Court File No.: CV-18-00608086-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 129 OF THE SECURITIES ACT R.S.O. 1990, c. S.5, AS AMENDED

B E T W E E N:

ONTARIO SECURITIES COMMISSION

Applicant

\- and -

MONEY GATE MORTGAGE INVESTMENT CORPORATION

Respondent

SIXTH REPORT TO THE COURT OF GRANT THORNTON LIMITED IN ITS CAPACITY AS RECEIVER OF THE RESPONDENTS

November 22, 2022

Grant Thornton

Grant Thornton Limited
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Toronto, Ontario
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Application under Section 129 of the *Securities Act,* R.S.O. 1990, C.S.5, as amended

SIXTH REPORT TO THE COURT OF GRANT THORNTON LIMITED
IN ITS CAPACITY AS RECEIVER OF THE RESPONDENT

November 22, 2022

INTRODUCTION

1. This Report (the "**Sixth Report**") is filed by Grant Thornton Limited ("**GTL**") in its capacity as the receiver (the "**Receiver**") over the property, assets and undertakings of Money Gate Mortgage Investment Corporation ("**MGMIC**"). GTL was appointed Receiver on November 6, 2018 on an application of the Ontario Securities Commission (the "**OSC**") pursuant to an order of the Honourable Mr. Justice Hainey, as amended (collectively, the "**Appointment Order**").

PURPOSE OF THIS SIXTH REPORT

2. The purpose of this Sixth Report is to:

(a) provide an update on the status of MGMIC's receivership since the Receiver's last update contained in its Fifth Report dated October 20, 2020, (the "**Fifth Report**"), a copy of which (without appendices) is attached as **Appendix "A"**;

(b) provide the Court with information in support of the Receiver's request for an order approving the Minutes of Settlement dated September 22, 2022, between Troy Edward Thomas Wilson ("**Wilson**") and the Receiver, as amended by the Amendment dated November 18, 2022 (collectively, the "**Minutes of Settlement**"). The Minutes of Settlement are attached to this Report as Confidential Appendix 1.

RESTRICTIONS AND TERMS OF REFERENCE

3. In preparing this Sixth Report, the Receiver has relied upon unaudited financial information, MGMIC's books and records and certain financial information. Except as described in this Sixth Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.

4. This Sixth Report has been prepared for the use of this Court to provide general information and an update relating to this proceeding for the purpose of assisting the Court in making a determination as to whether to approve the relief sought. This Sixth Report should not be relied on for any other purpose. The Receiver will not assume responsibility or liability for losses incurred as a result of the circulation, publication, reproduction or use of this Sixth Report contrary to the provisions of this paragraph.

5. All references to dollars are in Canadian currency unless otherwise noted.

6. Copies of materials filed in these Receivership Proceedings are available on the Receiver's Case Website at: www.GrantThornton.ca/MoneyGate.

BACKGROUND

7. MGMIC carried on business as a mortgage investment corporation. Between August 2014 and April 2017, MGMIC raised approximately $11 million from approximately 155 investors through the sale of preferred shares of MGMIC. Those investments were subsequently pooled and used to make loans to borrowers secured by mortgages registered against the borrowers' properties or were used to acquire an interest in existing mortgages.

8. Morteza Katebian, also known as Ben Katebian ("**Ben**") Ben and Ben's son Payam Katebian ("**Payam**", and together with Ben, the "**Katebians**") were the sole directors and officers of MGMIC.

