

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

B E T W E E N:

MELVYN EISEN, TRUSTEE

Applicant

- and -

WOODINGTON ESTATES INC.

Respondent

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

NOTICE OF MOTION

The Applicant will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 6, 2025 at 10:00 a.m. (Toronto Time) to be heard together with the Receiver’s motion for approval of the proposed Sale Process and Ancillary Relief Order (as defined herein), or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1(1) because it is made without notice;
- In writing as an opposed motion under subrule 37.12.1(4);
- In person unless otherwise directed by the Court;
- By telephone conference;
- By video conference;

THE MOTION IS FOR:

1. An Order that the business and assets of the Golf Club (as defined herein) shall be included in the sale process sought to be approved by the Receiver (as defined herein) pursuant to the proposed Sale Process and Ancillary Relief Order (the “**Sale Process**”) at the motion returnable on March 6, 2025; and
2. Such further and other relief as this Court deems just;

THE GROUNDS FOR THIS MOTION ARE:

The Real Property

3. Woodington Estates Inc. (“**Woodington Estates**”) is the registered owner of the real property known municipally as 7110 4th Line, Tottenham, Ontario (the “**Real Property**”);
4. Joseph Chetti (“**Chetti**”) is the sole director and officer of Woodington Estates;
5. Pursuant to an agreement of purchase and sale dated December 22, 2017 (the “**Golf Course Lands APS**”), Rockland Estates Inc., a company controlled by Chetti, agreed to acquire the Real Property from Southridge Vistas Inc.;
6. Pursuant to an assignment agreement dated January 11, 2019 (the “**Assignment Agreement**”), Rockland Estates Inc. assigned the Golf Course Lands APS to Woodington Estates;

The Golf Club

7. A golf facility known as the ‘Woodington Lake Golf Club’, which consists of a thirty-six hole golf facility, a large clubhouse and a golf equipment shop (the “**Golf Club**”), is situated on, and operates from, the Real Property;

8. Pursuant to an agreement of purchase and sale dated December 22, 2017 (the “**Golf Club APS**”), Rockland Estates Inc. agreed to acquire the Golf Club business assets from Woodington Lake Golf Club Inc.;

9. Pursuant to the Assignment Agreement, Rockland Estates Inc. assigned the Golf Club APS to Woodington Management Inc. (“**Woodington Management**”), a guarantor under the Eisen Mortgage (as defined herein);

10. Although the business name ‘Woodington Lake Golf Club’ was previously registered by Woodington Management, the business name ‘Woodington Lake Golf Club’ is currently registered to 1000736785 Ontario Limited (“**785**”);

11. Frances Chetti, the spouse of Chetti, is the sole director of 785;

Eisen Loan and Security

12. Melvyn Eisen (“**Eisen**”) is a private lender carrying on the business of mortgage lending on behalf of investors by way of syndicated loans in which Eisen acts as trustee for the lenders;

13. Eisen made a syndicated loan to Woodington Estates in the amount of \$11.5 million on January 9, 2019 (the “**Eisen Loan**”);

14. The Eisen Loan was to be used by Woodington Estates for various purposes including: (i) to purchase the Real Property; (ii) to fund improvements to the Golf Club; and (iii) to provide additional working capital to Woodington Estates;

15. In addition to Eisen, the participants in the syndicated Eisen Loan included, among other parties, Windsor Private Capital Limited Partnership, and Windsor II Limited Partnership which collectively advanced approximately \$10.5 million in the aggregate;

16. The Eisen Loan matured on March 1, 2020 and was not repaid on maturity;

17. As of November 29, 2024, the amount owing, for principal and interest, under the Eisen Loan was approximately \$12.3 million (the “**Eisen Indebtedness**”);

18. The Eisen Indebtedness is secured by (collectively, the “**Eisen Security**”): (i) a charge/mortgage in favour of Eisen in the principal amount of \$11.5 million registered on title to the Real Property on January 11, 2019 (the “**Eisen Mortgage**”); and (ii) an assignment of rents, notice of which was registered on title to the Real Property on January 11, 2019 (“**Assignment of Rents**”);

19. In addition to the Eisen Security, each of Chetti, Elena Salvatore, and Woodington Management jointly and severally guaranteed Woodington Estates’ obligations under the Eisen Mortgage;

Goldy Loan and Security

20. Woodington Estates is indebted to Goldy Metals Holdings Inc. (“**Goldy**”) pursuant to a Commitment Letter dated July 24, 2019, in the principal amount of \$5.5 million (the “**Goldy Loan**”);

21. The Goldy Loan matured on August 12, 2020 and was not repaid upon maturity;

22. As security for the Goldy Loan, Woodington Estates provided a mortgage in the principal amount of \$5.5 million registered on title to the Real Property on August 12, 2019 (the “**Goldy Mortgage**”), along with an assignment of rents and a general security agreement over all contracts, chattels, fixtures and leasehold improvements located at or upon or relating to Real Property;

23. On August 9, 2023, Goldy initiated power of sale proceeding (the “**Goldy Power of Sale Proceedings**”) in respect of the Real Property and arranged for the Real Property to be listed for sale on December 29, 2023;

