

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

**IN THE MATTER OF SECTION 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**

B E T W E E N:

**OWEMANCO MORTGAGE HOLDING CORPORATION**

Applicant

- and -

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

Respondents

**MOTION RECORD OF THE APPLICANT**

*(Motion Returnable on October 21, 2022 at 11:00 am by Zoom Videoconference)*

October 20, 2022

**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger (36870L)**

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Fax: 1-844-670-6009

Lawyers for the Applicant

TO: **ATTACHED SERVICE LIST**

## SERVICE LIST

TO: **CONCEPT LOFTS LTD.**  
2905 – 49 Hillcrest Avenue  
Brampton ON L6W 4V4  
Email: [dond26244@gmail.com](mailto:dond26244@gmail.com)

Respondent / Owner of the Dufferin Property

AND TO: **DONALD DESROCHERS**  
2 – 111 Regina Road  
Woodbridge ON L4L 8N5  
Email: [dond26244@gmail.com](mailto:dond26244@gmail.com)

Respondent and Guarantor / Owner of Balmoral Property

AND TO: **SUNIL BHARDWAJ**  
1 Grovepark Street  
Richmond Hill ON L4E 2R5  
Email: [smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)

Guarantor

AND TO: **SANJAY DUBEY**  
23 Brookhaven Crescent  
East Garafraxa ON L9W 2K2  
Email: [sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)

Guarantor

AND TO: **WORLD FINANCIAL SOLUTIONS INC.**  
c/o Saneh Bharbwaj  
1 Grovepark Street  
Richmond Hill ON L4E 2R5  
Email: [smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)

Fourth and Fifth Mortgagee over the Dufferin Property

AND TO: **2264405 ONTARIO INC.**  
c/o Sanjay Gupta  
49 Hillcrest Avenue  
Suite 205  
Brampton, Ontario  
L6W 4V4  
Email: [sgupta02014@gmail.com](mailto:sgupta02014@gmail.com)

Third Mortgagee over the Dufferin Property

AND TO: **CASSELS BROCK & BLACKWELL LLP**  
2100 Scotia Plaza, 40 King Street West  
Toronto, Ontario M5H 3C2 Canada

**ALAN MERSKEY**  
Telephone: 416 860 2948  
Email: [amerskey@cassels.com](mailto:amerskey@cassels.com)

**KYLE L. KUCZYNSKI**  
Telephone: 416 815 4352  
Email: [kkuczynski@cassels.com](mailto:kkuczynski@cassels.com)

Lawyers for SDM Projects Inc. and the Lien Claimant, SDM Construction Inc.

AND TO: **ROSEN GOLDBERG INC.**  
5255 Yonge Street, Suite 804  
Toronto, Ontario M2N 6P4  
  
Direct: 416 224 4210  
Fax: 416 224 4330  
Email: [brosen@rosengoldberg.com](mailto:brosen@rosengoldberg.com)

Proposed Receiver

AND TO: **DEPARTMENT OF JUSTICE**  
The Exchange Tower  
130 King Street West, Suite 3400  
Toronto, ON M5X 1K6

**Attention: Diane Winters**  
(416) 973-3172 (Tel)  
(416) 973-0810 (Fax)  
Email: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

AND TO: **HIS MAJESTY THE KING IN RIGHT OF THE  
PROVINCE OF ONTARIO AS REPRESENTED BY  
THE MINISTER OF FINANCE**

Insolvency Unit  
33 King Street West, 6th Floor  
Oshawa, ON L1H 8H5

**Attention: Leslie Crawford**

(416) 433-5657 (Tel - Reception)

Email: [leslie.crawford@ontario.ca](mailto:leslie.crawford@ontario.ca); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 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**

**B E T W E E N:**

*(Court Seal)*

**OWEMANCO MORTGAGE HOLDING CORPORATION**

Applicant

- and -

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

Respondents

**NOTICE OF MOTION**

The Applicant will make a Motion to a Judge presiding over the Commercial List on Friday, October 21, 2022, 2022 at 11:00 am by Zoom videoconference.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard by videoconference

**THE MOTION IS FOR:**

1. an Order abridging the time for service and filing of this Notice of Motion and Motion Record, validating service of the Notice of Motion and Motion Record, and dispensing with further service thereof;

2. an Order pursuant to subsection 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, (the “BIA”), substantially in the form attached hereto as Schedule “A”, appointing Rosen Goldberg Inc. as interim receiver of certain property of Respondent Concept Lofts Ltd. (“CCL”), including the lands and premises municipally known as 1183 Dufferin Street, in Toronto, Ontario (the “**Dufferin Property**”); and
3. such further and other relief as to this Honourable Court may seem just.

### **THE GROUNDS FOR THE MOTION ARE**

- (a) CCL is the registered owner of the Dufferin Property. The Dufferin Property is a church converted residential condominium project (the “**Project**”) located on the east side of Dufferin Street between Bloor Street West and Dupont Street, in Toronto. It consists of 14 residential units and 11 below grade parking stalls;
- (b) The Applicant understands that although construction of the Project was substantially completed on June 30, 2021, there has been very little, if any, progress since that time. Only four residential units are subject to agreements of purchase and sale. The condominium corporation has not yet been created;
- (c) The Applicant is a secured lender to: CCL in connection with a loan in the principal amount of \$6.675M (the “**\$6.675M Loan**”);
- (d) The Applicant’s security for \$6.675M Loan consists of, among other things, a first-ranking charge against the Dufferin Property and a first-ranking general security agreement given by CCL;



- (e) the Dufferin Property is subject to three further subordinate ranking charges in the principal face amounts of \$1.3M, \$1.152,154M and \$547.5K respectively, in favour of other mortgagees;
- (f) The \$6.675M Loan has been in financial default since September 7, 2022;
- (g) On September 16, 2022, the Applicant made written demand under the Loans and issued Notices of Intention to Enforce Security pursuant to section 244 of the BIA;
- (h) The Applicant commenced the underlying application on October 12, 2022 for the appointment of a receiver and manager over the Respondents pursuant to section 243(1) of the BIA and section 101 of the CJA;
- (i) The application was initially returnable on October 20, 2022 before Justice Kimmel for the purpose of scheduling the hearing of the application on its merits;
- (j) Before the initial return date, the Applicant learned that the Dufferin Property is uninsured;
- (k) Given the significant risks that arise from the lack of insurance coverage over the Dufferin Property, it is critical that Rosen Goldberg Inc. be appointed as interim receiver to take possession and secure the Dufferin Property and to place insurance coverage over it;
- (l) The appointment of Rosen Goldberg Inc. is just and convenient and necessary to preserve the equity in the Dufferin Property for the benefit of all stakeholders, including CCL;

- (m) Section 47 of the *BIA*, and Rules 3.02(1), 16.08 and 41.05 of the *Rules of Civil Procedure*; and
- (n) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) The Affidavit of Graham Tobe sworn October 20, 2022;
- (b) The Consent of Rosen Goldberg Inc. to act as interim receiver of the Dufferin Property; and
- (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 20, 2022

**DICKINSON WRIGHT LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger (36870L)**  
Tel: (416) 646-4606  
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**David Z. Seifer (77474F)**  
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Lawyers for the Applicant

TO: **SERVICE LIST**

Schedule A

Court File No. CV-22-00688570-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 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**

THE HONOURABLE

)

FRIDAY, THE 21<sup>st</sup>

JUSTICE

)

DAY OF OCTOBER, 2022

)

**OWEMANCO MORTGAGE HOLDING CORPORATION**

Applicant

- and -

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

Respondents

**APPOINTMENT ORDER  
(Interim Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, (the “BIA”) appointing Rosen Goldberg Inc. as interim receiver (in such capacities, the “Interim Receiver”) of certain property of the Respondent Concept Lofts Ltd. (“CCL”) municipally known as 1183 Dufferin Street, Toronto, Ontario, and legally described in Schedule “A” attached hereto (the “Dufferin Property”), was heard this day by Zoom judicial videoconference.

ON READING the Affidavit of Graham Tobe sworn October 20, 2022 and on hearing the submissions of counsel for the Applicant, no one else on the service list appearing, although duly served as appears from the Affidavit of Service of David Seifer sworn October 20, 2022 and on reading the consent of Rosen Goldberg Inc. to act as the Interim Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 47(1) of the BIA, Rosen Goldberg Inc. is hereby appointed Interim Receiver, without security, of the Dufferin Property.

### **INTERIM RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Dufferin Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Dufferin Property;
- (b) to receive, preserve, and protect the Dufferin Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to cease to perform any contracts of CCL in relation to the Dufferin Property which interfere with the Interim Receiver's exercise of its powers and duties;

- (d) to engage contractors, engineers, architects, consultants, experts and such other persons for the purpose of taking conservatory measures in respect of the Dufferin Property;
- (e) to purchase or lease such machinery, equipment, or other assets to assist with the Interim Receiver's exercise of its powers and duties;
- (f) to execute, assign, issue and endorse documents in relation to the Dufferin Property, whether in the Interim Receiver's name or in the name and on behalf of CCL, for any purpose pursuant to this Order;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on matters relating to the Dufferin Property and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (h) to register a copy of this Order against title to the Dufferin Property and title to the lands and premises legally described in Schedule "B" attached hereto (the "Balmoral Property"); and
- (i) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including CCL, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER**

4. THIS COURT ORDERS that (i) CCL (ii) its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith grant immediate and continued access to the Dufferin Property to the Interim Receiver upon the Interim Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Dufferin Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

### **NO PROCEEDINGS AGAINST THE INTERIM RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a “Proceeding”), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

### **NO PROCEEDINGS AGAINST THE DUFFERIN PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Dufferin Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Dufferin Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Interim Receiver, or affecting the Dufferin Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or CCL to carry on any business which CCL is not lawfully entitled to carry on, (ii) exempt the Interim Receiver or CCL from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE INTERIM RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by CCL in relation to the Dufferin Property, without written consent of the Interim Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with CCL or statutory or regulatory mandates for the supply of goods and/or services, including without



limitation, all computer software, communication and other data services, insurance, utility or other services to CCL in relation to the Dufferin Property, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Interim Receiver, and that the Interim Receiver shall be entitled to the continued use of CCL's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Interim Receiver in accordance with normal payment practices of CCL or such other practices as may be agreed upon by the supplier or service provider and the Interim Receiver, or as may be ordered by this Court.

