

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

-and-

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents

MOTION RECORD OF THE RECEIVER (RETURNABLE MARCH 18, 2025)

March 7, 2025

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**Lawyers for the Receiver, TDB
Restructuring Limited**

TO: SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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1180554 ONTARIO LIMITED

Applicant

-and-

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents

NOTICE OF MOTION (RETURNABLE MARCH 18, 2025)

TDB Restructuring Limited, in its capacity as receiver and manager (in such capacity, the “**Receiver**”) of all present and future property, assets and undertakings of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., CBJ Developments Inc. (together, the “**Debtors**”) will make a motion to a Judge presiding over the Commercial List on March 18, 2025 at 10:00 AM, or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THIS MOTION IS FOR:

- (a) An order discharging TDB Restructuring Limited as Receiver and releasing TDB Restructuring Limited from any and all liability arising out of its acts or omissions while acting in its capacity as Receiver (save and except for any gross negligence or willful misconduct);

- (b) An order approving the Third Report of the Receiver, dated March 7, 2025 (the “**Third Report**”) and the activities described therein;
- (c) An order approving the Receiver’s statement of receipts and disbursements for the period January 26, 2024 to February 28, 2025 (the “**Interim R&D**”);
- (d) An order approving the fees of the Receiver and its counsel for the period September 1, 2024 to February 28, 2025, as well as the estimated fees of the Receiver and its counsel from March 1, 2025 to the conclusion of the Receiver’s mandate, as set out in the fee affidavit of Bryan Tannenbaum and Beatrice Loschiavo; and
- (e) Such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS OF THIS MOTION ARE:

A. *The Receivership*

- (f) On January 26, 2024, TDB Restructuring Limited was appointed Receiver of all property, assets, and undertakings of CBJ - Clearview Garden Estates Inc. (“**CBJ Clearview**”), CBJ Bridle Park II Inc. (“**CBJ Bridle Park II**”), and CBJ Developments Inc. (“**CBJ Developments**”) and collectively referred to as the “**Debtors**”);
- (g) The property, assets and undertakings of the Debtors is comprised primarily of the following real property:

- (i) 7535 Highway 26 Nottawasaga comprising 97.28 acres (the “**CBJ Property**”);
 - (ii) 7535 Highway 26, Nottawasaga, Ontario comprising 78.6 acres (the “**Bridle Park II Property**”); and
 - (iii) 6273 27/28 Sideroad, Stayner (the “**Clearview Property**”).
- (h) Together, the CBJ Property, the Bridle Park II Property and the Clearview Property are referred to herein as the “**Real Property**” or “**Properties**”.

B. The Secured Creditors

- (i) Pursuant to a loan agreement between the Debtors and 1180554 Ontario Limited (“**118**”), on September 15, 2021, 118 made a mortgage loan available to the Debtors in the principal amount of \$16,000,000;
- (j) As security for the loan, the Debtors granted 118 mortgages on title to the Real Property (the “**118 Mortgages**”);
- (k) In addition to the 118 Mortgages, there are second mortgages on title to the Real Property in favour of First Global Financial Corp.;

C. The Transaction

- (l) On August 14, 2024, the Receiver entered into an asset purchase agreement (the “**APA**”) with 118 for the sale of the Properties by way of credit bid by 118 (the transaction contemplated by the APA being the “**Sale Transaction**”);

- (m) On October 23, 2024, Justice Black granted an Order approving the Transaction and providing for the vesting of title to the Properties in the 118's nominees upon closing of the Sale Transaction (the "**AVO**");
- (n) In addition to the AVO, Justice Black granted an ancillary relief order (the "**ARO**") approving of the following:
 - (i) the Receiver's Second Report, dated September 20, 2024 (the "**Second Report**");
 - (ii) the Receiver's receipts and disbursements for the period January 26, 2024 to August 31, 2024;
 - (iii) the fees of the Receiver and its counsel; and
 - (iv) a sealing order in respect of the APA;

D. Closing the Sales Transaction

- (o) On November 7, 2024, the Receiver and 118 successfully closed the Transaction. The Receiver filed a copy of the Receiver's Certificate appended to the AVO with the Court following completion of the Transaction;
- (p) As a result of the Receiver closing the Transaction, 118 acquired the Real Property in consideration for \$18,300,000 of 118's debt secured by the Real Property. 118 has advised the Receiver that the Debtors remain indebted to 118 in the amount of \$169,188 (such amount being the "**Remaining Indebtedness**");

E. Discharge of Receiver

- (q) As of the date of this Third Report, the Receiver's remaining duties (the "**Remaining Duties**") include the following:
- (i) paying any funds remaining its hands to 118, if any, on account of the Remaining Indebtedness;
 - (ii) preparing the Interim and Final Statements of the Receiver pursuant to sections 246(2) and 246(3) of the BIA;
 - (iii) filing HST returns in respect of the Receiver's administration, as required; and
 - (iv) attending to other administrative matters as necessary;
- (r) As the Receiver's administration is substantially complete, the Receiver is seeking an order discharging TDB as Receiver upon the filing by the Receiver of a certificate confirming that the Receiver has completed the Remaining Duties, with the provision that TDB may perform such incidental duties as may be required by it as Receiver to complete its obligations pursuant to its appointment as Receiver;
- (s) The provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended and the inherent and equitable jurisdiction of this Court;
- (t) Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

- (u) Such further and other grounds as counsel may advise and this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Motion:

- (a) The Third Report and the appendices thereto; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

March 7, 2025

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1180554 ONTARIO LIMITED
Applicant

-and- CBJ DEVELOPMENTS INC. et al.
Respondents

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

(COMMERCIAL LIST)

**NOTICE OF MOTION (RETURNABLE MARCH
18, 2025)**

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IN THE MATTER OF THE RECEIVERSHIP OF
CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ BRIDLE PARK II INC.

THIRD REPORT TO THE COURT OF TDB RESTRUCTURING LIMITED

MARCH 7, 2025

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1.0 INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 26, 2024 (the “**Receivership Order**”), RSM Canada Limited (“**RCL**”) was appointed receiver and manager (the “**Receiver**”) of all property, assets, and undertakings of CBJ - Clearview Garden Estates Inc. (“**CBJ Clearview**”), CBJ Bridle Park II Inc. (“**CBJ Bridle Park II**”), and CBJ Developments Inc. (“**CBJ Developments**” and collectively referred to as the “**Debtors**”). A copy of the Receivership Order is attached hereto as **Appendix “A”**.
2. The property, assets and undertakings of the Debtors is comprised primarily of the following real property:
 - a) 7535 Highway 26 Nottawasaga comprising 97.28 acres (the “**CBJ Property**”);
 - b) 7535 Highway 26, Nottawasaga, Ontario comprising 78.6 acres (the “**Bridle Park II Property**”); and
 - c) 6273 27/28 Sideroad, Stayner (the “**Clearview Property**”).Together, the CBJ Property, the Bridle Park II Property and the Clearview Property are referred to herein as the “**Real Property**” or “**Properties**”.
3. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited (“**TDB**”) in place of RCL (the “**Substitution Order**”). A copy of the Substitution Order is attached hereto as **Appendix “B”** to this report.
4. Terms not defined herein are defined in the Receivers reports dated May 22, 2024 (the “**First Report**”) and September 20, 2024 (the “**Second Report**”), copies of which (without appendices) are attached hereto as **Appendix “C”** and **Appendix “D”** (collectively, the “**Receiver Reports**”).
5. The Receivership Order, together with Court documents related to the receivership proceeding, have been posted on the Receivers website, which can be found at: <https://tdbadvisory.ca/insolvency-case/cbj-developments-inc-cbj-clearview-garden-estates-inc-and-cbj-bridle-park-ii-inc/> (the “**Case Website**”).

6. The Receiver has now substantially completed its mandate and requests that an order be made providing for its discharge.

1.1 Purpose of Report

7. The purpose of this report (the “**Third Report**”) is to:
 - a) report to the Court on the activities of the Receiver from the date of the Second Report to the date of this Third Report;
 - b) provide the Court with a summary of the Receiver’s cash receipts and disbursements for the period January 26, 2024 to February 28, 2025 (the “**Interim R&D**”), including the Receiver’s borrowings pursuant to the Receiver’s Certificate; and
 - c) request that the Court grant Orders:
 - i. approving this Third Report and the activities of the Receiver set out herein;
 - ii. approving the Interim R&D set out herein;
 - iii. approving the fees of the Receiver and its insolvency legal counsel, Paliare Roland Rosenberg Rothstein LLP (“**Paliare**”); including the estimated fees and disbursements to be incurred by the Receiver and Paliare to complete this administration; and
 - iv. terminating these proceedings and discharging the Receiver upon the filing of the Receiver’s Discharge Certificate (as defined herein).

2.0 TERMS OF REFERENCE

8. In preparing this Third Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in this Third Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained

from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.

9. Unless otherwise stated, all monetary amounts contained in this Third Report are expressed in Canadian dollars.

3.0 BACKGROUND

10. On April 28, 2024, the Receiver entered into an asset purchase agreement with the Initial Purchaser contemplating the sale of the Real Property to the Initial Purchaser. Despite being granted multiple extensions, the Initial Purchaser failed to secure the necessary financing to close the Initial Transaction. On July 3, 2024, the Receiver's real estate counsel, Dickinson Wright, confirmed to the Initial Purchaser's counsel that the Initial Transaction was terminated and that the deposits were forfeited.
11. On July 11, 2024, the Receiver relaunched the Sale Process. The only offer received in the Sales Process was from 1180554 Ontario Limited ("**118**"), the first mortgagee of the Properties. Given that the Sale Transaction contemplated 118's acquisition of the Properties through a credit bid, the Sale Transaction did not generate any proceeds for distribution.
12. Further details regarding the background of these proceedings and the Receiver's activities through September 20, 2024 can be found in the Receiver Reports.

4.0 ACTIVITIES OF THE RECEIVER

13. Further to the activities of the Receiver as set out in the Second Report, the Receiver has since undertaken the following activities:

- a) closed the Sale Transaction;
- b) corresponded with Canada Revenue Agency regarding the Debtors' HST accounts and filed all outstanding returns; and
- c) prepared this Third Report.

5.0 THE SALE TRANSACTION

- 14. On October 23, 2024, the Court issued an Approval and Vesting Order approving the Sale Transaction detailed in the APA, and vesting all of the Receiver's and the Debtors' right, title and interest in and to the Property (as defined in the APA, which term includes the Real Property) in 118, in the case of the Clearview Property, and 1000983019 Ontario Limited, in the case of the CBJ Property and the Bridle Park II Property, upon the closing of the Sale Transaction (the "**AVO**").
- 15. The Court also issued an Ancillary Relief Order (the "**ARO**") approving the following:
 - a) the R&D for the period from January 26, 2024 to August 31, 2024;
 - b) the fees of the Receiver and its insolvency counsel, Paliare and real estate counsel Dickinson Wright;
 - c) a Sealing Order in respect of the APA; and
 - d) the Second Report and the conduct and activities of the Receiver set out therein.
- 16. A copy of the AVO and the ARO are attached hereto as **Appendix "E"** and **Appendix "F"**.
- 17. On November 7, 2024, the Receiver and 118 closed the Sale Transaction and the Receiver filed a copy of the Receiver's Certificate appended to the AVO with the Court, as contemplated by the AVO.
- 18. A copy of the Receiver's Certificate is attached hereto as **Appendix "G"**.

19. As of September 30, 2024 the Debtors indebtedness to 118 under the Loan Agreement (as defined in the Second Report) was \$18,469,188. As a result of the Receiver closing the Sale Transaction, 118 acquired the Real Property in consideration for \$18,300,000 of 118's secured debt against the Real Property. Therefore, as at the closing of the Sale Transaction, the Debtors remain indebted to 118, under the Loan Agreement, in the amount of \$169,188 (the "**Remaining Indebtedness**").

6.0 THE ACTIONS

20. On February 24, 2025, the Receiver was advised that, despite the fact that the Receivership Order provided the Receiver with the exclusive right to commence or continue proceedings on behalf of the Debtors, on December 23, 2024, CBJ Developments commenced an action in Alberta against Ursatur Capital Management L.P., Andrew Cockwell, Ian Cockwell and Mutende Equities Ltd. (the "**Alberta Action**"). A copy of the statement of claim in the Alberta Action is attached hereto as **Appendix "H"**.
21. On February 28, 2025, counsel to the Receiver sent a letter to CBJ Developments (the "**Letter to CBJ Developments**") advising that (1) the Alberta Action was commenced without the consent of the Receiver, contrary to the explicit terms of the Receivership Order and (2) the Receiver demanded that CBJ Developments refrain from taking any steps in the Alberta Action without the explicit consent of the Receiver. A copy of the Letter to CBJ Developments is attached hereto as **Appendix "I."**
22. On March 5, 2025, CBJ Developments sent a letter to counsel to the Receiver in response to the Letter to CBJ Developments (the "**Response Letter**"), advising that no further steps will be taken in the Alberta Action pending the outcome of the receivership or seeking Court approval to proceed with the same. A copy of the Response letter is attached hereto as **Appendix "J"**.
23. On March 7, 2025, the Receiver was advised that CBJ Developments has commenced another action in Ontario against various defendants, including CBJ-Fort Erie Hills Inc. (the "**Ontario Action**" and, together with the Alberta Action, the "**Actions**"). A

copy of the statement of claim in the Ontario Action is attached hereto as **Appendix “K.”**

24. Later, on March 7, 2025, counsel to the Receiver sent a letter to CBJ Developments counsel in the Ontario Action which, again, reminded CBJ Developments of the impropriety of the Actions and demanded that CBJ Developments refrain from taking any steps in the same without the explicit consent of the Receiver. A copy of this letter is attached hereto as **Appendix “L.”**

7.0 RECEIVER’S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

25. The Interim R&D for the period from January 26, 2024 to February 28, 2025 sets out cash receipts of \$1,207,024, including an advance made by 118 totaling \$50,000 pursuant to Receiver’s Certificate #1, and cash disbursements of \$1,146,095 resulting in an excess of receipts over disbursements of \$60,930. A copy of the Interim R&D is attached hereto as **Appendix “M”** to this report.

8.0 PROFESSIONAL FEES

26. The Receiver’s accounts for the period from September 1, 2024 to February 28, 2025 total \$63,169.00 in fees and disbursements, plus HST of \$8,211.97, for a total amount of \$71,380.97. A copy of the Receiver’s interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Bryan A. Tannenbaum sworn on March 4, 2025 and attached hereto as **Appendix “N”** to this report. The Receiver estimates that it will incur further fees of \$10,000, plus HST, through the completion of the administration of this estate (the “**Receiver’s Estimate**”).
27. The accounts of the Receiver’s counsel, Paliare, for the period from September 6, 2024 to February 28, 2025 total \$29,420.53 in fees and disbursements, plus HST of \$3,785.75 for a total amount of \$33,206.28. A copy of Paliare’s interim accounts, together with a summary of the accounts, the total billable hours charged per account,

and the average hourly rate charged per account, is set out in the Affidavit of Beatrice Loschiavo sworn on March 3, 2025 and attached hereto has **Appendix “O”** to this report. Paliare estimates that it will incur further fees of \$7,500, plus HST, through the completion of the administration of this estate (the “**Paliare Estimate**” together with the Receiver’s Estimate, the “**Estimated Fees**”).

9.0 DISCHARGE OF THE RECEIVER

28. As of the date of this Third Report, the Receiver’s remaining duties (the “**Remaining Duties**”) include the following:
- a) paying any funds remaining in its hands to 118, if any, on account of the Remaining Indebtedness;
 - b) preparing the Interim and Final Statements of Receiver pursuant to sections 246(2) and 246(3) of the BIA;
 - c) filing HST returns in respect of the Receiver’s administration, as required; and
 - d) attending to other administrative matters as necessary.
29. As the Receiver’s administration is substantially complete, and in order to avoid the costs of making a further motion to the Court to obtain the Receiver’s discharge, the Receiver is seeking an order discharging TDB as Receiver (the “**Discharge Order**”) upon the filing by the Receiver of a certificate confirming that the Receiver has completed the Remaining Duties (the “**Receiver’s Discharge Certificate**”), with the provision that TDB may perform such incidental duties as may be required by it as Receiver to complete its obligations pursuant to its appointment as Receiver.

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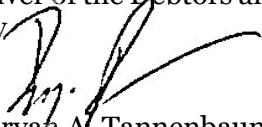
10.0 RECEIVER'S REQUEST OF THE COURT

30. Based on the foregoing, the Receiver respectfully requests that the Court grant the order described in paragraph 7(c) above.

All of which is respectfully submitted to this Court as of this 7th day of March 2025.

TDB RESTRUCTURING LIMITED, solely in its capacity as Receiver of the Debtors and not in its personal or corporate capacity.

Per:


Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
Managing Director

APPENDIX "A"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF Justice ACT*,
R.S.O. 1990 C. C.43, AS AMENDED**

THE HONOURABLE) FRIDAY, THE 26th DAY
JUSTICE PENNY) OF JANUARY, 2024

1180554 ONTARIO LIMITED

Applicant

and

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ – BRIDLE PARK II INC.**

Respondents

**ORDER
(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing RSM Canada Limited as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondents, CBJ - Clearview Garden Estates Inc. ("CBJ - Clearview"), CBJ Bridle Park II Inc. ("CBJ - II"), CBJ Developments Inc. ("CBJ") (hereinafter CBJ – Clearview, CBJ – II, and CBJ collectively referred to as the "CBJ" or "Debtors"), acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the Affidavits of Matthew Castelli sworn October 20, 2023, November 16, 2023, and January 24, 2024, the Affidavit of Serafino Paul Mantini sworn December 5, 2023, the Affidavits filed by the Respondents being the Affidavits of Jeffrey Burrell sworn November 29, 2023, and December 5, 2023, and the Affidavit of Scott Metcalfe sworn January 24, 2024, and the Affidavit sworn by Randy Hoffner on January 25, 2024, filed by the parties holding a subsequent charge (“Subsequent Lenders”) as it relates to the Properties that are the subject matter of this Receivership, the Factum of the Applicants, the Factum of the Respondents and on hearing submissions for counsel for the Applicants, Respondents and the Subsequent Lenders and on reading the consent of RSM Canada Limited to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, RSM Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the

relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed

shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the

Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including

without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed

\$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL www.rsmcanada.com/CBJ-developments-inc-et-al.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.


28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors estate with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that RSM Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties of CBJ - Clearview, CBJ – II and CBJ acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____ 202__.

RSM Canada Limited solely in its capacity
as Receiver of the Debtors, and not in its
personal capacity

Per: _____

Name:

Title:

APPENDIX "B"

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM) FRIDAY, THE 1ST
JUSTICE CONWAY) DAY OF MARCH, 2024

B E T W E E N:

TDB RESTRUCTURING LIMITED

Applicant

and

RSM CANADA OPERATIONS ULC

Respondent

APPLICATION UNDER Rule 14.05(3)(h) of the *Rules of Civil Procedure*

SUBSTITUTION ORDER

THIS APPLICATION made by TDB Restructuring Limited (“**TDB**”) for an order, among other things, substituting the name of RSM Canada Limited with the name TDB Restructuring Limited on the Substituted Mandates (as defined below), was heard was heard this day by way of judicial video conference in Toronto, Ontario by Zoom videoconference

ON READING the Application Record of TDB, including the Affidavit of Bryan A. Tannenbaum sworn February 27, 2024, together with the exhibits attached thereto (the “**Affidavit**”), and on hearing the submissions of counsel for TDB, no one else appearing, although served as evidenced by the Affidavit of Service of Lynda Christodoulou sworn February 28, 2024

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

BIA MANDATES

2. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name of RSM Canada Limited as Trustee in Bankruptcy (the “**Bankruptcy Trustee**”) of the estate files listed as bankruptcies on Schedule “A” hereto (the “**BIA Estates**”) and as Proposal Trustee (the “**Proposal Trustee**”) of the estate files listed as proposals on Schedule “A” hereto (collectively with the BIA Estates, the “**BIA Mandates**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such BIA Mandates or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

3. **THIS COURT ORDERS** that, for greater certainty all, real and personal property wherever situate of the BIA Estates shall be, remain and is hereby vested in TDB Restructuring Limited in its capacity as Bankruptcy Trustee, to be dealt with by TDB Restructuring Limited in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), pursuant to its powers and obligations as Bankruptcy Trustee of the BIA Estates.

4. **THIS COURT ORDERS** that TDB Restructuring Limited is authorized and directed to continue and to complete the administration of the BIA Mandates, to deal with the property in the BIA Mandates in accordance with its duties and functions as Bankruptcy Trustee or Proposal Trustee, as the case may be, as set out in the BIA and to receive all remuneration of the Bankruptcy Trustee or Proposal Trustee in the BIA Mandates for services performed from the commencement of each of the BIA Mandates until the discharge of the Bankruptcy Trustee or Proposal Trustee, as applicable.

5. **THIS COURT ORDERS** that that the requirement and responsibility for taxation of the Bankruptcy Trustee’s or Proposal Trustee’s accounts in respect of the BIA Mandates with respect to all work performed in respect of such BIA Mandate from the initial appointment of RSM Canada Limited or any other party, through to the completion of the administration of such BIA Mandates and discharge of TDB Restructuring Limited as Bankruptcy Trustee or Proposal Trustee, as applicable, shall be completed using the name TDB Restructuring Limited.

6. **THIS COURT ORDERS AND DIRECTS** that to the extent that security has been given in the name of RSM Canada Limited in cash or by bond of a guarantee company pursuant to section 16(1) of the BIA (the “**Security**”), such Security shall be transferred from the name RSM Canada Limited to the name TDB Restructuring Limited and any party holding such Security be and is hereby directed to take all steps necessary to effect such transfer. TDB Restructuring Limited shall retain all obligations respecting the Security.

RECEIVERSHIP PROCEEDINGS

7. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name RSM Canada Limited as the Receiver, Receiver and Manager, or Interim Receiver (collectively, “**Receiver**”) in respect of the mandates listed in Schedule “B” hereto (the “**Receivership Proceedings**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such Receivership Proceedings or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

CCAA PROCEEDINGS

8. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name of RSM Canada Limited as Monitor of the estate files listed as CCAA restructuring proceedings on Schedule “C” hereto (the “**CCAA Estates**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such mandates (the “**CCAA Mandates**”) or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

ESTATE TRUSTEE DURING LITIGATION PROCEEDINGS

9. **THIS COURT ORDERS** that: (i) the name TDB Restructuring Limited be and is hereby substituted in place of the name RSM Canada Limited as Estate Trustee During Litigation in respect of the mandate listed in Schedule “D” hereto; and (ii) the name Bryan A. Tannenbaum of TDB Restructuring Limited be and is hereby substituted in place of the name Bryan A. Tannenbaum of RSM Canada Limited as Estate Trustee During Litigation in respect of the mandate listed in Schedule “D” (collectively, the “**Estate Mandates**”), and any reference to the name RSM Canada Limited in any Court Order in respect of such Estate Mandates or any

schedule to such Court Order shall be replaced by the name TDB Restructuring Limited. Collectively, the BIA Mandates, the Receivership Proceedings, the CCAA Mandates and the Estate Mandates are referred to herein as the “**Substituted Matters**”).

SUBSTITUTED MANDATES

10. **THIS COURT ORDERS** that TDB Restructuring Limited (and its directors, officers, employees, agents, legal counsel and other representatives, as applicable) will continue to have all rights, benefits, protections and obligations granted to RSM Canada Limited (and its legal counsel and representatives, as applicable) under any order made in the Substituted Mandates or any statute applicable to the Substituted Mandates or any contract or agreement to which TDB Restructuring Limited is party under the name RSM Canada Limited in the Substituted Mandates. For greater certainty and without limitation, this includes the benefit of any indemnity, charge or priority granted in the Substituted Mandates and relief from the application of any statute including the Personal Information Protection and Electronic Documents Act (Canada) (“**PIPEDA**”).

11. **THIS COURT ORDERS** that to the extent required by the applicable Orders in the Substituted Mandates, the accounts of RSM Canada Limited and its legal counsel in respect of the Substituted Mandates shall be passed in accordance with the applicable Orders in the Substituted Mandates in the name and on the application of TDB Restructuring Limited.

ACCOUNTS

12. **THIS COURT ORDERS** that TDB Restructuring Limited be and is hereby authorized to transfer any and all accounts from the name RSM Canada Limited to the name TDB Restructuring Limited and, if the name on such accounts cannot be changed, to transfer all funds that remain in its trust bank accounts that belong or relate to the Substituted Mandates, or otherwise, to accounts in the name TDB Restructuring Limited, and TDB Restructuring Limited be and is hereby authorized to take all steps and to execute any instrument required for such purpose. Any bank, financial institution or other deposit-taking institution with which TDB Restructuring Limited banks be and is hereby authorized to rely on this Order for all purposes of

this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

13. **THIS COURT ORDERS AND DIRECTS** that TDB Restructuring Limited be and is hereby authorized to endorse for deposit, deposit, transfer, sign, accept or otherwise deal with all cheques, bank drafts, money orders, cash or other remittances received in relation to any of the Substituted Mandates where such cheques, bank drafts, money orders, cash or other remittances are made payable or delivered to the name TDB Restructuring Limited, in relation to the same, and any bank, financial institution or other deposit-taking institution with which TDB Restructuring Limited banks be and is hereby authorized to rely on this Order for all purposes of this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

GENERAL

14. **THIS COURT ORDERS** that this Order shall be effective in all judicial districts in Ontario which govern any of the Substituted Mandates.

