

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN EQUIPMENT FINANCE AND LEASING INC.

Applicant

-and-

**THE HYPOINT COMPANY LIMITED, 2618905 ONTARIO LIMITED,
2618909 ONTARIO LIMITED, BEVERLEY ROCKLIFFE,
and CHANTAL BOCK**

Respondents

AFFIDAVIT OF RICHARD GOLDBERG
(sworn remotely on August 30, 2022)

I, Richard Goldberg, of the City of Toronto, in the Province of Ontario, AFFIRM
AND SAY that:

1. I am one of the second mortgagees of the property located at 59 Roy Boulevard in Brantford, Ontario (the “**Property**”) and as such, have knowledge of the following matter. Where I do not have direct knowledge of the facts, I have stated my source of information below and I believe such facts to be true.
2. Pursuant to notices under Part III of the Mortgages Act, the second mortgagees gave notice to the owner of the Property, 2618909 Ontario Limited (“**909**”) that in the face of 909’s default under the second mortgage, the second mortgagees would proceed to sell the Property under power of sale.

A copy of that notice is attached hereto and marked as Exhibit A

3. For a time, it appeared that we would sell the Property to a potential buyer – named Metro Century Capital Inc. – without having to go through the formalities of listing the property and obtaining appraisals. I reached that conclusion because 909 indicated to me that they would be content with a sale to Metro Century Capital Inc.

4. Accordingly, the second mortgagees executed an agreement of purchase and sale with Metro Century Capital Inc. (the “**APS**”). A copy of that APS can be found in Confidential Exhibit “D” to the affidavit of Brent Keenan, sworn August 30, 2022.

5. That APS contained a conditional period, which required waiver by the purchaser. Unfortunately, the purchaser did not waive that condition, and as a result, that APS has now lapsed.

6. As a result, the second mortgagees have concluded that we must now proceed to sell the Property, under power of sale, in a more formal manner; namely:

- (a) Retain a listing brokerage to market, list, and sell the Property; and
- (b) Obtain the appropriate appraisals to justify both a listing price and in order to assess any offer that are made, in order to ensure that

7. Accordingly, I have met with Doug Murray, senior vice president at Colliers, whom I (on behalf of the second mortgagees) will be retaining as their seller’s agent.

8. Similarly, I have spoken with the following appraisers, two of whom I (on behalf of the second mortgagees) will be retaining to provide an opinion as to the fair market value of the Property:

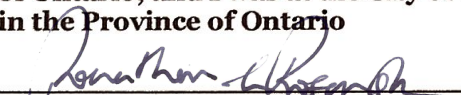
- (a) Wagner, Andrews, Kovacs;
- (b) Altus Group;
- (c) ICI Appraisals Antec Appraisal Group; and
- (d) Ellens & Associates Inc., Real Estate Appraisers & Consultants

9. The second mortgagees are not doing this to be perverse, or to prejudice the rights of any creditors, including CEFL.

10. Instead, we are concerned that CEFL is attempting to interpose itself – via this application for a receiver – into our statutory rights as mortgagees.

11. To that end, the second mortgagees are not opposed to sharing information about the process of the power of sale with any creditor, including CEFL.

AFFIRMED BEFORE ME this 30th day of August, 2022 by video conference, in accordance with the provisions of the Regulation governing Administering Oaths or Declarations Remotely, while the affiant was at the City of Toronto, in the Province of Ontario, and I was at the City of Toronto, in the Province of Ontario


A commissioner of oaths, etc.


Richard Goldberg

NOTICE OF SALE UNDER CHARGE

To: Persons named in Schedule "A" attached hereto and forming part of this Notice.

TAKE NOTICE that default has been made in payment of monies due under a certain mortgage dated the 5th day of June, 2020 made between 2618909 ONTARIO LIMITED, as Chargors, and DELRIN INVESTMENTS INC., SAMUEL STERN, HARVEY KESSLER and RICHARD GOLDBERG, as Chargees, whereby the property described as Lot 39, Plan 1455, Brantford City, which Charge was registered on the 5th day of June, 2020, in the Land Registry Office, for the Registry Division of Brant (No. 2), as Instrument No. BC380708

AND WE HEREBY give you notice that the amount now due on the mortgage for principal money, interest, and costs, respectively, are as follows:

PRINCIPAL outstanding (as at May 5, 2022)	\$3,643,125.00
INTEREST ON PRINCIPAL From May 5, 2022 to May 12, 2022 (998.12 /day x 7 days at 10%)	6,986.84
Missed/late payment fees (\$2,500.00 x 4)	10,000.00
Administrative/management fees for NSF/missed payments	10,000.00
Costs (to date)	7,500.00
	<hr/>
TOTAL OWING	<u><u>\$3,677,611.84</u></u>

*per diem \$998.12

together with interest at the rate under the mortgage, namely 10.00% per cent per annum, calculated monthly, from the 12th day of May, 2022 to the date of payment. The above-mentioned amount for costs is only for costs up to and including the service of this Notice, and thereafter such further costs and disbursements will be charged as may be proper.

AND UNLESS the said sums are paid on or before the 27th day of June, 2022, we shall sell the property covered by the said mortgage under the provisions contained in it.

THIS NOTICE is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same.

DATED AT TORONTO, this 12th day of May, 2022

**DELRIN INVESTMENTS INC.
SAMUEL STERN
HARVEY KESSLER
RICHARD GOLDBERG**
by their solicitor



JACK FRYMER
5255 Yonge Street, Suite 1300
Toronto, Ontario, M2N 6P4
Tel. 416-446-1230

This is Exhibit A to the
Affidavit of Richard Goldberg
Affirmed August 30, 2022

A commissioner of oaths, etc.

SCHEDULE "A"

1. 2618909 Ontario Limited
100-25 Morrow Avenue
Toronto, Ontario
M6R 2H9
2. Occupant
59 Roy Boulevard
Brantford, Ontario
N3R 7K2
3. Beverlie Rockliffe
235 Front Street
Oakville, Ontario
L6J 1A4
4. Brenda Halkiw
202-30 Morrow Avenue
Toronto, Ontario
M6R 2J2
5. Christine Morassutti
46 Scotch Valley Drive
King City, Ontario
L7B 1L9
6. Chantal Bock
287 Macdonald Road
Oakville, Ontario
L6J 2A6
7. Canadian Equipment Finance & Leasing Inc.
5-250 Woolwich Street South
Bresleau, Ontario
N0B 1M0
8. 2767888 Ontario Inc.
51 Main Street
Cambridge, Ontario
N1R 1V6