

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*  
R.S.C., 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A  
CORPORATION INCORPORATED UNDER THE LAWS OF THE  
PROVINCE OF ONTARIO

**MOTION RECORD**

April 17 2023

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TO: **THE SERVICE LIST**

**IN THE MATTER OF LA SALLE MOTEL CO. (KINGSTON) LTD.**

**PROPOSAL PROCEEDINGS**

**SERVICE LIST**

**UPDATED: April 17, 2023**

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# Tab 1

Estate/Court File No. 33-2929085

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

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**PROVINCE OF ONTARIO**

**NOTICE OF MOTION**  
**(RETURNABLE APRIL 19, 2023)**

La Salle Motel Co. (Kingston) Ltd. (the “**Applicant**” or the “**Company**”) will make a motion before the Honourable Mr. Justice Kershman of the Ontario Superior Court of Justice (the “**Court**”) on April 19, 2023 at 3:00 p.m. or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** the motion is to be heard:

- In writing under subrule 37.12.1(1).
- In writing as an opposed motion under subrule 37.12.1(4)
- In person.
- By teleconference.
- By video conference**

The video conference details are set out below.

Virtual Courtroom 208	<a href="#">Click here for Zoom link</a>	660 5571 0367	470967	1-855 703 8985
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**THIS MOTION IS FOR:**

1. An Order substantially in the form attached at **Tab 4** of the motion record (the “**Order**”),  
inter alia:
  - a. Abridging the time for and validating the service of this notice of motion and the motion record and dispensing with service on any person other than those served;
  - b. Extending the time for the Applicant to file a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and extending the corresponding stay of proceedings (the “**Stay Extension**”) to and including June 16, 2023;
  - c. Granting a super-priority charge in the aggregate amount of \$100,000.00 on the current and future assets, undertakings and properties of the Applicant of every nature and kind whatsoever (including all real and personal property), and wherever situate, including all proceeds thereof (collectively, the “**Property**”) in favour of Link & Associates Inc. (the “**Proposal Trustee**”), counsel to the Proposal Trustee and counsel to the Applicant (the “**Administration Charge**”);
  - d. authorizing the Applicant to execute and deliver to the Bank of Montreal (“**BMO**”) such credit agreements and other documents as may be reasonably required by BMO to increase the amount of credit to be made available by BMO to the Applicant under its current revolving lending facility (the “**Increased Credit Availability**”), and the Applicant is hereby authorized and empowered to perform its obligations thereunder and to make the borrowings permitted thereunder from BMO, as lender, in order to finance the Applicant's working capital requirements (including those of its operating facilities), these proposal proceedings, and other general corporate purposes and capital expenditures, provided that borrowing under

such credit facility shall not exceed \$450,000.00, unless permitted by further order of this Court.

- e. granting a super-priority charge in the aggregate of \$150,000 on the Property in favour of BMO as security for the Increased Credit Availability under the security previously granted by the Applicant to BMO (the “**DIP Charge**”);
- f. Directing all of the Company’s former directors, officers, current and former employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) to forthwith advise the Company of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Company, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) and/or Property in that Person's possession or control, and deliver said Records and/or Property to the Company; and
- g. Approving the First Report to the Court of the Proposal Trustee to be filed (the “**First Report**”) and approving the Proposal Trustee’s activities set out therein.

2. Such further and other relieve as this Honourable Court deems just.

#### **THE GROUNDS FOR THE MOTION ARE:**

##### **The Parties**

1. The Company is a corporation duly registered pursuant to the laws of Ontario having its head office in Kingston, Ontario. The Company is currently the owner of the LaSalle Hotel and the LaSalle Property (defined below).

2. Peter Karkoulis (“**Peter**”), is a 92-year old individual residing in Kingston, Ontario and is an officer and director of the Company.
3. John Karkoulis (“**John**”) is a 96-year old individual residing in Kingston, Ontario and is an officer and director of the Company.
4. Peter Karkoulis Jr. (“**Peter Jr.**”) is an individual residing in the City of Kingston, Ontario and nephew of Peter and John. He is the former general manager of the LaSalle Hotel.

### **Background**

5. In or about 1966 or 1967, Peter, John, and Peter Jr.’s deceased father, George Karkoulis (“**George**”), purchased the LaSalle Motel and Cavalier Room in Kingston, Ontario. The LaSalle Motel would eventually become the LaSalle Hotel, which has been a family-owned and operated business since its inception.

### **Sale of the Company to Third Party Purchaser and pending litigation**

6. After years of deliberation, family discussions, Peter and John agreed to sell certain assets of the Company, including the LaSalle Property, to 1000073686 Ontario Inc. (hereinafter referred to as "**686**") in December of 2021 and the sale was scheduled to close on August 10, 2022 (the “**Sale Transaction**”).
7. On or about August 5, 2022, Peter Jr. commenced an action against the Company and Peter and John in their capacities as directors of the Company, brought an *ex parte* motion in writing and obtained an order that a Certificate of Pending Litigation (“**CPL**”) be issued and registered against the real property municipally known as 2360 Princess Street, Kingston, Ontario, and legally described as PT LT 14 CON 3 KINGSTON AS IN FR315986; S/T FR332477, TKU12314; KINGSTON registered as PIN 36086-0103 (the “**LaSalle Property**”). In addition, the *ex parte* Order enjoined the Company from encumbering or otherwise dealing with the LaSalle Property.

8. By allegations contained in the action he commenced, Peter Jr asserted and continues to assert an interest in the Property by virtue of resulting trust and/or proprietary estoppel.

9. As a result of the registration of the CPL and the issuance of the *ex parte* order of the Honourable Mr. Justice Mew, the August 10, 2022 closing did not occur and the closing was extended to allow the Company to bring a motion to vacate or lift the CPL.

10. The Company's motion was heard by the Honourable Madam Justice Ryan Bell on October 6 and 21 2022 and on January 19, 2023, was dismissed. In the Reasons delivered, Her Honour determined that:

- a. the LaSalle Property should not be sold to 686 pending the outcome of Peter Jr.'s action because doing so would prejudice his claim before it had been decided; and
- b. the CPL and injunction were not improperly ordered and remain in force.

11. As the CPL was not vacated or removed, the Company, Peter and John were unable to close the Sale Transaction and no further extensions of the closing occurred after January 31, 2023.

12. In or around this time, Peter Jr. came to John and advised them that the Company was unable to pay its food supplier in addition to other suppliers and asked John to deposit money into the business account of the Company. Over the course of the first few months of 2023, both Peter and John deposited their own personal funds into the Company to help the Company meet its obligations as they became due (and overdue). Those obligations included payment of urgent expenses and legal fees associated with the litigation with Peter Jr.

13. In February 2023, Peter and John made the decision to stop all dividend payments to shareholders (which included themselves).

14. On February 15, 2023, 686 commenced an action against the Company and its directors for, among other things, specific performance of the Sale Transaction. Peter Jr. was included as a defendant in those proceedings.



15. On March 15, 2023, the Company terminated Peter Jr.'s employment.
16. The Company immediately inserted members of John's family to attend the hotel and begin working through the Company records. Subsequently, Gina Karkoulis, daughter of John, was appointed as interim general manager of the hotel.
17. On March 21, 2023, Peter Jr.'s mother and George's widow, Andrea Karkoulis ("**Andrea**") by her litigation guardian Valerie Demitt (Andrea's daughter and Peter Jr.'s sister) commenced legal proceedings against the Company and its directors and sought an urgent case conference to schedule, among other things, the hearing of an urgent motion for an order reinstating monthly payments that were previously cancelled by Peter and John.
18. Andrea is 88-years old and has alleged that she suffers from dementia. Andrea is not a shareholder of the Company. Rather, she has a beneficial interest in the income generated by the residue of the estate of her late husband George (which would include George's shares in the Company). Regardless of how these monthly payments have been (or continue to be) characterized, they were cancelled by Peter and John in February 2023.
19. On March 28, 2023 counsel for Andrea and counsel for the Company attended an urgent case conference before the Honourable Madam Justice Williams and it was adjourned to April 6, 2023.
20. On March 28, 2023, Peter Jr. brought another action against the Company and its directors for wrongful dismissal.
21. After review and analysis by members of Peter and John's family (and in particular the interim general manager Gina Karkoulis) in consultation with Peter and John, it was determined that the Company's business has suffered significantly over the years due to poor management and more recently, the litany of civil litigation described above. This has resulted in a significant deterioration in the Company's working capital. The only significant asset of the Company is the LaSalle Property and it cannot be sold nor can the Company refinance the LaSalle Property.

22. To address its liquidity and cash flow issues, the Applicant filed a Notice of Intention to Make a Proposal (the “**NOI**”) on April 3, 2023, pursuant to section 50.4 of the BIA.

23. Counsel for the Company, Andrea, Peter Jr., 686, the Office of the Children’s Lawyer and for the Proposal Trustee attended the case conference on April 6, 2023 which was before the Honourable Mr. Justice Tranmer.

24. The NOI was brought to the attention of the Court and notwithstanding, Justice Tranmer set out the following litigation timetable for the return of Andrea’s motion and set a hearing date of May 24, 2023:

<b>Date</b>	<b>Event</b>
By April 17/23	Delivery of Andrea’s revised or amended motion materials
By April 25/23	Delivery of responding materials
By May 4/23	Andrea to deliver reply materials, if any
By May 10/23	Completion of cross-examinations of affiants, if any
By May 12/23	Service of Andrea’s factum
By May 17/23	Service of responding factum

25. The Company is insolvent and accordingly, simply cannot pay dividends to any of its shareholders.

### **The Stay Extension**

26. BMO is the Company’s primary (and only) secured creditor and, as of April 3, is owed approximately \$896,694.15 plus interest and costs.

27. These NOI proceedings (the “**Proposal Proceedings**”) are in the best interests of the Applicant and its stakeholders and, in light of the Applicant’s acute cash flow constraints, present the only practical means of continuing the Company’s business as a going concern.

28. The time for the Applicant to file a proposal and the corresponding stay of proceedings expires on May 2, 2023. Pursuant to the Order, the Applicant is seeking a Stay Extension of 45 days, to and including June 19, 2023.

29. The Applicant has acted and continues to act in good faith and with due diligence in seeking to preserve its ordinary course business operations, address its liquidity issues and develop a viable proposal for the benefit of all of its stakeholders.

30. The Stay Extension will allow the Applicant to maintain its ordinary course business operations, contemplate and prepare a proposed sales and investment solicitation process (the “SISP”) for Court approval at a date to be scheduled with the Court within the Stay Extension, and enhance the prospects of the Applicant being able to make a viable proposal.

31. The Proposal Trustee and BMO support the granting of the Stay Extension. Moreover, the Proposal Trustee does not believe that the Stay Extension will materially prejudice any creditor.

### **The Administration Charge**

32. The beneficiaries of the proposed Administration Charge will each play distinct and critical roles in the Proposal Proceedings and the Applicant’s restructuring efforts therein. It is unlikely that the beneficiaries of the Administration Charge will participate in the Proposal Proceedings unless the Administration Charge is granted to secure their fees and disbursements.

33. The quantum of the proposed Administrative Charge is reasonable in light of the size and complexity of the Company’s business.

34. It is proposed that the Administration Charge will rank in priority to all other interests and encumbrances.

35. The Company, the Proposal Trustee and BMO are supportive of the Administration Charge.

### **The extension of existing credit facility and DIP Charge**

36. The Applicant has no money to fund its daily business operations or this proposal process and requires an increase to its existing credit facility with BMO to fund its ordinary course operations and the costs of these proceedings, while a SISP is organized, planned and conducted for the benefit of its stakeholders.

37. The proposed increase to the Company's existing credit facility with BMO is conditional upon, among other things, BMO obtaining the DIP Charge and the funds be used to carry out the ordinary course of business and cover professional fees in the context of these Proposal Proceedings. Moreover, the funds shall not be used to fund any sort of dividends to *any* of the shareholders.

38. The Proposal Trustee believes that the extension of the existing credit facility is appropriate and necessary in the circumstances.

#### **The delivery or return of Records**

39. As stated herein and as contained in the First Report of the Proposal Trustee, the Company is working through its books and records and there is certain information that appears to be missing. The Company requires the return of its Records and Property forthwith in order to continue to account for and work through its current state of affairs and for tax filing purposes.

#### **OTHER GROUNDS**

40. The provisions of the BIA, including sections 50.4, 50.6, 62, 64.1, 64.2, 65.13, 69 and 183, and the inherent and equitable jurisdiction of the Court.

41. Rules 1.04, 1.05, 2.03, 3.02, 16, 17, 37 and 39 of the *Ontario Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended.

42. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Affidavit of Gina Karkoulis sworn April 17, 2023 and the exhibits thereto.
2. The Affidavit of Sandra Noe sworn April 17, 2023 and the exhibits thereto.
3. The First Report and the appendices thereto.
4. Such further and other evidence as counsel may advise and this Court may permit.

April 17, 2023

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**TO: THE ATTACHED SERVICE LIST**

**IN THE MATTER OF LA SALLE MOTEL CO. (KINGSTON) LTD.**

**PROPOSAL PROCEEDINGS**

**SERVICE LIST**

**UPDATED: April 17, 2023**

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<p><b>VINCENT DAGENAIS GIBSON LLP</b>  260 Dalhousie Street, Suite 400  Ottawa, ON K1N 7E4</p> <p>Ian Houle - <a href="mailto:ian.houle@vdg.ca">ian.houle@vdg.ca</a></p>	<p><i>Lawyers for the Office of the Children's  Lawyer</i></p>

### E-Service List

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[Sandra.palma@cra-arc.gc.ca](mailto:Sandra.palma@cra-arc.gc.ca); [ian.houle@vdg.ca](mailto:ian.houle@vdg.ca)



**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT* R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A CORPORATION INCORPORATED UNDER THE LAWS OF THE PROVINCE OF ONTARIO**

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

---

**NOTICE OF MOTION**

**BORDEN LADNER GERVAIS LLP**  
100 Queen Street, Suite 1300  
Ottawa ON K1P 1J9

**Jason Dutrizac (50004T)**  
jdutrizac@blg.com  
613.787.3535

Lawyers for the Applicant / Moving Party

# Tab 2

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*  
R.S.C., 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A  
CORPORATION INCORPORATED UNDER THE LAWS OF THE  
PROVINCE OF ONTARIO

**AFFIDAVIT**

I, Gina Karkoulis, of the City of Kingston, in the Province of Ontario, MAKE OATH AND SAY THAT:

1. I am the interim general manager of La Salle Motel Co. (Kingston) Inc. (the "**Company**" or the "**Applicant**") and daughter of one of its directors, John Karkoulis. I have served in this role since March, 2023. As such, I have personal knowledge of the Applicant and the matters deposed to in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

2. The Applicant does not intend to waive any applicable privilege by any statement herein. I swear this affidavit in support of a motion by the Applicant for an order (the "**Order**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"):

- a. abridging the time for and validating the service of the Applicant's notice of motion and the motion record and dispensing with service on any person other than those served;

- b. extending the time for the Applicant to file a proposal under the BIA, and extending the corresponding stay of proceedings (the "**Stay Extension**") to and including June 19, 2023;
- c. granting a super-priority charge in the aggregate amount of \$100,000 on the current and future assets, undertakings and properties of the Applicant of every nature and kind whatsoever (including all real and personal property), and wherever situate, including all proceeds thereof (collectively, the "**Property**") in favour of the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Applicant (the "**Administration Charge**");
- d. authorizing the Applicant to execute and deliver to the Bank of Montreal ("**BMO**") such credit agreements and other documents as may be reasonably required by BMO to increase the amount of credit to be made available by BMO to the Applicant under its current revolving lending facility (the "**Increased Credit Availability**"), and the Applicant is hereby authorized and empowered to perform its obligations thereunder and to make the borrowings permitted thereunder from BMO, as lender, in order to finance the Applicant's working capital requirements (including those of its operating facilities), these proposal proceedings, and other general corporate purposes and capital expenditures, provided that borrowing under such credit facility shall not exceed \$450,000.00, unless permitted by further order of this Court.
- e. granting a super-priority charge in the aggregate of \$150,000 on the Property in favour of BMO as security for the Increased Credit Availability under the security previously granted by the Applicant to BMO (the "**DIP Charge**");
- f. directing all of the Company's former directors, officers, current and former employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") to forthwith advise the Company of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs

- of the Company, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") and/or Property in that Person's possession or control, and deliver said Records to the Company; and
- g. approving the First Report to the Court of the Proposal Trustee, to be filed (the "**First Report**") and approving the Proposal Trustee's activities set out therein; and
  - h. such further and other relief as this Honourable Court deems just.

## **BACKGROUND**

3. The Company is a corporation duly registered pursuant to the laws of Ontario having its head office in Kingston, Ontario. Attached hereto as **Exhibit "A"** to this affidavit is a copy of the corporate profile report of the Company.

4. The Company owns the real property municipally known as 2360 Princess Street, Kingston, Ontario (the "**LaSalle Property**"), along with the business that operates on the LaSalle Property as "Travelodge Kingston LaSalle Hotel" (the "**LaSalle Hotel**").

5. Peter Karkoulis ("**Peter**") and John Karkoulis ("**John**"), are individuals residing in Kingston, Ontario. At all times, Peter and John have been and continue to be the officers and directors of the Company.

6. In or about 1967, Peter and John along with their now deceased brother, George Karkoulis ("**George**"), purchased the LaSalle Motel and Cavalier Room in Kingston, Ontario. The LaSalle Motel would eventually become the LaSalle Hotel. Attached hereto as **Exhibit "B"** to this affidavit is a copy of the Certificate of Incorporation and Articles of Amendment.

7. I am advised by my father John and verily believe to be true that, by operation of the terms of George's Will, after George died in 1995, Peter and John were to receive all of George's shares, however the buy/sell agreement referred to in George's Will was never finalized. Peter and John

are also the co-executors of George's estate. Ever since George's death, Peter and John have owned and operated the Company as shareholders, directors and officers. Attached hereto as **Exhibit "C"** to this affidavit is a copy of the shareholder registry.

8. Peter Karkoulis ("**Peter Jr.**") is George's son and Peter and John's nephew. He was recently the General Manager of the LaSalle Hotel. Given their advanced ages (Peter is 92 and my dad is 96), Peter and John have not been actively involved in the day-to-day management of operations of the Company for years. This task was delegated to the General Manager.

### **FINANCIAL POSITION AND NOI PROCEEDINGS**

9. Peter and John started thinking about selling the business many years ago. In November of 2016, they engaged a real estate agent, Janis Biro ("**Biro**"), to assist them with a possible sale of the Company and the LaSalle Property.

10. For ease of reference, a detailed history of the sales process and Peter Jr.'s involvement in the process was set out in sworn statements delivered in previous court filings. Those court proceedings and originating documents are referenced and found as exhibits to the affidavit of Sandra Noe sworn April 17, 2023 (the "**Noe Affidavit**"), also filed in support of this motion.

11. In short, after several starts and stops and listings, John and Peter decided to move forward in an effort to sell the business and the La Salle Property in September 2021. They signed a fresh listing agreement with Biro.

12. On or about December 3, 2021, Peter and John agreed to the sale of the LaSalle Property along with the assets of the Company to third-party purchaser 'Hao Chen in trust to be incorporated.' The Purchaser became 1000073686 Ontario Inc. (the "**Purchaser**" or "**686**").

13. The Agreement of Purchase and Sale (the “**APS**”) was finalized and accepted on December 14, 2021.
14. After a lengthy due diligence period, the sale was scheduled to close on August 10, 2022.
15. As set out in the Noe Affidavit, Peter Jr. commenced legal proceedings on August 5, 2022 against the Company, John and Peter and obtained an *ex parte* order permitting Peter Jr. to register a Certificate of Pending Litigation (“**CPL**”) against the title of the La Salle Property and barring the Company from encumbering or otherwise dealing with the La Salle Property.
16. As a result of the litigation that followed (the Company tried unsuccessfully to have the CPL lifted in order to close the sale transaction to 686), various members of the family became involved with the Company to assist my dad (John), and my uncle (Peter) with reviewing various Company records, files, and finances. At the time (the Fall of 2022), Peter Jr. was still employed by the Company as its General Manager.
17. On January 19, 2023, the Court dismissed the Company’s motion to lift the CPL. As a result, the Company could not close the sale transaction with 686 and no further extensions were given after January 31, 2023.
18. In or around this time, I am advised by John and verily believe it to be true that Peter Jr. came to my dad and advised him that the Company was unable to pay a large invoice from one its food suppliers and told John that he needed to put more money into the business account.
19. For ease of reference, beginning in December 2022 and over the course of the first few months of 2023, both Peter and John deposited their own personal funds into the Company to help the Company meet its obligations as they became due (and overdue). Those obligations included payment of urgent expenses and legal fees associated with the litigation with Peter Jr.

20. However, I am advised by John and do verily believe that, soon after he and Peter deposited the \$110,000, Peter Jr. came to John and asked him for funds to be deposited in the Company's business account. Therefore, John borrowed \$100,000 from his wife (who has her own account with some money that she had inherited from an uncle of hers in Greece). She transferred the money to John so he could use it temporarily to pay outstanding expenses of the Company. Attached hereto as **Exhibit "D"** to this affidavit is a copy of the transfer shown from my mother's account. The handwritten explanatory notes on the documents are mine (at my mother's direction). John did not know how much money was needed so he deposited all of it.

21. I am advised by John and I verily believe it to be true that he gave Peter Jr. the cheque for \$100,000 and Peter Jr. deposited the cheque in the business account.

22. I am advised by Peter and John and verily believe it to be true that in February 2023 they made the decision to stop all dividend payments to shareholders. The decision was made after the Company bounced a large cheque to a supplier in January.

23. I am advised by John and verily believe it to be true that Peter Jr. was the person who issued the dividend cheques twice a month and was told to stop issuing the dividends to everyone (starting February) since the Company had no money to operate the business, purchase supplies and food and pay the employees.

24. Later, when John believed that the Company had more money in the business account, he withdrew \$90,000 of the \$100,000 previously deposited to return to my mother. John left \$10,000 in the account so that he and Peter Sr. contributed an equal \$60,000 (because, as set out above, John and Peter had each early deposited \$50,000 and \$60,000, respectively, in December 2022 to pay bills).



25. Peter Jr. was still the General Manager at the time that John withdrew the \$90,000, and both Peter and John have advised me that they were completely unaware of the large amount of outstanding bills and tax arrears owed by the Company. Both Peter and John told me that they were under the assumption that the finances were under control. Neither Peter or John know or understand how to access the computer records and credit cards statements. As it was later discovered, the Company was three (3) months behind in payments at the time, including a large bill still owing for HST for Q4 of 2022.

26. On February 15, 2023, 686 commenced an action against the Company and its directors for, among other things, specific performance of the Sale Transaction. Peter Jr. was included as a defendant in those proceedings.

27. On March 15, 2023, the Company terminated Peter Jr.'s employment.

28. The Company immediately inserted members of John's and Peter Sr.'s family to attend the hotel to assist with the business and to work through the Company records, including assisting with the operations of the business.

29. At around this time, I was appointed as interim general manager of the hotel to assist in the business operations of the Company. I had been the General Manager of the business for years prior to Peter Jr. taking over and I am quite familiar with the responsibilities required to do the job. Since my appointment, I have been dealing with many of the Company's creditors. For example, I have been informed by almost all of the Company's suppliers that they will no longer extend credit to the Company. Fortunately, most have agreed to continue supplying the business on a "cash-on-delivery" (C.O.D.) or pre-payment basis. This has been a cumbersome process that requires me to be onsite for most of the day, everyday. Finally, it has come to our attention that hydro service provider is now asking for a three (3) month security deposit, which is over \$30,000.

30. Some suppliers deliver at 7:00 a.m., so I am often driving back and forth to the business late at night to prepare payments. This arrangement has severely impacted my personal business as a licenced real estate broker. I have lost clients due to the demands on my presence at the business - whether it is accounting or hosting in the restaurant or assisting at the hotel front desk. I have also had to pay many suppliers personally as they are not set up for direct payment and they will no longer accept cheques.

31. My sister Maggie Karkoulis ran the accounting for an international organization for many years and has assisted me with implementing a proper accounting program at the business, as there was not one in place in order to monitor the bills and cashflow. I am now recording all supplier invoices on an accounting system (that was already at the property but had never been used) so that we can more closely monitor costs and billing.

32. As I previously indicated, I am a real estate broker with Chestnut Park and, unfortunately, I have had to take a temporary leave from my full-time job in order to assist my father and uncle. As a result of my previous 20 years of experience as the General Manager of the hotel, I am the only member of the family with the knowledge and expertise to get things back on track so that a permanent General Manager can be brought in to continue the work.

33. At the hotel, the Company runs a small restaurant. It has been a local establishment for as long as I can remember. When I arrived in mid-March, the restaurant needed a thorough clean and the prices on the menus changed (as they had not been changed in years). I reviewed and analyzed restaurant sales by hour and have reduced restaurant hours to times that bring in the most business.

34. In addition to taking over the accounting, I am also hosting in the restaurant for breakfast, lunch, and dinner to keep labour costs down and am also assisting with the hotel front desk.

35. On March 21, 2023, Peter Jr.'s mother and George's widow, Andrea Karkoulis ("Andrea") by her litigation guardian Valerie Demitt (Andrea's daughter and Peter Jr.'s sister) commenced legal proceedings against the Company, Peter and John and sought an urgent case conference to schedule, among other things, the hearing of an urgent motion for an order reinstating monthly payments that were previously cancelled by Peter and John.

36. Andrea is 88-years old and by statements made by Valerie in her supporting affidavit, alleges that Andrea suffers from dementia. Regardless of how these monthly payments to Andrea have been (or continue to be) characterized, I am advised by Peter and John that they were cancelled in February 2023.

37. On March 28, 2023, counsel for Andrea and counsel for the Company attended an urgent case conference before the Honourable Madam Justice Williams and it was adjourned to April 6, 2023.

38. On March 28, 2023, Peter Jr. brought another action against the Company and its directors for wrongful dismissal.

39. After review and analysis by members of the family and in consultation with Peter and John, it was determined that the Company's business has suffered significantly over the years due to poor management and, more recently, the litany of civil litigation described above. This has resulted in a significant deterioration in the Company's working capital. The only significant asset of the Company is the LaSalle Property and it cannot be sold nor can the Company refinance the LaSalle Property to fund its operations.

40. In light of its significant cash challenges, the Company filed a Notice of Intention to Make a Proposal (the "NOI") on April 3, 2023, pursuant to section 50.4 of the BIA (the "**Proposal Proceedings**").

41. Link & Associates Inc. was named as proposal trustee in respect of the NOI (the "**Proposal Trustee**"). A copy of the Company's Certificate of Filing of a Notice of Intention to Make a Proposal can be found at Exhibit "K" of the Noe Affidavit.

42. BMO is the Company's only secured lender and, as of April 3, 2023, was owed approximately \$896,694.15 plus interest and costs and has only nominal remaining room to borrow under its existing credit facilities. Attached hereto as **Exhibit "E"** to this affidavit is a copy of BMO's current lending letter of June 18, 2020. Attached hereto as **Exhibit "F"** to this affidavit is a copy of the Company's list of creditors with claims of \$250 or more as of filing the NOI (the "**Creditors List**"), which was prepared by the Company in consultation with the Proposal Trustee.

43. According to the Creditors List, as of the date of the NOI filing, the Company owed approximately \$528,650.77 to its unsecured creditors and approximately \$120,000 to the Canada Revenue Agency ("**CRA**") for unpaid HST.

#### **BOOKS, RECORDS AND PROPERTY OF THE COMPANY**

44. As previously stated, John, Peter, Maggie, and I have started working through the books and records and financials of the Company. While we did our best to piece together the current state of affairs, there is missing information, receipts, invoices, bank records. Once the Proposal Trustee was engaged, we worked with the Proposal Trustee to develop a projected 13-week cashflow (discussed in more detail below) but there is missing information. The Company requires an order directing all persons who may be in receipt of various Company records to return those

records to the Company to allow it to prepare a more complete, accurate and fulsome financial assessment as well as to provide accurate information to the Proposal Trustee.

#### **ADMINISTRATION CHARGE**

45. The Applicant seeks the Administration Charge to secure the fees and disbursements of the Proposal Trustee, along with its counsel, and the Applicant's counsel, incurred in connection with the Proposal Proceedings, up to a maximum of \$100,000. The Administration Charge is proposed to have first-ranking super-priority over all other charges and encumbrances, including the DIP Charge.

46. The Applicant requires the expertise, knowledge, and continued participation of the proposed beneficiaries of the Administration Charge during the Proposal Proceedings. Each of the beneficiaries of the Administration Charge will have distinct roles in the Proposal Proceedings.

47. The quantum of the proposed Administration Charge was estimated by the Applicant with the assistance of the Proposal Trustee, and in consultation with BMO. I believe that the Administration Charge is fair and reasonable in the circumstances. I understand that the Proposal Trustee supports the Administration Charge and am unaware of any party who opposes it.

#### **EXTENSION OR INCREASE TO CURRENT BMO CREDIT FACILITY**

48. Attached as **Exhibit "G"** to this affidavit is a projected 13-week cashflow statement that Company has prepared with the assistance of the Proposal Trustee for the period from the week ending April 7, 2023, to the week ending July 7, 2023 (the "**Cashflow Projection**"). It is projected that during the period covered by the Cashflow Projection, the Company will require approximately \$150,000 of additional liquidity (the "**Liquidity Shortfall**"), over and above its current borrowing limits under its existing facility with BMO.

49. BMO has agreed in principle to provide an increase to the existing facility from \$300,000 up to a maximum of \$450,000 to cover the Liquidity Shortfall. A draft Letter of Agreement – Amendment is attached as **Exhibit “H”** to this affidavit. Formal bank approval may not be in place until as late as the first week of May. It is anticipated that it will be approved but not guaranteed until there is a formal credit approval. However, based on the Cashflow Projection, the increased funding will not be required until May 12. The Company and BMO may require further amendments to the letter, which is reflected in the language of the draft Order.

50. BMO requires a debtor-in-possession charge (“**DIP Charge**”) to secure the increased credit availability under the Letter of Agreement – Amendment, which will be subordinate to the proposed Administration Charge but would rank in priority to all other charges and encumbrances.

#### **STAY EXTENSION**

51. Since the filing of the NOI, the Company has been working diligently and in good faith with the Proposal Trustee towards a restructuring and formulation of a proposal to creditors.

52. As a result of the NOI, and unless an extension is granted, the Company must file a proposal on or before May 3, 2023 (the "**Filing Period**"). Despite the Company’s diligence and good faith efforts, no proposal is currently ready for submission to creditors. I am advised by Mr. Dutrizac that, accordingly, absent an extension of the Filing Period, the Applicant will be deemed to have made an assignment in bankruptcy under the BIA.

53. Given the circumstances, the Company requires an extension of the Filing Period and the accompanying stay of proceedings afforded to it under the BIA. The proposed 45-day extension will allow the Company to continue to work with the Proposal Trustee, BMO and its other stakeholders to substantially advance a sales and investment solicitation process (“**SISP**”) that will

be brought back before the court for approval and to develop a proposal. An open, transparent, court supervised sale of the La Salle Property is, in my view, making the best of a very litigious and expensive set of circumstances. More details on the proposed process and SISP will follow.

54. In my view, an extension of the Filing Period is appropriate, because: (a) the Company has acted and continues to act in good faith and with due diligence; (b) the Company will likely be able to make a viable proposal if the extension of the Filing Period is granted; and (c) the extension of the Filing Period will not materially prejudice any of the Company's creditors.

55. To date, I have not been made aware of any creditor of the Company intending to object to an extension of the stay of proceedings and the Filing Period.

## **CONCLUSION**

56. I believe the proposed Order is in the best interests of the Company and its stakeholders. Further, I believe that the proposed Order is necessary at this time to ensure the Company's continued operation in the ordinary course of business and advance the purposes of the Proposal Proceedings, including the maximization of value for the benefit of the Company's stakeholders.

57. For the reasons expressed herein, I am of the view that the Company is acting in good faith and with due diligence in seeking an extension for the Filing Period, the Court-ordered charged contemplated under the proposed Order, and the increase to the Company's current facility with BMO.

58. I make this affidavit in support of the Company's motion for the proposed Order and for no other or improper purpose.

