



ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00707839-00CL

DATE: June 12, 2024

NO. ON LIST: 3

TITLE OF PROCEEDING: Keb Hana Bank vs. Mizrahi Commercial (The One) LP, et al

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE OSBORNE:

- [1] This case conference was requested by Mizrahi Inc., with respect to issues that have arisen between it and the Receiver relating to the production of documents and the upcoming motion of Mizrahi Inc. regarding payments it asserts are owed to it. That motion is anticipated this fall.
- [2] Today, Mizrahi Inc. advises that it intends to bring a motion to seek production of additional documents from the Receiver, from the Coco Parties, and from the Senior Secured Lenders. This additional documentation is said to be related to the position of Mizrahi Inc. that the Coco Parties and the Lenders were aware of various payments or transfers of funds conducted by Mizrahi Inc., related to revised budgets and plans for the Project which Mizrahi Inc. says are relevant to the position of the Receiver that Mizrahi Inc. was paying itself amounts in excess of those to which it was entitled or ought to have been entitled, and/or are related to its proposed claims of setoff.
- [3] There is also a dispute between the Receiver and Mizrahi Inc. about whether bank account statements and documentation relating to accounts of Mizrahi Inc., which both of those parties agree should be produced and will be produced by Mizrahi Inc. to the Receiver, can be redacted.
- [4] Mizrahi Inc. takes the position that it ought to be permitted to redact references to all transactions not related to the Project.
- [5] The Receiver takes the position that there should be no redactions, as it is attempting to investigate what happened to approximately \$200 million that the parties agree was transferred to and received by Mizrahi Inc. The Receiver states that approximately \$18 million appears to have been transferred to numbered companies controlled by and associated with CERIECO, approximately \$90 million appears to have been transferred to Project bank accounts, and the balance of approximate \$92 million is, as yet, unaccounted for. Mizrahi Inc. says it can account for all funds.
- [6] All parties stress the urgency of the situation and the imperative that these matters get resolved as quickly as possible given, among other things, the very significant interest costs that accrue related to the Project and its indebtedness on a daily basis (approximately \$900,000 per day).
- [7] Accordingly, I have scheduled these motions for **August 9, 2024 commencing at 10 AM and continuing as necessary for one half day**. All parties have confirmed their availability for that date. Moving party motion materials will be delivered by June 21, and responding party motion materials will be delivered by July 5. Whether any of these issues affect the pending payment motion and the timing thereof can be determined at the hearing of these motions.

 Osborn, J.