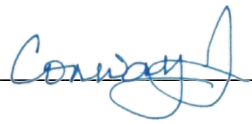
15. **THIS COURT ORDERS** that the requirement for a separate Notice of Motion and supporting Affidavit to be filed in the Court file of each of the Substituted Mandates be and is hereby waived.

16. **THIS COURT ORDERS** that TDB Restructuring Limited shall notify the parties on the Service Lists of the Substituted Mandates (if applicable) of the new website established for such Substituted Mandate and shall post a copy of this Order to the website of each Substituted Mandate and that such notice shall satisfy all requirements for service or notification of this motion and this Order on any interested party in the Substituted Mandates including, without limitation, proven creditors within the BIA Mandates, parties on the Service Lists of the Substituted Mandates (if applicable), the applicable bankrupts or debtors within the Substituted Mandates, and any other person, and any other requirements of service or notification of this motion be and is hereby waived.

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give

effect to this Order and to assist TDB Restructuring Limited in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to TDB Restructuring Limited as may be necessary or desirable to give effect to this Order, or to assist TDB Restructuring Limited and its agents in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry or filing.

A handwritten signature in blue ink is written over a solid black horizontal line. The signature is cursive and appears to read "Conway J."

Schedule "A": BIA Mandates

Bankruptcies

	Name	Estate Number
1.	Carrington Homes Limited	31-457618
2.	Fernicola, George	31-457619
3.	D. Mady Investments Inc.	31-2281994
4.	Eco Energy Home Services Inc.	31-2502463
5.	Ontario HVAC & Water Inc.	31-2613545
6.	2305992 Ontario Inc.	31-2655918
7.	Fernwood Developments (Ontario) Corporation	31-2661061
8.	Legal Print and Copy Incorporated	31-2884436
9.	Commerce Copy Incorporated	31-2884438
10.	TDI-Dynamic Canada, ULC	31-2903815
11.	Limestone Labs Limited	31-2907613
12.	2465409 Ontario Inc.	31-2939766
13.	Creative Wealth Media Finance Corp.	31-3003083
14.	Knight-Pro Inc.	31-3013900
15.	Ulmer, Blair	32-159136

Division 1 Proposals

	Name	Estate Number
1.	Vaughn Mills Packaging Ltd.	31-2895096
2.	RLogistics Limited Partnership	31-3040679
3.	RLogistics Inc.	31-3042209
4.	1696308 Ontario Inc.	31-3042213

Schedule "B": Receivership Proceedings

Name	Court / OSB Number
1. Z. Desjardins Holdings Inc.	CV-23-00706607-00CL
2. 485, 501 and 511 Ontario Street South, Milton, ON	CV-23-00696349-00CL
3. Eco Energy Home Services Inc.	CV-19-614122-00CL
4. 3070 Ellesmere Developments Inc.	CV-19-00627187-00CL
5. Fernwood Developments Ontario Corporation	CV-20-00635523-00CL
6. Utilecredit Corp.	CV-20-00636417
7. 134, 148, 152, 184/188, 214, 224 and 226 Harwood Avenue, Ajax, ON	CV-20-00651299-00CL
8. Greenvilla (Sutton) Investment Limited (private receivership)	31-459273
9. 2088556 Ontario Inc. (private receivership)	31-459274
10. 935860 Ontario Limited (private receivership)	31-459275
11. Areacor Inc.	CV-22-00674747-00CL
12. Limestone Labs Limited and CleanSlate Technologies Incorporated (private receivership)	31-459498
13. 12252856 Canada Inc.	CV-22-00691528-00CL
14. Harry Sherman Crowe Housing Co-operative Inc.	CV-22-00688248-00CL
15. Richmond Hill Re-Dev Corporation	CV-23-00695238-00CL
16. Stateview Homes (Hampton Heights) Inc.	CV-23-00700356-00CL
17. 142 Queenston Street, St. Catharines, ON	CV-23-00705617-00CL
18. 2849, 2851, 2853, 2855 and 2857 Islington Avenue, Toronto, ON	CV-23-00701672-00CL
19. 311 Conacher Drive, Kingston, ON	CV-23-00701672-00CL
20. Real Property owned by King David Inc.	CV-23-00710411-00CL
21. CBJ Developments Inc. et al.	CV-23-00707989-00CL
22. 25 Neighbourhood Lane, Etobicoke, ON M8Y 0C4	31-459784

Schedule "C": CCAA Proceedings

Name	Court Number
1. Quality Sterling Group, comprising Quality Rugs of Canada Ltd., Timeline Floors Inc., Ontario Flooring Ltd., Weston Hardwood Design Centre Inc., Malvern Contract Interiors Ltd., Timeline Floor Inc. Ontario Flooring Ltd. Weston Hardwood Design Centre Inc. Malvern Contract Interior Limited Quality Commercial Carpet Corporation Joseph Douglas Pacione Holding Ltd. John Anthony Pacione Holding Ltd. Jopac Enterprises Limited, and Patjo Holding Inc.	CV-23-00703933-00CL

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Name	Court Number
1. The Estate of Sarah (Sue) Turk *	01-3188/14
2. The Estate of Sarah (Sue) Turk *	05-35/14
3. The Estate of Lev Alexandr Karp – <i>discharge</i> <i>pending</i>	05-100/17 05-265/17
4. The Estate of Peter Trezzi	01-4647/16
5. The Estate of Florence Maud Anderson *	05-159/19
6. Estate of Murray Burke	2988/19
7. Estate of Robert James Cornish	CV- 23-00693852-00ES
8. Estate of Anne Takaki *	CV-22-00011105-00ES
9. Estate of John Takaki *	CV-22-00011105-00ES
10. Estate of James Frederick Kay **	06-006/14
11. Klaczkowski Family Trust **	CV-21-00659498-00ES
12. Estate of Ethel Ailene Cork **	CV-23-00710309-00ES
13. Estate of Justin Milton Cork **	CV-23-00710291-00ES

* In the name of Bryan A. Tannenbaum of RSM Canada Limited.

** In the name of Bryan A. Tannenbaum only.

TDB RESTRUCTURING LIMITED

and

RSM CANADA OPERATIONS ULC

Court File No. CV-24-00715515-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at TORONTO

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APPENDIX "C"



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IN THE MATTER OF THE RECEIVERSHIP OF
CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ BRIDLE PARK II INC.

FIRST REPORT TO THE COURT OF TDB RESTRUCTURING LIMITED

MAY 22, 2024

MR53

Court File No. CV-23-00707989-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

1180554 ONTARIO LIMITED

Applicant

-and-

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ – BRIDLE PARK II INC.**

Respondents

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1.0 INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 26, 2024 (the “**Receivership Order**”), RSM Canada Limited (“**RSM**”) was appointed receiver and manager (the “**Receiver**”) of all property, assets, and undertakings of CBJ - Clearview Garden Estates Inc. (“**CBJ Clearview**”), CBJ Bridle Park II Inc. (“**CBJ Bridle Park II**”), and CBJ Developments Inc. (“**CBJ Developments**” and collectively referred to as the “**Debtors**”). A copy of the Receivership Order is attached hereto as **Appendix “A”**.
2. The property, assets and undertakings of the Debtors is comprised primarily of the following real property:
 - a) 7535 Highway 26 Nottawasaga comprising 97.28 acres (the “**CBJ Property**”);
 - b) 7535 Highway 26, Nottawasaga, Ontario comprising 78.6 acres (the “**Bridle Park II Property**”); and
 - c) 6273 27/28 Sideroad, Stayner (the “**Clearview Property**”).

(Together, the CBJ Property, the Bridle Park II Property and the Clearview Property are referred to herein as the “**Real Property**” or “**Properties**”).
3. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited in place of RSM (the “**Substitution Order**”). A copy of the Substitution Order is attached as **Appendix “B”** to this report.

1.1 Purpose of Report

4. The purpose of this report (the “**First Report**”) is to:
 - a) provide the Court with a brief background leading up to the receivership proceedings;

- b) provide the Court with information about the Receiver's activities since the Receivership Order;
- c) report to the Court on the results of the Receiver's efforts to market and sell the Real Property (the "**Sale Process**");
- d) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period January 26, 2024 to May 20, 2024 (the "**R&D**"); and
- e) seek an Order from the Court:
 - i. approving the transaction (the "**Transaction**") detailed in the asset purchase agreement between the Receiver and Toronto Capital (Stayner) Corp. in Trust (the "**Purchaser**") dated April 28, 2024 (the "**APA**"), and vesting all of the Receiver's and the Debtor's right, title and interest, if any, in and to the Property (as defined in the APA, including the Real Property) in and to the Purchaser upon the closing of the Transaction;
 - ii. approving a distribution to the Lender of the net cash component of the Purchase Price (as defined in the APA) as set out herein, subject to the PA Holdback (as defined below) and such other holdback as the Receiver may require to complete its mandate and obtain its discharge pursuant to the Receivership Order;
 - iii. approving the R&D;
 - iv. approving this First Report and the activities of the Receiver set out herein;
 - v. approving the fees of the Receiver and its counsel, Paliare Roland Rosenberg Rothstein LLP ("**Paliare**"), for the period January 26 2024, to to April 30, 2024; and
 - vi. sealing the Confidential Appendices.

2.0 TERMS OF REFERENCE

5. In preparing this First Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in this First Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
6. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

3.0 BACKGROUND

3.1 Debtors’ Requests for Adjournment of the Receivership

7. The Receivership Order was granted by Justice Penny on January 26, 2024, on application of 1180554 Ontario Limited (the “**Lender**”), which holds a first mortgage over each of the Properties. Details as to the events leading to the Receivership Order being granted were set out in the Notice of Application dated November 15, 2023, a copy of which is attached hereto as **Appendix “C”**.
8. Prior to the granting of the Receivership Order, the receivership application was before Justice Steele on December 19, 2023. At that time, the Debtors sought, and obtained, an adjournment of the Lender’s receivership application. The basis for the adjournment was to enable the Debtors some time to proceed with a sale process it had already commenced with Royal LePage (“**RLP**”). Although the Debtors asked for

a six-month adjournment, Justice Steele granted the adjournment to January 26, 2024, a period of a little over five weeks. At the new return date, the Debtors were to report on the status of RLP's marketing efforts and the likelihood of any prospective sale transactions.

9. On return of the Application, and notwithstanding that RLP's efforts to date had not yielded any material results including a letter of intent or offer to purchase the property, the Debtors requested a further adjournment. Justice Penny ultimately did not approve the further adjournment and granted the Receivership Order on January 26, 2024.

10. As the Debtors suggested that it may not be financially prudent to jettison RLP's efforts upon the Receiver's appointment, in favour of a completely new solicitation and sale process, Justice Penny's Endorsement dated January 26, 2024, noted that:

"RSM is well aware of its obligations to the court and to the stakeholders to maximize value for the benefit of all. It is not my role, at the outset to direct the Receiver to what course of action it must take. I am sure (and have been assured that) RSM will carefully consider all proposals for how to achieve the highest value in any realization plans, including whether the ongoing work of Royal LePage is sufficient and appropriate in all the circumstances".

11. In effort to reduce costs and maximize value to the estate, the Receiver corresponded with RLP and reviewed the listing agreement that was previously in place. The Receiver and RLP entered into a new listing agreement with changes to the terms and conditions.

4.0 ACTIVITIES OF THE RECEIVER

12. The Receivership Order, among other things, authorizes and grants the Receiver the exclusive ability to market and sell the Real Property. Since the issuance of the Receivership Order, the Receiver has taken certain steps and conducted the following activities:

- a) took possession of the Real Property;
- b) registered a copy of the Receivership Order against title to the Real Property;
- c) established a website for these Receivership proceedings:
<https://tdbadvisory.ca/insolvency-case/cbj-developments-inc-cbj-clearview-garden-estates-inc-and-cbj-bridle-park-ii-inc/>
- d) issued the notices required pursuant to Sections 245 and 246 of the BIA to known creditors of the Debtors;
- e) arranged for insurance coverage in respect of the Real Property;
- f) determined the property tax arrears and made arrangements for payment to the Township of Clearview;
- g) signified bank accounts relating to the operation of the Properties;
- h) consulted with the secured creditors and other stakeholders as to the appropriate method of marketing for the Real Property;
- i) entered into a new listing agreement with RLP, the realtor who was previously engaged to market the Real Property by the Debtors;
- j) monitored RLP's weekly marketing activities;
- k) corresponded with the principals of the Debtor to obtain information pertaining to the Real Property;
- l) negotiated the APA with the Purchaser's counsel; and
- m) prepared this First Report.

5.0 SALE PROCESS

5.1 Marketing Process and Offers Received

13. RLP re-launched its marketing campaign on February 21, 2024. Interested parties were advised that offers were to be submitted by 3:00 p.m. (EST) on Monday, April 15, 2024 (the “**Bid Submission Deadline**”).
14. The Receiver, in consultation with its counsel, reviewed the adequacy of the RLP confidentiality agreement (the “**Confidentiality Agreement**”) and prepared a template form of agreement of purchase and sale to be sent to those parties that executed a Confidentiality Agreement. Confidentiality Agreements were executed by a total of 51 interested parties.
15. Throughout the marketing process, RLP provided the Receiver with detailed summaries of the marketing activities undertaken by RLP, including the names of prospective purchasers (the “**RLP Reports**”).
16. Among other activities set out in the RLP Reports, the following activities were highlighted by RLP:
 - a) The Real Property was re-listed on the MLS on February 13, 2024;
 - b) email brochures were sent out to a targeted list of 1,071 prospective purchasers on four (4) separate occasions: February 21, 2024, March 7, 2024, March 21, 2024 and April 9, 2024;
 - c) a highlight video showcasing the Properties was posted on YouTube and a link was provided to prospective purchasers;
 - d) targeted solicitation calls were made to developers and prospective purchasers;
 - e) the Properties were advertised via social media (LinkedIn) postings by RLP; and

- f) an electronic data room was established to provide access to confidential information pertaining to the Real Property, including the Receiver's standard form of APA, to parties who had executed a Confidentiality Agreement.
17. As of the Bid Submission Deadline, one offer was received on the Receiver's form of APA, and one other letter of interest was submitted to the Receiver.
 18. On April 28, 2024, the Receiver and the Purchaser entered into the APA. A copy of the APA, with certain confidential terms redacted, is attached as **Appendix "D"** to this report. An unredacted copy of the APA is attached as **Confidential Appendix "2"** to this report.
 19. The APA requires that an Approval and Vesting Order (in the form sought on this motion) be granted, which Approval and Vesting Order contemplates the usual mechanism requiring the Receiver to deliver to the Purchaser a Certificate of the Receiver (in the form attached to the form of Approval and Vesting Order sought on this motion) which will certify that all of the conditions in the APA have been satisfied or waived, and that the balance of the Purchase Price (as defined in the APA), has been paid in full by the Purchaser.
 20. The closing date for the Transaction is expected to be on or about June 10, 2024.

5.2 Reasonability of Sales Process

21. The Receiver is of the view that the Sales Process, as described above, was robust and appropriate to obtain the best transaction capable of being completed in the circumstances.
22. In all, the Real Property has been marketed by the Receiver and its agent since February 13, 2024 given that, as previously noted, prior to the commencement of this receivership, the Debtors were actively marketing the Real Property and the Real Property had been listed on MLS since October 11, 2023.

23. The Receiver is of the view that (i) sufficient efforts were made to obtain the highest and best price for the Properties, (ii) the length of the marketing process was appropriate, (iii) the marketing process was conducted fairly and with integrity, and (iv) the APA represents the highest and best offer in the circumstances.

6.0 DISTRIBUTION OF NET SALES PROCEEDS

24. As set out in the Application Record in support of the Receivership Order, on September 15, 2021, pursuant to a loan agreement between the Debtors and the Lender (the “**Loan Agreement**”), the Lender made a mortgage loan available to the Debtors in the principal amount of \$16,000,000, plus interest and costs.
25. As security for the loan, the Debtors granted the Lender, among other things, the following mortgages (“collectively the “**118 Mortgages**”):
- a) On October 22, 2021, CBJ Developments granted the Lender a first mortgage in the amount of \$5 million on the CBJ Property;
 - b) On October 14, 2021, CBJ Bridle Park II granted the Lender a first mortgage in the amount of \$5 million on the Bridle Park II Property; and
 - c) On October 8, 2021, CBJ Clearview granted the Lender a first mortgage in the amount of \$6 million on the CBJ Clearview Property.
26. The Debtors granted the following additional mortgages (collectively, the “**Second Mortgages**”) on title to the Properties:
- a) On September 29, 2021, CBJ Developments granted Bridle Park Inc. a mortgage in the amount of \$12,969,738 on the CBJ Property. On October 22, 2021, this mortgage was postponed in favour of the Lender;
 - b) On September 8, 2021, CBJ Bridle Park II granted Bridle Park II Inc. a mortgage in the amount of \$9,999,762. On October 14, 2021, this mortgage was postponed in favour of the Lender.

- c) On October 8, 2021, CBJ Clearview granted Bridle Park II Inc. a mortgage in the amount of \$13,001,142 on the CBJ Clearview Property; and
 - d) Each of the Second Mortgages was assigned to First Global Financial Corp. (“**First Global**”), the current second mortgagee. As at May 22, 2024, the amount that First Global claims is owing is \$44,601,713, inclusive of principal and interest.
27. As at May 29, 2024, the amount owing under the Loan Agreement (and secured by the 118 Mortgages) is \$18,158,231 in respect of the principal, interest and costs and advances by way of borrowings made to the Receiver.
28. On September 28, 2021, the Debtors, the Lender and 1852733 Alberta Ltd. entered into a participation agreement (the “**Participation Agreement**”). The Participation Agreement stipulates, among other things, that the Debtors shall pay the Lender \$10,000 per single detached, semi-detached or townhouse unit, and \$5,000 per unit for apartments, condos or other high density units.
29. As at May 29, 2024, the amount claimed under the Participation Agreement is \$11,685,000(the “**Participation Fee**”). A payout statement showing the amount owing to the Lender, inclusive of interest and costs and the Participation Fee, is attached as **Appendix “E”** to this report.
30. The second mortgagee, First Global, disputes the validity and enforceability of the Participation Fee claimed under the Participation Agreement. Since the dispute will not be resolved prior to the anticipated closing of the transaction, the Receiver proposes to hold back the entire Participation Fee (the “**PA Holdback**”) pending agreement of the parties or further order of this court.
31. The Receiver has obtained an opinion from its independent legal counsel confirming that, subject to usual assumptions and qualifications, (i) the 118 Mortgages held by the Lender constitute valid and enforceable charges in first priority against the respective Properties, and (ii) the Second Mortgages held by First Global constitute

valid and enforceable charges in second priority against the respective Properties. A copy of the security opinion will be made available upon request.

32. Counsel did not opine on the validity, enforceability or any amounts that may be owing under the Participation Agreement. The Receiver understands that the Lender and First Global will attempt to resolve the issues relating to the Participation Agreement, failing which those parties will seek an adjudication by the court.

7.0 RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

33. The R&D for the period from January 26, 2024 to May 15, 2024 sets out cash receipts of \$54,540, including an advance made by the Lender totaling \$50,000 pursuant to Receiver's Certificate #1, and cash disbursements of \$41,091, resulting in an excess of receipts over disbursements of \$13,449. A copy of the interim R&D is attached as **Appendix "F"** to this report.

8.0 PROFESSIONAL FEES

34. The Receiver's accounts for the period from January 26, 2024 to April 30, 2024 total \$44,015.04 in fees and disbursements, plus HST of \$5,721.96, for a total amount of \$49,737.00. A copy of the Receiver's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Bryan A. Tannenbaum sworn on May 22, 2024 and attached as **Appendix "G"** to this report.
35. The accounts of the Receiver's counsel, Paliare, for the period from February 5, 2024 to April 30, 2024 total \$9,107.50 in fees and disbursements, plus HST of \$1,183.98 for a total amount of \$10,291.48. A copy of Paliare's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Beatrice Loschiavo sworn on May 22, 2024 and attached as **Appendix "H"** to this report.

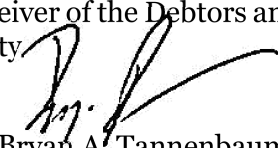
9.0 RECEIVER'S REQUEST OF THE COURT

36. Based on the foregoing, the Receiver respectfully requests that the Court grant the order described in paragraph 4 (e) above.

All of which is respectfully submitted to this Court as of this 22nd day of May, 2024.

TDB RESTRUCTURING LIMITED, solely in its capacity as Receiver of the Debtors and not in its personal or corporate capacity.

Per:


Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
Managing Director

APPENDIX "D"



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IN THE MATTER OF THE RECEIVERSHIP OF
CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ BRIDLE PARK II INC.

SECOND REPORT TO THE COURT OF TDB RESTRUCTURING LIMITED

SEPTEMBER 20, 2024

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CONFIDENTIAL APPENDICES

Asset Purchase Agreement 1

1.0 INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 26, 2024 (the “**Receivership Order**”), RSM Canada Limited (“**RCL**”) was appointed receiver and manager (the “**Receiver**”) of all property, assets, and undertakings of CBJ - Clearview Garden Estates Inc. (“**CBJ Clearview**”), CBJ Bridle Park II Inc. (“**CBJ Bridle Park II**”), and CBJ Developments Inc. (“**CBJ Developments**” and collectively referred to as the “**Debtors**”). A copy of the Receivership Order is attached hereto as **Appendix “A”**.
2. The property, assets and undertakings of the Debtors is comprised primarily of the following real property:
 - a) 7535 Highway 26 Nottawasaga comprising 97.28 acres (the “**CBJ Property**”);
 - b) 7535 Highway 26, Nottawasaga, Ontario comprising 78.6 acres (the “**Bridle Park II Property**”); and
 - c) 6273 27/28 Sideroad, Stayner (the “**Clearview Property**”).

Together, the CBJ Property, the Bridle Park II Property and the Clearview Property are referred to herein as the “**Real Property**” or “**Properties**”.
3. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited in place of RCL (the “**Substitution Order**”). A copy of the Substitution Order is attached as **Appendix “B”** to this report.
4. Terms not defined herein are defined in the Receivers report dated May 22, 2024 (the “**First Report**”).
5. The Receivership Order, together with Court documents related to the receivership proceeding, have been posted on the Receivers website, which can be found at: <https://tdbadvisory.ca/insolvency-case/cbj-developments-inc-cbj-clearview-garden-estates-inc-and-cbj-bridle-park-ii-inc/> (the “**Case Website**”).

1.1 Purpose of Report

6. The purpose of this report (the “**Second Report**”) is to:
 - a) provide the Court with information about the Receiver’s activities since its First Report;
 - b) report to the Court on the results of the Receiver’s efforts to market and sell the Real Property (the “**Sale Process**”) including the circumstances surrounding the termination of the Initial Transaction (as defined below);
 - c) provide the Court with a summary of the Receiver’s cash receipts and disbursements for the period January 26, 2024, to August 31, 2024 (the “**R&D**”), including the Receiver’s borrowings pursuant to the Receiver’s Certificate; and
 - d) seek an Order from the Court:
 - i. approving the transaction (the “**Sale Transaction**”) detailed in the asset purchase agreement between the Receiver and 1180554 Ontario Limited (“**118**”) dated July 24, 2024 (the “**APA**”), and vesting all of the Receiver’s and the Debtors’ right, title and interest in and to the Property (as defined in the APA, including the Real Property) in and to 118 upon the closing of the Sale Transaction;
 - ii. approving the R&D;
 - iii. approving this Second Report and the Receiver’s activities as set out herein; and
 - iv. approving the fees of the Receiver and its insolvency counsel, Paliare Roland Rosenberg Rothstein LLP (“**Paliare**”), and real estate counsel Dickinson Wright.

2.0 TERMS OF REFERENCE

7. In preparing this Second Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in this Second Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
8. Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

3.0 BACKGROUND

9. Details regarding the background of these proceedings and the Receiver’s activities through May 22, 2024 can be found in the Receiver’s First Report, a copy of which (without appendices) is attached hereto as **Appendix “C”**.

4.0 ACTIVITIES OF THE RECEIVER

10. Further to the activities of the Receiver as set out in the First Report, the Receiver has since undertaken the following activities:
 - a) maintained the Receiver’s Case Website;
 - b) corresponded with tenants and collected rent;
 - c) renewed insurance coverage;
 - d) paid interim property taxes;

- e) corresponded with Canada Revenue Agency regarding the Debtors' HST accounts;
- f) negotiated extension arrangements with Toronto Capital (Stayner) Corp. in Trust (the "**Initial Purchaser**") and its solicitors;
- g) terminated the Initial Transaction;
- h) engaged in ongoing discussions with First Global Financial Corp., the second mortgagee ("**First Global**"), and its solicitors regarding the Initial Purchaser's refinancing and inability to close;
- i) consulted with the first secured creditors and their counsel regarding the status and difficulties in completing the Initial Transaction;
- j) engaged in status discussions with Royal LePage ("**RLP**") and reengagement with new listing agreement after Initial Purchaser aborted the Initial Transaction;
- k) negotiated the APA with 118 and its counsel; and
- l) prepared the Second Report.