### **EMPLOYEES**

12. THIS COURT ORDERS that the Interim Receiver shall not be liable for any employee-related liabilities of CCL, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Interim Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

13. THIS COURT ORDERS that nothing herein contained shall require the Interim Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of the Dufferin Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Interim Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Interim Receiver shall not, as a result of this Order or anything done in pursuance of the Interim Receiver's duties and powers under this Order, be deemed to be in Possession of the

Dufferin Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE INTERIM RECEIVER'S LIABILITY**

14. THIS COURT ORDERS that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **INTERIM RECEIVER'S ACCOUNTS**

15. THIS COURT ORDERS that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "Interim Receiver's Charge") on the Dufferin Property and the Balmoral Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Dufferin Property and the Balmoral Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

16. THIS COURT ORDERS that the Interim Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Interim Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

17. THIS COURT ORDERS that prior to the passing of its accounts, the Interim Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates

and charges of the Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE INTERIM RECEIVERSHIP**

18. THIS COURT ORDERS that the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Interim Receiver by this Order, including interim expenditures. The whole of the Dufferin Property and the Balmoral Property shall be and are hereby charged by way of a fixed and specific charge (the “Interim Receiver’s Borrowings Charge”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Interim Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that neither the Interim Receiver’s Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

20. THIS COURT ORDERS that the Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “C” hereto (the “Interim Receiver’s Certificates”) for any amount borrowed by it pursuant to this Order.

21. THIS COURT ORDERS that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Interim Receiver’s Certificates.

22. THIS COURT ORDERS that all monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court shall be deposited into one or

more new accounts to be opened by the Interim Receiver (the “Post Interim Receivership Accounts”) and the monies standing to the credit of such Post Interim Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **SERVICE AND NOTICE**

23. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [http://www.rosengoldberg.com/company-files.php?company\\_id=83](http://www.rosengoldberg.com/company-files.php?company_id=83).

24. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the creditors of CCL and the Respondent Donald Desrochers (collectively, the “Debtors”) other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

### **TERM OF INTERIM RECEIVER’S APPOINTMENT**

25. THIS COURT ORDERS that the term of the Interim Receiver’s appointment shall expire on the earliest of:

- (a) the taking of possession by a receiver, within the meaning of subsection 243(2) of the BIA, of the Dufferin Property;
- (b) the taking of possession by a trustee in bankruptcy of the Dufferin Property; and
- (c) November 19, 2022, or such earlier or later date as this Court may order.

## **GENERAL**

26. THIS COURT ORDERS that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy or receiver and manager of the Debtors.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

29. THIS COURT ORDERS that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. THIS COURT ORDERS that the Applicant shall have its costs of this Motion up to and including entry and service of this Order, as provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid from the Debtors' estates with such priority, according to such allocation as between Debtors and the Dufferin Property and the Balmoral Property, and at such time as this Court may determine.

31. THIS COURT ORDERS that this Order is strictly without prejudice to the relief sought by the Applicant in its Notice of Application.

32. THIS COURT ORDERS that any interested party (including the Applicant, the Interim Receiver and any of the Debtors) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

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**SCHEDULE "A"**

**LANDS AND PREMISES OWNED BY THE  
RESPONDENT CONCEPT LOFTS LTD.**

<i>PIN</i>	21291 - 0415	LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART OF LOTS 18, 19 & 20, BLOCK O, PLAN 622, DESIGNATED AS PART 1, PLAN66R26944; CITY OF TORONTO			
<i>Address</i>	1183 DUFFERIN STREET TORONTO			

**SCHEDULE "B"**

**LANDS AND PREMISES OWNED BY THE  
RESPONDENT DONALD DESROCHERS**

<i>PIN</i>	12205 - 0069LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 2, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 9809 09 AS IN D621469, CITY OF TORONTO		
<i>Address</i>	502 UNIT 1 BALMORAL AVENUE TORONTO		
<i>PIN</i>	12205 - 0177LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 8, LEVEL B, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 9809 09 AS IN D621469, CITY OF TORONTO		
<i>Address</i>	8B UNIT 1 BALMORAL AVENUE TORONTO		
<i>PIN</i>	12205 - 0070LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 3, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.		
<i>Address</i>	503 UNIT 1 BALMORAL AVENUE TORONTO		



<i>PIN</i>	12205 - 0281LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 24, LEVEL C, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATIONE184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.		
<i>Address</i>	24C UNIT 1 BALMORAL AVENUE TORONTO		

## SCHEDULE "C"

### INTERIM RECEIVER CERTIFICATE

CERTIFICATE NO. ●

AMOUNT \$●

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the interim receiver (the "Interim Receiver") of certain property of the Respondent Concept Lofts Ltd. municipally known as 1183 Dufferin Street, Toronto, Ontario (the "Dufferin Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 21<sup>st</sup> day of October, 2022 (the "Order") made in an application having Court file number CV-22-00688570-00CL, has received as such Interim Receiver from the holder of this certificate (the "Lender") the principal sum of \$●, being part of the total principal sum of \$● which the Interim Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ● day of each month] after the date hereof at a notional rate per annum equal to the rate of ● per cent above the prime commercial lending rate of Bank of ● from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Interim Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Dufferin Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Interim Receiver to indemnify itself out of such Dufferin Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Interim

Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Interim Receiver to deal with the Dufferin Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Interim Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ● day of ●, 20●.

ROSEN GOLDBERG INC., solely in its  
capacity as Interim Receiver of the Dufferin  
Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**OWEMANCO MORTGAGE HOLDING CORPORATION**  
Applicant

-and- **CONCEPT LOFTS LTD. et al.**  
Respondents

Court File No. CV-22-00688570-00CL

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

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**ORDER (APPOINTING INTERIM RECEIVER)**

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**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, P.O. Box 447  
Commerce Court Postal Station  
Toronto, Ontario, M5L 1G4

**DAVID P. PREGER (36870L)**

Email: [dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)  
Tel: (416) 646-4606

**DAVID Z. SEIFER (77474F)**

Email: [dseifer@dickinsonwright.com](mailto:dseifer@dickinsonwright.com)  
Tel: (416) 646-6867  
Fax: (844) 670-6009

Lawyers for the Applicant

**OWEMANCO MORTGAGE HOLDING CORPORATION**  
Applicant

**-and- CONCEPT LOFTS LTD. et al.**  
Respondents

Court File No. CV-22-00688570-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION**

**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger (36870L)**

Tel: (416) 646-4606  
Email: [dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)

**David Z. Seifer (77474F)**

Tel: 416-646-6867  
Email: [dseifer@dickinsonwright.com](mailto:dseifer@dickinsonwright.com)

Tel: 416-777-0101  
Fax: 1-844-670-6009

Lawyers for the Applicant

# TAB 2

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

**IN THE MATTER OF SECTION 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**

**B E T W E E N:**

**OWEMANCO MORTGAGE HOLDING CORPORATION**

Applicant

- and -

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

Respondents

**AFFIDAVIT OF GRAHAM TOBE**  
*(Sworn October 20, 2022)*

**I, GRAHAM TOBE**, of the City of Toronto, in the Province of Ontario, **MAKE OATH**  
**AND SAY:**

1. I am the President of Ontario Wealth Management Corporation (“**Ontario Wealth**”). Ontario Wealth is an Ontario corporation, which operates as a mortgage brokerage and administrator licensed under the *Mortgage Brokers Lenders and Administrators Act, 2006* and as a mortgage syndicator. Ontario Wealth is the administrator of the Loans (hereinafter defined).
2. Ontario Wealth is the Mortgage Manager and Trust Manager of the Owemanco Mortgage Trust (the “**Trust**”), an income trust that distributes its units in the exempt market pursuant to an Offering Memorandum. I am a trustee of the Trust.

3. I am the President of the Applicant Owemanco Mortgage Holding Corporation (the “**Applicant**”). The Applicant is an Ontario corporation. It is the nominee and the registered holder of all mortgages securing loans administered by Ontario Wealth both on behalf of the Trust and on behalf of other investors. By virtue of my offices with Ontario Wealth and the Applicant and my status as a trustee of the Trust, I have knowledge of the matters to which I hereinafter depose.

4. I am also a lawyer and member in good standing of the Law Society of Upper Canada. I was called to the Ontario bar in 1984.

5. On October 19, 2022, I swore an Affidavit in support of an urgent application to appoint Rosen Goldberg Inc. as Court-appointed receiver and manager over:

- (a) all of the assets, undertakings and properties of the Respondent Concept Lofts Ltd. (“**CCL**”) acquired for, or used in relation to a business carried on by CCL, including the lands and premises municipally known as 1183 Dufferin Street, in Toronto, Ontario (the “**Dufferin Property**”), and all proceeds thereof; and
- (b) the lands and premises owned by the Respondent Donald Desrochers (“**Desrochers**” and together with CCL, collectively, the “**Debtors**”) municipally known as Suites 502 and 503, 1 Balmoral Avenue in Toronto, Ontario (the “**Balmoral Property**”), and all proceeds thereof.

6. I am swearing this Affidavit in support of an urgent interlocutory motion to appoint Rosen Goldberg Inc. as interim receiver over the Dufferin Property pursuant to section 47(1) of the BIA.

7. The within motion is being served on all interested parties. Attached hereto as **Exhibit A** is a copy of the service list.



8. In order to avoid repeating much of the evidence in my previous affidavit, I have summarized below the salient facts in support of the within motion. For ease of reference, certain exhibits in my previous affidavit are hyperlinked in this affidavit.

9. CCL is an Ontario corporation, whose directors and officers are Desrochers, Sunil Bhardwaj (“**Bhardwaj**”) and Sanjay Dubey (“**Dubey**”) and together with Desrochers and Bhardwaj collectively, the “**D & Os**”). A copy of a Profile Report in respect of CCL is attached as **Exhibit A** to my previous affidavit. The D & O’s are also personal guarantors of the Loans.

10. CCL is the registered owner of the Dufferin Property. A copy of the parcel register in respect of the Dufferin Property is attached as **Exhibit B** to my previous affidavit.

11. The Dufferin Property is a church converted to a residential condominium project (the “**Project**”) located on the east side of Dufferin Street between Bloor Street West and Dupont Street, in Toronto. It consists of 14 residential units and 11 below grade parking stalls.

12. The Applicant is a secured lender to:

- (a) CCL in connection with a loan in the principal amount of \$6.675M (“**Facility A**”);  
and
- (b) CCL and Desrochers in connection with a further loan in the principal amount of \$2.05M (“**Facility B**”) and together with Facility A, collectively the “**Loans**”).

13. As security for Facility A, the Applicant holds, among other things, a first-ranking mortgage over the Dufferin Property. A copy of the first mortgage is attached as **Exhibit E** to my previous affidavit.

