

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

**THE HONOURABLE**

)

**FRIDAY, THE 13<sup>th</sup> DAY**

**JUSTICE MCEWEN**

)

**OF APRIL, 2018**

)



**BETWEEN:**

**VOŁKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ,  
BA&B CAPITAL INC., SERDAR KOCTURK  
and KAAAN HOLDINGS INC.**

**Applicants**

– and –

**ALI AKMAN, SAMM CAPITAL HOLDINGS INC.  
and TARN FINANCIAL CORPORATION**

**Respondents**

**APPLICATION UNDER** Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

**ORDER**

**(Re: Authorization to Increase Borrowings Charge, Approval of Fees and Disbursements  
and Approval of Liquidator’s Reports and Conduct)**

**THIS MOTION**, made by KPMG Inc. (“KPMG”), in its capacity as Court-appointed Liquidator (in such capacity, the “**Liquidator**”) pursuant to section 207 of the Ontario *Business Corporations Act* of the effects and estate of Tarn Financial Corporation (“**Tarn Financial**”), and appointed pursuant to the Winding Up Order of Justice Lederman dated September 15, 2017 (the “**Winding Up Order**”) which appointment was effective on September 25, 2017, for an order: (a) increasing the Borrowings Charge as set out in paragraph 18 of the Winding Up Order; (b) approving the fees and disbursements of the Liquidator and its counsel up until December

31, 2017; and (c) approving the Supplemental Report of the First Report of the Liquidator dated November 17, 2017 (the “**Supplemental Report**”), the Second Supplemental Report of the First Report of the Liquidator dated November 28, 2017 (the “**Second Supplemental Report**”), and the Second Report of the Liquidator dated April 9, 2018 (the “**Second Report**”) and the activities and conduct of the Liquidator described therein, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Second Report, including the Supplemental Report, the Second Supplemental Report and the Fee Affidavit of Anamika Gadia of KPMG sworn on April 10, 2018, the Fee Affidavit of Gregory Azeff of Miller Thomson LLP sworn April 6, 2018 and the Fee Affidavit of Andrew Jeanrie of Bennett Jones LLP sworn April 6, 2018 (collectively, the “**Fee Affidavits**”) annexed as appendices thereto and on hearing the submissions of counsel for the Liquidator, and such other counsel as were present as indicated on the Counsel Slip, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Service, sworn April 10, 2018, filed:

#### **SERVICE AND GENERAL**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.
2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Winding Up Order.

#### **INCREASE OF BORROWINGS CHARGE**

3. **THIS COURT ORDERS** that the Borrowings Charge set out in paragraph 18 of the Winding Up Order be and is hereby increased by \$1,000,000 (the “**Increased Borrowing Amount**”) from \$2,000,000 to \$3,000,000.
4. **THIS COURT ORDERS** that to the extent that the Liquidator borrows the Increased Borrowing Amount from any one or more of the Applicants or the Respondents, the priority of the

Borrowings Charge in respect of the Increased Borrowing Amount shall be as set out in paragraph 18 of the Winding Up Order.

5. **THIS COURT ORDERS** that to extent that the Increased Borrowing Amount is borrowed from any Person other than any one or more of the Applicants or the Respondents, then the Borrowings Charge in respect of the Increased Borrowing Amount shall rank in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour or any Person.

**APPROVAL OF FEES AND DISBURSEMENTS**

6. **THIS COURT ORDERS** that the fees and disbursements of the Liquidator and its legal counsel, Miller Thomson LLP and Bennett Jones LLP, as disclosed in the Second Report and detailed in the Fee Affidavits be and are hereby approved.

**APPROVAL OF THE LIQUIDATOR'S REPORTS AND ACTIVITIES**

7. **THIS COURT ORDERS** that the Supplemental Report, the Second Supplemental Report and the Second Report and the activities and conduct of the Liquidator described therein be and are hereby approved.



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ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

APR 13 2018

PER / PAR:



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER DATED APRIL 13, 2018  
(Re: Authorization to Increase  
Borrowings Charge, Approval of  
Fees and Disbursements and Approval of  
Liquidator's Activities,)**

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Lawyers for KPMG Inc., in its capacity as court-  
appointed Liquidator of Tarn Financial  
Corporation