9. At the time of the Receiver's appointment, MGMIC's mortgage portfolio consisted of eight mortgages (the "**Mortgages**") registered against seven properties located across the province of Ontario summarized below[1]:

Property	Municipal Address	First Mortgage	Second Mortgage	Third Mortgage
"Timiskaming Property"	1107 Lakeshore Rd S. Timiskaming Shores	$ 435,000	$ 3,475,000	$ -
"Timmins Property"	5355 Highway 101 W. Timmins	2,372,500	-	-
"Birchmount Property"	4 Birchmount Rd Toronto	-	-	1,600,000
"Palace Pier Property"	2045 Lakeshore Blvd W. Toronto	765,326	665,000	-
"Dovercourt Property"	558 Dovercourt Rd Toronto	-	611,000	-
"Steeles Property"	4342 Steeles Ave West Vaughan	-	320,000	-
"Euclid Property"	293 Euclid Ave Toronto	-	282,500	-

[1] MGMIC's mortgages registered against the Steeles Property and the Dovercourt Property were discharged either through a power of sale proceeding by the first mortgagee in respect of Steeles or by registration of a vesting order by a receiver appointed to sell the Dovercourt Property. As described in greater detail in the Receiver's Fourth Report dated April 30, 2020 (the "**Fourth Report**"), GTL in its capacity as the Receiver of MGMIC asserted a security interest in the proceeds from the sale of the Dovercourt Property and the Steeles Property. The amounts set out in the chart above represent the principal amount of the loan made by MGMIC or the amount paid by MGMIC to acquire the mortgage (excluding interest earned by MGMIC on these loans). A copy of the Fourth Report without appendices is attached hereto as **Appendix "B"**.

THE STATUS OF MGMIC'S MORTGAGES

General Update

10. In its past reports to the Court, the Receiver provided a detailed update on the status of each of the Mortgages. As described by the Receiver in the Fifth Report, as at October 20, 2020, the Receiver completed realizations on the Mortgages registered against the Birchmount Property, the Euclid Property, Steeles Property and the Palace Pier Property.

11. As described in greater detail in the Fifth Report, on February 5, 2020, the Receiver obtained an order of this Court directing that the net proceeds from the sale of the Dovercourt Property be paid to the Receiver. The order was appealed by the respondent on the motion. The appeal was dismissed on November 26, 2020.

12. The only Mortgages that the Receiver has not been able to recover on were the Mortgages registered against the Timiskaming Property and the Timmins Property. The particulars of these properties and the Mortgages registered against those properties were described in greater detail in the Fourth Report and are set out below.

The Timiskaming Property

13. The Timiskaming Property consists of a 38-hectare commercial site including a vacant wood panel manufacturing plant and a historic wood waste landfill.

14. Since its appointment, the Receiver has engaged in discussions with the Ministry of Environment and Climate Change of Ontario, Uniboard Canada, and an independent environmental engineer to determine the extent of environmental remediation requirements.

15. MGMIC holds the first mortgage which was acquired by MGMIC for $435,000 and the second mortgage in the principal amount of $3,475,000 against the Timiskaming Property.

16. The Timiskaming Property was purchased by Mansteel New Liskeard Inc. ("**Mansteel**"), a company owned and/or controlled, directly or indirectly, by Arash Missaghi ("**Missaghi**"), from Uniboard Canada Inc. ("**Uniboard**") for $1. Pursuant to the sale agreement between Uniboard and Mansteel,

Mansteel agreed to, among other things, assume all environmental obligations relating to the Timiskaming Property and perform certain environmental work (the "**Environmental Work**"). Pursuant to the sale agreement, Uniboard agreed to pay to Mansteel the sum of $6 million plus applicable taxes (the "**Environmental Fee**") for performing the Environmental Work. The Environmental Fee was comprised of a lump sum of $3.5 million paid on closing and a sum of $2.5 million (the "**Escrow Funds**") deposited with an escrow agent. Uniboard takes the position that Mansteel is only entitled to access the Escrowed Funds if the Environmental Work was actually performed.

17. In July 2013, Ministry of Environment and Climate Change of Ontario ("**MOECC**") conducted an inspection of the landfill on the Timiskaming Property. On October 23, 2013, the MOECC issued a Provincial Officer's Order requiring Mansteel to perform certain environmental remediation actions and to submit certain written action plans to the MOECC. On June 23, 2016, the Ontario Court of Justice issued an order finding Mansteel guilty of the offence and ordered Mansteel to complete remediation work by November 15, 2016. The Receiver is advised by the MOECC that this work was not completed and that contamination of the Mansteel Property has not been remediated.

