

**COURT OF APPEAL OF ALBERTA**

COURT OF APPEAL FILE NUMBER: 2101-0117AC

TRIAL COURT FILE NUMBER: 1401-12431

REGISTRY OFFICE: CALGARY

APPLICANT: ACCESS MORTGAGE  
INVESTMENT CORPORATION  
(2004) LIMITED

Registrar's Stamp

STATUS ON APPEAL: NOT A PARTY TO THE APPEAL  
STATUS ON APPLICATION: NOT A PARTY TO THE  
APPLICATION

RESPONDENT: ARRES CAPITAL INC.

STATUS ON APPEAL: RESPONDENT  
STATUS ON APPLICATION: APPLICANT

NONPARTY APPLICANTS KENZIE FINANCIAL  
INVESTMENTS LTD., SHELLY  
BECK, THERESE F. DALEY,  
LINDA JAEGER, ANDREW  
LITTLE, LAURIE LITTLE, AGNES  
M. OBERG, STEVEN OGG,  
LESTER S. IKUTA  
PROFESSIONAL  
CORPORATION, LESTER  
IKUTA, MICKEY IKUTA, BRIAN  
SEKIYA, HOLLY SEKIYA,  
SANDRA SOMMER, MARION  
SOMMER, ALLAN SOMMER,  
STEVEN REILLY, SWARTS  
BROS LIMITED and CLARA MAE  
WOROSCHUK

STATUS ON APPEAL: APPELLANTS  
STATUS ON APPLICATION: RESPONDENTS

DOCUMENT: **ORDER (Dismissal Order)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF PARTY  
FILING THIS DOCUMENT:

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**DATE ON WHICH ORDER WAS  
PRONOUNCED:**

**October 1, 2021**

**LOCATION OF HEARING:**

**Calgary, Alberta**

**NAMES OF JUDGES WHO GRANTED  
THIS ORDER:**

J. A. Veldhuis  
J. A. Feehan  
J. A. Ho

ON THE APPLICATION OF Alvarez & Marsal Canada Inc., in its capacity as court-appointed receiver of Arres Capital Inc. and not in its personal capacity (the “**Receiver**”) to dismiss the Civil Notice of Appeal of Kenzie Financial Investments Ltd. and others (as identified in Schedule “**A**” of the Civil Notice of Appeal) (collectively, the “**Appellants**”) filed on May 6, 2021 (the “**Appeal**”) on the basis that the Appeal is moot (the “**Receiver’s Application**”) coming on for a hearing; AND UPON HAVING READ the Receiver’s Application, the Receiver’s Memorandum of Argument, the Appellants’ Reply Memorandum of Argument and the Sixth Report of the Receiver, dated July 29, 2021 (the “**Sixth Receiver’s Report**”); all filed; AND UPON HEARING counsel for the Receiver and counsel for the Appellants;

**IT IS ORDERED THAT:**

1. The Receiver’s Application is allowed.

2. The Appeal is dismissed.

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Registrar, Court of Appeal

**APPROVED AS TO FORM AND CONTENT:**

**SUGIMOTO AND COMPANY**

**MCCARTHY TÉTRAULT LLP**

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

Loran V. Halyn  
Counsel to Kenzie Financial  
Investments Ltd., Shelly Beck,  
Therese F. Daley, Linda Jaeger,  
Andrew Little, Laurie Little, Agnes M.  
Oberg, Steven Ogg, Lester S. Ikuta  
Professional Corporation, Lester  
Ikuta, Mickey Ikuta, Brian Sekiya,  
Holly Sekiya, Sandra Sommer,  
Marion Sommer, Allan Sommer,  
Steven Reilly, Swarts Bros Limited,  
and Clara Mae Woroschuk

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

Walker W. MacLeod  
Counsel to the Receiver