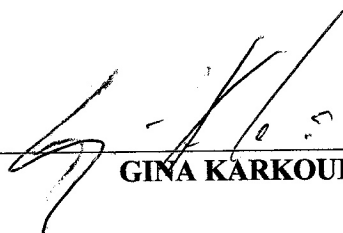
**SWORN** by Gina Karkoulis at the City of Kingston, in the Province of Ontario, before me on April 17, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits  
(or as may be)

**CHRIS SHOREY**



---

**GINA KARKOULIS**



This is Exhibit "A" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



## Profile Report

LA SALLE MOTEL CO. (KINGSTON) LTD. as of June 16, 2022

<b>Act</b>	Business Corporations Act
<b>Type</b>	Ontario Business Corporation
<b>Name</b>	LA SALLE MOTEL CO. (KINGSTON) LTD.
<b>Ontario Corporation Number (OCN)</b>	290531
<b>Governing Jurisdiction</b>	Canada - Ontario
<b>Status</b>	Active
<b>Date of Incorporation/Amalgamation</b>	June 17, 1974
<b>Registered or Head Office Address</b>	2360 Princess St, Kingston, Ontario, Canada, K7M 3G4

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)  
Minimum Number of Directors 1  
Maximum Number of Directors 10

Name Andrea KARKOULIS  
Address for Service 4 Traymour Ave, Kingston, Ontario, Canada, K7L 4K8  
Resident Canadian Yes  
Date Began May 31, 1995

Name George KARKOULIS  
Address for Service 4 Traymoor, Kingston, Ontario, Canada, K7L 4K8  
Resident Canadian Yes  
Date Began June 17, 1974

Name John KARKOULIS  
Address for Service 45 Dickens Dr., Kingston, Ontario, Canada, K7M 7W7  
Resident Canadian Yes  
Date Began June 17, 1974

Name Peter KARKOULIS  
Address for Service 2 Authors Lane, Kingston, Ontario, Canada, K7M 7W7  
Resident Canadian Yes  
Date Began June 17, 1974

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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**Active Officer(s)**

**Name** George KARKOULIS  
**Position** President  
**Address for Service** 4 Traymoor, Kingston, Ontario, Canada, K7L 4K8  
**Date Began** June 17, 1974

**Name** John KARKOULIS  
**Position** General Manager  
**Address for Service** 45 Dickens Dr., Kingston, Ontario, Canada, K7M 2M5  
**Date Began** June 17, 1974

**Name** John KARKOULIS  
**Position** President  
**Address for Service** 45 Dickens Dr., Kingston, Ontario, Canada, K7M 7W7  
**Date Began** June 17, 1974

**Name** Peter KARKOULIS  
**Position** General Manager  
**Address for Service** 2 Authors Lane, Kingston, Ontario, Canada, K7M 7W7  
**Date Began** June 17, 1974

**Name** Peter KARKOULIS  
**Position** Secretary  
**Address for Service** 2 Authors Lane, Kingston, Ontario, Canada, K7M 7W7  
**Date Began** June 17, 1974

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

## Corporate Name History

Name

Effective Date

LA SALLE MOTEL CO. (KINGSTON) LTD.

Refer to Corporate Records

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Active Business Names**

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

## Expired or Cancelled Business Names

)  
Name TRAVELODGE HOTEL AND CAVELIER DINING ROOM  
Business Identification Number (BIN) 151173853  
Status Inactive - Expired  
Registration Date October 24, 2005  
Expired Date October 23, 2010

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

## Document List

Filing Name	Effective Date
BCA - Articles of Amendment	January 21, 2022
Archive Document Package	December 13, 2021
Annual Return - 2012 PAF: JOHN KARKOULIS - OFFICER	January 14, 2013
Annual Return - 2011 PAF: GINA KARKOULIS - OTHER	December 20, 2011
Annual Return - 2010 PAF: JOHN KARKOULIS - OFFICER	January 18, 2011
Annual Return - 2009 PAF: JOHN KARKOULIS - OFFICER	January 27, 2010
Annual Return - 2008 PAF: JOHN KARKOULIS - OFFICER	January 08, 2009
Annual Return - 2007 PAF: JOHN KARKOULIS - OFFICER	January 15, 2008
Annual Return - 2006 PAF: JOHN KARKOULIS - OFFICER	December 11, 2006
Annual Return - 2005 PAF: JOHN KARKOULIS - OFFICER	March 14, 2006
Annual Return - 2004 PAF: JOHN KARKOULIS - OFFICER	January 26, 2005
Annual Return - 2003 PAF: JOHN KARKOULIS - OFFICER	January 07, 2004
Annual Return - 2002 PAF: JOHN KARKOULIS - OFFICER	February 16, 2003
Annual Return - 2001	February 03, 2002

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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PAF: JOHN KARKOULIS

Annual Return - 2000 March 21, 2001

PAF: GINA KARKOULIS - OTHER

Annual Return - 1994 July 14, 1995

PAF: JOHN KARKOULIS - DIRECTOR

Other - SPECIAL NOTICE July 29, 1994

PAF: GINA KARKOULIS - OTHER

Other - SPECIAL NOTICE June 14, 1993

PAF: JOHN KARKOULIS - Director

CPCV - Corporate Conversion ADD June 27, 1992

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

This is Exhibit "B" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**CERTIFICATE  
OF  
INCORPORATION**

*THIS IS TO CERTIFY THAT*

*LA SALLE MOTEL CO. (KINGSTON) LTD.*

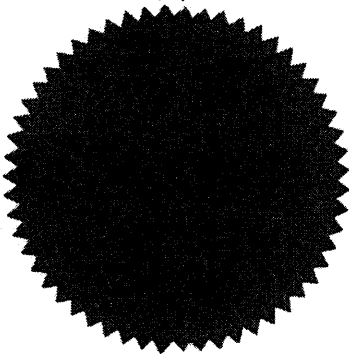
*WAS INCORPORATED UNDER THE BUSINESS CORPORATIONS*

*ACT ON June 17, 1974.*

A handwritten signature in cursive script, appearing to read "A. G. Murray act".

Controller of Records

COMPANIES DIVISION  
MINISTRY OF CONSUMER  
AND  
COMMERCIAL RELATIONS



FILE NUMBER  
290531

ARTICLES OF INCORPORATION

FILED

17/15

OFFICE OF  
REGISTRATION AND  
CORPORATION SERVICES

1. THE NAME OF THE CORPORATION IS **LA SALLE MOTEL CO. (KINGSTON) LTD.**

2. THE HEAD OFFICE IS AT THE City  
(STATUS OF MUNICIPALITY)

OF Kingston IN THE County  
(NAME OF MUNICIPALITY) (COUNTY OR DISTRICT)

OF Frontenac  
(NAME OF COUNTY OR DISTRICT)

3. THE ADDRESS OF THE HEAD OFFICE IS

~~2360 Princess Street~~  
(STREET & NUMBER OR R.R. NUMBER & IF MULTI-OFFICE BLDG. GIVE ROOM NO.)

~~KINGSTON, Ontario~~  
(NAME OF MUNICIPALITY OR POST OFFICE)

4. THE NUMBER OF DIRECTORS IS **Three (3)**

5. THE FIRST DIRECTOR(S) IS/ARE **X**

NAME IN FULL, INCLUDING ALL GIVEN NAMES	RESIDENCE ADDRESS, GIVING STREET & NO. OR R.R. NO. & MUNICIPALITY OR POST OFFICE
George KARKOULIS	4 Traymoor Avenue, KINGSTON, Ontario.
John KARKOULIS	45 Dickens Drive, KINGSTON, Ontario.
Peter KARKOULIS	22 Traymoor Avenue, KINGSTON, Ontario.

290531

CERTIFICATE OF INCORPORATION  
This is to certify that these articles are effective on  
FEBRUARY 24 FEVRIER, 1992

*Chm D. Ilin*  
Director / Directeur  
Business Corporations Act / Loi de sur les compagnies

6

TRANS  
CODE  
C  
18

ARTICLES OF AMENDMENT  
STATUTS DE MODIFICATION

Form 3  
Business  
Corporations  
Act,  
1982  
Formule  
numéro 3  
Loi de 1982  
sur les  
compagnies

- 1. The present name of the corporation is: *Dénomination sociale actuelle de la compagnie:*  
**L A S A L L E M O T E L C O . ( K I N G S T O N )**  
**L T D .**
- 2. The name of the corporation is changed to (if applicable): *Nouvelle dénomination sociale de la compagnie (s'il y a lieu):*
- 3. Date of incorporation/amalgamation: *Date de la constitution ou de la fusion:*  
17th JUNE 1974  
(Day, Month, Year)  
(jour, mois, année)
- 4. The articles of the corporation are amended as follows: *Les statuts de la compagnie sont modifiés de la façon suivante:*

BE IT RESOLVED AS A SPECIAL RESOLUTION THAT THE ARTICLES OF THE CORPORATION ARE AMENDED TO:

- a) THE EXISTING CLASS OF NONCUMULATIVE, NONVOTING PREFERENCE SHARES SHALL BE ELIMINATED.
  - b) TO CREATE AN UNLIMITED NUMBER OF CLASS A SPECIAL SHARES.
- THE DESIGNATION, PREFERENCE, RIGHTS, CONDITIONS, RESTRICTIONS, LIMITATIONS OR PROHIBITIONS ATTACHING TO CLASS A SPECIAL SHARES ARE:
- 1. THE SHARES SHALL BE NONVOTING
  - 2. THE HOLDER OF EACH CLASS A SHARE SHALL BE ENTITLED TO RECEIVE AS AND WHEN DECLARED BY THE DIRECTORS NONCUMULATIVE CASH DIVIDENDS OUT OF MONIES PROPERLY APPLICABLE TO THE PAYMENT OF DIVIDENDS AT AN ANNUAL RATE NOT TO EXCEED 8 PER CENT OF THE REDEMPTION PRICE.

3. THE CLASS A SHARES SHALL BE REDEEMABLE, IN WHOLE OR IN PART, ON 60 DAYS' NOTICE, AT ANY TIME AND FROM TIME TO TIME AT THE OPTION OF THE CORPORATION OR THE HOLDER IN AN AMOUNT EQUAL TO THE REDEMPTION AMOUNT.

4. IN THE EVENT OF THE LIQUIDATION, DISSOLUTION, OR WINDING UP OF THE CORPORATION, THE HOLDER OF EACH CLASS A SHARE SHALL BE ENTITLED TO RECEIVE IN PREFERENCE AND PRIORITY TO THE HOLDERS OF COMMON SHARES THE PRO RATA PORTION OF THE REDEMPTION AMOUNT FOR SUCH SHARE, TOGETHER WITH ALL DECLARED AND UNPAID DIVIDENDS ACCUMULATED THEREON AND NO MORE.

5. THE REDEMPTION AMOUNT OF ALL OF THE CLASS A SHARES SHALL BE EQUAL TO \$400.00 PER SHARE, PROVIDED THAT SHOULD REVENUE CANADA AND THE COMPANY'S ACCOUNTANTS DETERMINE THAT THE FAIR MARKET VALUE OF THE EACH SPECIAL SHARE IS LESS THAN \$400.00, THE REDEMPTION VALUE OF THE SHARES WILL BE REDUCED ACCORDINGLY.

6. NO DIVIDENDS SHALL BE PAID ON ANY CLASS OF SHARES UNLESS SUFFICIENT ASSETS REMAIN IN THE CORPORATION TO FULLY MEET THE REDEMPTION REQUIREMENTS OF THE CLASS A SHARES.

7. THE RIGHTS, PRIVILEGES AND CONDITIONS ATTACHING TO THE CLASS A SPECIAL SHARES, SHALL NOT BE CHANGED WITHOUT THE PREVIOUS CONSENT OF AT LEAST 51 PER CENT OF EACH CLASS OF SHARES THAT WOULD BE AFFECTED BY THE AMENDMENT.

- 5. The amendment has been duly authorized as required by Sections 167 and 169 (as applicable) of the Business Corporations Act. *La modification a été dûment autorisée conformément à l'article 167 et, s'il y a lieu, à l'article 169 de la Loi sur les compagnies.*
  
- 6. The resolution authorizing the amendment was approved by the shareholders/directors (as applicable) of the corporation on *Les actionnaires ou les administrateurs (le cas échéant) de la compagnie ont approuvé la résolution autorisant la modification*

24th FEBRUARY ~~1982~~ 1992  
(Day, Month, Year)  
(jour, mois, année)

These articles are signed in duplicate. *Les présents statuts sont signés en double exemplaire.*

*George Karkoulis*  
(Name of Corporation)  
**LA SALLE HOTEL CO. (KENSINGTON) LTD.**  
**GEORGE KARKOULIS, PRESIDENT**

Deed with Downer  
Form 113  
Newsome and Gilbert, Limited, Toronto

315986

10

# This Indenture

made in duplicate the 18th day of June  
one thousand nine hundred and Seventy-four

In Pursuance of the Short Forms of Conveyances Act:

Between

GEORGE KARKOULIS, PETER KARKOULIS AND JOHN KARKOULIS, all of the Township of Kingston, in the County of Frontenac, as Tenants in Common,

hereinafter called the Grantor of the FIRST PART

AND

LASALLE MOTEL CO. (KINGSTON) LTD. A company duly incorporated under the laws of the Province of Ontario having its Head Office in the Township of Kingston, hereinafter called the Grantee of the SECOND PART

~~WIVES OF THE GRANTOR OF THE THIRD PART~~

MARIA KARKOULIS, ANDREA KARKOULIS, and MARIA KARKOULIS, Wives of the Grantors,

HEREINAFTER CALLED THE PARTIES OF THE THIRD PART

Witnesseth that in consideration of ----- ONE -----

-----and other good and valuable consideration-----

-----(\$1.00)-----dollar of lawful money of Canada now paid by the said grantee to the said grantorS (the receipt whereof is hereby by them acknowledged) they the said grantor s DO GRANT unto the said grantee in fee simple

ALL and Singular that certain parcel or tract of land and premises, situate, lying and being in the Township of Kingston, in the County of Frontenac, and being more particularly described in Schedule "A" attached hereto.



Deed without Dower—Page 2—111

TO HAVE AND TO HOLD unto the said grantee its heirs and assigns to and for their sole and only use forever,

SUBJECT NEVERTHELESS to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.

The said grantors COVENANT with the said grantee THAT they have the right to convey the said lands to the said grantee notwithstanding any act of the said grantors.

AND that the said grantee shall have quiet possession of the said lands free from all encumbrances.

AND the said grantors COVENANT with the said grantee that they will execute such further assurances of the said lands as may be requisite.

AND the said grantors COVENANT with the said grantee that they have done no act to encumber the said lands.

AND the said grantors RELEASE to the said grantee ALL their claims upon the said lands.

The Parties of the Third Part being the wives of the Grantors herein hereby bars their dower in the subject lands.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered IN THE PRESENCE OF

*David [unclear]*

*[Signature]*  
 PETER KARKOULIS

*[Signature]*  
 JOHN KARKOULIS

*[Signature]*  
 GEORGE KARKOULIS

*[Signature]*  
 MARIA KARKOULIS

*[Signature]*  
 ANDREA KARKOULIS

*[Signature]*  
 MARIA KARKOULIS

SCHEDULE "A"

All and Singular that certain parcel or tract of land and premises situate, lying and being in the Township of Kingston, in the County of Frontenac, containing by admeasurement ACRES be the same, more or less, and being composed of Part of Farm Lot Fourteen (14), in the Third (3rd) Concession of the said Township more particularly described as follows:

COMMENCING at a point where the Northerly limit of Highway No. 2 (said Highway having a width of 86 feet) is intersected by the Westerly limit of said Farm Lot Fourteen (14);

THENCE Easterly along said Northerly limit 518 feet to a fence junction;

THENCE North 1 degree 48 minutes East along a fence and its production Northerly 640.3 feet to a fence;

THENCE North 88 degrees 24 minutes West along a fence 517.5 feet more or less to the Westerly limit of Farm Lot Fourteen (14);

THENCE South 1 degree 50 minutes West 631.3 feet more or less to the place of beginning.

EXCEPTING THEREFROM the Southerly 7 feet of the lands so described to Her Majesty the Queen represented by the Minister of Highways of the Province of Ontario.

AND FURTHER EXCEPTING THEREFROM the lands expropriated by the Department of Highways for the Province of Ontario along the Northerly limit of the King's Highway No. 2 as shown on Expropriation Plan No. 1394 registered the 20th day of March, 196

AFFIDAVIT AS TO AGE AND SPOUSAL STATUS

Ontario Queen's Co. Ltd.  
Form No. 71

WE Maria Karkoulis, and Andrea Karkoulis and Maria Karkoulis  
of the Township of Kingston  
in the County of Frontenac

If attorney  
see footnote

make oath and say: When WE executed the attached instrument,

WE were at least eighteen years old.

Within the meaning of section 1(f) of The Family Law Reform Act, 1978:—

Strike out  
inapplicable  
clauses.

a) ~~I was~~ a spouse.

b) ~~We were spouses of one another~~

We joined herein to bar her dower in  
the subject property.

c)

~~was my spouse.~~

\*\*Not a  
Matrimonial  
Home, etc.  
see footnote.

Resident of  
Canada, etc.

(SEVERALLY) SWORN before me at the  
City of Kingston  
County of Frontenac  
this 15th day of ~~October~~ <sup>November</sup> 19 78

*David Patterson*  
A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

*Maria Karkoulis*  
MARIA KARKOULIS  
*Andrea Karkoulis*  
ANDREA KARKOULIS  
*Maria Karkoulis*  
MARIA KARKOULIS

Form 1007  
Continued Forms Affidavit of Subscribing Witness - Age and Marital Status  
Newson and Gilbert, Limited, Toronto

AFFIDAVIT OF SUBSCRIBING WITNESS

Received  
March/78

I, *David Patterson*  
of the City of Kingston  
in the County of Frontenac

make oath and say:

\*See footnote

I am a subscribing witness to the attached instrument and I was present and saw it executed  
at Kingston, Ontario by Maria Karkoulis and  
Andrea Karkoulis and  
Maria Karkoulis

\*See footnote

I verily believe that each person whose signature I witnessed is the party of the same name referred  
to in the instrument.

SWORN before me at the  
City of Kingston  
County of Frontenac  
this 15th day of ~~October~~ <sup>November</sup> 19 78

*David Patterson*  
Commissioner for Taking Affidavits, Etc.  
PROVINCIAL CLERK, TORONTO, ONTARIO  
Gay & Kemp, Barristers and Solicitors,  
Expires June 4, 1981.  
Commission No. 76830.

*David Patterson*

\* Where a party is unable to read the instrument or where a party signs by making his mark or in foreign characters add "after instrument had been read to him and he appeared fully to understand it". Where executed under a power of attorney insert "(name of attorney) as attorney for (name of party)"; and for test clause substitute "I verily believe that the person whose signature I witnessed was authorized to execute the instrument as attorney for (name)".



MUNICIPAL PROPERTY  
 ASSESSMENT CORPORATION  
 SOCIÉTÉ D'ÉVALUATION  
 FONCIÈRE DES MUNICIPALITÉS

**Property Assessment Notice**  
**Avis d'évaluation foncière**  
**for the 2013-2016 property tax years**



DG300000721 05 1/4 C11/11  
 LASALLE MOTEL CO (KINGSTON)  
 LTD  
 2360 PRINCESS ST  
 KINGSTON ON K7M 3G4

**Questions?**

*Please include your roll number with your enquiry.*

- Call 1 866 296-MPAC (6722)  
 1 877 889-MPAC (6722) TTY  
 Monday to Friday - 8 a.m. to 5 p.m.
- Web www.mpac.ca
- Fax 1 866 297-6703
- Write P.O. Box 9808, Toronto, ON M1S 5T9
- Visit 644 Dalton Ave, Kingston  
 Monday to Friday - 8 a.m. to 4:30 p.m.

If you have any accessibility needs, please contact MPAC for assistance.

**This Property Assessment Notice is not a property tax bill.**

The assessed value of your property is used as the basis for calculating your property taxes. MPAC's role is to accurately value and classify properties in Ontario. Your municipality/local taxing authority is responsible for setting property tax rates. **An assessment increase does not necessarily mean your property taxes will increase.** For questions about your property taxes, contact your municipality/local taxing authority. To learn how MPAC assesses properties or for details about the Reconsideration and Appeal processes, see the enclosed insert. The deadline to file a Request for Reconsideration with MPAC for the 2013 tax year is **April 1, 2013**. For the tax years 2014-2016, the deadline for filing is **March 31** of the tax year. Please keep a copy of this Notice for your records.

Roll number	10 11 080 190 11500 0000
Property location and description	2360 PRINCESS ST CON 3-5 PT LOT 14
Municipality/Local taxing authority	CORPORATION OF THE CITY OF KINGSTON

**Assessed value of your property**

Your property's value as of January 1, 2012	<b>\$3,628,000</b>
Your property's value as of January 1, 2008	\$3,009,000
Over this 4-year period, your property's value changed by	\$619,000

Under the *Assessment Act*, an increase in the assessed value of each separately classified portion of your property between January 1, 2008 and January 1, 2012 is phased in over four years, from 2013 to 2016. If there is no change, or a decrease in the assessed value of any portion of the property, the assessed value of that portion remains the same and is effective for the remaining property tax years. The assessed values for each separately classified portion of your property are shown in the table below. The information in the table assumes your property characteristics stay the same for the remainder of the property tax years.

PROPERTY CLASSIFICATION	VALUE AS OF JAN 1, 2008	VALUE AS OF JAN 1, 2012	PHASED-IN ASSESSMENT FOR TAX YEARS			
			2013	2014	2015	2016
Commercial	\$2,977,000	\$3,589,500	\$3,130,125	\$3,283,250	\$3,436,375	\$3,589,500
Residential	\$32,000	\$38,500	\$33,625	\$35,250	\$36,875	\$38,500
<b>Total</b>	<b>\$3,009,000</b>	<b>\$3,628,000</b>	<b>\$3,163,750</b>	<b>\$3,318,500</b>	<b>\$3,473,250</b>	<b>\$3,628,000</b>

This is Exhibit “C” referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

## LA SALLE MOTEL CO. (KINGSTON) LTD.

## RESOLUTION OF THE SHAREHOLDERS

APPROVAL OF THE ENTERING INTO OF AN AMENDING AGREEMENT

WHEREAS, the Corporation has entered into an agreement of purchase and sale dated November 25<sup>th</sup>, 2021, with Hao Chen, in trust for a corporation to be incorporated (the “**Purchaser**”), providing for the sale of certain assets and the property located at 2360 Princess Street, Kingston, Ontario by the Corporation to the Purchaser (the “**APS**”);

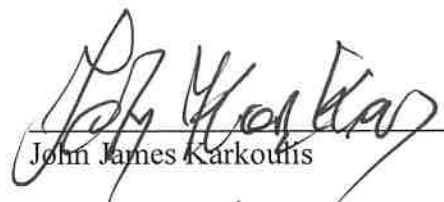
AND WHEREAS, the Corporation and the Purchaser have determined that an extension is required in order to complete the transactions set out in the APS;

AND WHEREAS, the Corporation wishes to approve the extension and any further amendments to the APS;

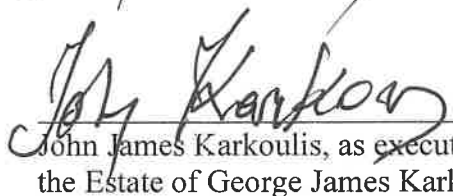
## BE IT RESOLVED THAT:

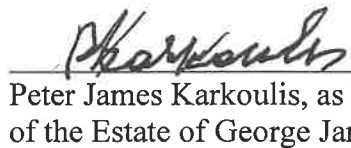
1. the entering into by the Corporation of an amending agreement to the APS, on, or substantially on the terms and conditions set out in the amending agreement made as of the 13<sup>th</sup> day of March, 2022 (with a Due Diligence Deadline not later than June 10<sup>th</sup>, 2022), between the Corporation and the Purchaser (the “**Amending Agreement**”), is hereby authorized and the said Amending Agreement is hereby approved, ratified and confirmed;
2. the transfer by the Corporation of the assets of the Corporation to the Purchaser in accordance with the APS (as amended by the Amending Agreement or otherwise amended after the date hereof) is hereby approved, ratified and confirmed;
3. any one director or officer of the Corporation is hereby authorized and directed on behalf of and in the name of the Corporation, to execute and deliver either under the corporate seal of the Corporation or otherwise, an agreement in the form of the APS, as amended by the Amending Agreement, together with any documents or instruments scheduled to or forming part thereof, with such amendments thereto as any one director may approve (in his discretion), the execution by any one director of such agreement to be conclusive evidence of such approval; and
4. any one director or officer of the Corporation is hereby authorized and directed on behalf of and in the name of the Corporation, to do all other acts and things and to execute and deliver all such other documents, either under the corporate seal of the Corporation or otherwise, as may in his or her opinion be necessary or desirable to give effect to the foregoing and complete the transactions contemplated in the APS, as amended.

The undersigned, being all of the shareholders of LA SALLE MOTEL CO. (KINGSTON) LTD. hereby confirm and ratify the foregoing this 5<sup>th</sup> day of April, 2022.

  
\_\_\_\_\_  
John James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis

  
\_\_\_\_\_  
John James Karkoulis, as executor of  
the Estate of George James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis, as executor  
of the Estate of George James Karkoulis

## LA SALLE MOTEL CO. (KINGSTON) LTD.

## RESOLUTION OF THE SHAREHOLDERS

AMENDMENT TO ARTICLES

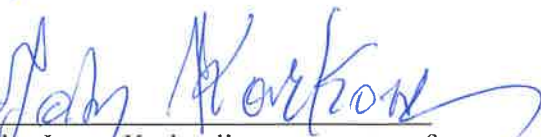
## BE IT RESOLVED THAT:

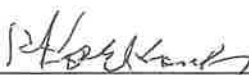
- I. the Articles of the Corporation (the “Articles”) are hereby amended as follows:
1. to change the authorized number of directors fixed in the Articles of Incorporation dated June 17<sup>th</sup>, 1974 to a range of a minimum of one (1) and a maximum of ten (10);
  2. any one officer or director of the Corporation is hereby authorized and directed on behalf of the Corporation to deliver Articles of Amendment in duplicate to the Director under the the *Business Corporations Act*, 1990, as amended (the “Act”) and to sign and execute all documents and to do all things necessary or advisable in connection with the foregoing; and
  3. the board of directors of the Corporation is hereby authorized to revoke this special resolution without further approval of the shareholders of the Corporation at any time prior to the endorsement by the Director under the Act of a certificate of amendment of articles in respect of the amendment referred to above.

The undersigned, being all of the shareholders of LA SALLE MOTEL CO. (KINGSTON) LTD. hereby confirm and ratify the foregoing this 13<sup>th</sup> day of January, 2022.

  
 \_\_\_\_\_  
 John James Karkoulis

  
 \_\_\_\_\_  
 Peter James Karkoulis

  
 \_\_\_\_\_  
 John James Karkoulis, as executor of  
 the Estate of George James Karkoulis

  
 \_\_\_\_\_  
 Peter James Karkoulis, as executor  
 of the Estate of George James Karkoulis



## LA SALLE MOTEL CO. (KINGSTON) LTD.

## RESOLUTION OF THE SHAREHOLDERS

BE IT RESOLVED THAT:

NUMBER OF DIRECTORS

1. the number of directors of the Corporation within the minimum and maximum numbers of directors provided for in the Articles of the Corporation is hereby fixed until further changed at two (2); and
2. hereafter, the board of directors of the Corporation is empowered to determine from time to time the number of directors of the Corporation within the minimum and maximum numbers provided for in the Articles of the Corporation, as the same may be amended from time to time.

ELECTION OF DIRECTORS

the following persons are hereby elected as the directors of the Corporation for the ensuing year or until their successors are elected or appointed:

John James Karkoulis  
Peter James Karkoulis

CONFIRMATION OF NEW BY-LAWS

1. the repeal of any and all By-Laws of the Corporation without prejudice to any action taken thereunder is hereby confirmed;
2. the allocation by the directors of the numbers designating the by-laws which have been repealed of any by-laws enacted by the directors is hereby confirmed; and
3. By-Laws Nos. 1 and 2 of the Corporation are hereby confirmed.

AUTHORIZATION OF THE ENTERING INTO OF AGREEMENT OF PURCHASE AND  
SALE AND TRANSFER OF ASSETS

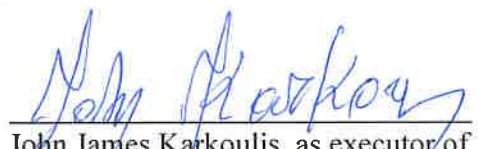
1. the entering into by the Corporation of an agreement of purchase and sale, made the 25<sup>th</sup> day of November, 2021, between Hao Chen, in trust for a corporation to be incorporated (the “**Purchaser**”) and the Corporation, on, or substantially on, the terms and conditions set out in the draft agreement of purchase and sale (the “**APS**”) (a copy of which draft agreement has been presented to the directors), is hereby approved, ratified and confirmed; and

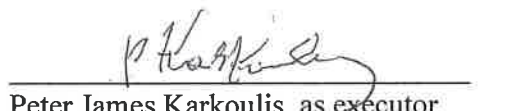
2. the sale and transfer of substantially all of the assets of the Corporation to the Purchaser pursuant to the APS, is hereby approved.

The undersigned, being all of the shareholders of LA SALLE MOTEL CO. (KINGSTON) LTD., hereby sign the foregoing resolution this 18 day of January, 2022.

  
\_\_\_\_\_  
John James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis

  
\_\_\_\_\_  
John James Karkoulis, as executor of  
the Estate of George James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis, as executor  
of the Estate of George James Karkoulis

LA SALLE MOTEL CO. (KINGSTON) LTD.  
RESOLUTION OF THE BOARD OF DIRECTORS

BE IT RESOLVED THAT:

CONFIRMATION OF OFFICERS

the following persons are hereby confirmed to have been the officers of the Corporation as of and from the dates set out below:

<u>Office</u>	<u>Name</u>	<u>Date</u>
President	George James Karkoulis	June 17, 1974 to May 31, 1995
President	John James Karkoulis	May 31, 1995 to present
Secretary	John James Karkoulis	June 17, 1974 to May 31, 1995
Secretary	Peter James Karkoulis	May 31, 1995 to present
Treasurer	Peter James Karkoulis	June 17, 1974 to May 31, 1995

ELECTION OF OFFICERS

the following persons are hereby appointed officers of the Corporation:

<u>Office</u>	<u>Name</u>
President	John James Karkoulis
Secretary	Peter James Karkoulis

AMENDMENT OF BY-LAWS

1. Any and all By-Laws of the Corporation are hereby repealed without prejudice to any actions heretofore taken thereunder;

2. the numbers designating the by-laws hereby repealed may be allocated to any by-laws hereafter enacted by the directors;
3. By-Laws Nos. 1 and 2 in the respective forms which have been presented to the directors are hereby enacted as By-Laws of the Corporation; and
4. the President and Secretary are hereby authorized and directed to sign the said By-Laws as so enacted as evidence of the foregoing and to insert the same in the front portion of the minute book of the Corporation.

AUTHORIZATION OF THE ENTERING INTO OF AGREEMENT OF PURCHASE AND SALE

1. the entering into by the Corporation of an agreement of purchase and sale, made the 25<sup>th</sup> day of November, 2021, between Hao Chen, for a corporation in trust to be incorporated (the “Purchaser”) and the Corporation, on, or substantially on, the terms and conditions set out in the draft agreement of purchase and sale (the “APS”) (a copy of which draft agreement has been presented to the directors), is hereby approved, ratified and confirmed;
2. the authorization of any one director or officer of the Corporation, to execute and deliver either under the corporate seal of the Corporation or otherwise, the APS in, or substantially in the form presented to the directors, together with any documents or instruments scheduled thereto, forming part thereof, or contemplated thereby, with such amendments thereto as he may approve, the execution by the said directors or officers of the APS to be conclusive evidence of such approval is hereby approved, ratified and confirmed; and
3. any one director or officer of the corporation is hereby authorized and directed on behalf of and in the name of the Corporation, to do all other acts and things and to execute and deliver all such other documents, either under the corporate seal of the Corporation or otherwise, as may in his opinion be necessary or desirable to give effect to the foregoing and complete the transactions contemplated in the APS described above.

The undersigned, being all of the directors of LA SALLE MOTEL CO. (KINGSTON) LTD., hereby sign the foregoing resolution this 18 day of January, 2022.


  
 \_\_\_\_\_  
 John James Karkoulis

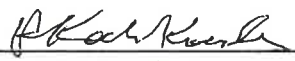
  
 \_\_\_\_\_  
 Peter James Karkoulis

As the directors have disclosed that they have an interest in the above-noted transaction, the undersigned, being all of the shareholders of LA SALLE MOTEL CO. (KINGSTON) LTD., hereby approve and ratify the foregoing resolution this 18 day of January 2022.

  
\_\_\_\_\_  
John James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis

  
\_\_\_\_\_  
John James Karkoulis, as executor of  
the Estate of George James Karkoulis

  
\_\_\_\_\_  
Peter James Karkoulis, as executor  
of the Estate of George James Karkoulis

# LaSalle Motel Co. (Kingston) Ltd.

## SHAREHOLDERS' REGISTER

Date	Name	No. of Shares	Class Of Shares Held
Feb 24, 1992	John Karkoulis	100	Common
Feb 24, 1992	John Karkoulis	1,000	Special A redeemable preferred
Feb 24, 1992	Peter Karkoulis	100	Common
Feb 24, 1992	Peter Karkoulis	1,000	Special A redeemable preferred
May 31, 1995	John and Peter Karkoulis in trust for Andrea, Valarie and Peter Karkoulis	100	Common
May 31, 1995	John and Peter Karkoulis in trust for Andrea, Valarie and Peter Karkoulis	1,000	Special A redeemable preferred



This is Exhibit "D" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



KARK J/M SRP 000 ITH

26JAN23  
2701

BAL FWD

\* 3678-8422-974 2356

100,000.00TF

[REDACTED]

3001

100,000.00CK NO.52\*

JOHN WRITES CHEQUE  
FOR \$100,000 TO HOTEL

▷ MONEY TRANSFERRED FROM MARIA  
KARKOULIS' INVESTMENT ACCOUNT  
TO JOHN + MARIA'S JOINT CHEQUING Acct  
(THIS IS MONEY SHE INHERITED  
FROM HER LATE UNCLE TED)

Cheque Item Image

User: APRIL easter

Request #: -1  
Transit - FI #: [REDACTED]  
Sequence #: 7110102921  
Date: 01/30/2023

Request Desc:  
Account #: [REDACTED]  
Amount: \$100,000.00 CAD

MR JOHN KARKOULIS  
MRS MARIA KARKOULIS  
45 DICKENS DR  
KINGSTON ON K7M 2M5

052

DATE 2 023 - 1 - 26  
Y Y Y Y M M D D

PAY TO THE ORDER OF LA SALLE HOTEL \$ 100,000.00  
ONE HUNDRET THOUSANT DOLLARS / 100 DOLLARS

BMO Bank of Montreal  
42 BATH ROAD TEL: (613) 545-3037  
KINGSTON, ONTARIO K7L 1H5

MEMO \_\_\_\_\_

*John Karkoulis*

STYLE 133

Security features included. Details on back.

