

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

THE HONOURABLE ) MONDAY, THE 15<sup>TH</sup> DAY  
 )  
MR. JUSTICE MCEWEN ) OF APRIL, 2019



**BETWEEN:**

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ,  
BA&B CAPITAL INC., SERDAR KOCTURK  
and KAAH 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: Directions relating to final determination of Broker Claims, and Approval of  
Liquidator’s and Receiver’s Fees, Activities 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 and in its capacity as Court-appointed receiver and manager (in such capacities, the “**Receiver**”) of all of the assets, undertakings and properties of Tarn Construction

Corporation (“**Tarn Construction**”) pursuant to section 101 of the *Courts of Justice Act*, R.S.O 1990, c.C43, as amended, and appointed pursuant to the Order of Justice McEwen dated April 13, 2018, for, among other things: (a) advice and directions regarding finally disallowing the Claims filed in the Tarn Financial Claims Process by condominium brokers (the “**Brokers**”) pursuant to Agreements to Cooperate between a Cooperating Brokerage and Tarn Construction (the “**Broker Agreements**”) in respect of sale commissions for unbuilt condominium units sold by Tarn Construction at the Development Project where such Claimants have objected to the Liquidator’s determination of their Claims and submitted a Notice of Objection in accordance with the Claims Procedure Order dated April 13, 2018 and specifically for an order declaring that the Claims of the Brokers, which have filed Notices of Objection in the Tarn Financial Claims Process, are forever extinguished, barred, discharged and released as against Tarn Financial and the Liquidator; (b) an order approving the Sixth Report of the Liquidator and the Fourth Report of the Receiver dated on October 31, 2018 (the “**Sixth Report**”) and the Seventh Report of the Liquidator and the Fifth Report of the Receiver dated April 8, 2019 (the “**Seventh Report**”); and, (c) an order approving the activities and conduct of the Liquidator and the Receiver described in the Sixth and Seventh Report, and the fees and disbursements of the Liquidator and the Receiver and the Liquidator’s and Receiver’s counsel, described in the Seventh Report, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Seventh Report and its appendices including the Sixth Report and the Fee Affidavit of Anamika Gadia of KPMG sworn on April 9, 2019, the Fee Affidavit of Stephanie De Caria of Miller Thomson LLP sworn April 8, 2019 and the Fee Affidavit of Andrew Jeanrie of Bennett Jones LLP sworn April 9, 2019 (collectively, the “**Fee Affidavits**”) on hearing the submissions of counsel for the Liquidator and the Receiver, 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 11, 2019, 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 and the Receivership Order.

**FINAL DETERMINATION OF BROKER CLAIMS**

3. **THIS COURT ORDERS AND DECLARES** that the Claims of the Brokers, which have filed Notices of Objection in the Tarn Financial Claims Process, are forever extinguished, barred, discharged and released as against Tarn Financial and the Liquidator.

**APPROVAL OF FEES AND DISBURSEMENTS**

4. **THIS COURT ORDERS** that the fees and disbursements of the Liquidator, the Receiver and the Liquidator's and Receiver's legal counsel, Miller Thomson LLP and Bennett Jones LLP, as disclosed in the Seventh Report and detailed in the Fee Affidavits be and are hereby approved.

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

5. **THIS COURT ORDERS** that the Sixth Report and the Seventh Report and the activities and conduct of the Liquidator and the Receiver described therein be and are hereby approved.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

APR 15 2019

PER / PAR: 

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER DATED APRIL 15, 2019  
(Re: Directions relating to Final Determination of  
Broker Claims, and Approval of Liquidator's and  
Receiver's Fees, Activities and Conduct )**

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appointed Liquidator of Tarn Financial  
Corporation and in its capacity as court-appointed  
Receiver of Tarn Construction Corporation