

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**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 Section 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.

**RESPONDING MOTION RECORD
OF 2114568 ONTARIO INC., ALLIANCE HOMES LTD., ALEX TROOP,
AND WATERWAYS OF MUSKOKA LTD.**

[Defendants in Court File No. CV-25-00740475-00CL]

(Motion Returnable October 28, 2025 1t 11 a.m.)

Date: October 21, 2025

GOLDMAN SLOAN NASH & HABER LLP
Barristers and Solicitors
480 University Avenue
Suite 1700
Toronto ON M5G 1V2

Robert D. Malen - 18872L
416.597.3386 Direct / 416.597.9922 Main
malen@gsnh.com
Lawyers for the Defendants, 2114568 Ontario
Inc., Alliance Homes Ltd., Alex Troop,
and Waterways of Muskoka Ltd. - in Court File
No. CV-25-00740475-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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SERVICE LIST
(as of October 2, 2025)

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EMAIL SERVICE LIST
(as of October 2, 2025)

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Tab 1

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES
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Applicant

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AFFIDAVIT OF ALEX TROOP

I, Alex Troop, of the Township of King, in the Regional Municipality of York, AFFIRM:

1. I am an Officer and Director of Alliance Homes Ltd. ("Alliance Homes") and as such I have personal knowledge of the matters hereinafter deposed to, except where stated on information and belief, and where so stated, I verily believe the same to be true.
2. I have reviewed the Second Report of the Receiver dated October 15, 2025 (the "Report"). My response to the Report is set out below with respect to the Uptergrove and the Waterways developments.

Uptergrove (referred to in the Report as the “Alliance Project”)

3. I agree with the statement at paragraph 30 of the Report that:

“the Receiver believes it would be prudent to allow Alliance to complete Phase 1 [the construction and sale of the remaining homes in Phase 1] while further consideration is given to a sale process in respect of Phases 2 and 3 .”

Waterways

4. Waterways is a company that holds title to the lands comprising the Waterways development which is located in Bracebridge, Ontario. Photographs of owner-occupied houses in Block 5 of the development, and photographs of unfinished houses in Block 4, are attached as **Exhibit A**.
5. A Co-Ownership and Management Agreement govern this development. This Agreement was entered into on January 30, 2020. The parties to this Agreement are 1981361 Ontario Inc., Alliance Compro Inc., Waterways of Muskoka Ltd. (“Waterways”) and Alliance Homes Ltd.
6. The co-owners of Waterways are Alliance Compro Inc. (“Alliance Compro”) and 1981361 Ontario Inc. (“198 Ontario”), each as to a 50% interest in the project. Sanford Sussman is the sole shareholder of 198 Ontario. I am the sole shareholder of Alliance Compro.
7. Alliance Homes is the Manager and Builder of the homes in the Waterways development. I am the President of Alliance Homes.
8. Alliance Homes has been building homes throughout Ontario for the past 25 years in communities such as Bancroft, Jackson’s Point, Creemore, Barrie, Orillia and Lake of Bays

in Muskoka. Alliance Homes has an excellent reputation for design and craftsmanship and has received national awards for housing excellence.

9. Alliance Homes is registered with the Home Construction Regulatory Authority (“HCRA”), which licenses and regulates new home builders and vendors, and with Tarion Warranty Corporation (“Tarion”), which administers the new home warranty program. Tarion enforces builders’ warranty obligations to homeowners, compensates homeowners when builders fail to meet warranty obligation, and oversees enrolment of new homes in the warranty program. Tarion is essentially the warranty provider and enforcer.
10. The project Waterways of Muskoka Ltd. is also registered with Tarion.
11. If a builder loses their Tarion enrolment (its ability to enrol new homes in the Tarion warranty program), they can no longer start construction (or continue construction) on a new home, offer or sell a new home, or obtain a building permit (since municipalities require Tarion enrolment confirmation). Furthermore, HCRA licensing is affected as it can suspend or revoke a builder’s licence, refuse to renew a license, and impose conditions on the license.
12. Builders are required to provide Tarion warranty coverage at the time of sale or possession. If a builder loses its Tarion enrolment, it cannot legally close on homes under construction, and cannot give purchasers the required warranty coverage. This would constitute a breach of the Ontario New Home Warranties Plan Act, and the applicable purchase agreement. This may give purchasers the right to rescind their agreements of purchase and sale, and to claim damages.