5.0 SALE PROCESS

5.1 The Approval and Subsequent termination of the Initial Transaction

11. On April 28, 2024, the Receiver entered into an asset purchase agreement with the Initial Purchaser contemplating the sale of the Real Property to the Initial Purchaser (the "**Terminated APA**").
12. On May 29, 2024, Justice Kimmel granted an Approval and Vesting Order approving the transaction (the "**Initial Transaction**") detailed in the Terminated APA and vesting all of the Receiver's and the Debtors' right, title and interest in the Real Property to the Initial Purchaser upon the closing of the Initial Transaction. The

particulars of the Initial Transaction were described in the First Report and the Confidential Appendix attached thereto.

13. The closing date for the Initial Transaction was expected to be on June 10, 2024.
14. Following Court approval of the Initial Transaction, the Initial Purchaser advised the Receiver that it would not be able to close the transaction on the originally scheduled closing date and requested an extension in order to finalize its financing commitment. The Receiver agreed to extend the closing to June 28, 2024 to provide time for the Initial Purchaser to secure its financing. In consideration for the extension, the Initial Purchaser provided the Receiver with a further deposit of \$250,000 (in addition to the \$750,000 deposit that the Receiver was already holding) on June 17, 2024 (such sums being the “**Deposits**”).
15. The Initial Purchaser was again unable to close on June 28, 2024 and requested a further extension. The Receiver agreed to grant the Initial Purchaser a further extension to July 3, 2024.
16. Notwithstanding the further extension, the Initial Purchaser failed to close the Initial Transaction and, accordingly, the Initial Purchaser forfeited the Deposits.
17. On July 3, 2024, the Receiver’s real estate counsel, Dickinson Wright, confirmed to the Initial Purchaser’s counsel that the Initial Transaction was terminated and that the Deposits were forfeited. A copy of Dickinson Wright’s July 3, 2024 letter concerning the Initial Purchaser’s forfeiture of the Deposits is attached as **Appendix “D”** to this Report.

5.2 The Relaunch of the Sale Process

18. On July 11, 2024, the Receiver relaunched the Sale Process.
19. The relaunch of the Sales Process included the following activities:
 - a) the Real Property was re-listed on the MLS on July 11, 2024;

- b) RLP sent out email brochures to a targeted list of 1,234 prospective purchasers on two separate occasions;
 - c) RLP posted a highlight video showcasing the Properties on YouTube and a link provided the video to prospective purchasers;
 - d) RLP made targeted solicitation calls to developers and prospective purchasers;
 - e) the Properties were again advertised via social media (Linkedin) postings by RLP; and
 - f) an electronic data room was established to provide access to confidential information pertaining to the Properties, including the Receiver's standard form of APA, to parties who had executed a confidentiality agreement.
20. Throughout the new marketing process, RLP provided the Receiver with updated status reports of the marketing activities undertaken by RLP, including the names of prospective purchasers.
21. In connection with the relaunch of the Sales Process, RLP advised interested parties that the deadline to submit offers for the Properties was July 31, 2024 (the "**Second Bid Submission Deadline**")
22. As of the Second Bid Submission Deadline, 118's offer was the only offer made for the Properties.

5.3 The 118 Credit Bid

23. 118 holds first mortgages registered against the Properties. As at September 30, 2024, the amount owing to 118 under these mortgages will total \$18,479,188, according to a statement provided by 118, a copy of which is attached to this report as **Appendix "E"**). In addition, 118 claims that it is owed a Participation Fee (as described and defined below) totaling \$11,685,000 and that this amount is also secured in first position under its mortgages.

24. 118 submitted its offer in the form of the APA to the Receiver on July 30, 2024. The APA is structured as a credit bid for the Real Property. A partially redacted copy of the APA (redacted only to conceal financial terms of the offer), is attached as **Appendix “F”** to this report. An unredacted copy of the APA is attached as **Confidential Appendix “1”**.
25. The key terms of the APA are as follows:
- a) **Purchase Price:** as set out in the APA;
 - b) **Purchased Assets:** the Real Property;
 - c) **Closing:** 11 days following the issuance of the Approval and Vesting Order;
 - d) **Representations and Warranties:** “as is, where is” transaction with limited representations and warranties; and
 - e) **Material Conditions:** issuance of an approval and vesting order.
26. The APA requires that an Approval and Vesting Order (in the form sought on this motion) be granted, which Approval and Vesting Order contemplates the usual mechanism requiring the Receiver to deliver to 118 a Certificate of the Receiver (in the form attached to the form of Approval and Vesting Order sought on this motion) which will certify that all of the conditions in the APA have been satisfied or waived, and that the balance of the Purchase Price (as defined in the APA), has been paid in full by 118.

5.4 Reasonability of the Sales Process

27. The Receiver remains of the view that the Sale Process, as described in the First Report and above, was robust and appropriate to obtain the best transaction capable of being completed in the circumstances.
28. In total, the Real Property was marketed by the Receiver and its agent from February 13, 2024 to May 29, 2024 and again from July 11, 2024 to July 31, 2024. Moreover, as set out in the First Report, prior to the commencement of this receivership, the

Debtors were actively marketing the Real Property for sale and the Real Property had been listed on MLS from October 11, 2023 to the date of the Receivership Order.

29. In all, the Receiver is of the view that
- a) sufficient efforts were made to obtain the highest and best price for the Properties;
 - b) the length of the marketing process was appropriate;
 - c) the marketing process was conducted fairly and with integrity; and
 - d) the Offer represents the highest and best offer in the circumstances.

6.0 SUMMARY OF THE NET SALE PROCEEDS

6.1 Background to the Mortgages on Title to the Properties and Amounts Owing

30. As set out in the Application Record in support of the Receivership Order, on September 15, 2021, pursuant to a loan agreement between the Debtors and 118 (the “**Loan Agreement**”), 118 made a mortgage loan available to the Debtors in the principal amount of \$16,000,000.
31. As security for the loan, the Debtors granted 118, among other things, the following mortgages (“collectively the “**118 Mortgages**”):
- a) On October 22, 2021, CBJ Developments granted 118 a first mortgage in the amount of \$5 million on the CBJ Property;
 - b) On October 14, 2021, CBJ Bridle Park II granted 118 a first mortgage in the amount of \$5 million on the Bridle Park II Property; and
 - c) On October 8, 2021, CBJ Clearview granted 118 a first mortgage in the amount of \$6 million on the Clearview Property.

32. The Debtors also granted the following additional mortgages (collectively, the “**Second Mortgages**”) in respect of the Properties:
- a) On September 29, 2021, CBJ Developments granted Bridle Park Inc. a mortgage in the amount of \$12,969,738 on the CBJ Property. On October 22, 2021, this mortgage was postponed in favour of 118;
 - b) On September 8, 2021, CBJ Bridle Park II granted Bridle Park II Inc. a mortgage in the amount of \$9,999,762. On October 14, 2021, this mortgage was postponed in favour of 118.
 - c) On October 8, 2021, CBJ Clearview granted Bridle Park II Inc. a mortgage in the amount of \$13,001,142 on the CBJ Clearview Property; and
 - d) Each of the Second Mortgages was assigned to First Global Financial Corp. (“**First Global**”), the current second mortgagee. As at May 22, 2024, the amount that First Global claims is owing is \$44,601,713, inclusive of principal and interest.
33. As at September 30, 2024, the amount owing to 118 under the Loan Agreement (and secured by the 118 Mortgages) is \$18,479,188 in respect of the principal, interest and costs and advances by way of borrowings made to the Receiver (this amount being the “**118 Credit**”).
34. The Receiver has obtained an opinion from its independent legal counsel confirming that, subject to usual assumptions and qualifications, (i) the 118 Mortgages constitute valid and enforceable charges in first priority against the respective Properties. A copy of the security opinion will be made available upon request.

6.2 The Credit Bid and Forfeiture of the Deposits

35. Given that the Sale Transaction contemplates the acquisition of the Properties by 188 through a credit bid, the Sale Transaction will not generate any proceeds for distribution to creditors.

36. However, as noted above, Receiver received Deposits in the amount of \$1 million in connection with the Initial Transaction, which amounts have now been forfeited. Following the termination of the Initial Transaction, the Receiver distributed \$500,000 of the forfeited Deposits to 118 and the Receiver has and continues to use the balance of the Deposits for general administrative purposes, as reflected in the R&D.
37. If, following the completion of the Sale Transaction, there remains unextinguished 118 Credit, the Receiver intends to distribute the remaining Deposits to 118, up to the amount of unextinguished 118 Credit and less such holdback as the Receiver determines necessary, in its discretion, to bring its mandate to a conclusion (such scheme of distribution being the “**118 Distribution**”).

7.0 PARTICIPATION AGREEMENT

38. In connection with the Loan Agreement, on September 28, 2021, the Debtors, 118 and 1852733 Alberta Ltd. entered into a participation agreement (the “**Participation Agreement**”). The Participation Agreement stipulates, among other things, that the Debtors shall pay 118 \$10,000 per single detached, semi-detached or townhouse unit that is sold on the Properties, and \$5,000 per unit for apartments, condos or other high-density units that is sold on the Properties.
39. In addition to the 118 Credit, 118 claims to be owed \$11,685,000 by the Debtors under the Participation Agreement (the “**Participation Fee**”), as reflected in the payout statement 118 referenced above and attached as **Appendix “E”** to this report.
40. First Global disputes the validity and enforceability of the Participation Fee claimed under the Participation Agreement.
41. Accordingly, the 118 Distribution is limited to the value of the 118 Credit, which reflects the undisputed portion of the Debtors’ indebtedness to 118 (as set out in the payout statement) but not any amounts in relation to the disputed Participation Fee. To the extent that there are any surplus proceeds following the 118 Distribution that

could be attributable to the Participation Fee, the Receiver will hold these funds pending further order of the Court.

42. The Receiver's independent legal counsel did not opine on the validity, enforceability or any amounts that may be owing under the Participation Agreement.

8.0 RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

43. The R&D for the period from January 26, 2024 to August 31, 2024 sets out cash receipts of \$1,065,832, including an advance made by 118 totaling \$50,000 pursuant to Receiver's Certificate #1, and cash disbursements of \$891,736, resulting in an excess of receipts over disbursements of \$174,096. A copy of the interim R&D is attached as **Appendix "G"** to this report.

9.0 PROFESSIONAL FEES

44. The Receiver's accounts for the period from May 1, 2024 to August 31, 2024 total \$127,902.12 in fees and disbursements, plus HST of \$16,627.28, for a total amount of \$144,529.41. A copy of the Receiver's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Bryan A. Tannenbaum sworn on September 18, 2024 and attached as **Appendix "H"** to this report.
45. The accounts of the Receiver's counsel, Paliare, for the period from May 1, 2024 to August 31, 2024 total \$57,518.66 in fees and disbursements, inclusive of HST. A copy of Paliare's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Beatrice Loschiavo sworn on September 17, 2024 and attached as **Appendix "I"** to this report.
46. The accounts of the Receiver's real estate counsel, Dickinson Wright, for the period from May 7, 2024 to July 3, 2024 total \$67,496.67 in fees and disbursements, inclusive of HST. A copy of Dickinson Wright's interim accounts, together with a

summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Marc Lean sworn on September 19, 2024 and attached as **Appendix “J”** to this report.

10.0 RECEIVER’S REQUEST OF THE COURT

47. Based on the foregoing, the Receiver respectfully requests that the Court grant the order described in paragraph 6 (d) above.

All of which is respectfully submitted to this Court as of this 20th day of September 2024.

TDB RESTRUCTURING LIMITED, solely in its capacity as Receiver of the Debtors and not in its personal or corporate capacity

Per:



Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
Managing Director

APPENDIX "E"

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 23RD
JUSTICE BLACK) DAY OF OCTOBER, 2024

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and -

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents

APPROVAL AND VESTING ORDER (CLEARVIEW)

THIS MOTION, made by TDB Restructuring Limited in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc. ("CBJ Clearview"), CBJ Bridle Park II Inc. ("CBJ Bridle Park II"), and CBJ Developments Inc. ("CBJ Developments"] and, together with CBJ Clearview and CBJ Bridle Park II, the "Debtors") for an order, among other things, approving the sale of the Clearview Property (as defined below) as contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 1180554 Ontario Limited (the "Clearview Purchaser") dated September 20, 2024, and appended to the Second Report of the Receiver dated July 24, 2024 (the "Second Report"), and vesting in the Clearview Purchaser all of the Debtors' right, title and interest

in and to the Clearview Property (as defined below) heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Candace Baumtrog sworn September 30, 2024, filed:

1. THIS COURT ORDERS AND DECLARES that the sale of the Clearview Property (as defined below) contemplated in the Sale Agreement (the "Clearview Transaction") is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Clearview Transaction and for the conveyance of the Clearview Property (as defined below) to the Clearview Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Clearview Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate") all of CBJ Clearview's right, title and interest in and to the properties identified in PIN 58239-0013 (LT), PIN 58239-0014 (LT) and PIN 58239-0015 (LT) and legally described in Schedule B hereto (collectively, the "Clearview Property") shall vest absolutely in the Clearview Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, financial claims, monetary claims or other claims, whether or not they have attached or been perfected, registered or filed and whether secured,

unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated January 26, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Clearview Property are hereby expunged and discharged as against the Clearview Property.

3. THIS COURT ORDERS that upon the registration in Land Registry Office Number 51 of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act, the Land Registrar is hereby directed to enter the Clearview Purchaser as the owner of the Clearview Property in fee simple, and is hereby directed to delete and expunge from title to the Clearview Property all of the Claims listed in Schedule C hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Clearview Property shall stand in the place and stead of the Clearview Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Clearview Property with the same priority as they had with respect to the Clearview Property immediately prior to the sale, as if the Clearview Property had not

been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act (Canada) in respect of the Debtors or any of them and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors or any of them;

the vesting of the Clearview Property in the Clearview Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors or any of them and shall not be void or voidable by creditors of the Debtors or any of them, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. on the date hereof and is enforceable without further need for entry or filing.

A handwritten signature in blue ink, appearing to read 'W.D. Black', is written over a horizontal line.

Justice W.D. Black

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and –

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents **RECEIVER’S CERTIFICATE**

RECITALS

- (a) Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "Court") dated January 26, 2024, TDB Restructuring Limited was appointed as the receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., and CBJ Developments Inc. (collectively, the "Debtors").
- (b) Pursuant to an Order of the Court dated October 7, 2024, the Court approved the agreement of purchase and sale made as of July 24, 2024,

(the "Sale Agreement") between the Receiver and Purchaser and provided for, among other things, the vesting in the Purchaser all of the Debtors' right, title and interest in and to the real property identified by PIN 58239-0013 (LT), PIN 58239-0014 (LT) and PIN 58239-0015 (LT) (collectively, the "Clearview Property"), which vesting is to be effective with respect to the Clearview Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Clearview Property; (ii) that the conditions to Closing as set out in sections 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- (c) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Clearview Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**TDB Restructuring Limited, in its
capacity as Receiver of the undertaking,
property and assets of the Debtors, and
not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Clearview Property

PIN 58239-0013LT

PT LT 27 CON 3 NOTTAWASAGA AS IN RO289265, EXCEPT 51R27930; S/T
RO130023; CLEARVIEW

PIN 58239-0014LT

PT LT 27 CON 3 NOTTAWASAGA PT 1, 51R27930; CLEARVIEW

PIN 58239-0015LT

PT LT 27 CON 3 NOTTAWASAGA PT 2, 51R27930; CLEARVIEW

Schedule C – Claims to be deleted and expunged from title to Real Property

PIN 58239-0013 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SC1832937	2021/10/08	Transfer	\$15,000,000	Clearview Garden Estates Inc.	CBJ-Clearview Garden Estates Inc.
SC1832938	2021/10/08	Charge	\$6,000,000	CBJ-Clearview Garden Estates Inc.	1180554 Ontario Limited
SC1832939	2021/10/08	Charge	\$13,001,142	CBJ-Clearview Garden Estates Inc.	Clearview Garden Estates Inc.
SC2049499	2024/04/12	Transfer of Charge		Clearview Garden Estates Inc.	First Global Financial Corp.
SC2051010	2024/04/22	APL Court Order		Ontario Superior Court of Justice	RSM Canada Limited
SC2058236	2024/05/28	APL Court Order		Ontario Superior Court of Justice	TDB RESTRUCTURING LIMITED

PIN 58239-0014 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SC1832937	2021/10/08	Transfer	\$15,000,000	Clearview Garden Estates Inc.	CBJ-Clearview Garden Estates Inc.
SC1832938	2021/10/08	Charge	\$6,000,000	CBJ-Clearview Garden Estates Inc.	1180554 Ontario Limited
SC1832939	2021/10/08	Charge	\$13,001,142	CBJ-Clearview Garden Estates Inc.	Clearview Garden Estates Inc.
SC2049499	2024/04/12	Transfer of Charge		Clearview Garden Estates Inc.	First Global Financial Corp.
SC2051012	2024/04/22	APL Court Order		Ontario Superior Court of Justice	RSM Canada Limited
SC2058236	2024/05/28	APL Court Order		Ontario Superior Court of Justice	TDB RESTRUCTURING LIMITED

PIN 58239-0015 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SC1832937	2021/10/08	Transfer	\$15,000,000	Clearview Garden Estates Inc.	CBJ-Clearview Garden Estates Inc.
SC1832938	2021/10/08	Charge	\$6,000,000	CBJ-Clearview Garden Estates Inc.	1180554 Ontario Limited
SC1832939	2021/10/08	Charge	\$13,001,142	CBJ-Clearview Garden Estates Inc.	Clearview Garden Estates Inc.
SC2049499	2024/04/12	Transfer of Charge		Clearview Garden Estates Inc.	First Global Financial Corp.
SC2051014	2024/04/22	APL Court Order		Superior Court of Justice	RSM Canada Limited
SC2058236	2024/05/28	APL Order		Ontario Superior Court of Justice	TDB RESTRUCTURING LIMITED

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property
(unaffected by the Vesting Order)

PIN 58239-0013 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
R0130023	1961/03/20	Transfer Easement			
RO294298	1969/04/03	Order			

PIN 58239-0014 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
RO294298	1969/04/03	Order			
51R27930	1998/08/14	Plan Reference			

PIN 58239-0015 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
RO294298	1969/04/03	Order			
51R27930	1998/08/14	Plan Reference			

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 23RD
JUSTICE BLACK) DAY OF OCTOBER, 2024

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and -

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents

APPROVAL AND VESTING ORDER (BRIDLE PARK)

THIS MOTION, made by TDB Restructuring Limited in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc. ("CBJ Clearview"), CBJ Bridle Park II Inc. ("CBJ Bridle Park II"), and CBJ Developments Inc. ("CBJ Developments") and, together with CBJ Clearview and CBJ Bridle Park II, the "Debtors") for an order, among other things, approving the sale of the Bridle Park Properties (as defined below) contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 1180554 Ontario Limited ("118") dated July 24, 2024, and appended to the Second Report of the Receiver dated September 20, 2024, (the "Second Report"), and vesting in 1000983019 Ontario Limited (the "Bridle Park Purchaser") all of the Debtors' right, title

and interest in and to the Bridle Park Properties (as defined below) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Candace Baumtrog sworn September 30, 2024, filed:

1. THIS COURT ORDERS AND DECLARES that the sale of the Bridle Park Properties (as defined below) contemplated in the Sale Agreement (the “Bridle Park Transaction”) is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of Bridle Park Properties (as defined below) to the Purchasers.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Bridle Park Purchaser substantially in the form attached as Schedule A hereto (the “Receiver’s Certificate”) all of CBJ Developments’ and CBJ Bridle Park II’s right, title and interest in and to the properties identified by PIN 58239-0302 (LT) and PIN 58239-0450 (LT) and legally described in Schedule B hereto (collectively, the “Bridle Park Properties”) shall vest absolutely in the Bridle Park Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, financial claims, monetary claims or other claims, whether or not they have attached or been perfected, registered or filed and whether secured,

unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated January 26, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Bridle Park Properties are hereby expunged and discharged as against the Bridle Park Properties.

3. THIS COURT ORDERS that upon the registration in Land Registry Office Number 51 of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act, the Land Registrar is hereby directed to enter the Bridle Park Purchaser as the owner of the Bridle Park Properties in fee simple, and is hereby directed to delete and expunge from title to the Bridle Park Properties all the Claims listed in Schedule C hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Bridle Park Properties shall stand in the place and stead of the Bridle Park Properties, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Bridle Park Properties with the same priority as they had with respect to the Bridle Park Properties immediately prior to the sale, as if the Bridle Park Properties

had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act (Canada) in respect of the Debtors or any of them and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors or any of them;

the vesting of the Bridle Park Properties in the Bridle Park Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors or any of them and shall not be void or voidable by creditors of the Debtors or any of them, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. on the date hereof and is enforceable without further need for entry or filing.



Justice W.D. Black

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and –

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents **RECEIVER’S CERTIFICATE**

RECITALS

- (a) Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "Court") dated January 26, 2024, TDB Restructuring Limited was appointed as the receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., and CBJ Developments Inc. (collectively, the "Debtors").
- (b) Pursuant to an Order of the Court dated October 7, 2024, the Court approved the agreement of purchase and sale made as of July 24, 2024,

(the "Sale Agreement") between the Receiver and the "Purchaser and provided for, among other things, the vesting in 1000983019 Ontario Limited (the "Bridle Park Purchaser") of the Debtors' right, title and interest in and to the real property identified by PIN 58239-0302 (LT) and PIN 58239-0450 (LT) (collectively, the "Bridle Park Properties"), which vesting is to be effective with respect to the Bridle Park Properties upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Bridle Park Properties; (ii) that the conditions to Closing as set out in sections 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- (c) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Bridle Park Properties payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____
[DATE].

**TDB Restructuring Limited, in its
capacity as Receiver of the undertaking,
property and assets of the Debtors, and
not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Bridle Park Properties**PIN 58239-0302LT**

PT LT 26 CON 3 NOTTAWASAGA AS IN RO301861, EXCEPT RO1374660 AND EXCEPT RO476761; S/T RO130516; CLEARVIEW; SUBJECT TO AN EASEMENT IN FAVOUR OF PT LT 26 CON 3 NOTTAWASAGA AS IN RO301862 WOF RO1374660 (FORMER CNR LANDS) AS IN SC1827975

PIN 58239-0450LT

PT LT 26 CON 3 NOTTAWASAGA AS IN RO301862 W OF RO1374660 (FORMER CNR LANDS); S/T RO130515; CLEARVIEW; TOGETHER WITH AN EASEMENT OVER PT LT 26 CON 3 NOTTAWASAGA AS IN RO301861, EXCEPT RO1374660 AND EXCEPT RO476761 AS IN SC1827975

Schedule C – Claims to be deleted and expunged from title to Real Property

PIN 58239-0302 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SC1827975	2021/09/24	Transfer Easement	\$2	Bridle Park Inc.	Bridle Park II Inc.
SC1829907	2021/09/29	Transfer	\$15,000,000	Bridle Park Inc.	CBJ Developments Inc.
SC1829911	2021/09/29	Charge	\$12,969,738	CBJ Developments Inc.	Bridle Park Inc.
SC1836915	2021/10/22	Charge	\$5,000,000	CBJ Developments Inc.	1180554 Ontario Limited
SC1836916	2021/10/22	Postponement		Bridle Park Inc.	1180554 Ontario Limited
SC2049497	2024/04/12	Transfer of Charge		Bridle Park Inc.	First Global Financial Corp.
SC2058196	2024/05/28	APL Court Order		Ontario Superior Court of Justice	RSM CANADA LIMITED
SC2058236	2024/05/28	APL Court Order		Ontario Superior Court of Justice	TDB RESTRUCTURING LIMITED

PIN 58239-0450 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
SC1829147	2021/09/08	Transfer	\$12,000,000	Bridle Park II Inc.	CBJ-Bridle Park II Inc.
SC1829149	2021/09/08	Charge	\$9,999,762	CBJ-Bridle Park II Inc.	Bridle Park II Inc.
SC1834303	2021/10/14	Charge	\$5,000,000	CBJ-Bridle Park II Inc.	1180554 Ontario Limited
SC1834305	2021/10/14	Postponement		Bridle Park II Inc.	1180554 Ontario Limited
SC2049498	2024/04/12	Transfer of Charge		Bridle Park II Inc.	First Global Financial Corp.
SC2051015	2024/04/22	APL Court Order		Ontario Superior Court of Justice	RSM Canada Limited
SC2058236	2024/05/28	APL Court Order		Ontario Superior Court of Justice	TDB RESTRUCTURING LIMITED

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 58239-0302 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
RO130516	1961/04/042	Transfer Easement			The Hydro Electric Power Commission of Ontario
RO294298	1969/04/03	Order			

PIN 58239-0450 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
R0130515	1961/04/04	Transfer Easement			The Hydro-Electric Power Commission of Ontario
R0294298	1969/04/03	Order			

APPENDIX "F"

Court File No. CV-23-00707989-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
JUSTICE BLACK)
)
) WEDNESDAY, THE 23RD
 DAY OF OCTOBER, 2024

1180554 ONTARIO LIMITED

Applicant

-and-

CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.

