

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 27TH
JUSTICE DUNPHY) DAY OF NOVEMBER, 2018

BETWEEN:



**B&M HANDELMAN INVESTMENTS LIMITED, FLORDALE HOLDINGS LIMITED,
M. HIMEL HOLDINGS INC., 1530468 ONTARIO LTD., MAXOREN INVESTMENTS,
and SHEILACO INVESTMENTS INC.**

Applicants

- and -

CHRISTINE DROTOS

Respondent

IN THE MATTER OF SECTION 243(1) 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

**ORDER
(Priority Dispute)**

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as receiver and manager (in such capacity, the “**Receiver**”) without security of certain property of the Respondent (the “**Debtor**”), originally returnable August 31, 2018, for advice and directions regarding the distribution of funds from the net proceeds of sale of the property municipally known as 4 Birchmount Road, Toronto (the “**Birchmount Property**”), **AND THIS MOTION**, made by the Applicants for an Order directing the Receiver to satisfy the Applicants’ second mortgage that was registered against the Birchmount Property, were heard on November 26, 2018, at Toronto.

ON READING the First Report of the Receiver dated May 23, 2018 and the Supplementary Report to the First Report dated May 31, 2018, the Second Report of the Receiver dated June 11, 2018, the Third Report of the Receiver dated August 24, 2018, the Fourth Report of the Receiver dated November 22, 2018, the Affidavit of Stephen Handelman sworn July 30,

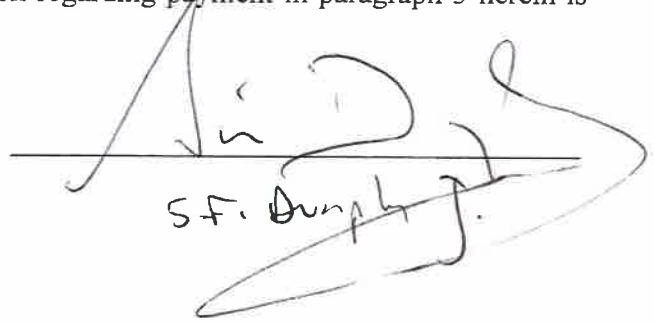
2018, the transcript of the cross-examination of Stephen Handelman dated September 20, 2018, the Affidavit of Ara Missaghi sworn September 5, 2018, the transcript of the cross-examination of Ara Missaghi dated September 20, 2018, and the Refusals and Undertakings Brief from the cross-examination of Ara Missaghi dated November 20, 2018, and on hearing the submissions of counsel for (i) the Receiver, (ii) the Applicants, (iii) Pillar Capital Corporation (the entity incorporated in the Cayman Islands) and World Finance Corporation, and (iv) Pillar Capital Corporation (the entity incorporated in Ontario), no one appearing for any other person on the Service List,

1. **THIS COURT ORDERS AND DECLARES** that the first mortgage of Home Trust Company registered on title to the Birchmount Property on September 2, 2006, as instrument number AT1266787 (the “**Home Trust Mortgage**”) in the Land Titles Division of the Land Registry Office in Toronto (No. 80), was paid out in full on August 15, 2014.
2. **THIS COURT ORDERS AND DECLARES** that the assignment of the Home Trust Mortgage to “Pillar Capital Corporation”, registered on title to the Birchmount Property on May 5, 2015, as instrument number AT3875540, is a nullity.
3. **THIS COURT ORDERS AND DIRECTS** the Receiver to pay to the Applicants the balance outstanding under the Applicants’ second mortgage over the Birchmount Property, including interest and costs to the date of payment.
4. **THIS COURT ORDERS AND DECLARES** that Pillar Capital Corporation is not entitled to the statutory lien prescribed by s. 346(3) of the *City of Toronto Act* in respect of the payment for \$307,981.81 made by “Pillar Capital Corporation c/o Meridian Law, Professional Corporation” (the “**Tax Lien Payment**”), evidenced by a document signed by the City of Toronto and registered on title to the Birchmount Property on December 21, 2015 (the “**Tax Lien**”), to discharge a tax arrears certificate that had been registered on title to the Birchmount Property on December 23, 2014.
5. **THIS COURT ORDERS** that Pillar Capital Corporation shall pay the Applicants’ costs of this motion on a partial indemnity basis, to be fixed.

6. **THIS COURT ORDERS** that to the extent the Applicants have been reimbursed their costs of this motion under their mortgage pursuant to the payment to be made to the Applicants as per paragraph 3 herein, the amount of costs payable by Pillar Capital Corporation shall be held by the Receiver as proceeds of sale of the Birchmount Property. To the extent Pillar Capital Corporation fails to pay such amount, the Receiver shall be entitled to offset such amount as against any moneys due to Pillar Capital Corporation in respect of any amounts due to Pillar Capital Corporation in respect of the Tax Lien Payment.

7. **THIS COURT ORDERS AND DECLARES** that the references in paragraphs 4, 5 and 6 of this Order to Pillar Capital Corporation (save and except for the references in quotation marks in paragraph 4) apply equally to the Pillar Capital Corporation entity incorporated in the Cayman Islands on October 20, 2014, and the Pillar Capital Corporation entity incorporated in Ontario on October 14, 2014.

8. **THIS COURT ORDERS** that the direction regarding payment in paragraph 3 herein is hereby stayed until November 30, 2018.



A handwritten signature in black ink, appearing to read "S.F. Dunphy J.", is written over a horizontal line. The signature is stylized and includes a large flourish extending to the right.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

DEC 10 2018

PER / PAR:



A handwritten signature in blue ink, consisting of several loops and a vertical stroke, is written next to the "PER / PAR:" label.

B&M HANDELMAN INVESTMENTS LIMITED, ET AL.

Applicants

and **CHRISTINE DROTOS**

Respondent

Court File No. CV-18-594590-00CL

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

Proceeding commenced at Toronto

ORDER
(Priority Dispute)

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