13. There are no allegations of any wrongdoing in the Report as against Alliance Homes, Alliance Compro or myself (collectively, the “Alliance Parties”), and the Report confirms that that the Alliance Parties have been fully cooperative with the Receiver in providing financial information (particularly in light of the lack of financial records from Mr. Sussman).
14. The Waterways development consists of 83 residential townhouse units and is structured as a “POTL” development (Parcel of Tied Land where the homeowner owns the house and the land it sits on, but the land is “tied” to a common elements condominium corporation that manages shared amenities).
15. All but 8 of the units in the Waterways development have been sold and have closed:
 - a. Four of these eight units are subject to firm and binding agreements of purchase and sale;
 - b. The state of construction of these four units, located on Block 4, is as follows: framing is complete, shingles have been installed on the roof, windows have been installed, and a moisture barrier has been installed on the exterior of the homes. The structures are therefore weather tight;
 - c. There are two remaining unsold units in Block 4. Their state of the construction is identical to that of the four sold units;
 - d. There are two remaining units in Block 5. Unit 5-2 was the subject of the recent failed negotiation. Although the transaction did not close, the unit is being occupied by the prospective homeowner, who is the Mayor of Bracebridge;

- e. Unit 5-7 has not been sold and remains vacant. It is partially insulated but not dry-walled.
16. As responsible homebuilders, we have brought the construction to the point where the structures are protected from the elements, but our construction has stopped because of financing issues.

Proposal by the Receiver regarding a Receivership Application for Waterways

17. We oppose The Receiver's Proposal for a receivership over the Waterways Project. In our view, such an appointment is not in the interests of any of the parties for the reasons set out below.

(i) Effect on Tarion Registration of Waterways of Muskoka Ltd.

18. I am concerned about the effect that the appointment of a receiver would have on our Tarion registration.
19. Under the *Ontario New Home Warranty Plan Act*, the Registrar may refuse to renew, or may revoke a builder's license based on, among other things, the builder's financial responsibility and past conduct.
20. Although a receivership does not automatically trigger suspension or revocation of registration, it is a significant negative factor in the Registrar's assessment of financial responsibility and conduct, and can lead to such regulatory actions.

21. A receivership could put the remaining closings at serious risk (with respect to both the Uptergrove and Waterways projects), and could provide purchasers with a basis to rescind their agreements of purchase and sale.

(ii) Appointment is premature as amounts owing to the creditors is in dispute

22. The Receiver itself acknowledges in the Report that the financial information it has relied upon is unaudited, that it has been unable to verify the accuracy or completeness of the information, and that it expresses no opinion or assurance with respect to the financial information (see Report at para. 6a).

23. At paragraph 43(a), the Report states that Durham, which holds the first mortgage, is owed approximately \$720,000. This amount is overstated. It is my information that \$255,000 of this amount represents a letter of credit lodged with Tarion, and that the actual amount advanced for construction in respect of Block 5 is approximately \$460,000.

24. At paragraph 43(b), the Report states that SMFI holds a second mortgage of approximately \$1.8 million. I believe that this figure is also overstated and that the amount is closer to \$1.4 million. At the commencement of the Waterways project, the two joint venture partners, Alliance Compro and 198 Ontario, each made an equity investment of \$600,000 which was used to acquire the lands prior to the registration of any Sussman investor mortgages. This must be accounted for outside the amount owing under the SMFI mortgage.

25. At paragraph 43(c), the Report states that Chalmers holds a 3rd mortgage with approximately \$510,000 outstanding. I believe that this figure is correct.

26. At paragraph 43(d), the Report states that Penco has registered a lien in the amount of \$178,843. This amount is grossly overstated. The actual amount owing is \$38,251. To put this in context:

- a. Penco performed work on a number of projects for Alliance Homes;
- b. All accounts payable for these other projects have been paid in full;
- c. Penco issued a credit to Waterways in the amount of \$100,000. A copy of this credit is attached as **Exhibit B**.
- d. The balance outstanding is therefore \$78,843;
- e. In respect of Block 5, Unit 2 (the Mayor's House) Penco issued an invoice indicating that \$33,850 was owing, which, with HST, totals \$38,251. I attach a copy of the invoice as **Exhibit C**.
- f. I attach as **Exhibit D** a copy of a Construction Lien Payout Statement from Penco which indicates that the amount owing for the supply of materials and services as \$38,250.50.
- g. Penco's position that the \$100,000 credit was not to be applied to the Waterways Project is unsustainable. The credit specifically references Waterways, and there were no other accounts payable to Penco.

