

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**6711162 CANADA INC., 1794247 ONTARIO INC., 1387267 ONTARIO
INC., 1564168 ONTARIO INC., 2033387 ONTARIO INC., HUGEL LOFTS LTD.,
ALTAF SOORTY and ZORAN COCOV**

Respondents

APPLICATION RECORD

ZALDIN AND FINE LLP
Barristers and Solicitors
Suite 900
60 Yonge Street
Toronto, Ontario M5E 1H5

Stephen R. Jackson
LSUC #21708P
Email: sjackson@zaldinandfine.ca
Tel. No.: 416-868-1431
Fax. No.: 416-868-6381
Lawyers for the Applicant

SERVICE LIST

TO: ARKADI BOUCHELEV
Barrister & Solicitors
401 Bay Street
Suite 2112
Toronto, Ontario, M5H 2Y4

Email: arkadi@bouchelevlaw.com
Tel: (416) 594-1400
Fax: (416) 594-1405

Lawyer for the Respondents

Third Party Mortgagees

AND TO: THE TORONTO-DOMINION BANK
4720 Tahoe Boulevard
5th Floor
Mississauga, Ontario, L4W 5P2

AND TO: PEZZACK FINANCIAL SERVICES INC.
12-20 LaRose Avenue
Toronto, Ontario, M9P 1A5

AND TO: THE CANADA TRUST COMPANY
TD Waterhouse Investor Services (Canada) Inc.
SDRSP Mortgage Department
77 Bloor Street West
7th Floor
Toronto, Ontario, M5S 1M2

Construction Lien Claimants

AND TO: NORTON ELECTRIC CORPORATION (CANADA)
c/o Angela Assuras Professional Corporation
20 Queen Street West
Suite 3310
Toronto, Ontario, M5H 3R3

Tel: (416) 601-0131
Fax: (416) 601-1462

AND TO: FRITRUST PLUMBING AND DRAIN SERVICES LTD.
c/o Garfin Zeidenberg LLP
5255 Yonge Street
Suite 800
Toronto, Ontario, M2N 6P4

LOUIS VITTAS

Tel: (416) 512-8000
Fax: (416) 512-9992

AND TO: 4536631 CANADA INC.
c/o Pallett Valo LLP
77 City Centre Drive, West Tower
Suite 300
Mississauga, Ontario, L5B 1M5

ANNA M. ESPOSITO

Tel: (905) 273-3300
Fax: (905) 273-6920

AND TO: RONA INC.
c/o Pallett Valo LLP
77 City Centre Drive, West Tower
Suite 300
Mississauga, Ontario, L5B 1M5

PAUL GUARAGNA

Tel: (905) 273-3300
Fax: (905) 273-6920

AND TO: SIERRA CONSTRUCTION (WOODSTOCK) LIMITED
c/o Nesbitt Coulter LLP
35 Perry Street
Woodstock, Ontario, N4S 3C4

ENNIO MICACCHI
DEREK TRUELOVE

Tel: 1(519) 539-1234
Fax: 1(519) 539-6832

AND TO: ROOFCO ONTARIO INC.
c/o HGR Graham Partners LLP
Barristers & Solicitors
190 Cundles Road East
Suite 107
Barrie, Ontario, L4M 4S5

TOM C. TSAKOPOULOS

Tel: 1(705) 737-1811
Fax: 1(705) 737-5390

AND TO: S. CHARLEBOIS HAULAGE AND EXCAVATING LTD.
c/o Barriston LLP
Barristers & Solicitors
151 Ferris Lane
Suite 300
Barrie, Ontario, L4M 6C1

SCOTT R. FAIRLEY

Tel: 1(705) 792-9200
Fax: 1(705) 792-6911

PPSA Registrants

AND TO: HER MAJESTY IN THE RIGHT OF ONTARIO
REPRESENTED BY THE MINISTER OF FINANCE
130 Dufferin Avenue
Suite 400
London, Ontario, N6A 6G8

AND TO: ROYAL BANK OF CANADA
180 Wellington Street West
3rd Floor
Toronto, Ontario, M5J 1J1

AND TO: DCFS CANADA CORP. and MERCEDES-BENZ FINANCIAL
2680 Matheson Blvd. East
Suite 500
Mississauga, Ontario, L4W 0A5

AND TO: NATIONAL LEASING GROUP INC.
1525 Buffalo Place
Winnipeg, Manitoba, R3T 1L9