14. As security for Facility B, the Applicant holds, among other things, mortgages blanketed over the Dufferin Property in second position (immediately behind the Facility A mortgage) and over the Balmoral Property in first position (the “**Blanket Mortgages**”). Copies of the Blanket

Mortgages are attached, collectively, as **Exhibit K** to my previous affidavit. The Blanket Mortgages were subsequently amended. Copies of the notices relating to the amendments are attached, collectively, as **Exhibit O** to my previous affidavit.

15. Due to financial defaults under the Loans, on September 16, 2022, the Applicant made written demand under the Loans and issued Notices of Intention to Enforce Security pursuant to section 244 of the BIA. Copies of the demands and BIA notices are attached, collectively, as **Exhibit R** to my previous affidavit.

16. On October 12, 2022, Susan Park, an employee of the Applicant, contacted Marsh Canada, CCL's insurance broker, to inquire whether CCL's insurance coverage which was scheduled to expire on September 21, 2022 continued to be in force. Copies of the insurance documentation in the Applicant's file are attached, collectively, as **Exhibit U** to my previous affidavit.

17. As no response was forthcoming from Marsh, on October 14, 2022, the Applicant's lawyer, David Preger, exchanged emails with Marsh as a result of which it became apparent that the Dufferin Property is uninsured. A copy of the email exchange is attached as **Exhibit V** to my previous affidavit.

18. As a serious uninsured loss of the Dufferin Property would result in a disastrous loss under the Loans, since October 14, 2022, the Applicant has been trying desperately, albeit without success, to obtain mortgagees' forced placed insurance on the Dufferin Property.

19. The parcel register of the Dufferin Property indicates that that the Dufferin Property is subject to three further subordinate ranking charges in the principal face amounts of \$1.3M, \$1.152,154M and \$547.5K respectively, in favour of other mortgagees, at least one of which I understand is controlled by Bhardwaj. Copies of the mortgages are attached hereto as **Exhibits B, C and D**, respectively.

20. Given that the Dufferin Property is uninsured notwithstanding that construction of the Project is substantially complete, I believe it is just and convenient that an interim receiver be

appointed immediately by this Honourable Court to take possession of and secure the Dufferin Property and insure it.

21. Attached as **Exhibit E** is a copy of correspondence that Mr. Preger received from Cassels Brock & Blackwell LLP today enclosing a construction lien registered against the property on behalf of SDM Construction Inc. The construction lien identifies Dubey as an agent of the lien claimant.

22. Attached as **Exhibit F** is an email that Mr. Preger received today from Jeff Larry of Paliare Roland Rosenberg Rothstein LLP evidencing that Bhardwaj has notice of the within proceedings.

23. Attached, collectively, as **Exhibit G** are emails which Mr. Preger received from Olubunmi Ogunniyi, a lawyer identifying himself as litigation counsel to Desrochers dated October 3, 2022 and October 15, 2022. The emails evidence that Desrochers had notice of the within proceedings and the scheduled appearance before Justice Kimmel on October 20, 2022.

24. Attached, collectively, as **Exhibit H** are a series of emails from Mr. Preger to, among others, Samir Chhina, a lawyer who represented Desrochers at the meeting on September 30, 2022 (referred to in paragraph 9 of my previous affidavit).

**SWORN BEFORE ME** by videoconference,  
at the City of Toronto, in the Province of  
Ontario, on this 20<sup>th</sup> day of October, 2022 in  
accordance with O. Reg. 431/20,  
Administering Oath or Declaration Remotely.



---

Commissioner for Taking Affidavits  
(or as may be)

**DAVID PREGER**



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**GRAHAM TOBE**

This is Exhibit "A" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

## SERVICE LIST

TO: **CONCEPT LOFTS LTD.**  
2905 – 49 Hillcrest Avenue  
Brampton ON L6W 4V4  
Email: [dond26244@gmail.com](mailto:dond26244@gmail.com)

Respondent / Owner of the Dufferin Property

AND TO: **DONALD DESROCHERS**  
2 – 111 Regina Road  
Woodbridge ON L4L 8N5  
Email: [dond26244@gmail.com](mailto:dond26244@gmail.com)

Respondent and Guarantor / Owner of Balmoral Property

AND TO: **SUNIL BHARDWAJ**  
1 Grovepark Street  
Richmond Hill ON L4E 2R5  
Email: [smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)

Guarantor

AND TO: **SANJAY DUBEY**  
23 Brookhaven Crescent  
East Garafraxa ON L9W 2K2  
Email: [sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)

Guarantor

AND TO: **WORLD FINANCIAL SOLUTIONS INC.**  
c/o Saneh Bharbwaj  
1 Grovepark Street  
Richmond Hill ON L4E 2R5  
Email: [smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)

Fourth and Fifth Mortgagee over the Dufferin Property

AND TO: **2264405 ONTARIO INC.**  
c/o Sanjay Gupta  
49 Hillcrest Avenue  
Suite 205  
Brampton, Ontario  
L6W 4V4  
Email: [sgupta02014@gmail.com](mailto:sgupta02014@gmail.com)

Third Mortgagee over the Dufferin Property

AND TO: **CASSELS BROCK & BLACKWELL LLP**  
2100 Scotia Plaza, 40 King Street West  
Toronto, Ontario M5H 3C2 Canada

**ALAN MERSKEY**  
Telephone: 416 860 2948  
Email: [amerskey@cassels.com](mailto:amerskey@cassels.com)

**KYLE L. KUCZYNSKI**  
Telephone: 416 815 4352  
Email: [kkuczynski@cassels.com](mailto:kkuczynski@cassels.com)

Lawyers for SDM Projects Inc. and the Lien Claimant, SDM Construction Inc.

AND TO: **ROSEN GOLDBERG INC.**  
5255 Yonge Street, Suite 804  
Toronto, Ontario M2N 6P4  
  
Direct: 416 224 4210  
Fax: 416 224 4330  
Email: [brosen@rosengoldberg.com](mailto:brosen@rosengoldberg.com)

Proposed Receiver

AND TO: **DEPARTMENT OF JUSTICE**  
The Exchange Tower  
130 King Street West, Suite 3400  
Toronto, ON M5X 1K6  
  
**Attention: Diane Winters**  
(416) 973-3172 (Tel)  
(416) 973-0810 (Fax)  
Email: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

AND TO: **HIS MAJESTY THE KING IN RIGHT OF THE  
PROVINCE OF ONTARIO AS REPRESENTED BY  
THE MINISTER OF FINANCE**

Insolvency Unit  
33 King Street West, 6th Floor  
Oshawa, ON L1H 8H5

**Attention: Leslie Crawford**  
(416) 433-5657 (Tel - Reception)  
Email: [leslie.crawford@ontario.ca](mailto:leslie.crawford@ontario.ca); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

4873-3581-9066 v1 [93383-3]

This is Exhibit "B" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**



**Properties**

*PIN* 21291 – 0382 LT *Interest/Estate* Fee Simple  
*Description* PT LTS 18, 19 & 20, BLK O, PL 622, DESIGNATED AS PT 2, PL 64R16353, CITY OF TORONTO  
*Address* 1183 DUFFERIN STREET  
TORONTO

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

*Name* CONCEPT LOFTS LTD.  
*Address for Service* 122 Bedford Road  
Toronto, Ontario  
M5R 2K2

I, Don Desrochers, President, and Sanjay Gupta, Treasurer, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Chargee(s)***Capacity**Share*

*Name* 2264405 ONTARIO INC.  
*Address for Service* c/o  
Sanjay Gupta  
49 Hillcrest Avenue  
Suite 205  
Brampton, Ontario  
L6W 4V4

**Provisions**

*Principal* \$1,300,000.00 *Currency* CDN  
*Calculation Period* annually  
*Balance Due Date* 2011/12/03  
*Interest Rate* 10.0%  
*Payments*  
*Interest Adjustment Date* 2010 12 03  
*Payment Date* monthly  
*First Payment Date*  
*Last Payment Date*  
*Standard Charge Terms* 200033  
*Insurance Amount* full insurable value  
*Guarantor* Don Desrochers, Sunil Bhardwaj & Sanjay Gupta

**Additional Provisions**

It is an open one year term mortgage. Interest payments will only be paid on the actual money that is advanced and will be calculated every month end.

The Chargor is responsible for all legal fees and disbursements incurred.

The first advance will be \$660,000.00 that covers the initial amount needed to close the purchase, closing costs, and legal fees

Lender's mortgage fee of 10 percent will be added to the loan that is actually advanced till the date of repayment and will be paid back at the time of repayment of the loan along with the principal.

The Chargor will be responsible for all legal fees for enforcement.

There will be a NSF or late payment fee of \$300.00 each time payment is late or is returned from the bank and such fees will be payable with the next payment.

**Signed By**

Mukesh Bhardwaj 7500-Highway #27, Suite #7 acting for Chargor Signed 2010 12 03  
Vaughan (s)  
L4H 0J2

Tel 4167477777

Fax 9058568077

I have the authority to sign and register the document on behalf of the Chargor(s).

**Submitted By**

MUKESH BHARDWAJ LAW OFFICE 7500-Highway #27, Suite #7 2010 12 03  
Vaughan  
L4H 0J2

Tel 4167477777

Fax 9058568077

**Fees/Taxes/Payment**

Statutory Registration Fee \$60.00

Total Paid \$60.00

This is Exhibit "C" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

**Properties**

*PIN* 21291 - 0415 LT *Interest/Estate* Fee Simple  
*Description* PART OF LOTS 18, 19 & 20, BLOCK O, PLAN 622, DESIGNATED AS PART 1, PLAN 66R26944; CITY OF TORONTO  
*Address* 1183 DUFFERIN STREET  
TORONTO

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

*Name* CONCEPT LOFTS LTD.  
*Address for Service* 122 Bedford Road,  
Toronto, ON,  
M5R 2K2

I, Donald Desrochers, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Chargee(s)***Capacity**Share*

*Name* WORLD FINANCIAL SOLUTIONS INC.  
*Address for Service* 1 Grovepark Street,  
Richmond Hill, Ontario,  
L4E 2R5

**Provisions**

*Principal* \$1,162,154.00 *Currency* CDN  
*Calculation Period*  
*Balance Due Date* 2020/04/21  
*Interest Rate* 10%  
*Payments*  
*Interest Adjustment Date* 2018 12 21  
*Payment Date*  
*First Payment Date*  
*Last Payment Date* 2020 04 21  
*Standard Charge Terms* 200033  
*Insurance Amount* Full insurable value  
*Guarantor* Sanjay Dubey and Don Desrochers

**Additional Provisions**

It is 16 months term, fully open mortgage.

The Chargor is responsible for lender fees.