27JAN2023  
001 24762  
706032370102050  
00162-1023430

Printer ID# 1021

Endorsement - Signature or Stamp

BACK/VERSO

- BOFD  
Account: 24762-001  
Date: 2023-01-27  
ISN: 8513353565
- Direct Clearer  
Transit: 00720-001  
Date: 2023-01-27  
ISN: 8513353565

JOHN GIVES PETER JR. THIS  
CHEQUE TO DEPOSIT INTO  
HOTEL ACCOUNT

• Direct Clearer  
Transit: 00720-001  
Date: 2023-01-30  
ISN: 7110102921

JOHN SUBSEQUENTLY WITHDRAWS  
\$90,000 OF THIS MONEY AND  
RETURNS IT TO HIS WIFE  
MARIA.

JOHN LEAVES \$10,000 IN THE  
BUSINESS ACCOUNT SO THAT  
HE AND PETER SR. HAVE  
DEPOSITED EQUAL AMOUNTS  
OF THEIR SAVINGS INTO  
THE BUSINESS.

This is Exhibit "E" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**Company Legal Name: LA SALLE MOTEL CO. (KINGSTON) LTD.**

**Document Name: LF985 - Letter of Agreement – Amendment & Restatement**

**Customer Tracking ID: B20023371702200**

**Application ID: 200215472**

**ATTENTION:**

**Please do not remove or discard this sheet and ensure that it is returned with the attached document(s).**

# Letter of Agreement – Amendment & Restatement



945 Gardiners Road,  
Kingston, Ontario,  
K7M 7H4

June 18, 2020

LA SALLE MOTEL CO. (KINGSTON) LTD.  
2360 PRINCESS ST,  
KINGSTON, ONTARIO K7M 3G4

Attention: Mr. John Karkoulis & Mr. Peter Karkoulis

## **LETTER OF AGREEMENT – AMENDMENT & RESTATEMENT**

Bank of Montreal (“**BMO**”) is pleased to provide this amended and restated Letter of Agreement with respect to the credit Facilities (each a “**Facility**” and collectively, the “**Facilities**”) described herein. The letter (the “**Letter of Agreement**”) amends and restates the existing Letter of Agreement dated 15/August/2018 (the “**Prior Letter**”). The Facilities are offered (or continue to be offered, as applicable) on the terms and conditions set out in this Letter of Agreement. The Schedules listed below and attached form part of this Letter of Agreement.

Notwithstanding any other provision of this Letter of Agreement or in any applicable agreements, any Advance under any Facility hereunder will be made at BMO’s sole discretion. Any unutilized portion of any Facility hereunder may be cancelled by BMO at any time without prior notice.

<b>Borrower:</b>	LA SALLE MOTEL CO. (KINGSTON) LTD. <b>(the “Borrower”)</b>
<b>Guarantor(s):</b>	JOHN KARKOULIS PETER KARKOULIS <b>(the “Guarantor(s)”)</b>
<b>Total Facility Limit:</b>	The total approved amount of all facilities shall not exceed \$1,145,000.00 at any time.



## Your Product Summary

## Facility/ Facilities:

Facility No#	Product Type	Authorized Amount	Currency
1	Revolving Facility (Operating Demand Loan)	\$300,000.00	CAD
2	Real Estate Facility - Shared limit/Multi-product/Multi-draw	\$795,000.00	CAD
3	BMO Corporate MasterCard	\$50,000.00	CAD

## Your Product Details

## Revolving Facility - Shared limit/Multi-product/Multi-draw

Facility # 1	
<b>Facility Authorization:</b>	\$300,000.00 CAD
<b>Type of Loan:</b>	Operating Facility (ODL)
<b>Purpose:</b>	For general operating requirements
<b>Operating Demand Loan</b>	<p><b>Interest Rate:</b> Prime Rate plus 2.50%. Interest is calculated monthly in arrears, and payable on the last day of each month. The Prime Rate in effect as of June 18, 2020 is 2.45%.</p> <p><b>Facility Fee:</b> \$180 per month. This is the fee for the loan and does not include other account fees. Refer to our Better Banking Guide for other applicable fees.</p> <p><b>Repayment Terms:</b> Repayable on demand</p> <p><b>Other Costs:</b> BMO is not obliged to permit the Loan to exceed the Cap amount.</p> <p>In the event the Loans exceed the Cap amount, the excess will bear interest at the Overdraft Rate, which is currently 21% per annum. BMO shall also be entitled to charge the Borrower a fee of 1% calculated on the amount of excess over the Cap amount or \$100, whichever is greater and a \$5 overdraft handling charge per item that creates or increases the excess.</p>



## Your Product Summary

## Real Estate Facility - Shared limit/Multi-product/Multi-draw

Facility # 2	
<b>Facility Authorization:</b>	\$795,000.00 CAD
<b>Type of Loan:</b>	Real Estate Financing
<b>Purpose:</b>	For repairs & maintenance to the building/RE & Covid working capital requirements as deemed necessary by sponsors.
<b>Draw Conditions:</b>	1. 100% financing, less HST; 2. Drawdowns are to be supported by a supplier invoice; 3. All draws subject to sub-search completed by bank to confirm no prior charges. If a charge is registered, same is to be cleared from title by the Borrower prior to Bank disbursement. 4. Final draw is subject to satisfactory site inspection by Bank to confirm substantial completion. 5. Undrawn funds shall at all time be sufficient to cover the remaining costs to complete. If at any time pending or during disbursement of the loan the undrawn loan balance is not sufficient to complete the project in accordance with the budget, the Borrower &/or Guarantors shall inject sufficient cash equity to cover the deficiency prior to any further loan draws being permitted. 6. DLNR option for the full term of the loan (15 yr amortization) 7. FRTL option available at completion; 1-5 yrs terms over 15 yr amortization.
<b>Maximum Amortization:</b>	180 months
<b>Fixed Rate Term Loan</b>	<p><b>Type of Loan:</b> Closed Term Loan</p> <p><b>Interest Rate:</b> To be determined at time of Advance. By way of reference only, the rate in effect as of 22/June/2020 for a 5 year term is 4.57% per annum; and the rate is valid for 14 days, and thereafter subject to change at BMO's sole discretion from time to time.</p> <p>Notwithstanding the foregoing and unless otherwise prohibited by law, if the Loan is not paid in full with interest at the Maturity Date, the Loan shall bear interest at a rate per annum equal to the sum of 3% plus the Prime Rate, determined and accrued daily and compounded monthly, not in advance, on the outstanding balance, from the Maturity Date and both before and after demand and both before and after judgment until actual payment in full.</p> <p><b>Repayment Terms:</b> Equal Monthly principal payments and <b>monthly</b> interest, to be collected separately on the last day of each <b>month</b>. The amount of the payments will be determined based on the Loan amount, payment frequency, amortization, and term.</p> <p>The balance of the Loan then outstanding, together with all accrued and unpaid interest, shall be due and payable at the end of the term of the Loan.</p>





## Your Product Summary

		<p><b>Prepayment Terms:</b></p> <p>May not be prepaid, in whole or in part, prior to the maturity date.</p> <p><b>Maximum Term: 5 years</b></p> <p><b>Maturity Date:</b> The last day of the month determined based on the term selected and the date of advance.</p> <p><b>Other:</b></p>
<p><b>Demand Loan Non Revolving</b></p>		<p><b>Interest Rate:</b> Prime Rate plus 2.50%. Interest is calculated monthly in arrears, and payable monthly. The Prime Rate in effect as of June 18, 2020 is 2.45%.</p> <p><b>Repayment Terms:</b> Repayable on demand, provided that until demand is made by BMO:</p> <p>Equal monthly principal payments and <b>monthly</b> interest, to be collected separately on the last day of each <b>month</b>. The amount of the payments will be determined based on the Loan amount, amortization and the interest rate in effect at the time of the Advance, as applicable.</p> <p>Prepayments of principal in whole or in part are permitted, without penalty</p> <p><b>Other:</b></p>
<p>The aggregate of all outstanding Advances under this Facility shall at no time exceed the Facility Authorization for this Facility.</p> <p>Each Loan under this Facility shall be a separate Loan, shall be non-revolving and shall be permanently reduced by any repayments or payments by the Borrower.</p> <p><b>At the request of the Borrower, the rate may be fixed up to 45 days before the Advance is made. If requested, the Borrower shall pay a refundable rate reservation fee of 1% of the principal amount of the Advance, which fee will be refunded to the Borrower on the day the Advance is made. In the event that the Advance is cancelled by the Borrower, such fee will not be refunded to the Borrower.</b></p> <p>The Borrower shall give to BMO 5 Business Days notice with respect to any request for a Loan under this Facility.</p>		



## Your Product Summary

## BMO Corporate MasterCard

Facility # 3	
<b>Facility Authorization:</b>	\$50,000.00 CAD
<b>Type of Loan:</b>	Corporate MasterCard <sup>Â®</sup>
<b>Purpose:</b>	Operating Financing
<b>Interest Rate:</b>	As determined by Corporate MasterCard Agreement.
<b>Repayments:</b>	As determined by Corporate MasterCard Agreement.
<b>Facility Fee:</b>	As determined by Corporate MasterCard Agreement.
<small>Â® MasterCard is a registered trademark of MasterCard International Incorporated. Used under license.</small>	



## Terms and Conditions

### Conditions Precedent to Advances:

BMO will have no obligation to make any advance to the Borrower unless and until each of the conditions set out below and in Schedule C has been completed to BMO's satisfaction

1. Draws for accounts payable to be supported by invoices in the name of the borrower and paid directly or proof of payment maintained in file.
2. Confirmation that all real property taxes have been paid to date.
3. (HELD) Receipt of satisfactory appraisal of the Lands from an appraiser or agrologist satisfactory to BMO confirming a minimum market value of \$6,400,000, together with a letter by the appraiser or agrologist addressed to BMO confirming that BMO may rely on the appraisal for financing purposes.
4. Completion of all loan and account documents and all Security as outlined below.
5. Compliance with all covenants, representations and warranties in all loan documents and Security.
6. Receipt of all information necessary for BMO to comply with all legal and internal requirements in respect of money laundering and proceeds of crime legislation, and "know your customer" requirements.
7. Satisfactory review by BMO of insurance policies issued to the Borrower and each Guarantor, if any, and compliance with any changes required to satisfy BMO's insurance requirements.
8. Confirmation of no material adverse change to the Borrower and the Guarantor and their respective property and assets since the latest financial statements provided to BMO.
9. Confirmation that no default or breach under this Letter of Agreement, any of the loan documents or the Security has occurred.

### Security:

Each of the following documents, instruments, agreements and other assurances (collectively, the "Security") shall be delivered to BMO prior to any advance of funds, in form and substance acceptable to BMO and its solicitors, acting reasonably:

1. (HELD) Insurance on a "Fire and Extended Coverage" or "All Risks" basis must be arranged (with satisfactory evidence thereof delivered to BMO) satisfactory to BMO for the full insurable or replacement value with loss payable to BMO. The policy is to contain the Standard Mortgage Clause. A copy of the policy is to be provided.
2. (HELD) Delivery of an up to date or existing survey/certificate of location of Mortgaged Property and all buildings located on the Mortgaged Property, prepared by a surveyor licensed in the jurisdiction in which the property is/are located, which bears the name, address and signature of the surveyor, his official seal and licence number (any, or both), the date of a survey, and includes a Surveyor's Certificate in the form and content required by the jurisdiction in which the property is located \*\* OR \*\* title insurance from and approved **Title Insurance Provider** in respect of 2360 Princess St. Kingston Ontario naming BMO as beneficiary
3. (HELD) Registered first-ranking **All Indebtedness/Collateral Mortgage** in the amount of \$1,350,000.00 registered over 2360 Princess St. Kingston Ontario with the municipal address of **2360 PRINCESS ST, KINGSTON, ON, K7M3G4** (the "Mortgaged Property") with appropriate enabling resolutions and documentation
4. (HELD) Assignment of Rents over **2360 PRINCESS ST, KINGSTON, ON, K7M3G4 (registered under PPSA)**.
5. **\*\*\*NEW\*\*\*** \$572,500.00 Personal guarantee from JOHN KARKOULIS, PETER KARKOULIS
6. **\*\*\*NEW\*\*\*** Spousal Acknowledgement of Debt: Executed by Maria Karkoulus (DOB 28/July/1941) and Maria Karkoulus (DOB 6/Aug/1945) confirming their acknowledgement of \$572,500 Personal Guarantee executed in favour of the Bank of Montreal – supporting total Business Banking authorization of \$1,145,000
7. (HELD) Registered General Security Agreement ("GSA")/Moveable Hypothec ("Hypothec") providing BMO with a security interest/hypothec over all present and after-acquired personal/movable property of the Borrower with a First ranking for **Machinery and Equipment, CDN Accounts Receivable, Inventory/Warehouse Receipts**

Any other documents, instruments or agreements as may be required by BMO, acting reasonably

### Covenants

As long as any Advance remains outstanding under or in connection with this Letter of Agreement, or so long as any commitment under this Letter of Agreement remains in effect, the Borrower and any Guarantor will perform and comply with the covenants set out in Schedule A.



## Terms and Conditions

### Financial Covenants:

**\*\*NEW\*\*** In addition, the Borrower and each Guarantor, as applicable, will perform and comply with the following financial covenants, based on financial statements of the Borrower or applicable Guarantor:

Financial Covenant	Description	Requirement	Frequency
Debt service coverage ratio	Net Income + Interest + Depreciation + Amortization/ CPLTD + Interest + Shareholder Loan Repayment + Dividends + Redemption of Preferred Shares)	Greater Than or Equal To <b>1.30</b>	Annually, starting with FYE @ 30/June/2022.

### Additional Covenants:

In addition, the Borrower and each Guarantor, as applicable, will perform and comply with the following covenants:

1. The Borrower will not, without BMO's prior written consent, participate in any retrofit project or energy or water efficiency project affecting the Mortgaged Property which would have the effect of creating a lien, hypothec or other interest (including, but without limitation, a local improvement charge or similar interest) in the Mortgaged Property ranking, or potentially ranking, in priority to or *pari passu* with the interest of BMO in the Mortgaged Property, whether or not such project is sponsored or endorsed by a municipal or other government, governmental organization or utility.

### Reporting Requirements:

<b>Annual</b>	1) Accountant prepared minimum Notice to Reader Year End Financial Statements of the Borrower to be provided within 120 days following fiscal year end. 2) Corporate Tax Return and CRA Notice of Assessment if financial statement quality is less than Review Engagement to be provided within 120 days following fiscal year end. 3) Confirmation of up to date property tax. 4) Confirmation of fire insurance at the Bank's request.
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A **\$50** per month fee will be applied for non compliance with reporting requirements. The application of this fee does not waive the default condition.

Prompt notification of management letters, default notices, litigation, and any other material events

Satisfactory evidence that all taxes (including, without limitation, GST, HST, sales tax, withholdings, etc.) have been paid to date

### Representations and Warranties:

The Borrower and each Guarantor, as applicable, makes the representations and warranties set out in Schedule B. All representations and warranties of the Borrower and any Guarantor, in addition to any representation or warranty provided in any document executed in connection with a Facility or any Security, shall be true and correct on the date of this Letter of Agreement and on the date of any Advance under a Facility.



## Terms and Conditions

### Noteless Advances:

The Borrower acknowledges that the actual recording of the amount of any advance or repayment thereof under the Facilities, and interest, fees and other amounts due in connection with the Facilities, in an account of the Borrower maintained by BMO, shall constitute *prima facie* evidence of the Borrower's indebtedness and liability from time to time under the Facilities; provided that the obligation of the Borrower to pay or repay any indebtedness and liability in accordance with the terms and conditions of the Facilities set out in this Letter of Agreement shall not be affected by the failure of BMO to make such recording. The Borrower also hereby acknowledges being indebted to BMO for principal amounts shown as outstanding from time to time in BMO's account records, and all accrued and unpaid interest in respect thereto, which principal and interest the Borrower hereby undertakes to pay to BMO in accordance with the terms and conditions applicable to the Facilities as set out in this Letter of Agreement.

### Fees:

All costs and expense incurred by BMO in connection with this Letter of Agreement and the Facilities (including without limitation all legal, appraisal and consulting fees), and the enforcement of the Security are for the account of the Borrower.

The banks standard one-time fee ("Fee") for this application is \$3,075. This fee is deemed to be earned by BMO upon acceptance of this Letter of Agreement, to compensate for time, effort and expense incurred by BMO in authorizing these Facilities. BMO acknowledge the difficulties at this time with respect to COVID-19. In appreciation of our long standing relationship, **this fee is 100% waived.** Thank you for your business, and thank you in advance for any future opportunities where BMO can assist.

Credit renewal fees will be payable as advised by BMO annually; at the date of this letter such fees are estimated to be \$2,000. If total authorization is reduce to less than \$1,000,000 – this fee can be reduced to approximately \$900.

All fees payable under this Letter of Agreement shall be paid to BMO on the dates due, in immediately available funds. Fees paid shall not be refundable except in the case of manifest error in the calculation of any fee payment.

### Banking Services:

The Borrower shall maintain its Bank Accounts, solely with the BMO. Borrower acknowledges that the pricing (including interest, fees and charges) contained in this Letter of Agreement is contingent on the Borrower maintaining all of its operating accounts with BMO. In the event the Borrower does not do so, BMO may, at any time, in its sole discretion and without any requirement to obtain the agreement of, or provide prior notice to the Borrower, increase such pricing.

### Treasury & Payment Solutions:

BMO will provide Non-Credit and treasury & payment solutions to the Borrower. A Treasury & Payment Specialist will contact the Borrower to implement BMO's On-Line Banking for Business platform (OLBB) and discuss additional treasury & payment features such as Electronic Funds Transfer (EFT), Wire Payments, BMO DepositEdge® and Moneris® Payment Processing Solutions. BMO's objective is to provide a package of services that are tailored to meet both the current and future needs of the Borrower in a cost efficient operating environment.

### Commercial Loan Insurance Plan:

**You understand that unless you submit an Application for Commercial Loan Insurance Plan ("Application"), and it has been approved by Canada Life as the insurer, you will not be covered under the Commercial Loan Insurance Plan for any facilities under this Letter of Agreement and would be ineligible to submit a claim should you undergo an insurable event.**

### Counterparts; Electronic Transmissions:

This agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. Any counterpart of this Agreement may be executed and circulated by facsimile, PDF or other electronic means and any counterpart executed and circulated in such a manner shall be deemed to be an original counterpart of this Agreement. All counterparts shall be construed together and shall constitute one and the same original agreement.



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## Terms and Conditions

**Governing Law:**

Ontario and the federal laws of Canada applicable therein.

**Schedules:**

The following Schedules are attached to and form part of this letter of agreement:

Schedule A - Covenants

Schedule B - Representations and Warranties

Schedule C - Conditions Precedent to Advances

**BMO's Legal Counsel:** [



## Agreement and Consent

This Letter of Agreement amends and restates, without novation, the Prior Letter, as of **15/August/2018**, without prejudice to the effect of the terms of the Prior Letter or to any actions taken under or pursuant to the Prior Letter prior to such date. The entry into effect of this Letter of Agreement shall not be deemed to waive or limit any of BMO's rights in respect of any Event of Default then existing under the Prior Letter or any Event of Default under this Letter of Agreement which exists because of matters occurring prior to such effective date, whether or not known to BMO.

In accepting this agreement you acknowledge that if, in the opinion of BMO, a material adverse change in risk occurs including, without limitation, any material adverse change in the financial condition, business, property or prospects of the Borrower or any Guarantor, the rights and remedies of BMO, or the ability of the Borrower or any Guarantor to perform its obligations to BMO, any obligation to advance some or all of the above Facilities may be withdrawn or cancelled.

Please indicate your acceptance of the terms and conditions hereof by signing and returning one copy of this Letter of Agreement (and making payment of the above noted fee, if applicable) to BMO no later than **Friday, June 26, 2020**. If your acceptance of this Letter of Agreement is not received by BMO by that date, BMO shall have no obligation to proceed with any of the Facilities.

Yours truly,  
BANK OF MONTREAL



By: \_\_\_\_\_  
Name: GREGORY BAKER  
Title: Relationship Manager

Accepted and agreed to this 22 day of JUNE, 2020  
(Day) (Month) (Year)

### BORROWER

**LA SALLE MOTEL CO. (KINGSTON) LTD.**  
(Name of Entity)

*If signed by corporation or other entity (e.g. partnership):*

Signature: John Karkoulis

Name: John Karkoulis

Title: OWNER

Signature: Peter Karkoulis

Name: Peter Karkoulis

Title: OWNER



Agreement and Consent

GUARANTORS

JOHN KARKOULIS

(Name of Guarantor)

Witness: [Signature] Signature: [Signature]
Name: Greg Baker Name: John Karkoulis

PETER KARKOULIS

Witness: [Signature] Signature: [Signature]
Name: Greg Baker Name: Peter Karkoulis

SPOUSAL ACKNOWLEDGEMENT OF DEBT

Acknowledging \$572,500 Personal Guarantee executed by John Karkoulis and Peter Karkoulis in favour of the Bank of Montreal, supporting total BMO Bank of Montreal Business Banking authorization of \$1,145,000

Witness: [Signature] Signature: [Signature]
Name: Greg Baker Name: Maria Karkoulis (DOB: 28/July/1941)

Witness: [Signature] Signature: [Signature]
Name: Greg Baker Name: Maria Karkoulis (DOB: 8 OCT 6/Aug/1945)





## Schedules

### SCHEDULE A

#### COVENANTS

1. Payment of all indebtedness due to BMO in connection with this Letter of Agreement or any Facility
2. Maintenance of corporate existence and status, if applicable
3. Payment of all taxes when due (including, without limitation, corporate, GST, HST, sales tax and withholding)
4. Compliance with all material laws, regulations and applicable permits or approvals (including health, safety and employment standards, labour codes and environmental laws)
5. Compliance with all material agreements
6. Use of proceeds to be consistent with the approved purpose
7. Notices of death of Borrower or Guarantor, default, material litigation, and regulatory proceedings to be provided to BMO on a timely basis
8. Access by BMO to books and records; BMO to have right to inspect property to which its security applies
9. No assumption of additional indebtedness or guarantee obligations by Borrower without prior written consent of BMO
10. No liens or encumbrances on any assets except with the prior written consent of BMO
11. No change of control or ownership of the Borrower without the prior written consent of BMO
12. No disposition of property or assets (except in the ordinary course of business) without the prior written consent of BMO
13. No material acquisitions, hostile takeovers, mergers or amalgamations without BMO's prior written approval
14. [For multiple currencies]:

If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Letter of Agreement, it becomes necessary to convert into a particular currency (the "Judgment Currency") any amount due under this Letter of Agreement in any currency other than the Judgment Currency (the "Currency Due"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose "rate of exchange" means the rate at which BMO is able, on the relevant date, to purchase the Currency Due with the Judgment Currency in accordance with its normal practice at its principal office in Toronto, Ontario. In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given and the date of receipt by BMO of the amount due, the Borrower will, on the date of receipt by BMO, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any, as may be necessary to ensure that the amount received by BMO on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of receipt by BMO is the amount then due under this Letter of Agreement in the Currency Due. If the amount of the Currency Due which BMO is so able to purchase is less than the amount of the Currency Due originally due to it, the Borrower and each Guarantor jointly and severally (solidarily) agree to indemnify BMO from and against any and all loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Letter of Agreement, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by BMO from time to time and shall continue in full force and effect notwithstanding any judgment or order in respect of an amount due under this Letter of Agreement or under any judgment or order.



SCHEDULE BREPRESENTATIONS AND WARRANTIES

1. It has the corporate status, power and authority to enter into this Letter of Agreement and any agreement executed in connection with a Facility or any Security to which it is a party, and to performs its obligations hereunder and thereunder
2. It is in compliance with all applicable laws (including environmental laws) and its existing agreements
3. Except as otherwise disclosed to BMO in writing, no consent or approval of, registration or filing with, or any other action by, any governmental authority is required in connection with the execution, delivery and performance by it of this Letter of Agreement and any agreement executed in connection with a Facility or any Security to which it is a party
4. All factual information that has been provided to BMO for purposes of or in connection with this Letter of Agreement or any transaction contemplated herein is true and complete in all material respects on the date as of which such information is dated or certified
5. No event, development or circumstance has occurred that has had or could reasonably be expected to have a material adverse effect on the business, assets, operations or condition, financial or otherwise, of the Borrower or any Guarantor
6. There is no material litigation pending against it or, to its knowledge, threatened against or affecting it
7. It has timely filed or caused to be filed all required tax returns and reports and has paid or caused to be paid all required taxes
8. It has good and marketable title to its properties and assets including ownership of and/or sufficient rights in any material intellectual property.
9. It has complied with all obligations in connection with any pension plan which it has sponsored, administered or contributed to, or is required to contribute to including, without limitation, registration in accordance with applicable laws, timely payment of all required contributions or premiums, and performance of all fiduciary and administration obligations
10. It maintains insurance policies and coverage that provides sufficient insurance coverage in at least such amounts and against at least such risks as are usually insured against in the same general area by persons in the same or a similar business
11. It is not in default nor has any event or circumstance occurred which, but for the passage of time or the giving of notice, or both, would constitute a default under any loan, credit or security agreement, or under any material instrument or agreement, to which it is a party.



SCHEDULE CCONDITIONS PRECEDENT TO ADVANCES

1. Evidence of corporate (or other) status and authority
2. Completion and registration (as applicable) of all Security (defined herein) and other supporting documents
3. Completion of all facility documentation and account agreements and authorities, as applicable
4. Compliance with all representations and warranties contained herein
5. Compliance with all covenants (financial and non-financial) contained herein
6. No Event of Default (defined herein) shall have occurred and be continuing
7. Compliance with all laws (including environmental)
8. Payment of all fees and expenses
9. Receipt of all necessary material governmental, regulatory and other third party approvals including environmental approvals and certificates
10. Satisfactory due diligence (including, without limitation, anti-money laundering, proceeds of crime and “know your customer” requirements and procedures, environmental and insurance due diligence)
11. Repayment of all existing indebtedness (excluding permitted indebtedness), as applicable.
12. Satisfactory review of material contracts, as applicable
13. Satisfactory review by BMO (or, at BMO’s option and the Borrower’s expense, an insurance consultant) of insurance policies issued to the Borrower(s) and/or the Guarantor(s) and compliance with any changes required to satisfy BMO’s insurance requirements
14. Disclosure of all material contingent obligations
15. Confirmation that no shares of the Borrower held by the principal shareholders have been pledged as security for any financial or other indebtedness
16. Corporate taxes of the Borrower and corporate/personal taxes of the Guarantor(s) are to be confirmed current and up-to-date
17. Satisfactory evidence that all other taxes payable by the Borrower and Guarantor(s) (including, without limitation, GST, HST, sales tax, and withholding) have been paid to date
18. No material judgments or material legal action initiated against the Borrower and/or any Guarantor(s)
19. Any other document or action which BMO may reasonably require



This is Exhibit "F" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

IN THE MATTER OF THE PROPOSAL OF  
LA SALLE MOTEL CO. (KINGSTON) LTD.

List of Creditors with claims of \$250 or more

<b>Deemed Trust Claims</b>			
1	Canada Revenue Agency (HST)	120,000.00	
	Subtotal Deemed Trust	120,000.00	\$ 120,000.00
<b>Secured Creditors</b>			
2	Bank of Montreal	871,000.00	
3	Master Card (Bank of Montreal)	25,694.15	
4	Employee Vacation Pay (various)	27,012.97	
	Subtotal Secured Creditors	923,707.12	\$ 923,707.12
<b>Unecured Creditors</b>			
5	AMEX Bank of Canada	5,000.00	
6	Aviva Insurance Company of Canada	1,323.00	
7	Bell Canada	333.80	
8	Booking.com B.V	829.70	
9	Breadman of Kingston	2,755.02	
10	Bunzl Canada Kingston	2,362.00	
11	Canada Bread Co.	2,655.58	
12	Canadian Tire	1,739.54	
13	Choquette CKS	303.41	
14	City of Kingston (Property Tax)	3,721.71	
15	Coca Cola Canada Bottling Limited	1,208.86	
16	Cogeco Connexion Inc.	1,005.37	
17	Collections Group of Canada	345.38	
18	Enbridge	20,813.28	
19	Esslinger Foods Ltd.	1,193.30	
20	Evertemp Inc	3,630.86	
21	Expedia Group	752.37	
22	Findlay Foods (Kingston) Ltd.	56,773.90	
23	Gordon Food Service	40,017.79	
24	HTG Sports Services	306.31	
25	Hydro One Networks Inc.	21,924.39	
26	Joe Deodato & Family	11,340.22	
27	John Karkoulis	95,765.20	
28	Kingston Accomodation Partners Inc	11,596.48	
29	Kone Inc.	1,415.50	
30	Mac & Co Environmental solutions	4,862.78	
31	Ontario Ministry of Finance	250.00	
32	Oracle Canada ULC	4,203.45	
33	Peter Karkoulis Sr.	110,000.00	
34	Relm Sports	355.95	
35	St. Lawrence Pools	265.50	
36	Superior Lodging Development TL Corporation	22,866.82	
37	Sysco Food	10,589.37	
38	Sysco Guest Supply Canada Inc.	5,997.48	
39	Telus	940.90	
40	Tony Ferrusi's Dairy	3,530.02	
41	Travelodge Hotels Inc.	30,214.69	
42	Troy Life & Fire Safety Ltd.	290.41	

IN THE MATTER OF THE PROPOSAL OF  
LA SALLE MOTEL CO. (KINGSTON) LTD.

List of Creditors with claims of \$250 or more

43	Utilities Kingston	11,098.09		
44	Viner Kennedy Frederick Allan Tobias	22,000.00		
45	Workplace Safety Insurance Board	12,072.34		
	Subtotal Unsecured Creditors	528,650.77	\$	528,650.77
	<b>Contingent Creditors - Lawsuits</b>			
	46 Andrea Karkoulis (by her Litigation Guardian)	3,500,000.00		
	47 Hao Chen and 1000073686 Ontario Inc.	Unquantified		
	48 Peter J. Karkoulis	5,000,000.00		
	49 Peter J. Karkoulis	359,000.00		
	Subtotal Contingent Claims	8,859,000.00	\$	8,859,000.00
	<b>TOTAL CLAIMS - ALL CATEGORIES</b>			
			\$	10,431,357.89

This is Exhibit "G" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

IN THE MATTER OF THE PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD.  
OF THE CITY OF KINGSTON, IN THE PROVINCE OF ONTARIO  
STATEMENT OF PROJECTED CASHFLOW

District of: Ontario  
Division No. 11 - Kingston  
Court No.: 33-2929085  
Estate No.: 33-2929085

**13 Week Cash Flow Forecast  
April 3 to July 7, 2023**

	7-Apr-23	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	TOTAL
	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	
<b>Opening Cash Balance (Overdraft)</b>	(269,074)	(221,650)	(256,434)	(234,834)	(295,384)	(289,682)	(320,561)	(293,527)	(302,286)	(289,088)	(316,442)	(289,700)	(305,650)	(350,915)	(269,074)
<b>Receipts</b>															
Accommodations															
Hotel Rooms ( <i>Note 1</i> )	15,570	22,400	22,400	22,400	25,400	26,600	26,600	26,600	29,800	37,800	37,800	37,800	37,800	49,000	417,970
Motel Rooms ( <i>Note 1</i> )	2,159	3,500	3,500	3,500	4,000	4,200	4,200	4,200	3,600	2,100	2,100	2,100	2,100	3,500	44,759
Conference Rooms	1,820	300	300	300	300	300	300	300	300	300	300	300	300	300	5,720
Food & Beverage															
Food ( <i>Note 2</i> )	33,202	25,200	25,200	25,200	25,700	25,900	25,900	25,900	25,900	25,900	25,900	25,900	25,900	25,200	366,902
Liquor	2,380	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	29,680
Other Receipts	631	786	786	786	891	933	933	933	1,011	1,206	1,206	1,206	1,206	1,584	14,098
HST collected ( <i>Note 3</i> )	7,016	6,955	6,955	6,955	7,475	7,683	7,683	7,683	8,021	8,866	8,866	8,866	8,866	10,413	112,303
<b>Total Receipts</b>	<b>62,777</b>	<b>61,241</b>	<b>61,241</b>	<b>61,241</b>	<b>65,866</b>	<b>67,716</b>	<b>67,716</b>	<b>67,716</b>	<b>70,732</b>	<b>78,272</b>	<b>78,272</b>	<b>78,272</b>	<b>78,272</b>	<b>92,097</b>	<b>991,431</b>
<b>Disbursements</b>															
Purchases															
Food ( <i>Note 4</i> )	9,487	8,820	8,820	8,820	8,995	9,065	9,065	9,065	9,065	9,065	9,065	9,065	9,065	8,820	126,282
Liquor	0	735	735	735	735	735	735	735	735	735	735	735	735	735	9,555
Operating Expenses															
Cleaning & Supplies	0	3,000	4,000	3,000	3,000	3,000	4,000	3,000	3,000	3,000	4,000	3,000	3,000	3,000	42,000
Commission	0	0	0	0	5,350	0	0	0	0	7,068	0	0	0	9,720	22,138
Insurance	0	0	0	0	0	0	0	0	0	0	0	23,151	0	0	23,151
Office Expenses	345	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	13,345
Repairs & Maintenance ( <i>Note 5</i> )	0	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	65,000
Royalty Fees	0	0	0	0	8,917	0	0	0	0	11,780	0	0	0	16,200	36,897
Utilities & Communications	0	0	1,000	18,000	0	7,500	1,000	3,500	14,500	7,500	1,000	0	18,000	7,500	79,500
Property Taxes	0	0	0	0	0	0	0	0	0	0	0	0	55,000	0	55,000
Employee Expenses															
Wages - Hotel	540	21,900	0	21,000	0	22,200	0	24,700	0	25,300	0	25,300	0	31,000	171,940
Wages - Restaurant ( <i>Note 6</i> )	0	37,000	0	28,900	0	23,800	0	26,300	0	23,800	0	23,800	0	26,300	189,900
Management	0	1,100	0	2,200	0	2,200	0	2,200	0	2,200	0	2,200	0	2,200	14,300
EHT/WSIB/Manulife/Other	0	0	0	0	0	0	1,700	0	0	0	1,700	0	0	0	3,400
Proposal Trustee	0	15,000	15,000	0	10,000	0	10,000	0	5,000	0	5,000	0	15,000	0	75,000
Legal-Proposal Trustee ( <i>Note 7</i> )	0	0	0	0	5,000	0	5,000	0	5,000	0	0	0	5,000	0	20,000
Legal-Company ( <i>Note 7</i> )	0	0	0	0	0	20,000	0	0	0	0	20,000	0	0	0	40,000
Accounting	0	0	1,200	0	0	0	400	0	0	0	0	400	0	0	2,000
BMO Demand Loans Payments	0	0	0	3,176	0	0	0	0	3,176	0	0	0	3,176	0	9,529
Bank Fees, Interest & MasterCard	4,981	0	0	27,750	4,623	0	0	0	3,875	5,232	0	0	3,750	5,844	56,055
HST on Expenses ( <i>Note 3</i> )	0	2,470	2,886	2,210	4,325	4,095	2,782	975	3,055	3,945	4,030	572	4,810	4,865	41,020
Tax Remittances ( <i>Note 3</i> )	0	0	0	0	3,220	0	0	0	4,128	0	0	0	0	70,901	78,249
<b>Total Disbursements</b>	<b>15,353</b>	<b>96,025</b>	<b>39,641</b>	<b>121,791</b>	<b>60,164</b>	<b>98,595</b>	<b>40,682</b>	<b>76,475</b>	<b>57,534</b>	<b>105,625</b>	<b>51,530</b>	<b>94,223</b>	<b>123,536</b>	<b>193,085</b>	<b>1,174,260</b>
<b>Closing Cash Balance (Overdraft)</b>	<b>(221,650)</b>	<b>(256,434)</b>	<b>(234,834)</b>	<b>(295,384)</b>	<b>(289,682)</b>	<b>(320,561)</b>	<b>(293,527)</b>	<b>(302,286)</b>	<b>(289,088)</b>	<b>(316,442)</b>	<b>(289,700)</b>	<b>(305,650)</b>	<b>(350,915)</b>	<b>(451,902)</b>	<b>(451,902)</b>
<b>Available Credit Facility</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	
<b>Surplus (Shortfall) (<i>Note 8</i>)</b>	<b>78,350</b>	<b>43,566</b>	<b>65,166</b>	<b>4,616</b>	<b>10,318</b>	<b>(20,561)</b>	<b>6,473</b>	<b>(2,286)</b>	<b>10,912</b>	<b>(16,442)</b>	<b>10,300</b>	<b>(5,650)</b>	<b>(50,915)</b>	<b>(151,902)</b>	

LA SALLE MOTEL CO. (KINGSTON) LTD.  
Per: John Karkoulis  
April 12, 2023

LINK & ASSOCIATES INC.  
Proposal Trustee  
April 12, 2023



District of Ontario  
Division No. 11 - Kingston  
Court No.: 33-2929085  
Estate No.:33-2929085

**IN THE MATTER OF THE PROPOSAL OF  
LA SALLE MOTEL CO. (KINGSTON) LTD.  
OF THE CITY OF KINGSTON, IN THE PROVINCE OF ONTARIO**

**NOTES TO STATEMENT OF PROJECTED CASH FLOW**

The purpose of this cash flow projection is to provide the creditors with sufficient information to make an informed decision about the proposal and to fully disclose to the Trustee and Official Receiver the state of our financial affairs.