AND TO: HOME TRUST COMPANY
c/o Harbour Mortgage Corp.
36 Toronto Street
Suite 500
Toronto, Ontario, M5C 2C5

AND TO: HSBC BANK CANADA
300 York Mills Road
Unit 100
Toronto, Ontario, M2L 2Y5

AND TO: THE TORONTO-DOMINION BANK
55 King Street West
39th Floor, TD Tower
Toronto, Ontario, M5K 1A2

AND TO: COMPUTERSHARE TRUST COMPANY OF CANADA
100 University Avenue
9th Floor
Toronto, Ontario, M5J 2Y1

Others

AND TO: DEPARTMENT OF JUSTICE
The Exchange Tower
130 King Street West
Suite 3400
Toronto, Ontario, M5X 1K6

DIANE WINTERS
Email: diane.winters@justice.gc.ca

PETER ZEVENHUIZEN
Email: peter.zevenhuizen@justice.gc.ca

Tel: (416) 973-3172
Fax: (416) 973-0810

AND TO: MINISTRY OF FINANCE (ONTARIO)
Office of Legal Services
33 King Street West
6th Floor
Oshawa, Ontario, L1H 8H5

KEVIN J. O'HARA
Email: kevin.ohara@ontario.ca

Tel: (905) 433-6934
Fax: (905) 436-4510

AND TO: SF PARTNERS INC.
4950 Yonge Street
Suite 400
Toronto, Ontario, M2N 6K1

Attention: Brahm Rosen

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TAB 1

AMENDED THIS MODIFIÉ CE	<u>April 3-14</u>	PURSUANT TO CONFORMÉMENT A
<input checked="" type="checkbox"/> RULES RÈGLES	<u>A</u>	
<input type="checkbox"/> THE L'ORDRE		
DATED FAIT LE		ONTARIO
		SUPERIOR COURT OF JUSTICE
		COMMERCIAL LIST
SECRETARY LE CLERK		GREFFIER LOCAL COUR SUPÉRIEURE DE JUSTICE

Court File No. CV-14-10470-00CL

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

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**6711162 CANADA INC., 1794247 ONTARIO INC., 1387267 ONTARIO INC.,
1564168 ONTARIO INC., 2033387 ONTARIO INC., HUGEL LOFTS LTD.,
ALTAF SOORTY and ZORAN COCOV**

Respondents

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following page.

THIS APPLICATION will come on for hearing on a date to be fixed by a Judge of the Commercial List, at a 9:30 am chambers appointment day, at 330 University Avenue, in Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicant's lawyer or, where the Applicant does not

have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant do not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Natasha Brown
Registrar

Date: March 4, 2014

Date of Amendment: April 3rd, 2014

Issued by: _____

Local Registrar

Address of court office:

330 University Avenue
7th Floor
Toronto, Ontario
M5G 1R7

TO: 6711162 CANADA INC.
123 West Drive
Brampton, Ontario
L6T 2J6

AND TO: 1794247 ONTARIO INC.
18 Truman Road
Toronto, Ontario
M2L 2L5

AND TO: 1387267 ONTARIO INC.
67 Groveland Crescent
Brampton, Ontario
L6S 1L1

AND TO: 1564168 ONTARIO INC.,
67 Groveland Crescent
Brampton, Ontario
L6S 1L1

AND TO: 2033387 ONTARIO INC.
67 Groveland Crescent
Brampton, Ontario
L6S 1L1

AND TO: HUGEL LOFTS LTD.
67 Groveland Crescent
Brampton, Ontario
L6S 1L1

AND TO: CASINO R.V RESORTS INC.
18 Truman Road
Toronto, Ontario
M2L 2L5

AND TO: ALTAF SOORTY
18 Truman Road
Toronto, Ontario
M2L 2L5

AND TO: ZORAN COCOV
12 Regent View Drive
Brampton, Ontario
L6Z 3G2

APPLICATION

1. THE APPLICANTS MAKE APPLICATION FOR:

- (a) if necessary, an Order abridging the time for service and filing of this Notice of Application and the Application Record;

- (aa) an Order amending the within Notice of Application, to add Casino R.V Resorts Inc. ("Casino") as a party Respondent hereto (all references to the "Respondents" shall include Casino);

- (b) an Order appointing SF Partners Inc. as receiver and manager of all of the assets, property and undertaking of the Respondents pursuant to section 243 of the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3 (the "BIA") and section 101 of the *Court of Justice Act* R.S.O. 1990, c. C-43 (the "CJA"); and

- (c) such further relief as counsel may advise and this Honourable Court may permit.