The Principal amount of the Charge becomes due and payable in case,

a. Property taxes are not up to date

b. Insurance is not up to date

There will be a servicing fee \$400.00 for any tax payment, first or second mortgage payment or insurance payment made by the lender.

The Chargor will be responsible for all legal fees for enforcement.

It is provided that there shall be no further financing on the property.

This mortgage shall not be assigned or transferred without the written consent of the Mortgagee.

**Signed By**

Mukesh Bhardwaj 7500-Highway #27, Suite #18 acting for Signed 2019 02 15  
Vaughan Chargor(s)  
L4H 0J2

Tel 416-747-7777

Fax 905-856-8077

I have the authority to sign and register the document on behalf of the Chargor(s).

**Submitted By**

Bhardwaj Law Professional Corporation	7500-Highway #27, Suite #18 Vaughan L4H 0J2	2019 02 15
Tel	416-747-7777	
Fax	905-856-8077	

**Fees/Taxes/Payment**

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

**File Number**

Chargor Client File Number : 19-042

This is Exhibit "D" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

**Properties**

*PIN* 21291 - 0415 LT *Interest/Estate* Fee Simple  
*Description* PART OF LOTS 18, 19 & 20, BLOCK O, PLAN 622, DESIGNATED AS PART 1, PLAN 66R26944; CITY OF TORONTO  
*Address* 1183 DUFFERIN STREET  
TORONTO

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

*Name* CONCEPT LOFTS LTD.  
*Address for Service* 1183 Dufferin Street, Toronto, Ontario  
M6H 4B7

I, Donald Desrochers, ASO, and Sanjay Dubey, ASO, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Chargee(s)***Capacity**Share*

*Name* WORLD FINANCIAL SOLUTIONS INC.  
*Address for Service* 1 Grovepark Street, Richmond Hill, Ontario L4E 2R5

**Statements**

Schedule: See Schedules

**Provisions**

*Principal* \$547,500.00 *Currency* CDN  
*Calculation Period* annually  
*Balance Due Date* ON DEMAND  
*Interest Rate* 2.00% per month  
*Payments* \$10,500.00  
*Interest Adjustment Date* 2018 06 20  
*Payment Date* 20th day of each and every month  
*First Payment Date* 2018 07 20  
*Last Payment Date*  
*Standard Charge Terms* 200033  
*Insurance Amount* Full insurable value  
*Guarantor* Donald Desrochers, Sanjay Dubey, Sunil Bhardwaj

**Signed By**

Ankush Sondhi Unit 9 - 15483 Yonge Street acting for Signed 2019 07 09  
Aurora Chargor(s)  
L4G 1P3

Tel 905-727-8900

Fax 905-727-9664

I have the authority to sign and register the document on behalf of the Chargor(s).

**Submitted By**

ANKUSH SONDHI Unit 9 - 15483 Yonge Street 2019 07 10  
Aurora  
L4G 1P3

Tel 905-727-8900

Fax 905-727-9664

**Fees/Taxes/Payment**

*Statutory Registration Fee* \$64.40  
*Total Paid* \$64.40

***File Number***

Chargee Client File Number : 18-053



## WORLD FINANCIAL SOLUTIONS INC.

1 Grovepark Street, Richmond Hill, Ontario, L4E 2R5. Tel: 416-520-8557

June 20<sup>th</sup>, 2018

Concept Lofts  
1183 Dufferin Street  
Toronto, Ontario  
M6H 4B7

To whom it may concern,

RE: World Financial Solutions Inc, 3<sup>rd</sup> Mortgage Loan to Concept Lofts  
Property Located at: 1183 Dufferin Street, Toronto, Ontario, M6H 4B7  
Guarantors: Donald Descrochers, Sanjay Dubey, Sunil Bhardwaj  
Closing Date: June 20<sup>th</sup>, 2018



I am pleased to confirm that World Financial Solutions Inc. (the "lender") are prepared to lend \$547,500.00 to Concept Lofts (the "borrower") to be secured by way of a THIRD ranking mortgage on the property located at 1183 Dufferin Street, Toronto, Ontario, (this "loan hereafter referred to as the "Loan"), on the exact terms and conditions described below:

The Borrowers acknowledge that, Mr. Sunil Bhardwaj, owner of World Financial Solutions, the lender, is a part owner of the subject property in question. The funds advanced are to be used to complete the construction of the subject property. All three acknowledge that Sunil Bhardwaj, part owner of Concept Lofts, is also one of the Directors of the Lender, World Financial Solutions.


\$125,000.00 was provided by World Financial Solutions on October 5th, 2017. Interest has been accruing on this money at 2% per month since that date. The total amount of interest owed as of July 5th, 2018 is \$22,500.00.

Interest on this charge is to accrue on the total amount loaned, \$525,000.00.

### THE TERMS

1. Borrower: Concept Lofts



2. Guarantors: Donald Descrochers, Sanjay Dubey, Sunil Bhardwaj
3. Security: 3<sup>rd</sup> mortgage in the lender's form
4. Loan Amount: \$547,500.00 being approximately 66% loan to value
5. Advance Date: June 20<sup>th</sup>, subject to Borrower meeting conditions listed below 
6. Interest Rate: 2% per month, calculated ~~annually~~ <sup>monthly</sup>, payable monthly, not in advance, both before and after maturity, default, and judgement
7. Lender's Fees: No lenders fee has been included to the principal for the processing of this loan by the lender, which fees shall be deemed to be earned upon acceptance of this commitment whether or not this loan transaction is completed and registered
8. Brokerage Fees: NONE
9. Payments: \$10,500.00 per month interest only payments.
10. Maturity: On Demand
11. Pre-Payment: 12 months, fully open
12. Privileges: Provided that the borrower is not in default, open for prepayment
13. NSF/Late Payment Charges: None
14. Servicing Fee: \$400 for any tax payment, first or second mortgage payment, or insurance payment made by the Lender on behalf of the Borrower
15. Inspection Fee: None
16. Admin. Fee: \$2500 is payable to the Lender by the Borrower for any and all of the following legal actions or default proceedings taken. The borrower is also responsible for ALL legal fees and disbursements incurred by the Lender in the event of an enforcement, including but not limited to:
  - a. The issuance of a Notice of Sale and/or Notice of Intent to Enforce Security
  - b. The issuance of the Statement of Claim
  - c. The signing of a Default Judgement
  - d. The filing of a motion for leave to issue a writ of possession



- e. The sum of \$2500 (TWO THOUSAND FIVE HUNDRED DOLLARS) is a servicing fee to cover the Lender's administrative costs with respect to the preparation of the file for the Lender's counsel and provision of instructions to the Lender's counsel

17. **Demand Letter Fees:** If the Lender or any agent servicing the mortgage on behalf of the Lender writes a demand letter with respect to any Event of Default then the Borrower shall pay to the Lender (in addition to all legal fees and disbursements incurred by the Chargee) the sum of 250\$ (TWO HUNDRED AND FIFTY DOLLARS) plus HST as a liquidated amount to cover the Lender's administrative costs with respect to the same:

18. **Fees for Taking and Keeping Possession:** If the Lender takes possession of the Property, whether pursuant to court proceedings or otherwise, then:

- a. The Lender shall be entitled to administration fees of \$1000 for attendance (in addition to any costs paid to the Sheriff or to a locksmith) and fees of \$100 per day for each day in possession
- b. The Borrower is responsible for all legal fees and disbursements incurred by the Lender and any fees paid to SECOND party property managers) as a liquidated amount to cover the Lender's administrative costs for funding the vacancy, insuring, security, clean up, and repair of the Property

19. **Other Administrative Fees:** The lender is entitled to an administrative fee as follows:

- a. **Insurance Cancellation:** \$500.00 for dealing with each notice of cancellation of insurance, failure to provide evidence of insurance; or other noncompliance with the insurance provisions of the charge
- b. **Tax Default:** \$500.00 in the event that the Borrower fails to provide satisfactory evidence that realty taxes have been or on receipt of any notice of tax arrears\
- c. **Failure to provide posted dated cheques:** If the Borrower fails to provide postdated cheques, the Lender shall be entitled to an administrative fee of \$500 for each such failure
- d. **Default Notice Under Prior Charge:** The Charge shall be entitled to an administrative fee of \$250.00 for each occasion on which the Chargee receives notice of arrears under a prior encumbrance or becomes aware of arrears under a prior charge







- e. **Inspection Fee:** On the occurrence of any Event of Default, the Lender shall be entitled to an inspection fee of \$350.00 for each inspection, including a drive-by inspection, including a drive-by inspection, of the Property, conducted by the Lender to find out if the property is occupied and/or to inspect the physical condition of the Property
20. **Overdue Maturity:** Penalty payable equal to three months interest if not renewed or paid on maturity

CONDITIONS

1. **Requirements Before Lender Advances Funds:** The Lender shall not be required to advance funds until all the following requirements have been met:
  - a. Execution, delivery and registration of the 3<sup>rd</sup> Mortgage
  - b. Mortgage to be in the name of World Financial Solutions Inc.
  - c. PROPER IDENTIFICATION (2 PIECES) FOR EACH MORTGAGOR AND GUARANTOR – passport/ID
  - d. There being no executions, security interests, or other liens or encumbrances on the title to the Property;
  - e. Declaration that the Property will be owner occupied and not tenanted
2. **Covenants:** Until the Borrower has paid the Loan, the Borrower agrees to the following:
  - a. To make all payments provided for in this commitment
  - b. To pay all real estate taxes and insurance relating to the Property as they fall due
  - c. Not incur any further encumbrances without the written consent of WORLD FINANCIAL SOLUTIONS Inc.
  - d. That the Borrower shall occupy the Property as his primary principal residence and shall not lease, sublet or part with the possession
3. **Default:** The Lender may declare the unpaid principal and accrued interest and all other amounts payable by the Borrower due and payable forthwith upon the happening of any one of the following events of default
  - a. The Borrower fails to pay interest or principal or any other sum due hereunder on the due date whether demanded or not
  - b. Any of the terms or covenants in this commitment or the Mortgage are breached by the Borrower
  - c. The Borrower is in default of any of the terms of any Mortgage
  - d. The Borrower defaults in payment of fire insurance or taxes
  - e. The Property cease to be the primary principal residence of the Borrower or the Borrower leases, sublets or parts with possession of any part of the Property

Handwritten signatures in black ink, consisting of three distinct marks.

