

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

BETWEEN:

KENDAX INVESTMENTS INC.

I hereby certify this to be a true copy of
the original Order
Dated this 15 day of June 2010
Bruce
for Clerk of the Court

Applicants

and

DONALD CARMICHAEL, 658051 ONTARIO LIMITED and
KINGSCROFT INVESTMENTS LIMITED

Respondents

and

BONAVENTURE SMALL INVESTORS GROUP

Interested Party

BEFORE THE HONOURABLE)
MADAM JUSTICE K. M. HORNER)
IN CHAMBERS)

At the Court of Queen's Bench, at
Calgary, Alberta on Monday, the
14th day of June, 2010.

APPROVAL AND VESTING ORDER

THIS MOTION, made by Alger & Associates Inc., in its capacity as Judicial Trustee of Condominium Plan 8811686, Units 1 to 195, known as "**Bonaventure Court**" (the "**Judicial Trustee**"), for relief with respect to the matters set forth in the Notice of Motion dated June 10, 2010 was heard this day at the Court House, Calgary, Alberta.

ON READING the Notice of Motion dated and filed June 10, 2010, the Tenth Report of the Judicial Trustee (the "**Tenth Report**") filed June 10, 2010, the Confidential Supplement to the Tenth Report of the Judicial Trustee with respect to the proposed sale of the Bonaventure Court (as defined below) (the "**Confidential Report**"); **AND ON HEARING** the submission of counsel for the Judicial Trustee:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and materials in support thereof be and it is hereby abridged to the date of actual service, and that the service, including the manner of service of the motion materials, be and is hereby approved and validated that the motion is properly returnable today, and that all parties entitled to notice of this motion have been properly served and further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS** that the Purchase and Sale Agreement ("the **Sale Agreement**") attached as Exhibit "L" to the Confidential Report and dated June 4, 2010 and entered into between the Judicial Trustee and Mainstreet Equities Corp. with respect to Bonaventure Court, the lands upon which Bonaventure Court is situate upon as defined in the Sale Agreement and as described in Schedule "A" attached hereto ("the **Lands**"), and the equipment, machinery, chattels, contractual interests, licences and leases related to Bonaventure Court and which form part of the property, assets, and undertaking being conveyed to the Purchaser under the Sale Agreement (collectively, the "**Assets**") be and is hereby approved and the Judicial Trustee be and is hereby authorized and directed to take such steps as are necessary to give effect to the transaction of purchase and sale as contemplated by the Sale Agreement.

3. **THIS COURT ORDERS** that, effective immediately upon the filing with this Honourable Court of a certificate by the Judicial Trustee confirming that all terms and conditions under the Sale Agreement have been either satisfied or waived, in the form attached as Schedule "B" hereto (the "**Certificate**"), legal and beneficial ownership of and title to the Assets shall vest and is hereby vested in and to the Purchaser (or its designated assignee or nominee to the extent permitted), absolutely and forever, subject to the permitted encumbrances listed in Schedule "C" attached hereto (the "**Permitted Encumbrances**") but free and clear of and from any and all estate, right, title, interest, claims, hypothecs, mortgages, charges, liens (whether contractual, statutory or otherwise), security interests, assignments, personal property leases, actions, levies, taxes, writs of execution, trusts or deemed trusts (whether contractual, statutory or otherwise), options, agreements, disputes, debts, encumbrances or other rights, limitations or restrictions of any nature whatsoever, including, without limitation, any rights or interests of the Applicants or Respondents or of any credits of the Applicants or Respondents, whether or not they have attached or been perfected, registered or filed, whether secured or unsecured or otherwise, whether liquidated, unliquidated or contingent (collectively, the "**Claims**"), by or of all persons or entities of any kind whatsoever, including, without limitation, all individuals, firms, corporations, partnerships, joint ventures, trusts unincorporated organizations, governmental and administrative bodies, agencies, authorities or tribunals and all other natural persons or corporations, whether acting in their capacity as principals or as agents, trustees, executors, administrators or other legal representatives (collectively the

"Claimants"), provided; however, that this Order shall not delete, impair or otherwise affect the Permitted Encumbrances.