2. THE GROUNDS FOR THE APPLICATION ARE:

- (a) The Applicant is a secured lender to the Respondent corporations. The Respondents Altaf Soorty and Zoran Cocov (the "individual Respondents") are guarantors of the obligations of the Respondent corporations to the Applicant. The individual Respondents have given security to the Respondents as security for their guarantees;

- (b) The Respondents are in financial default of their obligations to the Applicant. As of January 3, 2014 the Respondents were indebted to the Applicants in the amount of \$11,996,788.05;
- (c) On January 3, 2014 the Applicant made written demand on the Respondents and delivered Notices of Intention to Enforce Security on the Respondents pursuant to section 244(1) of the *BIA*;
- (cc) On March 28, 2014, the Applicant made written demand on Casino and delivered a Notice of Intention to Enforce Security on Casino pursuant to section 244(1) of the *BIA*;
- (d) The Applicant's security consists, *inter alia* of charges registers against multiple over pieces of real estate. Several of the charged properties have numerous construction liens registered against them. The Respondents also holds security registered over the Respondents' personal property;
- (e) It is just, convenient and necessary for the protection of the Respondents' estates and for the protection of the Applicant and other creditors that a Court-supervised receiver and manager be appointed to take possession and control of the Respondents' businesses and properties;
- (f) Section 243(1) of the *BIA*, section 101 of the *CJA*, and Rules 3.02(1), 16.08 and

14.05(3)(d),(e), (f) (g) and (h) of the *Rules of Civil Procedure*; and

(g) Such further and other grounds as counsel may advise and this Honourable Court may permit.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

(a) The Affidavit of Wesley Roitman, to be sworn and the exhibits thereto;

(b) The Consent of SF Partners Inc. to act as Receiver; and

(c) Such further and other material as counsel may advise and this Honourable Court may permit.

Date of Issue: March 4, 2014

Date of Amendment: April , 2014

ZALDIN AND FINE LLP

Barristers & Solicitors

60 Yonge Street

Suite 900

Toronto, Ontario, M5E 1H5

STEPHEN R. JACKSON

LSUC Registration No. 21708P

Email: sjackson@zaldinandfine.ca

Tel: (416) 868-1431

Fax: (416) 868-6381

Lawyers for the Applicant

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-

6711162 CANADA INC. et al
Respondents

Court File No. CV-10-10470-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

AMENDED NOTICE OF APPLICATION

ZALDIN AND FINE LLP

Barristers & Solicitors

60 Yonge Street

Suite 900

Toronto, Ontario, M5E 1H5

STEPHEN R. JACKSON

LSUC Registration No. 21708P

Email: sjackson@zaldinandfine.ca

Tel: (416) 868-1431

Fax: (416) 868-6381

Lawyers for the Applicant

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. 30, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**6711162 CANADA INC., 1794247 ONTARIO INC., 1387267 ONTARIO INC.,
1564168 ONTARIO INC., 2033387 ONTARIO INC., HUGEL LOFTS LTD.,
ALTAF SOORTY and ZORAN COCOV**

Respondents

AFFIDAVIT OF WESLEY ROITMAN

**I, WESLEY ROITMAN, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:**

- 1. I am a Managing General Partner of the Applicant, Romspen Investment Corporation (“Romspen”) and have knowledge of the matters to which I hereinafter depose. Romspen is a**

commercial mortgage lender. I am swearing this Affidavit in support of an application to appoint SF Partners Inc. as Court-appointed receiver and construction lien trustee of the undertaking, assets and properties of the Respondents and Casino R.V Resorts Inc.. All references hereinafter to the “**Respondents**” shall include Casino R.V Resorts Inc., unless the context otherwise requires.

2. The Respondents are indebted to the Applicant under a secured loan. The loan matured on September 1, 2013, has not been repaid, and is not being serviced. As of January 3, 2014, the amount owing under the loan was \$11,996,788.05. No payment has since been received.

3. The loan was made pursuant to a mortgage financing commitment dated July 18, 2011 (the “**Commitment**”), as amended and supplemented by a first supplement dated June 12, 2012 (the “**First Supplement**”), and a second supplement dated August 15, 2012 (the “**Second Supplement**”). True copies of the Commitment, the First Supplement and the Second Supplement are attached, respectively, as Exhibits “**A**” “**B**” and “**C**”.