This cash flow has been prepared pursuant to the requirements of Sections 50.4(2)(a) and 50(6)(a) of the Bankruptcy and Insolvency Act ("BIA") and for no other purpose. Use of this information for any other purposes may not be appropriate.

**ASSUMPTIONS**

This cash flow projection assumes that:

- A. The Company will be able to avail itself of increased credit facilities from its existing bank to cover any forecasted cash flow shortfalls such that hotel and restaurant operations, taxes, and the cost of the Proposal process are all adequately funded.
- B. The Company will not declare or pay any dividends to any shareholders during the cash flow period.
- C. There will be no new COVID-19 outbreaks or other similar events that would negatively impact the revenue of both the hotel accommodation and restaurant business.
- D. The current economic climate remains essentially the same and no recession occurs during the cash flow period.
- E. The Company will introduce and implement budgeting and cost control procedures and written and measurable policies regarding daily operations.
- F. The Company will need to pay COD for most food, materials and supplies for the cash flow period.
- G. Expenses are consistent with the first half of the fiscal year with the exception of categories where exceptional expenses have been identified for further review.
- H. It is assumed that the Property will not require major repairs during the cash flow period in excess of the weekly budgeted amount, even though portions of the Property are in a state of significant disrepair.

**DRAFT  
For Discussion Purposes Only**

- I. The claims of creditors will be dealt with in the Proposal to be filed on or before May 3, 2023, subject to any extensions which may be sought by the Company and granted by the Court.
- J. The following numbered Notes correspond to the numbering on the attached Statement of Projected Cash Flow:

## NOTES

1. Projected revenues for the hotel and motel for the cash flow period are based on April through July 2022 revenue, adjusted downward by 10%. The reasons for the downward adjustments are as follows:
  - a. COVID-19 flare-ups are unpredictable and can affect revenues in the leisure sector, including both accommodation and food services.
  - b. Leading economists are predicting a mild recession in 2023.
  - c. There are at least three motels/hotels in the vicinity of the Property that opened in the last few years, which are modern in style and in better condition than the Property.
  - d. A large percentage of the Property's business is walk-in or short notice rental, making it difficult to predict accommodation revenue reliably, even two weeks in advance.

As an example, if a recession or other extenuating circumstance should occur, and if those events cause the revenues to be 20% lower than 2022, we calculate that funding needs could increase by \$45,000-50,000 for the 13-week period.

A direct comparison for January through March 2023 versus 2022 is not considered a reliable indicator for current year sales trends due to the COVID-19 lockdown which took effect on January 4, 2022 and lasted until the end of the month.

2. Projected revenues for the restaurant are 20% lower than the comparable period last year, due to the following:
  - a. The Company is discontinuing the evening dinner service due to low customer volume and high staffing levels. An analysis of the previous ten weeks determined that this time period accounts for only 28% of total restaurant revenue while breakfast and lunch account for 72%.
  - b. The Company implemented a 10% increase in pricing on the menu (subject to peer comparison) which should result in mitigating some of the lost revenue.
3. HST is collected in trust for the Receiver General. These funds do not belong to the Company and are tracked separately to ensure that they are remitted (net of input tax credits) immediately following the quarter end. At the time of filing of the NOI, the Company owed approximately \$69,600 of HST for the quarter ending December 31, 2022. Another \$72,700 is estimated to be owed for the quarter ending March 31, 2023, resulting in a total HST liability of approximately \$142,000 which is currently stayed by the NOI.

**DRAFT**

**For Discussion Purposes Only**

4. Many food suppliers now require the Company to purchase on a COD basis as a result of unpaid overdue accounts. Unpaid food suppliers were owed an aggregate of approximately \$143,000 at the date of filing of the NOI. Food purchases are projected as a percentage of revenue.
5. The profit and loss statement for July 1 to December 31, 2022 shows repair and maintenance expense of \$234,598. It appears the majority of this expense was for oil tank remediation work on the Property during the year in preparation for the anticipated closing of the sale of the Property. The Property requires both short-term and long-term investment to adequately maintain. We have budgeted \$5,000 weekly to account for potential issues during the cash flow period.
6. Wages will be reduced as the dinner menu is phased out.
7. Fee estimates include amounts for work performed to date and forecasted costs for a scheduled April 2023 Court appearance, and other customary Proposal related activities during the cash flow period. Unanticipated events may increase professional costs.
8. The Company is expected to require funding in excess of its current authorized \$300,000 operating loan with Bank of Montreal. We project the maximum required to be in the range of \$150,000 closer to the end of the cash flow period due to property tax, insurance and HST payments due at that time. The Company is seeking additional operating credit from the Bank of Montreal in line with the cash flow projection.

**DRAFT**  
**For Discussion Purposes Only**

This is Exhibit "H" referred to in the Affidavit of Gina Karkoulis sworn by Gina Karkoulis of the City of Kingston, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**Company Legal Name: LA SALLE MOTEL CO. (KINGSTON) LTD.**

**Document Name: LF983 - Letter of Agreement - Amendment**

**Customer Tracking ID: B20023371702200**

**Application ID: 200340187**

**ATTENTION:**

**Please do not remove or discard this sheet and ensure that it is returned with the attached document(s).**

# Letter of Agreement - Amendment



42 BATH RD,  
KINGSTON, ONTARIO K7L 1H5

## LETTER OF AGREEMENT - AMENDMENT

LA SALLE MOTEL CO. (KINGSTON) LTD.  
2360 PRINCESS ST,  
KINGSTON, ONTARIO K7M 3G4

Attention: **John Karkoulis and Peter Karkoulis**

April , 2023

This letter (the “**Amending Letter**”) is intended to set out certain amendments to the Letter of Agreement dated **July 18, 2018**] (including all Schedules thereto (the “**Letter of Agreement**”) between Bank of Montreal (“**BMO**”) and the Borrower named below.

LA SALLE MOTEL CO. (KINGSTON) LTD.

Unless defined in this Amending Letter, capitalized terms used in this Amending Letter are intended to have the meanings provided to those terms in the Letter of Agreement.

The Letter of Agreement is amended as follows:

1. *the maximum limit on Facility No. 1 (Revolving operating loan number 0016-1023-430) shall be increased from \$300,000 to \$450,000;*
2. *the interest rate on Facility No. 1 (Revolving operating loan number 0016-1023-430) shall be increased from Prime Rate + 2.5% to Prime Rate + 5.5%; and*
3. *the maximum limit on Facility No. 3 (BMO Corporate MasterCard) shall be reduced from \$50,000 to \$25,000*

*The Increased credit availability provided for herein is to be used by the Borrower solely for the purposes of operating expenses and expenses (including professional fees) incurred in connection with the proposal proceedings being undertaken by the Borrower pursuant to the Bankruptcy and insolvency Act.*

Except to the extent amended by this Amending Letter, the Letter of Agreement remains in full force and effect, without novation. This Amending Letter supersedes and replaces all prior discussions and correspondence (if any) between the parties relating to the subject-matter hereof. Nothing in this Amending Letter is intended to waive or limit any of BMO’s rights in respect of any Event of Default existing at the date of this Amending Letter, whether or not known to BMO.

Yours truly,  
BANK OF MONTREAL

By: \_\_\_\_\_  
Name:  
Title:  
[]



# Letter of Agreement - Amendment

By their signature below, each Borrower and Guarantor acknowledge and agree to the amendments to the Letter of Agreement contained in this Amending Letter. Further, each Borrower and Guarantor reaffirm, acknowledge, covenant and confirm, to and in favour of BMO, the continued applicability, validity, enforceability and binding nature of the Letter of Agreement (as amended by this Amending Letter) and any documents delivered in connection with the Letter of Agreement (as amended by this Amending Letter), including, without limitation, any security and guarantees granted pursuant thereto, each of which shall continue to be valid, binding and enforceable and in no way altered, lessened, released or otherwise affected by this Amending Letter except as expressly stated in this Amending Letter.

This Amending Letter shall be read and construed with the Letter of Agreement and be treated as a part of the Letter of Agreement, and for such purpose and so far as may be necessary to effectuate the true intent of this Amending Letter, the Letter of Agreement is hereby amended.

Each Borrower and Guarantor represents and warrants to BMO that ((a) does not apply to individuals): (a) it is authorized to enter into this Amending Letter and that it has the full power and authority to do so, (b) each of the representations and warranties contained in the Letter of Agreement is true and correct with the same force and effect as if made on the effective date of the amendments contained in this Amending Letter and (c) it/he/she is in compliance with each of the covenants and other terms and conditions set forth in the Letter of Agreement. Further, in the case of an individual Borrower and/or Guarantor, he/she represents and warrants to BMO that (i) he/she fully understands the provisions of this Amending Letter and his/her obligations, (ii) he/she has been afforded the opportunity to engage independent legal counsel to explain the purposes of this Amending Letter and his/her obligations and (iii) he/she has either engaged legal counsel or has decided, in his/her sole discretion, not to do so.

This agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. Any counterpart of this Agreement may be executed and circulated by facsimile, PDF or other electronic means and any counterpart executed and circulated in such a manner shall be deemed to be an original counterpart of this Agreement. All counterparts shall be construed together and shall constitute one and the same original agreement.

## **BORROWER**

**LA SALLE MOTEL CO. (KINGSTON) LTD.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# Letter of Agreement - Amendment

**GUARANTOR(S)**

**PETER KARKOULIS**

Signature: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Name: PETER KARKOULIS

Witness Name: \_\_\_\_\_

**JOHN KARKOULIS**

Signature: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Name: JOHN KARKOULIS

Witness Name: \_\_\_\_\_





**IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT* R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A CORPORATION INCORPORATED UNDER THE LAWS OF THE PROVINCE OF ONTARIO**

***ONTARIO***

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

**AFFIDAVIT**

**BORDEN LADNER GERVAIS LLP**  
100 Queen Street, Suite 1300  
Ottawa ON K1P 1J9

**Jason Dutrizac (50004T)**  
jdutrizac@blg.com  
613.787.3535

Lawyers for the Applicant / Moving Party

# Tab 3

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*  
R.S.C., 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A  
CORPORATION INCORPORATED UNDER THE LAWS OF THE  
PROVINCE OF ONTARIO

**AFFIDAVIT**

I, Sandra Noe, of the City of Maniwaki, in the Province of Quebec, MAKE OATH AND SAY:

1. I am a law clerk with the law firm of Borden Ladner Gervais LLP, lawyers for the Applicant La Salle Motel Co. (Kingston) Ltd (the “**Applicant**” or the “**Company**”), and, as such, have knowledge of the matters contained herein.

2. On August 5, 2022, Peter Karkoulis (“**Peter Jr.**”) commenced an action against his uncle Peter Karkoulis (“**Peter**”), John Karkoulis (“**John**”), and the Company bearing court file no. CV-22-00000223-0000 (the “**Peter Jr. Action**”). In Peter Jr.’s Statement of Claim, a copy of which is attached as **Exhibit “A”** to this affidavit, Peter Jr. claims, among other things, a trust interest in the Company and all of the property owned by it, including the property municipally known as 2360 Princess Street, Kingston, Ontario (the “**Property**”), \$5,000,000 in restitution, and a certificate of pending litigation (“**CPL**”) against the Property.

3. On August 5, 2022, Peter Jr. also brought an *ex-parte* motion for the registration of a CPL against the Property, which was granted by the Honourable Justice Graeme Mew. Copies of the

endorsement of Justice Mew dated August 5, 2022 and ex parte order of Justice Mew are attached as **Exhibit “B”** to this affidavit.

4. On September 30, 2022, the Company delivered a Statement of Defence and Counterclaim to the Peter Jr. Action, a copy of which is attached as **Exhibit “C”** to this affidavit.

5. The Company, Peter and John then brought a motion seeking an order to discharge or vacate the CPL. The non-party 1000073686 Ontario Inc. (“**686**”), the purchaser of the Property, also brought a motion to be added as a party to the Peter Jr. Action. Those motions were heard together by the Honourable Justice Ryan Bell on October 6 and 21, 2022. On January 19, 2023, Justice Ryan Bell issued her reasons for decision dismissing both motions. A copy of the reasons for decision and Order of Justice Bell are attached as **Exhibits “D”** and **“E”**, respectively, to this affidavit.

6. On February 15, 2023, Hao Chen (“**Chen**”) and 686 commenced an action against Peter Jr., Peter, John, and the Company bearing court file no. CV-23-00000044-0000 (the “**Purchaser Action**”). In the Statement of Claim in the Purchaser Action, a copy of which is attached as **Exhibit “F”** to this affidavit, Chen and 686 claim, among other things, specific performance of the agreement of purchase sale of the Property dated November 25, 2021 (the “**APS**”).

7. On March 21, 2023, Andrea Karkoulis by her litigation guardian Valerie Demit (“**Andrea**”) commenced an action against Peter Sr., John, and the Company bearing court file no. CV-23-00000080-00 (the “**Andrea Action**”). In the Statement of Claim in the Andrea Action, a copy of which is attached as **Exhibit “G”** to this affidavit, Andrea claims, among other things, declaratory relief that she is a one third owner of the Company, over \$5,000,000 in damages, and various interlocutory relief.

8. On March 27, 2023, in the Andrea Action, Andrea served the defendants with a motion record for a motion to be heard the following day seeking, among other things, payment of monthly dividends of \$7,000 from the Company. A copy of the Notice of Motion dated March 24, 2023, as attached as **Exhibit “H”** to this affidavit.

9. On March 28, 2023, in the Andrea Action, the lawyers for the parties attended an urgent case conference before the Honourable Justice Williams. The case conference was adjourned to April 6, 2023. A copy of the case conference endorsement of Justice Williams is attached as **Exhibit “I”** to this affidavit.

10. On March 28, 2023, Peter Jr. commenced another action against Peter, John, and the Company bearing court file no. CV-23-00000090-0000 (the “**Peter Jr. Employment Action**”). In the Statement of Claim in the Peter Jr. Employment Action, a copy of which is attached as **Exhibit “J”** to this affidavit, Peter Jr. claims, among other things, over \$350,000 in damages related to his dismissal as an employee of the Company.

11. On April 3, 2023, the Company filed a Notice of Intention to Make a Proposal (the “**NOI**”) and the Office of the Superintendent of Bankruptcy Canada issued a Certificate of Filing of a Notice of Intention to Make a Proposal, copies of which are respectively attached as **Exhibits “K”** and “**L**” to this affidavit.

12. On April 6, the parties attended a case conference before the Honourable Justice Tranmer. Justice Tranmer scheduled the motion brought by Andrea to be heard on May 24, 2023, and set a timetable for the motion. A copy of Justice Tranmer’s case conference endorsement is attached as **Exhibit “M”** to this affidavit.

13. I swear this affidavit in support of the Applicant’s motion and for no other or improper purposes.

**SWORN** by Sandra Noe at the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits  
(or as may be)

**CHRISTOPHER SHOREY (70135B)**

---

**SANDRA NOE**

RCP-E 4D (February 1, 2021)

This is Exhibit “A” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**PETER KARKOULIS**

Plaintiff

- and -

**PETER KARKOULIS, JOHN KARKOULIS, and  
LA SALLE MOTEL CO. (KINGSTON) LTD.**

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**



**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

DATE: August 5, 2022

Issued by

\_\_\_\_\_  
Local Registrar  
5 Court Street  
Kingston, ON K7L 2N4

TO: **PETER KARKOULIS**  
2 Authors Lane  
Kingston, ON K7M 7W7

AND TO: **JOHN KARKOULIS**  
45 Dickens Drive  
Kingston, ON K7M 2M5

AND TO: **LA SALLE MOTEL CO. (KINGSTON) LTD.**  
2360 Princess Street  
Kingston, ON K7M 3G4

**CLAIM**

1. The Plaintiff, Peter Karkoulis (the “Plaintiff”), claims against the Defendants, Peter Karkoulis, John Karkoulis, and La Salle Motel Co. (Kingston) Ltd. (the “Defendants”):
  - a) a declaration of a constructive or resulting trust based on proprietary estoppel over the business operated under the name “Travelodge Kingston LaSalle Hotel” (the “LaSalle Hotel”), all of the assets of LaSalle Hotel, and the following real property:  
  
PT LT 14 CON 3 KINGSTON AS IN FR315986; S/T FR332477, TKU12314;  
  
KINSTON registered as PIN 36086-0103 (LT) and municipally known as 2360 Princess Street, Kingston, Ontario (the “LaSalle Property”);
  - b) in the alternative to constructive or resulting trust, equitable compensation in the amount of \$5,000,000.00 and such further amounts as will be particularized prior to trial pursuant to the doctrine of unjust enrichment;
  - c) a certificate of pending litigation against the LaSalle Property;
  - d) costs on a substantial indemnity basis; and
  - e) prejudgment and post judgment interest under the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**The Parties**

2. The Plaintiff is an individual residing in the City of Kingston, Ontario. He is currently the General Manager of the LaSalle Hotel.

3. The Defendant, La Salle Motel Co. (Kingston) Ltd. (the “Company”), is a corporation duly registered pursuant to the laws of Ontario having its head office in Kingston, Ontario. The Company is currently the owner of the LaSalle Hotel and the LaSalle Property.
4. The Defendant, Peter Karkoulis, is an individual residing in Kingston, Ontario and is currently an officer and director of the Company.
5. The Defendant, John Karkoulis, is an individual residing in Kingston, Ontario and is currently an officer and director of the Company.
6. The Defendants, Peter Karkoulis and John Karkoulis, are the Plaintiff’s uncles (collectively referred to as the “Uncles”).

### **Background**

7. In or about 1966, the Plaintiff’s father, George Karkoulis, and the Uncles purchased the LaSalle Hotel and Cavalier Room in Kingston, Ontario. The LaSalle Motel would eventually become the LaSalle Hotel.
8. The LaSalle Hotel has been owned and operated by the Karkoulis family since its inception. Many members of the extended Karkoulis family have worked at LaSalle Hotel. The LaSalle Hotel was always intended to be a multi-generational business and the Karkoulis family, including the Uncles, discussed on many occasions that the business would be sold to whatever children wanted to take over the business.
9. The Plaintiff was born in 1967. He spent his early years visiting the LaSalle Hotel and spending time there with his parents and extended family.

10. On June 17, 1974, the Company was incorporated by George Karkoulis and the Uncles. The LaSalle Hotel and its assets, including the LaSalle Property, were subsequently transferred to the Company. George Karkoulis and the Uncles were also appointed as directors and officers of the Company. Each was an equal shareholder although no formal shareholder agreement was drafted.
11. The Plaintiff began working at the LaSalle Hotel when he was still in high school at Kingston Collegiate and Vocational Institute (“KVCI”). He started by handling maintenance, lawn care, and running errands.
12. When the Plaintiff graduated from KVCI, he chose not to pursue a university or college degree and instead began to work full-time at the LaSalle Hotel.
13. The Plaintiff decided to dedicate his working life to the LaSalle Hotel in reliance on the promises and assurances from his parents and Uncles that they would sell the Company and/or all of the Company’s assets to the Plaintiff one day.
14. George Karkoulis passed away in 1995.
15. On May 31, 1995, shortly before George Karkoulis’ passing, the Plaintiff’s mother, Andrea Karkoulis, was appointed as a director of the Company.
16. Following the passing of George Karkoulis, the Uncles continued to promise and assure the Plaintiff that he would have the opportunity to purchase the Company and/or all of the Company’s assets if they ever considered selling the business.

17. The Plaintiff having started working at the LaSalle Hotel in maintenance, received multiple promotions, and eventually earned the role of General Manager of the LaSalle Hotel in 2002.
18. In 2008, the Plaintiff personally purchased an abutting property next to the LaSalle Property. The abutting property would allow for access to the traffic lights on Augusta Drive which would allow the LaSalle Hotel to increase its capacity and thereby increase the business and its' value. The Uncles did not approve of this plan. The Plaintiff intended to enact his vision for the abutting property when he took over the LaSalle Hotel.
19. In or about late 2018 and into 2019, the Uncles became interested in selling the Company and/or all of the Company's assets. The Plaintiff confirmed that he intended to buy the Company.
20. The Plaintiff and Uncles agreed that they would solicit offers for the business on the open market to determine the value of the business. The Plaintiff would then proceed to secure financing in an amount consistent with the fair market value of the business as confirmed by third party offers.
21. A third party offered to purchase the Company and/or all of the Company's assets for approximately \$9,500,000.00.
22. The Plaintiff took steps at his personal expense to secure financing enabling him to purchase the business.
23. The Plaintiff and the Uncles met with professionals including an accountant and a lawyer, to determine how the transaction would be structured.

24. In late 2019 and early 2020, the Plaintiff met with two financial institutions, Bank of Montreal (“BMO”) and Business Development Bank of Canada (“BDC”), to begin the process of securing financing to purchase the Company.
25. The Plaintiff had begun the financing process with BMO until he was informed that due to the onslaught of the COVID-19 pandemic, the bank would not lend into this sector. The Plaintiff was advised to contact BDC.
26. The Plaintiff contacted BDC and began the process of securing financing however soon thereafter was advised that BDC could also not grant financing due the COVID-19 pandemic. Attempts to sell the business ceased given the realities of the pandemic.
27. In or about the summer of 2021, the Uncles listed the property with a realtor. The Plaintiff understood that the same process would be employed, namely that market values would be obtained and that he would have the opportunity to buy the business.
28. His Uncles were aware of his intent in this regard and the Plaintiff was assured by his Uncle John throughout this time that the Uncles would not sell without his involvement.
29. Unknown to the Plaintiff at the time, in or about November of 2021, the Uncles purported to accept an offer and create a binding agreement of purchase and sale. This was done covertly and contrary to the express and implied assurances made to the Plaintiff that he would in fact be able to purchase the business.
30. In December 2021, the Plaintiff discovered that in fact the Uncles had executed an APS with a third party to sell the LaSalle Hotel and the Company assets, without his knowledge

or consent and without providing the Plaintiff with the opportunity to purchase the business.

31. When confronted with these facts, Uncle John confessed but indicated that he would do everything possible to back out of the deal.
32. The Plaintiff delayed commencing this action as he knew that to commence litigation against his (over) 90 year old Uncles would quite literally tear the entire family apart. He anguished over this reality. He also felt there was good reason to believe that the Uncles could in fact back out of the deal.
33. Once again, he relied on the assurances of Uncle John in this regard.
34. Indeed, the Plaintiff has learned that the purchaser requested extensions, but the Uncles failed to terminate the agreement instead agreeing to amendments to extend the closing.
35. The Plaintiff learned that the deal remained firm in or about early June of 2022, with a closing date of August 10<sup>th</sup>, 2022. He has been forced to commence this action in the result.

#### **Constructive or Resulting Trust and Proprietary Estoppel**

36. The Plaintiff relied on the Defendants' repeated representations and promises that he would have the opportunity to purchase the Company and/or all of the Company's assets and claims a proprietary interest in the Company and/or all of the Company's assets arising from an express, or in the alternative, a resulting trust.

37. The Plaintiff also relies on the doctrine of proprietary estoppel and states that the Defendants induced, or in the alternative, allowed him to believe that he would be afforded to the opportunity to purchase the Company and/or all of the assets of the Company.
38. The Plaintiff states that, in reliance upon his parents and Uncles' promises and representations, he decided to forego pursuing other career options and dedicate his entire working life to working for the Defendants as a General Manager at a below-market salary. He also worked an extraordinary amount of unpaid overtime to help the Company in anticipation of one day purchasing the business. He has relied upon these representations and warranties to his detriment in the result.
39. The Plaintiff's contributions to managing the LaSalle Hotel, and for below-market salary and extraordinary overtime have allowed the Defendants to continue to collect profits, grow the business and has significantly increased the overall value of the business.
40. The Plaintiff states it would be unconscionable to deny the Plaintiff the opportunity to purchase the Company and/or all of the assets of the Company.
41. The Plaintiff states that the Defendants are estopped from denying the Plaintiff's proprietary interest in the Company and/or disposing of all the assets of the Company based on the doctrine of proprietary estoppel and that the Real Property is held in a constructive trust for the Plaintiff.

### **Unjust Enrichment**

42. The Plaintiff has enriched the Defendants by working to his detriment as described above.



43. The Plaintiff was correspondingly deprived of his time, a market rate salary, and the opportunity to pursue other potentially more lucrative career options. In addition, the Plaintiff was deprived of the opportunity to use his time and to obtain a higher salary to further develop the Plaintiff's personal finances, save for retirement, and to generate revenues, proceeds, and profits from investments.
44. There is no juristic reason for the enrichment of the Defendants and corresponding deprivation of the Plaintiff. Further, there is no other or residual reason, and it would be unjust for the Defendants to retain this enrichment.
45. The LaSalle Hotel and the LaSalle Property are of special value to the Plaintiff because it is a family business to which he has dedicated his entire working life and had always planned to purchase as part of his life path and retirement plans. As such, the Plaintiff states that monetary damages are insufficient to compensate him for his equitable losses and a proprietary remedy is appropriate.

**Place of Trial**

46. The Plaintiff proposes this action be tried in the City of Kingston, Ontario.

DATE: August 5, 2022

**CUNNINGHAM, SWAN, CARTY,  
LITTLE & BONHAM** <sup>LLP</sup>  
Barristers and Solicitors  
27 Princess Street, Suite 300  
Kingston, ON K7L 1A3  
Tel: (613) 544-0211

**DAVID M. ADAMS**  
LSO #29181F  
dadams@cswan.com

11

**ZACHARY Y. DUBEAU**  
LSO #79404A  
zdubeau@cswan.com

Lawyers for the Plaintiff



This is Exhibit “B” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

**PETER KARKOULIS**  
PLAINTIFF

-and-

**PETER KARKOULIS ET AL.**  
DEFENDANTS

Court File No. CV-22-00000223-0000

5 August 2022 (ex parte motion for CPL)

The plaintiff asserts a proprietary interest in what his factum describes as the "LaSalle Property" as a result of his claim to the remedy of proprietary estoppel arising from the existence of a constructive or resulting trust in his favour. The plaintiff need only show that his claim is plausible and that there is a serious issue to be tried. I am satisfied that he has met that threshold and that the balance of other relevant factors weighs in favour of granting the CPL.



Mew J.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Kingston

**MOTION RECORD OF THE MOVING PARTY**

**CUNNINGHAM, SWAN, CARTY,  
LITTLE & BONHAM LLP**  
Barristers & Solicitors  
Suite 300 - 27 Princess Street  
Kingston, ON K7L 1A3  
Tel: 613-544-0211

**DAVID M. ADAMS**  
LSO # 29181F  
dadams@cswan.com

**ZACHARY Y. DUBEAU**  
LSO # 79404A  
zdubeau@cswan.com

Lawyers for the Plaintiff

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE JUSTICE MEW ) FRIDAY , THE 5th DAY  
 )  
 ) OF AUGUST , 2022

B E T W E E N :



**PETER KARKOULIS**

Plaintiff

- and -

**PETER KARKOULIS, JOHN KARKOULIS, and  
LA SALLE MOTEL CO. (KINGSTON) LTD.**

Defendants

**O R D E R**

**THIS MOTION WITHOUT NOTICE TO THE DEFENDANTS**, made by the Plaintiff, Peter Karkoulis, was read this day at the Courthouse located at 5 Court Street, Kingston, Ontario.

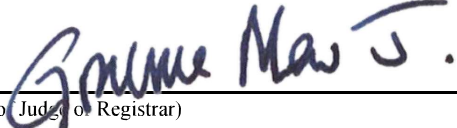
**UPON READING** the Motion Record containing the Notice of Motion and Affidavit of Peter Karkoulis, filed;

1. **THIS COURT ORDERS** that a Certificate of Pending Litigation be issued in this action with respect to the real property, 2360 Princess Street, Kingston, Ontario, legally described as follows:

PT LT 14 CON 3 KINGSTON AS IN FR315986; S/T FR332477, TKU12314;  
KINSTON registered as PIN 36086-0103 (LT)

2. **THIS COURT FURTHER ORDERS** that the property referred to in paragraph 1 hereof shall not be encumbered, dissipated, altered or interfered with in any way.

3. **THIS COURT FURTHER ORDERS** that the costs of this motion be reserved to the trial Judge, subject to any further Order of this Court.



(Signature of Judge or Registrar)

**ENTERED AT KINGSTON, ONTARIO**

**PETER KARKOULIS**  
PLAINTIFF

-and-

**PETER KARKOULIS ET AL.**  
DEFENDANTS

Court File No. CV-22-00000223-0000

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Kingston

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**ORDER**

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**CUNNINGHAM, SWAN, CARTY,  
LITTLE & BONHAM LLP**  
Barristers & Solicitors  
Suite 300 - 27 Princess Street  
Kingston, ON K7L 1A3  
Tel: 613-544-0211

**DAVID M. ADAMS**  
LSO # 29181F  
dadams@cswan.com

**ZACHARY Y. DUBEAU**  
LSO # 79404A  
zdubeau@cswan.com

Lawyers for the Plaintiff



This is Exhibit “C” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**PETER KARKOULIS**

Plaintiff/  
Defendant by Counterclaim

and

**PETER KARKOULIS, JOHN KARKOULIS, and LA SALLE MOTEL CO.  
(KINGSTON) LTD.**

Defendants/  
Plaintiffs by Counterclaim

**STATEMENT OF DEFENCE AND COUNTERCLAIM**

**DEFENCE**

1. Except as expressly admitted below, the Defendants/Plaintiffs by Counterclaim, Peter Karkoulis, John Karkoulis and La Salle Motel Co. (Kingston) Ltd. (jointly referred to as the “**Defendants**”), deny the allegations contained in the Statement of Claim and put the Plaintiff to the strict burden of proof thereof.
2. The Defendants admit the allegations contained in paragraphs 2 to 7, 9 to 10, 14, 15, 17, except the Plaintiff did not ‘earn’ the role of General Manager but rather simply started using the title and telling people that he was the general manager, and 46 of the Statement of Claim.
3. The Defendants have no knowledge in respect of the allegations contained in paragraph 18, to the extent of their knowledge of the Plaintiff’s plan, of the statement of claim.

