



Court File No.: CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

MONDAY, THE 14th

JUSTICE MCEWEN

)

DAY OF NOVEMBER, 2022

)

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

NOVEMBER 2022 OMNIBUS ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”) pursuant to an Order of this Court made on April 20, 2018 (“**Appointment Order**”) of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, (i) approving the Trustee’s twenty-eighth report, dated March 21, 2022 (the “**Twenty-Eighth Report**”) and the Trustee’s twenty-ninth report dated November 4, 2022 (the “**Twenty-Ninth**

Report”), as well as the Trustee’s activities described therein, and the Trustee’s fees and disbursements, including the fees and disbursements of its counsel, for the period from January 1, 2022 to October 15, 2022; and (ii) sealing certain confidential exhibits to the Fee Affidavits (as defined below), was heard this day by videoconference in Toronto, in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic;

ON READING the Twenty-Ninth Report, the affidavit of Naveed Manzoor sworn November 2, 2022 and attached as Appendix “23” to the Twenty-Ninth Report (the “**Manzoor Affidavit**”) and the affidavit of Michael De Lellis sworn November 4, 2022 and attached as Appendix “24” to the Twenty-Ninth Report (the “**De Lellis Affidavit**” and, together with the Manzoor Affidavit, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Blair McRadu sworn November 9, 2022, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Twenty-Ninth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order but not defined herein shall have the meanings given to them in the Twenty-Ninth Report.

TRUSTEE’S REPORT, ACTIVITIES, FEES AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the Twenty-Eighth Report and the Twenty-Ninth Report, and all the actions, conduct and activities of the Trustee as set out in the Twenty-Eighth Report and the Twenty-Ninth Report, be and are hereby approved.
4. **THIS COURT ORDERS** that the fees and disbursements of the Trustee and its counsel, as set out in the Twenty-Ninth Report and the Fee Affidavits, be and are hereby approved, as follows:

- (a) the following fees and disbursements of the Trustee for the period from January 1, 2022 to October 15, 2022 are approved: fees of \$460,658.75 (plus applicable taxes of \$59,885.64 for an aggregate amount of \$520,544), and
- (b) the following fees and disbursements of Osler, Hoskin & Harcourt LLP, counsel to the Trustee, for the period from January 1, 2022 to October 15, 2022 are approved: fees of \$702,406.28 and disbursements of \$6,328.17 (plus applicable taxes of \$92,028.48, for an aggregate amount of \$800,762.93).

SEALING

5. **THIS COURT ORDERS** that Exhibit “D” of the Manzoor Affidavit and Exhibit “D” of the De Lellis Affidavit shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

GENERAL

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Applicant

Respondent

Court File No. CV-18-596204-00CL

	<div>ONTARIO</div> <div>SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</div> <div>Proceeding commenced at Toronto</div>
	<div>NOVEMBER 2022 OMNIBUS ORDER</div>
	<div>OSLER, HOSKIN & HARCOURT LLP</div> <div>1 First Canadian Place, P.O. Box 50</div> <div>Toronto, ON M5X 1B8</div> <div>Phone: 416-362-2111</div> <div>Fax: 416-862-6666</div> <div>Michael De Lellis (LSO# 48038U)</div> <div>Jeremy Dacks (LSO# 41851R)</div> <div>Lawyers for FAAN Mortgage Administrators</div> <div>Inc., in its capacity as Court-Appointed Trustee</div> <div>of Building & Development Mortgages Canada</div> <div>Inc.</div>