

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

THE HONOURABLE

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TUESDAY, THE 22ND

)

JUSTICE OSBORNE

)

DAY OF APRIL, 2025

B E T W E E N:

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL
ESTATE FUND NO. 301 and as trustee of IGIS GLOBAL PRIVATE PLACEMENT
REAL ESTATE FUND NO. 434**

Applicant

- and -

**MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI DEVELOPMENT GROUP (THE
ONE) INC., and MIZRAHI COMMERCIAL (THE ONE) GP INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243 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**

DISCHARGE ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc. (collectively, the “**Debtors**”) pursuant to the Order (Appointing Receiver) (the “**Receivership Order**”) of the

Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated October 18, 2023 (the “**Appointment Date**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Receiver dated April 4, 2025, and the Joint Eighth Report of the Receiver and Pre-Filing Report of A&M as proposed Monitor dated April 3, 2025 (the “**Joint Report**”), the Affidavit of Stephen Ferguson sworn April 2, 2025 (the “**A&M Fee Affidavit**”), and the Affidavit of Brendan O’Neill sworn April 2, 2025 (the “**Goodmans Fee Affidavit**”), and on hearing the submissions of counsel for the Receiver, counsel for the Applicant and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530, counsel to the Tridel Parties, and counsel for the other parties appearing as noted on the counsel slip, no one else appearing for any party although duly served,

DEFINED TERMS AND SERVICE

1. **THIS COURT ORDERS** that, unless otherwise defined herein, capitalized terms used herein shall have the meanings given to them in the Receivership Order, the Joint Report or the Initial Order of the Court of even date herewith made in the *Companies’ Creditors Arrangement Act* (Canada) proceedings in respect of Debtors (the “**CCAA Initial Order**”).

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

DISCHARGE OF RECEIVER

3. **THIS COURT ORDERS** that A&M be and is hereby discharged as Receiver of the Property, provided however that, notwithstanding such discharge, the Receiver shall remain

Receiver for the performance of such incidental matters as may be required to complete the administration of the receivership, including, without limitation, as relates to the Assumed Receivership Liabilities, the Receivership Litigation and the exercise of any contractual or related rights of the Receiver (collectively, the “**Receiver Incidental Matters**”).

4. **THIS COURT ORDERS** that, notwithstanding the discharge of the Receiver, the Receiver and its counsel shall continue to have the benefit of all of the rights, approvals, protections, releases, charges and stays of proceedings in favour of the Receiver and its counsel at law or pursuant to the Receivership Order or any other order made in these proceedings, including in connection with any Receiver Incidental Matters.

RECEIVERSHIP CHARGES

5. **THIS COURT ORDERS** that the Receiver’s Charge and the Receiver’s Borrowings Charge shall survive the discharge of the Receiver as provided by this Order and remain in full force and effect, each with the priority set out in the CCAA Initial Order .

6. **THIS COURT ORDERS** that the Lien Charges (as defined in the Lien Regularization Order of the Court dated March 7, 2024 (the “**LRO**”)) granted pursuant to the LRO prior to the date hereof, as set forth on **Schedule “A”** hereto, shall survive the discharge of the Receiver as provided by this Order and remain in full force and effect (but in all cases subject to the resolution of the related Lien Claims (as defined in the LRO) in accordance with the procedures established pursuant to the Lien Claims Resolution Order of this Court dated August 9, 2024), with the priority set out in the CCAA Initial Order.

7. **THIS COURT ORDERS** that the charge in favour of Royal Bank of Canada granted pursuant to the Order (Reconfiguration and Letters of Credit Arrangement) of the Court dated June 6, 2024 (the “**Reconfiguration and LC Arrangement Order**”) shall survive the discharge of the Receiver as provided by this Order and remain in full force and effect and attached to the RBC Collateral Account and the RBC Collateral (each as defined in the Reconfiguration and LC Arrangement Order), with the priority set out in the CCAA Initial Order.

APPROVAL OF THE RECEIVER’S REPORTS, ACTIVITIES AND FEES

8. **THIS COURT ORDERS** that the Third Report of the Receiver dated June 21, 2024, the First Supplemental Report to the Third Report of the Receiver dated July 11, 2024, the Second Supplemental Report to the Third Report of the Receiver dated August 7, 2024, the Fourth Report of the Receiver dated July 29, 2024, the Fifth Report of the Receiver dated October 11, 2024, the Supplemental Report to the Fifth Report of the Receiver dated February 28, 2025, the Sixth Report of the Receiver dated December 11, 2024, the Seventh Report of the Receiver dated December 20, 2024, and the Joint Report, and the actions, conduct and activities of the Receiver prior to or on the date hereof in relation to the Debtors and these receivership proceedings be and are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

9. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period from on or about the Appointment Date to March 15, 2025, all as set forth in the A&M Fee Affidavit, are hereby approved.

10. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's counsel for the period from on or about the Appointment Date to March 16, 2025, all as set out in the Goodmans Fee Affidavit, are hereby approved.

11. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel for the period after March 15, 2025, and March 16, 2025, respectively, shall be deemed to be the fees and disbursements of A&M, in its capacity as Monitor appointed pursuant to the CCAA Initial Order (in such capacity, the "**Monitor**") and its counsel, approval of which shall be sought in accordance with the CCAA Initial Order.

RELEASE OF RECEIVER

12. **THIS COURT ORDERS** that the Receiver and its directors, officers, employees, affiliates, shareholders, agents, legal counsel and other advisors (collectively, the "**Released Persons**") shall be and hereby are forever discharged and released from any and all liability that the Released Persons now or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Receiver while acting in its capacity as Receiver (including, without limitation, as relates to any Receiver Incidental Matters) or the within receivership proceedings, whether known or unknown, matured or unmatured, foreseen or unforeseen, save and except for any gross negligence or wilful misconduct on a Released Person's part with respect to that Released Person alone, as determined pursuant to a final order of this Court that is not subject to appeal or other review and all rights to seek any such appeal or other review shall have expired. For greater certainty, the Receiver is released from and shall have no further liability in connection with any Assumed Receivership Liabilities.

13. **THIS COURT ORDERS** that, without in any way limiting paragraph 12 hereof, no action or other proceeding shall be commenced against any Released Person in any way arising from or related to the within receivership proceedings, except with prior leave of this Court on a motion served on not less than twenty (20) days' prior notice to the Receiver and any other applicable Released Person(s) and upon further order securing, as security for costs, the full indemnity costs of the applicable Released Persons in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

UNRESOLVED LIEN CLAIMS

14. **THIS COURT ORDERS** that nothing in paragraphs 12 or 13 hereof shall release the unresolved lien claims specified on **Schedule "A"** hereto (collectively, the "**Unresolved Lien Claims**"), it being understood that the Receiver and the other Released Person(s) shall have no personal or corporate liability for the Unresolved Lien Claims and recourse for the Unresolved Lien Claims shall be limited to the Lien Charges.

UNRESOLVED RECEIVERSHIP CLAIMS

15. **THIS COURT ORDERS** that nothing in paragraphs 12 or 13 hereof shall release the unresolved receivership claims specified on **Schedule "B"** hereto (collectively, the "**Unresolved Receivership Claims**"), it being understood that the Receiver and the other Released Person(s) shall have no personal or corporate liability for the Unresolved Receivership Claims and recourse for the Unresolved Receivership Claims shall be limited to the applicable claim reserve maintained by the Monitor in respect of the Unresolved Receivership Claims.

GENERAL

16. **THIS COURT ORDERS** that the Receiver may from time to time (including following its discharge) apply to this Court for advice and direction with respect to any matter relating to this Order or the Receiver Incidental Matters.

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date hereof and is enforceable without further need for entry or filing.

SCHEDULE “A”

UNRESOLVED LIEN CLAIMS

Unresolved Lien Claims		
#	Lien Claimant	Lien Notice
1.	Cult Iron Works Limited	Lien Notice deemed to have been delivered by Cult Iron Works Limited as of December 1, 2023
2.	Mizrahi Inc.	Lien Notice dated April 26, 2024, delivered by Mizrahi Inc.
3.	Gamma Windows and Walls International Inc.	Lien Notices dated May 30, 2024, and October 16, 2024, delivered by Gamma Windows and Walls International Inc.
4.	Modern Niagara Toronto Inc.	Lien Notice dated October 7, 2024, as amended on October 9, 2024, delivered by Modern Niagara Toronto Inc.
5.	Onyx-Fire Protection Services Inc.	Lien Notices each dated October 9, 2024, delivered by Onyx-Fire Protection Services Inc.

SCHEDULE “B”

UNRESOLVED RECEIVERSHIP CLAIMS

Unresolved Receivership Claims			
#	Claimant	Overview	Reserve Amount
1.	Mizrahi Inc.	Motion brought by Mizrahi Inc. pursuant to a Notice of Motion dated February 27, 2024, seeking, among other things, an order directing the Receiver to pay Mizrahi Inc. fees and costs for labour and construction management services.	\$11,600,000.00
2.	Gamma Windows and Walls International Inc.	Motion brought by Gamma Windows and Walls International Inc. pursuant to a Notice of Motion dated June 17, 2024, seeking, among other things, an order directing the Receiver to pay Gamma Windows and Walls International Inc. on account of two specified invoices.	\$702,104.26
3.	Core Architects Inc.	Claim by Core Architects Inc. that it is entitled to an increase in the contract administration fees allegedly owed pursuant to the OAA Contract dated March 16, 2015, for the period from October 1, 2023, to March 31, 2025.	\$715,950.00

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and **MIZRAHI
COMMERCIAL (THE
ONE) LP, et al.**

Court File No. CV-23-00707839-00CL

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

DISCHARGE ORDER

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