

**IN THE MATTER OF THE *SECURITIES ACT*,  
R.S.O. 1990, c. s.5, AS AMENDED**

**AND IN THE MATTER OF GO-TO DEVELOPMENTS HOLDINGS INC., GO-TO  
SPADINA ADELAIDE SQUARE INC., FURTADO HOLDINGS INC.,  
and OSCAR FURTADO**

**File No. 2022-8**

**MOTION  
OF OSCAR FURTADO**

(For Orders: (i) Adjourning the Hearing on the Merits, and (ii) Hearing Part of the Motion and Filing Part of the Motion Record Confidentially under Rules 1, 22, 28 and 29 of the Capital Markets Tribunal's *Rules of Procedure and Forms*)

**A. ORDER SOUGHT**

The moving party, Oscar Furtado, requests, with notice, that the Capital Markets Tribunal (the “**Tribunal**”) make the following orders:

- a) An order adjourning the hearing on the merits (the “**Merits Hearing**”) of the within proceeding (the “**Proceeding**”), scheduled to begin on November 3, 2023, and directing that a new date be scheduled for the Merits Hearing;
- b) An order adjourning the dates set in the Tribunal's order dated July 20, 2023 for the remaining steps to be completed in advance of the Merits Hearing;
- c) An order extending the time for the delivery of a further and better witness summary from Mr. Furtado;
- d) In the alternative to paragraphs (a), (b) and (c) above, an order adjourning the Merits Hearing, the dates currently scheduled for the remaining steps in advance of the Merits Hearing, and the deadline for delivery of a further and better witness summary from Mr. Furtado on terms that the Tribunal deems just;

- e) An order that certain information, to be identified, contained in the motion record filed on this motion be treated as confidential and not made available to the public pursuant to Rule 22(4) of the Tribunal's *Rules of Procedure and Forms*;
- f) An order that part of the hearing of the within motion proceed confidentially without the public present pursuant to Rule 22(2) of the Tribunal's *Rules of Procedure and Forms*;
- g) If necessary, an order abridging the time for service and filing of this Notice of Motion and Motion Record; and
- h) Such further relief as counsel may request and the Tribunal may permit.

## **B. GROUND**

The grounds for the motion are:

### **Background**

1. The Proceeding was initiated against Mr. Furtado by a Statement of Allegations dated March 30, 2022.
2. Pursuant to an Order of the Tribunal dated December 20, 2022 (the "**December 2022 Order**"), the Merits Hearing was scheduled to be heard on August 21, 22, 24, 25, 28, 29, 30, 31, 2023 and November 2, 3, 6, and 7, 2023.
3. On May 11, 2023, Mr. Furtado served a motion seeking an adjournment of the Merits Hearing as a result of his ill health (the "**First Adjournment Motion**").
4. Pursuant to the Tribunal's Order dated June 22, 2023, the commencement of the Merits Hearing was adjourned from August 21, 2023 and rescheduled to commence on November 2, 2023, concluding on November 15, 2023.

5. Pursuant to a Notice issued by the Tribunal on August 9, 2023, the currently-scheduled November 2 and 9, 2023 hearing dates were directed not to proceed and, in their place, additional dates for the Merits Hearing were scheduled on November 10 and 17, 2023.

6. Pursuant to Reasons for Decision dated September 7, 2023, the Tribunal directed that Mr. Furtado deliver a further and better witness summary by September 20, 2023.

7. On September 7, 2023, Mr. Furtado served a motion seeking a further adjournment of the Merits Hearing as a result of his ill health (the “**Second Adjournment Motion**”).

8. On October 5, 2023, the Tribunal issued an Order dismissing the Second Adjournment Motion.

### **Adjournment Request**

9. Mr. Furtado continues to face significant health issues and, at this time, he is not medically fit to prepare for or attend the Merits Hearing commencing in November 2023.

10. Mr. Furtado’s health issues continue to constitute exceptional circumstances, as contemplated by Rule 29 of the Tribunal’s *Rules of Procedure and Forms*, and warrant a second adjournment of the Merits Hearing.

11. The principles of natural justice and procedural fairness warrant an adjournment in the circumstances. Mr. Furtado is the only witness who may be called to provide testimony on his behalf in defence of Staff’s allegations made in the Proceeding. It is imperative that Mr. Furtado be medically fit to prepare for and testify at the Merits Hearing in order to defend the allegations against him.

12. In the specific circumstances of this case, an adjournment to ensure a fair hearing outweighs any public interest in the Proceeding commencing on the originally scheduled dates.

13. Mr. Furtado requests that a new date be scheduled for the commencement of the Merits Hearing in 2024 in order to permit him sufficient time to seek additional medical treatment necessary to improve his symptoms.

### **Confidentiality Request**

14. The Report of Dr. Joel Sadavoy dated October 14, 2023 filed in support of this motion contains intimate personal details about Mr. Furtado's health, in addition to intimate personal details about other individuals unrelated to the Proceeding (together, the "**Confidential Information**"), and will necessarily be referred to at the hearing of the motion. In the circumstances, avoiding disclosure of such intimate personal matters outweighs adherence to the principle that hearings should be open to the public.

15. Mr. Furtado requests that the Confidential Information be subject to a confidentiality order such that it is not made available publicly, and that the substance of the Confidential Information is not referred to in any public reasons the Tribunal may issue in connection with this motion.

### **C. EVIDENCE**

The moving party intends to rely on the following evidence for the motion:

(a) The Report of Dr. Joel Sadavoy dated October 14, 2023; and

(b) Such further and other evidence as counsel may advise.

DATED this 17<sup>th</sup> day of October, 2023.

**CRAWLEY MACKEWN BRUSH LLP**

Barristers & Solicitors  
Suite 800, 179 John Street  
Toronto ON M5T 1X4

Melissa MacKewn (LSO#: 39166E)

mmackewn@cmlaw.ca

Tel: 416.217.0840

Dana Carson (LSO#: 65439D)

dcarson@cmlaw.ca

Tel: 416.217.0773

Asli Deniz Eke (LSO#: 79947G)

aeke@cmlaw.ca

Tel: 416.217.0717

Tel: 416.217.0110

Lawyers for the Moving Party, Oscar Furtado

TO: **ONTARIO SECURITIES COMMISSION**

22<sup>nd</sup> Floor  
20 Queen Street West  
Toronto ON M5H 3S8

Johanna Braden (LSO# 40775L)

jbraden@osc.gov.on.ca

Tel: 416.263.7689

Erin Hault (LSO#: 54002C)

ehault@osc.gov.on.ca

Tel: 416.593.8290

Braden Stapleton (LSO#: 82537F)

bstapleton@osc.gov.on.ca

Tel: 416.593.8903

Tel: 416.593.8314

Lawyers for the Respondent, Ontario Securities Commission

AND TO: **AIRD & BERLIS LLP**  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto ON M5J 2T9

Ian Aversa (LSO#: 55449N)  
iaversa@airdberlis.com

Tel: 416.865.3082

Jeremy Nemers (LSO#: 66410Q)

jnemers@airdberlis.com

Tel: 416.865.7724

Tamie Dolny (LSO#: 77958U)

tdolny@airdberlis.com

Tel: 647.426.2306

Lawyers for the Receiver, KSV Restructuring Inc.