

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**CMLS FINANCIAL LTD.**

Applicant

and

**BRONTE LAKESIDE LTD. and BRONTE LIMITED PARTNERSHIP**

Respondents

**RESPONDING FACTUM OF THE RESPONDENTS  
BRONTE LAKESIDE LTD. and BRONTE LIMITED PARTNERSHIP**

November 27, 2025

**BE LAW LLP**

Suite 700 - 30 St. Patrick Street  
Toronto, ON M5T 3A3

**Sara J. Erskine** (LSO #: 46856G)

Email: [sara@be-law.ca](mailto:sara@be-law.ca)

Tel: 416-597-5408

**Jared S. Rosenbaum** (LSO #: 74769U)

Email: [jared.rosenbaum@be-law.ca](mailto:jared.rosenbaum@be-law.ca)

Tel: 647-556-7992

Lawyers for the Respondents,  
Bronte Lakeside Ltd. and Bronte Limited  
Partnership

**SERVICE LIST**

<p>TO:</p>	<p><b>BLANEY MCMURTRY LLP</b> Barristers a&amp; Solicitors 2 Queen Street East, Suite 1500 Toronto, ON, M5C 3G5</p> <p><b>Timothy R. Dunn (LSO #34249I)</b> Tel: 416-597-4880 Email: <a href="mailto:tdunn@blaney.com">tdunn@blaney.com</a></p> <p><b>Stephen Gaudreau (LSO #65895M)</b> Tel: 416-596-4285 Email: <a href="mailto:sgaudreau@blaney.com">sgaudreau@blaney.com</a></p> <p>Lawyers for the Applicant</p>
<p>AND TO:</p>	<p><b>BRONTE LAKESIDE LTD.</b> <b>c/o BE LAW LLP</b> 30 St. Patrick Street Suite 700 Toronto, ON, M5T 3A3</p> <p><b>Sara Erskine (LSO #46856G)</b> Email: <a href="mailto:sara@be-law.ca">sara@be-law.ca</a> Tel: 597-5408</p> <p>Lawyers for the Respondents</p>
<p>AND TO:</p>	<p><b>BRONTE LIMITED PARTNERSHIP</b> 2110 -1066 West Hastings Street Vancouver, BC, V6E 3X2</p> <p><b>c/o BE LAW LLP</b> 30 St. Patrick Street Suite 700 Toronto, ON, M5T 3A3</p> <p><b>Sara Erskine (LSO #46856G)</b> Email: <a href="mailto:sara@be-law.ca">sara@be-law.ca</a> Tel: 597-5408</p> <p>Lawyers for the Respondents</p>
<p><b>SECURED DEBTORS</b></p>	

AND TO:	<b>WESTMOUNT GUARANTEE SERVICES INC.</b> 600 Cochrane Drive Suite 205 Markham, ON, L3R 5K3
AND TO:	<b>AVIVA INSURANCE COPANY OF CANADA</b> 600 Cochrane Drive Suite 205 Markham, ON, L3R 5K3
AND TO:	<b>LIBERTY MUTUAL INSURANCE COMPANY</b> 600 Cochrane Drive Suite 205 Markham, ON, L3R 5K3
<b>LIEN CLAIMANTS</b>	
AND TO:	<b>MILLER THOMSON LLP</b> 115 King Street South Suite 300 Waterloo, ON, N2J 5A3  <b>Nabiel Dawood (LSO # 84472K)</b> Tel: (519) 593-3232 Email: <a href="mailto:ndawood@millerthomson.com">ndawood@millerthomson.com</a>  <i>Lawyers for TM Platforms Inc.</i>
AND TO:	<b>LOOPSTRA NIXON LLP</b> 135 Queens Plate Drive Suite 600 Toronto, ON, M9W 6V7  <b>Christophe Shammass (LSO # 71057C)</b> Tel: (416)746-4710 Email: <a href="mailto:cshammass@ln.law">cshammass@ln.law</a>  <i>Lawyers for Track International Green Energy Resources Inc.</i>
AND TO:	<b>BROOKLYN CONTRACTING INC.</b> c/o Walker Law Professional Corporation,1 Adelaide Street East, Suite 2501, Toronto, ON, M5C 2V9  <b>Andrew Francis (LSO # 72555R)</b> Tel: (647) 342-2334 ext. 303

