

**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

FACTUM OF THE RECEIVER (APPOINTING ARBITRATOR)

February 18, 2026

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.

TO: Service List

PART I. OVERVIEW

1. In this Motion, Albert Gelman Inc. (“**AGI**”), the receiver and manager (in such capacity, the “**Receiver**”) of 2011836 Ontario Corp. (“**201**”) and Jefferson Properties Limited Partnership (“**JPLP**” and, together with 201, the “**Debtors**”) seeks an Order appointing the Honourable Justice Russell Juriansz as the sole arbitrator of a proposed arbitration (the “**Arbitration**”) between the Receiver and certain purchasers under agreements of purchase and sale for condominium units in the project under receivership (the “**Project**”).

2. In 2021, the Debtors entered into agreements of purchase and sale with certain individuals (collectively, the “**Homebuyers**”) for the purchase of stacked condominium units in the Project (collectively, the “**Contracted Units**”), which agreements and Contracted Units now form the basis of the Arbitration.

3. The Receiver takes the position that the Homebuyers defaulted under their agreements of purchase and sale (collectively, the “**Agreements**”) by failing to take occupancy of the Contracted Units, despite the Receiver performing the Debtors’ obligations under these Agreements by obtaining occupancy permits from the City of Richmond Hill for the Contracted Units by the required outside occupancy date.

4. The Receiver now seeks to have the Debtors’ claims against the Homebuyers adjudicated on a consolidated basis through the Arbitration. Such an arbitration proceeding would be:

- (a) consistent with the intent of the Agreements;

- (b) an efficient means of dispute resolution that would promote judicial economy; and
 - (c) consistent with the objectives of the *Bankruptcy and Insolvency Act* (the “**BIA**”).
5. Accordingly, the Receiver recommends that the Court make an Order appointing Justice Juriansz as sole arbitrator of the Arbitration and direct that the Arbitration be heard on a consolidated basis.
6. Additionally, the Receiver requests that the Court:
- (a) Approve the activities of the Receiver set out in the Seventh Report of the Receiver dated November 21, 2025 (the “**Seventh Report**”) and the First Supplement to the Seventh Report of the Receiver dated December 9, 2025 (the “**First Supplement**”) and together with the Seventh Report, the “**Reports**”); and
 - (b) Seal the confidential appendices (the “**Confidential Appendices**”) to the First Supplement.

PART II. FACTS

A. Background

7. On December 21, 2023, Justice Cavanagh appointed AGI as Receiver of the Debtors.¹ JPLP is a limited partnership established for the purpose of constructing the

¹ Appointment Order, Appendix A to the Seventh Report, Receiver’s Motion Record (“**RMR**”), Tab 2, p. 23 ([E18818](#)).

Project located at real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the “**Real Property**”).²

8. The Project consists of 96 residential units, being 60 stacked condominium townhome units (the “**Stacked Units**”) and 36 freehold townhome units (the “**Freeholds**”) and, together with the Stacked Units, the “**Units**”).³

B. The Project and the Agreements

9. In 2021, the Debtors entered into Agreements.⁴

10. With the exception of the identity of the purchasers, the purchase price and certain extras, the Agreements are all substantially identical to one another.⁵

11. The Agreements contemplated that closing would take place in two stages:

- (a) On or before March 28, 2025, an occupancy closing, in which the Respondents would take possession of their Contracted Unit and commence paying occupancy fees to JPLP; and
- (b) On a date to be set by JPLP, which date would follow the occupancy closing, a title closing, in which Respondents would obtain title to their Contracted Unit in consideration for paying the purchase price set out in the Agreement⁶.

² Seventh Report at para. 1, RMR, Tab 2, p. 14 ([E18809](#)).

³ Seventh Report at para. 3 RMR, Tab 2, p. 14 ([E18809](#)).

⁴ Seventh Report at para. 7, RMR, Tab 2, p. 15 ([E18810](#)).

⁵ Seventh Report at para. 8, RMR, Tab 2, p. 16 ([E18811](#)).

⁶ Seventh Report at para. 9, RMR, Tab 2, p. 16 ([E18811](#)).

