

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.
UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*

NOTICE OF MOTION
(partial lifting of stay
returnable March 17, 2020)

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV LP, and IMH GP XIV LTD. and STARLIGHT GROUP PROPERTY HOLDINGS INC. will make a Motion to a Judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario on Wednesday, March 17, 2021 at 9:30 a.m., or as soon after that time as the Motion can be heard, via Zoom teleconference, the details for which are set out in the attached Schedule "A"

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR

1. An Order, substantially in the form attached as Schedule “B” to this Motion, that, among other things:
 - a. Abridges and validates the time for service of this Notice of Motion and the Motion Record and dispenses with further service thereof;
 - b. Partially lifts the stay of proceedings in this matter; and
 - c. Absent further Order of this Court, provides that Starlight is not entitled to any relief against the Proposal Trustee or any trustee in bankruptcy appointed for the Debtor.

THE GROUNDS FOR THE MOTION ARE

- (a) Starlight and the Debtor are involved in complex construction related litigation in British Columbia (the “Litigation”), which was commenced by IMH 415 & 435 Michigan Apartments Ltd., IMH Pool XIV LP, IMH GP XIV Ltd. and which also includes a counterclaim by the Debtor against Starlight Group Property Holdings Inc.;
- (b) Unless and until the Litigation is resolved by either agreement of the parties or decision of the British Columbia Court following trial, the question of whether or not, and to what extent, Starlight may be indebted to the Debtor cannot be determined;

- (c) Unless the automatic stay of proceedings that arises upon the filing of a Notice of Intention to File a Proposal by the Debtor is lifted, Starlight will be prevented from proving the liability of the Debtor and the quantum of its claim; and
- (d) The Debtor and Starlight and the Proposal Trustee have all agreed upon the form of Order attached hereto as a reasonable and proper mechanism to permit the adjudication and quantification of the competing claims of Starlight and the Debtor in the Litigation.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) The affidavit of Steve Leblanc sworn March 10, 2021; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

March 12, 2021

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LANG LLP**

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Lawyer for IMH 415 & 435 Michigan
Apartments Ltd., IMH Pool XIV LP, IMH GP
XIV Ltd. and Starlight Group Property
Holdings Inc.

TO: **THE SERVICE LIST**

Schedule "B"

Estate No: 32-2701357

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
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CONSENT

THE PARTIES herein, by their respective solicitors, hereby consent to an order, attached as Schedule "A".

THE PARTIES herein certify that the order being consented to does not affect the rights of any party under any disability.

DATED this day of , 2021

**ALEXANDER HOLBOURN BEAUDIN +
LANG LLP**
Per: David Garner
Solicitors for IMH 415 & 435 Michigan
Apartments Ltd., IMH Pool XIV LP,
IMH GP XIV Ltd. and Starlight Group Property
Holdings Inc.

RORY MCGOVERN PC
Per: Rory McGovern
Solicitors for Unique Restoration Ltd.

GOLDMAN SLOAN NASH & HABER LLP

Per: R. Brendan Bissell
Solicitors for the Proposal Trustee,
Crowe Soberman Inc.

Schedule "A"

Estate No: 32-2701357

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

THE HONOURABLE) WEDNESDAY, THE 17TH
)
JUSTICE) DAY OF MARCH, 2021
)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
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**ORDER
(partial lifting of stay)**

THIS MOTION by Starlight Group Property Holdings Inc., IMH 415 & 435 Michigan Apartments Ltd., IMH Pool XIV LP, IMH GP XIV Ltd. (collectively "**Starlight**") for an order granting a partial lifting of the stay of proceedings was heard this day by videoconference due to COVID-19.

ON READING the consent of Unique Restoration Ltd. (the "**Debtor**"), of Starlight, and of Crowe Soberman Inc. in its capacity as the trustee of the proposal of the Debtor (the "**Proposal Trustee**") and upon hearing the submissions of counsel for the Debtor and the Proposal Trustee as well as those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that the stay imposed by s. 69(1) of the *Bankruptcy and Insolvency Act* (the “BIA”) in these Notice of Intention proceedings, and any subsequent stay imposed by s. 69.1 of the BIA, is lifted for the purpose of permitting Starlight to continue the prosecution of its action against the Debtor in British Columbia Supreme Court File No. S-189965 in the Vancouver Registry for purposes of proving any claim as against the Debtor as to liability and quantum, provided, however, that absent any further Order of this Court Starlight shall take no steps to execute any judgment against the Debtor outside of these proceedings in respect of the Debtor under the BIA.

2. **THIS COURT ORDERS** that Starlight is not entitled to any relief as against the Proposal Trustee, or any trustee in bankruptcy that may be appointed for the Debtor, absent further Order of this Court.

3. **THIS COURT ORDERS** that this Order is effective from today’s date and is not required to be issued or entered.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
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THE *BANKRUPTCY AND INSOLVENCY ACT*

Plaintiff

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced in TORONTO

ORDER
(partial lifting of stay)

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proposal of Unique Restoration Ltd.

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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
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Estate No: 32-2701357

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION
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returnable March 17, 2020)

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LTD. AND STARLIGHT GROUP PROPERTY HOLDINGS
INC.