	Email: <a href="mailto:afrancis@tcwalkerlawyers.com">afrancis@tcwalkerlawyers.com</a>
AND TO:	<b>SULEMAN LAW PROFESSIONAL CORPORATION</b> Barristers, Solicitor & Notary Public 100 Matheson Blvd. East Unit 101 Mississauga, ON, L4Z 2G7  Saad Suleman (LSO # Tel: (905) 604-8828 Email: <a href="mailto:ssuleman@sulemanlaw.com">ssuleman@sulemanlaw.com</a>  <i>Lawyers for Delta Group</i>
<b>GOVERNMENT ENTITY</b>	
AND TO:	<b>ATTORNEY GENERAL OF CANADA</b> Department of Justice of Canada Ontario Regional Office 120 Adelaide Street West Suite 400 Toronto, ON, M5H 1T1  <b>Kelly Smith Wayland (LSO # 40290A)</b> Email: <a href="mailto:Kelly.SmithWayland@justice.gc.ca">Kelly.SmithWayland@justice.gc.ca</a> Email: <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a> Tel: (647) 533-7183  Lawyers for the Minister of National Revenue
AND TO:	<b>CANADA REVENUE AGENCY</b> Shawinigan-Sud National Verification and Collection Centre 4695 Shawinigan-Sud Blvd. Shawinigan-Sud, QC, G9P 5H9  Email: <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a> Tel: 1-866-248-1576 Fax: 833-697-2390
AND TO:	<b>MINISTRY OF FINANCE</b> Ministry of the Attorney General (Ontario) Civil Law Division - Legal Services Branch 6-33 King Street West Oshawa, ON, L1H 8H5  <b>Steven Groeneveld (LSO # 45420I)</b>

	<p>Email: <a href="mailto:steven.groeneveld@ontario.ca">steven.groeneveld@ontario.ca</a> Tel: (905) 431 8380 Fax: (905) 436 4510</p>
AND TO:	<p><b>MINISTRY OF FINANCE</b> Ministry of the Attorney General (Ontario) Collections Branch – Bankruptcy and Insolvency Unit 6-33 King Street West Oshawa, ON, L1H 8H5</p> <p>Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a> Tel: 1 866 668-8297</p>
AND TO:	<p><b>OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY (CANADA)</b> 151 Yonge Street 4th Floor Toronto, ON M5C 2W7</p> <p>Email: <a href="mailto:ic.osbservice-bsfservice.ic@canada.ca">ic.osbservice-bsfservice.ic@canada.ca</a></p>

**TABLE OF CONTENTS**

**PART I – OVERVIEW ..... 7**

**PART II – THE FACTS ..... 8**

**PART III – THE ISSUES..... 12**

**PART IV – THE LAW AND ARGUMENT..... 12**

**PART V – RELIEF SOUGHT/ORDER REQUESTED..... 15**

**SCHEDULE “A” AUTHORITIES CITED..... 17**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**CMLS FINANCIAL LTD.**

Applicant

and

**BRONTE LAKESIDE LTD. and BRONTE LIMITED PARTNERSHIP**

Respondents

**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**

**FACTUM OF THE RESPONDENTS  
BRONTE LAKESIDE LTD. and BRONTE LIMITED PARTNERSHIP**

**PART I – OVERVIEW**

1. The Applicant, CMLS Financial Ltd. (“CMLS”) seeks an Order appointing a receiver over the property of the Respondents, Bronte Lakeside Ltd. and Bronte Limited Partnership (together, “Bronte”) at 2432-2452 Lakeshore road West, Oakville, Ontario L6L 3B7 and 77, 87, and 93 Bronte Road, Oakville, Ontario L6L 3B7 (the “Property”), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (“BIA”) and section 101 of the *Courts of Justice Act*.
2. Bronte submits that, in all of the circumstances of this case, it is not just and convenient to appoint a court-appointed receiver over the Property.

## PART II – THE FACTS

### A. Background

3. The respondents are in the business of real estate development and are developing the Property.<sup>1</sup> The project to develop the Property is structured to allow for equity investment by way of limited partnership units.<sup>2</sup> Bronte GP Inc. is the general partner (“GP”).<sup>3</sup> It sells limited partnership units to certain limited partners (“LPs”) which are investment in the nature of an equity investment.<sup>4</sup>

4. The Applicant, CMLS holds security against the Property and other assets of Bronte Lakeside Ltd. pursuant to a mortgage agreement registered as Instrument No. HR2075741 on the Property.