12. After its appointment, on December 21, 2023, the Receiver determined that it would be in the best interests of the stakeholders of the Debtors to complete the Project and perform the Agreements.⁷

13. Further to this, the Receiver sought to provide the Homebuyers with occupancy to the Contracted Units on or before March 28, 2025, being the outside occupancy date.⁸

C. The Dispute

14. In March 2025, the Receiver gave the Homebuyers notice that the occupancy date for the Contracted Units would be March 28, 2025 (the “**Occupancy Date**”).⁹

15. As required by the Agreements, the Receiver substantially completed the Contracted Units on behalf of the Debtors by the outside occupancy date of March 28, 2025 and was ready, willing and able to provide occupancy to the Homebuyers.¹⁰

16. Despite the Receiver fulfilling the Debtors’ obligations under the Agreements by obtaining the Occupancy Permits, the Homebuyers breached the Agreements by, among other things:

- (a) Failing to take occupancy of the Contracted Units on the Occupancy Date;
- and

⁷ Seventh Report at para. 10, RMR, Tab 2, p. 16 ([E18811](#)).

⁸ Seventh Report at para. 11, RMR, Tab 2, p. 16 ([E18811](#)).

⁹ Seventh Report at para. 12, RMR, Tab 2, p. 16 ([E18811](#)).

¹⁰ Seventh Report at para. 13, RMR, Tab 2, p. 17 ([E18812](#)).

- (b) Failing to pay occupancy fees to the Receiver following the Occupancy Date.¹¹

17. The Homebuyers have defaulted on the Agreements by failing to take occupancy in accordance with the Agreements and the Receiver has, accordingly, demanded payment in connection with the same.¹²

18. The Homebuyers have, generally, taken the position that the Debtors have defaulted under the Agreements by failing to substantially complete the Contracted Units in a safe and habitable manner and have purported to terminate their Agreements as a result.¹³

19. The foregoing dispute is hereinafter referred to as the “**Dispute.**”

D. Proposed Arbitration

20. On July 4, 2025, counsel to the Receiver wrote to counsel to the Homebuyers to advise that the Receiver intended to commence arbitration proceedings in respect of the Dispute and proposed that the parties seek the appointment of Sidney Troister as arbitrator.¹⁴

¹¹ Seventh Report at para. 14, RMR, Tab 2, p. 17 ([E18812](#)).

¹² Seventh Report at para. 15, RMR, Tab 2, p. 17 ([E18812](#)).

¹³ Seventh Report at para. 16, RMR, Tab 2, p. 17 ([E18812](#)).

¹⁴ Letter from Receiver’s counsel, July 4, 2025, Appendix C to the Seventh Report, RMR, Tab 2, p. 89 ([E18884](#)).

21. On August 1, 2025, counsel to the Receiver wrote to counsel to the Homebuyers to provide formal notice of termination of the Agreements and to demand the immediate payment of the Debtors' damages in connection with the same.¹⁵

22. On August 4, 2025, counsel to the Receiver wrote to counsel to an additional Homebuyer to provide formal notice of termination of the Agreement and to demand the immediate payment of the Debtors' damages in connection with the same.¹⁶

23. On September 2, 2025, counsel to the Receiver wrote to counsel to the Homebuyers to propose the appointment of the Honourable Justice Juriansz as arbitrator.¹⁷

24. On October 1, 2025, the Receiver served a notice of arbitration on the Homebuyers in connection with the Dispute.¹⁸

25. The Agreements each state that disputes concerning termination arising from the alleged breach of the agreement by JPLP shall be submitted to arbitration in accordance with the *Arbitration Act, 1991* and s. 17(4) of the *Ontario New Home Warranties Plan Act*.¹⁹

¹⁵ Letter from Receiver's counsel, August 1, 2025, Appendix D to the Seventh Report, RMR, Tab 2, p. 94 ([E18889](#)).

¹⁶ Letter from Receiver's counsel, August 6, 2025, Appendix E to the Seventh Report, RMR, Tab 2, p. 101 ([E18896](#)).

¹⁷ Email from Receiver's counsel, September 2, 2025, Appendix G to the Seventh Report, RMR, Tab 2, p. 106 ([E18901](#)).

¹⁸ Notice of Arbitration, Appendix H to the Seventh Report, RMR, Tab 2, p. 109 ([E18904](#)).

¹⁹ See sections 11 and 15 of the Tarion Addendum, Agreement of Purchase and Sale, Appendix B to the Seventh Report, RMR, Tab 2, pp. 71 ([E18866](#)), 73 ([E18868](#)).

