claimant ought to be dismissed or stayed on grounds of res judicata (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Claimant asserting a Claim in the Lien Claims Process.

H. FEES, RECEIPTS AND DISBURSEMENTS

~~29-30.~~ **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from December 21, 2023 to August 4, 2024 be and is hereby approved.

~~30-31.~~ **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Third Report, the fee affidavit of Bryan Gelman, sworn August 6, 2024, and the Fee affidavit of Beatrice Loschiavo, sworn August 1, 2024, are hereby approved.

I. GENERAL

~~31-32.~~ **THIS COURT ORDERS** that the Third Report and the conduct and activities of the Receiver set out therein be and is hereby approved, provided that such approval shall not prevent the Adjudicator or the Post Appeal Adjudicator from making determinations as to the conduct of the Receiver, in its capacity as receiver and manager, in the Lien Claims Process for purposes of a cost award as provided for and contemplated by paragraph 24.

~~32-33.~~ **THIS COURT ORDERS** that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Third Report detailed in paragraph 32 above.



Schedule “A” – Proof of Lien Claim Form

PROOF OF CLAIM

Terms not otherwise defined herein shall have the meanings ascribed to them in the order of Justice Cavanagh dated October 4, 2024 (the “Lien Claims Process Order”).

A. PARTICULARS OF THE CLAIMANT:

(1) Full Legal Name of the Claimant (include trade name, if different):

.....

(the “**Claimant**”). The full legal name should be the name of the Claimant notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Lien Claims Process Order.

(2) Full Mailing Address of Claimant: (The mailing address should be the mailing address of the Claimant and not any assignee)

.....

(3) Telephone Number of Claimant:

.....

(4) E-mail Address of Claimant:

.....

(5) Attention (Contact Person):

Has the Claim set out herein been sold, transferred or assigned by the Claimant to another party?

Yes: [] No: []

B. PARTICULARS OF THE ASSIGNEE(S) (IF APPLICABLE)

.....

If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet which contains all of the required information set out below for each assignee.

(1) Full Legal Name of the Assignee:

.....

(2) Full Mailing Address of the Assignee:

.....

(3) Telephone Number of Assignee:

(4) E-mail Address of Assignee:

(5) Attention (Contact Person):

C. PROOF OF CLAIM

THE UNDERSIGNED HEREBY MAKES OATH AND SAYS AS FOLLOWS:

(1) That I:

am a Claimant with respect to real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the "**Property**") or (*if applicable*) am the:

.....
(state position or title)

of

.....
(Name of Claimant)

(2) That I have knowledge of all of the circumstances connected with the Claim described and set out below:

(3) The Claimant seeks payment of \$..... [*Insert \$ value of claim*] CAD on account of services and materials supplied to an improvement on the Property **on or after** December 21, 2023 (the Appointment Date) and before June 1, 2024; and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

Has the Claimant registered a lien against the Property on or before the date of the Lien Claims Process Order

Yes: [] No: []

(4) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of Claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **before** December 21, 2023 (the "**Appointment Date**") and

\$..... on account of interest on the same [*Provide particulars of interest claim and calculation of same*]

(5) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **on or**

after December 21, 2023 (the Appointment Date) and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

NOTE: Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as of the date of the Lien Claims Process Order.

D. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached in the form of the Documentation (as defined in the order of Justice Cavanagh, dated October 4, 2024)

SWORN BEFORE ME at the)
)
 _____ in the)
 Province of _____)
 this _____ day of _____)
)
 _____)
 A Commissioner, or Notary Public, etc.)

Name of Deponent

[or if sworn via video conferencing]

SWORN REMOTELY by)
)
 _____ at the)
)
 _____)
 in the _____)
 on _____, 2024)
 in accordance with O. Reg. 431/20,)
 Administering Oath or Declaration Remotely)

A Commissioner, or Notary Public, etc.