4. In response generally to the claims made by the Plaintiff and Defendant by Counterclaim Peter Karkoulis Jr. (the “**Plaintiff**” or “**Peter Jr.**”), the Defendants state and the fact is that the Plaintiff’s claim has no merit, discloses no sustainable cause of action as against the Defendants and should be struck in its entirety.

### **The Parties**

5. The Defendant La Salle Motel Co. (Kingston) Ltd. (the “**Company**”), is a corporation duly registered pursuant to the laws of the Province of Ontario, having its head office in Kingston, Ontario.

6. The Company owns, among other things, the property municipally known as 2360 Princess Street, Kingston Ontario (the “**Property**”) and operates a hotel business located on the Property called La Salle Travelodge Motel (the “**La Salle Hotel**”).

7. The individual Defendants, Peter Karkoulis (“**Peter**”) and John Karkoulis (“**John**”) are individuals residing in the City of Kingston, Province of Ontario. Peter and John are shareholders, directors and officers of the Company.

8. The Plaintiff is an individual residing in the City of Kingston, Ontario. He is the nephew of Peter and John and son of the late George Karkoulis (“**George**”).

9. At all material times, Peter Jr. has been employed by the Company to work at the La Salle Hotel.

### **Current Litigation History**

10. By operation of the terms of an Agreement of Purchase Sale dated December 14, 2021 (the “**APS**”), Peter and John agreed to sell the assets of the Company, including the Property, to a third party purchaser, 1000073686 Ontario Inc. (hereinafter referred to as “**686**”), for a purchase price of \$8,750,000 and, after various extensions, the sale was scheduled to close on August 10, 2022.

11. On August 5, 2022, the Plaintiff obtained an *ex parte* order from the Honourable Mr. Justice Mew dated August 5, 2022 (the “**Ex Parte Order**”), which granted the Plaintiff the right to register a Certificate of Pending Litigation (“**CPL**”) against the Property and enjoined the Defendants from dealing with the Property in any way.

12. As a result of the registration of the CPL and the issuance of the Ex Parte Order, the August 10, 2022 closing did not occur and the closing date was extended to allow the Defendants to seek an order discharging the CPL and setting aside the Ex Parte Order. 686 has also sought leave to be added as a party to the action and seeks to discharge the CPL and set aside the Ex Parte Order.

13. In the event the sale of the Property is delayed any further, the financing for 686 will expire which could result in hundreds of thousands of dollars in additional interest over the term of the mortgage, among other potential damages that may be visited upon the Defendants and the Plaintiff.

### **The Claim**

14. In or about 1966, Peter and John along with their now deceased brother, George, purchased the LaSalle Hotel and Cavalier Room in Kingston, Ontario, which would eventually become the LaSalle Hotel.

15. After George died in 1995, Peter and John were to receive all of George's shares by virtue of a buy/sell agreement referred to in George's Last Will and Testament. The buy/sell agreement was never finalized.

16. Both Peter and John are executors of George's estate (the "**Estate**"), with sole and unfettered discretion to invest and or manage the assets of the Estate for the benefit of the beneficiaries of the Estate, including the shares of the Company.

17. Peter Jr. is not a shareholder of the Company, nor is he an officer or director of the Company. Peter Jr. does not have any ownership interest in the Company or the Property. He currently holds the position of general manager at the LaSalle Motel and was (and is) an employee of the Company and at all material times has been remunerated for his services.

18. The Defendants specifically deny any claim whatsoever made by the Plaintiff that asserts any sort of promise made by Peter and/or John that he was to be given:

- (a) the Company and/or Property;
- (b) a right to purchase the Company and/or Property; and/or
- (c) a right of first refusal in respect of the Company and/or Property.

Peter Jr. never submitted an offer to purchase the Company and/or the Property and never obtained financing to be able to submit a viable offer to purchase the Company and/or the Property. Any suggestion to the contrary is false and is categorically denied by the Defendants and they put the Plaintiff to the strict burden of proof thereof.

19. More particularly, over the years, Peter and John have considered selling the Company and the Property due to their respective ages, health, and desires to ensure that their estates were in order. Since as early as November 2014, Peter and John (with the assistance of professionals and members of the family, including Peter Jr. with some resistance) set out to prepare the Property and the business for sale.

20. In late 2016, Peter and John retained a commercial real estate agent and with her assistance listed the Company and the Property for sale at three (3) separate times between May of 2017 and September of 2021. During each listing, Peter Jr. was asked to assist the real estate agent with collecting information for the marketing package to be provided to interested third party purchasers. At all material times, Peter Jr. was aware of the efforts of the Defendants to sell the business and Property.

21. Over the course of the various listings that spanned several years, the Company and the Property were marketed as a redevelopment opportunity with 'holding income.' During each listing, there was interest in the Property. Although they had no obligation to do so, Peter and John provided Peter Jr. with more than ample time to come up with a viable proposal to buy the Company (and the Property), however, Peter Jr. was never able to make a formal offer to purchase, as he acknowledged to the Defendants that he was unable to secure the necessary financing to complete a sale.

22. When the Property was listed for sale for the third and final time in September of 2021, Peter Jr. was aware of the asking price and he was aware that Peter and John intended to sell the Company and the Property to a third party purchaser (as Peter Jr. had not submitted an offer to

purchase nor had he obtained a financing commitment). There was immediate interest in the Property and Peter Jr. was advised of receipt by the Company of various Letters of Intent.

23. Between the time of receipt of the initial Letter of Interest dated November 1, 2021, and the date on which Peter and John accepted the offer of 686, although they had no obligation to do so, Peter and John gave the Plaintiff an opportunity to make an offer to purchase the Company and Property. No offer was made. In November 2021, Peter Jr. was expressly advised that the Company would be entering into an agreement to sell the Property to an arm's length purchaser.

24. On or about December 14, 2021, Peter and John entered into an agreement to sell the assets of the Company and the Property to a third party purchaser, 686. They did so with authority vested in them by Resolutions passed by the Company and its shareholders.

25. In specific response to paragraph 36 of the Statement of Claim, although they were under no obligation to do so, Peter and John gave the Plaintiff several opportunities, over the course of several years, to make an offer to purchase the Company and/or all of the Company's assets and the Plaintiff failed or neglected to make an acceptable offer. As such, the Defendants deny that the Plaintiff has any proprietary interest in the Property and/or the Company whatsoever and/or all of the Company's assets arising from an express, or in the alternative, a constructive or resulting trust and put the Plaintiff to the strict burden of proof thereof.

26. In response to paragraphs 37 and 38 of the Statement of Claim, the Plaintiff was not *induced* to believe that he would be afforded the opportunity to purchase the Company and/or all of the assets of the Company. The fact is, he was given all the time that he needed to make a viable offer to purchase the Company and/or all of the assets of the Company and he failed to make an

offer. Likewise, the Defendants deny that the Plaintiff has any entitlement that would permit him to rely upon the doctrine of proprietary estoppel.

27. The Defendants deny any liability whatsoever for the career decisions or choices made by the Plaintiff. The Defendants expressly deny that the Plaintiff was paid below market salary. The Plaintiff was paid reasonable remuneration for his employment and did not sustain any deprivation as a result of any “services” that he provided to the Company. The fact is that the Plaintiff appointed himself as general manager and did less than a general manager would typically do in the hotel business. If the Plaintiff ever declined salary increases or other benefits, he did so for his own reasons, and were not at the urging of the Defendants.

28. The Defendants specifically deny that Peter Jr. worked an extraordinary amount of unpaid overtime to help the Company in anticipation of one day purchasing the business. Rather, Peter Jr. was tasked with various responsibilities, such as collecting information for the marketing package, that were within his duties and responsibilities as general manager for which he was compensated by a salary. Even then, those deliverables were often late, if delivered at all.

29. The Defendants expressly deny that there has been any unconscionable conduct on their part.

30. Likewise, the Defendants expressly deny that they have been unjustly enriched by the Plaintiff, without juristic reason.

31. In response to paragraph 39 of the Statement of Claim, the Defendants state and the fact is that the Plaintiff has never held an equity position at the Company. Peter Jr.’s contributions to managing the LaSalle Hotel were minimal at best, he never worked sufficient hours to accumulate



any overtime, and the fact is that a substantial portion of the value of the business is the Property itself and not the business. The value of the Company has nothing whatsoever to do with Peter Jr.'s "efforts" over the years. If anything, the value has suffered or degraded as a direct result of Peter Jr. meddling with the business of the Company over the years.

32. The Defendants state and the fact is that the Plaintiff was engaged with them and their real estate agent at material times during the most recent marketing phase of the Property. Peter Jr. always understood that the Property was listed for sale and had weeks, months and years to organize his financial affairs and make an acceptable offer to purchase the Company. Notwithstanding the fact that the Plaintiff allegedly dedicated his entire life to the business, when asked to put forward an offer to purchase the Company and the Property, he failed or neglected to make any sort of offer whatsoever and, after telling the Plaintiff that they would be moving forward with a sale to an arm's length purchaser, the Defendants accepted the offer of 686.

33. The Defendants state and the fact is that the recent actions of the Plaintiff (in obtaining the Ex Parte Order, delaying and potentially threatening the sale) have caused and will continue to cause irreparable harm to the Defendants which harm may not be compensable in damages.

34. The Defendants deny that the Plaintiff was ever given an explicit or implicit 'right of first refusal' on the Property and state that they do not owe a contractual (or any other) duty of care to the Plaintiff in their capacities as directors and officers of the Company and/or executors of the Estate and if there are such duties, which is denied, the Defendants have met and/or fulfilled them.

35. The Defendants plead and rely upon the provisions of the *Statute of Frauds*, R.S.O. 1990, c. S.19.

36. The Plaintiff's claim should be dismissed with costs.

### COUNTERCLAIM

37. The Defendants claim:

- (a) An Order setting aside the Ex Parte Order in its entirety, including but not limited to the CPL;
- (b) An Order directing the Frontenac Land Registry Office No. 13 to vacate the registrations of the Certificate of Pending Litigation made pursuant to the Ex Parte Order as against the Property and the Ex Parte Order;
- (c) contribution and indemnity from the Plaintiff for any and all damages that the Defendants may be ordered to pay to the third party purchaser resulting from or related to the Plaintiff's registration of the CPL on title to the LaSalle Property, including but not limited to a failure to close the contemplated sale transaction;
- (d) damages for all losses sustained by the Defendants in an amount to be determined for any losses that the Defendants incur a result of the delayed sale or a failure to close the contemplated sale transaction;
- (e) damages related to registration of the CPL pursuant to section 103(4) of the *Courts of Justice Act* and/or the failure to close the contemplated sale transaction;
- (f) damages for breach of trust and/or breach of fiduciary duty for misconduct by the Plaintiff in his capacity as an employee of the Company;

- (g) damages in an amount to be determined for the tort of interference with contractual relations and/or inducing breach of contract;
- (h) damages in an amount to be determined for conversion regarding funds that the Plaintiff removed from the Company without prior written consent or permission;
- (i) pre and post-judgment interest in accordance with the *Courts of Justice Act*;
- (j) costs of this proceeding, on a full indemnity basis, plus all applicable taxes; and,
- (k) such further and other relief as to this Honourable Court may deem just.

38. The Defendants repeat and rely upon the allegations in the Statement of Defence.

39. In addition to disrupting the sale of the Company and putting the sale at risk, the Plaintiff has misappropriated and/or used Company funds, without prior express authority to do so, for personal use in pursuit of his own personal gains and benefit at the expense and to the detriment of the Company.

40. More particularly, Peter and John have discovered that Peter Jr. paid his own personal legal fees, personal accounting fees, and obtained an appraisal report for his personal use out of Company funds, among other payments. At no time was Peter Jr. authorized to use Company funds to pay his own personal expenses for anything whatsoever and those funds must be returned to the Company forthwith.

41. Peter Jr. is liable for conversion as he wrongfully interfered with Company funds inconsistent with the Company's rights of possession. Specifically, he:

- (a) committed a wrongful act by taking and/or using Company funds for personal use without the Company's authorization;
  - (b) disposed of the Company funds by using them for his own personal uses (e.g., he used Company funds to pay his own personal lawyers for legal fees, restaurant and bar charges, clothing, sports equipment, automotive, accountants and other professionals such as property appraisers); and
  - (c) did so with the intent and the effect of denying or negating the Company's ownership of the funds.
42. Peter Jr. is liable for breach of fiduciary duty:
- (a) Peter Jr., as general manager of the Company, was in a fiduciary relationship with the Company;
  - (b) Peter Jr. had a fiduciary duty to act in the best interests of the Company; and
  - (c) Peter Jr. breached his fiduciary duty by, among other things, taking or using Company funds for his own purposes, obtaining the Ex Parte Order against the Company, and registering the CPL on title to the Property.
43. Peter Jr. is liable for breach of trust:
- (a) Peter Jr. and the Company both intended that any Company funds held by Peter Jr. and/or that Peter Jr. had access to would be used for the exclusive benefit of, or be held in trust for, the Company; and

- (b) Peter Jr. breached that trust relationship by taking or using Company funds for his own purposes.
44. Peter Jr. is liable for inducing breach of contract:
- (a) the APS was a valid and enforceable contract between the Company and 686;
  - (b) Peter Jr. was aware of the APS and its terms;
  - (c) Peter Jr. intended to and did procure a breach of the APS by registering the CPL on title to the Property, which caused the Company to breach the APS by, among other things, not being able to transfer the Property to 686 on the closing date;
  - (d) the Company either has or will suffer damages as a result of breaching the APS, which damages will be particularized at or before trial; and
  - (e) Peter Jr. was not justified in procuring the breach of the APS.
45. Peter Jr. is liable for interference with contractual relations:
- (a) Peter Jr.'s actions against 686 and its interests in the Property were unlawful;
  - (b) in committing those unlawful actions, Peter Jr. intended to cause economic harm to the Defendants; and
  - (c) he did in fact cause economic harm to the Defendants.

46. This counterclaim should be tried either at the same time as the action or immediately following the action, in the City of Kingston, Ontario.

September 30, 2022

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Lawyers for the Plaintiff/Defendant by Counterclaim

PETER KARKOULIS.  
Plaintiff/Defendant by Counterclaim

-and-

PETER KARKOULIS et al.  
Defendants/Plaintiffs by  
Counterclaim

Court File No. CV-22-00000223

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Kingston

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**STATEMENT OF DEFENCE AND  
COUNTERCLAIM**

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Lawyers for the Defendants/Plaintiffs by Counterclaim

This is Exhibit “D” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**





1. **THIS COURT ORDERS** that the Motion of 1000073686 to be added as a party is hereby dismissed.
2. **THIS COURT ORDERS** that the Motion of the Defendants for an Order to set aside the without notice Order of the Honourable Justice Mew dated August 5, 2022 and to discharge the Certificate of Pending Litigation is hereby dismissed;
3. **THIS COURT FURTHER ORDERS** that the Non-Party 1000073686 Ontario Inc., pay to the Plaintiff costs of that motion in the set amount of \$3,500.00.
4. **THIS COURT FURTHER ORDERS** that the Defendants, pay to the Plaintiff his costs in the amount of \$47,000.00 inclusive of HST and disbursements as agreed by the parties.

*Ryan Bell J.*

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(Signature of Judge or Registrar)

**PETER KARKOULIS**  
PLAINTIFF

-and-

**PETER KARKOULIS ET AL.**  
DEFENDANTS  
Court File No. CV-22-00000223-0000

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Kingston

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**ORDER**

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Lawyers for the Plaintiff

This is Exhibit “E” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

**CITATION:** Karkoulis v. Karkoulis, 2023 ONSC 499  
**COURT FILE NO.:** CV-22-00000223  
**DATE:** 2023/01/19

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

Peter Karkoulis

Plaintiff

)  
)  
)  
) David M. Adams and Zachary Y. Dubeau,  
) for the Plaintiff

**– and –**

Peter Karkoulis, John Karkoulis and La  
Salle Motel Co. (Kingston) Ltd.

Defendants

)  
) Kathleen McDormand and Jason Dutrizac,  
) for the Defendants

)  
) Richard J. Worsfold, for 1000073686  
) Ontario Inc.

)  
)  
)  
)  
)  
) **HEARD:** October 6 and 21, 2022

**REASONS FOR DECISION ON MOTION TO DISCHARGE CPL**

**RYAN BELL J.**

**Overview**

[1] On August 5, 2022, Mew J. granted leave to the plaintiff Peter Karkoulis (“Peter Jr.”)<sup>1</sup> to register a certificate of pending litigation against the property located at 2360 Princess Street, Kingston, Ontario (the “LaSalle Property”). Justice Mew also enjoined the defendants Peter Karkoulis (“Peter Sr.”), John Karkoulis, and La Salle Motel Co. (Kingston) Ltd. from dealing with the LaSalle Property in any way. Justice Mew found that Peter Jr. had a plausible claim to the LaSalle Property by way of a constructive or resulting trust.

[2] The motion before Mew J. was without notice to the defendants. The defendants now move to set aside Mew J.’s order and to discharge the CPL. They contend that Peter Jr. has no triable

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<sup>1</sup> For clarity, I have used the parties’ first names throughout these reasons.

interest in the LaSalle Property, and that he failed to make full and frank disclosure on the motion before Mew J. The defendants also argue that, having regard to all the equities, the interests of justice favour discharge of the CPL. They contend that the injunctive relief ordered by Mew J. should be set aside and point out that Peter Jr. did not provide an undertaking as to damages on the motion before Mew J.

[3] Peter Jr. opposes the defendants' motion. He argues that there was no material non-disclosure because none of the alleged non-disclosed facts would have changed the outcome of the motion before Mew J. Peter Jr. has now provided an undertaking as to damages.

[4] Peter Jr.'s motion for a CPL was heard by Mew J. five days before the sale of the defendant corporation's assets, including the LaSalle Property, was scheduled to close. The proposed purchaser, 1000073686 Ontario Inc. ("686 Ontario"), moved to be added as a party to the action. Peter Jr. opposed 686 Ontario's motion. The defendants took no position. After hearing submissions, I dismissed 686 Ontario's motion for brief oral reasons, with more detailed written reasons to be provided in due course. My reasons for dismissing 686 Ontario's motion are included in these reasons for decision.

[5] For the following reasons, the defendants' motion to set aside the order of Mew J. and to discharge the CPL is dismissed.

### **Background**

[6] In 1966, Peter Sr., John, and their brother George purchased the LaSalle Hotel and Cavalier Room in Kingston, later operated under the name Travelodge Kingston LaSalle Hotel. George died in 1995. George's shares in the corporate defendant are held by his estate, of which Peter Sr. and John are the executors. Peter Sr. and John are the officers and directors and the remaining shareholders of the corporate defendant.

[7] Peter Jr. is George's son and the nephew of Peter Sr. and John. Peter Jr. has been involved in the business of the LaSalle Hotel since he was a teenager. Currently, he is the general manager of the LaSalle Hotel.

[8] Peter Jr. maintains that following George's death, Peter Sr. and John promised him that he would have the opportunity to purchase the corporate defendant and/or all of its assets if they ever considered selling the business. Peter Jr. claims that he has and continues to dedicate his life to the LaSalle Hotel in reliance on his uncles' assurances that he would one day have the opportunity to purchase the business.

[9] On December 14, 2021, Peter Sr. and John entered into an agreement to sell the corporate defendant, including the LaSalle Property, to 686 Ontario. Peter Sr. and John say that between the time they received 686 Ontario's letter of interest on November 1, 2021 and their acceptance of 686 Ontario's offer, they gave Peter Jr. "one last opportunity" to make an offer to purchase the corporate defendant and the LaSalle Property.

[10] Peter Jr. says he was aware that the business and the LaSalle Property had been listed for sale and that offers had been received; however, he relied on John's affirmation that the purpose

of the listing was to determine the market value so that Peter Jr. could make a competitive offer. Peter Jr.'s evidence is that he was not aware that a deal had been signed until December 17, 2021.

[11] The defendants deny that the purpose of the listing was to test market value. The business and the LaSalle Property were previously listed for sale in 2017. When the first listing produced no acceptable offers, the listing was extended. Peter Sr. and John told Peter Jr. that he would have a bit more time to submit a viable offer. Peter Jr. made no offer. According to the defendants, all of the listings were "very real" and Peter Sr. and John's intention to proceed with the sale was made clear to Peter Jr.

### **686 Ontario's motion to be added as a party**

[12] 686 Ontario moved for leave to intervene as an added party pursuant to r. 13.01 of the *Rules of Civil Procedure*.<sup>2</sup> The factors the court is to consider in determining whether to grant leave to intervene are the nature of the case, the issues that arise, whether the issues are essentially private or whether they involve a public interest component, the likelihood of the proposed intervenor making a useful contribution to the resolution of the issues, and whether the proposed intervenor's participation would be unfair to the immediate parties: *Affleck v. AGO*, at para. 15.<sup>3</sup>

[13] In my view, the proposed intervenor, 686 Ontario, would not add or contribute to the resolution of what are private legal issues between Peter Jr. and the defendants. 686 would simply repeat the position taken by the defendants and would add nothing to the proceedings other than the potential to unduly complicate issues: *2194210 Ontario Limited v. Aspen Acquisition Inc.*, at paras. 16-19.<sup>4</sup>

[14] In *Kalinitchenko v. Allure at the Gates of Aurora Inc.*,<sup>5</sup> Leibovich J. denied a third party purchaser's motion for leave to intervene:

I find that it would be unfair to the plaintiffs if I allowed the proposed intervention. The third-party purchasers are clearly aligned with the defendants. The legal arguments they intend to make refuting the plaintiff's request are made by the defendants. The relevant facts surrounding their involvement are also set out by the defendants. I do not see their proposed participation as making a useful contribution to the resolution of the plaintiffs' motion. In addition, their proposed participation has the potential to unduly complicate the issues.<sup>6</sup>

[15] The same is true in this case. 686 Ontario sought leave to intervene on the grounds that it has a "clear interest" in the subject matter of the proceedings and it has been adversely affected by the order of Mew J. However, 686 Ontario's interest, and any damages it might suffer, would be

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<sup>2</sup> R.R.O. 1990, Reg. 194.

<sup>3</sup> 2019 ONSC 1292.

<sup>4</sup> 2012 ONSC 5304.

<sup>5</sup> 2021 ONSC 438.

<sup>6</sup> *Kalinitchenko*, at para. 13.

consequential to the outcome of the private dispute between Peter Jr. and his uncles and the corporate defendant: *2194210 Ontario*, at para. 18. 686 Ontario is not required to adjudicate effectively on the issues between Peter Jr. and the defendants. There is no suggestion that 686 Ontario has relevant evidence relating to the dispute between Peter Jr. and the defendants, and it is doubtful that 686 Ontario would provide any useful contribution to the proceedings. 686 Ontario's proposed arguments on the motion to discharge the CPL are the same as those advanced by the defendants. It would be unfair to Peter Jr. if I allowed the proposed intervention.

[16] For these reasons, I dismissed 686 Ontario's motion for leave to intervene as an added party. 686 Ontario shall pay costs of the motion to Peter Jr. in the agreed upon amount of \$3,500.

### **The test on a motion to discharge a CPL**

[17] The court's jurisdiction to grant leave to issue a CPL is set out in s. 103 of the *Courts of Justice Act*.<sup>7</sup> The factors the court must consider on a motion for leave to issue a CPL made on notice or on a motion to discharge a CPL were summarized by Master Glustein, as he then was, in *Perruzza v. Spatone*, at para. 20:<sup>8</sup>

- (i) The test on a motion for leave to issue a CPL made on notice to the defendants is the same as the test on a motion to discharge a CPL (*Homebuilder Inc. v. Man-Sonic Industries Inc.*, 1987 CarswellOnt 499 (S.C.-Mast.) (“*Homebuilder*”) at para. 1);
- (ii) The threshold in respect of the “interest in land” issue in a motion respecting a CPL (as that factor is set out at section 103(6) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43) is whether there is a triable issue as to such interest, not whether the plaintiff will likely succeed (*1152939 Ontario Ltd. v. 2055835 Ontario Ltd.*, 2007 CarswellOnt 756 (S.C.J.), as per van Rensburg J., citing *Transmaris Farms Ltd. v. Sieber*, [1999] O.J. No. 300 (Gen. Div. – Comm. List) at para. 62);
- (iii) The onus is on the party opposing the CPL to demonstrate that there is no triable issue in respect to whether the party seeking the CPL has “a reasonable claim to the interest in the land claimed” (*G.P.I. Greenfield Pioneer Inc. v. Moore*, 2002 CanLII 6832 (ON CA), 2002 CarswellOnt 219 (C.A.) at para. 20);
- (iv) Factors the court can consider on a motion to discharge a CPL include (i) whether the plaintiff is a shell corporation, (ii) whether the land is unique, (iii) the intent of the parties in acquiring the land, (iv) whether there is an alternative claim for damages, (v) the ease or difficulty in calculating damages, (vi) whether damages would

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<sup>7</sup> R.S.O. 1990, c. C.43.

<sup>8</sup> 2010 ONSC 841.



be a satisfactory remedy, (vii) the presence or absence of a willing purchaser, and (viii) the harm to each party if the CPL is or is not removed with or without security (*572383 Ontario Inc. v. Dhunna*, 1987 CarswellOnt 551 (S.C.-Mast.) at paras. 10-18); and

- (v) The governing test is that the court must exercise its discretion in equity and look at all relevant matters between the parties in determining whether a CPL should be granted or vacated (*931473 Ontario Ltd. v. Coldwell Banker Canada Inc.*, 1991 CarswellOnt 460 (Gen. Div.); *Clock Investments Ltd. v. Hardwood Estates Ltd.*, 1977 CanLII 1414 (ON SC), 1977 CarswellOnt 1026 (Div. Ct.) at para. 9).

[18] It is not the court's role to determine whether the plaintiff's claim will likely succeed at trial, but whether a triable issue exists with respect to a reasonable claim to an interest in land: *HarbourEdge Mortgage Investment Corp. v. Timbercreek Mortgage Investment Corp. (Trustee of)*, at para. 56.<sup>9</sup> The onus is on the party opposing the CPL to show that there is no triable issue: *Boal v. International Capital Management Inc.*, at para. 64.<sup>10</sup>

[19] In determining if there is a triable issue, the evidentiary bar is low: *Saggi v. Grillone*, at paras. 45 and 62;<sup>11</sup> *Pauwa North America Development Group Co. Ltd. v. Skyline Port McNicoll (Development) Inc.*, at para. 38.<sup>12</sup> The court is not to assess credibility or decide disputed issues of fact and credibility: *Huntjens v. Obradovic*;<sup>13</sup> *Pauwa*, at para. 38.

[20] If the triable issue as to a reasonable interest in land threshold is met, the court must then consider whether it is just and equitable, based on all the circumstances, to exercise its discretion to grant a CPL by considering and balancing the equities, including the so-called *Dhunna* factors: *Sun Rise Elephant Property Investment Corporation v. Luu*, at para. 12.<sup>14</sup>

### **The nature of the interest in land asserted by Peter Jr.**

[21] The defendants submit that Peter Jr. does not have an ownership interest in the LaSalle Property. They say that what Peter Jr. describes as a beneficial interest in the land is no more than an oral agreement to be given an opportunity to make an offer for the business and the LaSalle Property. Assuming that contractual right existed, it does not constitute an interest in land.

[22] The defendants are incorrect as to the nature of the interest in land asserted by Peter Jr. Peter Jr. claims an equitable interest in the land by way of a constructive or a resulting trust giving

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<sup>9</sup> [2016] O.J. No. 265.

<sup>10</sup> [2018] O.J. No. 1954.

<sup>11</sup> 2020 ONSC 4140.

<sup>12</sup> 2021 ONSC 18.

<sup>13</sup> 2019 ONSC 4343.

<sup>14</sup> 2018 ONSC 5247.

rise to proprietary estoppel. In *Cowper-Smith v. Morgan*,<sup>15</sup> the Supreme Court of Canada described proprietary estoppel in the following terms:

To establish proprietary estoppel one must first establish an equity of the kind that proprietary estoppel protects. This requires three things: a representation or assurance on the basis of which the claimant expects to enjoy a right or benefit over property, reasonable reliance on that expectation, and detriment as a result of the reliance. When the owner of an interest in the property over which the claimant expects to enjoy a right or benefit is responsible for the representation or assurance, then the equity established by the claimant's reasonable reliance may be given effect by proprietary estoppel.<sup>16</sup>

[23] In granting the CPL, Mew J. recognized the nature of Peter Jr.'s claim to an interest in the LaSalle Property and found that the triable issue as to a reasonable interest in land threshold had been met:

The plaintiff asserts a proprietary interest in what his factum describes as the "LaSalle Property" as a result of his claim to the remedy of proprietary estoppel arising from the existence of a constructive or resulting trust in his favour. The plaintiff need only show that his claim is plausible and that there is a serious issue to be tried. I am satisfied that he has met that threshold and that the balance of other relevant factors weighs in favour of granting the CPL.

[24] Where a reasonable claim to an interest in land is put forward in an action for a proprietary remedy, including a constructive or a resulting trust, a CPL may issue: *Avan v. Benarroch*, at para. 26;<sup>17</sup> *Ambassador Electric Inc. v. Fernwood Builders (London Ltd.)*, at para. 79;<sup>18</sup> *Perruzza*, at paras. 33-34.

### **Alleged material non-disclosure**

[25] Rule 39.01(6) provides that on a motion without notice, the moving party shall make full and fair disclosure of all material facts, and failure to do so is, in itself, sufficient ground for setting aside any order obtained on the motion.

[26] To be considered material, the fact alleged to have not been disclosed must be one that would have affected the outcome of the original motion; the question is whether the moving party on the without notice motion neglected to advise the court of a fact that may have influenced the court's approach to the motion. Rule 39.01(6) is not engaged if the undisclosed facts are ones that

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<sup>15</sup> 2017 SCC 61.

<sup>16</sup> *Cowper-Smith v. Morgan*, at para. 23.

<sup>17</sup> 2017 ONSC 4729.

<sup>18</sup> 2014 ONSC 3738.

go to the merits of the overall action, but not the original motion: *Correct Group Inc. v. City of Barrie*, at paras. 70-71.<sup>19</sup>

[27] While material non-disclosure may be a stand-alone ground to discharge a CPL, it does not automatically result in the loss of the CPL. Material non-disclosure is an important factor to be considered in balancing the equities; however, the overarching concern remains whether, considering all the equities, the interests of justice favour the discharge: *Persaud v. Ramawad*, at para. 75;<sup>20</sup> *K.A. v. Mitchell*, at para. 19.<sup>21</sup>

[28] The defendants have identified documents and facts that were not included in Peter Jr.'s without notice motion record. The defendants also allege that Peter Jr.'s motion record contained misleading or incorrect statements. The omissions are said to include:

- A November 12, 2021 email from the corporate defendant's lawyer (Mr. Doyle) to Peter Jr.'s corporate lawyer (Mr. Benson). The email states that Peter Sr. and John are considering offers for the LaSalle Property and states that they have no obligation to sell to Peter Jr. The defendants characterize this omission as "crucial."
- A January 14, 2022 letter from Peter Jr.'s counsel to the corporate defendant's counsel. The defendants submit that this letter ought to have been disclosed to Mew J. because it discloses that Peter Jr. cooperated with the due diligence process required to complete the sale to 686 Ontario. The defendants also emphasize that there was nothing in the letter to indicate that Peter Jr. planned on making an offer for the property.
- Emails, prior listing agreements, and valuations, all of which were in Peter Jr.'s possession at the time of the without notice motion, which the defendants say contradict Peter Jr.'s version of events and establish Peter Sr. and John's intentions to sell the LaSalle Property, dating back to November 2014.
- The September 2021 listing agreement.
- Peter Jr.'s non-disclosure to Mew J. that he had "years and years" to make an offer if he had "truly wanted to" and that he was never going to make an offer in the amount that Peter Sr. required.
- A June 20, 2019 email from Peter Jr. in which he advised that "if I can't get financing I will remove myself from the mix."

[29] The defendants maintain that had this evidence been before Mew J., Peter Jr.'s request for a CPL would have been refused because this evidence demonstrates that Peter Jr. has no interest

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<sup>19</sup> 2013 ONSC 4477. See also *Horrocks v. McConville et al.*, 2021 ONSC 522, at para. 12; *Zhao v. 8657181 Canada Inc.*, 2020 ONSC 2864, at paras. 24-25.

<sup>20</sup> 2021 ONSC 5888.

<sup>21</sup> 2013 ONSC 4051.

in the LaSalle Property entitling him to a CPL. The defendants' position is summarized at paragraph 29 of their factum:

The only reason that the Company and the Property were not sold earlier on in the process, was because Peter [Sr.] and John wanted to give the Plaintiff an opportunity to make an acceptable offer. When it became apparent that the Plaintiff could not secure financing and a reasonable offer was not forthcoming, Peter [Sr.] and John moved on and even then, they gave the Plaintiff one last chance. They then expressly informed the Plaintiff, through his counsel, that they would be moving forward with a potential purchaser. Contrary to the Plaintiff's evidence, he was given plenty of time to make an offer and failed to do so. Likewise, given the November 12, 2021 letter from Mr. Doyle to the Plaintiff's counsel, he could not have been surprised or blind-sided when the Property was sold. He had been advised that John and Peter would be proceeding to a sale.

[30] In brief, the defendants say that if Peter Jr. had an interest in purchasing the LaSalle Property, he had years to do so and he was involved at "every step of the way." The defendants also maintain that Mew J. was under a "misapprehension" regarding the nature of the interest claimed by Peter Jr.

