Court File No. CL- 26-00000319-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 1682 VICTORIA PARK AVENUE INC.

FACTUM OF THE APPLICANT, FINDEV LENDING INC.
(Re Comeback Hearing)

DATE: July 23, 2026

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SERVICE LIST
(as of July 22, 2026)

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PART I - OVERVIEW

1. This factum is submitted on behalf of Findev Lending Inc. (the "**Applicant**" or "**Findev**") in support of an application for an order amending and restating the initial order (the "**Initial Order**") issued by the Honourable Justice Myers on July 17, 2026, pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c-C 36, as amended (the "**CCAA**") in respect of 1682 Victoria Park Avenue Inc. (the "**Debtor**").

2. The relief sought by the Applicant for an order amending and restating the Initial Order (the "**ARIO**") includes:

   A. abridging the time for and manner of service of the Notice of Motion and Motion Record and directing any further service of this Notice of Motion and Motion Record be dispensed with, such that this motion is properly returnable on the day the Motion is heard;

   B. extending the Stay Period up to and including October 15, 2026;

   C. An Order granting leave to amend the style of cause in this proceeding to reflect Findev as Applicant and the Debtor as Respondent; and

   D. approving an increase to the Administration Charge, to the maximum amount of $500,000.00 (from $100,00.00).

PART II: FACTS

3. The Debtor is a corporation incorporated pursuant to the laws of Ontario with its registered head office located at 3830 Bathurst Street, Suite 115, Toronto, Ontario.

   Reference: Affidavit of Anthony Heller, sworn July 13, 2026 (the "**Heller Affidavit**"), Application Record dated July 14, 2026, at Tab 2, para 5, Exhibit A, B.

4. The Debtor is the developer of a 147-townhouse project between 1648-1682 Victoria Park Avenue (the "**Real Property**"), south of Lawrence Avenue, in Toronto, Ontario (the

"**Project**") marketed as "The Vic Towns".

Reference: Heller Affidavit, Application Record dated July 14, 2026, at Tab 2, para 9.

5. The Debtor is the registered owner of the 65 unsold townhouse units more particularly described in Schedule "A" of the Notice of Application (the "**Units**").

Reference: Heller Affidavit, Application Record dated July 14, 2026, at Tab 2, paras 8, 9.

Encumbrances

6. There are five charges registered against title to the Real Property:

A. **First Charge**: On June 13, 2022, the Debtor granted Windsor Family Credit Union Limited a first charge against title to the Real Property in the principal sum of $70,000,000.00, registered as Instrument No. AT6105081 (the "**WFCU Charge**");

B. **Second Charge**: On July 30, 2025, the Debtor granted Firm Capital Mortgage Fund Inc. a second charge against title to the Real Property in the principal sum of $15,000,000.00, registered as Instrument No. AT6870139 (the "**Firm Capital Charge**").

C. **Third Charge**: On October 21, 2020, the Debtor granted Westmount Guarantee Services Inc. a charge against title to the Real Property in the principal sum of $27,000,000.00, registered as Instrument No. AT5550826 (the "**Westmount Charge**");

D. **Fourth Charge**: On January 27, 2017, the Debtor granted Towncorp Asset Management Inc. a charge against title to the Real Property as Instrument No. AT447215 (the "**Applicant's Charge**"), as was subsequently amended and assigned to the Applicant herein;

E. **Fifth Charge**: On October 31, 2013, the Debtor granted Sorrenti Law Professional Corporation a charge against title to the Real Property as Instrument No.

AT3444643 that was assigned to Yonge-Abell Mortgage Partners Limited pursuant to Instrument No. AT5531426 and AT5531427 (the "**Yonge-Abell Charge**") on September 29, 2020.

Reference: Heller Affidavit, Application Record dated July 14, 2026, at Tab 2, paras 10, 12, 22-33, Exhibits G, K, L, O, Q, U.

7. As of June 30, 2026 the approximate indebtedness owing by the Debtor on the charges exceeds $75,000,000.00 and is particularized as follows:

   A. WFCU Charge: $24,328,081.23;

   B. Firm Capital Charge: $9,000,000.00;

   C. Westmount Charge: $1,000,000.00;

   D. Applicant's Charge: $24,347,706.00;

   E. Yonge-Abell Charge: $17,000,000.00.

   Reference: Heller Affidavit, Application Record dated July 14, 2026, at Tab 2, para 37.

