

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY**

BETWEEN:

I hereby certify this to be a true copy of **KENDAX INVESTMENTS INC.**

the original *order*

Dated this *18* day of *Nov 2009*

[Signature]
for Clerk of the Court

Applicant

- and -

**DONALD CARMICHAEL AND 658051 ONTARIO LIMITED AND
KINGSCROFT INVESTMENTS LIMITED**

Respondents

- and -

BONAVENTURE SMALL INVESTORS GROUP

Interested Parties

**BEFORE THE HONOURABLE
MADAM JUSTICE K. HORNER
IN CHAMBERS**

) **AT THE CALGARY COURTS**
) **CENTRE, IN THE CITY OF CALGARY,**
) **ON WEDNESDAY THE 18TH DAY OF**
) **NOVEMBER, 2009.**

ORDER

UPON THE APPLICATION of Bonaventure Small Investors Group ("BSIG"); **AND UPON HEARING READ** the Affidavit of Linda Dixon filed October 14, 2009, and the Affidavit of Service of Gail Wheatley filed November 16, 2009; **AND UPON HEARING** counsel for BSIG, counsel for Alger & Associates Inc. (the "Judicial Trustee"), counsel to Kendax Investment Inc. and other counsel;

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Service of Notice of this Hearing

1. The time for service of notice of this application and the supporting materials is hereby abridged to the time actually given and service of notice of this application and the supporting material is good and sufficient.

Sales Process

2. The Judicial Trustee is hereby directed and authorized to commence to market for sale the property described in these proceedings as Bonaventure Court (the "Property"), with a view to maximizing the sales price of the Property.

3. The Judicial Trustee is directed and authorized to identify prospective purchasers of the Property by doing any of the following, in the sole discretion of the Judicial Trustee:

- (a) listing the Property for sale;
- (b) contacting prospective purchasers of the Property as the Judicial Trustee deems advisable;
- (c) entering into a Confidentiality Agreement in a form acceptable to the Judicial Trustee to permit prospective purchasers to review the Property for sale in greater detail, including providing the prospective purchasers with access to the books, records and other information of the Judicial Trustee in respect of the Property, as the Judicial Trustee deems advisable;
- (d) engaging a listing agent or other advisor, as the Judicial Trustee deems necessary, upon such terms as are agreeable to the Judicial Trustee; and
- (e) otherwise advertising the Property for sale as the Judicial Trustee deems appropriate.

4. The Judicial Trustee is authorized and empowered, if necessary in the sole discretion of the Judicial Trustee, to solicit bids and/or offers for the sale of the Property on the following basis:

- (a) the Judicial Trustee may impose such rules and procedures as it deems necessary and expedient in the circumstances;

- (b) at any point prior to court approval of the sale of all of the Property, the Judicial Trustee shall be authorized and empowered to:
 - (i) communicate with any party in respect of the potential sale of any of the Property,
 - (ii) negotiate with any party, or parties, for the purchase and sale of any or all of the Property, whether or not a bid has been submitted by that party, and
 - (iii) accept any offer submitted for any or all of the Property, regardless of the existence of any other offers relating to that Property, subject to the approval of this Honourable Court;
- (c) in the Judicial Trustee's sole discretion, require interested parties to submit deposits with their offers, which may be refundable or non-refundable;
- (d) the Judicial Trustee shall not be obligated to accept any or the highest offer made for part or all of the Property; and
- (e) the Judicial Trustee is authorized and empowered to implement such other rules of procedure as it may deem appropriate to give effect to the provisions of this Order, or otherwise facilitate the marketing and sale of the Property.

5. The Judicial Trustee shall disclose all bids and offers received to a representative of the BSIG Steering Committee and any other beneficial owner of the Property, upon written request by that party, and upon that party executing a confidentiality agreement in a form acceptable to the Judicial Trustee in respect of those bids, except that any party submitting a bid or offer shall not be entitled to view any other bids or offers pursuant to this paragraph.

6. BSIG and any other beneficial owner of the Property are authorized to communicate their approval or disapproval of any or all bids or offers to the Judicial Trustee, and the Judicial Trustee is authorized to consider those views when considering bids.

7. In addition to the specific authorizations contained in this Order, the Judicial Trustee is authorized and empowered to execute any deeds or documents, and to take any steps, as may be necessary or advisable, in the sole discretion of the Judicial Trustee, in order to better implement or give effect to the sales process relating to the Property, or to implement and give notice of this Order.

Approval of Purchase and Sale Agreement

8. In the event that a purchase and sale agreement for any or all of the Property is achieved between the Judicial Trustee and a prospective purchaser or purchasers, the Judicial Trustee is hereby granted leave to apply to this Honourable Court for an Order:

- (a) approving the purchase and sale of the Property;
- (b) authorizing the Judicial Trustee to execute all deeds or documents, and take all such steps as may be necessary or advisable, in the sole discretion of the Judicial Trustee, in order to give effect to the sale of the Property;
- (c) vesting the Property in the name of purchaser or purchasers free and clear of all claims against the Property except any permitted encumbrances as set out in the purchase and sale agreement;
- (d) that all persons other than the purchaser, including the parties to this action, shall stand absolutely barred and foreclosed from all estate, right, title and interest in the Property;
- (e) requiring any person in possession or control of the Property to forthwith deliver up possession of it to the purchaser;
- (f) directing that until further Order of this Honourable Court the Judicial Trustee shall hold the net proceeds from the sale of the Property in trust, and that such net proceeds shall stand in the place and stead of the Property so transferred;
- (g) declaring that all liens, claims, encumbrances and other interests shall attach to the sale proceeds and held by the Judicial Trustee with the same validity, priority and in the same amounts, and subject to the same defences, that were available when the liens, claims, encumbrances and other interests were attached to the Property itself; and
- (h) such further and other relief as the Judicial Trustee desires.

Service of this Order

9. Service of this Order may be made by ordinary post, facsimile transmission, e-mail or courier delivery and shall be made upon:

- (a) the service list in these proceedings; and
- (b) anyone appearing at the hearing of this application and signing the attendance sheet;

10. The Judicial Trustee is directed to post a copy of this Order on its website.

"K. Horner"

J.C.C.Q.B.A.

ENTERED this 18 day of November,
2009.

CLAUSSLAND



Clerk of the Court of Queen's Bench

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ALBERTA
JUDICIAL DISTRICT OF CALGARY**

BETWEEN:

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Applicant

- and -

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ONTARIO LIMITED AND KINGSCROFT
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Respondents

**BONAVENTURE SMALL INVESTORS
GROUP**

Interested Parties

ORDER

FRASER MILNER CASGRAIN LLP

Barristers and Solicitors
30th Floor, Fifth Avenue Place
237 – 4th Avenue S.W.
Calgary, Alberta
T2P 4X7

Solicitor: David LeGeyt
Telephone: (403) 268-3075
Facsimile: (403) 268-3100
File: 520955-1/DLG