Respondents

ORDER
(ANCILLARY RELIEF ORDER)

THIS MOTION, made by TDB Restructuring Limited, in its capacity as receiver and manager (in such capacity, the “**Receiver**”) without security, of all present and future property, assets and undertakings of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., CBJ Developments Inc. (collectively, the “**Debtors**”) for an order for ancillary relief in connection with an approval and vesting order, dated October 7, 2024, was heard this day at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Receiver, the Second Report of the Receiver dated September 20, 2024 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of Beatrice Loschiavo, sworn September 30, 2024:

A. Definitions

1. THIS COURT ORDERS that capitalized terms not otherwise defined herein shall have the meaning given to them in the Second Report.

B. Service

2. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated that this Motion is properly returnable today and hereby dispenses with further service thereof.

C. Fees, Receipts and Disbursements

3. THIS COURT ORDERS that the Receiver's Interim Statement of Receipts and Disbursements for the period from January 26, 2024, to August 31, 2024 be and is hereby approved.

4. THIS COURT ORDERS that the fees and disbursements of the Receiver and its legal counsel as described in the Second Report, the Affidavit of Bryan A. Tannenbaum, sworn September 18, 2024, and the Affidavit of Beatrice Loschiavo, sworn September 17, 2024, and the Affidavit of Marc A. Lean, sworn September 19, 2024, are hereby approved.

D. Sealing Order

5. THIS COURT ORDERS that the APA between the Receiver and 118, dated July 24, 2024, being Confidential Appendix 1 to the Second Report shall be treated as confidential, sealed and not form part of the public court record until all conditions to closing the APA have been satisfied or waived by the Receiver and the Purchaser and the Transaction has been completed to the satisfaction of the Receiver.

E. General

6. THIS COURT ORDERS that the Second Report and the conduct and activities of the Receiver set out therein be and are hereby approved.

7. THIS COURT ORDERS that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way that approval of the Second Report detailed in paragraph 6 above.

8. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.



Justice W.D. Black

1180554 ONTARIO LIMITED
Applicant

CBJ DEVELOPMENTS INC., et al.

and Respondents

Court File No. CV-23-00707989-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
APPLICATION UNDER SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION
101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43,
AS AMENDED
Proceeding commenced at Toronto**

**ORDER
(ANCILLARY RELIEF)**

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300
Fax: 416.646.4301

Jeffrey Larry (LSO# 44608D)
Tel: 416.646-4330
jeff.larry@paliareroland.com

Ryan Shah (LSO# 88250C)
Tel: 416.646-6356
ryan.shah@paliareroland.com

**Lawyers for the Receiver, TDB Restructuring
Limited**

APPENDIX "G"

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00707989-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and –

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents **RECEIVER’S CERTIFICATE**

RECITALS

- (a) Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "Court") dated January 26, 2024, TDB Restructuring Limited was appointed as the receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., and CBJ Developments Inc. (collectively, the "Debtors").
- (b) Pursuant to an Order of the Court dated October 7, 2024, the Court approved the agreement of purchase and sale made as of July 24, 2024,

(the "Sale Agreement") between the Receiver and the "Purchaser and provided for, among other things, the vesting in 1000983019 Ontario Limited (the "Bridle Park Purchaser") of the Debtors' right, title and interest in and to the real property identified by PIN 58239-0302 (LT) and PIN 58239-0450 (LT) (collectively, the "Bridle Park Properties"), which vesting is to be effective with respect to the Bridle Park Properties upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Bridle Park Properties; (ii) that the conditions to Closing as set out in sections 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- (c) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Bridle Park Properties payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at 9:15am [TIME] on March 5, 2025
[DATE].

**TDB Restructuring Limited, in its
capacity as Receiver of the undertaking,
property and assets of the Debtors, and
not in its personal capacity**

Per: 

Name: Bryan A. Tannenbaum

Title: Managing Director

1180554 ONTARIO LIMITED
Applicant

-and-

CBJ DEVELOPMENTS INC., et al.
Respondents

ONTARIO

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

RESPONDENTS RECEIVER'S CERTIFICATE

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1

Jeffrey Larry (LSO# 44608D)
Tel: 416.646.4330
jeff.larry@paliareroland.com

Ryan Shah (LSO# 88250C)
Tel: 416.646-6356
ryan.shah@paliareroland.com

**Lawyers for the Receiver,
TDB Restructuring Limited**

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00707989-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

- and –

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents **RECEIVER’S CERTIFICATE**

RECITALS

- (a) Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "Court") dated January 26, 2024, TDB Restructuring Limited was appointed as the receiver (the "Receiver") of the undertaking, property and assets of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc., and CBJ Developments Inc. (collectively, the "Debtors").
- (b) Pursuant to an Order of the Court dated October 7, 2024, the Court approved the agreement of purchase and sale made as of July 24, 2024,

(the "Sale Agreement") between the Receiver and Purchaser and provided for, among other things, the vesting in the Purchaser all of the Debtors' right, title and interest in and to the real property identified by PIN 58239-0013 (LT), PIN 58239-0014 (LT) and PIN 58239-0015 (LT) (collectively, the "Clearview Property"), which vesting is to be effective with respect to the Clearview Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Clearview Property; (ii) that the conditions to Closing as set out in sections 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- (c) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Clearview Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 20 and 21 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at 9:15am [TIME] on March 5, 2025 [DATE].

**TDB Restructuring Limited, in its
capacity as Receiver of the undertaking,
property and assets of the Debtors, and
not in its personal capacity**

Per: 

Name: Bryan A. Tannenbaum

Title: Managing Director

1180554 ONTARIO LIMITED
Applicant

-and-

CBJ DEVELOPMENTS INC., et al.
Respondents

ONTARIO

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

RESPONDENTS RECEIVER'S CERTIFICATE

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1

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Tel: 416.646.4330
jeff.larry@paliareroland.com

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ryan.shah@paliareroland.com

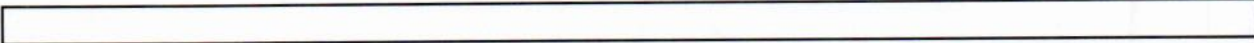
**Lawyers for the Receiver,
TDB Restructuring Limited**

APPENDIX "H"

Original & Entered



\$250



[Rule 3.25]

COURT FILE NUMBER **2401-18658**

COURT **COURT OF KING'S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

PLAINTIFF **CBJ DEVELOPMENT INC.**

DEFENDANTS **URSATAUR CAPITAL MANAGEMENT L.P., ANDREW COCKWELL, IAN COCKWELL and MUTENDE EQUITIES LTD.**

DOCUMENT **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **c/o CBJ DEVELOPMENTS INC. 100 CARR CRESCENT, OKOTOKS AB T1S1E2 ATTENTION: K. ZACHARIAS EMAIL: kimberleyz@cbjdevelopments.com**

NOTICE TO DEFENDANT(S)

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

12/23/2024 12:20:45 PM YD
 DOCUMENT #: 2401-18658
 COMMENCEMENT FEES \$250.00

TOTAL \$250.00
 Debit \$250.00
 Item count: 1
 Trans: 85879 050101660-001001

1. The Plaintiff CBJ Developments Inc. (hereinafter referred to as the "Plaintiff") is an Ontario Body Corporate which carries on, inter alia, a land and building acquisition and development business throughout Canada and the United States.
2. The Defendant Ursataur Capital Management L.P. ("Ursataur") is an Ontario Body Corporate which represents itself as a "Private Lender" and to the Plaintiff's best knowledge, information and belief is in the business of facilitating the financing and/or acquisition of commercial, industrial and residential projects.
3. The Defendant Andrew Cockwell ("Andrew") is, to the Plaintiff's best knowledge, information and belief, a managing partner/director of Ursataur, a resident of Oakville, Ontario and from June 2022 to and including January 2023 was actively engaged with the Plaintiff on all matters relating to the subject matter of this legal action;
4. The Defendant Ian Cockwell ("Ian") is, to the Plaintiff's best knowledge, information and belief, a shareholder and manager of Ursataur, a resident of Oakville, Ontario and from June 2022 to and including January 2023 participated on an ongoing basis with Andrew and the Plaintiff on all matters relating to the subject matter of this legal action;
5. The Defendant Mutende Equities Ltd. ("Mutende") is a private financial lender incorporated pursuant to the Canada Business Corporations Act and maintains its head office in the Province of Ontario; Public corporate records disclose that Ian Cockwell is the sole director of Mutende.
6. Except as the context otherwise requires, all of the named Defendants shall hereinafter collectively be referred to as the "Defendants".

A. THE FACTS / CHRONOLOGY

7. This Action relates to the proposed purchasing, financing and redevelopment, marketing and sales/rental of a vacant office tower located in downtown Calgary at 801- Seventh Ave. S.W. Calgary, Alberta, and is hereinafter referred to as "Tower 37" and whose legal description is:

DESCRIPTIVE PLAN 9210939
 BLOCK 46
 LOT 15 'A'
 EXCEPTING THEREOUT ALL MINES AND MINERALS

and

PLAN "A1"
 BLOCK 34
 LOTS 21 TO 26 INCLUSIVE
 EXCEPTING THEREOUT: (AS TO SURFACE ONLY)
 THE ROAD WIDENING AND CORNER CUTS ON PLAN 8111565

The lands upon which Tower 37 is situated shall hereinafter be referred to as the "Tower 37 Lands".

8. The Plaintiff entered into a conditional written Purchase and Sale Agreement (the "PSA") with the various registered and beneficial owners of Tower 37 (collectively the "801-7th Ave Owners") on Jan 5, 2022 to purchase Tower 37 for a total purchase price of 65 Million Dollars with a March 15, 2022 closing date (the "Closing Date").
9. From the time that the Plaintiff entered into the PSA, it's intention and concept for the development and use of Tower 37 was unique and to the best of the Plaintiff's knowledge, information and belief, had never been considered or proposed by any previous 3rd party, including any of the Defendants who, in prior dealings with the 801-7th Ave Owners and their representatives, attempted to purchase Tower 37 and were therefore very familiar with the building itself, the Tower 37 Lands and the challenges related to the purchase and redevelopment thereof.
10. Because of the unique nature of Tower 37, including:
 - a) Its location, being directly on the LRT line in downtown Calgary;
 - b) Steel/concrete construction with open span construction;
 - c) No post tensioning;
 - d) Q-deck under slab grid plenums;
 - e) Floors being slab on grade; and
 - f) Size

the Plaintiff determined that it could redevelop Tower 37 from an empty office tower into a residential/office/commercial mixed-use property which would align with the City of Calgary's Downtown Calgary Development Incentive Program to support redevelopment of the City of Calgary's downtown by converting empty office space into attractive, affordable and usable residential with mixed retail/office space available for rental and ownership.

11. Based on the above, the Plaintiff developed the following redevelopment plan for Tower 37 which included some or all of the following:
 - a) Conversion of Tower 37 from office space into (primarily) residential and live/workspace units;
 - b) Creating a separate strata title for each floor in Tower 37 so that each floor in the building would have a separate legal title and could be dealt with separately as its own unique condominium unit;
 - c) Renovations to several floors in Tower 37 into residential units, some with combined office space for professional services such as medical, dental or "work at home" businesses;
 - d) Sale and/or lease of up to 31-34 floors in Tower 37, on a floor by floor basis to owner occupants, tenants and/or investors;
 - e) Development of two upscale amenity floors for use by all owners and occupants;

- f) Applying for all municipal, provincial and/or federal grants, loans and loan guarantees available for conversion of downtown Calgary office buildings into residential units to offset some of the conversion and redevelopment costs;
- g) Creating a "Hive" concept consisting of a collection of innovative companies to be grouped as "communities" within Tower 37 (tech, clean energy, services etc.) in which they could collaborate and thrive; The "Hive" would also include supporting business services as well as medical and food availability to become a one-stop eco system;
- h) Creating a "University of Calgary (or other post-secondary school) Common" being a distinct community including Tower 37, Century Gardens, nearby buildings and a future building for the northwest corner of Century Gardens; Tower 37 would have lecture rooms, labs, shopping, living and administration offices complete with a large supermarket and food court which would occupy space on the first 2 floors of Tower 37; Further amenities would include private rooms, shared amenities, quiet study spaces, lab facilities, conference rooms and screening theatres;
- i) Providing for a mixed use of commercial usage on the first 2 floors of Tower 37 potentially including a large grocery store chain location and other related retail and food services;
- j) Such further and other particulars as the Plaintiff shall provide to the Defendant prior to trial and prove before this Honorable Court at trial.

(those matters set out in (a) – (j) above are hereinafter collectively referred to throughout this Statement of Claim as the "Plaintiff's Tower 37 Unique Concept")

12. The PSA included, inter alia, the following provisions:

- a) A Purchaser's Condition Precedent (the "Purchasers Condition") that stated as follows:

"on or before 5:00 p.m. (MDT) on the Condition Date, the Purchaser shall give the Vendor written notice confirming that the Purchaser's board of directors has approved the transactions contemplated by this Agreement and the Purchaser is satisfied, in its sole and absolute discretion, with all legal, physical and financial aspects of the Property, including but not limited to, its inspections thereof, the development and redevelopment or repurposing potential thereof, the title thereto and condition thereof, and all documents and materials delivered by the Vendor or made available to the Purchaser pursuant to sections 5.1 and 5.2 hereof."

- b) A specific Vendor's representation and warranty that there was no outstanding or threatened litigation relating to Tower 37 other than the CNOOC Litigation (the "CNOOC Litigation") of which the Plaintiff was aware. The specific representation and warranty read as follows:

... except for the CNOOC Litigation, or as otherwise disclosed in writing by the Vendor, to the best of the Vendor's knowledge there are no claims, actions or proceedings which are pending or threatened with respect to the Property or arising from the Vendor's ownership interest in the Property;

(hereinafter the "801-7th Ave Owners Litigation Representation and Warranty").

13. The Condition Date for the Plaintiff to waive the Purchasers Condition referred to in the PSA was February 7, 2022 (the "Condition Date");
14. The PSA further required the Plaintiff to post a deposit of \$2 Million Dollars (the "Deposit") with its solicitor to be held in trust and forfeited in full to the 801-7th Ave Owners upon waiver of the Purchasers Condition if the Plaintiff failed to complete the purchase, failing which it would be returned in full to the Plaintiff.
15. As agreed, the full Deposit was placed in trust with the Plaintiff's solicitor at the time of the signing of the PSA;
16. The PSA was then amended by the Plaintiff and the 801-7th Ave Owners by way of Amending Agreement dated February 7, 2022 (the "Amending Agreement").
17. The Amending Agreement provided that:
 - a) The Closing Date was changed to March 31, 2022;
 - b) The Condition Date was changed to March 15, 2022;
 - c) The Deposit that the Plaintiff was required to pay was changed as follows:
 - (i) of the 2 Million Dollars deposited with the Plaintiff's solicitor as required in the PSA, 1 Million was unconditionally releasable to the 801-7th Ave Owners on February 7, 2022 to be applied against the Purchase Price or forfeited to the 801-7th Ave Owners in the event that the Plaintiff waived the Purchasers Condition and failed to complete;
 - (ii) payment by the Plaintiff of a further deposit of \$500,000 to its solicitor in trust on February 7, 2022 on the same terms and conditions as set out in (i) above;
 - (iii) payment by the Plaintiff of a further deposit of \$500,000 to its solicitor in trust on February 28, 2022 on the same terms and conditions as set out in (i) above.
 - d) Accordingly, the Deposit was increased from 2 Million Dollars to 3 Million Dollars.
18. As required by the Amending Agreement, the Plaintiffs solicitor forwarded 1 Million Dollars to the 801-7th Ave Owners' solicitor Bennett Jones ("Bennett Jones") on February 17, 2022 for unconditional release to the 801-7th Ave Owners.
19. At the time that the Plaintiff unconditionally released the 1 Million Dollar deposit to the 801-7th Ave Owners via Bennett Jones, it was not aware of the Ayrshire Litigation (as described in paragraphs 20-22 below) although the 801-7th Ave Owners were certainly aware of the existence of the Ayrshire Litigation as described in paragraph 20 below.
20. While in the process of conducting its due diligence pursuant to the Purchasers Condition, the Plaintiff ultimately discovered that a previous conditional purchaser of Tower 37, namely Ayrshire Real Property Corporation ("Ayrshire") had commenced an Alberta Court of King's Action (Action

no. 22012-01470) on February 1, 2022 naming the 801- 7th Ave SW Owners as Defendants (the "Ayrshire Litigation").

21. Ayrshire was claiming, inter alia, that the 801-7th Ave Owners had breached certain "exclusivity" provisions in a Letter of Intent it had entered into with the 801-7th Ave Owners for the purchase of Tower 37.
22. As part of the Ayrshire Litigation, Ayrshire was seeking judgment of at least 5 Million Dollars in damages from the 801-7th Ave Owners plus an "Attachment Order" of any funds to be received by the 801-7th Ave Owners on their sale of Tower 37 to any other 3rd party.
23. The 801-7th Ave SW Owners became aware of the Ayrshire Litigation on or shortly after February 1, 2022 but did not disclose same to the Plaintiff.
24. These events all took place prior to the entering into by the Plaintiff and the 801-7th Ave SW Owners of the Amending Agreement.
25. The Plaintiff only became aware of the existence of the Ayrshire Litigation on or about March 6, 2022. Specifically, but without limiting the generality of the foregoing, throughout the period of time between February 1, 2022 and March 6, 2022, the 801 – 7th Ave Owners did not disclose the existence of the Ayrshire Litigation to the Plaintiff or its agents or representatives.
26. When it became aware of the Ayrshire Litigation, the Plaintiff's position was that the 801-7th Ave Owners had deliberately and intentionally failed to disclose the Ayrshire Litigation and that this was a material breach of the Tower 37 Owner's Litigation Representation and Warranty.
27. The result and effect of said material breach was that it became impossible for the Plaintiff to waive the Purchasers Condition or consider completing the purchase of Tower 37 pursuant to the terms set out in the PSA as amended, for a number of reasons including:
 - a) The existence of the Ayrshire Litigation created a serious issue as to whether or not the 801-7th Ave Owners were in position to complete a sale of Tower 37 to the Plaintiff;
 - b) The existence of the Ayrshire Litigation would deter potential investors or lenders from becoming involved in the acquisition/redevelopment of Tower 37 until same was completely resolved;
 - c) Ayrshire had the right to register a Certificate of Lis Pendens against title to the Tower 37 Lands as part of the Ayrshire Litigation which would have made it impossible to transfer title or register financing to complete the registration of title into the Plaintiff's name subject to its new financing free and clear of all prior encumbrances;
 - d) Ayrshire in fact did register its Certificate of Lis Pendens on title to the Tower 37 Lands in late April / early May 2022; and
 - e) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove to this Honorable Court at trial.

28. The existence of the Ayrshire Litigation resulted in additional negotiations between the Plaintiff and the 801-7th Ave Owners who, through their agents, represented to the Plaintiff that there was no merit to the Ayrshire Litigation and that the 801-7th Ave Owners would be prepared to indemnify the Plaintiff from any claims made against the Plaintiff and its lenders or investors by any party to the Ayrshire Litigation with respect to the Plaintiff's Tower 37 purchase and redevelopment.
29. As a result of said verbal representations and the indemnification offer made by the 801-7th Ave Owners regarding the Ayrshire Litigation, the Plaintiff and the 801-7th Ave Owners agreed to some additional amendments to the PSA which were then set out in a Second Amending Agreement dated March 23, 2022 (the "Second Amending Agreement").
30. The Second Amending Agreement provided for the following:
 - a) A full indemnification in favor of the Plaintiff and its lenders/investors on all matters relating to the Ayrshire Litigation and the CNOOC litigation up to a maximum of \$3 Million Dollars in total;
 - b) The Closing Date was changed from March 31, 2022 to April 15, 2022 with the option for the Plaintiff to extend that Closing Date to April 30, 2022 if the Plaintiff paid a substantial per diem penalty payment to the 801-7th Ave Owners for each day of such extension.
 - c) The Condition Date was changed from March 15, 2022 to March 31, 2022;
 - (i) The "Deposit Provisions" were amended as follows:
 - (i) An acknowledgment that 1 Million dollars of the Deposit had been unconditionally released to the 801-7th Ave Owners January 17, 2022;
 - (ii) An additional \$500,000 of the Deposit deposited with its solicitor would be released to the 801-7th Ave Owners on March 22, 2022;
 - (iii) Prior to the Condition Date, the Plaintiff had the option to release up to 1 Million Dollars out of the balance of the Deposit held in trust with its solicitor directly to "its lending sources for the purpose of paying required commitment fees".
 - d) If the Purchasers Condition was not satisfied by the Condition Date, the Plaintiff would forfeit those funds released as per c) (i) and (ii) above and only be entitled to a return of the balance of the Deposit that was being held by the Plaintiff's solicitor.
31. In accordance with the terms of the Second Amending Agreement, the Plaintiff caused its solicitor to release \$500,000 representing the payment referred to in paragraph 30 (c)(ii) above to Bennett Jones.
32. In further reliance on the verbal representations made to the Plaintiff by or on behalf of the 801-7th Ave Owners to the Plaintiff regarding the Ayrshire Litigation and the indemnification set out in the Second Amending Agreement, the Plaintiff waived the Purchasers Condition by written notice to the 801-7th Ave Owners on April 1, 2022, thereby placing at risk the Deposit of \$1.5 Million

Dollars already released, plus the balance of the Deposit it had paid into trust with its solicitor, if it did not complete the terms of the PSA as amended, on or before April 30, 2022.

33. Despite its best efforts, the Plaintiff was not in a position to complete the purchase of Tower 37 on or before April 30, 2022 for a number of reasons all beyond its control, including:
- a) notwithstanding the indemnification provision set out in the Second Amending Agreement, there was significant reluctance by lenders and investors to commit to equity participation or confirm financing in light of the ongoing existence of both the CNOOC and Ayrshire Litigation;
 - b) ongoing discussions and negotiations with the City of Calgary on matters relating to:
 - (i) obtaining preliminary approvals for the strata title conversion of the Tower 37 floors;
 - (ii) the “grant” application process to access funds that the City of Calgary was making available for downtown office building conversions to residential housing;
 - (iii) Redesignation of Tower 37 from office to residential or mixed residential or mixed residential, educational or other purposes;
 - (iv) Specific renovations/ remedial work to portions of Tower 37- interior and exterior and the Tower 37 Lands to meet City of Calgary requirements for those items set out in (i) – (iii) above; and
 - (v) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial;
 - c) Delays as a result of Covid restrictions which delayed physical inspections of various aspects and systems of the building itself, the Tower 37 Lands and adjoining lands which were to have formed part of the “Hive” collective and/or the post-Secondary community as per the Plaintiffs Tower 37 Unique Concept;
 - d) Ongoing breaches of the PSA by the 801 7th Ave Owners of their various common law, statutory and equitable obligations to the Plaintiff including:
 - (i) failing to take reasonable or best efforts to comply with and allow the Plaintiff to comply with the PSA as amended;
 - (ii) failing to take reasonable or best efforts to meet and allow the Plaintiff to meet the terms and conditions of the PSA as amended;
 - (iii) failing to exercise its discretion reasonably and in good faith; and
 - (iv) failing to perform its obligations under the PSA as amended in honesty and good faith;

all as more particularly specified in the CBJ Litigation referred to in paragraph 36 below.

