

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) MONDAY, THE 16TH
JUSTICE HACKLAND) DAY OF NOVEMBER, 2020

B E T W E E N:

FIRST NATIONAL FINANCIAL GP CORPORATION

Applicant

- and -

GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.

Respondents

JUDGMENT

THIS TRIAL OF ISSUES, which proceeded pursuant to the Order Directing Trial of the Issues dated July 8, 2020, was heard on July 22, 30, 31 and August 12 and 13, 2020 by Zoom videoconference due to the COVID-19 pandemic, without a jury, in the presence of the lawyers for First National Financial GP Corporation (“**FN**”), Liahona Mortgage Investment Corp. (“**Liahona**”), Golden Dragon Ho 10 Inc. (the “**GDH 10 Debtor**”), Golden Dragon Ho 11 Inc. (the “**GDH 11 Debtor**” and together with the GDH 10 Debtor, collectively, the “**Debtors**”) and Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of certain real property of the GDH 10 Debtor, municipally known as 347 Barber Street, Ottawa, Ontario (formerly known as 347 Clarence Street, Ottawa) (“**347 Barber**”), and of certain real property of the GDH 11 Debtor, municipally known as 345 Barber Street, Ottawa,

Ontario (formerly known as 345 Clarence Street, Ottawa) ("**345 Barber**" and together with 347 Barber, collectively, the "**Property**").

ON READING the Agreed Statement of Facts, the Affidavit of Christopher Sebben ("**Sebben**") sworn September 19, 2017, the Supplementary Affidavit of Sebben sworn June 24, 2020 (the "**Sebben Supplementary Affidavit**"), the Reply Affidavit of Sebben sworn July 20, 2020 (the "**Sebben Reply Affidavit**"), the Affidavit of Bruce Roher sworn July 20, 2020, Liahona's Amended Notice of Motion dated July 29, 2020, to strike certain paragraphs of the Sebben Supplementary Affidavit and the Sebben Reply Affidavit (the "**Motion to Strike**"), the Supplementary Affidavit of Aaron Rumley ("**Rumley**") sworn July 16, 2020 and the Second Supplementary Affidavit of Rumley sworn July 16, 2020, the Receiver's Notice of Motion dated June 29, 2020, and the Ninth Report of the Receiver dated June 29, 2020, the Debtor's Notice of Motion dated May 15, 2020 for, among others things, an Order declaring that FN is not entitled to collect any yield maintenance amounts (the "**Debtors' Motion**") and on hearing the submissions of the lawyers for FN, Liahona, the Debtors and the Receiver,

MOTION TO STRIKE

1. **THIS COURT ORDERS** that the Motion to Strike be and is hereby dismissed.

DEBTORS' MOTION

2. **THIS COURT ORDERS** that the Debtors' Motion be and is hereby dismissed.

ALLOCATION OF EXPENSES

3. **THIS COURT ORDERS** that:
 - (a) the commission paid to CBRE Group Inc. shall be allocated on the basis of 73% to 345 Barber and 27% to 347 Barber;
 - (b) the payment made by the Receiver following the completion of the sale of the Property on November 7, 2019 ("**Closing**") on account of the amount outstanding under the Receiver's Borrowing Charge (as defined in the Appointment Order (Interim Receiver) dated September 22, 2017) shall be allocated on the basis of 81.43% to 345 Barber and 18.57% to 347 Barber.

PREPAYMENT OF FN MORTGAGES

4. **THIS COURT ADJUDGES AND DECLARES** that the FN mortgage registered against 345 Barber immediately prior to Closing (the “**FN 345 Barber Mortgage**”) and the two FN mortgages registered against 347 Barber immediately prior to Closing (the “**FN 347 Barber Mortgages**”) were fully closed mortgages as of the date of Closing.

5. **THIS COURT ADJUDGES AND DECLARES** that in connection with the prepayment of the FN 345 Barber Mortgage and the FN 347 Mortgages on Closing, the Receiver shall pay to FN the sum of \$1,473,141.82 (the “**Prepayment Amount**”) from the proceeds of sale of the Property remaining in the Receiver’s hands.

6. **THIS COURT ADJUDGES** that the Receiver shall pay to FN prejudgment interest on the Prepayment Amount from the date of Closing to the date of this Judgment at the rate of 1.6% *per annum* from the proceeds of sale of the Property remaining in the Receiver’s hands

7. **THIS COURT ADJUDGES** that the Receiver shall pay to FN postjudgment interest on the Prepayment Amount at the rate of 1.6% *per annum* from the proceeds of sale of the Property remaining in the Receiver’s hands.

Charles Hackland Jr.

Justice C.T. Hackland

FIRST NATIONAL FINANCIAL GP CORPORATION
Applicant

-and- **GOLDEN DRAGON HO 10 INC. et. al.**
Respondents

Court File No. CV-17-73967

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
OTTAWA

JUDGMENT

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4
Fax: (844) 670-6009

DAVID P. PREGER (36870L)

Email: dpreger@dickinsonwright.com
Tel: (416) 646-4606

Lawyers for the Court-appointed Receiver,
Deloitte Restructuring Inc.