4. **No Merger:** It is understood and agreed that the execution and delivery of the Security shall in no way merge or extinguish this commitment letter which shall continue in full force and effect
5. **Solicitors:** The legal expenses incurred by the Lender in this transaction are an expense of the Borrower. Please retain your own lawyer for your own independent legal advice. The documents following this commitment must be executed at your own lawyer's office.
6. **Costs:** The Borrower shall pay all of the Lender's legal costs of this transaction failing which shall be added to and form part of the secured principal and in the event of any default the Borrower shall pay the Lender's costs and expenses including reasonable legal fees on a solicitor and own client basis
7. **Title Insurance:** The Mortgage shall be title insured at the expense of the Borrower. *Waived* 
8. **Validity:** Every term of this Loan Agreement shall be severable and if any provision is held to any extent invalid or unenforceable, the remainder of this Charge, other than the provision which is held invalid or unenforceable, shall not be effected and such invalid or unenforceable provision shall be reduced only to the extent necessary for it to be enforceable and valid 
9. **Time of Essence:** Time shall be of the essence in all respects

 10. The borrower/guarantor, Sunil Bhardwaj is a director of the borrower Corporation, Concept Lofks. 

   
83

You are strongly urged to obtain independent legal representation. Ankush Sondhi, Barrister & Solicitor, acts solely for the Lender (World Financial Solutions Inc.) and NOT FOR THE BORROWER even though the lender's legal fees are incurred by the Borrower. In the event that the mortgage is not paid, Mr. Sondhi may be retained in enforcement proceedings by the Lender.

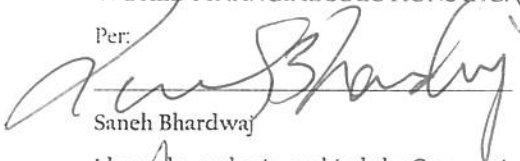
Please sign below to accept the commitment as outlined above.

This commitment is only open for acceptance until \_\_\_\_\_ a.m./p.m. on the 20<sup>th</sup> of June, 2018

Yours very truly,

WORLD FINANCIAL SOLUTIONS INC. (LENDER)

Per:

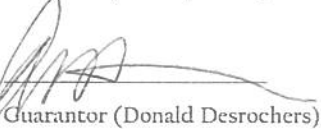


Saneh Bhardwaj

I have the authority to bind the Corporation



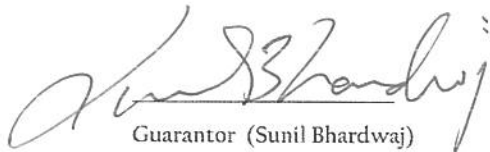
Borrower (Concept Lofts)



Guarantor (Donald Desrochers)



Guarantor (Sanjay Dubey)

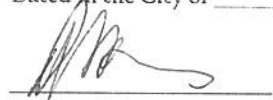
  
Guarantor (Sunil Bhardwaj)

We (the Borrowers) hereby accept the commitment on the terms and conditions stated, which we have read in full and understand in full. We acknowledge that we have been encouraged to obtain independent legal advice prior to the execution and registration of this commitment and we have either obtained that advice or waive that right to do so. In waiving the right to do so, we have made the decision to forego such advice and acknowledge that we will not be able to raise the lack of legal advice as a defence in any enforcement proceedings.

We acknowledge that if for any reason, other than breach by the lender, this mortgage loan is not completed that the lender's fees, referral fees, brokers fees, and legal fees incurred by the lender are due and payable and will be paid by us forthwith.

Mr. Sondhi is NOT providing the borrower with any advice or representation on signing this document and its implications.

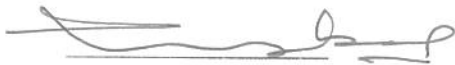
Dated in the City of \_\_\_\_\_, Ontario, on this 20<sup>th</sup> day of June, 2018

  
\_\_\_\_\_

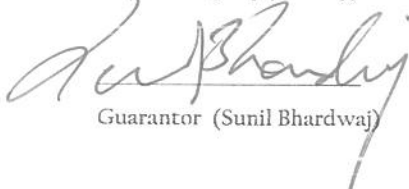
Borrower (Concept Lofts)

  
\_\_\_\_\_

Guarantor (Donald Desrochers)

  
\_\_\_\_\_

Guarantor (Sanjay Dubey)

  
\_\_\_\_\_

Guarantor (Sunil Bhardwaj)

WAIVER OF INDEPENDENT LEGAL ADVICE – GUARANTOR(S)

TO: World Financial Solutions Inc. (the "Lender")

AND TO: Concept Lofts Ltd. (the "Borrower")

AND TO: Ankush Sondhi, Barrister & Solicitor  
Barrister & Solicitor

RE: Guarantee of a Charge/Mortgage from the Borrower to the Lender  
Guarantors: Donald Desrochers, Sanjay Dubey and Sunil Bhardwaj  
Address: 1183 Dufferin. Street, Toronto  
Legal Description: Part Lots 18, 19 & 20, Block O, Plan 622, Designated as  
Part 1 Plan 66R26944, City of Toronto  
Closing Date: June 20, 2018  
My File No.: 18-053

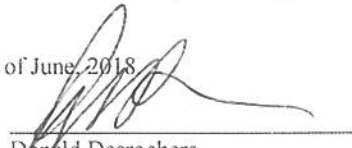
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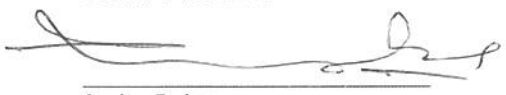
We, Donald Desrochers, Sanjay Dubey and Sunil Bhardwaj, acknowledge and confirm that:

1. We have been advised that the Firm is acting solely on behalf of the Borrower in connection with the above-noted transaction (the "transaction");
2. The Firm is not providing us with legal advice with respect to the transaction;
3. In the event that we have any questions or concerns regarding the transaction and/or regarding any of our rights and obligations thereunder, the Firm is not in a position to provide any advice with respect to same and that it has advised us that we should seek independent legal representation;
4. We fully understand that we have the right to obtain and consult an independent lawyer prior to signing any documents in connection with the transaction (the "Documents") and that we hereby expressly waive our right to do so; and
5. We fully understand the nature and effect of the Documents and that we execute the Documents voluntarily and free of any fear, threat, compulsion or inducement by any other person.

We hereby waive independent legal representation and independent legal advice in connection with the transaction.

DATED at Vaughan, Ontario this 20<sup>th</sup> day of June, 2018

  
Donald Desrochers

  
Sanjay Dubey

  
Sunil Bhardwaj



This is Exhibit "E" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

# Cassels

October 20, 2022

**Via E-Mail**

Dickinson Wright LLP  
199 Bay Street  
Suite 220  
Commerce Court West  
Toronto, ON M5L 1G4

amerskey@cassels.com  
tel: +1 416 860 2948

kkuczynski@cassels.com  
tel: +1 416 815 4352

Attention: David P. Preger

Dear Counsel:

**Re: SDM Construction Inc. (“SDM Construction”) and SDM Projects Inc. (“SDM Projects”) re: Concept Lofts Ltd. (“Concept Lofts”)**

We are the lawyers for SDM Projects and SDM Construction and were recently retained yesterday afternoon.

We understand that SDM Projects is a minority shareholder in Concept Lofts.

We also understand that SDM Construction supplied services and materials to the project. We were instructed to register a construction lien against the project this morning for its work after the Certificate of Substantial Performance was published. A copy of the registered construction lien is enclosed for your records.

As for tomorrow’s hearing, we take no position on the appointment of the receiver on an interim basis and do not intend to appear.

Yours truly,

Cassels Brock & Blackwell LLP

  
Alan Merskey / Kyle Kuczynski

AM/tj  
Enclosure

LEGAL\*57284677.1

**Properties**

*PIN* 21291 - 0415 LT  
*Description* PART OF LOTS 18, 19 & 20, BLOCK O, PLAN 622, DESIGNATED AS PART 1, PLAN 66R26944; CITY OF TORONTO  
*Address* 1183 DUFFERIN STREET  
TORONTO

**Consideration**

*Consideration* \$189,739.09

**Claimant(s)**

*Name* SDM CONSTRUCTION INC.  
*Address for Service* c/o Cassels Brock & Blackwell LLP  
2100-40 King Street West  
Toronto ON M5H 3C2  
Attention: Alan Merskey & Kyle  
Kuczynski

I, Sanjay Dubey, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner Concept Lofts Ltd. Name and address of person to whom lien claimant supplied services or materials 205-49 Hillcrest Avenue, Brampton ON L6W 4V4 Time within which services or materials were supplied from 2015/09/01 to 2022/10/12 Short description of services or materials that have been supplied Site Supervision and project management along with supply of materials and payment for various bills- insurance, materials, utility. Contract price or subcontract price \$1,967,133.13 inclusive of H.S.T. Amount claimed as owing in respect of services or materials that have been supplied \$189,739.09 inclusive of H.S.T.

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

**Signed By**

Robyn Erin Blumberg 40 King Street West, Suite 2100 acting for Signed 2022 10 20  
Toronto Applicant(s)  
M5H 3C2

Tel 416-869-5300

Fax 416-360-8877

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

CASSELS BROCK & BLACKWELL LLP 40 King Street West, Suite 2100 2022 10 20  
Toronto  
M5H 3C2

Tel 416-869-5300

Fax 416-360-8877

**Fees/Taxes/Payment**

*Statutory Registration Fee* \$66.30

*Total Paid* \$66.30

**File Number**

*Claimant Client File Number :* 58103-1

This is Exhibit "F" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

## David P. Preger

---

**From:** Jeff.Larry@paliareroland.com  
**Sent:** Thursday, October 20, 2022 8:56 AM  
**To:** David P. Preger  
**Subject:** Re: EXTERNAL: Sunil

Thanks. We just spoke. He's going to attend this morning on his own and then we will speak to discuss a retainer and strategy.

Sent from my iPhone

> On Oct 19, 2022, at 10:31 PM, David P. Preger <DPreger@dickinson-wright.com> wrote:

>

> Sunil Bhardwaj

> Direct line 416 520 8557

>

>

>

> David P. Preger Partner

>

>

> Dickinson Wright LLP

> 199 Bay Street

> Suite 2200

> Commerce Court West

> Toronto ON M5L 1G4

>

> Phone416-646-4606

> Fax844-670-6009

> EmailDPreger@dickinsonwright.com

>

> -----Original Message-----

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

> Sent: Wednesday, October 19, 2022 9:59 PM

> To: David P. Preger <DPreger@dickinson-wright.com>

> Subject: EXTERNAL: Sunil

>

> I have sent him several emails but haven't heard back.

>

> Do you have a phone number for him?

>

> I am not going to attend tomorrow if I don't get in touch with him.