34. By April 30, 2022, the Plaintiffs had released 1.5 Million Dollars of the Deposit to the 801-7th Ave Owners and were highly motivated to complete a purchase of Tower 37 in order to:

- a) proceed with what it considered to be a project which, because of the Plaintiff's Tower 37 Unique Concept, would generate millions of dollars in net revenue and net profit; and
- b) preserve the Deposit funds already released;

and took the position that as a result of those ongoing breaches of the PSA as set out in paragraph 33(d) above, together with verbal statements, conduct and actions of the 801-7th Ave Owners to the Plaintiff and its agent and representatives that the 801 7th Ave Owners had in fact expressly or impliedly agreed to an extension of the closing date of the PSA beyond April 30, 2022 (the "Extended PSA");

35. Accordingly, from and after April 30, 2022, the Plaintiff and the 801-7th Ave Owners, initially through their agents and representatives and then via direct communications with the 801-7th Ave Owners that took place as late as December 2022, continued to negotiate and work together towards completion of the purchase of Tower 37, which CBJ intended to include a credit to the Plaintiff of the aforescribed \$1.5 Million Dollar Deposit previously released to the 801-7th Ave Owners as aforescribed as the 801-7th Ave Owners were highly motivated to complete a sale of Tower 37 to the Plaintiff.
36. In addition, to preserve its legal and equitable rights against the 801-7th Ave Owners in the event that the ongoing negotiations with the 801 7th Ave Owners might not be successful or enable the Plaintiff to finalize the Extended PSA or any other agreement with the Tower 37 Owners for the purchase of Tower 37, the Plaintiff commenced Court of Queen's Bench Action #2201 04995 on May 2, 2022 against the 801-7th Ave Owners (the "CBJ Litigation") seeking inter alia:
- a) specific performance of the PSA as amended;
 - b) a Certificate of Lis Pendens against title to the Tower 37 Lands giving notice to all third parties of the existence of the CBJ Litigation;
 - c) substantial damages; and
 - d) an order for an interim injunction restraining the sale of Tower 37 to other 3rd parties pending resolution of said action.
37. CBJ instructed its solicitor not to serve the CBJ Litigation commencement documents on the 801-7th Ave Owners pending further instructions.
38. Concurrent with the filing of the CBJ Litigation, the Plaintiff did file and register a Certificate of Lis Pendens against title to the Tower 37 Lands;
39. At this same time, the Plaintiff continued its efforts to finalize both equity investment and loan financing for the Tower 37 Purchase, and which included, but was not limited to those specific matters referred to in paragraph 65 below;

40. On or about early June 2022, by way of an introduction from an independent third party, the Plaintiff was introduced to the Defendants Ian and Andrew as knowledgeable and experienced lenders with many viable financial contacts who could provide or facilitate the necessary financing required by the Plaintiff to complete the purchase and redevelopment of Tower 37 and that said financing and other related assistance (including potential equity participation) could be provided through their private lending firm Ursatur and/or related entities.
41. From the time the Plaintiff was first introduced to the Defendants, and at no time until the Defendants Loan Offer (as described under 47 below) was agreed to by the Plaintiff on July 7, 2022, did the Plaintiff represent to the Defendants that it had a current written Purchase and Sale Agreement in place with the 801-7th Ave Owners, but simply advised the Defendants that they had a legal 'angle' on the purchase of Tower 37 (which included the CBJ Litigation and the Extended PSA) and were in ongoing negotiations with the 801-7th Ave Owners, their lawyers and representatives, who were highly motivated to work with the Plaintiff and who they considered a serious buyer, to come up with a viable final, binding and enforceable agreement for the purchase of Tower 37.
42. On June 17 2022 as requested by the Plaintiff, Ian and Andrew caused Ursatur to enter into the Plaintiff's standard form Non-Disclosure Agreement (the "NDA"), it being understood and agreed that the NDA would apply not only to Ursatur but also to Ian, Andrew and all other parties associated with them who would be involved in dealings with the Plaintiff on Tower 37, which ultimately included Mutende.
43. The NDA contained several provisions which restricted both the use by the Defendants of "Confidential Information" regarding Tower 37 developed and generated by the Plaintiff as well as potential action which the Plaintiff could take against the Defendants in the event of the Defendants attempting to acquire any form of ownership interest in Tower 37 or having other dealings relating to Tower 37 other than in conjunction with the Plaintiff.
44. Specifically, the NDA included the following provisions:
 6. *Recipient agrees they will not engage in any transaction or disclose any Confidential Information that will deprive or interfere with business opportunities disclosed by CBJ pursuant to this Agreement...*
 7. *A breach of this Agreement shall render the Recipient liable to CBJ for any and all damages and injuries incurred by CBJ as a result thereof, and shall obligate the Recipient to account to CBJ and turn over to CBJ any and all monies, profits, and other direct or indirect consideration or benefits which the Recipient derives from any unauthorized Disclosure, use or exploitation of the Confidential Information, without prejudice to other legal or equitable rights or remedies that CBJ may have as a result of a violation of the terms hereof...*
 9. *In the event of any breach or threatened breach of any of the terms of this Agreement by the Recipient, CBJ is entitled to recover their reasonable attorneys' fees and costs incurred in connection with any action or proceeding arising out of or relating to any such breach or threatened breach...*

12. Notwithstanding any provision to the contrary set out in this Agreement or any other agreement entered into CBJ and the Recipient, in the event that CBJ does not proceed with the Project(s), the Recipient covenants, undertakes and agrees:

a) Should CBJ terminate its interest in the Project(s) while this Agreement is in effect or for a period of one(1) year from the date that CBJ formally terminates its interest in the Project(s), whichever comes later, Recipient agrees they shall not initiate any direct or indirect communications with any third parties introduced to Recipient by CBJ under this Agreement (including without limitation any listing agents or third party project owners if applicable) for the potential acquisition of an interest or further participation in the Project(s) without Recipient first receiving written approval from CBJ. Such approval shall include an agreement between the parties on mutually acceptable compensation to CBJ for first introducing the Recipient to the Project(s); and

b) Recipient agrees they shall not use any Confidential Information previously provided to Recipient by CBJ or its Representatives without first obtaining CBJ's prior written consent.

45. Once the NDA was in place and executed by and on behalf of the Defendants, the Plaintiff made available to the Defendants all of the information it had both prepared/created or developed including:

- a) all Information relating to Tower 37 and the Plaintiff's Tower 37 Unique Concept;
- b) Tower 37 documentation, reports, financial projections, appraisals, development plans, reports regarding the alleged accumulation of asbestos in the building and other information relating to the CNOOC Litigation, building structure and ability to strata title individual floors in the building, City of Calgary information regarding transitioning empty downtown office buildings into residential and/or mixed use buildings, designs, costing information and all marketing material relating to the above, including videos;
- c) its own financial status as from time to time requested by the Defendants, including profiles of its owners and management team;
- d) proof of the Deposit payments made at the time of the entering into of the PSA together with particulars of all steps it was taking to confirm that it had sufficient other funds available for closing on the PSA;
- e) details of both the Ayrshire Litigation and the CBJ Litigation;
- f) such further and other information and documentation, details of which the Plaintiff shall provide to the Defendants prior to trial and prove before this Honorable Court at trial.

46. Because the Defendants:

- a) were very familiar with Tower 37 having previously attempted to purchase same in 2021;
- b) had therefore previously completed its own due diligence on the building and the Tower 37 Lands; and

- c) were still very interested in both providing financing for this acquisition and redevelopment and also potentially taking an equity position in Tower 37,

there were verbal discussions between the Plaintiff and the Defendants to the effect that in exchange for the Defendants facilitating the necessary financing required by the Plaintiff on a simplified and expedited basis without delays or protracted due diligence requirements, the Plaintiff would agree to grant the Defendants a minority 20% ownership and equity position in the purchase and redevelopment of Tower 37 thoroughly enhancing the Defendants' position and significantly increasing the Defendants' return on its financing investment;

- 47. Based on the above, the Defendants presented a "Loan Offer" letter to the Plaintiff through Mutende on July 4, 2022 (the "Defendants Loan Offer") which was a simple document offering 55 Million Dollars in financing to the Plaintiff subject only to some very basic pre-conditions that were easily satisfiable and devoid of any extensive complex or onerous pre-conditions or "up front" fees or commissions that were standard for any other potential financings that the Plaintiff was negotiating at that time.
- 48. Specifically, the Defendants Loan Offer:
 - a) required the Plaintiff to pay a fee to Mutende equal to 2% of the gross amount of the loan in the amount of 1.1 Million Dollars that was only payable on closing of the purchase of Tower 37;
 - b) required the Plaintiff to pay, inter alia, all of the Defendants "reasonable out of pocket expenses associated with the financing, the preparation, negotiation, execution and administration of the loan documents including the reasonable fees of one primary counsel engaged by the Lender";
 - c) granted Mutende a 20% equity position in the project (as had been previously verbally agreed); and
 - d) required the Plaintiff to provide evidence that it has received an equity contribution in a minimum amount of 20 Million Dollars for the equity down payment for the purchase of Tower 37, which the Plaintiff had previously advised the Defendants it was in the process of arranging;
- 49. The Defendants Loan Offer did not include any specific restriction which prevented the Plaintiff from placing secondary financing in place against the Tower 37 Lands (either freehold or leasehold title) either to secure equity investment or debt financing.
- 50. The Defendants Loan Offer also included the following statement:

We have conducted significant work to date and have intimate knowledge of your business and prospects. We value our relationship with you and look forward to working together to finance the Acquisition.
- 51. The Plaintiff accepted the Defendants Loan Offer and signed off on it on July 7, 2022 thereby making it valid, binding and legally enforceable as to its terms and which became an integral part of the Plaintiff/Defendants Agreement as described in Section "C" below;

52. The Plaintiff states and the fact is that from and after the date that the Defendants executed the NDA and signed off on the Defendants Loan Offer, all communications and negotiations between the Plaintiff and the Defendants were open, complete and transparent as to the status of the Plaintiff's negotiations with the 801-7th Ave Owners for the completion of the purchase of Tower 37 pursuant to the Extended PSA and/or the verbal agreement made with the 801-7th Ave Owners to purchase Tower 37 at a lower purchase price;
53. Specifically, but without limiting the generality of the foregoing:
- a) In July 2022 on request by the Defendants, the Plaintiff for a second time, specifically disclosed to the Defendants the chronological history of its dealings with the 801-7th Ave Owners commencing with the initial entering into of the PSA, the Amending Agreement, the Second Amending Agreement and all subsequent developments after the alleged expiry of the PSA on April 30, 2022;
 - b) the Plaintiff kept the Defendants fully abreast, on a current real time basis of all of the steps it was taking to:
 - (i) negotiate and finalize an agreement with the 801- 7th Ave Owners and their representatives to complete an agreement between them for the purchase of Tower 37 at a price equal to or lower than the original 65 Million Dollar purchase price pursuant to the Extended PSA or other verbal agreement; and
 - (ii) secure its equity requirements necessary to meet the terms of the Defendants Loan Offer;
 - c) the Plaintiff advised the Defendants of the commencement of the CBJ Litigation and the registration of the CBJ Certificate of Lis Pendens on title to the Tower 37 Lands and the fact that, as stated in the CBJ Litigation Commencement Document, it took the position that the Defendants had by their ongoing communications and actions extended the Closing Date of the PSA or alternatively, had verbally agreed with the Plaintiff to sell it Tower 37 on terms and conditions that were equal to or better than those set out in the PSA;
 - d) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Honorable Court at trial.
54. As a specific example of the statement set out in paragraph 53 (b) above, in contemplation of how the Defendants proposed to provide the business structure and necessary financing for the purchase, Andrew sent the following email to the Plaintiff on July 3, 2022:

Jeff

Ian and I were working through the modelling and thinking about structure today. Wondering if you would have an aversion to holding the building in a flow through entity (a limited partnership etc).

The reason being, our respective analysis (and the modelling) envisions no taxes which isn't quite right if the building owner is a corp (unless we are mistaken)...

Just flagging that this is something that may need some thinking and certainly welcome your thoughts.

55. On or about July 23, 2022 the Defendants forwarded a draft loan agreement to the Plaintiff with Mutende as lender and the Plaintiff as borrower (the "Mutende Loan Agreement") providing for the 55 Million Dollars in debt financing in accordance with the terms of the Defendants Loan Offer, by which time the Defendants were in possession of the information as described in paragraph 53 above.
56. Between the date of receipt of the Mutende Loan Agreement on July 22, 2022. and including January 2023, the Plaintiff in good faith, and at considerable expense, attempted to finalize the terms of said Mutende Loan Agreement into an unconditional, final, binding and mutually acceptable funding agreement as part of the Plaintiff/Defendants Agreement as hereinafter defined in Section "C" below, which would have allowed them to finalize the purchase of Tower 37.
57. Despite the fact that they were well aware that the Plaintiff did not have had a final and definitive written purchase agreement in place with the 801-7th Ave Owners for the purchase of Tower 37, there were ongoing and continuous discussions and communications between representatives of the Plaintiff and all Defendants during this process predicated on the basis of the Extended PSA or alternatively, that there was a verbal agreement with the 801-7th Ave Owners to purchase Tower 37 at a lower purchase price;
58. The Defendants continued to work closely with the Plaintiff pursuant to the Plaintiff/Defendants Agreement including finalizing the terms and conditions in the Mutende Loan Agreement, structuring their mutual business arrangement for maximum tax benefit, assisting with introductions to parties for equity participation funding, and generally taking a very active role in all matters relating to the acquisition, financing, redevelopment and marketing of Tower 37.
59. This is evidenced by a number of communications between the Plaintiff and the Defendants at that time including the following emails from the Defendants to the Plaintiff:
 - a) an email from the Defendants dated August 22, 2022 to the Plaintiff stating:

*You should have a revised loan agreement and mortgage doc today from Torys;
We are also generating a short issues list of outstanding items, which I should have for you this aft.*
 - b) an email from the Defendants to the Plaintiff dated September 14, 2022 stating:

Jeff/Chris

Thanks for your time today. Attached is an approach to move forward more quickly. I've tried to build it in the same way for the original structure and the go-forward; essentially we are prepared to plug the equity hole.
 - c) an email from the Defendants dated October 12 which states in part:

As to the latter, we are willing to explore a reduction in equity given a reduced purchase price.

60. Further, in accordance with the Defendants Loan Offer, the Purchaser/Defendants Agreement and as a show of good faith and commitment to working with the Defendants to complete the purchase of Tower 37, on or about August 15, 2022 the Plaintiff paid the sum of \$50,000 to the Tory's law firm (retained by the Defendants to represent them as specifically arranged by the Plaintiff) as a retainer to cover their fees and disbursements.
61. In what the Plaintiff considers to be a blatant conflict of interest, Tory's then represented the Defendants on the Defendants Tower 37 Purchase as described below notwithstanding the fact that the Plaintiff went to considerable effort and expense to identify Tory's as a law firm that could represent the Defendants because many other major law firms were unable to do so due to potential conflicts of interest.
62. At this same time the Plaintiff:
 - a) continued to seek out equity participation and secondary debt financing; and
 - b) met directly with one of the 801-7th Ave Owners on at least two occasions in September 2022 to discuss terms and conditions to finalize a new purchase and sale agreement between them; and
 - c) with the Defendants' knowledge and consent, advised the 801-7th Ave Owners at that time (or perhaps even earlier in time) that the Defendants were its funding partners, and they were working together on the purchase of Tower 37.
63. As a result of those negotiations, the Plaintiff states and the fact is that it had a verbal agreement with the 801-7th Ave Owners to purchase Tower 37 at a revised purchase price of 55 Million Dollars;
64. As at September 2, 2022 the Plaintiff had either secured by letter of intent or otherwise, or were negotiating equity investment/ participation from a number of sources and had communicated same to the Defendants, some of the particulars of which included:
 - a) 5 Million Dollars from a 3rd party investor (Lakefront Developments Ltd.) which funds were being held in trust and to be part of CBJ's equity contribution;
 - b) Approximately 4 Million Dollars in fees, deposits, legals, preparation and reports expended to that date by the Plaintiff itself on this Project (acquisition and redevelopment);
 - c) 5 Million dollar verbal offer on one of the Plaintiff's Ontario properties with a written offer to be provided within a week;
 - d) 20 Million Dollar term sheet from individuals who were experienced real estate lenders, with the loan having been arranged by a partner of the Plaintiff's law firm and who had previously provided multi-million dollar financing to the Plaintiff for its land acquisitions in Ontario;

- e) 20 Million Dollar revised loan offer for financing from a third party international lender;
 - f) 10 Million Dollar private loan offer raised from financing on the Plaintiff's Ontario properties;
 - g) 20 Million Dollar private loan from a Western Canadian group;
 - h) Verbal agreement in place with Ayrshire (with written agreements ready to be signed) to have them assist in construction matters relating to the redevelopment of Tower 37 in exchange for their withdrawing or working out a mutually acceptable settlement of the Ayrshire Litigation;
65. Further, the Defendants had also indicated to the Plaintiff that they would if necessary be prepared to consider an equity contribution to "top off" the Plaintiff's equity requirements.
66. All of these updates and information on its sources of financing were provided by the Plaintiff to the Defendants throughout the months of September and into late October;
67. However, despite the Defendants original representations to the Plaintiff that they would simplify and expedite the loan approval process because of their prior knowledge of, and its interest in Tower 37 and the projected profitability of the Plaintiff's Tower 37 Unique Concept, the Defendants rejected the various options for equity funding that the Plaintiffs had presented to the Defendants as set out in paragraph 64 above, thereby unnecessarily extending and delaying the process for finalizing the Mutende Loan Agreement and making it impossible for the Plaintiff to have formalized either the Extended PSA or a new verbal agreement with the 801 7th Ave Owners as referred to in paragraph 63 above at the 55 Million Dollar purchase price.
68. The Plaintiff states and the fact is that the Defendants adopted their position on or about September 15 because:
- a) The Defendants were attempting to force the Plaintiffs to give them a better return on their financing investment potentially including a larger equity position in the Joint Project with the Plaintiff pursuant to the Plaintiff/Defendants Agreement as hereinafter defined; and/or
 - b) Once they heard that the 801-7th Ave Owners had verbally agreed to a reduction in the purchase price from 65 Million Dollars to 55 Million Dollars, they determined that they would attempt to buy Tower 37 themselves at a reduced purchase price without involvement by the Plaintiff.
69. Based on those motives and intentions set out in paragraph 68 above or other possible motives unknown to the Plaintiff, the Defendants rejected the Plaintiff's funding and financing options as set out in paragraph 64 (even though they clearly complied with the pre-conditions set out in the Defendants Loan Agreement) and began making unreasonable demands of the Plaintiff, knowing that by so doing it would likely make it impossible for the Plaintiff to finalize a formal agreement with the 801- 7th Ave Owners to buy Tower 37.
70. For example, on September 14, 2022 the Defendants provided the Plaintiff with a new proposal for the purchase and financing of Tower 37 entitled "Reduced Price and Accelerated Close" and set out three different options for a joint purchase of Tower 37 by the Plaintiff and the

Defendants, all including the Defendants increasing their equity position from 20% to 47% but without committing to provide either:

- a) an expedited approval of the terms and conditions of the Mutende Loan Agreement; or
 - b) specified funds as an equity contribution for the purchase;
71. Based on previous negotiations and communications between the Plaintiff and the Defendants, the Defendants were well aware at that time that the Plaintiff would reject these proposals, but by submitting the proposals would induce the Plaintiff to continue to believe and rely upon the fact that the terms, covenants and Defendants' representations and warranties that formed part of the Plaintiff/Defendants Agreement (as described in Section "C" below), including full compliance with the NDA, remained in full force and effect.
72. A further indication of the Defendant's intention to purchase Tower 37 without involving the Plaintiff is evident in an email communication dated October 13, 2022 from the Defendants to the Plaintiff:
- I think you had an idea like this earlier- same issue now as then, we would look at it from a worst case (there is no more equity) and thus the building is alarmingly thinly equitized 5 of 40, 50 or 60 or whatever).*
- With so little equity we'd be better off doing the deal ourselves as we proposed last year before we met you guys.*
73. In fact, said October 13, 2022 communication referred to in paragraph 72 above was the last substantive communication from the Defendants to the Plaintiff until December 22, 2022.
74. To the Plaintiff's best knowledge, at the same time as the Defendants were communicating with the Plaintiff including the email as set out above on October 13, 2022, the Defendants were privately negotiating a unilateral purchase of Tower 37 with the 801 7th Ave SW Owners to the exclusion of the Plaintiff.
75. Between October 13, 2022 and December 22, 2023, the Plaintiff continued:
- a) its verbal and written attempts to communicate with the Defendants to finalize the terms of the Mutende Loan Agreement and other matters relating to the purchase of Tower 37 pursuant to the Plaintiff/Defendants Agreement but the Defendants intentionally or willfully failed to respond to the Plaintiff until January 18, 2023 with the exception of the December 22, 2022 email referred to in paragraph 77 below;
 - b) its ongoing communications and negotiations with the 801-7th Ave Owners via their representatives;
 - c) to seek out other equity investors and debt financing from third parties including entering into a Letter of Intent with Ayrshire to become an equity participant in the purchase of Tower 37 because of its expertise in building renovations;

- d) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial.
76. On or about December 22, 2022, the Plaintiff communicated with the Defendants and again advised the Defendants that it had secured the 20 Million Dollars equity participation it was required to provide for the down payment and provided details thereof to the Defendants including proof of funds held by their equity funders as was independently verified by the Plaintiff's law firm.
77. In response (which was the first and only communication from the Defendants to the Plaintiff since October 13, 2022) the Defendants wrote to the Plaintiff on December 28, 2022 again rejecting this proposal by the Plaintiff and improperly alleged that the Plaintiff's proposal was "transparently nothing" thereby continuing their pattern of conduct preventing the Plaintiff from moving forward to finalize a purchase agreement with the 801-7th Ave Owners while still causing the Plaintiff to believe that the Defendants were honoring the Plaintiff/Defendants Agreement.
78. On or about January 18, 2023, without prior notice and in material and substantive breach of the Plaintiff/Defendants Agreement including the NDA and the Defendants Fiduciary Duties and Obligations (as hereinafter defined) , the Defendants advised the Plaintiff that it had purchased Tower 37 from the Tower 37 Owners (the "Defendants Tower 37 Purchase") but did not provide any details of said purchase to the Plaintiff nor offer the Plaintiff either an equity position in its Tower 37 purchase nor compensation for the costs, expenses and ongoing losses of Net Revenue and Net Profit (as hereinafter defined in Section "F" below) which the Defendants knew or should have known that the Plaintiff had and would incur as a result of their improper and illegal actions.
79. To the Plaintiff's best knowledge, information and belief:
- a) the Defendants' purchase price for Tower 37 was \$39 Million Dollars; and
 - b) the Defendants are currently negotiating with the University of Calgary to own or otherwise occupy space in Tower 37 relying in whole or in part on various aspects of the Plaintiffs Tower 37 Unique Concept;
80. At no time until January 18, 2023 did the Defendants verbally or in writing advise the Plaintiff that they:
- a) were negotiating a purchase of Tower 37 directly or indirectly with the 801-7th Ave SW Owners or their representatives;
 - b) had entered into a purchase and sale agreement for the purchase of Tower 37 from the 801-7th Ave SW Owners;
 - c) were terminating or withdrawing the Defendant Loan Agreement or the Plaintiff/Defendants Agreement with the Plaintiff (for cause or otherwise);
81. Other than the written communication referred to in paragraph 78 above and up to the date of the filing of this Claim, the Defendants have not:

- a) Offered or paid any funds to the Plaintiff as reimbursement to the Plaintiff of the Plaintiff's Out of Pocket Expenditures (as defined in Section "F" below) including a refund of all funds paid by the Plaintiff to the Defendants to cover the Defendants legal expenses;
- b) Offered compensation to the Plaintiff for lost Net Revenue and lost Net Profit (as defined in Section "F" below);
- c) Offered the Plaintiff an equity position in their ownership of Tower 37;
- d) offered the Plaintiff any other form of revenue and/or profit-sharing arrangement in Tower 37;

B. THE AGREEMENT BETWEEN THE PLAINTIFF AND THE DEFENDANTS
(THE "PLAINTIFF/DEFENDANTS AGREEMENT")

- 82. The Plaintiff states and the fact is that as a result of, and based on the ongoing dealings, communications, conduct and activities between the Defendants and the Plaintiff relating to their joint and mutual intention to participate in a financing and business arrangement for the purchase, financing, redevelopment, marketing, sale and/or lease of separate floors of Tower 37 pursuant to the Plaintiff's Tower 37 Unique Concept (the "Joint Project"), the Plaintiff and the Defendants did or are in law deemed to have entered into a valid, binding and legally enforceable agreement referred to throughout this Statement of Claim as the "Plaintiff/Defendants Agreement".
- 83. The Plaintiff/Defendants Agreement commenced in June 2022 and continued in full force and effect, subject to modifications mutually agreed upon between the Plaintiff and the Defendants between June 2022 and January 2023, until January 18, 2023 at which time said Plaintiff/Defendants Agreement was unilaterally, illegally and improperly terminated by the Defendants.
- 84. The Plaintiff/Defendants Agreement included those specific representations and warranties made by the Defendants to the Plaintiff (as set out in paragraph 85 below) which the Defendants knew or ought to have known that the Plaintiff was relying upon;
- 85. Without in any manner limiting the generality of the statement set out in paragraphs 82-84 above, the Plaintiff/Defendants Agreement included the following:
 - a) The Plaintiff and the Defendants would join forces and enter into a financing and business relationship for the purpose of acquiring Tower 37 and then redeveloping it in accordance with the Plaintiff's Tower 37 Unique Concept (the "Joint Project");
 - b) Details of the Plaintiff's Tower 37 Unique Concept, which was proprietary to the Plaintiff and could only be used by the Defendants as part of the Joint Project;
 - c) The Defendants had the financial ability to, and had immediate access to the necessary financing to arrange for and facilitate the financing required to complete the purchase of

Tower 37 and finance the Tower 37 redevelopment costs to facilitate the Plaintiffs Tower 37 Unique Concept plans;

- d) In exchange and in addition to the rate of return on the financing totaling 14% per annum, the Defendants would acquire a twenty (20%) per cent equity position in the ownership of Tower 37 and an entitlement to twenty (20%) per cent of all Net Revenue and Net Profit (as defined in Section "F" below) with the Plaintiff retaining the remaining 80% thereof;
- e) The Plaintiff, on behalf of both the Plaintiff and the Defendants, would continue its negotiations with the 801-7th Ave Owners to finalize the terms of the Extended PSA or a new purchase agreement for Tower 37 at a purchase price of 65 Million Dollars or less, if possible;
- f) For tax minimization purposes, the Plaintiff and the Defendants would structure a limited partnership to finance, acquire, and redevelop Tower 37;
- g) The terms and conditions of the NDA were incorporated by reference into the Plaintiff/Defendants Agreement;
- h) The terms and conditions of the Defendants Loan Offer as subsequently amended or modified by the parties were incorporated by reference into the Plaintiff/Defendants Agreement;
- i) From the outset, the Defendants were advised by the Plaintiff that it did not have a written purchase and sale agreement in place with the 801-7th Ave Owners but relied upon the Extended PSA and ongoing representations from the 801- 7th Ave Owners that they were highly motivated and committed to finalizing an agreement with the Plaintiff to complete the purchase and sale of Tower 37;
- j) The Plaintiff was obligated to raise 20 Million Dollars as the equity component for the Joint Project which could be done by a combination of some or all of the following:
 - (i) the Plaintiff's own resources;
 - (ii) other equity investors arranged for by the Plaintiff who would acquire a portion of the Plaintiff's equity ownership position;
 - (iii) Vendor takeback financing;
 - (iv) Contribution by the Defendants -- on terms and conditions mutually satisfactory to the Plaintiff and the Defendants;
 - (v) Such further particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial, including those specific items set out in paragraph 65 above;
- k) Given that:
 - (i) the Defendants had previously attempted to purchase Tower 37 from the 801 – 7th Ave Owners; and

