

IN THE MATTER OF BRIDGING FINANCE INC., DAVID SHARPE, BRIDGING INCOME FUND LP, BRIDGING MID- MARKET DEBT FUND LP, BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, AND BRIDGING INDIGENOUS IMPACT FUND

AND IN THE MATTER OF AN ORDER ISSUED UNDER SUBSECTION 11(1)(A) OF THE *SECURITIES ACT*, R.S.O. 1990, C. S.5, DATED SEPTEMBER 11, 2020

AND IN THE MATTER OF A SUMMONS ISSUED PURSUANT TO SECTION 13 OF THE *SECURITIES ACT*, R.S.O. 1990, C. S.5, DATED SEPTEMBER 28, 2020

**NOTICE OF MOTION
OF PRICEWATERHOUSECOOPERS INC., IN ITS CAPACITIES AS RECEIVER AND MANAGER OF BRIDGING FINANCE INC., BRIDGING INCOME FUND LP, BRIDGING MID-MARKET DEBT FUND LP, SB FUND GP INC., BRIDGING FINANCE GP INC., BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, BRIDGING MJ GP INC., BRIDGING INDIGENOUS IMPACT FUND, BRIDGING FERN ALTERNATIVE CREDIT FUND, BRIDGING SMA 2 LP, BRIDGING SMA 2 GP INC., and BRIDGING PRIVATE DEBT INSTITUTIONAL RSP FUND**

(For Leave to Intervene)

Under *Ontario Securities Commission Rules of Procedure* Rule 21(4)

A. ORDER SOUGHT

The moving party, PricewaterhouseCoopers Inc. (“**PwC**”), in its capacities as receiver and manager, without security, of all of the assets, undertakings, and properties (collectively, the “**Property**”) of the Bridging Entities (defined herein) (in such capacities, the “**Receiver**”), requests that the Ontario Securities Commission (the “**Commission**”) make the following orders:

1. An order, if required, for leave to intervene in the hearing of the Application of David Sharpe filed September 22, 2021, seeking, *inter alia*, an order revoking or varying the Commission’s order authorizing an investigation by Staff pursuant to s. 11 of the Act, dated September 11, 2020 (the “**Investigation Order**”);
2. An order, if required, for leave to intervene in the hearing of the Motion of David Sharpe filed September 22, 2021, seeking, *inter alia*, an order to mark certain records filed by Enforcement Staff of the Ontario Securities Commission (“**Staff**”) filed in support of the application to extend a temporary order under subsections 127(1) and 127(8) of the *Securities Act*, R.S.O. 1990, c. S.5 (the “**Act**”) (OSC File No. 2021-15) confidential (the “**CTO Proceeding**”);
3. An order, if required, for leave to intervene in the hearing of Staff’s Motion filed October 6, 2021, seeking orders quashing and/or dismissing David Sharpe’s Motion in the CTO Proceeding and Application relating to the Investigation Order (the “**Jurisdiction Motion**”); and
4. Such further and other relief as counsel may advise and the Commission may permit.

B. GROUNDS

The grounds for the motion are:

The Bridging Receivership

5. Bridging Finance Inc. (“**Bridging**”) is an investment management firm located in Toronto, focusing on alternative finance. Bridging promotes and manages investment vehicles (the “**Bridging Funds**”) that raise capital from investors for the purpose of making loans to corporate borrowers.
6. Until May 5, 2021, Bridging’s Chief Executive Officer was David Sharpe (“**Sharpe**”).
7. On April 30, 2021 (and by subsequent order of May 3, 2021), upon the OSC’s application to the Superior Court of Justice (Commercial List) (the “**Court**”) under section 129 of the *Act*, and on an *ex parte* basis, PwC was appointed Receiver of each of Bridging and the Respondents (as defined in the Court’s appointment orders) (the “**Bridging Entities**”). The April 30 Appointment Order was set to expire in 15 days.
8. In the Appointment Orders of April 30, 2021 and May 3, 2021, the Court expressly references the procedure for the service and filing of the OSC’s application record in the Superior Court file, and directed the Receiver to maintain a Case Website in accordance with the Court’s Protocol. The application record disclosed on its face that it contained compelled evidence from the OSC’s investigation of Bridging.
9. The Receiver moved on notice to the Service List for an order to continue the receivership. The continuation motion was heard on May 14, 2021. The Order to continue the receivership indefinitely was made on May 14, 2021. No stakeholder, including Mr Sharpe, opposed the motion to continue the receivership.