>

> Thanks

>

> Sent from my iPhone

>

>

> \_\_\_\_\_

>

> \_\_\_\_\_

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>

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> \_\_\_\_\_

>

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

>

This is Exhibit "G" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

## David P. Preger

---

**From:** olu ogunniylawoffices.com <olu@ogunniylawoffices.com>  
**Sent:** Monday, October 3, 2022 8:56 PM  
**To:** David P. Preger  
**Cc:** samirchhina@gmail.com  
**Subject:** EXTERNAL: OWEMANCO and Donald Desrochers - 1 Bedford Avenue, Toronto ("Subject Property")

Mr. Preger,

I confirm that I am Litigation Counsel to Mr. Don Desrochers.

I understand that Owemanco, by its conduct, has frustrated my client's efforts to place the Owemanco mortgage (registered against his property) in "good standing" during the Renewal Term of the said mortgage.

The aforesaid mortgage ("Bedford Mortgage") is separate and distinct from Owemanco's First Mortgage Charge against the 1183 Dufferin Street Property ("Dufferin Mortgage").

There is jurisprudence to support my client's position that the Bedford and Dufferin Mortgages must be treated separately as they were created that way.

The current conduct exhibited by your client is the type of conduct that has been sanctioned by the Court.

It is not an onerous request from my client to yours to have the Bedford Mortgage, registered against his principal residence, placed in "good standing".

I await your urgent response.

OLUBUNMI OGUNNIYI  
Barrister & Solicitor  
2680 Matheson Boulevard East,  
Suite 102  
Mississauga, Ontario L4W 0A5

Tel: 1-866-840-5167  
Fax: 1-877-201-3476  
E-Mail: olu@ogunniylawoffices.com



## David P. Preger

---

**From:** olu ogunniylawoffices.com <olu@ogunniylawoffices.com>  
**Sent:** Saturday, October 15, 2022 10:21 AM  
**To:** David P. Preger; Sunil Bhardwaj  
**Cc:** Samir Chhina; Donald Desrochers; SANJAY DUBEY; Brahm Rosen; David Z. Seifer; Janet C. Nairne  
**Subject:** Re: EXTERNAL: Re: OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL  
**Attachments:** imagef33bfc.JPG; imageb0bfaf.JPG; image1b6edc.JPG

Mr. Prager,

I am away with limited access to e-mails.

I am only checking my e-mails intermittently.

Please note that with respect to the Notice of Application which you have issued, I have no instructions to accept same on behalf of any party(ies).

OLUBUNMI OGUNNIYI  
Barrister & Solicitor  
2680 Matheson Boulevard East,  
Suite 102  
Mississauga, Ontario L4W 0A5

Tel: 1-866-840-5167  
Fax: 1-877-201-3476  
E-Mail: olu@ogunniylawoffices.com

---

From: David P. Preger <DPreger@dickinson-wright.com>  
Sent: Thursday, October 13, 2022 11:34 PM  
To: Sunil Bhardwaj  
Cc: Samir Chhina; olu ogunniylawoffices.com; Donald Desrochers; SANJAY DUBEY; Brahm Rosen; David Z. Seifer; Janet C. Nairne  
Subject: Re: EXTERNAL: Re: OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL

Sunil, The purpose of the appearance on October 20 will be to schedule the hearing date. I urge to retain a lawyer immediately.

Sent from my iPhone

On Oct 13, 2022, at 10:25 PM, Sunil Bhardwaj <smvfinancial@gmail.com> wrote:

Hi David ,

I have a prior court commitment at the same time to attend an in person court. I definitely want to attend court and wouldn't like it to be ex parte. I also would like to seek some legal advice. Thank you .

Regards

Sunil Bhardwaj

Direct line 416 520 8557

On Oct 13, 2022, at 3:54 PM, David P. Preger <DPreger@dickinson-wright.com> wrote:

Dear Sirs,

Please find attached our client's Notice of Application, which is served upon pursuant to the Rules of Civil Procedure.

A hearing in this matter has been scheduled via Zoom before a judge presiding over the Commercial List of the Ontario Superior Court of Justice at 10:30 am on Thursday, October 20, 2022. When we receive a videoconference link from the Court, we will forward it to you. We will also serve you with an affidavit in support of our client's application prior to the hearing.

David P. Preger Partner

199 Bay Street

Suite 2200

Commerce Court West

Toronto ON M5L 1G4

<<http://www.dickinson-wright.com/our-people/David-Preger>>

David P. Preger Partner

199 Bay Street

Suite 2200

Commerce Court West

Toronto ON M5L 1G4

[cid:imagef33bfc.JPG@9986613a.489b4c4a]<<http://www.dickinson-wright.com/our-people/David->

[Preger](mailto:DPreger@dickinsonwright.com)>[cid:imageb0bfaf.JPG@2370150a.498f1bfb]<[http://www.dickinson-wright.com/~vcf/David\\_P\\_Preger.vcf](http://www.dickinson-wright.com/~vcf/David_P_Preger.vcf)>

Phone 416-646-4606

Fax 844-670-6009

Email [DPreger@dickinsonwright.com](mailto:DPreger@dickinsonwright.com)

[cid:image1b6edc.JPG@9a05680f.4e83127b]<<https://www.dickinson-wright.com/>>

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<<http://www.dickinson-wright.com/our-people/David-Preger>><[http://www.dickinson-wright.com/~vcf/David\\_P\\_Preger.vcf](http://www.dickinson-wright.com/~vcf/David_P_Preger.vcf)>

<[http://www.dickinson-wright.com/~vcf/David\\_P\\_Preger.vcf](http://www.dickinson-wright.com/~vcf/David_P_Preger.vcf)>

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Email [DPreger@dickinsonwright.com](mailto:DPreger@dickinsonwright.com)

<<https://www.dickinson-wright.com/>>

<<https://www.dickinson-wright.com/>>

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This is Exhibit "H" referred to in the Affidavit of Graham Tobe sworn by Graham Tobe at the City of Toronto, in the Province of Ontario, before me on October 20, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**DAVID P. PREGER**

## David P. Preger

---

**From:** David P. Preger  
**Sent:** Thursday, September 29, 2022 2:25 PM  
**To:** Sunil Bhardwaj; SANJAY DUBEY; Donald Desrochers; Samir Chhina  
**Subject:** RE: EXTERNAL: Re: OWEMANCO v. Concept Lots et al.

**Importance:** High

Although it is unfortunate that Mr. Bhardwaj and Dubey have not arranged to have legal representation for tomorrow's meeting, I confirm that the meeting will indeed proceed tomorrow morning at 11 am at Mr. Tobe's office, Suite 402, 1910 Yonge Street, in Toronto. I confirm that Mr. Chhina will be in attendance together with Mr. Desrochers. I look forward to meeting you tomorrow.

---

**From:** David P. Preger  
**Sent:** Wednesday, September 28, 2022 1:30 PM  
**To:** 'Sunil Bhardwaj' <[smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)>; SANJAY DUBEY <[sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)>; Donald Desrochers <[dond26244@gmail.com](mailto:dond26244@gmail.com)>  
**Cc:** 'Samir Chhina' <[samirchhina@gmail.com](mailto:samirchhina@gmail.com)>  
**Subject:** RE: EXTERNAL: Re: OWEMANCO v. Concept Lots et al.  
**Importance:** High

Further to Mr. Bhardwaj's email below, I confirm that Mr. Tobe and I are available on Friday. I am suggesting that we meet at Mr. Tobe's office at 11 am. Would Mr. Dubey and Desrochers please confirm their availability and would all of you please also confirm that you will have your lawyers present.

---

**From:** Sunil Bhardwaj <[smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)>  
**Sent:** Tuesday, September 27, 2022 10:32 PM  
**To:** David P. Preger <[DPreger@dickinson-wright.com](mailto:DPreger@dickinson-wright.com)>  
**Cc:** SANJAY DUBEY <[sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)>; Donald Desrochers <[dond26244@gmail.com](mailto:dond26244@gmail.com)>  
**Subject:** EXTERNAL: Re: OWEMANCO v. Concept Lots et al.

Hi David,  
Thanks for your email. Please note for any correspondence with me only use  
[Smvfinancial@gmail.com](mailto:Smvfinancial@gmail.com)

as my email address not any other one .

Sorry I will be out of town on Thursday. I am good for Friday same time or Monday. Please let me know .

Regards  
Sunil Bhardwaj  
Direct line 416 520 8557

On Sep 27, 2022, at 9:57 PM, sanjay Dubey <[sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)> wrote:

Regards,

Sanjay Dubey, P.Eng., PMP

Begin forwarded message:

**From:** "David P. Preger" <[DPreger@dickinson-wright.com](mailto:DPreger@dickinson-wright.com)>  
**Date:** September 27, 2022 at 5:17:34 PM EDT  
**To:** [callsunil4165208557@gmail.com](mailto:callsunil4165208557@gmail.com), [sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com),  
[dond26244@gmail.com](mailto:dond26244@gmail.com)  
**Cc:** Samir Chhina <[samirchhina@gmail.com](mailto:samirchhina@gmail.com)>  
**Subject:** Re: OWEMANCO v. Concept Lots et al.

Apologies. I mistyped. The meeting is requested for September 29.

Sent from my iPhone

On Sep 27, 2022, at 5:13 PM, David P. Preger  
<[DPreger@dickinson-wright.com](mailto:DPreger@dickinson-wright.com)> wrote:

Gentlemen, Graham Tobe is requesting a meeting at his office with you and your respective lawyers on Thursday, September 26. I will attend as well. We are flexible as to the time of the meeting. Mid-day may be best in order to avoid traffic. I suggest 11 am. Please confirm.

Sent from my iPhone

David P. Preger Partner

Dickinson Wright LLP  
199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto ON M5L 1G4

Phone 416-646-4606  
Fax 416-670-6009  
[EmailDPreger@dickinsonwright.com](mailto:EmailDPreger@dickinsonwright.com)

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## David P. Preger

---

**From:** David P. Preger  
**Sent:** Thursday, October 13, 2022 3:54 PM  
**To:** 'Samir Chhina'; 'olu@ogunniyilawoffices.com'; 'Donald Desrochers'; 'Sunil Bhardwaj'; 'SANJAY DUBEY'  
**Cc:** 'Brahm Rosen'; David Z. Seifer; Janet C. Nairne  
**Subject:** OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL  
**Attachments:** 4872-0401-2345 v1 Notice of Application.pdf

Dear Sirs,

Please find attached our client's Notice of Application, which is served upon pursuant to the *Rules of Civil Procedure*.