- (ii) were also associated and involved with some or all of the 801 – 7th Ave Owners in a personal capacity and in other business and charitable projects (including but without limitation Wilmington Capital Management Inc.)

which created the potential for a conflict of interest situation, and the fact that the Plaintiff had been dealing with the 801 7th Ave Owners for several months prior to meeting the Defendants, both the Plaintiff and the Defendants represented and warranted to the other from the outset, and it was clearly, unconditionally and unequivocally agreed between them that:

- (i) they would work together on the Joint Project on an exclusive basis;
- (ii) neither side would have any ongoing communications, negotiations or enter into any agreements with the 801 – 7th Ave Owners other than for the benefit of their mutual business relationship relating to the Joint Project and in accordance with the terms of the Plaintiff/Defendants Agreement; and
- (iii) neither party would do or say anything involving the 801-7th Ave Owners or their representatives that would place either of them in an actual or potential conflict of interest position.

l) Given that:

- (i) the Defendants were acquiring an equity position in the Joint Project as aforescribed;
- (ii) the Defendants had previously attempted to purchase Tower 37 and were therefore very familiar with Tower 37 and the Tower 37 Lands the building itself; and
- (iii) the Defendants had already completed their due diligence on the Plaintiff as indicated by the Defendants in the Defendant Loan Agreement with the following statement:

“We have conducted significant work to-date and have intimate knowledge of your business and prospects”

the terms and conditions relating to the debt financing they were providing or arranging for and as set out in the Defendants Loan Offer would not be unnecessarily or unduly restrictive so as to ensure that said financing would be expeditiously approved by the Defendants and would be available as and when required for the closing of the purchase of Tower 37 as part of the Joint Project;

- m) The Defendants represented and warranted that they had immediate access to all necessary funds required to supply all of the debt financing as and when required for the Joint Project and would also consider either providing equity investment or even potentially arranging for third party equity investment if so required;
- n) Based on the relationships that the Plaintiff had developed with the 801-7th Ave Owners and their representatives, the City of Calgary and other 3rd parties key to the purchase and redevelopment of Tower 37 pursuant to the Plaintiffs Tower 37 Unique Concept, coupled

with the fact that the Defendants had already attempted to purchase Tower 37 on their own without success, it was agreed that the Plaintiff would take the lead for the Joint Project and would handle all direct communications, negotiations and contractual matters with the 801-7th Ave Owners, the City of Calgary and other 3rd parties in consultation with the Defendants as and when required, provide full and current disclosure thereof to the Defendants and that the Defendants would have no direct contact with the 801-7th Ave Owners without the Plaintiff's prior consent or approval;

- o) The Defendants would, either by providing a written NDA or by virtue of a verbal representation and warranty to the Plaintiff, retain in strict confidence on an ongoing basis all information and documentation (hard copy, digital, video or otherwise) of any type or kind whatsoever, either exchanged between them or created jointly by them relating to the Joint Project including without limitation all information involved in the Plaintiff's Tower 37 Unique Concept;
 - p) Without in any manner limiting the generality of the foregoing, the Defendants impliedly or expressly represented and warranted to the Plaintiff that in the event that the Plaintiff and the Defendants were not successful in completing or finalizing the purchase of Tower 37 pursuant to the Joint Project, they would not utilize or attempt to implement all or any portion of the Plaintiffs Tower 37 Unique Concept for their own benefit or with other 3rd parties to attempt to purchase Tower 37 except with the Plaintiff's prior knowledge and approval and only after negotiating a mutually acceptable compensation / remuneration package for the Plaintiff's benefit;
 - q) Subject to material breach of the terms of the Plaintiff/Defendants Agreement not rectified within a reasonable period of time and to the reasonable satisfaction of the party not in default, neither party would be entitled to terminate the Plaintiff/Defendants Agreement without the consent of the other and only upon such terms and conditions as the parties would agree upon at that time including providing for fair and reasonable compensation to the aggrieved party.
 - r) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial;
86. The Plaintiff states and the fact is that notwithstanding the business arrangement between the Plaintiff and the Defendants which granted the Defendants an equity position in the ownership of Tower 37, said business arrangement was primarily that of a financing agreement and the equity position granted to the Defendants was merely reflective of a portion of the loan return that the Defendants required as their conditions for agreeing to the financing.
87. Specifically, the loan agreement, based on the terms of the Mutende Loan Agreement, demanded from the Plaintiff a minimum 34% annualized return on their loan, consisting of:

Placement fee	two (2) percent
Annual Interest rate	twelve (12%) percent
Equity Participation	<u>twenty (20%) percent</u>

Total Thirty Four (34%) per cent

88. This 34% return included only a portion of the Defendant's 20% share of Net Revenue and Net Profit which it would have been entitled to over a two-year period pending payout of the Defendants' financing, thereby significantly increasing its return; This return also did not include a portion of the Rebates (as hereinafter defined) which would have been paid to the Defendants.
89. However, from the Plaintiff's point of view, the fact is that the Defendants were still in the position of a secured lender of the Plaintiff and as a result thereof at all times exerted very significant real and implied "leverage" over the Plaintiff and all of the steps it was taking to complete the purchase of Tower 37.
90. For example, in the event of the Plaintiff's default in any repayments on the principal portion of the financing as per the default provisions of the Mutende Loan Agreement, the Plaintiff was at all times in the position that it could potentially lose control and/or ownership of Tower 37 by way of enforcement proceedings (including the commencement of foreclosure action) by the Defendants which not only jeopardized the Plaintiff's equity and ownership position in Tower 37 but also potentially jeopardized some or all of its other valuable assets.
91. Therefore, in negotiating and allegedly working with the Plaintiff to finalize and ultimately implement the terms of said Mutende loan agreement, the Plaintiff states and the fact is that the Defendants, in its capacity as the Plaintiff's senior lender were clearly, expressly and impliedly bound by certain ongoing fiduciary obligations towards the Plaintiff (the "Defendants Fiduciary Duties and Obligations"), including without limitation:
- a) A duty to act in good faith at all times;
 - b) Duty to provide full transparency of all matters relating to steps being taken by the Defendants to facilitate and finalize the loan in order to meet the Plaintiff's closing requirements, including all deadlines imposed by the 801-7th Ave Owners;
 - c) Duty not to communicate with the 801-7th Ave Owners or their representatives while ongoing negotiations were taking place with the Plaintiff and/ or during that period of time that Plaintiff/Defendants Agreement (including the NDA) was in full force and effect;
 - d) Given that the Defendants had previously attempted to purchase Tower 37 and were therefore familiar with its owners, and were also involved with some or all of the 801 – 7th Ave Owners on other personal, business and/or charitable projects, they had a duty to have disclosed any potential conflicts of interest to the Plaintiff and then made all appropriate arrangements to ensure that they completely recused themselves from having any contact with those specific individuals and exchanged no communications with those individuals or their representatives;
 - e) Duty not to circumvent or in any way interfere with the Plaintiff's dealings with the 801-7th Ave Owners and their representatives including but without in any manner limiting the generality of the foregoing, make any attempt to negotiate a purchase of Tower 37 directly from the 801-7th Ave SW Owners;

- f) Duty to have taken such steps as were legally required to terminate the Plaintiff/Defendants Agreement and the NDA before commencing any negotiations with the 801- 7th Ave Owners including but without limitation, negotiating a mutually acceptable compensation package for the Plaintiff or offering the Plaintiff a right to participate in said purchase;
- g) As part of their duty to act in good faith, a duty not to deceive the Plaintiff into believing that it was still acting and operating in good faith with the Plaintiff to complete the terms of the Mutende Loan Agreement and the Plaintiff/Defendants Agreement when in fact, the Defendants were actually doing the exact opposite by circumventing its agreements with the Plaintiff and negotiating and contracting directly with the 801-7th Ave Owners;
- h) As part of their duty to act in good faith in compliance upon their previous representations and warranties to the Plaintiff to the effect that given their previous knowledge of all aspects of Tower 37 and their previous vetting of the Plaintiff and its business activities, that the approval process for the financing would be simplified and expedited;
- i) Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial.

C. RESULTANT EFFECT ON THE PLAINTIFF/PARTICULARS OF THE DEFENDANTS' BREACHES AND MISREPRESENTATIONS of the PLAINTIFF/DEFENDANTS AGREEMENT, THE NDA AND THE DEFENDANTS' FIDUCIARY DUTIES and OBLIGATIONS:

- 92. By its actions, conduct, agreements and communications as hereinbefore described, the Plaintiff states and the fact is that the Defendants and each of them jointly and severally:
 - a) materially, substantially and intentionally breached the terms of the Plaintiff/Defendants Agreement;
 - b) materially, substantially and intentionally breached the terms of the NDA and the Defendant Loan Agreement; and
 - c) willfully, negligently or intentionally made numerous, ongoing and fundamental misrepresentations to the Plaintiff or willfully, negligently or intentionally failed to disclose material information or omitted to provide certain material information to the Plaintiff;
 - d) significantly breached or failed to abide by the Defendants Fiduciary Duties and Obligations;
- 93. The Plaintiff states and the fact is that the said breaches, misrepresentations and material omissions, and failure to abide by said Defendants Fiduciary Duties and Obligations are based on:
 - a) those facts set out in Section "B" of this Statement of Claim as set out above;
 - b) the terms of the Plaintiff/Defendants Agreement;
 - c) the terms of the NDA;
 - d) the Defendant's Tower 37 Purchase;

- e) the Defendants Fiduciary Duties and Obligations as hereinbefore set out; and
- f) such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial,

and as a result thereof, it has incurred substantial damages and has had its business reputation significantly and negatively impacted, thereby prejudicing its ability to proceed with similar types of project developments in the future and is therefore entitled to legal and equitable relief jointly and severally against all of the Defendants, including substantial punitive damages from the Defendants all as set out in Sections "F" and "G" below;

94. Particulars of the Defendants' illegal conduct and misrepresentations include, but are not limited to the following:

a) Substantial and material breaches of the NDA:

- (i) The Defendants are in breach of, without limitation, paragraphs 6, 12(a) and 12(b) of the NDA;
- (ii) In accordance therewith, the Defendants illegally and improperly utilized the CBJ Confidential Information (as therein defined) for their own benefit in:
 - aa. securing the purchase of Tower 37 pursuant to the Defendants Tower 37 Purchase;
 - bb. purchasing Tower 37 at a purchase price substantially lower than the 55 Million Dollar purchase price that had been verbally agreed upon between the Plaintiff (on behalf of the Plaintiff and the Defendants pursuant to the Plaintiff/Defendants Agreement) and the 801-7th Ave Owners;
 - cc. incorporating some or all of the Plaintiff's Tower 37 Unique Concept into its redevelopment of Tower 37;
 - dd. such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial;

b) Substantive and material breaches of the Defendant Loan Agreement:

- (i) Failed to accept the Plaintiff's confirmations that it had received sufficient equity contributions to satisfy the terms of the Defendant Loan Agreement;
- (ii) Demanding that the Plaintiff advance \$50,000 to the Tory's law firm to cover the Defendants' alleged "legal" expenses without refunding all or a significant portion thereof when it became clear to the Plaintiff that the actual value of the legal services provided by Tory's on matters relating to the Joint Project and the Plaintiff/Defendants Agreement was worth substantially less than \$50,000;
- (iii) In breach of the intent of the Defendant Loan Agreement coupled with the language therein, the Mutende Loan Agreement presented to the Plaintiff on July 4, 2022 was complex, included several onerous pre-conditions and due diligence

requirements, obligated the Plaintiff to incur substantial upfront costs before funding and included several "out" provisions that would unilaterally enable the Defendants to terminate the potential debt financing at its option regardless of compliance by the Plaintiff with its terms and pre-conditions;

(iv) Failure to have:

- aa. accepted or even seriously considered the business agreement it had entered into and reduced into writing with Joe Bressi on behalf of Global Financial Services (the "Global Agreement") and failed to accept proof submitted by the Plaintiff to the Defendants that in conjunction with said Global Agreement, it had secured the necessary 20 Million Deposit and provided proof thereof to the Plaintiff and its counsel who independently verified the availability of said funds;
- bb. accepted the proposed financing to be secured against the leasehold interest of three floors of Tower 37, notwithstanding the fact that said financing would in no way have impacted or impaired the first charge security over the freehold title(s) to Tower 37 that was required as security for the Mutende Loan; and
- cc. accepted or even seriously considered any of the Plaintiff's other financing / equity options as listed in paragraph 64 above;
- dd. such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial;

c) Substantial and material breaches of other provisions of the Plaintiff/Defendants Agreement:

- (i) The Defendants jointly and severally, substantially and materially breached the Plaintiff/Defendants Agreement by, without limitation:
 - aa. Despite its initial representations and warranties to the contrary, making the approval and unconditional commitment for the debt financing through Mutende unnecessarily restrictive and delaying approval thereof, thereby preventing the Plaintiff from finalizing either the Extended PSA or a new verbal agreement with the 801 – 7th Ave Owners to purchase Tower 37 at a reduced price and forcing the Plaintiff to expend considerable resources in an attempt to satisfy the Defendants that it had raised the 20 Million Dollars in equity funding and alternate or back-up debt financing;
 - bb. Dealing/negotiating with the 801-7th Ave Owners and their representatives for the purchase of Tower 37 without advising, involving or including the Plaintiff, or without entering into a mutual termination of the Plaintiff/Defendants Agreement with compensation payable to the Plaintiff;
 - cc. Unilaterally purchasing Tower 37 (pursuant to the Defendants Tower 37 Purchase) without the Plaintiff's prior knowledge or participation;

dd. Such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial.

d) Intentionally or Grossly Negligent Misrepresentations:

- (i) By virtue of their written and verbal communications coupled with their actions as described above vis a vis the Plaintiff, the Defendants:
 - aa. intentionally, improperly or in a grossly negligent manner made a number of misrepresentations to the Plaintiff; and
 - bb. intentionally, improperly or in a grossly negligent manner failed to disclose material information to the Plaintiff;
 - cc. knew or should have known that the Plaintiff would be relying upon such misrepresentations and/or material omissions and which the Plaintiff in fact relied upon to its significant detriment.
- (ii) Particulars of said misrepresentations and material omissions include, without limitation, the Defendants willful, intentional or grossly negligent communications and actions that:
 - aa. The Defendants would only seek and be awarded an equity position in Tower 37 as an "equity participation bonus" for being the primary lender in the Plaintiff's acquisition of Tower 37, which provided significantly higher returns than a conventional loan arrangement, in accordance with and pursuant to the terms of the Plaintiff/Defendants Agreement;
 - bb. In exchange for a 20% equity position in the ownership of Tower 37 and the right to 20% of the Net Revenue from operations and Net Profit from the sale of floors in Tower 37, the Defendants would, without unnecessary or overly stringent pre-conditions, provide in full all debt financing required to both complete the purchase of Tower 37 and the redevelopment of Tower 37 in accordance with the Plaintiff's Tower 37 Unique Concept and at their option contribute or "top off" a portion of the equity investment required to complete the purchase and redevelopment of Tower 37 to satisfy 801-7th Ave Owners and their down payment pre-condition;
 - cc. Written communications coupled with ongoing verbal communications between some or all of the Defendants and the Plaintiff, particularly in October 2022, to the effect that the Defendants were totally committed to the terms of the Plaintiff/Defendants Agreement and were acting in accordance therewith;
 - dd. By not communicating with the Plaintiff from and after Oct 13, 2022 to and including January 18, 2023 (or at any time previously) that it was negotiating a purchase of Tower 37 with the 801-7th Ave Owners and their representatives, and had in fact purchased Tower 37, lead the Plaintiff to believe that the Defendants were in full compliance with the terms of the Plaintiff/Defendants Agreement including the NDA both of which remained in full force and effect;

ee. By its actions and/or lack of any communication (except a non-substantive communication sent to the Plaintiff in late Dec 2022) to the Plaintiff between October 2022 and January 2023, causing the Plaintiff to reasonably assume that the Defendants continued to be committed to the terms of the Plaintiff/Defendants Agreement and were fully supportive of:

- the Plaintiff's efforts to finalize its negotiations with the 801-7th Ave Owners for the purchase of Tower 37 at a favorable purchase price; and
- providing the necessary debt financing (and supplement or "top up" of equity contributions if required) to finalize whatever final agreement was made between the 801-7th Ave Owners and the Plaintiff for the purchase and redevelopment of Tower 37, when in fact it had or was in the process of completing the Defendants Tower 37 Purchase.

e) Breaches of the Defendants Fiduciary Duties and Obligations as per the terms of the Plaintiff/Defendants Agreement including the NDA and the Defendants Loan Agreement;

95. The Plaintiff relies upon those items set out in paragraph 94 (a) – (d) above to support its position that the Defendants breached their ongoing fiduciary duties and obligations to the Plaintiff as specifically itemized in paragraph 91 above.

f) Such further and other particulars of the Defendants' breaches of the Plaintiff/Defendants Agreement, the NDA, the Defendants Loan Agreement and the Defendants Fiduciary Duties and Obligations as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial.

96. As a result of the aforescribed substantive breaches and misrepresentation, the Plaintiff states and the fact is that it has the following legal and equitable causes of action against the Defendants as detailed in Section "E" below.

D. THE PLAINTIFF'S CAUSES OF ACTION

97. The Plaintiff relies upon and pleads those causes of action described in this section of the Statement of Claim plus such further and other causes of action it will present to the Court at trial, to support its position in law and in equity that it is entitled to those damages set out in Section "F" below plus all such further and other remedies as set out in Section "G" of this Statement of Claim.

(i). Fraud/Deceit and Willful Misconduct by the Defendants against the Plaintiff

98. The actions of the Defendants in intentionally and deliberately deceiving the Plaintiff by failing to disclose that they were negotiating and then purchasing Tower 37 from the 801-7th Ave Owners pursuant to the Defendants Tower 37 Purchase at a purchase price substantially lower than the 55

Million Dollar purchase price that the Plaintiff had verbally agreed upon (on a "without prejudice" basis) with the 801-7th Ave Owners were carried out in a deliberately fraudulent and deceitful manner as detailed in Section "B" above.

99. Specifically, but without limiting the generality of the foregoing, by acting and conducting themselves in this fraudulent and deceitful manner, the Defendants knew or should reasonably have known that they would:
- a) deprive the Plaintiff of any right or opportunity to purchase Tower 37;
 - b) cause the Plaintiff to incur significant losses including the Plaintiff's Out of Pocket Disbursements (as detailed in Section "F") including 1.5 Million Dollars in released (unrecoverable) Deposits to the 801-7th Ave Owners and other portions of the Deposit it expended as part of its efforts to purchase Tower 37 pursuant to the Plaintiff/Defendants Agreement;
 - c) cause the Plaintiff to incur significant anticipatory losses in Net Revenue and Net Profit as more particularly described in Section "F" below;
 - d) otherwise harm the Plaintiff's ongoing business reputation in its business operation in the Calgary business community, with the City of Calgary and the Province of Alberta and with all potential and actual investment parties with whom the Plaintiff had associated or contracted with as part of the Joint Project.;
 - e) breach the Defendants' fiduciary Duties and Obligations;
100. As a result of such indisputable intentional fraudulent / deceitful and willful misconduct by the Defendants towards the Plaintiff, particulars of which have been previously set out in this Statement of Claim, the Plaintiff states and the fact is that it is entitled not only to the damages set out in Section "F" below but is also entitled to a payment of substantial punitive damages jointly and severally from the Defendants.

(ii). Constructive Trust/ Residual Claimant

101. Pursuant to the terms of the Plaintiff/Defendants Agreement and the Defendants Fiduciary Duties and Obligations, the Plaintiff takes the position that:
- a) in purchasing Tower 37 pursuant to the Defendants Tower 37 Purchase; and
 - b) as a result of the breach by the Defendants of the specific terms and conditions of the Plaintiff/Defendants Agreement as hereinbefore set out,
- the Defendants are or should be deemed by this Court to be holding as constructive trustee for and on behalf of the Plaintiff as residual claimant/beneficiary an equity ownership interest in Tower 37 in such amount or percentage as may be determined by the Court at trial;
102. In the alternative to paragraph 101 above, the Plaintiff states and the fact is that it is entitled to a declaration that it is entitled to an ongoing specific percentage of all Net Revenue and Net Profit

(as hereinafter defined) generated (or to be generated) from Tower 37 and that the Defendants hold said interest or percentage of Net Revenue and Net Profit as constructive trustee for and on behalf of the Plaintiff as residual claimant/ beneficiary;

103. The Plaintiff further states that the actual percentage of the equity ownership or percentage of Net Revenue and Net Profit should be determined by the Court at trial taking into account the terms of the Plaintiff/Defendants Agreement and all such further and other factors as the Court deems relevant, appropriate and applicable in the circumstances.

(iii). Unjust Enrichment

104. The Plaintiff states and the fact is that by their joint and several actions in purchasing Tower 37 pursuant to the Defendants Tower 37 Purchase, the Defendants have been unjustly enriched at the expense of the Plaintiff.
105. Specifically, but without limitation:
- a) The Defendants received a benefit as a result of acquiring One Hundred (100%) legal and equitable ownership in Tower 37 and the entitlement to One Hundred (100%) per cent of all Net Revenue and Net Profit from all sources related to the ownership and operation of Tower 37, notwithstanding the Plaintiff/Defendants Agreement, of which the Plaintiff should have been entitled to 80% thereof;
 - b) The Plaintiff has and will continue to incur and suffer a corresponding loss both of its entitlement to its share of the legal ownership in Tower 37 and its share of the Net Revenue and Net Profit relating thereto;
 - c) There are no legal or juristic reasons for either the Defendants to have obtained those benefits set out in (a) above nor for the Plaintiff to have incurred or to incur the losses set out in (b) above;
 - d) Accordingly, any such portion of ownership, Net Revenue and/or Net Profit in the name of or otherwise claimed by the Defendants that is determined by the Court as due and owing to the Plaintiff shall be deemed to be held by the Defendants as constructive trustee for and on behalf of the Plaintiff.

(iv). Equitable Proprietary Claim/ Knowing Receipt/Tracing

106. The Plaintiff takes the position that if the Court determines that the Defendants are holding a percentage of the legal and equitable ownership of Tower 37 in a constructive trust for and on behalf of the Plaintiff or are otherwise accountable in law or equity to the Plaintiff for a portion of the Net Revenue and Net Profit on all funds generated from Tower 37, it follows that the Plaintiff shall be deemed to have a proprietary ownership claim in Tower 37 in such amount as determined by this Court together with a corresponding proprietary claim to all Net Revenue and Net Profit .

107. In conjunction with the above, the Plaintiff shall be entitled to the equitable right and remedy to “trace” the receipt of all Net Revenue, Net Profit and other benefits from Tower 37 received by any of the Defendants to the date of trial together with a direction from the Court requiring the Defendants to provide:
- a) a full and complete accounting of all funds (including all Net Revenue and Net Profit) received or due and owing from all sources in any manner related to their purchase and operation of Tower 37 from the date of acquisition to the date of trial; and
 - b) where and to whom those funds were paid,
- together with an Order of this Court directing the recipient(s) or potential recipients or payors of all such funds to forthwith deliver up said funds to the Plaintiff or as otherwise directed by the Court;

(v). Intentional Tortious Interference with Contractual Relations and Inducing Breach of Contract

108. The Plaintiff states and the fact is that as a result of the Defendants purchase of Tower 37 pursuant to the Defendants Tower 37 Purchase, each Defendant is jointly and severally liable to the Plaintiff for damages arising from their tortious interference with the Extended PSA and/or the verbal agreement that the Plaintiff had entered into with the 801-7th Ave Owners for the Plaintiff to purchase Tower 37 in accordance with the terms of the Plaintiff/Defendants Agreement and the Defendants Fiduciary Duties and Obligations;
109. Specifically, but without limitation:
- a) As previously alleged, the closing date of the PSA had been verbally extended as per the Extended PSA;
 - b) In the alternative to (a) above, the Plaintiff had negotiated a “Without Prejudice” verbal agreement with the 801-7th Ave Owners to purchase Tower 37 at a purchase price of \$55 Million dollars and had advised the Defendants at that time that the 801-7th Ave Owners were highly motivated to sell and wanted to sell quickly;
 - c) At all times material hereto, the Defendants were fully informed of the information related to both (a) and (b) above;
 - d) The Defendants intentionally and improperly interfered with both scenarios set out in both (a) and (b) above by going behind the back of the Plaintiff and purchasing Tower 37 from the 801-7th Ave Owners pursuant to the Defendants Tower 37 Purchase without informing the Plaintiff, terminating the Plaintiff/Defendants Agreement or paying any form of agreed upon compensation to the Plaintiff;
 - e) By their actions in:

- circumventing the Plaintiff/Defendants Agreement, the NDA and the Defendants Fiduciary Duties and Obligations as previously set out in this Statement of Claim;
- refusing to accept the Global Agreement as proof that it had obtained the necessary 20 Million Dollar equity amount to finalize the Mutende Loan agreement or any of the other forms of equity participation as set out in paragraph 64 above; and
- such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial

the Defendants prevented the Plaintiff from formalizing the purchase agreement with the 801-7th Ave Owners referred to in (b) above;

- f) The Plaintiff has accordingly suffered significant damages and loss as a result of such interference and has also had its business reputation negatively impacted with other lenders and third parties in the industry, the effect of which will continue to cause the Plaintiff significant hardship, losses and potential both short and long term damages;

110. Full particulars of the aforescribed interference shall, in addition to the information previously set out in this Statement of Claim, be provided to the Defendants prior to trial and proven before this Court at trial.