10. Following the Court appearances of April 30, 2021 and May 3, 2021, the Receiver has delivered several public Receiver's Reports and appeared before the Superior Court of Justice on several occasions, each on notice to Sharpe.
11. On August 5, 2021, Sharpe and Natasha Sharpe (his spouse) (together, the "**Sharpes**") served a Notice of Motion for Directions in the Superior Court of Justice seeking the Court's directions relating to the Receiver's mandate and its ability to commence a claim for damages against them (the "**SCJ Motion**").
12. On August 20, 2021, Sharpe and the Receiver (and the Trustee of a trust related to Sharpe) agreed to a consent order freezing the Sharpes' assets (the "**Consent Preservation Order**").
13. Sharpe has not participated in any appearance in the Receivership proceeding before the Superior Court to date, other than in the Consent Preservation Order and Sharpe's SCJ Motion. Sharpe has not raised any objection in the Superior Court to the filing of his compelled evidence in the Superior Court record or its posting on the Receiver's Case Website.

The Receiver's Role in the CTO Proceeding Before the OSC

14. On April 30, 2021, the same day that the Receiver was appointed by the Superior Court of Justice, the Commission made a temporary cease trade order in the CTO Proceeding.
15. On May 12, 2021, the cease trade order was extended.

16. The Receiver as Bridging's exclusively authorized representative consented to the extension of the cease trade order.

Sharpe's Motion and Application Before the Commission

17. On July 7, 2021, Sharpe first served materials on the Receiver indicating that he would be seeking relief before the Commission in connection with the public disclosure of documents contained in the OSC's application before the Superior Court for the appointment of a receiver. Sharpe sought to have the Commission make an order, among other things:
 - (a) Restricting future use of the compelled testimony before the Commission or any other forum;
 - (b) Directing Staff to request the Superior Court file be sealed; and
 - (c) Directing Staff to request that PwC remove the compelled testimony from the Case Website.
18. Sharpe served revised notices on September 22, 2021. The revised notices removed references to seeking relief relating to the Superior Court file and the Receiver's Case Website, however Sharpe continues to raise grounds relating to the Receivership proceeding, including:
 - (a) The filing of the OSC Application Record in the Superior Court;
 - (b) The subsequent media coverage;
 - (c) That the Application Record remains posted on the Receiver's Case Website, and

- (d) That the alleged improper disclosure “potentially prejudiced the interests of investors by exacerbating negative media attention to Bridging Finance and its borrowers”.

Staff’s Jurisdiction Motion

- 19. Staff’s Jurisdiction Motion states that the Commission does not have jurisdiction to grant the relief Sharpe seeks in his Application and Motion.
- 20. Staff allege, in particular:
 - (a) “At the heart” of Sharpe’s position is his position that the OSC, by filing the Compelled Evidence as part of the Superior Court record for the appointment of the Receiver, engaged in an abuse of process of the Superior Court process.
 - (b) Sharpe’s earlier Notices of Application, filed July 7, 2021, seeks certain broader relief, including: prohibiting future use of the compelled testimony before the Commission and in any other forum; directing Staff to request that the Superior Court seal the Receivership Application court file or remove the compelled testimony from the court file; and directing Staff to request that PwC remove the compelled testimony from the Case Website.
 - (c) Sharpe’s revised Notices of Motion and Application, filed September 22, 2021, seek reduced relief relating to the sealing of files at the Commission.
 - (d) Sharpe’s revised Notices of Motion and Application rely on substantially similar grounds as the earlier notices. The revised Notices of Motion and Application allege that the disclosure of the compelled testimony in the Superior Court file was a

breach of the Act, undermined Staff's investigation and caused irreparable prejudice to Sharpe and Bridging.