[31] With respect, it is the defendants who misapprehend the nature of the interest in land claimed by Peter Jr. Peter Jr. claims a constructive or a resulting trust based on promises and representations allegedly made by the defendants that he would have the opportunity to purchase the LaSalle Property and/or the assets of the corporate defendant. Justice Mew was satisfied that Peter Jr.'s claim to proprietary estoppel arising from a constructive or a resulting trust is plausible and that there is a serious issue to be tried. It is with this lens that I must consider whether there was non-disclosure of material facts.

[32] In my view, having regard to the nature of Peter Jr.'s claim to an interest in the LaSalle Property, the alleged omissions and non-disclosure do not call into question Mew J.'s approach to the motion or the outcome of the motion. In support of their position, the defendants rely on contested facts, interpretations, and inferences. However, it is not the role of this court on this motion to assess credibility or to decide disputed issues of fact and credibility.

[33] As I have stated, Mew J. did not suffer from being ill-informed about the applicable law or the nature of the interest claimed by Peter Jr. Peter Jr. was under no obligation to anticipate how he might be cross-examined about "contestable facts" or "contestable interpretations" of what inferences might be drawn from the facts: *Boal*, at para. 86. I adopt the observations of Perell J. in *Boal* regarding what is and is not required of a moving party on a motion without notice:

An interlocutory motion made without notice remains within the context of an adversary system, and while a party moving without notice cannot take unfair advantage of the absence of his or her adversary in arguing the facts and the law, and it goes without saying that the moving party cannot intentionally deceive or mislead the court, he or she is not obliged to argue

against his or her own case or to argue both sides of the case; rather, he or she is obliged to fairly present his or her case and to fairly present the material facts that may favour the opponent.<sup>22</sup>

[34] The difficulty with the defendants' approach on this motion can be illustrated using a few examples. The defendants allege that Peter Jr. was aware of the sale to 686 Ontario. For his part, Peter Jr. states that he was not aware of the sale, but only of the listing and the fact that offers had been received. This evidence was disclosed to Mew J. Peter Jr. takes the position that he relied on representations made by John that the purpose of the listing was to determine the market value of the LaSalle Property and the business so that Peter Jr. could make a competitive offer. These are contested facts that should be resolved at trial and not on a motion of this nature.

[35] In response to the defendants' motion and in support of his position, Peter Jr. points to other evidence, including a transcription of a recording of his discussion with John on December 17, 2021. The defendants challenge this evidence, which was not before Mew J., and maintain that the discussion never happened. The credibility of this evidence and the weight to be given to it are not issues to be resolved on this motion.

[36] The defendants allege that Peter Jr. has had years to make an offer to purchase the LaSalle Property and did not do so. In response, Peter Jr. says that he relied on the assurances given to him by John – and not the deadlines imposed by Mr. Doyle in his November 12, 2021 email correspondence – that no sale would take place without Peter Jr.'s involvement and that he would be given the opportunity to match any offer made. I am not persuaded that disclosure of Mr. Doyle's November 12, 2021 email would have impacted Mew J.'s approach to the motion or its outcome given that the basis of Peter Jr.'s claim rests on alleged promises made by the defendants.

[37] For the same reason, given the nature of the proprietary interest in the LaSalle Property asserted by Peter Jr., I am not persuaded that the January 14, 2022 letter and Peter Jr.'s assistance with the due diligence process would have impacted the outcome of the without notice motion. Peter Jr. has proffered an explanation why he assisted with the due diligence process. The credibility of this evidence is not a matter to be determined on this motion.

[38] There was evidence before Mew J. that in 2019, Peter Jr. took steps to obtain financing to purchase his uncles' shares of the corporate defendant. That evidence included a June 2019 letter of intent from Peter Jr. The defendants are dismissive of this evidence and say that Peter Jr. was ultimately unable to obtain financing. However, what transpired, what was said and by whom, and the import of such events are contested matters to be determined at trial.

[39] The evidence before Mew J. included an affidavit of William Kiriakopoulos in which he describes meetings with Peter Jr., Peter Sr., and John in March and August of 2020 during which John advised that arrangements would be made for the sale of Peter Sr. and John's shares to Peter Jr. once the COVID-19 lockdown ended, and the uncles confirmed that Peter Jr. would be purchasing the business. Mr. Kiriakopoulos now acknowledges that the March date was incorrect.

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<sup>22</sup> *Boal*, at para. 87.

The defendants suggest that Mr. Kiriakopoulos may have made other errors in his original affidavit. I am certainly not prepared to draw such an inference on this motion. Matters of credibility will be determined at trial.

[40] Finally, the defendants emphasize Peter Jr.'s delay in bringing his without notice motion for the CPL. However, the timeline was in evidence before Mew J., with Peter Jr. explaining that he was reluctant to commence litigation, knowing that the family would be "torn apart."

[41] To summarize on this point, I am not persuaded that any of the facts alleged to have not been disclosed by Peter Jr. on the original motion were material in the sense that they would have affected the outcome of that motion, having regard to the nature of the proprietary interest claimed by Peter Jr. in the LaSalle Property.

### **Do the equities favour a discharge of the CPL**

[42] I turn then to consider the *Dhunna* factors<sup>23</sup> to determine whether it is in the interests of justice that the CPL should be discharged. The court's overarching task is to exercise its discretion in the interests of justice, having regard to all the equities between the parties: *Persaud*, at para. 77. The *Dhunna* factors include: (i) whether the plaintiff is a shell corporation; (ii) whether the land is unique; (iii) the intent of the parties in acquiring the land; (iv) whether there is an alternative claim to damages; (v) the ease of calculating damages; (vi) whether damages would be a satisfactory remedy; (vii) the presence, or absence, of another willing purchaser; and (viii) the balance of convenience.

[43] In my view, the balancing of the equities that are relevant to this case favours maintaining the CPL. I have considered the following in reaching this conclusion.

[44] The plaintiff in this case is a natural person, not a shell corporation.

[45] The defendants argue that the LaSalle Property is not unique, describing it as a common example of a commercially-zoned property in the Kingston area. To Peter Jr., however, the LaSalle Property is unique because it is essential to the business in which Peter Jr. has worked since he was a teenager, and which he intends to continue to run. The LaSalle Property is at the centre of the alleged promises and assurances made to Peter Jr. that he would have an opportunity to purchase the corporate defendant and/or its assets, including the property. The uniqueness and intention factors weigh in favour of maintaining the CPL.

[46] There is an alternative claim for damages for Peter Jr.'s contributions in forgoing other career opportunities to manage the LaSalle Hotel. An alternative claim for damages is not, however, an absolute bar to a CPL: *Pacione v. Pacione*, at para. 25.<sup>24</sup>

[47] The defendants maintain that, at best, Peter Jr.'s claim is to a portion of the proceeds from the sale to 686 Ontario, and that any such damages are easily quantifiable. This position disregards

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<sup>23</sup> 572383 *Ontario Inc. v. Dhunna*, [1987] O.J. No. 1073.

<sup>24</sup> 2019 ONSC 813.

the proprietary nature of Peter Jr.'s claim. In addition, it ignores the very significant prejudice that would be suffered by Peter Jr. if the CPL is discharged and the LaSalle Property is sold to 686 Ontario prior to the determination of his proprietary claim. The balance of convenience in this case weighs in favour of maintaining the CPL.

[48] Having regard to all the equities between the parties, I exercise my discretion in favour of maintaining the CPL on the LaSalle Property.

### **Injunctive relief and undertaking for damages**

[49] Paragraph 2 of Mew J.'s order provides that "the [LaSalle Property] shall not be encumbered, dissipated, altered or interfered with in any way." In their written submissions, the defendants argue that there is "nothing meritorious" about Peter Jr.'s injunction motion and point out that no undertaking as to damages was given by Peter Jr. at the time the without notice motion was heard.

[50] Justice Mew concluded that Peter Jr. had met the threshold for a CPL and that there is a serious issue to be tried. I have determined that the CPL should be maintained. Peter Jr. has now provided an undertaking for damages. I would therefore maintain the injunctive relief ordered by Mew J.

### **Conclusion**

[51] For these reasons, the defendants' motion to set aside the without notice order of Mew J. and to discharge the CPL is dismissed.

[52] In the event the parties are unable to agree on costs of the motion, they may make written submissions limited to a maximum of three pages. Peter Jr. shall deliver his costs submissions by February 2, 2023. The defendants shall deliver their responding costs submissions by February 16, 2023. If no submissions are received within this timeframe, the parties will be deemed to have settled the issue of costs as between themselves.

*Ryan Bell J.*

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Madam Justice Robyn M. Ryan Bell

**Released:** January 19, 2023

**CITATION:** Karkoulis v. Karkoulis, 2023 ONSC 499  
**COURT FILE NO.:** CV-22-00000223  
**DATE:** 2023/01/19

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

Peter Karkoulis

Plaintiff

**– and –**

Peter Karkoulis, John Karkoulis and La Salle Motel Co.  
(Kingston) Ltd.

Defendants

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**REASONS FOR DECISION ON MOTION TO  
DISCHARGE CPL**

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Ryan Bell J.

**Released:** January 19, 2023



This is Exhibit “F” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**Court File No.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

*(Court Seal)*

**HAO CHEN and 1000073686 ONTARIO INC.**

**Plaintiffs**

and

**PETER KARKOULIS, a.k.a. Peter Karkoulis, Jr.,  
PETER KARKOULIS, a.k.a. Peter Karkoulis, Sr., JOHN KARKOULIS  
and LASALLE MOTEL CO. (KINGSTON) LTD.**

**Defendants**

**STATEMENT OF CLAIM**

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date February 15, 2023 Issued by \_\_\_\_\_  
Local Registrar

Address of court office: Superior Court of Justice  
5 Court St, Kingston, Ontario  
K7L 2N4

TO: **PETER KARKOULIS**  
**a.k.a. Peter Karkoulis, Jr.**  
c/o David M. Adams  
Cunningham Swan Carty Little & Bonham LLP  
27 Princess Street, Suite 300  
Kingston, ON K7L 1A3

AND TO: **PETER KARKOULIS**  
**a.k.a. Peter Karkoulis, Sr.**  
2 Authors Lane  
Kingston, ON K7M 7W7

AND TO: **JOHN KARKOULIS**  
45 Dickens Drive  
Kingston, ON K7M 2M5

AND TO: **LASALLE MOTEL CO. (KINGSTON) LTD.**  
2360 Princess Street  
Kingston, ON K7M 3G4

## CLAIM

1. The Plaintiffs, Hao Chen (“**Chen**”) and 1000073686 Ontario Inc. (“**686**”), (collectively the “**Plaintiffs**”), claim:
  - (a) An Order for specific performance of an Agreement of Purchase of Sale dated the November 25, 2021, made between Hao Chen, in trust for 686, and the LaSalle Motel Co. (Kingston) Ltd. (the “**Company**”) for the purchase of the lands legally described as PT LT 14 CON 3 KINGSTON AS IN FR315986; S/T FR332477, TKU12314; KINGSTON, registered as PIN 36086-0103 (LT) and municipally known as 2360 Princess Street, Kingston, Ontario (the “**LaSalle Property**”) (the “**APS**”);
  - (b) A Declaration and Order that the Plaintiff has a superior interest in the LaSalle Property to that of the Defendant Peter Karkoulis, a.k.a. Peter Karkoulis, Jr. (“**Peter Junior**”) and so is entitled to an Order for specific performance as requested;
  - (c) An Order for Directions requiring the Defendants, other than Peter Junior, to complete the APS, Directions related to the facilitating the transaction and Directions requiring that the proceeds of the sale, or a portion of them, be deposited with the Court pending determination of this Action and the Karkoulis Action (defined below) as security for Peter Junior’s claims, and directing the Accountant of the Superior Court of Justice to accept such payment;
  - (d) An Order requiring the Defendants to compensate the Plaintiffs for Damages suffered by the Plaintiffs as a result of the delay in completing the APS on its

original closing date of August 10, 2022, including but not limited to lost profits, higher mortgage and interest rates, and other losses and damages in an amount to be quantified at trial;

- (e) An Order discharging the Certificate of Pending Litigation (“CPL”) registered against the LaSalle Property by Peter Junior, as the Plaintiffs have a superior interest in the land to Peter Junior;
- (f) a CPL in favour of the Plaintiffs against the title of the LaSalle Property;
- (g) If necessary, an Order for consolidation of the herein action with the action commenced by Peter Junior, bearing the file number CV-22-00000223-0000 (the “Karkoulis Action”);
- (h) Prejudgment and postjudgment interest on the aforementioned damages in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (i) costs of this action on a substantial indemnity basis; and
- (j) Such further and other relief as counsel may advise and that this Honourable Court deems just.

## THE PARTIES

2. The Plaintiff 1000073686 Ontario Inc. (“686”) is a corporation incorporated pursuant to the laws of the Province of Ontario and carrying on business in Ontario. Hao Chen (“Chen”) is the principal of 686.

3. The Defendant the Company is a corporation incorporated pursuant to the laws of the Province of Ontario and carrying on business in Ontario. The Company owns a hotel business named “Travelodge Kingston LaSalle Hotel” operating out of the LaSalle Property (the “**LaSalle Hotel**”).
4. The Defendant, Peter Junior, is the General Manager of the LaSalle Hotel.
5. The Defendant, Peter Karkoulis, a.k.a. Peter Karkoulis, Sr. (“**Peter Senior**”) is the uncle of Peter Junior and an officer and director of the Company.
6. The Defendant, John Karkoulis, (“**John**”) is the uncle of Peter Junior and an Officer and Director of the Company.
7. The collective Defendants are parties to the Karkoulis Action, issued in the Ontario Superior Court of Justice in Kingston, wherein Peter Junior is claiming a constructive trust in the LaSalle Hotel business and all of its assets, and where Peter Junior has registered a CPL against the title of the LaSalle Property to protect his alleged constructive trust interest. The Plaintiffs are not a party in the Karkoulis Action.

#### **THE APS**

8. On or about October, 2021, Chen was notified by his real estate agent, Peng Jia (“**Jia**”), of a real estate listing for the LaSalle Property.
9. Chen operates two hotel businesses in the Greater Toronto Area and was looking to expand his operations. He expressed interest in the LaSalle Property, and shortly after

viewing the listing, travelled to Kingston, Ontario with Jia to inspect the property in person.

10. While inspecting the LaSalle Property, Chen was provided with further information concerning the LaSalle Hotel's operations and assets.
11. Chen considered the LaSalle Hotel to be a unique opportunity as the property had singular characteristics that made it an exciting and profitable purchase. Chen saw potential in refurbishing the LaSalle Hotel business and rebranding it as a premium hotel brand.
12. The LaSalle Property was unusual in that it was a budget hotel operating out of a four-storey building, and as most premium hotel brands prefer their hotels to be more than two storeys tall, the LaSalle Property was uniquely placed to be converted to a premium hotel.
13. The LaSalle Property was in the central business district with several amenities nearby, and on a very large tract of land, which is unusual for lands in a central location. Due to the central location of the lands, Chen also saw significant scope for eventually redeveloping the lands into mid-rise condominium towers and townhouses.
14. Due to these singularly unique characteristics of the LaSalle Property, Chen directed his solicitor to prepare a Letter of Intent to initiate negotiations towards the purchase of the LaSalle Hotel business, including the LaSalle Property.
15. Chen's solicitor prepared a Letter of Intent addressed to the Company and delivered it to the attention of Peter Senior and John, on November 1, 2021.

16. Between November 1, 2021 and November 20, 2021, Chen did not hear any response from the Company. Chen later learned that the delay was due to the Company notifying Peter Junior of the pending sale and inviting a competing offer from Peter Junior for the LaSalle Property. The Plaintiffs understand that Peter Junior did not make any offer for the Company or the LaSalle Property.
17. On or about November 20, 2021, the Company provided a counteroffer to Chen's Letter of Intent. Negotiations continued thereafter and on November 25, 2021, Chen provided an APS, which was executed and finalized on December 14, 2021. The APS was for an asset purchase of the Company and its assets, which included the LaSalle Hotel and the LaSalle Property.
18. The salient terms of the APS include:
  - (a) The buyer was Chen in trust for a corporation to be incorporated. 686 was later incorporated for the purposes of purchasing the assets of the Company, including the LaSalle Hotel and the LaSalle Property.
  - (b) The total purchase price was \$8,750,000, allocated to the following assets:
    - (i) Land/Goodwill: \$7,895,550;
    - (ii) Building: \$735,000;
    - (iii) Equipment: \$119,450;
    - (iv) Inventory: To be determined based on pre-closing count.



- (c) The Plaintiffs agreed to pay a first deposit in the amount of \$300,000 within three days of the execution of the APS.
- (d) The Plaintiffs agreed to pay a second deposit upon delivery of the Waiver Notice (defined below) in the amount of \$300,000.
- (e) “All deposits paid by the [Plaintiffs] in connection with [the APS] shall be held in trust without interest and shall be credited towards the Purchase Price if Closing is completed. If Closing is not completed, the Deposit shall be returned to the [Plaintiffs] in full without deduction or set-off save and except only if Closing is not completed due to a breach of this Agreement by the [Plaintiffs] (in which case the Deposits shall be released to and retained by the Seller). The Parties hereby irrevocably authorize and direct the deposit holder to hold and release the Deposits in accordance with the terms of this paragraph.”
- (f) The Plaintiffs were obliged to complete their due diligence and title search within ninety days of the acceptance of the APS (the “**Due Diligence Deadline**”), which included:
  - (i) The physical condition of the Purchased Assets;
  - (ii) Title to the Real Property;
  - (iii) The Seller’s Deliveries;

- (iv) The availability of financing for the purchase of the Purchased Assets on terms satisfactory to the buyer;
- (v) The new environmental report provided by the Seller after the work stipulated in the APS is completed.
- (g) The Plaintiffs may waive the conditions respecting due diligence and title searches noted above, by delivering a Waiver Notice on or before the Due Diligence Deadline. “If the Buyer does not deliver a Waiver Notice to the Seller on or before the Due Diligence Deadline, the [Plaintiffs] will be deemed to have terminated this Agreement.”
- (h) “Closing: Unless the Parties otherwise agree in writing, the closing of the transaction contemplated in this Agreement (“Closing”) shall occur on or before 5:00 p.m. on the date that is thirty (30) days after the [Plaintiffs] delivers the Waiver Notice, provided that if such day is not a business day, being any day other than a Saturday, Sunday or public holiday in Kingston, Ontario (a “Business Day”) Closing shall occur on the next Business Day.”
- (i) “Other than the shareholders of the Seller and their spouses and relatives, on Closing, the [Plaintiffs] shall make new offers of employment with the [Plaintiffs] to all existing Employees on substantially the same (and in no event less favourable) terms and conditions as afforded those Employees on the day immediately preceding the date of Closing. For greater clarity, [Plaintiffs] shall not

be required to offer employment to Peter Karkoulis Jr., the general manager of the Business, who is a relative of the shareholders of the Seller. The Seller shall be responsible for all payments due to Peter Karkoulis Jr. arising from his employment with the Seller and arising from the [Plaintiffs] not offering Peter Karkoulis Jr. employment, including but not limited to severance pay, vacation pay, other benefits, insurances, etc., if any.”

(j) “On Closing, the Seller covenants to deliver the following to the Buyer... (ii) a Transfer/Deed of Land, in registrable form, in respect of the Real Property to the Buyer, to be duly executed by the Seller and containing statements by the Seller and its lawyers under section 50(22)(a) and (b) of the *Planning Act* (Ontario).

19. On December 14, 2021, Chen, on behalf of 686, provided an initial deposit in the amount of \$300,000 to the lawyers representing the Company.

#### **DUE DILIGENCE PERIOD**

20. Pursuant to the APS, the Plaintiffs completed the stipulated due diligence terms. Fulfilling the terms took longer than expected, so the Due Diligence Deadline was extended by mutual agreement of the parties to the APS.

21. A particular concern for the Plaintiffs was the removal of a fuel storage tank that was located on the LaSalle Property. The safe removal of the fuel storage tank, and the receipt of expert reports confirming removal, delayed the delivery of the Waiver Notice stipulated in the APS from approximately March, 2022 to July 2022.

22. At all material times, Peter Junior, acting as the general manager of the LaSalle Hotel, was aware of the APS, and the ongoing due diligence investigations and cooperated with the Plaintiffs in completing the due diligence process, in aid of meeting the conditions for closing the APS.
  
23. Peter Junior had full knowledge of the APS, its general terms and conditions, that the Plaintiffs were conducting their due diligence in order to complete the sale pursuant to the APS, and that delivery of a notice waiving the due diligence conditions in the APS would establish a closing date for the transaction. Peter Junior was further aware that the Plaintiffs did deliver their Waiver Notice (described further below) on July 11, 2022, and that the closing date for the transaction was then set for August 10, 2022.
  
24. As part of the due diligence process, and in order to obtain financing for the project, the Plaintiffs incurred the following expenses:
  - (a) Land survey costing approximately \$5,000;
  
  - (b) Plaintiffs' environmental reports concerning the property, costing approximately \$12,000;
  
  - (c) Buildings Condition Report, costing approximately \$6,000;
  
  - (d) Appraisal of the property, costing approximately \$10,000;
  
  - (e) Payment to architect with respect to consulting services, costing approximately \$6,000;

- (f) Application fee to the proposed lender, costing \$15,000;
- (g) Legal fees in the amount of \$16,000;
- (h) Site visits, travel and associated costs in the amount of \$5,000.

#### **COMPLETION OF DUE DILIGENCE**

- 25. On or about July 2022, the Plaintiffs received confirmation that the underground storage tank had been removed, and the Plaintiffs were finally in a position to serve the Waiver Notice, as required by the APS.
- 26. On or about July 11, 2022, the Plaintiffs delivered the Waiver Notice upon the Company, waiving the conditions under the APS and confirming that the closing date of the transaction would be August 10, 2022. Pursuant to the APS, the Plaintiffs delivered the second deposit of \$300,000 also to the lawyers for the Company.
- 27. To prepare for the closing of the property, in or around early August 2022, the Plaintiffs' solicitor received delivery of \$4 million dollars from the Plaintiffs, \$5,070,000 in mortgage funds from the Kawartha Credit Union, and \$600,000 in deposit funds from the Company.

#### **THE KARKOULIS ACTION**

- 28. On or about August 8, 2022 – two days before the closing date of August 10, 2022 – the Plaintiffs received a copy of an Order of Justice Mew, dated August 5, 2022, Ordering the

registering of a CPL against the LaSalle Property, in favour of Peter Junior, and enjoining the other defendants from selling the LaSalle Property or completing the APS.

29. Upon receipt of the Order of Justice Mew, the Plaintiffs learned for the first time that Peter Junior had initiated the Karkoulis Action on or about August 5, 2022, claiming a constructive trust in the LaSalle Property, and had brought a motion to register a CPL on the property, without notice to the other parties in the Karkoulis Action or the Plaintiffs in the herein action, despite being fully aware of the Plaintiffs' interest in the LaSalle Property.
30. In the Karkoulis Action, Peter Junior claims that the LaSalle Property was purchased by his father and his uncles Peter Senior and John. Peter Junior claims that Peter Senior and John had promised to allow Peter Junior to make an offer to purchase the LaSalle Hotel business. Peter Junior claims that he was not aware of the sale of the LaSalle Property, the LaSalle Hotel, or the Company to the Plaintiffs, and that he was not provided with an opportunity to make a competing offer for the LaSalle Property and business.
31. By way of Motion within the Karkoulis Action, the other defendants moved to set aside the CPL for material non-disclosure by Peter Junior, and on the basis that Peter Junior had no interest in the land noting:
  - (a) That Peter Senior and John had been listing the LaSalle Property for sale since November 2014, and that Peter Junior was fully aware of their intention to sell the property;

- (b) That on November 12, 2021, Peter Junior was advised that Peter Senior and John were considering offers for the LaSalle Property, that Peter Junior was entitled to make a competing offer, but that they had no obligation to sell it to Peter Junior;
  - (c) That on January 14, 2022, Peter Junior's counsel sent a letter to the Company's counsel, confirming that Peter Junior was cooperating with the due diligence process of the APS entered into by the Plaintiff and the Company. It further did not provide any indication that Peter Junior intended to make an offer for the LaSalle Property;
  - (d) That on June 20, 2019, Peter Junior had advised by email that "if I can't get financing I will remove myself from the mix."
  - (e) That Peter Junior did not make an offer to purchase the LaSalle Property, and did not have the ability to make an offer for the LaSalle Property.
32. The Motion of the Defendants in the Karkoulis Action seeking to set aside the CPL registered by Peter Junior was ultimately dismissed and the CPL continues to be registered against the LaSalle Property.
33. As a result of the CPL registered against the LaSalle Property's title, the Plaintiffs and the Company were required to negotiate an extension of the closing of the APS from August 10, 2022 to September 9, 2022. As the CPL obtained by Peter Junior remained registered against the title for the LaSalle Property on September 9, 2022, the Company agreed to offer a further extension of the closing date to January 31, 2023.

34. The Plaintiffs and the Company had agreed to a further extension of the closing of the LaSalle Property to February 28, 2023, but the Company has refused to grant any further extensions.
35. As the CPL remains registered against the LaSalle Property's title the Plaintiffs are prevented from completing the APS, even though they are fully ready and able to do so.
36. The Plaintiffs have funding ready and are set to complete their APS on February 28, 2023 or on any date fixed by the Court.
37. The Plaintiffs state that by virtue of their APS they have a beneficial interest in the LaSalle Property and that their interest is superior to any interest of Peter Junior.
38. Peter Junior has never made any Offer to purchase the LaSalle Property and does not have the ability to purchase the property. As Peter Junior failed to make any Offer to purchase the LaSalle Property prior to the acceptance of their APS by the other Defendants , the Plaintiffs state that their interest as purchasers pursuant to their accepted APS is superior to any interest of Peter Junior.
39. The Plaintiffs deny that Peter Junior has any constructive trust interest in the LaSalle Property, but state in any event that if Peter Junior is found to have a constructive trust interest over the LaSalle Property that it is a monetary interest only and that his interest is limited to a portion of the proceeds of sale received by the other Defendants pursuant to the APS and that he does not have a prior existing interest in the lands themselves.



40. The Plaintiffs state therefore that they are entitled to specific performance of their APS and that the CPL of Peter Junior should be discharged to permit their purchase to proceed.

#### **CAUSES OF ACTION**

41. The Plaintiffs plead that they are entitled to specific performance of the APS.
42. The Plaintiffs bring this Action for Orders declaring that it has a superior interest in the LaSalle Property, Directions from the Court to compel completion of the APS and depositing a portion of the proceeds with the Court to provide security for Peter Junior's claims, and for damages incurred by the actions of the defendants, and in particular Peter Junior.
43. The Plaintiffs plead that Peter Junior was fully aware of the Plaintiffs' purchase of the Company and the LaSalle Property and cooperated with the Plaintiffs and their agents in completing the due diligence requirements under the APS.
44. As a result of the Karkoulis Action, of which the Plaintiffs are not a party, the Plaintiffs have been prevented from enjoying ownership of the LaSalle Property and the LaSalle Hotel business that operates on it from and after August 10, 2022. As a result, the Plaintiffs have failed to realize profits and business, and to invest its profits and funds in other business ventures. The Plaintiffs have incurred significant legal costs estimated at \$40,000 to negotiate extensions of the APS and to monitor the Karkoulis Action. The

Plaintiffs face increases in the interest rate on its mortgage, as interest rates have increased significantly since the previously scheduled closing date of August 10, 2022.

45. Peter Junior has prevented the Plaintiffs from completing the transaction, even though the Plaintiffs have a superior interest in the LaSalle Property, and Peter Junior's claim in the Karkoulis Action can only be for a portion of proceeds of sale of the LaSalle Property, with the remaining interest being with his uncles Peter Senior, John and the corporation which owns the LaSalle Property. As such Peter Junior is liable to the Plaintiffs for all the damages they have suffered as a result of the delay in closing the APS. While Peter Junior, in obtaining his CPL, provided an undertaking as to damages to Peter Senior and John, he has provided no such undertaking to the Plaintiffs, who are most directly affected by the CPL.
46. At all material times the Plaintiffs have complied with the terms of the APS, as amended. The Plaintiffs are ready and able to close the transaction, but for the CPL that has been registered by Peter Junior, and have been since August 10, 2022.
47. The Plaintiffs plead that this Honourable Court should direct a portion of the proceeds of the sale of the LaSalle Property be deposited with this Honourable Court, as security for the outcome of the herein action and the Karkoulis Action. The Karkoulis Action should not prevent the Plaintiffs from completing the transaction.
48. The Plaintiffs have suffered damages as a result of the Karkoulis Action, and the CPL, including lost profits, higher mortgage rates and interest, diminishing value of the

goodwill attached to the LaSalle Hotel business due to the litigation, and the Plaintiffs' inability to take management and control of the business, and claim those damages against all Defendants.

#### **CERTIFICATE OF PENDING LITIGATION**

49. The Plaintiffs plead that the LaSalle Property is unique in its location and character. The Plaintiffs are consequently entitled to and claim specific performance of the APS.
50. The Plaintiffs plead that they have an interest in the LaSalle Property, which is superior to Peter Junior, and are entitled to and claim a CPL against the LaSalle Property.
51. Additionally, the defendants have failed to comply with its contractual obligations by providing clean title to the LaSalle Property, in registerable form, and the Plaintiffs are entitled to their damages, as a result of the defendants' failure to close the transaction on the original closing date of August 10, 2022.
52. The Plaintiffs plead the provisions of *Courts of Justice Act*, R.S.O. 1990, c. C.43 and regulations thereto.
53. The Plaintiffs propose that this action be heard in Kingston.

February 15, 2023

**MILLS & MILLS LLP**

Barristers & Solicitors

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Tel: (416) 863-0125

Lawyers for the Plaintiffs

Court File No.

**HAO CHEN and 1000073686 ONTARIO INC.**  
Plaintiffs

-and-

**PETER KARKOULIS, a.k.a. Peter Karkoulis, Jr., et al.**  
Defendants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
KINGSTON

**STATEMENT OF CLAIM**

**MILLS & MILLS LLP**  
Barristers & Solicitors  
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*adnan.subzwari@millsandmills.ca*

Tel: (416) 863-0125

Lawyers for the Plaintiffs

This is Exhibit “G” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**ANDREA KARKOULIS BY HER LITIGATION GUARDIAN VALERIE DEMITT**

Plaintiff

- and -

**PETER KARKOULIS, JOHN KARKOULIS, and  
LA SALLE MOTEL CO. (KINGSTON) LTD.**

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff lawyer, or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada, or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

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IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$500.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: March 21, 2023

Issued by: \_\_\_\_\_

Local Registrar  
5 Court Street  
Kingston, ON K7L 2N4

**TO:**

**PETER KARKOULIS**  
2 Authors Lane  
Kingston, ON K7M 7W7

**AND TO:**

**JOHN KARKOULIS**  
45 Dickens Drive  
Kingston, ON K7M 2M5

**AND TO:**

**LA SALLE MOTEL CO. (KINGSTON) LTD.**  
2360 Princess Street  
Kingston, ON K7M 3G4



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**CLAIM**

1. The Plaintiff, Andrea Karkoulis by her Litigation Guardian Valerie Demitt, claims against the Defendants as follows:

- (a) Declaratory relief confirming that the Plaintiff owns one third (1/3), of the shares of the Corporate Defendant, La Salle Motel Co. (Kingston) Ltd. (hereinafter the “Corporation”);
- (b) An order declaring that the business and affairs of the Corporation have been, and continue to be, carried out and conducted in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards the interests of the Plaintiff contrary to section 248 of the *Business Corporations Act*, R.S.O. 1990, c. B. 16 (hereinafter “OBCA”);
- (c) An order remedying the oppression by *inter alia*:
  - i. Requiring the individual Defendants to immediately return all funds they have misappropriated from the Corporation, including:
    - 1. the approximately \$400,000.00 they have removed to pay legal fees in 2022 alone;

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2. The approximately \$90,000.00 they removed from the Corporation on, or about, March 10, 2023;
  3. A complete accounting and return of any other funds improperly removed from the Corporation by the individual Defendants;
    - ii. Reinstating the monthly Dividends (at the current rate of \$3,500.00 bi-monthly), that were paid to the Plaintiff by the Corporation for approximately 28 years that were suddenly stopped by the individual Defendants, without warning or consultation in February of 2023; and
    - iii. Requiring the Defendants to cease and desist in their attempts to sell the business to any third party;
- (d) An interim and interlocutory order prohibiting the individual Defendants from removing any further funds from the Corporation apart from in the ordinary course of business, pending the final determination of this litigation;

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- (e) An interim and interlocutory injunction reinstating Peter Karkoulis Jr. as General Manager of the Corporation pending a final determination of this litigation;
- (f) In the alternative to (e), an order appointing a receiver to run the business pending a final determination of this litigation;
- (g) An interim and interlocutory injunction restraining the Defendants from attempting to sell the business to any third party pending a final determination of this litigation;
- (h) Damages against the individual Defendants, jointly and severally, in the amount of \$1,000,000.00, or an amount to be proven at trial, for their oppression and for the breach of fiduciary duties owed by the individual Defendants as Directors of the Corporation;
- (i) Damages against the individual Defendants, jointly and severally, for breach of their fiduciary duties as Estate Trustees to administer the Estate of George Karkoulis who passed away on or about May 31, 1995, (the "Estate"), in good faith and in accordance with the terms of the Will of the late George Karkoulis dated April 22, 1992,(the "Will"), in the amount of \$3,500,000.00, or an amount to be proven at trial;

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- (j) An order, pursuant to sections 5 and 37 of the *Trustee Act*, R.S.O. 1990, c. T. 23, removing Peter Karkoulis and John Karkoulis as Estate Trustees of the Estate of George Karkoulis;
- (k) Aggravated damages in the amount of \$75,000.00, or an amount to be proven at trial;
- (l) Punitive damages in the amount of \$75,000.00, or an amount to be proven at trial;
- (m) Prejudgment and postjudgment interest on all amounts found due and owing to the Plaintiff pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended;
- (f) Costs of this action on a full indemnity basis; and
- (g) Such further and other relief as counsel for the Plaintiff may advise and this Honourable Court may deem just.

