

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

KENDAX INVESTMENTS INC.

Applicant

and

**DONALD CARMICHAEL, 658051 ONTARIO LIMITED and
KINGSCROFT INVESTMENTS LIMITED**

Respondents

BEFORE THE HONOURABLE
JUSTICE K. M. HORNER
IN CHAMBERS

) At the Court of Queen's Bench, at
) Calgary, Alberta on Friday, the 12th day
) of December, 2003.

ORDER

UPON THE APPLICATION of the Judicial Trustee; **AND UPON** hearing read the Affidavit of Bruce Alger, sworn December 4th, 2003; **AND UPON** hearing the submissions of Counsel for the Respondents and Counsel for the Judicial Trustee; **AND UPON NOTING** the submissions of the Applicant and the Respondents that they are attempting to negotiate a settlement of the within proceedings;

IT IS HEREBY ORDERED THAT:

1. The prior Orders of this Honourable Court in the within proceedings, including the Order of Mr. Justice Cairns dated January 22, 2003 (the "Trustee Order") and the Order of

Madam Justice Horner dated June 9, 2003 (the "Mortgage Order") are hereby varied as follows:

- (a) The Judicial Trustee is relieved of any positive obligations in respect of the Properties, the beneficial owners and purported beneficial owners of the Properties (the "Beneficial Owners"), and all other interested parties. The Properties are commonly referred to as Bonaventure Court and are legally described as:

Condominium Plan 8811686
Units 1 to 195
and 10,000 shares in the Common Property
Excepting thereout all mines and minerals
(the "Properties")

- (b) The Mortgage Order is varied such that the Judicial Trustee is relieved of any positive obligation to investigate options for and effect renewal or replacement of the Sun Life Assurance Company of Canada first charge mortgage encumbering the Properties (the "Mortgage"), subject to paragraph 1(c) hereof. The Respondents will be responsible for the renewal or replacement of the Mortgage, subject to paragraph 1(c) hereof.
- (c) If the Respondents do not produce a commitment letter from a lender capable of renewing or replacing the Mortgage by February 1, 2004 to the Judicial Trustee, then the Judicial Trustee shall have the sole responsibility for renewal of the Mortgage.

2. Notwithstanding paragraph 1, the Judicial Trustee shall continue to:


- (a) Keep possession of, manage and operate the Properties subject to the proper Management of Fireside Management Ltd. ("Fireside") as described in paragraphs 1 to 11 of the Trustee Order.
- (b) Respond to the requests for information from the Beneficial Owners and other interested parties.

- 3. The Judicial Trustee shall bring an application for the advice and direction of this Honourable Court on or ^{around ✓ RA} ~~before~~ March 15, 2004 in relation to the settlement negotiations of the Applicant and the Respondents.
- 4. Approval of the form of this Order may be executed by facsimile.

Harold Herr
J.C.C.Q.B.A.

APPROVED AS TO FORM ON THIS 18th
DAY OF December, 2003.
BISHOP & MCKENZIE LLP
Solicitors for the Respondents

Per: *Russell Avery*
Russell N. Avery

ENTERED this 7 day of January 2003⁴
KEVIN HOSCHKA 
C.C.Q.B.A.

Action No. 0201-13248

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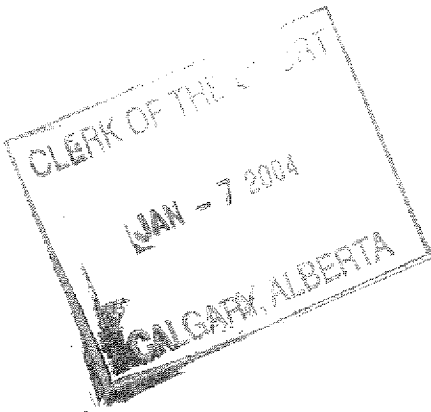
Applicant

and

**DONALD CARMICHAEL and 658051 ONTARIO
LIMITED**

Respondents

ORDER



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File No. 58585-1