18. On December 8, 2017, on a motion made by Mansteel, this Court made an order requiring the escrow agent to pay the sum of $1,343,054 to the Accountant of the Superior Court of Justice of Ontario. The Receiver has confirmed with the escrow agent that the Escrow Funds were paid into Court on December 15, 2017.

19. MGMIC's mortgages registered against the Timiskaming Property have matured. Before commencing any enforcement steps in respect of the mortgages, in August 2019, the Receiver commissioned an independent appraisal of the Timiskaming Property in order to determine whether it will be commercial reasonable to undertake further environmental review.

20. A copy of the independent appraisal was provided to the Receiver on July 24, 2019 and was attached as Confidential Appendix "1" to the Fourth Report.

21. The Receiver, obtained a report from R.J. Burnside & Associates Limited dated March 22, 2022 that estimated environmental clean up on the Timiskaming Property would range from

approximately $10-$20 million which is significantly in excess of the realizable value of the Timiskaming Property,

22. Since the Receiver's last report, nothing that has come to the attention of the Receiver that is indicative the Timiskaming Property's valuation has changed materially.

23. Considering the valuation of the Timiskaming Property and the environmental liability associated with the Timiskaming Property, the Receiver did not take any enforcement steps with respect to the Timiskaming Property.

<u>The Timmins Property</u>

24. The Timmins Property consists of six (6) parcels of vacant land, totaling approximately 195 acres, located south-west of Timmins, Ontario.

25. Canadian Land Corporation ("**CLC**") is the registered owner of the Timmins Property. At all relevant times, Wilson was the director of CLC. The Receiver understands that CLC is owned directly or indirectly by Missaghi and/or his wife, who is Troy's associate.

26. MGMIC holds a first ranking mortgage against the Timmins Property in the principal amount of $2,375,500.

27. The Timmins Mortgage matured on March 4, 2018. To determine what enforcement steps should be taken, the Receiver sought an independent appraisal of the Timmins Property in order to determine whether it will be commercially reasonable to undertake a further environmental review.

28. A copy of the independent appraisal was provided to the Receiver on July 24, 2019, and was attached as Confidential Appendix 2 to the Receiver's Fourth Report.

29. Since the Receiver's last report, nothing has come to the attention of the Receiver that is indicative the Timmins Property's valuation has changed materially.

30. Considering the environmental issues and the appraised value of the Timmins Property, the Receiver did not take any enforcement steps with respect to the Mortgage registered against the Timmins Property.

THE ACTION AGAINST WILSON AND SETTLEMENT

31. Pursuant to a Commitment Letter dated February 24, 2016 (the "**Commitment Letter**"), MGMIC advanced a mortgage loan of$2,372,500 (the "**Loan**") to CLC, the registered owner of the Timmins Property.

32. The term of the Loan was renewed for a further twelve months by Commitment Letter dated February 1, 2017 (the "**Renewal Letter**"). The Loan was secured by, among other things, a mortgage registered against title to the Timmins Property (the "**Timmins Mortgage**").

33. The Commitment Letter, the Renewal Letter and the Timmins Mortgage were each executed by Wilson in his capacity as director of CLC and personally in his capacity as guarantor.

34. On October 23, 2020, the Receiver commenced an action in the Ontario Superior Court of Justice under Court file number CV-20-00649997-0000 (the "**Action**") by issuing a Statement of Claim, a copy of which is attached hereto as **Appendix "C"**.

35. Wilson served his Statement of Defence on December 16, 2020, a copy of which is attached hereto as **Appendix "D"**. In his defence, Wilson denies that CLC ever obtained the Loan from MGMIC. Wilson also alleged that the loan and security documents are the products of forgery and part of the "ongoing and improper course of illegal and fraudulent conduct of the Katebians." Similar allegations were raised by Wilson and his associates against the Katebians in other proceedings which have been litigated or are continuing to be litigated before this Court and other jurisdictions. The Katebians have also accused Wilson, Missaghi and their associates of fraudulent conduct.