Name of Deponent

E. FILING OF CLAIM

This Proof of Claim form must be received by the Receiver, Albert Gelman Inc., by no later than 5:00 p.m. (Eastern Standard time) on November 4, 2024 (the “**Claims Bar Date**”) at the following physical address or email address:

Albert Gelman Inc., in its capacity as court-appointed receiver
of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership
(the “**Debtors**”)

250 Ferrand Drive, Suite 403
Toronto, ON M3C 3G8
Attention: Terry Scott
tscott@albertgelman.com

Failure to file your Proof of Claim and any required documentation as directed in relation to any Claim by 5:00 p.m. (Eastern Standard Time) on the Claims Bar Date will result in your Claim being forever barred and extinguished, and you will be prohibited from making or enforcing that Claim against the Property, the Receiver or the Debtors and shall not be entitled to further notice or distribution, if any, in respect of that Claim, and shall not be entitled to participate as a Claimant in these proceedings in respect of that Claim.

Schedule "1" – Documentation

- (a) copy of the Claimant's registered construction lien and any written notice of lien;
- (b) copies of the Claimant's Statement of Claim and Certificate of Action;
- (c) documentation evidencing the last date on which the Claimant provided service, materials or labour to the applicable improvement in the case of a subcontractor or the date of completion, abandonment or termination of the contract in the case of a contractor;
- (d) a copy or particulars of any contract, subcontract, purchase order or agreement upon which the Claimant assert its materials, services and labour were provided under (the "**Contract**"), including the names of the parties to the Contract and the date it was entered into;
- (e) a statement of account under the Contract and particulars and documents substantiating the quantum of the Claim, including:
 - (i) the price of the Contract;
 - (ii) the total amount invoiced by the Claimant, including a copy of the invoices and dates the invoices were sent;
 - (iii) the total amount paid to the Claimant under the Contract, including the date and amount of payments received;
 - (iv) the amount of the Claim that comprises of holdback and amounts invoiced within the scope of the Contract; and
 - (v) the amount of the Claim that comprises of extra to the Contract, along with any relevant documentation substantiating the extra amount sought, such as notice of extras, request for extras, request for change orders, executed change orders, executed change directives, amendments or purchase orders and time and material sheets;
- (f) statutory declaration(s) that attest to the work is complete and performed is in accordance or in compliance with the Contract;
- (g) for Claimants who operated on a time and materials (T&M) basis, evidence of authorization to perform work;
- (h) for Claimants who provided materials, statutory declaration(s) that attest the materials were ordered/requested and delivered;
- (i) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor;

- (j) documentation evidencing service, materials and labour provided to the applicable improvement including, but not limited to, the following:
 - (i) completed and approved timesheets of employees and subcontractors;
 - (ii) subcontractor invoices;
 - (iii) payroll registers and records;
 - (iv) bank statements, electronic fund transfer receipts and cancelled cheques evidencing remittances by the Claimant to employees and subcontractors;

- (k) all documents related to the fulfillment of work agreements including, but not limited to, the following:
 - (i) WSIB clearance certificates for the dates the work was performed;
 - (ii) proof of insurance showing coverage for the dates the work was performed;
 - (iii) shop drawings;
 - (iv) as built(s);
 - (v) schematics;
 - (vi) warranties and guarantees; and,
 - (vii) third party verifications / certifications;

- (l) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with the Lien Claim Process Order.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Lien Claims Process)

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

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ryan.shah@paliareroland.com

Lawyers for the Receiver, Albert Gelman Inc.

Court File No. CV-23-00710795-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	TUESDAY, THE 5 th
)	
JUSTICE CAVANAGH)	DAY OF NOVEMBER, 2024

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

IN THE MATTER OF AN 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

**ORDER
(LIEN CLAIMS PROCESS)**

THIS MOTION by Albert Gelman Inc., in its capacity as court-appointed receiver and manager of all present and future property, assets and undertakings of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (in such capacities, the "**Receiver**"), for an Order, among other things, establishing a claims process (the "**Lien Claims Process**") for determining the timeliness and quantum of the construction liens registered against title to the real property listed in Schedule "A" to the order of Justice Cavanagh

dated December 21, 2023 (the "**Property**"), was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated August 6, 2024 (the "**Third Report**"), the Supplement to the Third Report of the Receiver dated October 31, 2024 (the "**Supplemental Report**") and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Candace Baumtrog, dated August 7, 2024.

