

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

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
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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.


 for Registrar, Court of Appeal

APPROVED AS TO FORM AND CONTENT:

SUGIMOTO AND COMPANY

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

MCCARTHY TÉTRAULT LLP

Per: 

Walker W. MacLeod
 Counsel to the Receiver