

COURT/ESTATE FILE NO. 25-2218907

COURT COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE BANKRUPTCY OF  
SUN COUNTRY MORTGAGE INVESTMENT  
CORPORATION



APPLICANT MNP LTD. in its capacity as Trustee in Bankruptcy  
of SUN COUNTRY MORTGAGE  
INVESTMENT CORPORATION

DOCUMENT **APPROVAL AND VESTING ORDER  
(30 Ave Property)**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Torys LLP  
4600 Eighth Avenue Place East  
525 - Eighth Ave SW  
Calgary, AB T2P 1G1

I hereby certify this to be a true copy of the  
original Order  
which it purports to be a copy.

Dated this 19th day of Oct., 2017

Attention: Kyle Kashuba  
Telephone: +1 403.776.3744  
Fax: +1 403.776.3800  
Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
File No. 34004-2005

*[Signature]*  
Registrar at Calgary  
Bankruptcy Division of the  
COURT OF QUEEN'S BENCH OF ALBERTA

DATE UPON WHICH ORDER WAS PRONOUNCED: Wednesday, October 18, 2017

NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice B.E.C. Romaine

LOCATION OF HEARING: Calgary, Alberta

**UPON THE APPLICATION** by MNP Ltd., in its capacity as the trustee in bankruptcy (the “**Trustee**”) of Sun Country Mortgage Investment Corporation (“**Sun Country**” or the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**PSA**”) between the Trustee on behalf of Sun Country, and Lauren Hepp and Joseph Schembri, both of 135 - 30 Avenue NW, Calgary, AB, as joint tenants (together, the “**Purchaser**”), which is included and described in the Second Confidential Report of the Trustee dated October 12, 2017 (the “**Second Confidential Report**”) in respect of the property

located at 135 - 30 Avenue NW, Calgary, AB (the “**30 Ave Property**”), and vesting in the Purchaser (or its nominee) the right, title and interest in and to the real property described in the PSA (the “**Lands**”) of Sun Country, DMD III Mortgage Investment Corporation (in receivership) and Crossroads-DMD Mortgage Investment Corporation (collectively, the “**Owners**”); **AND UPON HAVING READ** the Application and the Second Report of the Trustee, both filed October 12, 2017, and any other material and evidence filed to date in the within proceedings, and the Second Confidential Report, to be filed; **AND UPON HEARING** the submissions of counsel for the Trustee, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given.

**APPROVAL OF 30 AVE PROPERTY TRANSACTION**

2. The Transaction relating to the 30 Ave Property, which is legally described as:

Plan 3980AM  
Block 46  
Lots 23

is hereby approved, and the execution of the PSA by the Receiver is hereby authorized and approved, and is deemed to be commercially reasonable and in the best interests of the bankruptcy estate and the stakeholders affected thereby, with such minor amendments as the Trustee may deem necessary and as may be agreed upon by the Trustee and the Purchaser. The Trustee is hereby authorized and directed, subject to the terms and conditions of this Order and the PSA, to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Lands to the Purchaser (or its nominee).

## VESTING OF 30 AVE PROPERTY

3. Upon the delivery by the Trustee of a Trustee's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Trustee's Certificate**") confirming the closing of the Transaction contemplated by the PSA, all of the Debtor's right, title and interest in and to the Lands described in the PSA attached as Appendix C to the Confidential Second Report hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**", which term shall explicitly not include the Permitted Encumbrances (as defined below)) including, without limiting the generality of the foregoing:

- (a) all charges, security interests or claims evidenced by registration, filing, or publication pursuant to any or all of the following: (i) the *Personal Property Security Act* (Alberta); or (ii) any other personal property, mineral, or real property registry system (collectively, the "**Registries**"),

for greater certainty, this Court orders that all of the Claims, other than the permitted encumbrances described in the PSA and listed on **Schedule "B"** hereto (the "**Permitted Encumbrances**"), affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

4. Upon the delivery of the Trustee's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar under the *Land Titles Act* (Alberta), and all other applicable government ministries and authorities in Alberta, exercising jurisdiction with respect to or over the Lands (collectively, the "**Governmental Authorities**"), as applicable, are hereby authorized, requested and directed to (in each case as applicable):

- (a) enter the Purchaser as the owner, lessee, and/or licensee of the Lands:
- (b) cancel the existing Certificates of Title to the Lands and issue new Certificates of Title for the Lands, in the name of the Purchaser (or its nominee);

- (c) cancel, delete or expunge from the existing title documents concerning the Lands all applicable Claims, including all Encumbrances other than the Permitted Encumbrances; and
  - (d) register such transfers, discharge statements, or conveyances, as may be required to convey clear title to the Lands to the Purchaser, subject only to the Permitted Encumbrances.
5. This Order shall be registered and the steps set out in paragraph 4 shall be carried out by the applicable Registrar and/or Governmental Authorities notwithstanding the requirements of section 191(1) of the *Land Titles Act* (Alberta) and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.