(vi) Intentional interference with the Plaintiff's prospective economic advantage

111. In the alternative to the cause of action set out in section (v) above, the Plaintiff states and the fact is that the Defendants, as a third party, illegally and improperly interfered with its business relationship or expected business transaction with the 801-7th Ave Owners thereby making each Defendant jointly and severally liable to the Plaintiff for the Plaintiff's damage claims as set out in Section "F" below.

112. Specifically, but without limitation:

- a) The Plaintiff had a clearly established business relationship with the 801-7th Ave Owners;
- b) Said business relationship was reasonably likely to provide substantial financial benefit to the Plaintiff in the form of Net Revenue and Net Profit based on the financial projections which formed part of the Plaintiff's Tower 37 Unique Concept and the PSA Extension or its without prejudice verbal agreement with the 801-7th Ave Owners;
- c) The Defendants knew about and actively supported the relationship between the Plaintiff and the 801-7th Ave Owners which was a fundamental aspect of the Plaintiff/Defendants Agreement;
- d) The Defendants intentionally and improperly interfered with said business relationship by unilaterally and without mutual agreement or the payment or negotiation of compensation to the Plaintiff, terminating the Plaintiff/Defendants Agreement, breaching the Defendants

Fiduciary Duties and Obligations and failing to involve the Plaintiff as an equity participant in the purchase of Tower 37 pursuant to the Defendants Tower 37 Purchase;

- e) in approaching, negotiating and ultimately purchasing Tower 37 from the 801-7th Ave Owners pursuant to the Defendants Tower 37 Purchase, the Defendants' conduct and actions caused the 801-7th Ave Owners to terminate their business relationship with the Plaintiff, thereby resulting in the Plaintiff incurring substantial actual losses including the Plaintiff's Out of Pocket Expenditures as well as anticipatory damages from Net Revenue and Net Profit it would otherwise have received had the Plaintiff and the Defendants finalized the purchase of Tower 37 pursuant to the Plaintiff/Defendants Agreement;
113. The Plaintiff has also suffered significant damages and loss as a result of such interference by virtue of the fact that its business reputation and standing in this industry has been significantly negatively impacted with other lenders and third parties, the effect of which will continue to cause the Plaintiff ongoing significant losses and damages;
114. Therefore, In addition to the actual losses and the anticipatory damages from Net Revenue and Net Profit, the actions of the Defendants in the intentional and improper interference referred to in this Cause of Action and in the Cause of Action set out in paragraphs 109-111 above entitle the Plaintiff to significant damages including damages both for loss of business reputation and punitive damages jointly and severally from the Defendants, in such additional amounts as may be determined by the Court;

(vii) Self-Dealing

115. The Plaintiff further states and the fact is that by virtue of the Defendants' unilateral breach and termination of the Plaintiff/Defendants Agreement and breach of the Defendants Fiduciary Duties and Obligations, the Defendants are jointly and severally liable to the Plaintiff as a result of their illegal and improper self-dealing with the 801-7th Ave Owners.
116. Specifically:
- a) While a party to the Plaintiff/Defendants Agreement and as a result of the ongoing business relationship between the Defendants and the Plaintiff, the Defendants were or should be deemed to be fiduciaries to and in favor of the Plaintiff;
 - b) As fiduciaries, the Defendants had certain legal, ethical and moral obligations to and in favor of the Plaintiff including the Defendants Fiduciary Duties and Obligations;
 - c) One of those fiduciary obligations was a duty not to place themselves in a position whereby their actions, deliberate or otherwise, would have the effect of inappropriately enriching themselves at the expense of the Plaintiff or at the expense of the mutual rights of the Plaintiff and the Defendants in the Plaintiff/Defendants Agreement;
 - d) By unilaterally negotiating and then purchasing Tower 37 pursuant to the Defendants Tower 37 Purchase, particularly at a purchase price substantially below the Extended PSA price of 65 Million Dollars or the 55 Million Dollar purchase price that formed the basis of the verbal

agreement and understanding between the Plaintiff and the 801-7th Ave Owners, the Defendants deliberately and intentionally enriched themselves at the expense of the Plaintiff not only for the difference between the purchase price they paid for Tower 37 and either \$65 Million Dollars or \$55 Million Dollars but also for the Plaintiff's share of lost equity ownership, Net Revenue and Net Profit.

(viii) Civil Conspiracy

117. In the alternative to those causes of action set out in (i) – (vii) above, the Plaintiff states and the fact is that it is entitled to damages and other relief from the Defendants based on the tort of Civil Conspiracy.
118. Specifically, given the circumstances of the Plaintiff/Defendants Agreement, the Defendants Fiduciary Duties and Obligations and the ongoing business relationship between the Plaintiff and the Defendants, the Defendants by initially negotiating and ultimately completing the Defendants Tower 37 Purchase without involving or informing the Plaintiff, whether or not the predominant purpose of said actions were designed to cause financial or economic injury to the Plaintiff, the Defendants knew or should (through the concept of constructive intent) have known that the Plaintiff would incur significant economic and financial damage and losses resulting from those actions;
119. The Plaintiff states and the fact is that this specific cause of action arises regardless of whether or not the Defendants' conduct is entering into the Defendants Tower 37 Purchase was illegal or not on the basis that the Defendant knew or should have known in the circumstances that such conduct was likely to and would result in the Plaintiff incurring significant losses and damages.

(ix) Conflict of Interest

120. While a party to the Plaintiff/Defendants Agreement and as a result of the ongoing business relationship between the Defendants and the Plaintiff, the Defendants were or should be deemed to be fiduciaries to and in favor of the Plaintiff;
121. As fiduciaries, the Defendants had certain legal, ethical and moral obligations to and in favor of the Plaintiff as previously specifically set out and identified as the "Defendants Fiduciary Duties and Obligations" in paragraph 91;
122. One of those obligations was a duty not to place themselves in a position whereby their actions, deliberate or otherwise, would have the effect of placing all or any of the Defendants in a conflict of interest position.
123. The Plaintiff's determined "after the fact" that the Defendants and certain owners of Tower 37 had an ongoing personal and business relationship both before and during the time that the Plaintiff/Defendants Agreement was in full force and effect.

124. At no time did the Defendants disclose this potential conflict of interest to the Plaintiff nor make any specific covenants with the Plaintiff that they would not place any of the Defendants in a conflict of interest position on matters relating to the purchase of Tower 37 pursuant to the Plaintiff/Defendants Agreement.
125. Specifically, but without limitation, as fiduciaries of the Plaintiff, the Defendants:
- a) should not have had any contact or communications with any of the 801-7th Ave Owners without either involving the Plaintiff or without the prior knowledge and consent of the Plaintiff;
 - b) should not have divulged to the 801 7th Ave Owners any information regarding the terms of the Plaintiff/ Defendants Agreement including matters relating to the anticipated financing of the Joint Project or details of the Plaintiffs Tower 37 Unique Concept;
 - c) should not have negotiated the purchase of Tower 37 pursuant to the Defendants Tower 37 Purchase without first informing and obtaining the Plaintiff's consent, mutually terminating the Plaintiff/Defendants Agreement and agreeing to compensate the Plaintiff as mutually agreed between the parties;
 - d) given that it had full access to all of the information that the Plaintiff had provided to the Defendants as outlined in paragraph 45 above, should not have retained Torys as their lawyer to represent them on the Defendants Tower 37 Purchase which created an automatic conflict of interest situation;
 - e) should have required that any of the 801-7th Ave Owners who had a personal or business relationship with Ian or Andrew, including but without limitation Joe Kiely and Marc Sardachuk, exclude themselves from either meeting with the Plaintiff or obtaining any information regarding the ongoing negotiations between the Plaintiff and the remaining 801-7th Ave SW Owners;
 - f) such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before this Court at trial.
126. Notwithstanding their status as fiduciaries of the Plaintiff and therefore subject to those equitable restrictions as set out in paragraph 125 above, the Plaintiff states that the Defendants breached some or all of those equitable restrictions by:
- a) failing to disclose to the Plaintiff at any time between June 2022 and January 2023 the conflict of interest or potential conflict of interest between themselves and the 801-7th Ave Owners or provide any form of representation or warranty to the Plaintiff that they would not have any direct or indirect contact or communications of any type or kind with the 801-7th Ave Owners whatsoever relating to the Joint Project, Tower 37 or the Plaintiff/Defendants Agreement;
 - b) providing the 801-7th Ave Owners with some or all of the following information:

- (i) some or all of the details of the Plaintiffs implementation of the Plaintiffs Tower 37 Unique Concept and its plans to implement same;
- (ii) some or all of the details of the Plaintiff/Defendants Agreement;
- (iii) status from time to time of the Plaintiff's efforts to obtain the down payment and financing to complete the purchase of Tower 37;
- (iv) the existence of the CBJ Litigation;
- (v) the Plaintiff/Defendants' strategy to negotiate a lower purchase price for Tower 37;
- (vi) disparaging the Plaintiff and its directors and leading the 801- 7th Ave Owners to believe that the Plaintiff did not have the ability or resources to ever close on the purchase of Tower 37;
- (vii) such further and other particulars as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial.

127. As a result of the breach of the Defendants Fiduciary Duties and Obligations and by:

- a) placing themselves in a clear and unequivocal conflict of interest position with the 801-7th Ave Owners so far as it affected the Plaintiff as a party to the Plaintiff/Defendants Agreement; and
- b) taking advantage of their ongoing personal and business relationship with some or all of the 801-7th Ave Owners to have facilitated the purchase of Tower 37 pursuant to the Defendants Tower 37 Purchase, which was substantially lower than 65 or 55 Million Dollars,

the Plaintiff incurred significant damages and losses, particulars of which are set out in Section "F" below.

128. Further, because of the intentionally willful misconduct and blatant disregard for the terms of the Plaintiff/Defendants Agreement and the Defendants Fiduciary Duties and Obligations to the Plaintiff as aforescribed, the Plaintiff states and the fact is that the Court should impose additional pecuniary damages jointly and severally against the Defendants.

(x). Other Causes of Actions

129. The Plaintiff reserves the right to raise additional causes of actions as part of its Claim against the Defendants and shall provide full particulars thereof to the Defendants prior to trial and prove same before the Court at trial.

E. PLAINTIFF'S DAMAGES

(i) Out of Pocket Expenditures

130. The Plaintiff has to date expended considerable amounts in out of pocket expenses and payment on matters relating to the Tower 37 Purchase as part of the Plaintiff/Defendants Agreement (the "Plaintiff's Out of Pocket Expenditures") and claims repayment of same jointly and severally from the Defendants.
131. The Plaintiff's Out of Pocket Expenditures consist of, but are not limited to:
- a) Deposits paid and released by CBJ to the 801-7th Ave Owners as previously described in this Statement of Claim;
 - b) Non-refundable deposits and other payments paid to various lenders, brokers and their representatives for securing equity investment and debt financing;
 - c) \$50,000 paid to the Tory's law firm as retainer pursuant to the requirement set out in the Defendants Loan Offer;
 - d) Legal fees and disbursements paid to the Plaintiff's legal advisors, consultants and lawyers for all matter relating to Tower 37, including but not limited to the PSA, verbal arrangements with the 801-7th Ave Owners and their representatives, dealings with the Defendants, the CBJ Litigation, vetting and reviewing various potential equity investments and debt financing proposals, the Ayrshire Litigation, title reviews, analysis of the CNOOC Litigation, all dealings with the City of Calgary and all other related matters;
 - e) Plaintiff expenses relating to the physical vetting and inspection of Tower 37 and its various building operating systems, exterior and interior structure, parkade roof, access points, asbestos and other potential environmental hazards together with expenses relating to vetting of the Tower 37 Lands and adjoining lands;
 - f) Plaintiff expenses involved in the management, administration, cost of employees, consultants, travel and other related expenses and other professional fees including accounting, architectural, survey, and appraisal related in any manner to those matters set out above;
 - g) Plaintiff's costs and expenses relating to the preparation of the Plaintiffs Tower 37 Unique Concept including the preparation of all material (hard copy, digital, photo, digital and otherwise) relating to:
 - sales and marketing material and the circulation thereof; and
 - all communications, meetings and interactions with the City of Calgary regarding subdivision/ strata title conversion, office building conversion grants and funding programs available from the City of Calgary, the Province of Alberta and/or the Federal Government;
 - h) Interest charges paid by the Plaintiff to 3rd parties on funds borrowed to cover some or all of the Plaintiff's Out of Pocket Expenses;
 - i) Such further and other out of pocket expenses and paid amounts and disbursements as the Plaintiff shall provide to the Defendants prior to trial and prove before the Court at trial.

132. Full particulars of the Plaintiff's Out of Pocket Expenses shall be provided to the Defendants prior to trial and proven before the Court at trial but as at the date of the filing of this Statement of Claim, the total amount of the Plaintiff's Out of Pocket Expenses is \$ 3,955,872.05.

(ii) Loss of Net Revenue

133. In addition to a claim for repayment of the Plaintiff's Out of Pocket Expenses, the Plaintiff claims damages jointly and severally from the Defendants for lost net revenue relating to Tower 37 resulting from the Defendants' breaches as described in Section "D" above as follows:
- a) Net revenue from leasing up to 7,156 sf of office space in the North Annex Building. Assuming \$22/sf triple net going market rate and 7,156 sf of leased space, this equates to \$157,432 annually or \$314,864 over a 2 year period;
 - b) Net revenue from leasing 4,540 sf of space on the first two floors of Tower 37 for retail use. Assuming \$45/sf net going market rate, this equates to \$204,300 annually or \$408,600 over a 2 year period;
 - c) Net lease revenue from other sources in Tower 37 including lease or use of amenity floors and other floors in Tower 37 temporarily retained for rental purposes, estimated to be approximately \$100,000 annually or \$200,000 over a 2 year period;
 - d) Other rental income or net revenue generated from ongoing operations of Tower 37, particulars of which shall be provided to the Defendants prior to trial and proven before the Court at trial;

all relating to and in accordance with the Plaintiffs Tower 37 Unique Concept and estimated to be in the minimum annual amount of \$461,732;

134. The ongoing net revenue generated from business operations of Tower 37 for those matters set out in paragraph 134 above is collectively referred to throughout this Statement of Claim as "Net Revenue".

(iii) Loss of Net Profit

135. In addition to a claim for repayment of the Plaintiff's Out of Pocket Expenses and Net Revenue, the Plaintiff claims damages jointly and severally from the Defendants for lost profit relating to Tower 37 resulting from the Defendants' breaches as described in Section "D" above particulars of which include the following:
- a) Unit Sales -- sale of up to 31 strata title converted floors in Tower 37;
 - b) Parking Stall Sales;
 - c) Storage Locker Sales;
 - d) Retail Spaces Net Leases & Sales;

e) Other miscellaneous Sales;

136. Pursuant to its detailed projections relating to the net profit to be generated from the aforescribed sales in Tower 37 and based on a \$65 Million Dollar Purchase Price, the Plaintiff had projected total net profits of between \$75.568 Million Dollars and \$90.431 Million Dollars.
137. Full details of these projections and the back-up financial information related thereto had been provided to the Defendants in June 2022 after the NDA was executed by the Defendants as part of the Plaintiffs Tower 37 Unique Concept and shall be provided to the Court prior to trial.
138. Based on an 80% equity ownership in Tower 37, with the Defendants owning the remaining 20% equity ownership interest as per the terms of the Plaintiff/Defendants Agreement, the Plaintiffs portion of the Net Profit ranged between \$60.453 Million Dollars and \$72.34 Million Dollars not including the Rebates as per paragraphs 141-143 below;
139. Based on a lower \$55 Million Dollar purchase price for Tower 37 as per the verbal agreement that had been entered into between the Plaintiff and the 801-7th Ave Owners in September 2022, the Plaintiff's portion of the net profit (as 80% equity owners) is increased and ranged between \$68.45 Million Dollars and \$81.71 Million Dollars;
140. The net profit anticipated to be generated from those items referred to in paragraphs 135-139 above is referred to throughout this Statement of Claim as the "Net Profit".

(iv) City of Calgary Rebates

141. Specific rebates-were available from the City of Calgary for residential conversions of empty downtown office buildings into residential mixed-use buildings in the estimated amount of \$75.00 per square foot for every square foot of space converted for residential or residential live/work uses (the "Rebate");
142. As part of the Joint Project and in accordance with the terms of the Plaintiff/Defendants Agreement, the Plaintiff had made a confidential preliminary application and received preliminary conditional approvals from the City of Calgary which would have qualified the Plaintiff to receive the Rebate.
143. Based on 465,000 square feet of converted residential space in Tower 37 as per the Plaintiffs Unique Tower 37 Concept, the Rebate would have been \$34.875 Million Dollars. Assuming 80% equity ownership, the Plaintiffs portion would have been \$27.9 Million Dollars which the Plaintiff would have used as reimbursement of all or a portion of its down payment for the purchase of Tower 37 and/or to pay down a portion of the financing it was acquiring from the Defendants.
144. Accordingly, the Plaintiff claims damages jointly and severally from the Defendants for lost Net Profit in such amount as may be awarded by the Court for loss of the Rebate;

F. SUMMARY OF REMEDIES SOUGHT BY THE PLAINTIFF JOINTLY AND SEVERALLY AGAINST ALL OF THE DEFENDANTS:

145. Damages jointly and severally against the Defendants for the full amount of the Plaintiffs Out of Pocket Expenditures in the amount of \$3,955,872.05 plus such further and other amounts as the Plaintiff shall prove to the Court at trial;
146. Damages jointly and severally against the Defendants for the Plaintiff's share of the Net Revenue projected over the first two years of ownership of Tower 37 in the minimum amount of \$923,464 or in such further or other amount as may be determined by this Court;
147. Damages jointly and severally against the Defendants for the Plaintiff's share of the Net Profit in such amount as may be determined by this Court in the minimum amount of \$60.453 Million Dollars;
148. Damages jointly and severally against the Defendants for the Rebates in such amount as may be determined by this Court in the minimum amount of \$27.9 Million Dollars;
149. Damages jointly and severally against the Defendants for loss of business and business reputation in such amount as may be determined by this Court;
150. Punitive Damages jointly and severally against all Defendants in the minimum amount of \$1 Million Dollars or such further or other amount as may be awarded by this Court;
151. Judgment in the form of a Declaration from the Court that the Defendants are joint and several Constructive Trustees for and on behalf of the Plaintiff for an 80% equity ownership in Tower 37 or in such further or other proportion or percentage as shall be determined by this Court at trial;
152. A further judgment in the form of a Declaration from the Court that the Defendants are joint and several Constructive Trustees for and on behalf of the Plaintiff for such percentage of the Net Revenue, the Net Profit and the Rebates as shall be determined by this Court at trial;
153. All necessary Orders from this Court which require the Defendants to provide a full accounting of all Net Revenue and Net Profit they hold or will hold as constructive trustees for and on behalf of the Plaintiff in any manner relating to Tower 37 as determined by this Court together with "Tracing Orders" and "Attachment Orders" which direct the Defendants and all affected 3rd party recipients of all or any portion of said Net Revenue, Net Profit or Rebates from the Defendants to forthwith deliver up and pay said amounts to the Plaintiff or in such other manner as may be determined by this Court;
154. Approving the retaining of a Certificate of Lis Pendens to be registered against title to the Tower 37 Lands for and on behalf of the Plaintiff;
155. Such further and other Orders or Interim Orders and this Honorable Court deems necessary, appropriate or equitable in the circumstances;
156. Costs in favor of the Plaintiff on a full indemnity basis, including payment of all of the Plaintiff's consultant, legal fees and disbursements incurred by the Plaintiff in this Action on a solicitor and client basis;

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of KING's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.

APPENDIX "I"

Paliare Roland

Jeffrey Larry
Paliare Roland Rosenberg Rothstein LLP
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

jeff.larry@paliareroland.com
T. 416.646.4330 / F. 416.646.4301

File # 102026

February 28, 2025

VIA EMAIL:

kimberleyz@cbjdevelopments.com

Kimberley Zacharias
CBJ Developments Inc.
100 Carr Crescent, Okotoks, AB
T1S 1E2

Ms. Zacharias:

Re: CBJ Development Inc. v. Ursataur Capital Management L.P. et al. (Court File No. 2401-18658)

I am counsel to TDB Restructuring Limited (the “**Receiver**”) in its role as receiver of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc. and CBJ Developments Inc. (collectively, the “**Debtors**”).

On February 24, 2025, I became aware that CBJ Developments Inc. commenced an action against Andrew Cockwell, Ian Cockwell, Mutende Equities Ltd., and Ursataur Capital Management L.P before the Court of King’s Bench of Alberta, bearing Court File No. Court File No. 2401-18658 (the “**Action**”).

CBJ Developments Inc. commenced the Action without the knowledge or authorization of the Receiver, despite the fact that CBJ Developments Inc. was explicitly prohibited from doing so by the terms of the Order of Justice Penny, dated January 26, 2024, appointing TD Restructuring Limited as Receiver of the Debtors (the “**Order**,” enclosed herewith).

Paragraph 3(a) of the Order provides that the Receiver exercises control over the assets of the Debtors (which assets include any choses in action). Paragraph 3(i) of the Order empowers the Receiver to prosecute proceedings related to the Debtor, to the exclusion of all other persons, including the Debtors themselves and all persons acting on behalf of the Debtors (such as yourself).

The Receiver demands that CBJ Developments Inc., or anyone acting on its behalf, refrain from taking any steps in the Action without the explicit written consent of the Receiver. Any person that refuses to comply with this demand is in violation of the Order, and the Receiver reserves all rights and remedies in connection with the same.

MR171

Paliare Roland

Yours very truly,
Paliare Roland Rosenberg Rothstein LLP

A handwritten signature in blue ink, appearing to read 'Jeffrey Larry', with a stylized flourish at the end.

Jeffrey Larry
JL:RS

Encl.

- c. R. Shah
- B. Tannenbaum
- J. Burrell
- C. Agagnier
- B. Walton

APPENDIX "J"

To Ryan Shan

Thank you for your letter and a copy of the Receivership Order.

At the time that I had arranged for the filing of the Statement of Claim (the "Claim") against Ursatur Capital and others, I do not recall being served with the Receivership Order or otherwise being made aware of the specific provision of the Order that prohibited my commencement of legal proceedings on my own behalf or the other named Plaintiffs.

As you will note from a review of the Claim itself, it is a very extensive document and work had commenced on the preparation of same well before the issuance of the Receivership Order.

I can advise that the only step taken to date has been the filing of the Claim and the concurrent submission of a CLP for registration at Land Titles. The Claim has not been served on any of the Defendants nor have steps been taken as yet to even initiate service.

Pending the outcome of the Receivership or my seeking Court approval to proceed with the Claim, you have my assurance that no further steps will be taken in furtherance of same.

In the meantime, if you would be so kind as to direct me and my team as to the status of the Receivership, whether or not any offers for the land in question have been received and any other current updates, that would be most helpful as we are anxious to take whatever steps may be possible to seek to repay the millions of dollars owed to third parties who were "left at the alter" (so to speak) by individuals who acted illegally and improperly in their dealings with the shares of CBJ-FEH.

APPENDIX "K"



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CHRIS AGAGNIER and CBJ DEVELOPMENTS INC.

Plaintiffs

and

**CBJ-FORT ERIE HILLS INC., FORT ERIE HILLS INC., JEFFREY BURRELL,
RANDY HOFFNER, JOSEPH BRESSI, TRANS GLOBAL PARTNERSHIP,
SALVATORE ROMEO as trustee for the ROMEO FAMILY TRUST, JEFFREY
BURRELL as trustee for the BURRELL FAMILY TRUST, RON BURRELL ELENA
SALVATORE, VICENT SALVATORE JR., JOHN DOE and XYZ CORP.**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$2,500.00 or costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: July 2024

Issued by:.....

