

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

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE
CORPORATION and HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION**

Respondents

**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**

**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
THE HONOURABLE MADAM JUSTICE CONWAY**

Dated January 8, 2019

January 8/19

Mr. Lantos seeks an order from this Court to assist in his efforts on behalf of the FSCO Action Group to recover additional monies for Tier 1 investors through action against the Ontario government. His counsel concedes that the primary relief requested, i.e. ordering the Trustee and/or Representative Counsel to provide a contact list for Tier 1 investors to him, raises confidentiality issues and is problematic. I agree.

However, he seeks an order that the Trustee / Representative Counsel send out a communication to investors telling them about the Group and inviting them to participate if they are interested. The Trustee / Representative Counsel refuse to do so. Mr. Lantos submits that the Court can make such an Order based on its inherent jurisdiction.

Even if the Court could make such an order based on inherent jurisdiction, I am not prepared to do so. The Court has appointed the Trustee / Representative Counsel and given them a mandate to protect and pursue the investors' interests. The Court will not undermine or interfere with this mandate by requiring them to take steps to advance Mr. Lantos' agenda of suing the government. If the Trustee / Representative Counsel do not wish to be a part of that in fulfilling their duties as Court-appointed officers, the Court is not imposing that requirement on them. Further, despite Mr. Lantos' submission that sending out an email to investors would not constitute an endorsement of his course of action, I disagree and consider that it would be both an endorsement by the Court-appointed officers and by this Court.

Mr. Lantos may pursue his course of action. He has apparently signed up 500 investors. There is no suggestion from the Trustee / Representative Counsel that he cannot continue his efforts and seek to sign up additional investors or that they are trying to restrict him in his efforts. However, this Court has appointed the Trustee and Representative Counsel to fulfil a court-ordered mandate of safeguarding the investors' interests and recovering funds. There is no basis, in my view, to order the Trustee / Representative Counsel to contact investors to help Mr. Lantos in his private recovery efforts.

The motion is dismissed. The Trustee / Representative Counsel are entitled to costs as the successful parties. While Mr. Lantos is a volunteer and seeking recovery for investors, I cannot agree that no costs be awarded as he submits, given that the costs incurred by the responding parties would then have to be borne by the investors. I fix costs at the agreed quantum of \$10,000, all in, payable \$9,000 to the Trustee and \$1,000 to Representative Counsel.

Conway J.