Forbearance Agreements

8. On July 15, 2026, WFCU, the Debtor, the Applicant, Plazacorp Investments Limited and Anthony Heller personally executed a forbearance agreement (the "**WFCU Forbearance Agreement**").

   Reference: Affidavit of Anthony Heller, sworn July 22, 2026 (the "**Second Heller Affidavit**"), Motion Record dated July 22, 2026, at Tab 2, para 3, Exhibit A.

9. On or about July 16, 2026, Firm Capital, the Debtor, the Applicant, Paul Goldfischer and Anthony Heller personally executed a forbearance agreement (the "**Firm Capital Forbearance Agreement**").

   Reference: Second Heller Affidavit, Motion Record dated July 22, 2026, at Tab 2, para 5, Exhibit B.

10. Pursuant to the terms and conditions set out in the WFCU Forbearance Agreement and

Firm Capital Forbearance Agreement (collectively, the "**Forbearance Agreements**"), WFCU and Firm Capital have agreed to forbear enforcement of their respective security for a period of ninety (90) days after the issuance of the Initial Order.

> **Reference**: Second Heller Affidavit, Motion Record dated July 22, 2026, at Tab 2, para 5, Exhibits A, B.

Initial Order

11. On July 17, 2026, the Applicant sought and the Honourable Justice Myers granted the Initial Order, which among other things:

    A. Declared that the Debtor is a company to which the CCAA applies;

    B. Appointed Albert Gelman Inc. pursuant to section 11.7 of the CCAA as monitor of the Debtor's business and property (the "**Monitor**");

    C. Stayed all proceedings and enforcement processes taken or that might be taken in respect of the Debtor until July 24, 2026 (the "**Stay Period**"), with the exception of the Unaffected Secured Creditors (as defined in the Initial Order); and

    D. Granted an administration charge in favour of Monitor, counsel to the Monitor and counsel to the Applicant in the sum of $100,000.00 and registered in fourth position against title to the Units.

    > **Reference**: Second Heller Affidavit, Motion Record dated July 22, 2026, at Tab 2, para 6, Exhibits C, D.

PART III: THE ISSUES

12. The issues to be determined by this Honourable Court are whether:

    A. Should the Stay Period be extended;

    B. Should the Administration Charge be increased; and

    C. Should the style of cause be amended.

PART IV: LAW & ARGUMENT

A. The Stay Period Should be Extended

13. Pursuant to section 11.02(1) of the CCAA, a court may grant a stay of proceedings upon an initial application under the CCAA for a period of no more than ten days, provided that the court is satisfied that circumstances exist that make the order appropriate.

    Reference: *CCAA*, section 11.02(1).

14. Pursuant to section 11.02(2) and (3) of the CCAA, the Court has jurisdiction to extend the stay period for "any period it considers necessary" if circumstances exist that make the order appropriate and the debtors have acted and are acting in good faith and with due diligence".

    Reference: *CCAA*, section 11.02(2),(3).

    Reference: *Re Nunavut Iron Ore*, 2026 ONSC 3467, at para 53.

15. An order extending the Stay Period is appropriate for the following reasons:

    A. The Debtor continues to act in good faith and with due diligence, as confirmed by the Monitor;

    B. The Debtor and Applicant are cooperating with the Monitor in formulating a structured sale and investment solicitation process to sell the Units and ensure same is widely marketed;

    C. The Applicant is preparing a stalking horse credit bid agreement of purchase and sale (the "**Stalking Horse APS**") to act as the benchmark for offers received during the sale and investment solicitation process;

    D. The Applicant is obtaining refinancing to payout the WFCU Charge, Firm Capital Charge and Westmount Charge in the event no superior offer to the Stalking Horse APS is received;

E. The Debtor and Applicant are cooperating with the mortgagees and have entered into the Forbearance Agreements whereby WFCU and Firm Capital have agreed to forbear enforcement of their security for a period of ninety (90) days following the issuance of the Initial Order; and

F. There is no opposition to the extension of the Stay Period and the request is supported by the Monitor.

Reference: Second Heller Affidavit, Motion Record dated July 22, 2026, at Tab 2, paras 3, 5, 8, Exhibit A, B, C.

Reference: First Report of the Monitor, Albert Gelman Inc, dated July 23, 2026, at para 21-23.