(iii) Expected Refund of HST

27. Alliance Compro, the Declarant of the Waterways POTL condominium project, is expecting an HST refund of approximately \$464,000. The T2 Income Tax Returns for the

company are expected to be finalized within 3 weeks, after which the HST refund will be released. I attach as **Exhibit E** documentation relating to the HST rebate.

28. Upon receipt of these monies, we propose to:

- a. pay down the 1st mortgage to Durham;
- b. pay the lien claim of \$38,250; and
- c. pay approximately \$75,000 to Chalmers to receive a partial discharge (see para. 44 of the Report).

Summary

29. The Report proposes a receivership over the Waterways Project, without taking into account the significant costs of a receivership.

30. In the subject Receivership, B. Riley's professional fees and disbursements for the 5-month period from May to September 2025 total approximately \$493,000 (inclusive of HST), while its counsel's (Denton's) fees and disbursements total approximately \$535,000 (inclusive of HST) – see Report at paras 91 and 92. In other words, total professional costs of approximately \$1 million for five months of work.

31. In the circumstances, I respectfully submit that it would be prudent to dispense with a receivership order over the Waterways Project at this time, and to allow the parties a period of time (I propose 60 days) to resolve matters, and await the HST rebate.

32. Given the current weak state of the new housing market in Ontario, I do not believe that a 60 day holding period will cause any prejudice to the parties. On the contrary, such a period

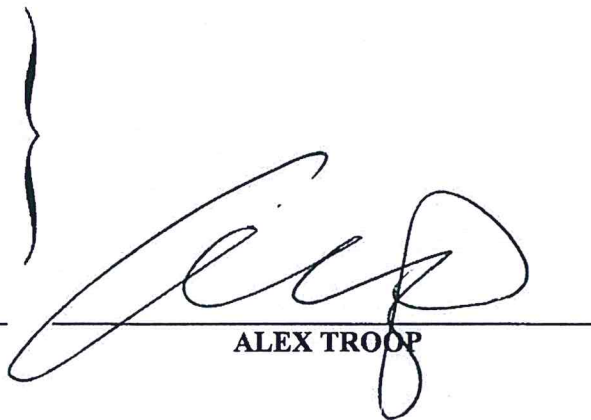
-9-

would provide a reasonable opportunity to stabilize the situation, allow for the receipt of the anticipated HST refund, and enable a more orderly resolution of the outstanding issues without the significant costs and risks associated with a receivership.

AFFIRMED by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, *see* Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
ROBERT D. MALEN, Lawyer



ALEX TROOP

This is Exhibit "A" referred to in the Affidavit of Alex Troop affirmed by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