26. Given that the Homebuyers have purported to terminate the Agreements because of the alleged default in the Agreements by the Receiver on JPLP's behalf, the Dispute is subject to arbitration.

27. The Agreements all provide that:

The arbitrator shall have the power and discretion on motion by the Vendor or Purchaser or any other interested party, or of the arbitrator's own motion, to consolidate multiple arbitration proceedings on the basis that they raise one or more common issues of fact or law that can be more efficiently be addressed in a single proceeding. The arbitrator has the power and discretion to prescribe whatever procedures are useful or necessary to adjudicate the common issues in the consolidated proceedings in the most just and expeditious manner possible.²⁰

28. The Receiver's Disputes with Homebuyers each involve substantially identical sets of facts and it is appropriate, in the interests of the administration of justice and consistent with the objectives of the *BIA* that these Disputes be heard together.

29. Accordingly, the Receiver recommends that this Court make an Order directing that these Disputes be heard together through the Arbitration.

30. The Agreements do not contemplate a mechanism for appointing an arbitrator in respect of the Dispute.

31. To date, the Receiver has yet to receive a definitive response from all of the Homebuyers with respect to the Receiver's proposal that the Dispute be adjudicated through the Arbitration, with the Honourable Justice Juriansz as Arbitrator.

32. Given the Homebuyers' refusal to cooperate in appointing an arbitrator in respect of the Dispute, the Receiver recommends that the Court appoint the Honourable Justice

²⁰ Section 15(b) of the Tarion Addendum, Agreement of Purchase and Sale, Appendix B to the Seventh Report, RMR, Tab 2, p. 73 ([E18868](#)).

Juriansz as arbitrator in respect of the Dispute and the Arbitration, pursuant to s. 10 of the *Arbitration Act, 1991* and the *BIA*

33. In particular, the Receiver is of the view that the adjudication of the Dispute through the Arbitration, as one consolidated proceeding will promote judicial economy, maximize efficiency and minimize costs for all stakeholders, including the Homebuyers.

34. The Honourable Justice Juriansz has consented to act as arbitrator of the Arbitration and his Curriculum Vitae is included in the Seventh Report of the Receiver.²¹

PART III. STATEMENT OF ISSUES

35. This Motion raises the following issues:

- (a) Whether this Court should appoint Honourable Justice Russell Juriansz as the sole arbitrator for the Arbitration and direct that the Arbitration proceed on a consolidated basis;
- (b) Whether the Court should seal the Confidential Appendices; and
- (c) Whether the Court should approve the Reports.

36. The Receiver submits that these issues should all be answered in the affirmative.

²¹ See Consent, Appendix I to the Seventh Report, RMR, Tab 2, p. 123 ([E18918](#)) and CV at Appendix J to the Seventh Report, RMR, Tab 2, p. 125 ([E18920](#)).

PART IV. LAW

A. The Court should appoint the Arbitrator and direct that the Arbitration proceed on a consolidated basis

1. The Agreements contemplate resolution of the Dispute through arbitration

37. All of the Agreements contain an addendum (the “**Tarion Addendum**”) required to be included in agreements to purchase new homes by the *Ontario New Home Warranties Plan Act* (the “**ONHWPA**”). Section 15 of the Tarion Addendum provides that:

The Vendor and Purchaser agree that disputes arising between them relating to termination of the Purchase Agreement under section 11 shall be submitted to arbitration in accordance with the *Arbitration Act, 1991* (Ontario) and subsection 17(4) of the [ONHWPA].²²

38. Section 11 of the Tarion Addendum in turn describes the purchaser’s right to terminate the Agreement and require a refund of monies paid where the vendor defaults under the Agreement.²³

39. All of the Homebuyers have purported to terminate their Agreements, having alleged that the Receiver defaulted under the Agreements on the Debtors’ behalf. As a result, the Tarion Addendum contemplates that the Dispute should be submitted to arbitration.

40. Given that the Agreements do not provide a mechanism for appointing an arbitrator in respect of such a dispute,²⁴ the Receiver requests that this Court make an Order

²² Example Agreement, Tarion Addendum at s. 15, Appendix B to the Seventh Report, RMR, Tab 2, p. 73 ([E18868](#)).

²³ Example Agreement, Tarion Addendum at s. 11, Appendix B to the Seventh Report, RMR, Tab 2, p. 71 ([E18866](#)).

