

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Hi-Rise Capital Ltd et al
Plaintiff(s)

AND

Superintendent of Financial Services et al
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
(see counsel slip)		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

The motions of Representative Counsel concerning the Distribution and Approval Order, and Ancillary Order, were heard on April 22 and 28/22. At the hearing of those motions I indicated that I would grant the relief sought as per the draft orders which counsel are to provide to me in PDF format

29 April 22
Date


Judge's Signature

Additional Pages _____

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Judges Endorsment Continued

Also, at those motions, I dealt with a dispute between Jim Neilas/Hi-Rise Capital Ltd and David Pozzo with respect to the nature of the within proceeding, the effects of the orders granted and particularly the effects of the orders on investore life Mr Pozzo.

Jim Neilas/Hi-Rise sought direction to clarify the scope of the abovementioned order. Although they do not seek orders affecting Mr Pozzo's claim against them that was commenced on the civil list (Court File No CU-17-582615), any direction from me could be used in that action and potentially affect the outcome.

I am not prepared to grant the direction sought.

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Judges Endorsment Continued

I am not familiar with the exact nature of the civil claim but it apparently involves amongst other things, claims of professional negligence and breach of fiduciary duty by Mr Pozzo against Neilas / Hi-Rise.

Mr. Pozzo concedes that he takes no issue with the Distribution and Approval Order and is not seeking more money under the Commercial List proceeding before me. He argues, however, that his claims against Neilas / Hi-Rise are separate and outside this proceeding. He is not looking for any more amounts than the TMproport TMin issue, which are dealt with in the various order.

He specifically concedes that "the

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Judges Endorsment Continued

asset is out of reach." He wishes, however, to pursue the above claims where Neilas allegedly acted on Mr. Pozzo's behalf as a registered broker.

While I do not disagree that Neilas / Hi-Rise have protections under the orders granted in this matter, the issue of what protections exist is an open question and should be addressed in the civil proceeding on a full record.

In all of these circumstances I do not believe it is sensible to attempt to clarify the intent of previous order. I will not, therefore, provide further direction.

~~McInt~~ TM

McInt

TM

COUNSEL SLIP

COURT FILE

NO.: CV-19-616261-00CL

DATE: April 28th 2022

NO. ON LIST 5

TITLE OF
PROCEEDING

HI-RISE CAPITAL LTD

Before Mr. Justice McEwen

COUNSEL FOR:

- PLAINTIFF(S)
 APPLICANT(S) Gregory Azeff, Stephanie De Caria
 PETITIONER(S)

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JUDICIAL NOTES: