



No. S-222-758  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

– AND –

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF  
0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., and ALDERBRIDGE WAY LIMITED  
PARTNERSHIP

**PETITION RESPONSE**

**Petition response of:** Romspen Investment Corporation (“**Romspen**”)

THIS IS A RESPONSE TO the Petition of 0989705 B.C. LTD, Alderbridge Way GP LTD., and Alderbridge Way Limited Partnership (collectively, the “**Petitioners**”) filed April 1, 2022 (the “**Initial Application**”)

**Part 1: ORDERS CONSENTED TO**

Romspen consents to the Consensual CCAA Filing on the terms set out in the Initial Order (both as defined below).

**Part 2: ORDERS OPPOSED**

Romspen does not oppose the granting of any of the orders sought in the Petition.

**Part 3: ORDERS ON WHICH NO POSITION IS TAKEN**

Not applicable.

**Part 4: FACTUAL BASIS**

**Overview**

1. Romspen is the Petitioners' senior secured creditor and is owed approximately \$175 million by the Petitioners in connection with their development of the Atmosphere Project in

Richmond (the “**Project**”). Approximately \$1.5 million of interest accrues each month on the Petitioners’ debt to Romspen. Romspen holds first ranking security to secure the Petitioners’ obligations, including a first ranking mortgage (the “**Romspen Mortgage**”) on the land on which the Project is situated (the “**Project Lands**”).

**Affidavit #1 of Wesley Roitman made March 31, 2022 (the “Roitman Affidavit”), paras. 6, 12, 33**

2. The Petitioners have been unable to meet their obligations to Romspen for two (2) years (since March 2020). Notwithstanding this, Romspen has refrained from taking active enforcement steps so as to provide the Petitioners with additional time to find a solution to their financial difficulties. Unfortunately, the Petitioners’ efforts to date have been unsuccessful.

**Roitman Affidavit, para. 56**

3. After considerable discussion, negotiation and compromise, and rather than Romspen seeking the appointment of a Receiver at this time, Romspen and the Petitioners have agreed on the terms of a consensual filing by the Petitioners for protection under the *Companies Creditors’ Arrangement Act* (the “**CCAA**”), as is further set out in the Petitioners’ Initial Application, to provide the Petitioners with a structured, Court-supervised framework as they try to address their financial situation.

**Roitman Affidavit, para. 13**

4. The relief that is being sought by the Petitioners with the consent of Romspen, both at their initial hearing for CCAA protection (the “**Initial Order**”) and at the “come-back hearing” (collectively, the “**Consensual CCAA Filing**”), reflects these various discussions, negotiations, and compromise. It is a careful balancing of various parties’ rights, including those of Romspen as first-ranking secured lender who is owed \$175 million and counting, with the Petitioners’ desire to attempt to effect a sale and/or restructure under the CCAA with the benefit of their existing management and advisors.

**Roitman Affidavit, para. 14**

5. The mechanisms in the Consensual CCAA Filing that have been negotiated and agreed upon to achieve this balance, while ensuring that Romspen's rights and interests are protected, include the following:

- (a) an Initial Order with enhanced powers provided to the proposed monitor, Alvarez & Marsal Canada Inc. (the "**Monitor**");
- (b) an interim lending facility that ranks after Romspen;
- (c) a sales investment and solicitation process, prepared in consultation with the Monitor, and to be run by the Monitor with terms and timelines that are the result of extensive negotiations between the Petitioners and Romspen, with the involvement of the Monitor, (the "**CCAA SISP**"); and
- (d) an agreed upon termination of the CCAA SISP and an alternative path forward if the CCAA SISP fails.

**Roitman Affidavit, para. 15**

6. Romspen consents to the Petitioners obtaining CCAA protection on the basis of the negotiated terms of the Consensual CCAA Filing.

***The Parties and the Credit Agreement***

7. Romspen is a leading Canadian non-bank mortgage lender specializing in commercial and industrial real estate mortgages. Its investments are comprised mostly of commercial and industrial first mortgages on properties primarily across Canada and the United States, and it presently has approximately \$3.0 billion in aggregate assets under management on behalf of its investors, which include individuals, foundations, endowments, and pension plans serving retirees.

**Roitman Affidavit, para. 2**

8. The Petitioners, 0989705 B.C. Ltd. ("**098 Ltd**"), Alderbridge Way GP Ltd. ("**Alderbridge GP**"), and Alderbridge Way Limited Partnership ("**Alderbridge LP**"), are the legal and beneficial owners of the Project Lands. Each of the Petitioners is a single-project real estate company.

**Roitman Affidavit, paras. 3, 17**

9. 098 Ltd. is the nominee legal title holder of the Project Lands. Alderbridge LP, a limited partnership and beneficial owner of the Project Lands, is a consortium held by South Street

Development Managers Ltd. ("**South Street Ltd.**"), South Street (Alderbridge) Limited Partnership ("**South Street LP**"), Gatland Development Corporation ("**Gatland**"), REV Investments Inc. ("**REV Investments**") as well as various other corporate entities and individuals. Alderbridge GP is the general partner of Alderbridge LP.

**Roitman Affidavit, para. 17**

10. Pursuant to a letter agreement among Romspen, as lender, and the Petitioners, as borrowers, dated October 11, 2019, Romspen agreed to participate in a proposed syndicated non-revolving construction credit facility (the "**Construction Facility**") in the amount of up to \$422 million to fund the hard and soft costs of the Project on the terms set out in a Loan Agreement to Amend and Restate Commitment dated November 6, 2019 (the "**Credit Agreement**") among the Petitioners, as borrowers, and Romspen, as lender.

**Roitman Affidavit, para. 27**

11. To secure their obligations under the Credit Agreement, the Petitioners granted Romspen security, including among other things, (a) the Romspen Mortgage, a first-ranking mortgage on the Project Lands; and (b) general security agreements in favour of Romspen from each of Alderbridge LP, Alderbridge GP, and 098 Ltd (the "**Petitioner GSAs**").

**Roitman Affidavit, para. 33**

12. The Petitioners' obligations to Romspen under the Credit Agreement are guaranteed by South Street Ltd, South Street LP, Gatland, REV Investments, REV Holdings Inc. ("**Rev Holdings**"), Samuel David Hanson, and Brent Taylor Hanson (together, the "**Guarantors**").

**Roitman Affidavit, para. 18**

13. There exists an overlap between the Petitioners' second ranking lenders (the "**2MLs**"), the unitholders of Alderbridge LP (one of the Petitioners), and certain of the Guarantors of the Petitioners' obligations to Romspen. Namely, the 2MLs (other than Voth Developments Ltd., Inland Consulting Ltd., and Dennis and Lesly Schwab) are unitholders of Alderbridge LP. Gatland, REV Investments, and South Street LP are Guarantors of the Petitioners' obligations to Romspen. Gatland and REV Investments are also shareholders in Alderbridge GP, one of the Petitioners.

**Roitman Affidavit, para. 38**

***The Petitioners' Insolvency and Continued Default under the Credit Agreement***

14. It was a condition for any drawdown on the Construction Facility proposed to be made after March 31, 2020 that Romspen be satisfied that, in the aggregate, participation of other persons (i.e. other lenders) committed to acquire senior participation rights in the Construction Facility was sufficient to provide the full amount of \$422 million. This was essentially a "syndication" condition.

**Roitman Affidavit, para. 44**

15. Romspen was unsuccessful in obtaining commitments from other lenders to participate in the Construction Facility to meet the senior participation requirements contemplated by the Credit Agreement and was accordingly unable to syndicate the loan. As a result, on March 31, 2020, Romspen wrote to the Petitioners to advise that it could not waive the conditions for continued funding in the Credit Agreement regarding participations in the Construction Facility. Given this lack of participation by other lenders, and as permitted by the Credit Agreement, in March 2020 Romspen suspended further draws and advances.

**Roitman Affidavit, para. 45**

16. At or about this time, the Petitioners breached their obligations under the Credit Agreement by, among other things, failing to pay interest in arrears contrary to section 8.01(1)(a) of the Credit Agreement.

**Roitman Affidavit, para. 46**

17. Notwithstanding the Petitioners having breached their obligations under the Credit Agreement as of March 2020, Romspen did not initiate enforcement proceedings. Instead, Romspen provided the Petitioners with an opportunity to find a solution to their financial and other difficulties.

**Roitman Affidavit, para. 47**

18. As of February 2021, the Petitioners were not able to refinance, obtain investment in, and/or sell their interest in the Project to be able to meet their obligation to Romspen or their other creditors.

**Roitman Affidavit, para. 48**

19. On February 17, 2021, after refraining doing so for nearly a year, Romspen sent a default letter to the Petitioners and the Guarantors setting out various defaults by the Petitioners under the Credit Agreement (the “**Default Notice**”).

**Roitman Affidavit, para. 49**

20. On February 22, 2021, Romspen issued a demand (the “**Demand**”) with respect to the Credit Agreement, declaring the entire amount owing under the Credit Agreement as of February 10, 2021, being the sum of \$157,885,389.55, to be immediately due and owing. Concurrently with its Demand, Romspen issued a Notice of Intention to Enforce Security (the “**Enforcement Notice**”) issued to the Petitioners and the Guarantors pursuant to s. 244 of the *Bankruptcy and Insolvency Act* (Canada).

**Roitman Affidavit, para. 52**

21. Notwithstanding the breaches and defaults under the Credit Agreement, and delivery of the Demand and Enforcement Notice, Romspen continued to refrain from taking active enforcement steps so as to provide the Petitioners with additional time to find a solution to their financial difficulties.

**Roitman Affidavit, para. 55**

22. In May 2021, the Petitioners commenced a sales and investment process (the “**Petitioners’ SISP**”) to solicit offers from individuals interested in purchasing the assets and undertakings of, or refinancing, investing, or participating in the business of the Petitioners. However, the Petitioners’ SISP was unsuccessful in securing a binding commitment with respect to the Project.

**Roitman Affidavit, paras. 57-64**

***The Consensual CCAA Filing***

23. Romspen has \$175 million at stake and as the first ranking secured creditor has an interest in protecting its investment. Romspen has been very patient for the past two years, notwithstanding the risks it faces.

24. Pursuant to the Romspen Mortgage, the Petitioner GSAs, and other agreements, Romspen has a contractual right to appoint a receiver over the Petitioners and the Project.

**Affidavit #1 of Jennifer Alambre, made March 31, 2022, Exhibits  
“C”-“F”**

25. The Petitioners are clearly insolvent and an insolvency filing is needed. As noted at the outset of this affidavit, Romspen and the Petitioners have worked very hard for a long time in an effort to find a consensual path forward. These discussions have included direct discussions among the parties, discussions among counsel and the involvement of the Monitor and its counsel. Compromises have been made to achieve a path forward, on a consensual basis, that has various inter-connected parts, all of which is to the benefit of all stakeholders.

**Roitman Affidavit, para. 66**

26. In the circumstances, Romspen’s support for the Consensual CCAA Filing, including (a) the ranking of the interim lending facility after Romspen, (b) the granting of enhanced powers to the Monitor, (c) a CCAA SISP run by the Monitor with well-defined timelines, consultation rights, and consent rights, and (d) an agreed upon termination of the CCAA SISP and alternative path forward if the CCAA SISP fails, is the result of extensive negotiations to achieve a careful balancing of various parties’ rights including those of Romspen as first-ranking secured lender with the Petitioners’ desire to attempt to effect a sale and/or restructuring under the CCAA with the benefit of their existing management and advisors.

**Roitman Affidavit, para. 67**

27. For the reasons set out above, Romspen supports the Petitioners obtaining CCAA protection based on the negotiated terms of the Consensual CCAA Filing.

**Part 5: LEGAL BASIS**

28. Romspen believes that the relief sought by the Petitioners on this Initial Application (and subsequently in the remainder of the Consensual CCAA Filing), as negotiated with Romspen as the largest and senior-ranking secured creditor and with the involvement of the Monitor, is appropriate in the circumstances.

**Part 6: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Wesley Roitman, sworn on March 31, 2022;
2. Affidavit #1 of Jennifer Alambre, sworn on March 31, 2022;
3. Confidential Affidavit #2 of Jennifer Alambre, sworn on March 31, 2022; and

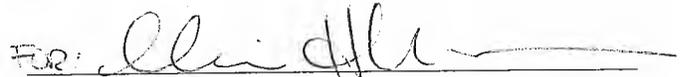
4. Such other materials as counsel may advise and this Court allows.

The petition respondent estimates that the petition will take two hours.

This matter is not within the jurisdiction of a master.

The petition respondent has not filed in this proceeding a document that contains an address for service. The petition respondent's ADDRESS FOR SERVICE is: Blake, Cassels & Graydon LLP, Barristers and Solicitors, Suite 2600, Three Bentall Centre, 595 Burrard Street PO Box 49314 Vancouver, BC V7X 1L3, Attention: Peter Rubin; [vancouver.service@blakes.com](mailto:vancouver.service@blakes.com); [peter.rubin@blakes.com](mailto:peter.rubin@blakes.com).

Date: April 1, 2022



Signature of lawyer for Romspen  
Peter L. Rubin

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