²⁴ *Arbitration Act, 1991*, [S.O. 1991, c. 17, s. 10](#).

appointing the Arbitrator in respect of the dispute and in accordance with the Notice of Arbitration.

41. To ensure that this Arbitration is conducted in a manner that is consistent with the objectives of the *BIA*, the Receiver also requests that this Court make an Order directing that the Arbitration proceed on a consolidated basis.

2. Arbitration provisions and the *BIA*

42. The Supreme Court of Canada's decision in *Peace River Hydro Partners v. Petrowest Corp.* considered the interplay between arbitration law and insolvency law.²⁵

43. In this case, Justice Côté held that valid arbitration agreements between parties should be presumptively enforced, even where one of the parties is subject to proceedings under the *BIA*. However, Justice Côté noted:

in certain insolvency matters, it may be necessary to preclude arbitration in favour of a centralized judicial process. This may occur when arbitration would compromise the orderly and efficient conduct of a court-ordered receivership. In such a scenario, **a court may assert control over the proceedings, both to ensure the timely resolution of the parties' dispute and to protect the public interest in the orderly restructuring or dissolution of the debtor and the equal treatment of its creditors** [emphasis added].

44. In *Peace River*, the Supreme Court upheld lower court decisions that permitted a receiver to pursue various claims in Court, rather than litigate these claims through various overlapping arbitral proceedings (as contemplated by arbitration agreements to which the debtor was a party). In the words of Justice Côté, enforcement of the arbitration agreement in this context would “compromise the orderly and efficient resolution of the receivership proceedings.”²⁶

²⁵ *Peace River Hydro Partners v. Petrowest Corp.*, [2022 SCC 41](#) [*“Peace River”*].

²⁶ *Peace River* at [para. 174](#).

3. The Court should direct that the Arbitration proceed on a consolidated basis

45. In this case, the Receiver is not requesting that the Court make an order permitting the Receiver to pursue the Dispute in Court or to ignore the arbitration provision in the Tarion Addendum. However, in recognition of the principle that enforcement of arbitration agreements is, ultimately, subject to the integrity of proceedings under the *BIA*, the Receiver requests that this Court direct that the Arbitration proceed on a consolidated basis, such that all of the Debtors' claims against the Homebuyers be heard together.

46. Such an Order is necessary to:

- (a) promote the efficient resolution of the Dispute and these receivership proceedings; and
- (b) ensure that the performance of the arbitration provision does not undermine the objectives of the *BIA*.

(a) Consolidation of the Debtors' claims is necessary to promote the efficient resolution of this proceeding

47. Essentially, the Dispute concerns whether the Receiver has successfully performed the Debtors' obligations under the Agreements to deliver occupancy to the Contracted Units to the Homebuyers on or before March 28, 2025.

48. On March 28, 2025, the Receiver obtained occupancy permits for the Contracted Units from the City of Richmond Hill, which, in the Receiver's view, satisfies the Debtors' obligation in this regard. None of the Homebuyers completed occupancy closings of their respective Contracted Units on March 28, 2025 and, accordingly, the Receiver is of the view that these Homebuyers defaulted under their Agreements.

49. While the Homebuyers have taken issue with the construction state and quality of the Contracted Units, in the Receiver's view, the common issue uniting these claims is whether or not the occupancy permits were sufficient to discharge the Debtors' obligation to provide occupancy to the Contracted Units by the outside occupancy date.

50. The case law in this regard is clear: homebuyers are not entitled to look behind an occupancy permit and complain that occupancy of a new home has not been delivered because they are dissatisfied with the readiness of the property. As Justice Pinto held in *Grandfield Homes (Kenton) Ltd. v. Li*:

the applicable legal standard for occupancy is the Occupancy Permit issued by the municipality pursuant to the Ontario Building Code, O. Reg. 332/12, under the Building Code Act, 1992, S.O. 1992, c. 23. Following the issuance of an Occupancy Permit, the home is complete, and possession may be given, which is not to say that the homeowner will necessarily be satisfied with the state of readiness of the property [emphasis added].²⁷

51. Of course, the Receiver is not requesting the Court to make any substantive decision on this issue in this motion.

52. However, this case law does support the Receiver's position that there is a core common issue across all of the claims that are proposed to be adjudicated through the Arbitration. Namely, whether the occupancy permits obtained by the Receiver satisfy the legal standard for occupancy under the Agreements.

