

IN THE MATTER OF MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP., MORTEZA KATEBIAN,
and PAYAM KATEBIAN

MOTION
OF MONEY GATE CORP., MORTEZA KATEBIAN,
and PAYAM KATEBIAN
(For an Adjournment of the Hearing Under Rule 29)

A. ORDER SOUGHT

The Moving Parties, Money Gate Corp., Morteza Katebian and Payam Katebian request with notice, that the Ontario Securities Commission make the following orders:

1. That the time for service and filing of this motion be abridged.
2. That the hearing of this matter be adjourned to February 25 and 27, March 4, 6, 7 and 8 and May 1, 2, 3, 6, 8 and 10, 2019, commencing at 10:00 a.m. on each scheduled day, or such other dates and times as provided by the Office of the Secretary and agreed to by the parties.
3. In the alternative to 2 above, that the hearing dates currently scheduled for January 28, 29 and 30 and February 21 and 22 be vacated and rescheduled to such other dates and times as provided by the Office of the Secretary and agreed to by the parties.
4. Such further and other orders as counsel may advise and the Ontario Securities Commission sees fit to order.

B. GROUNDS

The grounds for the motion are:

1. It is in the public interest to make the orders requested.
2. On April 17, 2017 Staff of the Ontario Securities Commission ("Staff") issued an application for a temporary cease trade order of the securities of the respondent of Money Gate Mortgage Investment Corporation and temporarily suspending the application of any exemptions contained in Ontario securities law to the Respondents;
3. The Temporary Cease Trade Order over Money Gate Mortgage Investment Corporation's securities remains in place, having been extended several times with the Respondents' consent;
4. On December 19, 2017 Staff issued its statement of allegations in this matter;

5. On July 6, 2018 the Commission set the hearing of the merits of this matter to commence on November 15, 2018;
6. On September 11, 2018 on consent of the parties, the Commission vacated the hearing dates set for November 2018 and rescheduled the hearing of the merits of this matter to commence on December 3, 2018;
7. On November 6, 2018 on the consent of the parties, the Commission granted Staff leave to amend the statement of allegations amendments and vacated the hearing dates then set for December 2018. The Commission ordered that the hearing of the merits commence on January 7, 2018;
8. On October 29, 2018 the Commission issued a Freeze Direction over Money Gate Mortgage Investment Corporation's bank accounts pursuant to section 126(1) of the *Securities Act*;
9. On November 16, 2018 Staff obtained an order appointing Grant Thornton Limited as receiver over the Respondent Money Gate Mortgage Investment Corporation;
10. On November 19, 2018 the Receiver obtained an *ex parte* order from Mr. Justice Hainey freezing the Respondent Morteza Katebian's TD Canada Trust bank account;
11. On December 5, 2018 the Moving Parties delivered a Notice of Change of Representation confirming that they were discharging their former lawyer, Kevin Richard, and that the personal respondents would represent themselves and Money Gate Corp. would be represented by Morteza Katebian at the hearing.
12. On December 20, 2018 the Moving Parties retained new counsel, James Camp, to represent them in this proceeding;
13. Exceptional circumstances exist to justify the requested adjournment:
 - a. The matter is complex. Staff's allegations against the Moving Parties:
 - i. encompass fraud, misleading and untrue statements in disclosure documents, unregistered trading, and the illegal distribution of securities;
 - ii. Raise multiple factual issues many of which will turn on findings of credibility and some of which will turn on expert testimony; and
 - iii. Involve not only the application of the *Securities Act* but also the *Income Tax Act*, R.S.C. , 1985, c. 1, as amended.
 - b. The evidentiary record is extensive:
 - i. Staff's disclosure consists of over 2000 documents;
 - ii. Staff has listed 640 documents in its hearing brief;
 - iii. Staff plans to call nine witnesses, including one expert witness; and

- iv. The hearing is scheduled to run for 25 days.
- c. The hearing puts the Moving Parties in jeopardy of severe consequences, including:
 - i. millions of dollars of administrative monetary penalties;
 - ii. disgorgement of up to \$11 million that Staff alleges was raised as a result of non-compliance with Ontario securities law; and
 - iii. a finding that they engaged in or participated in acts, practices, or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies - a finding that would have a devastating impact on the personal Moving Parties' professional lives and would personally stigmatize them.
14. It is in the public interest that the Respondents be given a fair opportunity to respond to Staff's allegations;
15. The requested adjournment does not prejudice Staff;
16. Nor does the requested adjournment prejudice the public interest in light of the continuing Temporary Cease Trade Order, the Receivership of Money Gate Mortgage Corporation, the Freeze Direction and that Morteza Katebian's bank account has been frozen; and
17. Section 21 of the *Statutory Powers Procedure Act*, RSO 1990, c S.22 and Rules 3 and 29 of the Commission's *Rules of Procedure*

C. EVIDENCE

The Moving Parties intend to rely on the following evidence at the hearing:

1. The Affidavit of Payam Katebian to be sworn; and
2. The Amended Statement of Allegations and Orders of the Commission in this Proceeding.

DATED this 3rd day of January, 2019.

Camp Advocacy Professional Corporation
1000 – 120 Adelaide Street West
Toronto, ON M5H 3V1

James B. Camp
Email: James@campadvocacy.com
Tel: 416.786.1880
Fax: 416.800.1003

Lawyer for the Respondents Money Gate Corp., Morteza
Katabian and Payam Katebian

TO: Registrar, Office of the Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Email: registrar@osc.gov.on.ca
Fax: 416-593-2318

AND TO: Jamie Gibson
Litigation Counsel
Email: JGibson@osc.gov.on.ca

Dihim Emami
Senior Litigation Counsel
DEmami@osc.gov.on.ca

Tel: (416) 593-829-3783
Fax: (416) 204-8956

Lawyers for Staff of the
Ontario Securities Commission