A hearing in this matter has been scheduled via Zoom before a judge presiding over the Commercial List of the Ontario Superior Court of Justice at **10:30 am on Thursday, October 20, 2022**. When we receive a videoconference link from the Court, we will forward it to you. We will also serve you with an affidavit in support of our client's application prior to the hearing.

## David P. Preger

---

**From:** Janet C. Nairne  
**Sent:** Wednesday, October 19, 2022 4:06 PM  
**To:** Samir Chhina; olu@ogunniylawoffices.com; Donald Desrochers; Sunil Bhardwaj; SANJAY DUBEY; kkuczynski@cassels.com; amerskey@cassels.com; jeff.larry@paliaroland.com  
**Cc:** Brahm Rosen; David P. Preger; David Z. Seifer  
**Subject:** RE: OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL

Dear Servicer List,

Please see below the Zoom coordinates for tomorrow's hearing. We will endeavor to serve you with the Affidavit of Graham Tobe later today.

20 October 2022 10:30 AM (Eastern Standard Time) Meeting ID: 636 3737 1361 Passcode: 887661

'<https://ca01web.zoom.us/j/63637371361?pwd=eUhPUHk4SkFkQmsrTXhvOWM3RjlWZz09%27>

Regards,

### Janet C. Nairne Legal Assistant

199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto ON M5L 1G4  
Phone 416-646-6866  
Fax 844-670-6009  
Email JNairne@dickinsonwright.com

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**DICKINSON WRIGHT** LLP

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA  
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

---

**From:** David P. Preger <DPreger@dickinson-wright.com>  
**Sent:** Thursday, October 13, 2022 3:54 PM  
**To:** Samir Chhina <samirchhina@gmail.com>; olu@ogunniylawoffices.com; Donald Desrochers <dond26244@gmail.com>; Sunil Bhardwaj <smvfinacial@gmail.com>; SANJAY DUBEY <sanjay@sdmconstruction.com>  
**Cc:** Brahm Rosen <brosen@rosengoldberg.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Janet C. Nairne <JNairne@dickinson-wright.com>  
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**David P. Preger Partner**

199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto ON M5L 1G4

Phone 416-646-4606  
Fax 844-670-6009  
Email [DPreger@dickinsonwright.com](mailto:DPreger@dickinsonwright.com)

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**DICKINSON WRIGHT**LLP

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OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

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## David P. Preger

---

**From:** Janet C. Nairne  
**Sent:** Wednesday, October 19, 2022 11:51 PM  
**To:** Samir Chhina; olu@ogunniyilawoffices.com; Donald Desrochers; Sunil Bhardwaj; SANJAY DUBEY; kkuczynski@cassels.com; amerskey@cassels.com; jeff.larry@paliareroland.com  
**Cc:** Brahm Rosen; David P. Preger; David Z. Seifer; Graham Tobe; spark@owemanco.com  
**Subject:** RE: OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL  
**Attachments:** Application Record (O).pdf

Dear Service List,

Please find attached our client's Application Record, which is served pursuant to the *Rules of Civil Procedure*. The Zoom link for the hearing is set out below:

<https://ca01web.zoom.us/j/63637371361?pwd=eUhPUHk4SkFkQmsrTXhvOWM3RjlWZz09%27>

Regards,  
Janet

### Janet C. Nairne Legal Assistant

199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto ON M5L 1G4

Phone 416-646-6866  
Fax 844-670-6009  
Email JNairne@dickinsonwright.com

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**Cc:** Brahm Rosen <brosen@rosengoldberg.com>; David P. Preger <DPreger@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>  
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Regards,

**Janet C. Nairne** Legal Assistant

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Suite 2200  
Commerce Court West  
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Phone 416-646-6866  
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Email [JNairne@dickinsonwright.com](mailto:JNairne@dickinsonwright.com)

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OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

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**To:** Samir Chhina <[samirchhina@gmail.com](mailto:samirchhina@gmail.com)>; [olu@ogunniylawoffices.com](mailto:olu@ogunniylawoffices.com); Donald Desrochers <[dond26244@gmail.com](mailto:dond26244@gmail.com)>; Sunil Bhardwaj <[smvfinancial@gmail.com](mailto:smvfinancial@gmail.com)>; SANJAY DUBEY <[sanjay@sdmconstruction.com](mailto:sanjay@sdmconstruction.com)>

**Cc:** Brahm Rosen <[brosen@rosengoldberg.com](mailto:brosen@rosengoldberg.com)>; David Z. Seifer <[DSeifer@dickinson-wright.com](mailto:DSeifer@dickinson-wright.com)>; Janet C. Nairne <[JNairne@dickinson-wright.com](mailto:JNairne@dickinson-wright.com)>

**Subject:** OWEMANCO Mortgage Holding Corporation v. Concept Lofts Ltd. and Donald Desrochers, Court File No. CV-22-00688570-00CL

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**David P. Preger** Partner

199 Bay Street  
Suite 2200  
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**OWEMANCO MORTGAGE HOLDING CORPORATION**  
Applicant

-and- **CONCEPT LOFTS LTD. et al.**  
Respondents

Court File No. CV-22-00688570-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF GRAHAM TOBE**

**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**DAVID P. PREGER (36870L)**

dpreger@dickinsonwright.com

Tel: (416) 646-4606

Fax: 1-844-670-6009

Lawyers for the Applicant

**TAB 3**



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

**IN THE MATTER OF SECTION 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**

B E T W E E N:

**OWEMANCO MORTGAGE HOLDING CORPORATION**

Applicant

- and -

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

Respondents

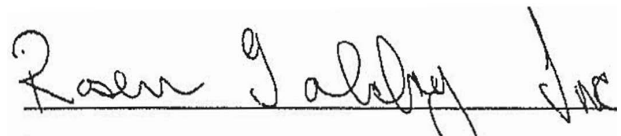
**CONSENT**

**ROSEN GOLDBERG INC.**, hereby consents to its appointment pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, on the terms of the Order substantially in the form annexed to the Notice of Motion dated October 20, 2022 issued in this proceeding.

DATED AT Toronto, this 20<sup>th</sup> day of October, 2022.

**ROSEN GOLDBERG INC.**

Per:

A handwritten signature in black ink, appearing to read "Brahm Rosen", is written over a horizontal line.

Name: Brahm Rosen

Title: President

**OWEMANCO MORTGAGE HOLDING CORPORATION**  
Applicant

-and- **CONCEPT LOFTS LTD. et al.**  
Respondents

Court File No. CV-22-00688570-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**CONSENT**

**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**DAVID P. PREGER (36870L)**

dpreger@dickinsonwright.com  
Tel: (416) 646-4606  
Fax: 1-844-670-6009

Lawyers for the Applicant

**TAB 4**

Revised: January 21, 2014  
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. —

Court File No. CV-22-00688570-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 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**

THE HONOURABLE — ) ~~WEEKDAY~~FRIDAY, THE #21st  
JUSTICE — ) DAY OF ~~MONTH~~OCTOBER, ~~20YR~~2022

**OWEMANCO MORTGAGE HOLDING CORPORATION**

**PLAINTIFF**<sup>+</sup>Applicant

Plaintiff

- and -

**DEFENDANT**

**CONCEPT LOFTS LTD. and DONALD DESROCHERS**

DefendantRespondents

**APPOINTMENT ORDER**  
**(appointingInterim Receiver)**

<sup>+</sup> ~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

THIS MOTION made by the Plaintiff<sup>2</sup> Applicant for an Order pursuant to section 2437(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, (the "BIA") ~~and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA")~~ appointing ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc. as interim receiver ~~[and manager]~~ (in such capacities, the "Receiver") ~~without security, of all of the assets, undertakings and properties of [DEBTOR'S NAME] (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor~~ "Interim Receiver") of certain property of the Respondent Concept Lofts Ltd. ("CCL") municipally known as 1183 Dufferin Street, Toronto, Ontario, and legally described in Schedule "A" attached hereto (the "Dufferin Property"), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by Zoom judicial videoconference.

ON READING the Affidavit of ~~[NAME]~~ sworn [DATE] ~~and the Exhibits thereto~~ Graham Tobe sworn October 20, 2022 and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant, no one else on the service list appearing ~~for [NAME]~~, although duly served as appears from the Affidavit of Service of ~~[NAME]~~ David Seifer sworn ~~[DATE]~~ October 20, 2022 and on reading the consent of ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc. to act as the Interim Receiver,

## SERVICE

1. THIS COURT ORDERS that the time for service of the ~~Notice of Motion and the Motion~~ Record is hereby abridged and validated<sup>3</sup> so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 2437(1) of the ~~BIA and section 101 of the CJA~~, ~~[RECEIVER'S NAME]~~, Rosen Goldberg Inc. is hereby appointed Interim Receiver,

<sup>2</sup> ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

without security, of ~~all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Dufferin Property").~~

### INTERIM RECEIVER'S POWERS

3. THIS COURT ORDERS that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Dufferin Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the ~~Property and any and all proceeds, receipts and disbursements arising out of or from the~~Dufferin Property;
- (b) to receive, preserve, and protect the Dufferin Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the ~~relocating of Property to safeguard it, the~~ engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to ~~manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or~~ cease to perform any contracts of ~~the Debtor~~CCL in relation to the Dufferin Property which interfere with the Interim Receiver's exercise of its powers and duties;
- (d) to engage contractors, engineers, architects, consultants, ~~appraisers, agents,~~ experts, ~~auditors, accountants, managers, counsel~~ and such other persons ~~from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;~~for the purpose of taking conservatory measures in respect of the Dufferin Property;

(e) to purchase or lease such machinery, equipment, ~~inventories, supplies, premises~~ or other assets to ~~continue the business of the Debtor or any part or parts thereof~~ assist with the Interim Receiver's exercise of its powers and duties;

~~(f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;~~

~~(g) to settle, extend or compromise any indebtedness owing to the Debtor;~~

(f) ~~(h)~~ to execute, assign, issue and endorse documents ~~of whatever nature in respect of any of the~~ in relation to the Dufferin Property, whether in the Interim Receiver's name or in the name and on behalf of ~~the Debtor~~ CCL, for any purpose pursuant to this Order;

~~(i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup>The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;~~

~~(j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;~~

<sup>4</sup>This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.