5. Due to a decline in the real estate development market, Bronte Lakeside Ltd. experienced difficulty in securing sufficient investment in the development project at the Property to pay some construction contractors and property taxes.<sup>5</sup>

6. Beginning in June 2025, certain contactors registered construction liens against the Property.<sup>6</sup> The registration of these liens breached covenants under the mortgage between Bronte and CMLS.<sup>7</sup>

---

<sup>1</sup> Affidavit of Sarmad Ganni, sworn November 24, 2025 [“Ganni Affidavit”] at para 3.

<sup>2</sup> *Ibid.* at para 4.

<sup>3</sup> *Ibid.* at para 4.

<sup>4</sup> *Ibid.* at para 4.

<sup>5</sup> *Ibid.* at para 6.

<sup>6</sup> *Ibid.* at para 7.

<sup>7</sup> *Ibid.* at para 7.

7. On or about August 8, 2025, CMLS gave notice to Bronte that the construction liens constituted a default and demanded that the liens be discharged by August 18, 2025, failing which CMLS would demand repayment of the indebtedness.<sup>8</sup>

8. Since the construction liens were registered, Bronte has worked diligently to raise capital through an investment to secure sufficient funds to pay out the construction liens and have them discharged.<sup>9</sup> The principals of Bronte have kept CMLS apprised of these efforts.<sup>10</sup>

9. For the past several months, the partners of Bronte have been negotiating a transaction with a potential investor, Elite M.D. Developments Inc. (“Elite”) wherein Elite would acquire one group of partners’ interest and inject capital into the project to payout the construction liens and outstanding municipal taxes.<sup>11</sup>

10. As a result of certain delays in the completion of a letter of intent with Elite, Bronte has been required to change its strategy to negotiate an LP investment with Elite or a company to be incorporated to hold the LP investment.<sup>12</sup>

### **B. Construction Liens Will Be Discharged and Municipal Taxes Will be Paid**

11. The Respondents are negotiating a capital investment with Elite, or another corporation to be incorporated for the investment, that will be named as an LP investor.<sup>13</sup> The amount of the

---

<sup>8</sup> *Ibid.* at para 8.

<sup>9</sup> *Ibid.* at para 9.

<sup>10</sup> *Ibid.* at para 9.

<sup>11</sup> *Ibid.* at para 10.

<sup>12</sup> *Ibid.* at para 12.

<sup>13</sup> *Ibid.* at para 13.

investment will be sufficient to discharge the outstanding construction liens and pay the municipal taxes which are in arrears.<sup>14</sup>

12. The payment of the taxes and discharge of the liens will take place after the delivery of this factum but before the return of the application on December 2, 2025. Further confirmations will be provided to the Court before the return of the application.

### **C. The Bashi Loan Does Not Violate the Respondents' Covenant with CMLS**

13. On Thursday November 20, 2025, counsel to the Applicant wrote to the Respondents' lawyer Sara J. Erskine, advising that: "we have been informed that in April 2024, the Beneficial Owner obtained additional financing in the amount of \$590K for the Project and granted a second mortgage against the Bronte Property as security for the financing...This is a clear additional default under the Commitment Letter and the Mortgage."<sup>15</sup> This is not accurate.

14. The \$590,000 loan (the "**Bashi Loan**") was for the purposes of paying a permit on the project to further the development.<sup>16</sup> The Bashis are LPs in the project, so the intention of the advancement of funds was always of the benefit of the project and preserve the value of LPs so they could continue the development.<sup>17</sup>

15. In any event, the CMLS Financial Commitment Letter states as a general condition titled "Restrictions on Further Financing":

---

<sup>14</sup> *Ibid.* at para 14.

<sup>15</sup> *Ibid.* at para 17.

<sup>16</sup> *Ibid.* at para 20.

<sup>17</sup> *Ibid.* at para 20.

A notice, registered on title to the property, pursuant to section 118 of the Land Titles Act (Ontario), restricting the Borrower from further charging the property without the prior written consent of the lender.<sup>18</sup>

16. The parcel register for the Property reflects that the Bashi Loan is not registered on title to the Property.<sup>19</sup> Accordingly, there has been no breach of the terms of the CMLS mortgage.

17. While there was a commitment letter executed in July 2025 that includes a second mortgage, the parties agreed that it would be held in escrow and not registered against title to the Property.<sup>20</sup> There is no breach of the mortgage covenant with CMLS because no additional charge has been registered on title to the Property.<sup>21</sup>

#### **D. Key Features of the CMLS Mortgage**

18. Pursuant to the terms of a commitment letter dated November 26, 2024, and accepted by Bronte on November 27, 2024, CMLS made a loan to Bronte in the principal amount of \$19,100,000.<sup>22</sup>

19. The term of the loan was for 12 months with a maturity date of January 1, 2026, and it provided for payment only of interest on a monthly basis, with interest calculated at 285 basis points above the Royal Bank of Canada Prime Rate, with a floor rate of 830 basis points.<sup>23</sup>

---

<sup>18</sup> *Ibid.* at para 18.