16. It is respectfully submitted that an extension of the Stay Period up to and including October 15, 2026 is reasonable given that is when the Forbearance Agreements expire.

B. The Administration Charge Should be Increased

17. Section 11.52(1) of the CCAA provides the authority to grant a charge in respect of professional fees and disbursements and states:

Court may order security or charge to cover certain costs
11.52 On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority
(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Reference: *CCAA*, section 11.52(1)(2).

Reference: *V K Delivery & Moving Services Ltd. (Re)*, 2025 BCSC 1961, at paras 46-47.

18. The Applicant seeks an increase of the Administration Charge from $100,000.00 to $500,000.00 to secure the fees of the Monitor, counsel to the Monitor and the Applicant's counsel. To date, the Applicant has funded the professional fees of the Monitor, its counsel and the Applicant's counsel.

    Reference: Second Heller Affidavit, Motion Record dated July 22, 2026, at Tab 2, para 8(d).

    Reference: First Report of the Monitor, Albert Gelman Inc, dated July 23, 2026, at para 15.

19. The Administration Charge currently ranks and is proposed to continue to rank in fourth position, subsequent to the indebtedness owed to WFCU, Firm Capital and Westmount Guarantee Services Inc., respectively.

    Reference: First Report of the Monitor, Albert Gelman Inc, dated July 23, 2026, at para 18-20.

20. In assessing whether the Administration Charge should be increased, the factors often considered by the Court include, but are not limited to:

    A. the size and complexity of the businesses being restructured;

    B. the proposed role of the beneficiaries of the charge;

    C. whether there is an unwarranted duplication of roles;

    D. whether the quantum of the proposed charge appears to be fair and reasonable;

    E. the position of the secured creditors likely to be affected by the charge; and

    F. the position of the Monitor.

    Reference: *V K Delivery & Moving Services Ltd. (Re)*, 2025 BCSC 1961, at paras 46-47, citing *Canwest Publishing Inc. (Re)*, 2010 ONSC 222, at para 54.

21. The Applicant and Monitor are of the view that the increased Administration Charge is

reasonable and appropriate in the circumstances, considering:

A. the complexity of this CCAA proceeding;

B. the work that has been completed to date, the engagement terms and anticipated work level of the Applicant's counsel, the Monitor and the Monitor's counsel;

C. The sale and investment solicitation process that will be implemented in due course;

D. the size of Court-ordered charges approved in comparable insolvency proceedings; and

E. the complexity of the stalking horse agreement for which it is anticipated that the Applicant will seek approval.

Reference: First Report of the Monitor, Albert Gelman Inc, dated July 23, 2026, at para 20.

22. It is respectfully submitted that the increased Administration Charge is fair and reasonable is justified in the circumstances.

C. The Style of Cause Should be Amended

23. As part of the relief sought in the ARIO, the Applicant seeks to amend the style of cause to identify Findev as Applicant and the Debtor as Respondent. Currently, the style of cause indicates that the Debtor is the Applicant.

Reference: Motion Record dated July 22, 2026, at Tab 3.

24. The proposed amendment to the style of cause, as indicated at paragraph 36 of the draft ARIO, is requested to clarify that the moving party applicant is Findev and not the Debtor. The relief requested does not impact any party and is procedural in nature.

Reference: Motion Record dated July 22, 2026, at Tab 3.

PART V: ORDERS REQUESTED

25. The Applicant requests that this Honourable Court grant the ARIO in the proposed form.

ALL OF WHICH IS RESPECTUFLLY SUBMITTED, this 23rd day of July, 2026.

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SCHEDULE "A"

Authorities Cited

1. *Re Nunavut Iron Ore*, 2026 ONSC 3467
2. *V K Delivery & Moving Services Ltd. (Re)*, 2025 BCSC 1961
3. *Canwest Publishing Inc. (Re)*, 2010 ONSC 222

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

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

SCHEDULE "B"

Statutes and Regulations Cited

***Companies' Creditors Arrangement Act* (R.S.C., 1985, c. C-36)**

Stays, etc. — initial application

11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

> **(a)** staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
>
> **(b)** restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
>
> **(c)** prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

> **(a)** staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
>
> **(b)** restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
>
> **(c)** prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

> **(a)** the applicant satisfies the court that circumstances exist that make the order appropriate; and
>
> **(b)** in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Court may order security or charge to cover certain costs

11.52 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

> (a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;
>
> (b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

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