A. DEFINITIONS

1. **THIS COURT ORDERS** that, for the purposes of this Order,

(a) "**Claim**" means:

- (i) A claim for lien registered against the Property on or before the date of this Order; or
- (ii) A claim against Jefferson Properties Limited Partnership, 2011836 Ontario Corp. and/or the Receiver in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024, including any legal costs incurred in respect thereof;

(b) "**Claimant**" means a person or entity that possesses a Claim;

(c) "**Court**" means the Ontario Superior Court of Justice;

- (d) “**Initial Order**” means the Order of Justice Cavanagh appointing the Receiver dated December 21, 2023;
- (e) “**Newspaper Notice**” means a notice of this Order to be published in the National Post (National Edition) in accordance with paragraph 3 of this Order;
- (f) “**Post-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property on or after December 21, 2023 and before June 1, 2024; and
- (g) “**Pre-Receivership Claims**” means Claims in respect of services or materials supplied to improvements to the Property before December 21, 2023.

B. SERVICE AND NOTICE

- 2. **THIS COURT ORDERS** that the time for service of the Receiver’s Amended Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.
- 3. **THIS COURT ORDERS** that the Receiver shall arrange for the Newspaper Notice to be published in the National Post (National Edition) as soon as reasonably practicable after the date of this Order.

C. FILING CLAIMS

- 4. **THIS COURT ORDERS** that the Lien Claims Process described in the Third Report, as modified herein, is hereby approved.

5. **THIS COURT ORDERS AND DIRECTS** that, subject to paragraph 6 of this Order, in order to file a Claim pursuant to the Lien Claims Process described herein, a Claimant shall complete the Proof of Lien Claim Form attached as Schedule "A" hereto and, where applicable, provide the information set out in Schedule "1" to the Proof of Lien Claim Form (with the Proof of Claim Form, the "**Lien Documentation**") to the Receiver after the date of this Order and before 5:00 p.m. Toronto time on December 5, 2024 (the "**Claims Bar Date**").
6. **THIS COURT ORDERS** that, in connection with the Lien Claims Process, any Claimant that has delivered documentation to the Receiver in response to the Receiver's Notices to Trades shall have no obligation to submit the Lien Documentation that it has already submitted to the Receiver (but, for certainty, must submit a Proof of Lien Claim Form in accordance with paragraph 5) and that all documentation delivered in response to the Notices to Trades shall and are hereby deemed to be Lien Documentation within the meaning of this Order for the purpose of this Lien Claims Process, provided that to the extent that a Claimant intends to rely on any Lien Documentation submitted prior to the making of this Order, the Claimant must identify on its Proof of Lien Claim Form the date(s) and manner in which it submitted such Lien Documentation to the Receiver.
7. **THIS COURT ORDERS** that any Claimant who does not provide the necessary Lien Documentation to the Receiver by the Claims Bar Date shall be forever barred from asserting its Claim against the Respondents, the Receiver, the Property, and any "owner" (as defined in the *Construction Act*) of the Property, and such Claim shall be forever discharged and extinguished, and any such Claimant shall not be

entitled to receive, in respect of its Claim, any distribution from the Receiver, if any, in respect of the proceeds of sale of the Property and shall be deemed to not be a participant in this Lien Claims Process.

8. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to use its reasonable discretion as to the adequacy of compliance with the manner in which the Lien Documentation is provided.
9. **THIS COURT ORDERS** that the Receiver is authorized and empowered to, in its reasonable discretion, direct any Claimant to provide any additional documents or information with respect to matters which are relevant to the quantum and timeliness of that Claimant's Claim and respond to any written questions that the Receiver may have or submit to an examination under oath. A Claimant shall not have the right to examine the Receiver under oath except with leave of the Court.