### **The Parties**

2. The Plaintiff, Andrea Karkoulis, is an individual residing in Calgary, Alberta. The Plaintiff, at all material times, was a Director and one third, (1/3), shareholder of the Corporation.
3. The Plaintiff's daughter, Valerie Demitt (hereinafter "Valerie"), has been appointed as the Attorney for the Plaintiff. The Plaintiff suffers from dementia and does not have

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capacity to manage her own affairs at this time. The Plaintiff resides with her daughter, Valerie, in Calgary, Alberta. Valerie is the Plaintiff's Litigation Guardian in this action.

4. The Defendant Corporation, La Salle Motel Co. (Kingston) Ltd., is an Ontario Corporation. The Corporation owns and operates the LaSalle Hotel and Cavalier Dining Room located at 2360 Princess Street, Kingston, Ontario (hereinafter the "LaSalle Hotel").
5. The Defendants, Peter Karkoulis (hereinafter "Peter") and John Karkoulis (hereinafter "John"), are individuals residing in Kingston, Ontario. Peter and John are brothers and the Plaintiff is their sister-in-law. Peter and John are Officers and Directors and each of them own one-third, (1/3) of the shares of the Corporation.

### **The Facts**

6. In 1966, the Plaintiff's husband, George Karkoulis (hereinafter "George"), and his brothers, Peter and John, purchased the LaSalle Hotel.
7. The LaSalle Hotel has been owned and operated by the Karkoulis family ever since and at all times it was intended to be a multi-generational family business. Many members of the extended Karkoulis family have worked at the LaSalle Hotel over the years.
8. The three brothers always agreed that the business would be sold to any of their children who wanted to take over the business so that the business would stay in their family.

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9. The Plaintiff's son, who is also named Peter Karkoulis (hereinafter "Peter Jr.") was born in 1967, a year after the LaSalle Hotel was acquired by his father, George, and his uncles, Peter and John.
10. On June 17, 1974, George, Peter and John incorporated the Corporation and the LaSalle Hotel and assets, including the land where the business is located, were transferred to the Corporation. At the time Peter, John and George each owned one-third, (1/3), of the shares of the Corporation. There were no other shareholders.
11. The Plaintiff and George's son, Peter Jr., began working at the LaSalle Hotel when he was just a teenager and was still in high school. Initially, he worked maintenance and lawn care jobs as well as other odd jobs.
12. When Peter Jr. graduated from high school, he began working full-time at the LaSalle Hotel. He chose not to pursue post-secondary education and instead dedicated his working life to the LaSalle Hotel. He did so based on promises from his parents and his uncles, Peter and John, that they would sell the Corporation to him one day. Peter Jr. worked hard and was promoted many times until he was ultimately promoted to be the General Manager of the LaSalle Hotel, in 2002. Peter Jr. was responsible for running the entire hotel and restaurant operation up until his recent bad faith termination detailed below.
13. Shortly before the passing of the Plaintiff's husband, George, on May 31, 1995, the Plaintiff was appointed as a Director for the Corporation.

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14. George passed away on May 31, 1995. George died with a valid Will, dated April 22, 1992. The Will provided that any shareholder interest he had in any companies would be transferred to his brothers in accordance with the terms of a Buy-Sell Agreement executed by George during his lifetime.
15. However, the Plaintiff pleads, and the fact is, that no Buy-Sell Agreement was executed during George's lifetime and as such his one-third interest in the Corporation was not transferred to his brothers, Peter and John, on his death.
16. Pursuant to the terms of George's Will, the Plaintiff became the beneficial owner of George's one-third interest in the Corporation upon Georges death.
17. Pursuant to the terms of George's Will, Peter and John were named as Estate Trustees.
18. George's Will directs the Estate Trustees, Peter and John, to keep invested the residue of his estate for the benefit of the Plaintiff and to pay the net income from the investments to the Plaintiff and their children, Peter Jr. and Valarie.
19. Since George's one-third (1/3), interest in the Corporation was not subject to a Buy-Sell Agreement, executed prior to his death, the shares fell into the residue of his estate.
20. The Plaintiff pleads, and the fact is, the Plaintiff became the beneficial owner of George's one-third interest (1/3) the Corporation at the time of his death and remains a one-third (1/3) owner of the Corporation to date.
21. Until the events discussed below occurred, Peter and John always accepted and agreed that the Plaintiff was a one-third (1/3) owner of the Corporation. The Plaintiff, along

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with the other two equal one third (1/3) shareholders, Peter and John, received Dividend payments from the Corporation account twice a month consistently for almost 30 years.

22. The Dividends were paid twice a month, on the first and the fifteenth, in the amount of \$3,500.00 per payment since 2015. The Plaintiff consistently received the Dividends, which were her sole source of income each month for 28 years commencing shortly after her husband passed away.
23. The payment of Dividends by John and Peter to the Plaintiff from the Corporation account were recorded on the Corporate statements as “dividends” which confirms that John and Peter had in fact agreed and acknowledged that the Plaintiff was the beneficial owner of her deceased husband George’s one third (1/3) of the shares in the Corporation.
24. The Plaintiff has relied on the Dividend payments as her sole source of income to pay for her living expenses for the last 28 years since her husband George died. The Plaintiff is ill and requires the Dividend income to fund her care needs in addition to her living expenses.
25. For some 28 years there were no issues. The Plaintiff continued to receive her monthly Dividends as a one-third shareholder of the Corporation.
26. Peter Jr. continued to be responsible for running the LaSalle Hotel as General Manager. The Plaintiff, John and Peter all agreed that he would take over the Lasalle Hotel from John and Peter once they were willing to sell. There were no other children interested in taking over the business.



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27. Peter Jr. was not close to fully compensated for the lifetime of work he put into running the LaSalle Hotel. It was understood and agreed that when it came time to purchase John and Peter's shares in the Corporation his unpaid contributions to the LaSalle Hotel would be taken into account in determining the price he would pay for John and Peter's shares.
28. John and Peter are now in their early 90s. In late 2018 or early 2019 John and Peter indicated that they were finally ready to sell their one third (1/3) each interest in the Corporation to Peter Jr. and Peter Jr. readily agreed he would purchase their interests in the Corporation.
29. John and Peter and Peter Jr. agreed they would solicit offers for the business on the open market to determine its value. A third-party offer was received for approximately \$9,500,000.00. Peter Jr. then took steps to secure financing to purchase the business and the parties met with an accountant and a lawyer to determine how the transaction would be structured.
30. However, before the sale was completed the COVID-19 pandemic began. Peter Jr.'s lenders advised they could no longer provide funding to the restaurant and hotel industry given the uncertainty created by the pandemic. Steps to sell the business were put on hold.
31. In the summer of 2021, John and Peter listed the business for sale. Peter Jr. understood the same process as before would be used and the listing was merely to determine the current market value of the Corporation.

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32. However, unbeknownst to Peter Jr. and to the Plaintiff, John and Peter purported to enter into a binding Agreement of Purchase and Sale with a third party, 1000073686 Ontario Inc. and Hao Chen, on December 14, 2021 to sell the LaSalle Hotel for \$8,750,000.00.
33. Initially, John promised Peter Jr. he would back out of the deal and would sell to Peter Jr. When that did not occur, Peter Jr. commenced an action (Court File No. CV-22-223-0000) against John and Peter and the Corporation claiming a constructive or resulting trust over the Corporation given his contributions over the years. Peter Jr. also claimed John and Peter were estopped from selling the LaSalle Hotel to a third party given the promises made to Peter Jr. over the years that it would be sold to him. The Statement of Claim was issued August 5, 2022. The action has been defended and a Counterclaim brought against Peter Jr. The action is ongoing.
34. On August 5, 2022, Peter Jr. obtained an ex parte order from Justice Mew to place a Certificate of Pending Litigation (hereinafter “CPL”) on title to the Corporate property and an injunction ordering that the property not be encumbered, dissipated, altered or interfered with in any way. The Defendants and the third-party purchaser brought a voluminous motion to set aside the CPL. Justice Ryan-Bell dismissed the Defendants’ motion and upheld Justice Mew’s decision granting the CPL and injunction.
35. Additionally, the third-party purchaser who entered into the Agreement of Purchase and Sale (hereinafter “APS”), 1000073686 Ontario Inc. and Hao Chen, have commenced an action (Court File No. CV-23-44-0000) against the Corporation as well as John and Peter and Peter Jr. seeking specific performance of the APS. The Statement of Claim was issued on February 15, 2023. The action is ongoing.

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36. The Plaintiff was appointed as a Director of the Corporation on May 31, 1995. She was still listed as an active Director as of June 16, 2022. The Corporation purported to remove the Plaintiff as a Director of the Corporation on August 29, 2022. The removal was approved by John and was done without notice to the Plaintiff and without the Plaintiff's knowledge or consent contrary to section 123 of the OBCA. Accordingly, this purported removal was invalid.
37. As of February of 2023, the Defendants unilaterally ceased paying the Plaintiff her monthly Dividends from the Corporation without any explanation or prior notice.

#### **Oppression and Breach of Fiduciary Duty**

38. The actions of the Defendants and the conduct of the business and affairs of the Corporation are oppressive, unfairly prejudicial, and unfairly disregard the interests of the Plaintiff as a beneficial one third (1/3) shareholder of the Corporation and of George's estate, inter alia, by:
- a. Unilaterally terminating the Plaintiff's monthly Dividend payment of \$7,000.00 without any explanation or notice;
  - b. Unilaterally purporting to remove the Plaintiff as a Director of the Corporation without providing her with any notice of same;
  - c. John and Peter withdrawing vast sums of money out of the Corporation to pay legal fees, exceeding \$400,000.00;
  - d. John and Peter withdrawing approximately \$90,000.00 from the Corporation on March 10, 2023, without explanation;

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- e. John and Peter withdrawing unknown sums of money out of the Corporation for their own personal use or other non-business related purposes over a period of almost 30 years;
- f. Purporting to sell the business to a third party rather than to the Plaintiff's son, Peter Jr., as they had agreed to do;
- g. Terminating Peter Jr.'s position as General Manager of the LaSalle Hotel in bad faith on March 15, 2023, despite his decades of faithful service to the LaSalle Hotel;
- h. Attempting to sell the business to a third party when Peter was, and is, willing and able to purchase the Corporation and had been promised by Peter and John that he could purchase the Corporation;
- i. Attempting to run the business into the ground so that the only option will be to sell to a third party, rather than Peter Jr.;
- j. Refusing to provide any accounting to the Plaintiff about the business acts and the funds Peter and John have removed from the business for their legal fees, and for other purposes;
- k. Refusing to reinstate the Plaintiff's Dividend payments and failing to provide any explanation as to why her Dividend payments were unilaterally terminated;
- l. Denying that the Plaintiff was a Director of the Corporation;

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- m. Denying the Plaintiff is a shareholder of the Corporation;
- n. Claiming that the Plaintiff's Dividend payments were not Dividend payments despite the clear evidence to the contrary;
- o. Not acting in the best interest of the Corporation by making decisions out of personal animosity and spite rather than what is in the best interests of the Corporation;
- p. Refusing to honour the agreement to sell the business to Peter Jr. so that the LaSalle Hotel would stay a family business; and
- q. Engaging in costly litigation against Peter Jr. instead of selling the Corporation to him as they agreed to do.

39. The Plaintiff pleads, and the fact is, the conduct of Peter and John, as set out above, constitutes a breach of their duty to act in good faith with a view to the best interests of the Corporation and constitutes a breach of their duty of care set out in section 134 of the OBCA.

40. The Plaintiff pleads, and the fact is, that the Defendants are liable for breach of fiduciary duty and breach of section 134 of the OBCA.

41. The Plaintiff is a beneficial shareholder of one-third (1/3) of the Corporation pursuant to her husband's Will as well as a beneficiary of the residue of his estate. As such, the Plaintiff is a Complainant within the meaning of section 245 of the OBCA and thus has standing to seek an oppression remedy.

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42. The Defendants have disregarded the Plaintiff's reasonable expectations. The Defendants' conduct amounts to oppression, unfair prejudice and unfair disregard of the Plaintiff's interests.

43. The Plaintiff pleads she is entitled to relief pursuant to section 248 of the OBCA.

#### **Breach of duties as Estate Trustees**

44. Peter and John were at all material times the Estate Trustees of George's Estate. Peter and John's actions, as set out above, constitute a breach of their fiduciary duties as Estate Trustees to administer George's estate in good faith and in accordance with the terms of the Will.

#### **Relief Sought**

45. The Plaintiff seeks the following relief pursuant to section 248(3) of the OBCA:

- a. Requiring the individual Defendants to immediately return all funds they have misappropriated from the Corporation, including, but not limited to:
  - i. the approximately \$400,000.00 they have removed in 2022 to pay legal fees; and
  - ii. The approximately \$90,000.00 they removed from the Corporation on, or about, March 10, 2023;
  - iii. A full accounting and return of any other funds improperly removed from the Corporation by the individual Defendants, for any other personal use;

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- b. An order immediately reinstating the Plaintiff's Dividend payments in the amount of \$7,000.00 per month, retroactive to February 2022, being the month they were cut off;
- c. An order requiring the Defendants to cease and desist in their attempts to sell the business to a third party and instead to negotiate in good faith for the sale of the business to Peter Jr.;
- d. An interim and interlocutory order prohibiting the Defendants from removing any funds from the Corporation apart from in the ordinary course of business pending the final determination of this litigation;
- e. An interim and interlocutory injunction reinstating Peter Jr. as General Manager of the LaSalle Hotel pending a final determination of this litigation;
- f. In the alternative to (e), an order appointing a receiver to run the Corporation pending a final determination of this litigation; and
- g. Damages against Peter and John, in the amount of \$1,000,000.00, or an amount to be proven at trial, pursuant to section 248(3)(j) of the OBCA and for their breach of fiduciary duties and breach of section 134 of the OBCA.

46. The Plaintiff claims damages against Peter and John, jointly and severally, for breach of their fiduciary duties as Estate Trustees to administer the estate in good faith and in

-18-

accordance with the terms of the Will, in the amount of \$3,500,000.00, or an amount to be proven at trial.

47. The Plaintiff further seeks an order, pursuant to sections 5 and 37 of the *Trustee Act*, R.S.O. 1990, c. T. 23, removing Peter and John from continuing to act as Estate Trustees and appointing Peter Jr. to act in their place.
48. The Defendants acted in bad faith to defeat the Plaintiff's reasonable expectations. The Defendants' conduct has caused the Plaintiff mental suffering and distress. Thus, this is an appropriate case for an award of aggravated damages.
49. The Defendants' conduct was outrageous and high-handed and represents a marked departure from ordinary standards of decent behaviour. Thus, this is an appropriate case for an award of punitive damages.
50. The Plaintiff seeks an order pursuant to Rule 6 of the *Rules of Civil Procedure* to consolidate this action with the two related actions discussed above (Court File No. CV-22-223-0000; and Court File No. CV-23-44-0000) since they involve common questions of law or fact and arise out of the same series of transactions.
51. The Plaintiff requests her costs of this action from Peter and John in their personal capacity on a full indemnity basis. Alternatively, she requests her costs of this action from Peter and John and the Corporation, jointly and severally.



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52. The Plaintiff requests that the trial of this matter be held in the City of Kingston, Ontario.

Date: March 21, 2023

**GEOFFREY LAW OFFICES**  
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630 Derbyshire Point Lane  
Athens, ON K0E 1B0

**BRYCE V. GEOFFREY**  
LSO # 29872G

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Tel: (604) 360-6003

Lawyer for the Plaintiff

**ANDREA KARKOULIS BY HER LITIGATION  
GUARDIAN VALERIE DEMITT**

-and-

**PETER KARKOULIS et al.**

Plaintiff

Defendants

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
KINGSTON**

**STATEMENT OF CLAIM**

**GEOFFREY LAW OFFICES**  
Barrister, Solicitor, Notary Public  
630 Derbyshire Point Lane  
Athens, ON K0E 1B0

**BRYCE V. GEOFFREY**  
LSO # 29872G

Email: [bgeoffrey@shaw.ca](mailto:bgeoffrey@shaw.ca)  
Tel: (604) 360-6003

Lawyer for the Plaintiff

This is Exhibit “H” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**ANDREA KARKOULIS BY HER LITIGATION GUARDIAN VALERIE DEMITT**

Plaintiff

- and -

**PETER KARKOULIS, JOHN KARKOULIS, and  
LA SALLE MOTEL CO. (KINGSTON) LTD.**

Defendants

**NOTICE OF MOTION**

The Plaintiff, Andrea Karkoulis by her Litigation Guardian Valerie Demitt, will make an urgent motion to be heard on Tuesday, March 28, 2023 at 9:00am, at the Superior Court of Justice at 5 Court Street, Kingston, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

Orally

**THE MOTION IS FOR:**

- (a) An interim and interlocutory order:
  - (i) Reinstating the monthly Dividends of \$7,000.00 that were paid to the Applicant by the Corporation for many years that were suddenly

stopped by the individual Defendants, without warning or consultation;

- (ii) Requiring the Defendants to immediately return to the Corporation the approximately \$400,000.00 they removed from the Corporation in 2022 and the \$90,000.00 they removed on March 10, 2023;
  - (iii) Prohibiting the Defendants from removing any funds from the Corporation apart from in the ordinary course of business, pending the final determination of this litigation;
  - (iv) Reinstating Peter Karkoulis Jr. as General Manager of the Corporation pending a final determination of this litigation. In the alternative, an order appointing a receiver to run the business pending a final determination of this litigation; and
  - (v) Restraining the Defendants from attempting to sell the business to a third party pending a final determination of this litigation;
- (b) An order consolidating this action with two related Kingston actions: Court File No. CV-22-223-0000; and Court File No. CV-23-44-0000;
- (c) An order, pursuant to sections 5 and 37 of the *Trustee Act*, R.S.O. 1990, c. T. 23, removing Peter Karkoulis and John Karkoulis as Estate Trustees of the Estate of George Karkoulis;

- (d) The costs of this motion on a full indemnity basis, if it is opposed; and
- (e) Such further and other relief as counsel for the Plaintiff may advise and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) The Plaintiff, Andrea Karkoulis, is an individual residing in Calgary, Alberta. The Plaintiff's daughter, Valerie Demitt (hereinafter "Valerie"), has been appointed as the Power of Attorney for the Plaintiff. The Plaintiff suffers from dementia and does not have capacity to manage her own affairs. The Plaintiff resides with her daughter, Valerie, in Calgary, Alberta. Valerie is the Plaintiff's Litigation Guardian in this action.
- (b) The Defendant, La Salle Motel Co. (Kingston) Ltd. (hereinafter the "Corporation"), is an Ontario Corporation. The Corporation owns and operates the LaSalle Hotel and Cavalier Dining Room located at 2360 Princess Street, Kingston, Ontario (hereinafter the "LaSalle Hotel").
- (c) The Defendants, Peter Karkoulis (hereinafter "Peter") and John Karkoulis (hereinafter "John"), are individuals residing in Kingston, Ontario. Peter and John are brothers and the Plaintiff is their sister-in-law. Peter and John are Officers and Directors and shareholders of the Corporation.
- (d) In 1966, the Plaintiff's husband, George Karkoulis (hereinafter "George"), and his brothers, Peter and John, purchased the LaSalle Hotel.

- (e) The LaSalle Hotel has been owned and operated by the Karkoulis family ever since and at all times it was intended to be a multi-generational family business. The three brothers agreed that the business would be sold to any of their children who wanted to take over the business so that the business would stay in their family.
- (f) The Plaintiff's son, who is also named Peter Karkoulis (hereinafter "Peter Jr.") was born in 1967, a year after the LaSalle Hotel was acquired by his father, George, and his uncles, Peter and John.
- (g) On June 17, 1974, George, Peter and John incorporated the Corporation and the LaSalle Hotel and assets, including the land, were transferred to the Corporation. Peter, John and George each owned one-third of the shares of the Corporation. There were no other shareholders.
- (h) Peter Jr. began working at the LaSalle Hotel when he was just a teenager and was still in high school. After Peter Jr. graduated from high school, he began working full-time at the LaSalle Hotel. Peter Jr. worked hard and was promoted many times until he was ultimately promoted to be the General Manager of the LaSalle Hotel, in 2002. Peter Jr. was responsible for running the entire hotel and restaurant operation up until his recent bad faith termination discussed below.
- (i) The Plaintiff's husband, George, passed away in 1995. George died with a valid Will, dated April 22, 1992. The Will provided that any shareholder interest he had

in any companies would be transferred to his brothers in accordance with the terms of a Buy-Sell Agreement executed by George during his lifetime.

- (j) However, no Buy-Sell Agreement was executed during George's lifetime and as such his one-third interest in the Corporation was not transferred to his brothers, Peter and John, on his death.
- (k) Pursuant to the terms of George's Will, the Plaintiff became the beneficial owner of George's one-third interest in the Corporation. Peter and John were named as Estate Trustees.
- (l) George's Will directs the Estate Trustees, Peter and John, to keep invested the residue of his estate for the benefit of the Plaintiff and to pay the net income from the investments to the Plaintiff and their children, Peter Jr. and Valarie.
- (m) Peter and John always appeared to accept and agree that the Plaintiff was a one-third owner of the Corporation. The Plaintiff, along with the other two equal shareholders, Peter and John, received Dividend payments from the Corporation of \$7,000.00 per month consistently for many years.
- (n) The Plaintiff relied on the Dividend income to pay for her living expenses. The Plaintiff is ill and requires the Dividend income to fund her care needs in addition to her living expenses.



- (o) John and Peter are in their early 90s. In late 2018 or early 2019 John and Peter were finally ready to sell their interest in the Corporation to Peter Jr. and Peter Jr. readily agreed he would purchase the Corporation.
- (p) Peter Jr. then took steps to secure financing to purchase the business and the parties met with an accountant and a lawyer to determine how the transaction would be structured. However, before the sale was completed the COVID-19 pandemic began. Peter Jr.'s lenders advised they could no longer provide funding to the restaurant and hotel industry at that time given the uncertainty created by the pandemic. Steps to sell the business were put on hold.
- (q) In the summer of 2021, John and Peter listed the business for sale. Peter Jr. understood the same process as occurred in 2019 would be used and the listing was merely to determine the current market value of the Corporation.
- (r) However, unbeknownst to Peter Jr. and to the Plaintiff, John and Peter purported to enter into a binding Agreement of Purchase and Sale with a third party, 1000073686 Ontario Inc. and Hao Chen, on December 14, 2021 to sell the LaSalle Hotel for \$8,750,000.00.
- (s) Peter Jr. commenced an action (Court File No. CV-22-223-0000) against John and Peter and the Corporation claiming a constructive or resulting trust over the Corporation given his contributions over the years. Peter Jr. also claimed John and Peter were estopped from selling the LaSalle Hotel to a third party given the

promises made to Peter Jr. over the years that it would be sold to him. The Statement of Claim was issued August 5, 2022. The action has been defended and a Counterclaim brought against Peter Jr. The action is ongoing.

- (t) On August 5, 2022, Peter Jr. obtained an *ex parte* order from Justice Mew to place a Certificate of Pending Litigation (hereinafter "CPL") on title to the hotel property and an injunction ordering that the property not be encumbered, dissipated, altered or interfered with in any way. The Defendants and the third-party purchaser brought a voluminous motion to set aside the CPL. Justice Ryan-Bell dismissed the Defendants' motion and upheld Justice Mew's decision granting the CPL and injunction.
- (u) Additionally, the third-party purchaser who entered into the Agreement of Purchase and Sale (hereinafter "APS"), 1000073686 Ontario Inc. and Hao Chen, have commenced an action (Court File No. CV-23-44-0000) against the Corporation as well as John and Peter and Peter Jr. seeking specific performance of the APS. The Statement of Claim was issued on February 15, 2023.
- (v) The Defendants have recently unilaterally ceased paying the Plaintiff her Dividends from the Corporation without any explanation or notice. These funds are critical to the Plaintiff as they pay for her care and living expenses.
- (w) Additionally, the Plaintiff has discovered that John and Peter have removed vast sums of money out of the Corporation, exceeding \$250,000.00 in 2022, and

withdrew an additional \$90,000.00 from the Corporation on March 10, 2023 leaving the Corporation with insufficient assets to continue operations.

- (x) On March 15, 2023, John and Peter purported to terminate Peter Jr.'s position as General Manager of the LaSalle Hotel in bad faith despite his decades of faithful service to the LaSalle Hotel.
- (y) John and Peter appear to be attempting to run the business into the ground so that the only option will be to sell to a third party, rather than Peter Jr.
- (z) John and Peter are not acting in the best interest of the Corporation and are making decisions out of personal animosity and spite rather than what is in the best interests of the Corporation. Further, they are refusing to honour the agreement to sell the Corporation to Peter Jr.
- (aa) The Plaintiff meets the test for an interim and interlocutory injunction to maintain the status quo of the LaSalle Hotel until this litigation is concluded.
- (bb) Specifically, the Plaintiff seeks an order requiring the Defendants to return the funds misappropriated from the Corporation so that it can continue to operate. Further, Peter Jr. must be immediately reinstated so that the LaSalle Hotel can continue to operate until this litigation is concluded. In the alternative, a receiver should be appointed to manage the LaSalle Hotel until this litigation is concluded. Additionally, the Plaintiff's Dividend payments must be immediately reinstated so she can pay her living and care expenses.

- (cc) The Plaintiff has a strong *prima facie* case that the conduct of the Defendants is oppressive and that Peter and John have breached their fiduciary duties, both as Directors of the Corporation and as Estate Trustees, by: misappropriating funds from the Corporation; firing Peter Jr. in bad faith; stopping the Plaintiff's Dividend payments; refusing to honour the agreement to sell the business to Peter Jr.; and attempting to run the business into the ground so that the only option will be to sell to a third party.
- (dd) The Plaintiff will suffer irreparable harm if interim relief is not granted as the Defendants seem determined to run the family business into the ground and to avoid keeping the business in the family as they had agreed to do. Additionally, the Plaintiff requires her Dividend payments to pay for her care and living expenses.
- (ee) The Defendants will suffer no harm, that the Plaintiff is aware of, if interim relief is granted ordering the Defendants to maintain status quo pending a resolution of this matter and to repay the misappropriated funds back into the Corporation.
- (ff) In the circumstances, the balance of convenience favours granting the injunction.
- (gg) Additionally, the Plaintiff seeks an order, pursuant to sections 5 and 37 of the *Trustee Act*, R.S.O. 1990, c. T. 23, removing Peter and John from continuing to act as Estate Trustees and appointing Peter Jr. to act in their place. Peter and John's actions, as set out above, have not been in the best interests of George's Estate or in the best interests of the Plaintiff, a beneficiary of the Estate.

- (hh) Lastly, the Plaintiff seeks an order pursuant to Rule 6 of the *Rules of Civil Procedure* to consolidate this action with the two related actions discussed above (Court File No. CV-22-223-0000; and Court File No. CV-23-44-0000) since they involve common questions of law or fact and arise out of the same series of transactions.
- (ii) If necessary, the Plaintiff undertakes to abide by any order concerning damages that the Court may make pursuant to Rule 40.03 of the *Rules of Civil Procedure*.
- (jj) Rules 6, 37, 40, 41, 44 and 45 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
- (kk) Sections 101 and 104 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43.
- (ll) Sections 5 and 37 of the *Trustee Act*, R.S.O. 1990, c. T. 23.
- (mm) Section 248 of the *Business Corporations Act*, R.S.O. 1990, c. B. 16; and
- (nn) Such further and other grounds as counsel for the Plaintiff may advise and this Honourable Court deems just.

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

- (oo) The Affidavit of Valerie Demitt, and the exhibits attached thereto; and

(pp) Such further and other evidence as counsel for the Plaintiff may advise and this Honourable Court may permit.

March 24, 2023

**GEOFFREY LAW OFFICES**  
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630 Derbyshire Point Lane  
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**BRYCE V. GEOFFREY**  
LSO # 29872G

Email: bgeoffrey@shaw.ca  
Tel: (604) 360-6003

Lawyer for the Plaintiff

**TO: PETER KARKOULIS**  
2 Authors Lane  
Kingston, ON K7M 7W7  
  
Defendant

**AND TO: JOHN KARKOULIS**  
45 Dickens Drive  
Kingston, ON K7M 2M5  
  
Defendant

**AND TO: LA SALLE MOTEL CO. (KINGSTON) LTD.**  
2360 Princess Street  
Kingston, ON K7M 3G4  
  
Defendant

**ANDREA KARKOULIS BY HER LITIGATION  
GUARDIAN VALERIE DEMITT**

-and-

**PETER KARKOULIS et al.**

Plaintiff

Defendants

Court File No.: CV-23-00000080-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
KINGSTON**

**NOTICE OF MOTION**

**GEOFFREY LAW OFFICES**  
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630 Derbyshire Point Lane  
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**BRYCE V. GEOFFREY**  
LSO # 29872G

Email: [bgeoffrey@shaw.ca](mailto:bgeoffrey@shaw.ca)  
Tel: (604) 360-6003

Lawyer for the Plaintiff

This is Exhibit "I" referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



## CIVIL CASE CONFERENCE ENDORSEMENT BEFORE LONG MOTION OR APPLICATION

Judge: Williams, J.

Court File No.: CV-23-00000080-0000

Jurisdiction: Kingston

Short Case Name: ANDREA KARKOULIS BY HER LITIGATION GUARDIAN VALERIE DEMITT v. KARKOULIS et al

*Bryce Geoffrey*, for Plaintiff(s)

Email address: [bgeoffrey@shaw.ca](mailto:bgeoffrey@shaw.ca)

*Kathleen McDormand*, for Defendant(s)

Email address: [kmcdormand@blq.com](mailto:kmcdormand@blq.com)

**MOTION/APPLICATION DATE: TBD**

**LENGTH OF MOTION/APPLICATION: TBD**

### TIMETABLE / DIRECTIONS / COMMENTS

1. Ms. McDormand attended the case conference on behalf of the defendants, although she said she has not yet been formally retained.
2. Adam Higgins, articling student for David Adams, Cunningham Swan, attended the case conference. Mr. Adams represents Peter Karkoulis Jr. in a different action.
3. In my view, there is some urgency to this motion, although all aspects of it may not be urgent. The urgency is in respect of the first order sought by the plaintiff, "(a) an interim and interlocutory order...(i) Reinstating the monthly Dividends of \$7,000.00 that were paid to the Applicant by the Corporation for many years that were suddenly stopped by the individual Defendants, without warning or consultation."
4. An appropriate timetable for the motion will depend upon whether this issue can be resolved on an interim basis on consent.
5. Ms. McDormand does not have instructions today but said she would discuss the issue with her clients. She was strongly encouraged to do so.

6. Ms. McDormand is of the view that because of the issues raised, the Public Guardian and Trustee and the Office of the Children's Lawyer require notice. Ms. McDormand noted that the relief sought includes consolidation with two other actions. Ms. McDormand also has concerns about the litigation guardian's affidavit.
7. The case conference is adjourned to a further case conference Thursday, April 6<sup>th</sup>, at 10 a.m. Two hours shall be set aside, if required, so that all issues that may inform the timetable may be explored.
8. Mr. Geoffrey shall provide the PGT and the OCL with the statement of claim and the motion record and shall also ensure that all persons with an interest in the issues raised are aware of the date and time of the next case conference and are provided with the Zoom link.
9. In case there is a disagreement between Mr. Geoffrey and Ms. McDormand with respect to identification of the persons who have an interest in the issues raised, Ms. McDormand may, at her option, also take steps to ensure that interested persons are aware of the case conference date and time and are provided with the Zoom link.

**Date: 28-MAR-2023**

*Justice H. J. Williams*

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**Judge's Signature**

This is Exhibit “J” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**PETER KARKOULIS**

Plaintiff

- and -

**PETER KARKOULIS, JOHN KARKOULIS, and  
LA SALLE MOTEL CO. (KINGSTON) LTD.**

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

DATE: March 28, 2023

Issued by \_\_\_\_\_

Local Registrar  
5 Court Street  
Kingston, ON K7L 2N4

TO:           **PETER KARKOULIS**  
2 Authors Lane  
Kingston, ON K7M 7W7

AND TO:     **JOHN KARKOULIS**  
45 Dickens Drive  
Kingston, ON K7M 2M5

AND TO:     **LA SALLE MOTEL CO. (KINGSTON) LTD.**  
2360 Princess Street  
Kingston, ON K7M 3G4

## CLAIM

1. The Plaintiff claims against the Defendants:
  - a) damages in the amount of \$234,000.00 for wrongful dismissal, representing the unpaid plaintiff's base salary over a three-year period;
  - b) aggravated damages in the amount of \$75,000.00 for the Defendants' breach of their duty of good faith and fair dealing in the manner of the Plaintiff's dismissal;
  - c) punitive damages in the amount of \$50,000.00;
  - d) pre- and post-judgment interest on these amounts in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - e) costs on this action on a substantial indemnity basis together with applicable taxes thereon in accordance with the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended; and,
  - f) such further and other relief as this Honourable Court may deem just.

### The Parties

2. The Plaintiff, Peter Karkoulis Jr. ("**Peter Jr.**"), is an individual residing in Kingston, Ontario. Peter Jr. is a former employee of the LaSalle Hotel and Caviler Room restaurant (the "**LaSalle Hotel**").
3. The Defendant, La Salle Motel Co. (Kingston) Ltd. ("**LaSalle Co.**") is a corporation duly incorporated pursuant to the laws of Ontario, having its head office in Kingston, Ontario. The company is the owner of the LaSalle Hotel.
4. The Defendant, John Karkoulis ("**John**"), is an individual residing in Kingston, Ontario. John is a director, officer, and one-third (1/3<sup>rd</sup>) shareholder of LaSalle Co.