4. **THIS COURT ORDERS** that if the Purchaser, to the extent authorized by the Sale Agreement, assigns any interest arising therein to one or more assignees, then, all provisions of this Order shall, apply *mutatis mutandis* to the subject of such assignment or nomination and such assignee or nominee shall be vested with all rights and obligations which may have accrued to the Purchaser by virtue of this Order.

5. **THIS COURT ORDERS** that, subject to the Permitted Encumbrances, upon being presented with an original letter from counsel to the Judicial Trustee, Burnet, Duckworth & Palmer LLP directed to the Registrar of the South Alberta Land Registration District confirming receipt of the purchase price contemplated by the Sale Agreement, the Registrar of the South Alberta Land Registration District be and is hereby authorized and directed to cancel the existing certificates of titles to the Lands and to issue new certificates of title in the name of the Purchaser or its permitted nominee as specified in the said letter, free and clear of all encumbrances, whether registered before or after the date of this Order, subject only to the Permitted Encumbrances.

6. **THIS COURT ORDERS** that the cancellation of the title and issuance of the new title and discharge of instruments as set out in paragraph 5 shall be registered notwithstanding the requirements of Section 191(1) of the *Land Titles Act*, R.S.A. 2000, c. L-4.

7. **THIS COURT ORDERS** that the proceeds of the sale (the "**Proceeds**") of the Assets shall stand in the place and stead of the Assets without prejudice to any Claims being advanced against same as could have been advanced against the Assets and that any such Claims against the Proceeds shall be subject to the same priorities as could have been claims against the Assets as if the sale had not occurred. The Proceeds shall not be distributed without further order of this court.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings; and
- (b) the provisions of any federal or provincial statute,

the vesting provisions contained herein will not be void or voidable at the instance of creditors and claimants and do not constitute nor shall they be deemed to be settlements, fraudulent preferences, assignments, fraudulent conveyances or other reviewable transactions under the *Bankruptcy and*

Insolvency Act or any other applicable federal or provincial legislation, and they do not constitute conduct meriting an oppression remedy.

9. **THIS COURT ORDERS** that the Clerk of the Court be and is hereby directed to seal the Confidential Report. The Judicial Trustee shall, in accordance with Rule 721.1 of the *Alberta Rules of Court*, provide verbal and written notification to the Clerk of the Court of the obligations imposed upon it pursuant to this Order when filing the Confidential Report. The requirements of Civil Practice Note "12", to the extent varied by this Order, are waived.



J.C.Q.B.A

ENTERED THIS 15 DAY OF JUNE, A.D. 2010

K. MCAUSLAND 
CLERK OF THE COURT

SCHEDULE "A"

Real Property

Condominium Plan 8811686

Units 1 to 195 Inclusive

Excepting Thereout All Mines and Minerals,

(municipally described as #205 Heritage Drive SE Calgary, Alberta)

SCHEDULE "B"

Action No. 0201-13248

**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**

Respondent

and

BONAVENTURE SMALL INVESTORS GROUP

Interested Party

CERTIFICATE

This Certificate is the Certificate referred to in paragraph 3 of the Approval and Vesting Order of the Honourable Madam Justice K.M. Horner dated June 14, 2010 and made herein (the "**Order**"), a copy of which is attached hereto.

Alger & Associates Inc., the Judicial Trustee, hereby certifies that the transactions contemplated in the Sale Agreement (as defined in the Order) have closed and that all conditions contained therein have been satisfied or waived.

ALGER & ASSOCIATES INC.

By: _____

Name:

Title:

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Respondent

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CERTIFICATE

Burnet, Duckworth & Palmer LLP
Barristers and Solicitors
1400, 350-7th Avenue SW
Calgary, Alberta
Canada T2P 3N9.

Attention: Douglas S. Nishimura
Phone: (403) 260-0269
Fax: (403) 260-0332

File No.: 58585-1

Action No. 0201-13248

A.D. 2010

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