D. INITIAL DETERMINATION OF CLAIMS

10. **THIS COURT ORDERS** that in respect of each Claim, the Receiver shall, as soon as reasonably practicable but no later than 90 days after the Claims Bar Date unless otherwise ordered by this Court or otherwise agreed to by the Receiver and the applicable Claimant (the "**Initial Review Date**"), review the Lien Documentation received by the Claims Bar Date and evaluate the timeliness and quantum of each Claim and, if applicable for a given Claim, revise the allocation between Pre-Receivership Claims and Post-Receivership Claims.
11. **THIS COURT ORDERS** that no later than 14 days after the Initial Review Date, the Receiver shall provide the Claimant with a written notice setting out the

Receiver's determination as to the timeliness and quantum of, as applicable, the Claimant's Pre-Receivership Claim and/or Post-Receivership Claim (a "**Notice of Evaluation**"), including the reasons for the determination.

12. **THIS COURT ORDERS** that within 30 days following the delivery to the Claimant of a Notice of Evaluation (a "**Dispute Bar Date**"), or such date as the Receiver may agree in writing, the Claimant may dispute any part the Receiver's determination of the Claim evaluated in the Notice of Evaluation by providing the Receiver with a written notice setting out full particulars of the dispute (the "**Notice of Dispute**").
13. **THIS COURT ORDERS** that in the event that a Claimant does not deliver a Notice of Dispute by the Dispute Bar Date, then the Claimant shall be barred from disputing the determination in the Notice of Evaluation.
14. **THIS COURT ORDERS** that, notwithstanding anything in this Order, at anytime whatsoever, the Receiver may attempt to consensually resolve any Claim or part thereof (a "**Settlement**"), regardless of whether it is a Pre-Receivership Claim or Post-Receivership Claim, with a Claimant, and may, but is not obligated to, rely on supporting documentation provided to the Receiver by the Claimant before the date of this Order.
15. **THIS COURT ORDERS** that, in respect of Post-Receivership Claims only, the Receiver is authorized to pay to a Claimant the amount determined in a Notice of Evaluation that is not disputed, the amount agreed to in a Settlement, or the amount determined in accordance with the Lien Claims Process set out in this

Order, as soon as is reasonably practicable but no later than 28 days following receipt of funds pursuant to the Receiver's borrowing in accordance with paragraph 20 of the Initial Order as amended, without any further order of the Court. Receipt of payment for part of a Claim does not release or waive the right of the Claimant to prove the unpaid/disputed portion of the Claim in this Lien Claims Process, unless the Claimant agrees otherwise.

E. PRE-RECEIVERSHIP CLAIMS APPEAL

16. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Pre-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule an appeal (the "**Appeal**") with such person as is agreeable to the Claimants and the Receiver or as may be appointed by the Court (the "**Adjudicator**") for the determination of each Claim that has not been resolved. At the hearing of each Appeal, the Adjudicator's standard of review of the Receiver's Notice of Evaluation is that of an appellate court such that the Receiver's Notice of Evaluation are only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

17. **THIS COURT ORDERS** that the decision of the Adjudicator shall be final and binding with no right of appeal therefrom provided that any one or more of EDG Cor Inc., Core Constructions Ltd., Stephenson's Rental Services Inc., Santiago Alfredo Mendoza o/a Royal Welders, and Wycroft Trim & Doors Group Inc. aka Wycroft Trim and Doors Group Inc. (the "Sutherland Law Clients") may advise the Receiver, within 30 days from the date that they are in receipt of all information

requested reasonably from the Receiver, that they wish to seek a further right of appeal to the Court and, if they so elect, then the making of this Order shall be completely without prejudice to any position that they or the Receiver may wish to take at any hearing to address the appeal rights under this process.