ROBERT D. MALEN, LAWYER











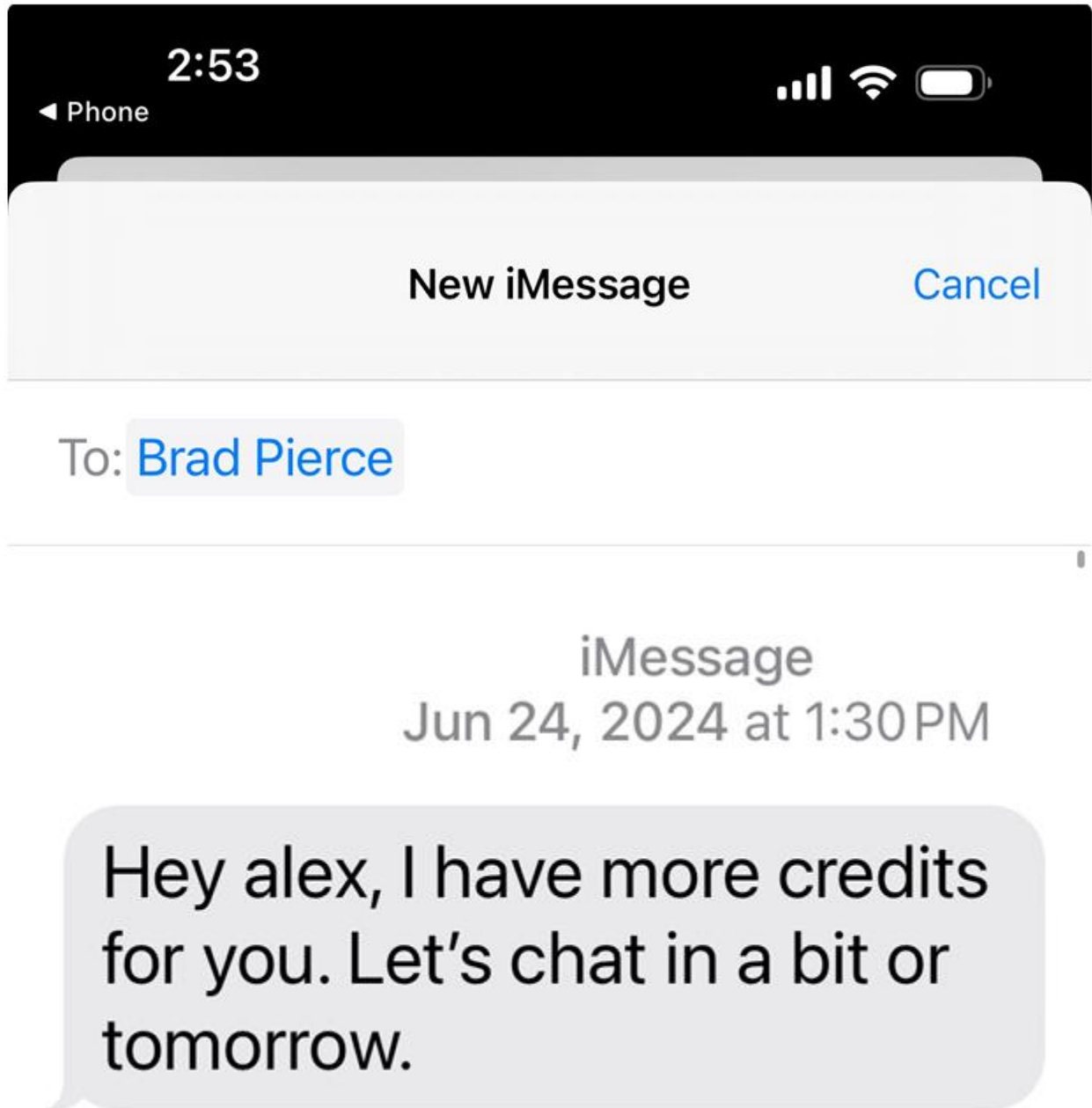
This is Exhibit "B" referred to in the Affidavit of Alex Troop affirmed by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

ROBERT D. MALEN, LAWYER

Subject: Screenshot 2025-10-17 at 2.53.24 PM



Sep 9, 2024 at 3:37 PM

Hey Alex, how's it going? What are you thinking for waterways payment? Thanks let me know

Mon, Dec 9 at 10:40 AM

Hey alex, the credit will be for \$100K.



iMessage



This is Exhibit "C" referred to in the Affidavit of Alex Troop affirmed by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

ROBERT D. MALEN, LAWYER

Penco

YOUR RESIDENTIAL DRYWALL & INSULATION EXPERTS.

INVOICE

INV# 07153

JOB# ALL-WAT

Customer Job #

Customer ID WATERWAY

Customer P.O.#

Invoice Date 10/30/24

To: Waterways of Muskoka Ltd.
6048 Highway 9, Unit 7
Schomberg, ON L0G 1T0
ATTN: Alex Troop ; Diana Chilo

Project: **Waterways of Muskoka Ltd. c/o Alliance Homes**
Waterways of Muskoka - 2 Santa's Village Road
Bracebridge ON P1L1E1

Reference#	Description	Amount
L-5-000002	Waterways - Block 5, Unit 2 - Fairview W / Loft Base Contract 100% Complete	33,850.00
L-5-000005	Waterways - Block 5, Unit 5 - Ashworth W / Loft Base Contract 100% Complete	37,210.00
<i>\$ 33,850.00</i> <i>4401.00</i> <i>\$ 38,251.00</i>		
Tax # 823061171 TERMS: NET30 Net Thirty Days Thank you for your business! We accept e-transfers, direct deposits, or cheques. Please make cheques payable to PENCO DRYWALL LTD. and reference our invoice number. Past due invoices are subject to interest at 24% per annum.		
Sub Total		71,060.00
HST		9,237.80
Total		80,297.80

This is Exhibit "D" referred to in the Affidavit of Alex Troop affirmed by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

ROBERT D. MALEN, LAWYER

CONSTRUCTION LIEN PAYOUT STATEMENT

CLAIMANT: Penco Drywall Ltd.