~~(k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;~~

~~(i) without the approval of this Court in respect of any transaction not exceeding \$\_\_\_\_\_, provided that the aggregate consideration for all such transactions does not exceed \$\_\_\_\_\_;~~ and

~~(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;~~

~~and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,]<sup>5</sup> shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.~~

~~(l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;~~

(g) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on ~~all~~ matters relating to the Dufferin Property ~~and the receivership~~, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;

(h) ~~(n)~~ to register a copy of this Order ~~and any other Orders in respect of the Property~~ against title to ~~any of~~ the Dufferin Property and title to the lands and premises legally described in Schedule "B" attached hereto (the "Balmoral Property"); and

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~



~~(o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;~~

~~(p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;~~

~~(q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and~~

(i) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including ~~the Debtor~~CCL, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER**

4. THIS COURT ORDERS that (i) ~~the Debtor~~CCL (ii) ~~all of~~ its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on ~~its~~their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith ~~advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Dufferin Property to the Receiver, and shall deliver all such Property to the~~Interim Receiver upon the Interim Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting

records, and any other papers, records and information of any kind related to the ~~business or affairs of the Debtor~~ Dufferin Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

~~7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease,~~

~~such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.~~

## **NO PROCEEDINGS AGAINST THE INTERIM RECEIVER**

7. ~~8.~~-THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

## **NO PROCEEDINGS AGAINST THE ~~DEBTOR OR THE~~DUFFERIN PROPERTY**

8. ~~9.~~-THIS COURT ORDERS that no Proceeding against or in respect of the ~~Debtor or~~ Dufferin Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the ~~Debtor or the~~Dufferin Property are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

9. ~~10.~~-THIS COURT ORDERS that all rights and remedies against the ~~Debtor, the~~Interim Receiver, or affecting the Dufferin Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or ~~the~~ DebtorCCL to carry on any business which ~~the Debtor~~CCL is not lawfully entitled to carry on, (ii) exempt the Interim Receiver or ~~the Debtor~~CCL from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

## **NO INTERFERENCE WITH THE INTERIM RECEIVER**

10. ~~11.~~-THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by ~~the Debtor~~CCL in relation to the Dufferin Property, without written consent of the Interim Receiver or leave of this Court.

## CONTINUATION OF SERVICES

11. ~~12.~~ THIS COURT ORDERS that all Persons having oral or written agreements with ~~the Debtor~~ CCL or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, ~~centralized banking services, payroll services,~~ insurance, ~~transportation services,~~ utility or other services to ~~the Debtor~~ CCL in relation to the Dufferin Property, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Interim Receiver, and that the Interim Receiver shall be entitled to the continued use of ~~the Debtor's~~ CCL's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Interim Receiver in accordance with normal payment practices of ~~the Debtor~~ CCL or such other practices as may be agreed upon by the supplier or service provider and the Interim Receiver, or as may be ordered by this Court.

## RECEIVER TO HOLD FUNDS

~~13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.~~

## EMPLOYEES

12. ~~14.~~ THIS COURT ORDERS that ~~all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees.~~ ~~The~~ the Interim Receiver shall not be liable for any employee-related liabilities of CCL, including any successor employer liabilities as provided for

in section 14.06(1.2) of the BIA, other than such amounts as the Interim Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

~~15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.~~

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

13. ~~16.~~ THIS COURT ORDERS that nothing herein contained shall require the Interim Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "“Possession”") of ~~any of~~ the Dufferin Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "“Environmental Legislation”"), provided however that nothing herein shall exempt the Interim Receiver from any duty to report or make disclosure imposed by

applicable Environmental Legislation. The Interim Receiver shall not, as a result of this Order or anything done in pursuance of the Interim Receiver's duties and powers under this Order, be deemed to be in Possession of ~~any of the~~ Dufferin Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

14. ~~17.~~ THIS COURT ORDERS that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### INTERIM RECEIVER'S ACCOUNTS

15. ~~18.~~ THIS COURT ORDERS that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "Interim Receiver's Charge") on the Dufferin Property and the Balmoral Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Dufferin Property and the Balmoral Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

16. ~~19.~~ THIS COURT ORDERS that the Interim Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Interim Receiver and

<sup>6</sup> ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

17. ~~20.~~ THIS COURT ORDERS that prior to the passing of its accounts, the Interim Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE INTERIM RECEIVERSHIP**

18. ~~21.~~ THIS COURT ORDERS that the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~\_\_\_\_\_~~100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Interim Receiver by this Order, including interim expenditures. The whole of the Dufferin Property and the Balmoral Property shall be and ~~is~~are hereby charged by way of a fixed and specific charge (the "Interim Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Interim Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. ~~22.~~ THIS COURT ORDERS that neither the Interim Receiver's Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.



20. ~~23.~~ THIS COURT ORDERS that the Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A""C" hereto (the "Interim Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

21. ~~24.~~ THIS COURT ORDERS that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Interim Receiver's Certificates.

22. THIS COURT ORDERS that all monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court shall be deposited into one or more new accounts to be opened by the Interim Receiver (the "Post Interim Receivership Accounts") and the monies standing to the credit of such Post Interim Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **SERVICE AND NOTICE**

23. ~~25.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at

~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and

effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ~~“@”~~:  
[http://www.rosengoldberg.com/company-files.php?company\\_id=83](http://www.rosengoldberg.com/company-files.php?company_id=83).

24. ~~26.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or

distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Debtor's~~ creditors ~~or~~ of CCL and the Respondent Donald Desrochers (collectively, the "Debtors") other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

### TERM OF INTERIM RECEIVER'S APPOINTMENT

25. THIS COURT ORDERS that the term of the Interim Receiver's appointment shall expire on the earliest of:

- (a) the taking of possession by a receiver, within the meaning of subsection 243(2) of the BIA, of the Dufferin Property;
- (b) the taking of possession by a trustee in bankruptcy of the Dufferin Property; and
- (c) November 19, 2022, or such earlier or later date as this Court may order.

### **GENERAL**

26. ~~27.~~ THIS COURT ORDERS that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. ~~28.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy or receiver and manager of the Debtors.

28. ~~29.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an

officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

29. ~~30.~~ THIS COURT ORDERS that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. ~~31.~~ THIS COURT ORDERS that the ~~Plaintiff~~Applicant shall have its costs of this Motion, up to and including entry and service of this Order, as provided for by the terms of the ~~Plaintiff's~~Applicant's security or, if not so provided by the ~~Plaintiff's~~Applicant's security, then on a substantial indemnity basis to be paid ~~by the Receiver~~ from the Debtor's' estates with such priority, according to such allocation as between Debtors and the Dufferin Property and the Balmoral Property, and at such time as this Court may determine.

31. THIS COURT ORDERS that this Order is strictly without prejudice to the relief sought by the Applicant in its Notice of Application.

32. THIS COURT ORDERS that any interested party (including the Applicant, the Interim Receiver and any of the Debtors) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

SCHEDULE "A"

LANDS AND PREMISES OWNED BY THE  
RESPONDENT CONCEPT LOFTS LTD.

<u>PIN</u>	<u>21291 - 0415 LT</u>	<u>Interest/Estate</u>	<u>Fee Simple</u>
<u>Description</u>	<u>PART OF LOTS 18, 19 &amp; 20, BLOCK O, PLAN 622, DESIGNATED AS</u> <u>PART 1, PLAN66R26944; CITY OF TORONTO</u>		
<u>Address</u>	<u>1183 DUFFERIN STREET</u> <u>TORONTO</u>		

SCHEDULE "B"

LANDS AND PREMISES OWNED BY THE  
RESPONDENT DONALD DESROCHERS

<u>PIN</u>	<u>12205 - 0069LT</u>	<u>Interest/Estate</u>	<u>Fee Simple</u>
<u>Description</u>	<u>UNIT 2, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 &amp; 2 &amp; PT LT 6, PL 703 YORK; PT LTS 1, 2 &amp; 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 &amp; 2 ON 66R17690; S/T &amp; T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 9809 09 AS IN D621469, CITY OF TORONTO</u>		
<u>Address</u>	<u>502 UNIT 1 BALMORAL AVENUE TORONTO</u>		

<u>PIN</u>	<u>12205 - 0177LT</u>	<u>Interest/Estate</u>	<u>Fee Simple</u>
<u>Description</u>	<u>UNIT 8, LEVEL B, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 &amp; 2 &amp; PT LT 6, PL 703 YORK; PT LTS 1, 2 &amp; 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 &amp; 2 ON 66R17690; S/T &amp; T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 9809 09 AS IN D621469, CITY OF TORONTO</u>		
<u>Address</u>	<u>8B UNIT 1 BALMORAL AVENUE TORONTO</u>		

<u>PIN</u>	<u>12205 - 0070LT</u>	<u>Interest/Estate</u>	<u>Fee Simple</u>
<u>Description</u>	<u>UNIT 3, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 &amp; 2 &amp; PT LT 6, PL 703 YORK; PT LTS 1, 2 &amp; 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 &amp; 2 ON 66R17690; S/T &amp; T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.</u>		
<u>Address</u>	<u>503 UNIT 1 BALMORAL AVENUE TORONTO</u>		

PIN

12205 - 0281LT

Interest/Estate

Fee Simple

Description

UNIT 24, LEVEL C, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PTLANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES ASPTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATIONE184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.

Address

24C UNIT 1 BALMORAL AVENUE  
TORONTO

SCHEDULE "C"

INTERIM RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_.

AMOUNT \$ \_\_\_\_\_.

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc., the interim receiver (the "Receiver") ~~of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the~~ "Interim Receiver") of certain property of the Respondent Concept Lofts Ltd. municipally known as 1183 Dufferin Street, Toronto, Ontario (the "Dufferin Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 21<sup>st</sup> day of October, 2022 (the "Order") made in an action application having Court file number CL CV-22-00688570-00CL, has received as such Interim Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Interim Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Interim Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Dufferin Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Interim Receiver to indemnify itself out of such Dufferin Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Interim Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Interim Receiver to deal with the Dufferin Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Interim Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the        day of                     , ~~20~~20.

~~[RECEIVER'S NAME]~~ ROSEN GOLDBERG  
INC., solely in its capacity  
- as Interim Receiver of the Dufferin Property,  
and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:



OWEMANCO MORTGAGE HOLDING CORPORATION

-and-

CONCEPT LOFTS LTD. et al.

Applicant

Respondents

Court File No. CV-22-00688570-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
PROCEEDING COMMENCED AT  
TORONTO

ORDER (APPOINTING INTERIM RECEIVER)

DICKINSON WRIGHT LLP

Barristers & Solicitors

199 Bay Street

Suite 2200, P.O. Box 447

Commerce Court Postal Station

Toronto, Ontario, M5L 1G4

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Tel: (416) 646-6867

Fax: (844) 670-6009

Lawyers for the Applicant



OWEMANCO MORTGAGE HOLDING CORPORATION  
Applicant

-and- CONCEPT LOFTS LTD. et al.  
Respondents

Court File No. CV-22-00688570-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD OF THE APPLICANT**

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