### **CLOSING OF THE SALE TRANSACTION**

6. The closing of the Transaction shall be effected in accordance with the terms of the PSA and such amendments to the PSA as may be agreed to in writing between the Purchaser and the Trustee.
7. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Lands shall stand in the place and stead of the Lands, and from and after the delivery of the Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Lands, with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
8. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
9. The Debtor and all persons who claim by, through or under the Debtor in respect of the Lands, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Lands and, to the extent that any such persons remains in possession or control of any of the Lands, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
10. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Lands for its own use and benefit without any interference of or by the Debtor, or any person claiming by or through or against the Debtor.

11. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Trustee or the Debtor.
12. The Trustee is to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).
13. Notwithstanding:
  - (a) The pendency of these proceedings; and/or
  - (b) The bankruptcy of the Debtor,

the vesting of the Lands in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Trustee, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

### **Handling of Sale Proceeds**

15. The Trustee is hereby authorized and directed to make the following distributions following the closing of the Transaction contemplated by the PSA:
  - (a) first, by the Trustee for unpaid property taxes in respect of the Lands;
  - (b) second, by the Trustee for the closing costs for the sale including but not limited to real estate commissions with respect to the Lands; and
  - (c) third, the payment, in equal shares of the remaining net proceeds, to the Owners of the Lands, which include the Debtor, DMD III Mortgage Investment Corporation (in receivership), and Crossroads-DMD Mortgage Investment Corporation, with those proceeds which are to be paid to the Sun Country estate to be held by the Trustee and dealt with as approved by the inspectors of the Debtor's estate. The

payment proposed in this subparagraph (c) shall be subject to any potential trust claim that may be proven in respect of operational expenditures paid by Crossroads-DMD Mortgage Investment Corporation in relation to the Lands, the Proof of Claim in respect of which shall be submitted to the Trustee within 10 days of the granting of this Order. The amount of the trust claim as made by Crossroads-DMD Mortgage Investment Corporation shall be held back from the proposed distribution to the Owners, and shall be released following final determination by the Trustee or further Order of this Court.

### Miscellaneous Matters

16. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, 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 as 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.
17. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
18. Service of this Order on any party not attending this Application is hereby dispensed with.

"B.E.C. Romaine"

Justice of the Alberta Court of Queen's Bench

**Schedule "A"**  
**Form of Trustee's Certificate**

COURT/ESTATE FILE NUMBER	25-2218907	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY	
JUDICIAL CENTRE	CALGARY	
	IN THE MATTER OF THE BANKRUPTCY OF SUN COUNTRY MORTGAGE INVESTMENT CORPORATION	
APPLICANT	MNP LTD. in its capacity as Trustee in Bankruptcy of SUN COUNTRY MORTGAGE INVESTMENT CORPORATION	
DOCUMENT	<b>TRUSTEE'S CERTIFICATE</b>	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Torys LLP 4600 Eighth Avenue Place East 525 - Eighth Ave SW Calgary, AB T2P 1G1  Attention: Kyle Kashuba Telephone: + 1 403.776.3744 Fax: +1 403.776.3800 Email: <a href="mailto:kkashuba@torys.com">kkashuba@torys.com</a> File No. 34004-2005	

**RECITALS**

- A. On February 15, 2017, MNP Ltd. was appointed as trustee in bankruptcy (the "**Trustee**") over Sun Country Mortgage Investment Corporation (the "**Bankrupt**"), and the Trustee was tasked with amongst other things, identifying, securing, arranging for sale and monetizing the assets, undertakings and properties of Sun Country.
- B. Pursuant to an Order of the Court dated October 18, 2017, the Court approved the agreement of purchase and sale made (the "**PSA**") between the Trustee, and Lauren Hepp and Joseph Schembri (together, the "**Purchaser**"), both of 135 - 30 Avenue NW, Calgary, AB, as joint tenants, and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in Article 8 of the PSA have been satisfied or

waived by the Trustee and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Trustee.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the PSA.

**THE TRUSTEE CERTIFIES** the following:

1. The Purchaser (or its nominee) has paid and the Trustee has received the Purchase Price for the Lands payable on the Closing Date pursuant to the PSA;
2. The conditions to Closing as set out in Article 8 of the PSA have been satisfied or waived by the Trustee and the Purchaser (or its nominee), as applicable; and
3. The Transaction has been completed to the satisfaction of the Trustee.
4. This Certificate was delivered by the Trustee at **[Time]** on **[Date]**.

**MNP Ltd., in its capacity as Trustee  
in Bankruptcy of Sun Country  
Mortgage Investment Corporation,  
and not in its personal capacity.**

**Per:** \_\_\_\_\_  
**Name:**  
**Title:**



**Schedule "B"**  
**Permitted Encumbrances**

<u>Registration Number</u>	<u>Date</u>	<u>Particulars</u>
771 147 064	20/10/1977	ZONING REGULATIONS SUBJECT TO CALGARY INTERNATIONAL AIRPORT ZONING REGULATIONS