53. Accordingly, it would be inefficient and wasteful for these claims to be adjudicated separately.

²⁷ *Grandfield Homes (Kenton) Ltd. v. Li*, [2021 ONSC 2670](#) at [para. 34](#).

54. There is also no evidence before the Court to suggest that there are any meaningful issues in the Arbitration that would require any of the claims or issues to be heard separately.

(b) Consolidation of the Debtors' claims is necessary to ensure that the performance of the arbitration provision does not undermine the objectives of the BIA

55. As the Supreme Court made clear in *Peace River*, an otherwise valid arbitration agreement must give way to insolvency law's single proceeding model where litigation of a dispute through arbitration would "compromise the orderly and efficient resolution of the receivership proceedings."²⁸

56. The Receiver of the view that the arbitration of the Dispute *can* be consistent with the orderly and efficient resolution of this proceeding, but only if this Court provides direction that the Arbitration proceed on a consolidated basis. This will ensure that the Arbitration is adjudicated in a manner that is consistent with the *BIA*'s scheme of efficient and centralized resolution of claims by and against a debtor.

57. As noted above, the *BIA* contemplates a single proceeding model which provides for the resolution of matters relating to a debtor in a single forum. This is intended to avoid the inefficiency and chaos of a decentralized receivership process.²⁹ This model:

favours litigation concerning an insolvent company being dealt with in a single jurisdiction rather than fragmented across separate proceedings. It is a judicial construct used to group all claims against a debtor with the objective of bringing efficiency to the insolvency process and maximizing returns for the benefit of all creditors.³⁰

²⁸ *Peace River* at [para. 174](#).

²⁹ *Mundo Media Ltd. (Re)*, [2022 ONCA 607](#) at [para. 48](#) [*"Mundo"*] citing *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#) at [para. 22](#).

³⁰ *Xie v. Gross*, [2022 ONSC 7343](#) at [para. 10](#), citing *Mundo* at [paras. 6](#) and [40-41](#).

58. This framework would be thwarted if the Receiver was unable to address its dispute against all of the Homebuyers, each of which revolves around a common issue, in a single proceeding and instead had to prosecute the Debtors' claims on an individualized basis.

59. The Receiver was not able to find a precedent for the Court providing such direction in the context of an arbitration under the *BIA*. However, the Receiver notes that such an Order would be consistent with the Court's broad and flexible jurisdiction under the *BIA*. In particular, Section 243(1) of the *BIA* provides the Court with jurisdiction to appoint a receiver to:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or,

(c) take any other action that the court considers advisable.³¹

60. This broad language provides Courts with the jurisdiction to do what "justice dictates" and "practicality demands."³²

61. In this case, justice and practicality support an Order consolidating the hearing of the claims in the Arbitration. This is because:

(a) requiring that the Receiver prosecute 12 separate claims against the Homebuyers would lead to duplicated and wasted professional fees, having regard to the common facts and issues between all of them. In addition to

³¹ *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, s. 243\(1\)](#) [*"BIA"*].

³² *Third Eye Capital Corporaton v. Ressources Dianor Inc.*, [2019 ONCA 508](#) at [para. 57](#).

the issue of whether issuance of the occupancy permits satisfied the Debtors' obligation to provide occupancy to the Contracted Units to the Homebuyers, consideration of damages and mitigation will also raise common issues between the various claims. The Receiver is presently engaged in marketing all of the unsold Units for sale through a Court-approved sales process;

- (b) a consolidated arbitration will allow for the Dispute to be adjudicated in a flexible and efficient manner;
- (c) the Agreements already contemplate that an arbitrator has the authority to consolidate proceedings that raise common issues;³³ and
- (d) the Homebuyers are not strangers to this insolvency proceeding. They have purported to terminate their Agreements with the Debtors and have sought the return of the deposits they paid to the Debtors from the Receiver.

62. In this regard, the Receiver notes that courts have relied on their jurisdiction under insolvency statutes to circumvent:

- (a) arbitration agreements;³⁴ and
- (b) the standard procedures for adjudication of civil claims,³⁵

³³ Section 15(b) of the Taron Addendum, Agreement of Purchase and Sale, Appendix B to the Seventh Report, RMR, Tab 2, p. 73 ([E18868](#)).

