

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

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

AIDE MEMOIRE OF THE RECEIVER

(Case Conference February 24, 2025 re: MI Payment Motion and Receiver's Cross-Motion)

1. This is the *aide memoire* of the Receiver¹ for the case conference scheduled for February 24, 2025. This case conference was convened to schedule the hearing of MI's Payment Motion and the Receiver's Cross-Motion (collectively, the "**Motions**") and to address three ancillary issues: (i) the length of hearing time required for the Motions; (ii) the treatment of confidential material in the Motion Materials; and (iii) MI's assertion that the Receiver's Fifth Report contains inadmissible hearsay and/or opinion evidence. The Receiver's position is outlined below.

(ii) Background and Status of the Motions

2. The Receiver's materials and MI's responding materials have been served. The Receiver's reply materials will be delivered on February 28, 2024. According to the existing schedule, cross-examinations are to be completed by March 28, 2025 and the parties' exchange of factums will be complete by May 16, 2025.

(i) Scheduling and Length of the Motions

3. The parties agree that the Motions should be heard on mutually agreeable dates after May 19, 2025. The parties disagree about the length of the hearing. The Receiver believes that the motions can be heard in 1-2 days. MI seeks to schedule 4-5 days.

¹ Capitalized terms not otherwise defined have the meaning ascribed to them in the Fifth Report of the Receiver dated October 11, 2024.

4. The Motions will be well-briefed. They are not factually or legally complex and no witnesses will testify. The hearing length sought by MI is excessive for a motion of this nature, and virtually unheard of on the Commercial List.

(ii) Confidential Materials

5. The Receiver has proposed limited redactions to the Motion Materials. These redactions fall into two categories: (i) personal information (including timesheets) belonging to non-party individuals/employees; and (ii) confidential business information. Both types of information have been sealed by the Court in similar circumstances.² The Receiver proposes that issues relating to the permanent sealing of the materials be dealt with at the hearing, if necessary. In the interim, the materials should be served and filed with the Receiver's proposed redactions.

(iii) Hearsay and/or opinion evidence in the Receiver's Fifth Report

6. The Receiver denies that there is any inadmissible hearsay and/or opinion evidence in the Fifth Report. It is well-established by caselaw and in practice that a Receiver's Report may contain hearsay.³ The Receiver's report does not include any inadmissible opinion evidence. In any event, the parties agree that the issue should be dealt with (if necessary) at the hearing of the motion.

² *Ontario Securities Commission v. Bridging Finance Inc.*, [2023 ONSC 4203](#) at paras. [29](#), [36](#), and [40](#).

³ *Farber v. Goldfinger*, [2011 ONSC 2044](#) at [paras. 35-36](#); *Martellacci, Re*, [2014 ONSC 5188](#) at paras. [18-23](#).

February 20, 2025

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

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Proceeding commenced at Toronto

AIDE MEMOIRE
(Case Conference February 24, 2025)

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