OWNER: Waterways of Muskoka Ltd.

INSTRUMENT(S): MT306483 (Construction Lien) & MT311454 (Certificate)

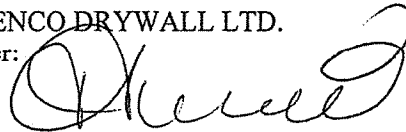
PROPERTY: 14 Leeds Court, Bracebridge, ON
PIN No.: 48170 - 0504 (LT)

PAYOUT DATE: July 29, 2025

Amount Owning as Invoiced for Supply of Materials and Services	\$38,250.50
Application Fee to Delete Construction Lien & Certificate Charged by Land Registry Office (LRO)	\$69.95
Legal Fees & Disbursements	\$4,750.20
BALANCE DUE AND OWING	\$43,070.65
Amount Required to Discharge Lien and Certificate	\$43,070.65

PENCO DRYWALL LTD.

Per:



Name: Tammy Turai

Title: Office Manager &

Controller

I have authority to bind the Corporation.

The Balance Due and Owing payable by certified funds to be delivered to Himelfarb Proszanski, in trust, 480 University Avenue, Suite 1401, Toronto, Ontario, M5G 1V2.

This is Exhibit "E" referred to in the Affidavit of Alex Troop affirmed by Alex Troop of the Township of King, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on October 20, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

ROBERT D. MALEN, LAWYER



Sudbury ON P3A 5C1

0022432

Notice details

Business number	89766 5402 RT0001
Period covered	Jul 1, 2025 - Jul 31, 2025
Date issued	Oct 3, 2025

ALLIANCE COMPRO INC
7-6048 HIGHWAY 9
SCHOMBERG ON LOG 1T0

W. Hamilton

Notice of assessment for goods and services tax/harmonized sales tax (GST/HST)

This notice explains the results of our assessment of your GST/HST return(s).

Thank you,

Bob Hamilton
Commissioner of Revenue

Account summary

Total balance: \$433,363.42 CR

Sign up for MyBA

MyBA lets you:

- Submit elections online
- View filed returns; and
- View account history.

Go to:
canada.ca/my-cra-business-account

RT299-A E X

ALLIANCE COMPRO INC

Notice details

Business number	89766 5402 RT0001
Period covered	Jul 1, 2025 - Jul 31, 2025
Date issued	Oct 3, 2025

GST/HST assessment**Results**

This notice explains the results of our assessment of the GST/HST return(s) received on **September 5, 2025**, for the period shown above.

Description	\$ Amount	CR
Result of this assessment	36,570.97	CR
Previous balance	396,792.45	CR
Total balance	433,363.42	CR

We held your refund because you have not filed the required returns in the following program account(s):

89766 5402 RC0001

For more information, please see the "Summary" and "Explanation of changes and other important information" sections of this notice.

Please keep this notice of assessment for your records.

APPLICATION UNDER Section 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.

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Respondents

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at TORONTO

AFFIDAVIT OF ALEX TROOP

GOLDMAN SLOAN NASH & HABER LLP

Barristers and Solicitors
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Robert D. Malen - 18872L

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Lawyers for the Defendants, 2114568 Ontario
Inc., Alliance Homes Ltd., Alex Troop,
and Waterways of Muskoka Ltd.
in Court File No. CV-25-00740475-00CL
Service List:
File No.: 001804.0181

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Respondents

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**RESPONDING MOTION RECORD
OF 2114568 ONTARIO INC., ALLIANCE
HOMES LTD., ALEX TROOP,
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Lawyers for the Defendants, 2114568 Ontario Inc.,
Alliance Homes Ltd., Alex Troop,
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in Court File No. CV-25-00740475-00CL
See Service List
File No. 001804.0181