18. **THIS COURT ORDERS** that, in respect of each Appeal hearing, one half of the Adjudicator's fees shall be paid by the Receiver and one half of the Adjudicator's fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a "**Pre-Receivership Disputing Party**") at least 14 days prior to the subject Appeal.
19. **THIS COURT ORDERS** that the Adjudicator shall have the jurisdiction to:
 - (a) award costs against the Pre-Receivership Disputing Party or against the Receiver if the Adjudicator determines that the Receiver acted grossly negligent or engaged in wilful misconduct; and
 - (b) direct that the Pre-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 18 of this Order;
20. **THIS COURT ORDERS** that the Receiver is hereby authorized and empowered to:
 - (a) in its reasonable discretion, apply for an order from the Adjudicator requiring security for costs from a Pre-Receivership Disputing Party that wishes to

have its Pre-Receivership Claim and/or Notice of Dispute reviewed by the Adjudicator; and

- (b) deduct any costs or fees ordered by the Adjudicator to be payable by any Pre-Receivership Disputing Party in connection with an Appeal, pursuant to paragraphs 18 and 19 of this Order, from any amount due and owing to that party.

F. POST-RECEIVERSHIP CLAIMS HEARING

- 21. **THIS COURT ORDERS** that, in the event that the Receiver receives one or more Notices of Dispute in respect of Post-Receivership Claims by the Dispute Bar Date, the Receiver shall, following the Dispute Bar Date, schedule a hearing (the “**Hearing**”) with the Adjudicator for the determination of each Post-Receivership Claim that has not been resolved. The Hearing shall not be an appeal and the Adjudicator shall instead review the Post-Receivership Claim on a *de novo* basis.
- 22. **THIS COURT ORDERS** that in respect of each Hearing, one half of the Adjudicator’s fees shall be paid by the Receiver and one half of the Adjudicator’s fees shall be paid by the Claimant that filed a Notice of Dispute (such a party being a “**Post Receivership Disputing Party**”) at least 14 days prior to the subject Hearing.
- 23. **THIS COURT ORDERS** that parties to a Hearing shall have a right to appeal (a “**Post Appeal**”) the decision of the Adjudicator to the Court (the “**Post Appeal Adjudicator**”). At the hearing of a Post Appeal, the Post Appeal Adjudicator’s standard of review of the Adjudicator’s decision of a Post-Receivership Claim shall

be that of an appellate court such that the Adjudicator's decision is only reviewable on the basis of (a) correctness as to questions of law, and (b) palpable and overriding error as to questions of fact.

24. **THIS COURT ORDERS** that both the Adjudicator and the Post Appeal Adjudicator shall have the jurisdiction to:

- (a) award costs against any Post-Receivership Disputing Party or against the Receiver in respect of a Post-Receivership Claim, provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of the Adjudicator's fees;
- (b) direct that a Post-Receivership Disputing Party shall be required to pay a greater proportion of the Adjudicator's fees than the amount provided for in paragraph 22 of this Order; and
- (c) direct that the Receiver shall be required to pay a greater proportion of, as the case may be, the Adjudicator's fees than the amount provided for in paragraph 22 of this Order provided that nothing in this paragraph shall be taken to impose personal liability on Albert Gelman Inc. for any costs or proportion of fees;

25. **THIS COURT ORDERS** that if there is an outstanding cost award (or outstanding cost awards) against the Receiver made under this Order at any time that the Receiver receives funds borrowed or is already in receipt of funds borrowed under

paragraph 20 of the Initial Order, as amended, then the Receiver shall first apply such borrowed and received funds to the payment of such cost award(s).

G. ADMINISTRATIVE ISSUES

26. **THIS COURT ORDERS** that all documents required to be served herein shall be served by electronic mail to the address for service set out in the service list or the Claimant's Lien Documentation.
27. **THIS COURT ORDERS** that the Receiver shall incur no personal liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the within Lien Claims Process, except as may be otherwise ordered or determined in accordance with the Lien Claims Process.
28. **THIS COURT ORDERS** that the Receiver may apply to the Court for directions regarding the carrying out of the within Lien Claims Process.
29. **THIS COURT ORDERS** that within the Lien Claims Process, and participation in it, is without prejudice to the right(s) of any Claimant to commence or continue any claim or proceeding against any person (save for the Receiver) with respect to the issues of the Claimants' priority over any secured creditor or mortgagees, breach of trust, negligence, breach of contract or quantum meruit ("**Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Claimant may have in any such Proceedings. Notwithstanding the above, the Lien Claims Process also does not affect any substantive or procedural rights that any defendant may have to defend Proceedings, save and except that

the defendant may not assert in the Proceedings that the claim of any Claimant ought to be dismissed or stayed on grounds of res judicata (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Claimant asserting a Claim in the Lien Claims Process.