<sup>19</sup> *Ibid.* at para 19.

<sup>20</sup> *Ibid.* at para 22.

<sup>21</sup> *Ibid.* at para 22.

<sup>22</sup> Affidavit of Jeffrey Burt, sworn October 9, 2025 [“Burt Affidavit”] at para 9.

<sup>23</sup> *Ibid.* at para 10.

20. An interest reserve in the amount of \$1,680,000 was held back from the loan to provide for a reserve from which monthly interest payments under the loan would be made.<sup>24</sup> This means that all interest owing has been prepaid by Bronte. No amounts are due and owing on the mortgage before the maturity date of January 1, 2026.

### **PART III – THE ISSUES**

21. There is one issue on this motion: whether it is “just and convenient” for this court to appoint a court-appointed receiver over Bronte’s Property.

### **PART IV –LAW AND ARGUMENT**

22. Under section 243 of the BIA and section 101 of the *Courts of Justice Act*, the court may appoint a receiver if it is “just and convenient” to do so.<sup>25</sup>

23. In determining whether the appointment of a receiver is just and convenient, the court must examine all of the circumstances such as the nature of the property, the rights and interests of all parties in relation thereto, the potential costs, the relationship between the debtor and the creditor, the likelihood of maximizing the return on and preserving the subject property, and the best way of facilitating the work and duties of the receiver.<sup>26</sup>

24. In the recent case of *Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and*

---

<sup>24</sup> *Ibid.* at para 13.

<sup>25</sup> [Bank of Nova Scotia v. Freure Village of Clair Creek, 1996 CanLII 8258 \(ONSC\)](#), para. 10 and [Bank of Montreal, v. Carnival National Leasing Limited, 2011 ONSC 1007](#), para. 23-24.

<sup>26</sup> [Bank of Nova Scotia v. Freure Village of Clair Creek, 1996 CanLII 8258 \(ONSC\)](#), para. 10 and 12, and [Anderson v. Hunking, 2010 ONSC 4008](#), at para. 15.

*Chantal Bock*, Osborne J set out factors which have been taken into account in the determination of whether it is appropriate to appoint a receiver:

- (a) Whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- (b) The risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- (c) The nature of the property;
- (d) The apprehended or actual waste of the debtor's assets;
- (e) The preservation and protection of the property pending judicial resolution;
- (f) The balance of convenience to the parties;
- (g) The fact that the creditor has a right to appointment under the loan documentation;
- (h) The enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- (i) The principle that the appointment of receiver should be granted cautiously;
- (j) The consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- (k) The effect of the order upon the parties;
- (l) The conduct of the parties;
- (m) The length of time that a receiver may be in place;
- (n) The cost to the parties;
- (o) The likelihood of maximizing return to the parties; and
- (p) The goal of facilitating the duties of the receiver.<sup>27</sup>

---

<sup>27</sup> [\*Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and Chantal Bock, 2022 ONSC 6186\*](#) at para 25.

25. The fact that a credit agreement permits a creditor to seek the appointment of a receiver “to the extent permitted by law” is just one, albeit an “important factor” to consider in the just and convenient analysis.<sup>28</sup>

26. These factors militate in favour of not appointing a receiver in these circumstances. The statutory requirement that it be just and convenient that the receivership order be made requires a balancing of interests in every case. Here, the significant detriment to the Respondent arising from the appointment of a receiver should lead the court to decline the relief sought by the Applicant.

27. No irreparable harm will result to CMLS if a receiver is not appointed. All of the interest on the CMLS loan is prepaid.<sup>29</sup> Accordingly, CMLS will be paid all of the interest which is due and owing to it.<sup>30</sup> There is no prejudice to CMLS in terms of missed interest payments on the mortgage.

28. Moreover, the CMLS loan is maturing at the beginning of January, so there is no prejudice to CMLS if a receiver is not appointed because its collateral is not in jeopardy or deteriorating.<sup>31</sup>

29. The nature of the property is real property, which is not wasting, and there is no need to protect the property pending judicial resolution. CMLS’ security is fully protected by the Charge registered against the Property; and Bronte is working diligently to secure financing to payoff the constructions liens and municipal taxes by working with Elite.