³⁴ See *Peace River*, [2022 SCC 41](#) and *Mercy Falls BC Inc. (Re)*, [2025 BCSC 1960](#).

³⁵ See *Alderbridge Way GP Ltd. (Re)*, [2023 BCSC 1718](#); *Mundo*, [2022 ONCA 607](#), *Montréal, Maine & Atlantic Canada Co. Re*, [2013 QCCS 5194](#), *Re: Essar Steel Algoma Inc. Et al*, [2016 ONSC 595](#) and *My Mortgage Auction Corp. (Re)*, [2025 BCSC 1520](#).

to permit the efficient and centralized adjudication of claims by a debtor against third parties.

63. In providing for the Dispute to be resolved through arbitration, the Order the Receiver is asking the Court to make is less disruptive to the parties' pre-insolvency contractual rights than the Order made in *Peace River*. The Order also still facilitates the objectives of Canada's insolvency regime by consolidating the contemplated arbitration into a single proceeding.

64. In this way, an Order directing that the Arbitration proceed on a consolidated basis is consistent with the intent of both the Agreements and the *BIA*. Accordingly, the Court should make such an Order.

B. This Court should grant a Sealing Order in respect of the Confidential Appendices to the Reports

65. As noted above, the Receiver requests that this Court grant a sealing order in respect of the Confidential Appendices. The Confidential Appendices contain unredacted copies of various documents and correspondence, including the Notice of Arbitration, which refer to the financial terms of the Agreements.

66. The Receiver is presently engaged in a sales process for the Contracted Units that are the subject of these Agreements.

67. Sealing these documents is necessary to ensure that the Receiver can maximize the value of the Units for the benefit of all stakeholders.³⁶

³⁶ *GE Canada Real Estate Financing Business Property Company v. 1262354 Ontario Inc.*, [2014 ONSC 1173](#) at [paras 32-34](#).

68. In *Sierra Club*, the Supreme Court of Canada held that courts should exercise their discretion to grant sealing orders where (i) the order is necessary to prevent a serious risk to an important interest, including a commercial interest; and (ii) the salutary effects of the order outweigh its deleterious effects.³⁷

69. In *Sherman Estate v. Donovan*, the Supreme Court of Canada held that a party requesting that a court exercise its discretion in a way that limits the 'open court' presumption must establish that: (i) the openness poses a risk to an important interest to the public; (ii) the request sought is necessary to prevent the risk to the identified interest as reasonable alternative measures will not prevent said risk; and (iii) the benefits of the request outweigh the negatives as a matter of proportionality.³⁸

70. In the insolvency context, when assets are contemplated to be sold pursuant to a court process, it is common to seal bids and other commercially sensitive material, such as sale price and details of competing offers, in the event that a further listing is required should the contemplated proposed transaction not close.³⁹

71. In this case, the Confidential Appendices contains information relevant to the Debtors' pricing of the Units. If any of this pricing information was made public, it would compromise the Receiver's ability to obtain the best price for the Units because it would provide that purchaser with an informational advantage in sizing potential offers to purchase Units.

³⁷ *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#) at [para 53](#).

³⁸ *Sherman Estate v Donovan*, [2021 SCC 25](#) at [para 38](#).

³⁹ *Romspen Investment Corporation v Hargate Properties Inc.*, [2012 ABQB 412](#) at [paras 2, 11](#) and [13](#).

72. As a result, the Receiver is of the view that an order sealing these documents will permit the Receiver to maximize the sale proceeds of the Units and is in the best interests of the Debtors' stakeholders.

73. The Receiver submits that there is no other reasonable way to preserve and ensure the viability and integrity of the sales process and that the benefits of the protective order outweigh any deleterious impact on the "open court" principle.

74. The proposed sealing order embodies the principle of proportionality. The Receiver is only seeking a sealing order for a limited time: until the Project is complete and all of the Units are sold. After that time, these documents will become part of the public Court record.

C. The Court should approve the Reports

75. The Court should approve the Reports and the Receiver's conduct set out therein.

76. The Court has the jurisdiction to review and approve the activities of a court-appointed officer in an insolvency proceeding as set out in the officer's reports and will approve them where they are reasonable and appropriate in the circumstances.⁴⁰

77. The Seventh Report details the Dispute and the Receiver's activities in commencing the Arbitration. These activities have been completed for the benefit of the Debtors' estate and should be approved by this Court.