H. FEES, RECEIPTS AND DISBURSEMENTS

30. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from December 21, 2023 to August 4, 2024 be and is hereby approved.
31. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Third Report, the fee affidavit of Bryan Gelman, sworn August 6, 2024, and the Fee affidavit of Beatrice Loschiavo, sworn August 1, 2024, are hereby approved.

I. GENERAL

32. **THIS COURT ORDERS** that the Third Report, the Supplemental Report and the conduct and activities of the Receiver set out therein be and is hereby approved, provided that such approval shall not prevent the Adjudicator or the Post Appeal Adjudicator from making determinations as to the conduct of the Receiver, in its capacity as receiver and manager, in the Lien Claims Process for purposes of a cost award as provided for and contemplated by paragraph 24.
33. **THIS COURT ORDERS** that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Third Report detailed in paragraph 32 above.



Schedule “A” – Proof of Lien Claim Form

PROOF OF CLAIM

Terms not otherwise defined herein shall have the meanings ascribed to them in the order of Justice Cavanagh dated November 5, 2024 (the “Lien Claims Process Order”).

A. PARTICULARS OF THE CLAIMANT:

(1) Full Legal Name of the Claimant (include trade name, if different):

.....

(the “**Claimant**”). The full legal name should be the name of the Claimant notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Lien Claims Process Order.

(2) Full Mailing Address of Claimant: (The mailing address should be the mailing address of the Claimant and not any assignee)

.....

(3) Telephone Number of Claimant:

.....

(4) E-mail Address of Claimant:

.....

(5) Attention (Contact Person):

Has the Claim set out herein been sold, transferred or assigned by the Claimant to another party?

Yes: [] No: []

B. PARTICULARS OF THE ASSIGNEE(S) (IF APPLICABLE)

.....

If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet which contains all of the required information set out below for each assignee.

(1) Full Legal Name of the Assignee:

.....

(2) Full Mailing Address of the Assignee:

.....

(3) Telephone Number of Assignee:

(4) E-mail Address of Assignee:

(5) Attention (Contact Person):

C. PROOF OF CLAIM

THE UNDERSIGNED HEREBY MAKES OATH AND SAYS AS FOLLOWS:

(1) That I:

am a Claimant with respect to real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the “**Property**”) or (if applicable) am the:

.....
(state position or title)

of

.....
(Name of Claimant)

(2) That I have knowledge of all of the circumstances connected with the Claim described and set out below:

(3) The Claimant seeks payment of \$..... [*Insert \$ value of claim*] CAD on account of services and materials supplied to an improvement on the Property **on or after** December 21, 2023 (the Appointment Date) and before June 1, 2024; and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

Has the Claimant registered a lien against the Property on or before the date of the Lien Claims Process Order

Yes: [] No: []

(4) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of Claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **before** December 21, 2023 (the “**Appointment Date**”) and

\$..... on account of interest on the same [*Provide particulars of interest claim and calculation of same*]

(5) The Claimant seeks payment in respect of a lien of \$..... [*Insert \$ value of claim*] CAD registered against the Property on account of services and materials supplied to an improvement on the Property **on or**

after December 21, 2023 (the Appointment Date) and

\$..... on account of interest and legal fees on the same [*Provide particulars of interest claim and calculation of same along with particulars of legal fee claim*]

NOTE: Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as of the date of the Lien Claims Process Order.

D. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim are attached in the form of the Documentation (as defined in the order of Justice Cavanagh, dated November 5, 2024)

SWORN BEFORE ME at the)
)
 _____ in the)
 Province of _____)
 this _____ day of _____)
)
 _____)
 A Commissioner, or Notary Public, etc.)