4. As hereinafter described in greater detail, Romspen’s security for the loan consists, *inter alia*, of first and second-ranking mortgages, all in the face amount of \$16 million, over a number of parcels of real estate owned by the Respondents, as well as general security agreements given by the Respondents. Notice of Romspen’s personal property security interests under the general security agreements is registered under the *PPSA*.

Real Estate Security

5. Romspen’s mortgage security for the loan is summarised in the box on the following page:

Mortgages					
No.	Owner	PIN	Municipal Address/Location	Description	Ranking
1.	6711162 Canada Inc.	74018-0017 LT 74018-0018 LT	5781-5819 Rama Road, Rama	63.27 acres of vacant commercial development land	First
2.	1794247 Ontario Inc.	58696-0021 LT 58696-0207 LT	4243 Hopkins Bay Road, Rama 4285 Hopkins Bay Road, Rama	11.4 acres of vacant commercial development land 1.01 acres of shoreline residential land	First
3.	Altaf Soorty and Zoran Cocov	5896-0219 LT	4271-4275 Hopkins Bay Road, Rama	1 acre of shoreline residential land	Second
4.	1387267 Ontario Inc.	03816-0299 LT 03816-0325 LT	Lots 51 and 56, Plan D7, Cambridge	Vacant land, less than 1 acre	First
5.	1564168 Ontario Inc.	03816-0079 LT 03816-0386 LT 03816-0389 LT	Part Lane, Part Lots 1, 2, 20 and 23, Plan 455, Cambridge	1.1 acres of vacant land	Second
6	2033387 Ontario Inc.	03818-0050 LT	50 Kerr Street, Cambridge	1.59 acres of vacant land	Second
7.	Hugel Lofts Ltd.	58452-0389 LT 58452-0394 LT 58452-0395 LT	650 Vindon Road, 586 Victoria Street, 151 Marina Park Ave., Midland	Partially constructed 4 storey residential condominium building, with 53 units and 16.3 acres of vacant land	First and Second

6. True copies of the mortgages are attached as Exhibit "D". Romspen's mortgage security from the Respondent Hugel Lofts Ltd., includes an assignment of a first mortgage in the face amount of \$3.1 million in favour of Laurentian Bank of Canada, as well as a second mortgage in the face amount of \$16 million in favour of Romspen.

7. True copies of the parcel registers in respect of the mortgaged properties are attached as Exhibit "E". I note that there are no mortgages registered behind Romspen against any of the mortgaged properties. Moreover, with the exception of the mortgages given by the Respondents Altaf Soorty, Zoran Cocov, 1564168 Ontario Inc. and 2033387 Ontario Inc., all of Romspen's mortgages are first-ranking.

8. In the case of the Respondents Altaf Soorty and Zoran Cocov, Romspen's mortgage ranks immediately behind a first mortgage held by the Toronto-Dominion Bank in the principal amount of \$568,750, a true copy of which is attached as Exhibit "F". In the case of the Respondents 1564168 Ontario Inc. and 2033387 Ontario Inc., Romspen's mortgage ranks immediately behind a first mortgage held by Pezzack Financial Services Inc. and The Canada Trust Company, in the principal amount of \$300,000, a true copy of which is attached as Exhibit "G". All mortgagees will be served with Romspen's application record prior to the hearing of the within application.

9. There is a partially constructed 4 storey residential condominium building, with 53 units, on the mortgaged property owned by the Respondent Hugel Lofts Ltd. (the "Project"). The Project is now at a standstill due to the registration of numerous constructions liens, which are summarized on the following page:

Construction Liens					
	Lien Claimant	Amount Claimed	Date of Registration	Date of Registration of Certificate of Action	PIN(s)
1.	Norton Electric Corporation (Canada)	\$330,204	2013/12/11	2014/01/24	58452-0395 LT
2.	Fritrust Plumbing and Drain Services Ltd.	\$72,245	2013/12/11	2014/01/29	58452-0395 LT
3.	4536631 Canada Inc.	\$146,819	2013/12/13	2014/01/29	58452-0395 LT 58452-0389 LT 58452-0394 LT
4.	Sierra Construction (Woodstock) Limited	\$1,479,67	2013/12/19	2014/02/06	58452-0395 LT
5.	Roofco Ontario Inc.	\$44,837	2013/12/19	2014/02/04	58452-0395 LT 58452-0389 LT 58452-0394 LT
6.	S. Charlebois Haulage and Excavating Ltd.	\$177,092	2013/12/20	2014/02/06	58452-0395 LT 58452-0389 LT 58452-0394 LT

10. True copies of the liens and certificates of action are attached as Exhibit "H". I note from reviewing the certificates of action that Romspen has been named as a party defendant in all of the lien actions. All of the lien claimants will be served with Romspen's application record prior to the hearing of the within application.