⁴⁰ *Cameron Stephens Mortgage Capital Ltd. v 2011836 Ontario Corp. et al.*, [2024 ONSC 3507](#) at paras 48, 52, 57 ([E18945](#)) citing *Target Canada Co. Re*, [2015 ONSC 7574](#) at [paras 2, 12](#); *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, [2023 ONSC 3400](#) at [para 66](#); *Ravelston Corp. (Re)*, [2005 CanLII 63802 \(ON CA\)](#) at [para 40](#).

PART V. ORDER REQUESTED

78. The Receiver requests that this Court grant the relief sought in the Receiver's Notice of Motion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18th day of February, 2026.



Ryan Shah

SCHEDULE "A" – AUTHORITIES CITED

1. *Alderbridge Way GP Ltd. (Re)*, [2023 BCSC 1718](#)
2. *Cameron Stephens Mortgage Capital Ltd. v 2011836 Ontario Corp. et al.*, [2024 ONSC 3507](#)
3. *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#)
4. *GE Canada Real Estate Financing Business Property Company v. 1262354 Ontario Inc.*, [2014 ONSC 1173](#)
5. *Grandfield Homes (Kenton) Ltd. v. Li*, [2021 ONSC 2670](#)
6. *Mercy Falls BC Inc. (Re)*, [2025 BCSC 1960](#)
7. *Montréal, Maine & Atlantic Canada Co. Re*, [2013 QCCS 5194](#)
8. *Mundo Media Ltd. (Re)*, [2022 ONCA 607](#)
9. *My Mortgage Auction Corp. (Re)*, [2025 BCSC 1520](#).
10. *Peace River Hydro Partners v. Petrowest Corp.*, [2022 SCC 41](#)
11. *Re: Essar Steel Algoma Inc. Et al*, [2016 ONSC 595](#)
12. *Ravelston Corp. (Re)*, [2005 CanLII 63802 \(ON CA\)](#)
13. *Romspen Investment Corporation v Hargate Properties Inc.*, [2012 ABQB 412](#)
14. *Sherman Estate v Donovan*, [2021 SCC 25](#)
15. *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#)

16. *Target Canada Co. Re*, [2015 ONSC 7574](#)
17. *Third Eye Capital Corporaton v. Ressources Dianor Inc.*, [2019 ONCA 508](#)
18. *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, [2023 ONSC 3400](#)
19. *Xie v. Gross*, [2022 ONSC 7343](#)

I, Ryan Shah, lawyer for the Receiver, certify that I am satisfied as to the authenticity of the above noted authorities on this 18th day of February, 2026:



SCHEDULE "B" – TEXT OF STATUTES CITED

Arbitration Act, 1991, S.O. 1991, c. 17

Appointment of arbitral tribunal

10 (1) The court may appoint the arbitral tribunal, on a party's application, if,

(a) the arbitration agreement provides no procedure for appointing the arbitral tribunal; or

(b) a person with power to appoint the arbitral tribunal has not done so after a party has given the person seven days notice to do so.

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Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3

Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or

(c) take any other action that the court considers advisable.

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Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31

Conciliation of disputes

17 (1) The Corporation may, upon the request of an owner, conciliate any dispute between the owner and a vendor. R.S.O. 1990, c. O.31, s. 17 (1).

Idem

(2) Where there is a dispute between a vendor and an owner arising out of a purchase agreement or construction contract, neither party shall commence any proceeding in respect thereof until after fifteen days after the party notifies the Corporation of the dispute for the purpose of giving the Corporation an opportunity to effect conciliation. R.S.O. 1990, c. O.31, s. 17 (2); 2024, c. 28, Sched. 21, s. 7 (1).

Information to Corporation

(3) Each party to a dispute shall supply the Corporation with such particulars thereof as the Corporation requires. R.S.O. 1990, c. O.31, s. 17 (3).

Arbitration

(4) Every purchase agreement and construction contract between a vendor and prospective owner shall be deemed to contain a written agreement to submit present or future differences to arbitration, subject to appeal to the Divisional Court, and the Arbitration Act, 1991 applies.

**CAMERON STEPHENS MORTGAGE
CAPITAL LTD.**

Applicant

and **2011836 ONTARIO CORP., et al.**

Respondents

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
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**
Proceeding commenced at Toronto

**FACTUM OF THE RECEIVER (APPOINTING
ARBITRATOR)**

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.**