Name of Deponent

[or if sworn via video conferencing]

SWORN REMOTELY by)
)
 _____ at the)
)
 _____)
 in the _____)
 on _____, 2024)
 in accordance with O. Reg. 431/20,)
 Administering Oath or Declaration Remotely)

A Commissioner, or Notary Public, etc.

Name of Deponent

E. FILING OF CLAIM

This Proof of Claim form must be received by the Receiver, Albert Gelman Inc., by no later than 5:00 p.m. (Eastern Standard time) on December 5, 2024 (the “**Claims Bar Date**”) at the following physical address or email address:

Albert Gelman Inc., in its capacity as court-appointed receiver
of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership
(the “**Debtors**”)

250 Ferrand Drive, Suite 403
Toronto, ON M3C 3G8
Attention: Terry Scott
tscott@albertgelman.com

Failure to file your Proof of Claim and any required documentation as directed in relation to any Claim by 5:00 p.m. (Eastern Standard Time) on the Claims Bar Date will result in your Claim being forever barred and extinguished, and you will be prohibited from making or enforcing that Claim against the Property, the Receiver or the Debtors and shall not be entitled to further notice or distribution, if any, in respect of that Claim, and shall not be entitled to participate as a Claimant in these proceedings in respect of that Claim.

Schedule "1" – Documentation

- (a) copy of the Claimant's registered construction lien and any written notice of lien;
- (b) copies of the Claimant's Statement of Claim and Certificate of Action;
- (c) documentation evidencing the last date on which the Claimant provided service, materials or labour to the applicable improvement in the case of a subcontractor or the date of completion, abandonment or termination of the contract in the case of a contractor;
- (d) a copy or particulars of any contract, subcontract, purchase order or agreement upon which the Claimant assert its materials, services and labour were provided under (the "**Contract**"), including the names of the parties to the Contract and the date it was entered into;
- (e) a statement of account under the Contract and particulars and documents substantiating the quantum of the Claim, including:
 - (i) the price of the Contract;
 - (ii) the total amount invoiced by the Claimant, including a copy of the invoices and dates the invoices were sent;
 - (iii) the total amount paid to the Claimant under the Contract, including the date and amount of payments received;
 - (iv) the amount of the Claim that comprises of holdback and amounts invoiced within the scope of the Contract; and
 - (v) the amount of the Claim that comprises of extra to the Contract, along with any relevant documentation substantiating the extra amount sought, such as notice of extras, request for extras, request for change orders, executed change orders, executed change directives, amendments or purchase orders and time and material sheets;
- (f) statutory declaration(s) that attest to the work is complete and performed is in accordance or in compliance with the Contract;
- (g) for Claimants who operated on a time and materials (T&M) basis, evidence of authorization to perform work;
- (h) for Claimants who provided materials, statutory declaration(s) that attest the materials were ordered/requested and delivered;
- (i) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor;

- (j) documentation evidencing service, materials and labour provided to the applicable improvement including, but not limited to, the following:
 - (i) completed and approved timesheets of employees and subcontractors;
 - (ii) subcontractor invoices;
 - (iii) payroll registers and records;
 - (iv) bank statements, electronic fund transfer receipts and cancelled cheques evidencing remittances by the Claimant to employees and subcontractors;

- (k) all documents related to the fulfillment of work agreements including, but not limited to, the following:
 - (i) WSIB clearance certificates for the dates the work was performed;
 - (ii) proof of insurance showing coverage for the dates the work was performed;
 - (iii) shop drawings;
 - (iv) as built(s);
 - (v) schematics;
 - (vi) warranties and guarantees; and,
 - (vii) third party verifications / certifications;

- (l) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with the Lien Claim Process Order.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Lien Claims Process)

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Lawyers for the Receiver, Albert Gelman Inc.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

Court File No. CV-23-00710795-00CL
2011836 ONTARIO CORP. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**SUPPLEMENTAL MOTION RECORD OF THE
RECEIVER,
ALBERT GELMAN INC.**

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