

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

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES
REGULATORY AUTHORITY OF ONTARIO**

Applicant

- and -

**SUSSMAN MORTGAGE FUNDING INC., 2486976 ONTARIO INC.
and 1981361 ONTARIO INC.**

Respondents

**APPLICATION UNDER SUBSECTION 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**

AIDE-MEMOIRE OF REPRESENTATIVE COUNSEL

August 14, 2025

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Representative Counsel

A) Introduction

1. On May 20, 2025, the Honourable Justice Dietrich appointed Aird & Berlis LLP as representative counsel (“**Representative Counsel**”) of all investors (the “**Investors**”) who made mortgage investments through Sussman Mortgage Funding Inc. (“**SMFI**”), except for those who notified the Receiver and Representative Counsel by June 6, 2025 that they did not wish to be represented by Representative Counsel (the “**Appointment Order**”).
2. This Aide-Memoire is prepared in the context of the motion brought by Mr. Stein in respect of the S-26 and S-27 mortgages (the “**Stein Motion**”), and further to the endorsement of Justice Dietrich dated July 25, 2025. As set out in Her Honour’s endorsement, the purpose of the case conference is to address a process for establishing if there are other investors in a similar position to Mr. Stein and how, when and if Mr. Stein’s motion would be scheduled for a hearing.
3. Prior to the previous case conference, on July 21, 2025, Representative Counsel emailed a group of investors, based on information received from the Receiver that these investors may have paid money into or received payment in respect of the mortgage known as S-26 (the “**S-26 Investors**”).
4. On August 7, 2025, Representative Counsel also sent out an email to all investors to identify whether they were aware of any investments in which they were involved that are or were held in trust by an entity other than SMFI, such as Olympia Trust Company or another trust company. Representative Counsel requested a response by no later than August 11, 2025. Representative Counsel has received emails from a few individuals in response to these inquiries.

b) S-26 Mortgage

5. One investor, who had been identified by the Receiver as a S-26 Investor, confirmed he was part of S-26. The investor advised that he did not have the actual mortgage documents “as Mr Sussman always said get rid of them as he started something new”. This investor could not find any mention of a reference to a trust company in the documents he had. This investor has requested that Representative Counsel provide information on the status of these mortgages.
6. Another investor also advised Representative Counsel that he had holdings in S-26, but he does not believe the monies were held by a different trust entity. This individual was not part of the initial group of S-26 Investors identified by the Receiver.

c) A-14 Mortgage

7. Another investor, who was not part of the initial group of S-26 investors, also responded to Representative Counsel. Representative Counsel believes this individual may be instead be part of the group of Investors in the A-14 mortgage. The Receiver has also identified investors in the A-14 mortgage as individuals whose investments were held through Olympia Trust.
8. This investor has also provided documents to Representative Counsel from Community Trust Company that reference 2114568 Ontario Ltd. as mortgagor. It is not clear at this stage which property this relates to, but there is a reference to “A-14”.

d) Rama Property

9. Based on the review of some of the documents received from investors, Representative Counsel was referred to a property at 3986 Concession Rd. 10 Property, which is legally

described as PIN 58707-0037 and 58707-0038 (the “**Rama Property**”). Representative Counsel has obtained copies of transfers of charges in respect of this property that show that at one point, Community Trust Company may have held certain interests in trust for various investors and that Sussman Mortgage Funding Inc. held the remaining share of the mortgage on said property. Representative Counsel has also communicated with another individual, whose name seems to be listed on the documents registered on title to that property. However, at this stage, it is not clear what was the nature of this investor’s relationship is with Community Trust. It is also unclear what is the current status of this mortgage.

10. Representative Counsel understands that the Receiver has not done a full forensic review of the instruments registered on title to the Rama Property. The Representative Counsel understands that SMFI transferred certain charges on this property to Logpin Investments Limited. It is not clear what is the impact of these transfers.

e) Conclusion

11. Based on the communications to date, the Representative Counsel notes the following:
 - (a) There does not seem to be complete information and records regarding the investments to arrive at any definitive conclusions on entitlement or approach;
 - (b) The Receiver’s current focus is on potential monetization opportunities. As a claims process has not yet been established, the Receiver is not yet engaged to facilitate full answers to inquiries concerning these investments;
 - (c) There has not yet been a decision made as to whether there would be substantive consolidation;

- (d) Representative Counsel does not have the depth of understanding of each Investor's claim to fully appreciate the implications and precedent that may be set by the Stein motion, but Representative Counsel is providing the information it does have to assist the Court; and
- (e) Representative Counsel is attempting to strike a balance in its efforts between achieving a just outcome for the group of investors overall, the needs of each individual investor on whose behalf Representative Counsel has been appointed to act and the costs being incurred against the estate as well.

August 14, 2025

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Court File No. CV-25-00741044-00CL

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Proceedings commenced at TORONTO

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