---

<sup>28</sup> [\*Farm Credit Canada v. Kapital Produce Ltd., et al.\*, 2025 ONSC 2403](#) at para 35.

<sup>29</sup> Ganni Affidavit at para 26.

<sup>30</sup> *Ibid.* at para 26.

<sup>31</sup> *Ibid.* at para 25.

30. In terms of potential costs, the appointment of a receiver will not maximize value, and it is not the best way to protect the interests of all stakeholders.<sup>32</sup> In particular, the appointment of a receiver will be extremely costly.<sup>33</sup> This will not maximize the proceeds available to satisfy the CMLS mortgage.

31. Much like in *Farm Credit Canada v Kapital Produce Ltd. et al.*, there is “no evidence of harm, urgency, or any real or perceived risk of dissipation of the Debtor’s assets or diminution in value of the assets if a receiver is not appointed.”<sup>34</sup>

32. In all of the above circumstances, it is not just and convenient to appoint a court-appointed receiver over the Property.

#### **PART V – RELIEF SOUGHT/ORDER REQUESTED**

33. Bronte submits that the Application to appoint a receiver should be dismissed with costs.

---

<sup>32</sup> *Ibid.* at para 27.

<sup>33</sup> *Ibid.* at para 27.

<sup>34</sup> [\*Farm Credit Canada v Kapital Produce Ltd. et al.\*, 2025 ONSC 2403](#) at para 40.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** 27th day of November, 2025



---

SARA J. ERSKINE

**BE LAW LLP**

Suite 700 - 30 St. Patrick Street  
Toronto, ON M5T 3A3

**Sara J. Erskine** (LSO #: 46856G)

Email: [sara@be-law.ca](mailto:sara@be-law.ca)

Tel: 416-597-5408

**Jared S. Rosenbaum** (LSO #: 74769U)

Email: [jared.rosenbaum@be-law.ca](mailto:jared.rosenbaum@be-law.ca)

Tel: 647-556-7992

Lawyers for the Respondents,  
Bronte Lakeside Ltd. and Bronte Limited  
Partnership

**SCHEDULE “A”**

**AUTHORITIES CITED**

1. [\*Bank of Nova Scotia v. Freure Village of Clair Creek\*, 1996 CanLII 8258 \(ONSC\)](#)
2. [\*Bank of Montreal, v. Carnival National Leasing Limited\*, 2011 ONSC 1007](#)
3. [\*Anderson v. Hunking\*, 2010 ONSC 4008](#)
4. [\*Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and Chantal Bock\*, 2022 ONSC 6186](#)
5. [\*Farm Credit Canada v Kapital Produce Ltd. et al.\*, 2025 ONSC 2403](#)

I certify that I am satisfied as to the authenticity of every authority cited in the factum.

27th day of November, 2025



---

SARA J. ERSKINE

**BE LAW LLP**

Suite 700 - 30 St. Patrick Street  
Toronto, ON M5T 3A3

**Sara Jane Erskine** (LSO #: 46856G)

Email: [sara@be-law.ca](mailto:sara@be-law.ca)

Tel: 416-597-5408

**Jared S. Rosenbaum** (LSO #: 74769U)

Email: [jared.rosenbaum@be-law.ca](mailto:jared.rosenbaum@be-law.ca)

Tel: 647-556-7992

Lawyers for the Respondents,  
Bronte Lakeside Ltd. and Bronte Limited  
Partnership

**CMLS FINANCIAL LTD.**  
**Applicant**

-and- **BRONTE LAKESIDE LTD. et al.**  
**Respondents**

**Court File No. CV-25-00753553-0000**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
TORONTO

**RESPONDING FACTUM OF THE  
RESPONDENTS BRONTE LAKESIDE LTD. and  
BRONTE LIMITED PARTERSHIP**

**BE LAW LLP**

Suite 700 - 30 St. Patrick Street  
Toronto, ON M5T 3A3

**Sara Jane Erskine** (LSO #: 46856G)

Email: [sara@be-law.ca](mailto:sara@be-law.ca)

Tel: 416-597-5408

**Jared S. Rosenbaum** (LSO #: 74769U)

Email: [jared.rosenbaum@be-law.ca](mailto:jared.rosenbaum@be-law.ca)

Tel: 647-556-7992

Lawyers for the Respondents,  
Bronte Lakeside Ltd. and Bronte Limited Partnership

Email for party served:

Mr. Timothy Dunn: [tdunn@blaney.com](mailto:tdunn@blaney.com)