Leave for the Receiver to Intervene Should be Granted

21. The Receiver has a direct and substantial interest in the motions and applications pending before the Commission, due to both its ongoing management of the Bridging Entities, and its role in the Receivership proceeding.
22. The Receiver will make a useful and unique contribution to the resolution of the motions and application, including arguments that otherwise will not be presented. The Receiver is in frequent communication with Bridging unitholders or their representatives and is best positioned to address the impact of Sharpe's requested orders on the receivership, the potential harm to unitholder interests, and the public interest engaged by the receivership.
23. Sharpe in his Notice of Motion and Notice of Application directly impugns the Receiver's conduct, including the posting of the OSC Application Record on the Case Website. However, these steps were taken pursuant to Court orders directing that the OSC Application Record be filed and posted.
24. Staff's position is that Sharpe's motion and application constitute an abuse of process of the Superior Court process, and seek instead to have the matter heard in the Superior Court.
25. The Receiver is uniquely situated to make submissions relating to the Superior Court process, and the potential prejudicial effect of the order(s) sought on the Receiver's efforts to maximize value for Bridging's stakeholders, including through the ongoing sales and investment solicitation process.

26. The Receiver, in its capacity as Bridging's manager, is a party in the CTO Proceeding and therefore need not seek standing in that proceeding.
27. The Receiver owes obligations of honesty and fairness to all Bridging stakeholders including its 26,000 unitholders. It is in the public interest for the Receiver to be permitted to present arguments on the appropriate jurisdiction for Sharpe to seek relief, and how the receivership may be affected by any order of the Commission on the relief sought by Staff and Sharpe.
28. This dispute is not private litigation between two private parties.
29. To the extent the relief sought by Sharpe raises novel issues, this factor favours granting intervenor status.
30. The Receiver is empowered by the Superior Court's Application Orders to represent Bridging in respect of these motions and application.
31. The Receiver's proposed intervention will allow the proceedings to continue in a just, expeditious, and cost-effective manner.
32. There will be no injustice or prejudice to the interests of Sharpe or Staff by permitting the Receiver to intervene. The Receiver may introduce into the record certain Court Orders made in the receivership and seeks the right to introduce evidence on potential harm to Bridging's stakeholders. This evidence should assist the Commission in weighing the competing interests on the relief requested by Sharpe. The Receiver does not intend to make lengthy submissions, nor will an intervention delay the timely adjudication of the dispute.

33. The Orders of the Superior Court of Justice (Ontario) in Court File No. CV-21-00661458-00CL and the Receiver's Reports filed in connection with that proceeding;
34. The OSC Rules, including rules 1, 3, 21(4), and 28;
35. The *Securities Act*, R.S.O. 1990, c. S.5., including sections 2.1, 129, and 144;
36. The *Tribunal Adjudicative Records Act, 2019*, S.O. 2019, c. 7, Sch. 60, including s. 2;
37. The *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, including sections 2, 25.0.1, and 25.1; and
38. Such further and other grounds as the Receiver may advise and the Commission may permit.

C. EVIDENCE

The Receiver intends to rely on the following evidence for the motion:

39. Affidavit of Adam Driedger, sworn October 13, 2021; and
40. Such further and other evidence as counsel may advise.

October 13, 2021

THORNTON GROUT FINNIGAN LLP

Barristers and Solicitors
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: (416) 304-1616
Fax: (416) 304-1313

John L. Finnigan (LSO# 24040L)

Email: jfinnigan@tgf.ca

Erin Pleet (LSO# 61043R)

Email: eplet@tgf.ca

Lawyers for the Receiver