11. The Respondent Hugel Lofts Inc. has not defended the lien actions. Given that the liens have been on title since December of 2013, it would appear that Project's developers either do not have the financial wherewithal or desire to overcome the standstill by settling with the lien claimants or bonding off the liens. In the face of the liens, no mortgage lender, including Romspen, will advance further funds to complete the Project.

Personal Property Security

12. True copies of the general security agreements which Romspen obtained from the Respondents as security for the loan are attached as Exhibit "T".

13. True copies of *PPSA* summaries and searches in respect of the Respondents (current as of March 3, 2014) are attached as Exhibit "J". With the exception of the Respondents 2033387 Ontario Inc., Altaf Soorty and Zoran Cocov, Romspen is the sole *PPSA* registrant over the Respondents.

14. In the case of the Respondent 2033387 Ontario Inc., there is a subsequent-in-time registration in favour Her Majesty in Right of Ontario Represented by the Minister of Finance. In the case of the Respondent Altaf Soorty, Romspen's registrations are subordinate-in-time to registrations in favour of the Royal Bank of Canada, DCFS Canada Corp. and Mercedes-Benz Financial, and National Leasing Group Inc, but otherwise prior-in-time to registrations in favour of Home Trust Company, c/o Harbour Mortgage Corp. and HSBC Bank Canada. In the case of the Respondent Zoran Cocov, Romspen's registrations are subordinate-in-time to a registration in favour of the Toronto-Dominion Bank but otherwise prior-in-time to registrations in favour of Computershare Trust Company of Canada. All *PPSA* registrants will be served with Romspen's application record prior to the hearing of the within application.

Casino R.V Resorts Inc.

15. As set out in the Second Supplement (a copy of which is attached as Exhibit "B"), on June 12, 2012, the Commitment and the loan were revised to add the Respondent, Casino R.V Resorts Inc., as a borrower under the loan, in connection with a further advance of funds. The further advance contemplated in the Second Supplement (in the principal amount of \$660,300.41) was made by Romspen on June 14, 2012.

16. There was no provision under the Second Supplement (or any subsequent agreement between Romspen and the Respondents) for the release of Casino R.V Inc., as a borrower under the loan, prior to the loan being repaid in full. Accordingly, Casino R.V Resorts Inc. is a signatory to the Third Supplement as well.

Demands and *BIA* Notices

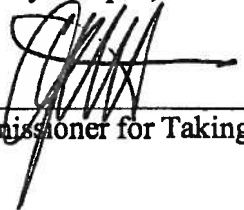
17. Romspen made written demand on the Respondents and issued s. 244 *BIA* notices on January 3, 2014. True copies of the demands and *BIA* notices are attached as Exhibit “K”. Through inadvertence no written demand was made and no *BIA* notice was given to Casino R.V Resorts Inc. at that time.

18. On March 28, 2014, Romspen made written demand on Casino R.V Resorts Inc. and issued a s. 244 *BIA* notice. True copies of the demand and *BIA* notice are attached as Exhibit “L”.

19. I verily believe that it is just and convenient that a receiver/construction lien trustee be appointed immediately by this Honourable Court over the Respondents’ assets. There are multiple properties and corporate entities involved and there may be allocation and marshalling issues that arise as the mortgaged properties, and other assets of the Respondents, are liquidated. The Project is at a standstill and, given the passage of time, the prospect of the standstill being resolved by the current developers is increasingly remote. A receiver/construction lien trustee will also be in the strongest position to assess how best to achieve a maximum realization in respect of the Project, given that construction has not yet been completed.

20. I swear this Affidavit in support of Romspen's application to appoint SF Partners Inc. as receiver and construction lien trustee over the Respondents' assets and for no other or improper purpose.

SWORN before me at the City of)
Toronto, in the Province of Ontario,)
this 4th day of April, 2014.)



A Commissioner for Taking Affidavits

JOEL MICKELSON
Barrister & Solicitor
162 Cumberland St., #300
Toronto, ON M5R 3N5
Direct Line: 416 928-4870



WESLEY ROITMAN