5. The Defendant, Peter Karkoulis Sr. (“**Peter Sr**”), is an individual residing in Kingston, Ontario. Peter Sr. is a director, officer, and one-third (1/3<sup>rd</sup>) shareholder of LaSalle Co.

### **The Family Business**

6. In or about 1966, Peter Jr.’s father, George Karkoulis (“**George**”), along with George’s brothers, John and Peter Sr. (collectively the “**Uncles**”), purchased the LaSalle Motel and Cavalier Room in Kingston, Ontario. The LaSalle Motel later became the LaSalle Hotel.
7. The LaSalle Hotel has been owned and operated by the Karkoulis family since its inception. Many members of the extended Karkoulis family have worked at the LaSalle Hotel. The LaSalle Hotel was always intended to be a multi-generational business and the Karkoulis Family, including the Uncles, discussed on many occasions that the business would be sold to whichever children wanted to take over the business.
8. Peter Jr. was born in 1967. He spent much of his childhood at the LaSalle Hotel with his family.
9. On June 17, 1974, the LaSalle Co. was incorporated by George and the Uncles. The LaSalle Hotel and its assets were subsequently transferred to the LaSalle Co. George and the Uncles were appointed as directors and officers. Each was an equal one-third (1/3<sup>rd</sup>) shareholder, although no formal shareholder agreement was drafted.
10. George passed away in 1995 with a valid will. John and Peter Sr. are trustees of the Will.
11. Pursuant to George’s Will, his spouse, Andrea Karkoulis (“**Andrea**”), is the beneficial owner of George’s shares of LaSalle Co.
12. Andrea received dividend payments twice a month as a one-third (1/3<sup>rd</sup>) shareholder. Since 2015 this has amounted to an estimated \$84,000.00 per year.

13. Andrea currently resides in Calgary, Alberta, with her daughter Valerie Demitt (“Valerie”). Valerie has Power of Attorney for both property and personal care for Andrea, who has dementia. The dividend funds were used for Andrea’s caretakers and medical needs.

### **Peter Jr.’s Employment**

14. Peter Jr. began working at the LaSalle Hotel when he was in high school at Kingston Collegiate and Vocational Institute (“KCVI”). He started by handling maintenance, lawn care, and running errands.
15. After graduating from KCVI, Peter Jr. chose not to pursue post-secondary education and instead began working full-time at the LaSalle Hotel.
16. Peter Jr. dedicated his working life to the LaSalle Hotel. He did so in reliance on promises and assurances by his parents and Uncles that they would sell LaSalle Co. to him one day.
17. Following George’s passing, the Uncles continued to promise Peter Jr. that he would have the opportunity to purchase the LaSalle Co.
18. Peter Jr. received many promotions over the years, and in 2002 he earned the role of General Manager which he held until his wrongful termination on March 15, 2023.
19. At the time of his wrongful termination, Peter Jr. earned a base salary of \$78,000.00 per year.

### **Listing the LaSalle Hotel**

20. In or about late 2018 and into 2019, the Uncles became interested in selling the LaSalle Co. Peter Jr. confirmed that he intended to purchase the LaSalle Co.



21. Peter Jr. and the Uncles agreed that the Uncles would solicit offers for the LaSalle Co., on the open market to determine the value of the business. Peter Jr. would then secure financing in an amount consistent with the fair market value.
22. A third party offer to purchase the LaSalle Co., and/or all of LaSalle Co.'s assets was received for approximately \$9,500,000.00.
23. Peter Jr. took steps at his personal expense to secure financing. He and the Uncles met with professionals including an accountant and a lawyer, to determine how the transaction would be structured.
24. In late 2019 and early 2020, Peter Jr. met with two financial institutions, Bank of Montreal (“**BMO**”) and Business Development Bank of Canada (“**BDC**”) to begin the process of securing financing to purchase the LaSalle Co.
25. Both BMO and BDC backed out after the financing process had begun, due to the impact of the COVID-19 pandemic on the hotel and restaurant industries.
26. All attempts to sell the LaSalle Co. were ceased given the realities of the pandemic.
27. In 2021, the Uncles listed the property with a realtor. Peter Jr. understood that the same process would be employed; market values would be obtained, and Peter Jr. would have the opportunity to purchase the business.
28. The Uncles were aware of Peter Jr.'s intent, and John repeatedly assured the Plaintiff that they would not sell without his involvement.
29. Unknown to Peter Jr. at the time, in or about November of 2021, the Uncles purported to accept an offer and create a binding agreement of purchase and sale with one Hao Chen

(“**Chen**”) in trust for a corporation not yet incorporated; later incorporated as 10000073686 Ontario Inc. (“**686**”).

30. In December 2021, Peter Jr. discovered that the Uncles had executed an APS with Chen to sell the LaSalle Hotel and all of LaSalle Co.’s assets, without his knowledge and consent and without providing Peter Jr. the opportunity to purchase the business.
31. Peter Jr. confronted John with these facts, who confessed, but indicated he would do everything possible to back out of the deal.
32. Peter Jr. delayed commencing an action against his 90-year old Uncles as he knew it would literally tear his family apart. He also relied on John’s assurance that he would find a way out of the deal.
33. In June 2022, when Peter Jr. learned the deal remained firm with an August 10, 2022 closing date, he was forced to commence litigation.

#### **The *Karkoulis* Action**

34. On August 5, 2022, Peter Jr. issued his statement of claim against the Uncles and LaSalle Co. (the “***Karkoulis* Action**”). He asserts:
  - a) a proprietary interest in the LaSalle Co. and/or all of its assets arising from express or, alternatively, resulting trust;
  - b) proprietary estoppel, as he was induced, or alternatively allowed, to believe that he would be afforded the opportunity to purchase the LaSalle Co and/or all of its assets; and,
  - c) unjust enrichment, wherein the Uncles were enriched at Peter Jr.’s detriment.

35. On August 5, 2022, by *ex parte* motion, Peter Jr. obtained an Order from Justice Mew that:
- a) a Certificate of Pending Litigation be issued in [the] action with respect to the real property, 2360 Princess Street, Kingston, Ontario, legally described as follows:  
  
PT LT 14 CON 3 KINGSTON AS IN FR315986; S/T FR332477, TKU 12314;  
  
KINGSTON registered as PIN 36086-0103 (LT); and
  - b) the property referred to [above] shall not be encumbered, dissipated, altered or interfered with in any way.
36. The Uncles subsequently brought a motion to set aside the Order of Justice Mew.
37. Chen and 686 brought motions to be added as a party to the *Karkoulis* action, and to set aside the Order of Justice Mew.
38. The motion was heard on October 6 and 21, 2022, before Justice Ryan Bell.
39. On January 19, 2023, Justice Ryan Bell released her decision, upholding the Order of Justice Mew and denying Chen and 686 party status in the action.
40. The *Karkoulis* Action remains ongoing.

**The *Chen/686* Action**

41. On February 15, 2023, Chen and 686 issued a statement of claim against the Uncles, LaSalle Co., and Peter Jr.
42. Chen and 686 seek, *inter alia*, specific performance of the APS.
43. The *Chen/686* Action remains ongoing.

### **The *Andrea Karkoulis* Action**

44. On March 21, 2023, Andrea Karkoulis issued a statement of claim against the Uncles and LaSalle Co.
45. Andrea Karkoulis seeks, *inter alia*:
- a) the reinstatement of her dividends;
  - b) retroactive payment for the dividends she has not received in 2023;
  - c) a declaration that the LaSalle's affairs have been carried out oppressively against her;
  - d) an order for an accounting of, and return of, all funds improperly removed by the Uncles from the LaSalle Co., which is currently estimated to be over \$490,000.00;
  - e) an order prohibiting the Uncles from removing further funds from the LaSalle Co. apart from the ordinary course of business; and
  - f) an order reinstating Peter Jr., or alternatively an order to appoint a receiver for the LaSalle Co.
46. The *Andrea Karkoulis* Action remains ongoing.

### **Peter Jr.'s Termination**

47. The day of Peter Jr.'s termination, he was working on a bid for a contract with Public Works and Government Services Canada ("PWGSC") and Immigration, Refugee and Citizenship Canada ("IRCC"). If successful, the contract would have filled over fifty (50) rooms at the LaSalle Hotel for between two (2) and five (5) months, with the PWGSC paying for their client's rooms and meals. Peter Jr. estimated the contract would be worth over \$2,500,000.00.

48. Peter Jr.'s litigation counsel was served a termination letter from LaSalle Co.'s corporate counsel, David Doyle.
49. The letter purported to terminate Peter Jr. immediately, for cause, citing:
- a) dishonesty and/or recklessness in agreeing to cooperate with [the Uncles] to sell the Hotel while actively working to stop [the Uncles] from selling the Hotel;
  - b) dishonesty and/or recklessness in charging expenses to the Hotel which were not legitimate business expenses (including [Peter Jr.'s] legal fees to the law firm that helped [Peter Jr.] sue the Hotel and its shareholders);
  - c) breach of [the Uncles] trust in recording conversations without [the Uncles] knowledge (including conversations with [the Uncles] lawyers);
  - d) failure to keep proper records at the Hotel with respect to its financial activities;
  - e) filing court documents that contain false and harmful statements against [the Uncles];
  - f) taking steps that have led to [Chen and 686] bringing legal claims against [the Uncles] (and as [Peter Jr.] can see from [Chen and 686's] claim, it rests heavily on [Peter Jr.'s] actions);
  - g) suing [the Uncles], at the very last minute (after cooperating for many months), to stop the sale to [Chen and 686] so that [Peter Jr.] could have an opportunity to buy the Hotel and then [Peter Jr.'s] failure to even respond to communications inquiring about the offer to buy the Hotel that [Peter Jr.] said was forthcoming;
  - h) taking confidential information of [the Uncles] and using that confidential information against [the Uncles] for [Peter Jr.'s] own purposes;

- i) general absence from work and lack of effort in [Peter Jr's] job; and
  - j) more generally, [Peter Jr's] taking a salary and assorted benefits from [the Uncles] while spending a great deal of time working for [himself] and against [the Uncles].
50. The Uncles go on to suggest that the list is “not exhaustive” and they “continue to unearth new issues that further support the position that a termination for cause” is reasonable.
51. The termination letter demanded:
- a) Peter Jr. not return to the Hotel; and
  - b) Peter Jr. return by courier, and as soon as possible,
    - i. credit cards and bank cards belonging to LaSalle Co.;
    - ii. cellphones in Peter Jr.'s and his families' possession belonging to LaSalle Co.;
    - iii. a list of all passcodes and passwords belonging to LaSalle Co.;
    - iv. the vehicle belonging to LaSalle Co.;
    - v. all key's belonging to LaSalle Co.;
    - vi. all laptops and computers belonging to LaSalle Co.;
    - vii. all tools belonging to LaSalle Co.; and
    - viii. all banking and financial information belonging to LaSalle Co.
52. As Peter Jr. had worked for the LaSalle Hotel, his family business, for his entire adult life, his personal and professional life were inexorably intertwined. The sudden loss of many of these items, such as cellphones, computers, vehicles, and tools, would leave Peter Jr. in a

highly vulnerable position. Particularly so given Peter Jr.'s newfound lack of employment income, ongoing legal expenses, and his contributions to the caretaking for Andrea Karkoulis, since her dividend payments had been previously cut-off by the Uncles.

53. On March 16, 2023, at 5:45pm, the Uncles provided a "courtesy notice" to Peter Jr. that as of noon on March 17, 2023, Peter Jr.'s cellphone, and his family's cellphones, would have their service terminated, and advising him to transfer the numbers if they intended to keep them.
54. The morning of March 17, 2023, Peter Jr. phoned his cellphone provider to do so, but was informed the service had already been terminated.

#### **Damages for Wrongful Dismissal**

55. Peter Jr. denies that his termination was for cause and puts the Defendants to strict proof thereof.
56. Peter Jr. is entitled to pay in lieu of three (3) years at common law, having regard to, *inter alia*, the following:
  - a) over 35 (thirty-five) years of service to the LaSalle Hotel, including twenty-one (21) years as the General Manager;
  - b) his fifty-five years of age (d.o.b. June 19, 1967);
  - c) his over thirty-five (35) years of experience in the hospitality industry;
  - d) his limited ability to find new employment in an extremely competitive job market;
  - e) the still-recovering hospitality industry given the COVID-19 pandemic and the current economic state of Ontario; and

f) The Defendants' inducement of Peter Jr. to work for the LaSalle Hotel with the promise he could purchase it one day, which is now the subject of litigation.

57. To date, the Defendants have paid no termination or severance pay to Peter Jr.

58. Peter Jr. has attempted to, and continues to, make reasonable efforts to mitigate his damages. Despite the recency of his wrongful termination, he has already begun submitting applications for comparable positions.

59. Peter Jr. is ineligible for unemployment insurance as he is non-arms-length with his former employer, the Defendants.

#### **Aggravated, Moral and/or Bad Faith Damages**

60. The Defendants breached their duty of good faith and fair dealing in the manner of Peter Jr.'s dismissal and are liable for aggravated damages.

61. The termination is clear retribution in response to Peter Jr.'s claim in the *Karkoulis* Action. Peter Jr. is enforcing his legal rights, has succeeded on both substantive motions in doing so, and in response the Defendants have terminated him. This is evident from the list of grounds cited for his termination, which make several references to the litigation.

62. The Defendants cite a broad and vague list of grounds for termination, including allusions to "unearth[ing]" new grounds after the fact. The grounds for termination given are false, misleading, and invalid.

63. The Defendants knowingly terminated Peter Jr. whilst he was engaged in legal proceedings related to his legitimate assertion of an equitable interest in LaSalle Co. and its property. In terminating Peter Jr., the Defendants have knowingly and intentionally limited Peter Jr.'s resources amidst the litigation.



64. Peter Jr. is ineligible for unemployment insurance due to his non-arms-length relationship with his former employer, the Defendants.
65. An award of \$75,000.00 in aggravated. Moral, and/or bad faith damages is therefore warranted.

### **Punitive Damages**

66. The Defendants have falsely alleged grounds to terminate Peter Jr. in order to do so without notice or pay in lieu. As such, the Defendants have failed to pay Peter Jr. what he should be entitled to under the *ESA*.
67. Two (2) months prior to terminating Peter Jr., the Defendants ceased payment of dividends to Andrea Karkoulis, Peter Jr.'s mother. Peter Jr. has been transferring money to Valerie Demitt, Peter Jr.'s sister, to help with the cost of caring for Andrea.
68. Having terminated Andrea's dividend payments and Peter Jr.'s employment, the Defendants have knowingly and severely limited the funds available to care for Andrea.
69. Following his termination, Peter Jr. was given less than one-day's notice that his cellphone service would be terminated. When Peter Jr. attempted to transfer his cellphone number within the courtesy period, he was informed that the Defendant's had already terminated the service.
70. The Defendant's conduct has been, and continues to be, oppressive, high-handed, and reprehensible. These actions constitute an independent and actionable wrong. A combined award of wrongful dismissal and bad-faith damages are insufficient to punish the Defendants and other employers who would engage in similar misconduct.
71. An award of \$50,000.00 in punitive damages is therefore warranted.

## General

72. Peter Jr pleads and relies on the *Employment Standards Act* 2000, S.O. 2000, C. 41, Rules of *Civil Procedure*, R.R.O. 1990, Reg. 194, and the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, each as amended.
73. Peter Jr. proposes that this action be heard in Kingston, Ontario.

March 28, 2023

**CUNNINGHAM, SWAN, CARTY,  
LITTLE & BONHAM LLP**  
Barristers & Solicitors  
Suite 300 - 27 Princess Street  
Kingston, ON K7L 1A3  
Tel: 613-544-0211

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zdubeau@cswan.com

Lawyers for the Plaintiff  
Peter Karkoulis, a.k.a. Peter Karkoulis Jr.

**PETER KARKOULIS**  
PLAINTIFF

-and-

**PETER KARKOULIS ET AL.**  
DEFENDANTS

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Kingston

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**STATEMENT OF CLAIM**

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**CUNNINGHAM, SWAN, CARTY, LITTLE &  
BONHAM LLP**

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**ZACHARY Y. DUBEAU**  
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zdubeau@cswan.com

Lawyers for the Defendant  
Peter Karkoulis, a.k.a. Peter Karkoulis Jr.

This is Exhibit “K” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 11 - Kingston  
Court No. 33-2929085  
Estate No. 33-2929085

In the Matter of the Notice of Intention to make a proposal of:

**LA SALLE MOTEL CO. (KINGSTON) LTD.**

Insolvent Person

**LINK & ASSOCIATES INC.**

Licensed Insolvency Trustee

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Date of the Notice of Intention:

April 03, 2023

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: April 03, 2023, 09:35

E-File/Dépôt Electronique

Official Receiver

Place Bell Canada, 160 Elgin Street, 11th Floor, Suite B-100, Ottawa, Ontario, Canada, K2P2P7, (877)376-9902

**Canada**

This is Exhibit “L” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**

District of: Ontario  
 Division No. 12 - Ottawa  
 Court No. 33-  
 Estate No. 33-

- FORM 33 -

Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the Matter of the Proposal of  
 LA SALLE MOTEL CO. (KINGSTON) LTD.

Take notice that:

1. I, LA SALLE MOTEL CO. (KINGSTON) LTD., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that I intend to make a proposal to my creditors.
2. Link & Associates Inc. of 7050 Weston Road, Suite #228, Woodbridge, ON, L4L 8G7, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the official receiver in my locality.

Dated at the City of Kingston in the Province of Ontario, this 1st day of April 2023.

  
 LA SALLE MOTEL CO. (KINGSTON) LTD.  
 Insolvent Person

To be completed by Official Receiver:

\_\_\_\_\_  
 Filing Date

\_\_\_\_\_  
 Official Receiver

This is Exhibit “M” referred to in the Affidavit of Sandra Noe sworn by Sandra Noe of the City of Maniwaki, in the Province of Quebec, before me at the City of Ottawa, in the Province of Ontario, on April 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**CHRISTOPHER SHOREY (70135B)**



**CIVIL CASE CONFERENCE ENDORSEMENT  
BEFORE LONG MOTION OR APPLICATION**

Judge: Tranmer, J.

Court File No.: CV-23-00000080-0000, CV-23-00000044-0000, *CV 22-233, CV 23-90*

Jurisdiction: Kingston

Short Case Name: ANDREA KARKOULIS BY HER LITIGATION GUARDIAN  
VALERIE DEMITT v. KARKOULIS et al

CHEN et al v. KARKOULIS et al

Bryce Geoffrey - *Andrea Karkoulis*  
Richard Worsfold, for Plaintiff(s) *Chen*  
Email address: [bgeoffrey@shaw.ca](mailto:bgeoffrey@shaw.ca) / [richard.worsfold@millsandmills.ca](mailto:richard.worsfold@millsandmills.ca)

David M. Adams / Zachary Dubeau *Peter K. Jr*  
Kathleen McDormand / Jason Dutzriac, for Defendant(s) *for Lasalle Hotel Depts.*  
Email address: [dadams@cswan.com](mailto:dadams@cswan.com) / [zdubeau@cswan.com](mailto:zdubeau@cswan.com) *vs Houle for OCH*  
[kmcdormand@blg.com](mailto:kmcdormand@blg.com) / [jdutrizac@blg.com](mailto:jdutrizac@blg.com)

MOTION/APPLICATION DATE:

*- gch Calista and  
Nov 8/07*

LENGTH OF MOTION/APPLICATION:

*James George  
Aug 17/11.*

TIMETABLE / DIRECTIONS / COMMENTS

*Mr. Masic - Trustee in  
Proposed Bicy of  
La Salle Corp.*

*La Salle corp proposed  
Bicy April 4/23 - 1<sup>st</sup> hearing, April 19/23  
before Kerstman, J.*

*Urgent Motion by Andrea set to  
be heard May 24/23 @ 10<sup>00</sup> via 3hr Zoom.*

*Time table:*

Date: ~~28-MAR-2023~~

Judge's Signature

*Apr 16/23.*

*G1*

*1/2*

Amended Motion materials to be served <sup>G2</sup> on or before April 17<sup>th</sup>, 2023.

Responding Material to be served on or before April 25, 2023.

Reply, if any, on or before May 4, 2023.

X-examinations to be completed on or before May 10/23.

MP Factum to be served on or before May 12, 23.

Resp Factum to be served on or before May 17/23.

Defence of the matters ~~is~~ adjourned to ~~that~~ May 24 23 at 10<sup>00</sup> TBST.

JL Granmer, J.

2/2.

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT R.S.C., 1985, c. B-3, AS AMENDED**  
**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD.,**  
**A CORPORATION INCORPORATED UNDER THE LAWS OF THE PROVINCE OF ONTARIO**

---

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

---

**AFFIDAVIT**

**BORDEN LADNER GERVAIS LLP**  
100 Queen Street, Suite 1300  
Ottawa ON K1P 1J9

**Jason Dutrizac (50004T)**  
jdutrizac@blg.com  
613.787.3535

Lawyers for the Applicant / Moving Party

# Tab 4

Estate/Court File No. 33-2929085

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

THE HONOURABLE	)	WEDNESDAY, THE 19 <sup>th</sup>
	)	
JUSTICE KERSHMAN	)	DAY OF APRIL, 2023

**IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT***  
**R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION**  
**TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD., A**  
**CORPORATION INCORPORATED UNDER THE LAWS OF THE**  
**PROVINCE OF ONTARIO**

**ORDER**

**THIS MOTION**, made by La Salle Motel Co. (Kingston) Ltd. (the "**Applicant**") for an order pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), was heard this day by judicial videoconference via Zoom.

**ON READING** the Notice of Motion, the Affidavit of Gina Karkoulis, affirmed April 17, 2023, and the Exhibits thereto (the "**Karkoulis Affidavit**"), filed, the Affidavit of Sandra Noe, sworn April 17, 2023, and the Exhibits thereto (the "**Noe Affidavit**"), the First Report of Link & Associates Inc, in its capacity as Proposal Trustee (the "**Proposal Trustee**"), dated April 14, 2023 (the "**First Report**"), filed, and on reading the Applicant's cash-flow statement, appended to the First Report, and on being advised that the secured creditor of the Applicant who is likely to be affected by the charges created herein were given notice of the motion for this Order, and on hearing the submissions of counsel to the Applicant, counsel for the Proposal Trustee, counsel for the Bank of Montreal ("**BMO**"), and such other counsel that were present, no one appearing for any other party, although duly served as appears from the Affidavits of Service sworn April 17, 2023, both filed;

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**EXTENSION OF TIME TO MAKE A PROPOSAL**

2. **THIS COURT ORDERS** that the time within which to make a proposal pursuant to section 62(1) of the BIA and the corresponding stay of proceedings provided for in section 69 of the BIA, be and are hereby extended in accordance with section 50.4(9) of the BIA to and including June 19, 2023.

**INCREASE COMPANY'S EXISTING CREDIT FACILITY**

3. **THIS COURT ORDERS** that the Applicant is hereby authorized to execute and deliver to BMO such credit agreements and other documents as may be reasonably required by BMO to increase the amount of credit to be made available by BMO to the Applicant under its current revolving lending facility (the "**Increased Credit Availability**"), and the Applicant is hereby authorized and empowered to perform its obligations thereunder and to make the borrowings permitted thereunder from BMO, as lender, in order to finance the Applicant's working capital requirements (including those of its operating facilities), these proposal proceedings, and other general corporate purposes and capital expenditures, provided that borrowing under such credit facility shall not exceed \$450,000.00, unless permitted by further order of this Court.

4. **THIS COURT ORDERS** that the Increased Credit Availability shall be on the terms and conditions set forth in the Letter of Agreement – Amendment & Restatement dated June 18, 2020 made between the Applicant and BMO, as amended by the Letter of Agreement – Amendment ("**Letter of Agreement – Amendment**") attached to this Order as **Schedule "A"**, subject to such further amendments as may be agreed between the Applicant and BMO.

5. **THIS COURT ORDERS** that the Increased Credit Availability shall be secured under the security previously granted by the Applicant to BMO and that BMO shall also be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the property and assets of the Applicant, which DIP Charge shall not exceed \$150,000, for all amounts advanced by it under the Increased Credit Availability, plus interest thereon. The DIP Charge shall have the priority set out in paragraph 9 of this Order and shall be enforceable against any trustee in bankruptcy of the Applicant or its property.

6. **THIS COURT ORDERS** that, unless agreed by BMO, BMO shall be treated as unaffected in any proposal filed by the Applicant, with respect to any advances made under the Increased Credit Availability.

#### **ADMINISTRATION CHARGE**

7. **THIS COURT ORDERS** that that the Proposal Trustee, the Proposal Trustee's counsel, and the Applicant's counsel, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings, both before and after the making of this Order. The Applicant is hereby authorized to pay the accounts of the Proposal Trustee, the Proposal Trustee's counsel and the Applicant's counsel as accounts are rendered from time to time, provided that the accounts of the Proposal Trustee and the Proposal Trustee's counsel as paid are passed from time to time, and for this purpose the accounts are hereby referred to a judge of the Ontario Superior Court of Justice at Ottawa, Ontario.

8. **THIS COURT ORDERS** that the Proposal Trustee, the Proposal Trustee's counsel and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the current and future assets, undertakings and properties of the Applicant of every nature and kind whatsoever (including all real and personal property), and wherever situate including all proceeds thereof (collectively, the "**Property**"), which charge shall not exceed an aggregate amount of \$100,000.00, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order.

**VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER**

9. **THIS COURT ORDERS** that the priorities of the Administration Charge, and the DIP Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First - Administration Charge (up to the maximum amount of \$100,000.00); and

Second – DIP Charge (up to a maximum amount of \$150,000).

10. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

11. **THIS COURT ORDERS** that the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any individual, firm, corporation, governmental body or agency, or any other entities notwithstanding the order of perfection or attachment.

12. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that ranks in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Proposal Trustee and the chargees entitled to the benefit of such Charges (collectively, the "**Chargees**"), or further Order of this Court.

13. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the



general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- a. neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Letter of Agreement – Amendment shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- b. none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Letter of Agreement – Amendment, the creation of the Charges, or the execution, delivery or performance of the Letter of Agreement - Amendment; and
- c. the payments made by the Applicant pursuant to this Order, the Letter of Agreement - Amendment, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

## **BOOKS, RECORDS AND PROPERTY OF THE COMPANY**

14. **THIS COURT ORDERS** and hereby directs all of the Company's former directors, officers, current and former employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") to forthwith advise the Company of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Company, and any computer programs, computer tapes, computer disks, or other data storage

media containing any such information (the foregoing, collectively, the "**Records**") and/or Property in that Person's possession or control, and deliver said Records and/or Property to the Company.

#### **APPROVAL OF FIRST REPORT**

15. **THIS COURT ORDERS** that the First Report and the activities of the Proposal Trustee, as applicable, referred to therein, be and are hereby approved.

#### **SERVICE AND NOTICE**

16. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website)<sup>1</sup> shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the "**Rules**"). Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

17. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable (including, without limitation, due to COVID-19), the Applicant and the Proposal Trustee are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

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<sup>1</sup>See <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservicecommercial/>

18. **THIS COURT ORDERS** that the Applicant and the Proposal Trustee and each of their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

## **GENERAL**

19. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

20. **THIS COURT ORDERS** that the Applicant or the Proposal Trustee may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation or application of this Order.

21. **THIS COURT ORDERS** that nothing in this Order shall prevent the Proposal Trustee from acting as an interim receiver, receiver, receiver and manager, or trustee in bankruptcy of the Applicant or the Property.

22. **THIS COURT REQUESTS** the aid and recognition of any court, tribunal or any judicial, regulatory, or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory, or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states of other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

23. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Applicant, the Proposal Trustee, BMO and any other party or parties likely to be affected by the Order sought or upon such other notice as this Court may order.

24. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

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Kershman J.



**Company Legal Name: LA SALLE MOTEL CO. (KINGSTON) LTD.**

**Document Name: LF983 - Letter of Agreement - Amendment**

**Customer Tracking ID: B20023371702200**

**Application ID: 200340187**

**ATTENTION:**

**Please do not remove or discard this sheet and ensure that it is returned with the attached document(s).**

# Letter of Agreement - Amendment



42 BATH RD,  
KINGSTON, ONTARIO K7L 1H5

## LETTER OF AGREEMENT - AMENDMENT

LA SALLE MOTEL CO. (KINGSTON) LTD.  
2360 PRINCESS ST,  
KINGSTON, ONTARIO K7M 3G4

Attention: **John Karkoulis and Peter Karkoulis**

April , 2023

This letter (the “**Amending Letter**”) is intended to set out certain amendments to the Letter of Agreement dated **July 18, 2018**] (including all Schedules thereto (the “**Letter of Agreement**”) between Bank of Montreal (“**BMO**”) and the Borrower named below.

LA SALLE MOTEL CO. (KINGSTON) LTD.

Unless defined in this Amending Letter, capitalized terms used in this Amending Letter are intended to have the meanings provided to those terms in the Letter of Agreement.

The Letter of Agreement is amended as follows:

1. *the maximum limit on Facility No. 1 (Revolving operating loan number 0016-1023-430) shall be increased from \$300,000 to \$450,000;*
2. *the interest rate on Facility No. 1 (Revolving operating loan number 0016-1023-430) shall be increased from Prime Rate + 2.5% to Prime Rate + 5.5%; and*
3. *the maximum limit on Facility No. 3 (BMO Corporate MasterCard) shall be reduced from \$50,000 to \$25,000*

*The Increased credit availability provided for herein is to be used by the Borrower solely for the purposes of operating expenses and expenses (including professional fees) incurred in connection with the proposal proceedings being undertaken by the Borrower pursuant to the Bankruptcy and insolvency Act.*

Except to the extent amended by this Amending Letter, the Letter of Agreement remains in full force and effect, without novation. This Amending Letter supersedes and replaces all prior discussions and correspondence (if any) between the parties relating to the subject-matter hereof. Nothing in this Amending Letter is intended to waive or limit any of BMO’s rights in respect of any Event of Default existing at the date of this Amending Letter, whether or not known to BMO.

Yours truly,  
BANK OF MONTREAL

By: \_\_\_\_\_  
Name:  
Title:  
[]



# Letter of Agreement - Amendment

By their signature below, each Borrower and Guarantor acknowledge and agree to the amendments to the Letter of Agreement contained in this Amending Letter. Further, each Borrower and Guarantor reaffirm, acknowledge, covenant and confirm, to and in favour of BMO, the continued applicability, validity, enforceability and binding nature of the Letter of Agreement (as amended by this Amending Letter) and any documents delivered in connection with the Letter of Agreement (as amended by this Amending Letter), including, without limitation, any security and guarantees granted pursuant thereto, each of which shall continue to be valid, binding and enforceable and in no way altered, lessened, released or otherwise affected by this Amending Letter except as expressly stated in this Amending Letter.

This Amending Letter shall be read and construed with the Letter of Agreement and be treated as a part of the Letter of Agreement, and for such purpose and so far as may be necessary to effectuate the true intent of this Amending Letter, the Letter of Agreement is hereby amended.

Each Borrower and Guarantor represents and warrants to BMO that ((a) does not apply to individuals): (a) it is authorized to enter into this Amending Letter and that it has the full power and authority to do so, (b) each of the representations and warranties contained in the Letter of Agreement is true and correct with the same force and effect as if made on the effective date of the amendments contained in this Amending Letter and (c) it/he/she is in compliance with each of the covenants and other terms and conditions set forth in the Letter of Agreement. Further, in the case of an individual Borrower and/or Guarantor, he/she represents and warrants to BMO that (i) he/she fully understands the provisions of this Amending Letter and his/her obligations, (ii) he/she has been afforded the opportunity to engage independent legal counsel to explain the purposes of this Amending Letter and his/her obligations and (iii) he/she has either engaged legal counsel or has decided, in his/her sole discretion, not to do so.

This agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. Any counterpart of this Agreement may be executed and circulated by facsimile, PDF or other electronic means and any counterpart executed and circulated in such a manner shall be deemed to be an original counterpart of this Agreement. All counterparts shall be construed together and shall constitute one and the same original agreement.

## **BORROWER**

**LA SALLE MOTEL CO. (KINGSTON) LTD.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# Letter of Agreement - Amendment

**GUARANTOR(S)**

**PETER KARKOULIS**

Signature: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Name: PETER KARKOULIS

Witness Name: \_\_\_\_\_

**JOHN KARKOULIS**

Signature: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Name: JOHN KARKOULIS

Witness Name: \_\_\_\_\_





**IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT* R.S.C., 1985, c. B-3, AS AMENDED**  
**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON)**  
**LTD., A CORPORATION INCORPORATED UNDER THE LAWS OF THE PROVINCE OF ONTARIO**

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

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**ORDER**

**BORDEN LADNER GERVAIS LLP**  
100 Queen Street, Suite 1300  
Ottawa ON K1P 1J9

**Jason Dutrizac (50004T)**  
jdutrizac@blg.com  
613.787.3535

Lawyers for the Applicant / Moving Party

**IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT* R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF LA SALLE MOTEL CO. (KINGSTON) LTD.,  
A CORPORATION INCORPORATED UNDER THE LAWS OF THE PROVINCE OF ONTARIO**

***ONTARIO***

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

**MOTION RECORD**

**BORDEN LADNER GERVAIS LLP**

100 Queen Street, Suite 1300

Ottawa ON K1P 1J9

**Jason Dutrizac** LSO # 50004T

[jdutrizac@blg.com](mailto:jdutrizac@blg.com)

613.787.3535 direct

Lawyers for the Applicant / Moving Party