36. On March 23, 2022, Wilson commenced a third-party claim against the Katebians for indemnity (the "**Third Party Claim**").

37. The Receiver scheduled a motion for summary judgment in the Action. The parties exchanged affidavit evidence and the Receiver examined Rasik Mehta ("**Mehta**"), who stated that he acted as legal counsel for MGMIC in connection with the Loan. Wilson alleges that Mehta cooperated with the Katebians on the alleged fraud relating to the Loan and the Timmins Mortgage.

38. Wilson and the Receiver, through their respective legal counsel, engaged in lengthy settlement negotiations of the Action, which culminated in the Minutes of Settlement.

39. The Minutes of Settlement require that the agreement and the accompanying documents be kept confidential. Accordingly, the Receiver seeks an order sealing the Minutes of Settlement pending a further order of the Court.

40. Notwithstanding, the confidentiality requirement, the following summary of the Minutes of Settlement is provided to allow MGMIC's stakeholders the opportunity to evaluate the commercial reasonableness of the proposed settlement:

(a) Wilson shall pay to the Receiver a one-time lump sum payment by January 31, 2023 (the "**Settlement Amount**");

(b) Following the receipt of the payment, the Receiver will assign to Wilson, or as otherwise directed, the Timmins Mortgage and the mortgages in favour of MGMIC registered against the Timiskaming Property;

(c) Wilson provided to the Receiver an executed Consent to Judgment for the full amount claimed by the Receiver in the Action, which can be utilized by the Receiver if payment of the settlement amount is not received by January 31, 2023;

(d) If payment is received, Wilson by January 31, 2023, the Receiver will obtain an order dismissing the Action against Wilson on a without cost basis. Once the Receiver obtained an order dismissing the Action, Wilson shall immediately obtain an order dismissing the Third-Party Claim on a without cost basis.

41. The Minutes of Settlement are conditional upon the approval of this Court in MGMIC's receivership proceeding.

42. The Action, the Mortgages against the Timmins Property and the Timiskaming Property represent the last remaining assets of MGMIC. If the Settlement Amount is paid in a manner required by the Minutes of Settlement and the Action is dismissed on a without cost basis, the Receiver will

complete final distributions to MGMIC's stakeholders and bring a motion for an order discharging and releasing the Receiver.

43. The Receiver believes that the Minutes of Settlement represent a reasonable and commercial settlement in the circumstances and recommends that the Court approve them for the following reasons:

(a) the allegations of fraud against the Katebians and Mehta and the Third-Party Claim raise difficulties in prosecuting the Action in a summary cost effective manner;

(b) The Receiver does not have first-hand knowledge of the events giving rise to the Loan and relies exclusively on MGMIC's books and records;

(c) in a Decision dated April 1, 2021 issued in a proceeding commenced by the OSC against the Katebians and MGMIC, the OSC found that the Katebians perpetrated fraud on MGMIC's investors;

(d) the environmental issues with the Timmins Property and the Timiskaming Property have rendered MGMIC's mortgages registered against those properties unrecoverable;

(e) The Settlement Amount is reasonable when taking into account the risks and costs associated with litigating the Action to completion and prospect of recovery of judgment even if the Receiver is successful in the Action; and

(f) the Minutes of Settlement provide a cost-effective resolution of the Action and certainty of recovery for MGMIC stakeholders;

CONCLUSION AND RECOMMENDATION

44. The Receiver is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully recommends that this Court make the order granting the Receiver's requested relief.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of November, 2022.

GRANT THORNTON LIMITED,
solely in its capacity as the Court-appointed receiver and manager of Money Gate Mortgage Investment Corporation and not in its personal or corporate capacity

Per: ______________________
Jonathan Krieger, CPA, CA, CIRP, LIT
Senior Vice-President