Receivership Proceedings of Woodington Management

24. Pursuant to an application brought by the Applicants, the Court granted an Order on December 2, 2024 (the “**Receivership Order**”) appointing Albert Gelman Inc. (“**AGI**”) as receiver (the “**Receiver**”), without security, over all of the assets, undertakings and properties of Woodington Estates, including the Real Property, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, RSO 1990, c. C.43, as amended (the “**CJA**”);

25. Pursuant to the Receivership Order, the Receiver is authorized to market any or all of the property of Woodington Estates (the “**Woodington Estates Property**”), including advertising and soliciting offers in respect of the Woodington Estates Property or any part of parts thereof and negotiating such terms and conditions of sale as the Receiver in discretion may deem appropriate; with Joseph Chetti, the principal of Woodington Estates, and his representatives having a consultative role in the development of the marketing and sale plan for the Woodington Estates Property;

Fraudulent Conveyance of the Golf Club Assets to 785

26. The Receiver requested copies of the agreement(s) supporting the transfer/conveyance of the Golf Club assets from Woodington Management to 785 to, among other things, confirm the purpose and validity of the transaction, as well as to confirm what consideration, if any was exchanged, but the Receiver did not receive a response;

27. The transfer or conveyance of the Golf Club assets to 785 occurred at a time when the Eisen Mortgage had matured and was in default, following the initiation of the Goldy Power of Sale Proceedings, and nearly two-weeks prior to the Real Property being listed for sale in connection therewith;

28. The circumstances surrounding the transfer/conveyance of the Golf Club assets by Woodington Management to 785 give rise to the inference that it was a fraudulent conveyance made with the intention of defeating, hindering, delaying or defrauding creditors or others, and/or may be a transfer at undervalue;

Disposition of the Real Property free and clear of the Lease

29. On January 8, 2025, counsel to Woodington Estates provided the Receiver with a three-page lease in respect of the Real Property entered into between Woodington Estates (as landlord) and 785 (as tenant), dated December 15, 2023, and signed on behalf of both parties by Chetti (the “Lease”);

30. The Lease contemplates a 10-year term commencing on April 2, 2020 (which is over three years prior to the incorporation of 785), a rent-free period for the first five years of the term, after

which 785 is to pay a monthly rent of \$10,000, and the requirement for 785 to make a \$4 million investment towards renovating and enhancing the Real Property;

31. Standard Charge Terms No. 200033, which are incorporated by reference into the Eisen Mortgage and the Goldy Mortgage, provide that Woodington Management shall not commit any act, deed, matter or thing whatsoever whereby or by means whereof the Real Property, or any part or parcel thereof, is or shall or may be in any way charged, affected or encumbered in title, estate or otherwise;

32. The existence of the Lease, and its terms, impairs the value of the Real Property, and has the effect of potentially hindering, delaying and defeating Woodington Estates' creditors;

33. The Lease was executed by Woodington Estates after the Eisen Mortgage and Goldy Mortgage had been granted and were in default;

34. Neither Eisen nor Goldy gave express or implied consent to Woodington Estates to enter into the Lease nor were they even aware of the Lease;

35. In terms of legal priorities, the Eisen Mortgage and the Goldy Mortgage have legal priority over any interest that 785 has in the Real Property pursuant to the Lease;

36. If either Eisen or Goldy had proceeded by way of power of sale, they could sell the Real Property to a purchaser free and clear of the leasehold interest of 785;

37. In light of the circumstances surrounding the transfer of the Golf Club to 785 and the execution of the Lease, and given their adverse impact on the Receiver's proposed Sale Process,

this Court should order that the Golf Club shall be included in the Sale Process and that the Receiver may sell the Real Property free and clear of the Lease;

OTHER GROUNDS:

38. The grounds set out in the First Report of the Receiver dated January 27, 2025 (the “**First Report**”);

39. Sections 96 and 243 of the BIA, as amended;

40. Section 101 of the CJA, as amended;

41. Section 2 of the *Fraudulent Conveyances Act*, R.S.O. 1990, F.29;

42. Rules 1.04, 2.03, 3.02, 30, 37 and 39 of the *Ontario Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

43. 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 this motion:

- (a) the First Report and the appendices thereto; and
- (b) such further and other evidence as counsel may advise and this Court may permit.

February 10, 2025

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

Harvey Chaiton (LSO No. 21592F)
Tel: (416) 218-1129
Email: harvey@chaitons.com

Danish Afroz (LSO No. 65786B)
Tel: (416) 218-1137
Email: dafroz@chaitons.com

Lawyers for the Applicant,
Melvyn Eisen, Trustee

MELVYN EISEN, TRUSTEE
Applicant

-and-

WOODINGTON ESTATES INC.
Respondent

Court File No.: CV-24-00725570-00CL

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Proceeding commenced at Toronto

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CHAITONS LLP

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

Harvey Chaiton (LSO#: 21592F)

Tel: (416) 218-1129

Email: harvey@chaitons.com

Danish Afroz (LSO#: 65786B)

Tel: (416) 218-1137

Email: dafroz@chaitons.com

Lawyers for the Applicant
Melvyn Eisen, Trustee