Local registrar

Address of Court office:

330 University Avenue, 7th Floor
Toronto M5G 1R7
Fax: (416) 327-6228

TO: **CBJ-FORT ERIE HILLS INC.,**
801 Lawrence Avenue East, Suite Ph5
Toronto, Ontario, M3C 3W2

FORT ERIE HILLS INC.
77 City Centre Drive, Unit 602
Mississauga, Ontario, L5B 1M5

JEFFREY BURRELL
72 Babcombe Drive
Thornhill, Ontario L3T 1N1

RANDY HOFFNER
77 City Centre Drive, Unit 602
Mississauga, Ontario, L5B 1M5

JOSEPH BRESSI
675 Cochrane Drive
6th Floor, East Tower
Markham, Ontario L3R 0B9

TRANS GLOBAL PARTNERSHIP

c/o RANDY HOFFNER

77 City Centre Drive, Unit 602

Mississauga, Ontario, L5B 1M5

SALVATORE ROMEO

947 Blind Creek Drive

Shuniah, Ontario P7A 0C6

RON BURRELL

72 Babcombe Drive

Thornhill, Ontario L3T 1N1

ELENA SALVATORE

801 Lawrence Avenue East, Suite Ph5

Toronto, Ontario, M3C 3W2

VICENT SALVATORE JR.

801 Lawrence Avenue East, Suite Ph5

Toronto, Ontario, M3C 3W2

JOHN DOE

XYZ CORP.

CLAIM

1. The Plaintiff Chris Agagnier (“**Chris**”) claims against CBJ-Fort Erie Hills Inc. (“**FEH**”) and Jeffrey Burrell (“**Jeff**”):

- (a) a declaration that Chris is a “complainant” for the purposes of advancing an oppression claim under section 248 of the *OBCA*;
- (b) relief pursuant to section 248 of the *OBCA* that this Honourable Court deems fit;
- (c) an interim and final declaration pursuant to sections 161(2)(b) and 248 of the *OBCA* that:
 - (i) the business of CBJ-Fort Erie Hills Inc. (“**FEH**”) has been and is being carried on with intent to defraud Chris to affect a result;
 - (ii) the business or affairs of FEH is or has been carried on or conducted, or the powers of Jeff, as one of the former directors of FEH and now by the Defendants Elena Salvatore (“**Elena**”) and the Defendant Vincent Salvatore Jr. (“**Vincent**”), the current directors of FEH, is or has been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of Chris; or
 - (iii) Jeff, a former director of FEH and Elena and Vincent, the current directors of FEH have acted fraudulently or dishonestly;
 - (iv) the acts and omissions of Jeff, Elena and Vincent effected a result;
 - (v) the business and affairs of FEH were carried on or conducted at all material times by Jeff and then by Elena and Vincent in a manner; and
 - (vi) the powers of Jeff, then Elena and Vincent, the former and the current directors of FEH at the time were exercised in a manner, that was oppressive of, unfairly prejudicial to, and that unfairly disregarded the interests of the Plaintiffs;
- (d) an interim and final declaration pursuant to section 161(2)(a) of the *OBCA* that the business of FEH was and is carried on by Jeff and now by Elena and Vincent, the current directors of FEH, with intent to defraud Chris;
- (e) an interim and final declaration that Chris is an aggrieved person as that term is used in section 248(3)(j) of the *OBCA*;
- (f) an order compensating Chris as an aggrieved person;
- (g) an interim order that Chris is at liberty to obtain a certificate of pending litigation in respect of the FEH Lands more particularly described in Schedule A attached hereto;
- (h) an interim injunction preventing the sale of the FEH Lands and the FEH Shares, as defined below;

- (i) an interim order appointing a Monitor over the FEH Lands on such terms and conditions as this Honourable Court shall establish including without limitation, an interim order preventing any further dealings by any party to this Action with the FEH Lands except with the approval of the Monitor and an order relating thereto; and
- (j) an interim order appointing a Receiver Manager over the FEH Lands on such terms and conditions as this Honourable Court shall establish including without limitation, an interim order preventing any further dealings by any party to this Action with the FEH Lands except with the approval of the Receiver Manager and an order relating thereto.

2. Chris claims against all of the Defendants:

- (a) a declaration that the Restated Loan Agreement, the Share Pledge Agreement and the Illegal FEH Land Sale Agreement or Illegal FEH Share Agreement, as defined below, are illegal, null and void, invalid and unenforceable;
- (b) an interim order that all of the issued FEH Shares, as defined below, be forthwith surrendered to the Monitor or the Receiver Manager, once appointed, pending the outcome of the trial of this Action and that no party be entitled to vote or otherwise deal with said FEH Shares without prior order from this Honourable Court;
- (c) damages in the amount of \$25,000,000 for fraud, conspiracy, breach of fiduciary duty and oppression;
- (d) further damages in an amount to be particularized before trial, for damages, lost profits and lost opportunity with respect to the Fort Erie Project (defined below), which is unable to proceed through the real estate development process as a result of the defendants' actions;
- (e) punitive damages in the amount of \$1,000,000;
- (f) orders for restitution, an accounting and disgorgement of all assets, properties and funds belonging to FEH and improperly diverted by or to any of the Defendants or any person, corporation or other entity on such Defendant's behalf;
- (g) a declaration that the Plaintiffs are entitled to trace the assets, properties and funds of FEH into the hands of any of the Defendants, and a declaration that such Defendants hold those assets, properties and funds as constructive trustee for the Plaintiffs;
- (h) a constructive trust and tracing or following order in respect of all assets, properties and funds belonging to the Plaintiffs and improperly diverted by or to any of the Defendants or any person, corporation or entity on such defendant's behalf, and in respect of all the traceable products thereof;
- (i) a declaration the Defendants are jointly and severally responsible to provide full and complete indemnification for and on behalf of Chris for all amounts that he may be obliged to pay to third parties for any amounts due and owing by CBJ or

FEH to third parties that he has guaranteed or is otherwise personally liable to pay;

- (j) prejudgment and post-judgment interest accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (k) costs of this proceeding on a substantial indemnity basis, or alternatively, on a partial indemnity basis; and
- (l) such further and other relief as this Honourable Court may deem just.

3. The Plaintiff CBJ Developments Inc. claims against the Defendant CBJ-Fort Erie Hills Inc.:

- (a) damages in the amount of \$3,000,000 on account of fees and expenses paid in accordance with the Management Agreement, as explained below;
- (b) further damages in an amount to be particularized before trial, for damages, lost profits and lost opportunity with respect to the Fort Erie Project (defined below), which is unable to proceed through the real estate development process as a result of the defendants' actions;
- (c) prejudgment and post-judgment interest at the prime rate quoted by the Royal Bank of Canada plus 2% or in the alternative, in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (d) costs of this proceeding on a substantial indemnity basis, or alternatively, on a partial indemnity basis; and
- (e) such further and other relief as this Honourable Court may deem just.

4. The Plaintiff CBJ Developments Inc. claims against the Defendants Fort Erie Hills Inc., Randy Hoffner and Trans Global Partnership:

- (a) damages in the amount of \$375,000 for repayment of their share of the FEH Remediation Expenses, as defined below;
- (b) prejudgment and post-judgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (c) costs of this proceeding on a full or substantial indemnity basis; and
- (d) such further and other relief as the lawyers for the Plaintiffs may advise or this Honourable Court may deem just.

PARTIES

5. The Plaintiff CBJ Developments Inc. (“**CBJ**”) is an Ontario corporation with its head office located at Ridgeway Ontario.
6. The Plaintiff Chris Agagnier (“**Chris**”), a resident of Ridgeway Ontario.
7. The Defendant CBJ-Fort Erie Hills Inc. (“**FEH**”) is an Ontario corporation with its head office located at Thornhill, Ontario.
8. The Defendant Jeffrey Burrell (“**Jeff**”) is a resident of Thornhill, Ontario. Jeff was a director of CBJ and FEH, and the trustee of the Burrell Family Trust.
9. Chris and Jeff were equal shareholders of CBJ and FEH.
10. The Defendant Trans Global Partnership (“**TGP**”) is a partnership of overseas Japanese investors who collectively were the owners of those lands which form the subject matter of this Action and other lands which comprise the “Land Acquisitions” as hereinafter defined.
11. The Defendant Fort Erie Hills Inc. (“**Hills**”) is an Ontario corporation with its head office located at Burlington Ontario. Hills acted as bare trustee and Canadian agent for TGP.
12. The Defendant Randy Hoffner (“**Randy**”) is a resident of Burlington Ontario. At all material times, Randy was the principal of Hills, and the authorized agent and trustee for TPG.
13. The Defendant Salvatore Romeo (“**Romeo**”) is a resident of Shuniah Ontario and at all material times, Romeo was the trustee for the Romeo Family Trust.
14. The Defendant Joseph Bressi (“**Bressi**”) currently resides in Markham Ontario.
15. The Defendant Elena Salvatore (“**Elena Salvatore**”) resides in the City of Toronto, Ontario.

16. The Defendant Vincent Salvatore Jr. (“**Vincent Salvatore**”) resides in the City of Toronto, Ontario.

17. The Defendant XYZ Corp., is a corporation that has entered into an agreement of purchase and sale to purchase the FEH Lands or the FEH Shares.

18. The Defendant John Doe is the principal of the XYZ Corp. or is the purchaser of the FEH Lands or the FEH Shares.

FACTS

19. On incorporation, Chris and Jeff were appointed the directors of CBJ. Chris and Jeff were each originally issued 50% of the shares of CBJ.

20. In or about December 2023 to January 2024, Jeff advised CBJ that he was relinquishing his duties as director of CBJ and wanted nothing further to do with CBJ effectively leaving Chris as its sole managing director. From and after that date, Jeff has continuously reiterated that position and from that time forward Jeff has been inactive in managing CBJ.

21. Given Jeff’s improper and illegal conduct, as described below, Chris seeks an order pursuant to s. 248(3)(e) of the OBCA removing Jeff as a director of CBJ.

22. Chris and Jeff acquired four parcels of development lands in Fort Erie and Stayner, Ontario (the “**Land Acquisitions**”) from Hills, acting as Canadian agent for TPG, which beneficially owned these lands. To acquire the Land Acquisitions, CBJ purchased one parcel and Chris and Jeff incorporated three special purpose vehicles to purchase the other three properties (the “**CBJ Affiliates**”) including the FEH Lands.

23. All of the shares of the CBJ Affiliates were owned by Chris and Jeff, including the shares of FEH (the “**FEH Shares**”).

24. On November 1, 2021, one of these parcels was acquired by FEH (the “**FEH Lands**”). The FEH Lands consist of eighty-five acres of raw development land located in Fort Erie, Ontario, municipally described as 85 Crooks Street, Fort Erie, Ontario and legally described on Schedule “A” hereto (the “**Fort Erie Project**”).

25. TGP authorized Hills to be its Canadian representative with full authority to represent them on all matters relating to the Land Acquisitions, including the closing of the purchase of the FEH Lands. Randy was the sole director, officer and shareholder of Hills and the trustee for TPG.

26. The other three parcels were purchased using the other special purpose vehicles (including FEH, the “**CBJ Affiliates**”).

27. The main purpose for the structuring of the CBJ Affiliates including FEH was to:

- (a) establish separate legal ownership for each of the Land Acquisitions so as to maximize the potential for return on each investment and minimize potential exposure or liability relating to the ongoing financing and development of each of the four CBJ Land Acquisitions;
- (b) oversee and manage the Land Acquisitions including negotiating the terms of each purchase, securing financing for each purchase and managing and administering the closing for each separate parcel of land, including the FEH Lands;
- (c) on an ongoing basis, manage and administer all aspects of the development of each parcel of land, including obtaining all permitting and rezoning approvals as and when required, infrastructure installation/construction, subdivision and development and all financing from time to time required for each development; and
- (d) ultimately, facilitate the marketing and sale of single and multi-family residential homes to both builders and end users.

28. The original purchase price paid by FEH to Hills (on behalf of TGP) for the FEH Lands was \$15,950,000 plus assumption of an existing first mortgage to 2703738 Ontario Limited on title with an approximate \$600,000 principal balance (the “**First Mortgage**”) less fifty (50%)

per cent of all costs required to remediate the FEH Lands (the “**Remediation Cost**”) and is hereinafter referred to as the “**FEH Purchase Price**”.

29. The total Remediation Cost was \$750,000; therefore, FEH’s share was \$375,000. This amount has never been repaid to CBJ from Hills/TGP and remains due and owing as an outstanding indebtedness owing by them to CBJ plus interest.

30. The FEH Purchase Price was satisfied by:

- (a) \$1,053,000 million borrowed from Jeffrey Burrell as trustee for the “Burrell Family Trust”, which loan was secured by a mortgage registered on November 1, 2021 as instrument number SN698784 in the Land Registry Office No. 59;
- (b) \$621,000 borrowed from Salvatore Romeo as trustee for the “Romeo Family Trust” which loan was secured by a mortgage registered on November 1, 2021 as instrument number SN698785 in the Land Registry Office No. 59;
- (c) \$13,152,383.87 by a Vendor Take Back Mortgage in favor of Hills (on behalf of Hills and TGP) registered against the FEH Lands as a third secured charge in the original principal amount of registered on November 1, 2021 as instrument number SN698786 in the Land Registry Office No. 59 (the “**Hills VTB**”); and
- (d) Assumption of the First Mortgage to 270378 Ontario Limited in the approximate amount of \$600,000; and
- (e) Equity from CBJ.

31. CBJ agreed to provide management services (the “**CBJ Management Services**”) and fund payment of certain of the CBJ Affiliates ongoing expenses, including:

- (a) payments due and owing relating to financing obtained for the initial purchase of the FEH Lands, including the Hills VTB and other loans obtained from time to time for FEH’s direct or indirect benefit; and
- (b) all payments to cover ongoing development expenses for the FEH Lands which, inter alia, included substantial payments made by CBJ to cover remediation as well as archeology expenses required for the FEH Lands (collectively the “**FEH Payments**”).

32. The advance and repayment of the FEH Payments and payment arrangements for the CBJ Management Services were subject to the terms of an agreement (which was partially in

writing and partially verbal), entered into between CBJ and FEH (the “**Management Agreement**”) concurrent with the purchase by FEH of the FEH Lands, which included:

- (a) all of the FEH Payments would to be repaid on demand with interest at a commercial rate of interest based on the Royal Bank of Canada (“**RBC**”) prime rate (as from time to time determined) plus 2%;
- (b) CBJ Management Services would be charged out to FEH at rates prevailing in the market by comparable management/administrative service companies;
- (c) all of the FEH Payments together with the fees due and owing for the CBJ Management Services would be repaid in priority to any other secured or unsecured FEH indebtedness, subject only to:
 - (i) any secured financing from time to time registered against title to the FEH Lands; or
 - (ii) as otherwise agreed from time to time between CBJ and FEH in writing;
- (d) as security for repayment of the FEH Payments and the CBJ Management Services, FEH granted CBJ an ongoing and continuing charge against the FEH Lands (the “**CBJ Charge**”) and the right, at its option, to secure said CBJ Charge by registering same against title to the FEH Lands; and
- (e) if it registered the CBJ Charge, CBJ would postpone the CBJ Charge to any present or future secured financing that it would arrange to be charged against the FEH Land.

33. As at the date of the filing of this Claim, the total amount due and owing by FEH to CBJ pursuant to the Management Agreement is \$2,314,000.00 plus interest (the “**FEH to CBJ Indebtedness**”).

34. Subsequent to the closing of the purchase of the FEH Lands, Chris arranged for a further private mortgage for \$2,500,000 from 2703738 Ontario Limited (“**270 Corp**”) registered on February 25, 2022 as instrument number SN714863 in the Land Registry Office No. 59 (the “**Elena Loan**”). The Elena Loan was used for costs and expenses for the initial phases of the remediation and development of the FEH Lands. With Hills consent, the Elena Loan was secured as a third charge against title to the FEH Lands.

35. The charges referred to above are hereinafter collectively referred to as the “**FEH Charged Debt**” and the FEH secured creditors referred to above are hereinafter referred to as the “**FEH Secured Creditors.**”

36. In addition to the FEH Secured Debt, Chris arranged a \$500,000 unsecured loan from Ron Burrell, administered by Jeffrey Burrell (the “**Ron Burrell Loan**”) and a further loan from Niagara Estates of Chippawa II Inc. (“**Niagara**”) for \$5,250,000 (the “**Niagara Loan**”) for use, in part, for the development of the FEH Lands.

37. CBJ retained Colliers International Realty Advisors Inc. (“**Colliers**”) to appraise the FEH Lands. Hadley Duncan, AACI, P. App., Colliers’ Executive Director, completed his appraisal in March 2023, which estimated its as is current market value of the FEH Lands at March 17, 2023 to be \$49,460,000.

38. Acting in good faith, CBJ decided not to register the CBJ Charge because:

- (a) the fair market value of the FEH Lands provided substantial comfort to CBJ that the FEH to CBJ Indebtedness could easily be repaid on the sale of the FEH Lands; and
- (b) Hills advised CBJ that the CBJ Charge should not be registered on title to the FEH Lands until the Hills VTB had been substantially paid down or paid out in full.

39. Although interest was accruing on some of the outstanding FEH Charged Debt and other unsecured indebtedness referred to above, no demand for payment to FEH had been made nor had any of FEH creditors (secured or unsecured) issued a notice of default or taken any other steps to enforce repayment of any funds due and owing to them.

40. In or about October 2023, in accordance with CBJ’s obligations under the Management Agreement, Chris arranged for financing against the FEH Lands from a third party lender Hillmount Capital Inc. (“**Hillmount**”) in the principal amount of \$8 million (the “**Hillmount**

Financing”). On October 25, 2023, Hillmount registered a mortgage on the FEH Lands as instrument number SN783192 in the Land Registry Office No. 59 for \$8 million.

41. In conjunction with the Hillmount Financing, Chris negotiated a payout of the Elena Loan with 270 Corp., in exchange for Niagara Estates of Chippawa II Inc. agreeing to advance a new \$5.25 million loan to FEH plus an additional \$330,000 loan arranged by Jeff and Randy (collectively the “**New Niagara Loan**”) to be secured on other lands.

42. The primary purposes for the Hillmount Financing and the New Niagara Loan as negotiated by Chris were for payment of:

- (a) ongoing development expenses relating to the FEH Lands;
- (b) payout to 270 Corp.;
- (c) payment of some outstanding interest payments due and owing to various FEH creditors include those holding some of the FEH Charged Debt; and
- (d) payment of funds due and owing to CBJ pursuant to the Management Agreement to be paid out in part to CBJ and in part to Chris and the other management as management fees/bonuses.

43. One of the pre-conditions to the Hillmount Financing was that Hillmount would have a first charge on the FEH Lands and that no secondary financing would be allowed on the FEH Lands at any time while the Hillmount Loan was outstanding. This required Chris to negotiate new loan agreements with the FEH Secured Creditors and 270 Corp. which included, without limitation:

- (a) negotiating lump sum payments to each of the FEH Secured Creditors to be paid from the Hillmount Financing in order to get their agreement to discharge their respective security off title to the FEH Lands;
- (b) payout in full of the second and third mortgages to the Burrell Family Trust and Romeo Family Trust;
- (c) negotiating a specific repayment date for the payment of the balance of all funds due and owing on the FEH Secured Debt together with a “Standstill” arrangement

to prevent any of the FEH Secured Creditors from taking any enforcement steps on their respective date until said date; and

- (d) providing alternate and acceptable security to the FEH Secured Creditors.

44. At this same time Jeff insisted that a significant advance from the Hillmount Financing be paid against first and second mortgages to the Burrell Family Trust and the Romeo Family Trust and that Ron Burrell participate in any restructured security package that Chris was negotiating, failing which, in his capacity as both a CBJ and FEH director and shareholder, he would not approve the Hillmount Financing and threatened to demand repayment in full of the Ron Burrell Loan then due and owing by FEH.

45. Having no choice, Chris agreed to this demand from Jeff.

46. This resulted in Chris negotiating and approving a revised omnibus security arrangement with the FEH secured creditors and Ron Burrell (the “**Revised FEH Security Package**”) which provided, *inter alia*, for the following:

- (a) A new “Amended and Restated Loan Agreement” which was dated November 17, 2023 and entered into between CBJ as Borrower and 270 Corp., Niagara and Hills as Lenders (the “**Restated Loan Agreement**”);
- (b) Forbearance and Standstill Agreement (the “**Forbearance Agreement**”) entered into between Hills and FEH dated and effective Oct 23, 2023 and acknowledged by CBJ which obligated:
 - (i) FEH to make a payment to Hills of \$1.2 million from the Hillmount Financing;
 - (ii) FEH to pay Hills \$4.7 million on Dec 31, 2023 as per the terms of the Restated Loan Agreement;
 - (iii) FEH to pay Hills the balance owing on the Hills VTB on or before February 28, 2024;
 - (iv) Chris and Jeff as the two registered FEH shareholders, to enter into a Share Pledge Agreement with FEH, Niagara, the Burrell Family Trust and the Romeo Family Trust and Ron Burrell (the “**Share Pledge Agreement**”) to pledge their FEH shares to Hills if all amounts due and owing to Hills were not paid in full by February 28, 2024;

- (v) Chris and Jeff to provide unlimited personal guarantees for the payment of the all indebtedness due and owing under the Forbearance Agreement and the Restated Loan Agreement (the “**Restated Loan Indebtedness**”); and
- (vi) FEH, Jeff and Chris to provide and execute a “Consent to Judgment” for the Restated Loan Indebtedness if same was not paid in full by February 28, 2024.

47. During this same period of time, Bressi had been working with CBJ on various projects and had continuously represented to Chris that his company “Global Financial” had a “Bonding” business which raised several millions of investment capital through the sale of bonds.

48. Bressi further continuously represented to Chris that on condition that CBJ proceed with the Hillmount Financing, he would provide up to a minimum of \$70 Million dollars in financing from his bonding business to cover all of the payments that would be due and owing pursuant to the Restated Loan Agreement, the Forbearance Agreement, the Share Pledge Agreement and all other amounts relating thereto, pay out other financing due and owing by another CBJ Affiliate owing on another parcel of land in Stayner Ontario (the “**Stayner Indebtedness**”) plus provide significant other funding for the ongoing development of the FEH Lands, in exchange for his acquiring a significant equity position in CBJ and the CBJ Affiliates.

49. Bressi, however, refused to document the terms of the Bressi Funding Agreement in writing and it therefore remained as a verbal agreement between CBJ, Bressi, the CBJ Affiliates and the CBJ principals including Chris and Jeff.

50. During this time:

- (a) the Stayner Indebtedness had resulted in the commencement of legal action against a CBJ Affiliate, thereby increasing the pressure on Chris to proceed with the Hillmount Financing in order to access funds from Bressi pursuant to the Bressi Funding Agreement and resolve the Stayner litigation;
- (b) Randy and Jeff, in conjunction with Bressi, made every effort to prevent Chris from arranging alternate financing from other sources, which effectively resulted

in Chris having no alternative, but do whatever he could to finalize the Hillmount Financing.

51. Just prior to the advance of funds from the Hillmount Financing, and in exchange for providing the funding pursuant to the Bressi Funding Agreement, Bressi demanded that CBJ pay him (through another corporation he owned/controlled named Monaco Street Ltd.) a funding fee of \$1,000,000 (in U.S. Funds) from the Hillmount Financing (the “**Bressi Fee**”).

52. Chris initially refused to approve the Bressi Fee because Bressi had previously failed to provide funding for other projects even though CBJ had paid him millions of dollars in upfront fees for same. However, Jeff and Randy not only actively supported payment of the Bressi Fee but, specifically (without in any manner limiting the generality of the foregoing):

- (a) Jeff made it clear that he would not allow the Hillmount Financing to proceed unless the Bressi Fee was paid; and
- (b) Randy made it clear that he would not cause Hills to agree to the Revised FEH Security Package and would commence immediate action on behalf of Hills for repayment of all funds due and owing under the Hills VTB unless the Bressi Fee was paid.

53. As a result, and fearful that without the Hillmount Financing and the implementation of the Revised FEH Security Package:

- (a) Randy and Hills, as threatened, could trigger enforcement proceedings pursuant to the Hills VTB which would jeopardize both FEH’s ownership and development of the FEH Lands;
- (b) said enforcement proceedings would potentially cause FEH to lose untold millions of dollars in anticipated revenue;
- (c) Chris would be placed in severe financial jeopardy because of previous personal guarantees that they had provided on the VTB and other FEH security;
- (d) the Stayner Indebtedness and resulting litigation would proceed thereby causing additional losses to CBJ and Chris pursuant to the security granted to the Stayner lenders, including a personal guarantees from Chris;
- (e) by their actions Randy, Jeff and Bressi had made it impossible for Chris to arrange other financing; and

- (f) Bressi, Jeff and Randy all confirmed and represented to Chris, both individually and collectively, that the funding pursuant to the Bressi Funding Agreement would take place as and when agreed upon so as to ensure that:
- (i) there would be sufficient funds available to meet all of the payment requirements set out in the Revised FEH Security Package;
 - (ii) reimburse the payment of the Bressi Fee;
 - (iii) payout the Stayner Indebtedness in full;
 - (iv) repay all funds due and owing by FEH to CBJ pursuant to the FEH Agreement; and
 - (v) provide sufficient working capital to cover all ongoing CBJ and CBJ Affiliate expenses, specifically including the development of the FEH Lands.

54. Chris had no alternative but to finalize the requirements necessary for the Hillmount Financing to be funded including executing approvals for payment of the Bressi Fee.

55. Accordingly, in October 2023, funds from the Hillmount Financing were advanced and distributed as follows:

Payment of the Bressi Fee:	\$1.4 million
Payment to Hills: (Restated Loan Agreement)	\$1.2 million
Payment in full to Burrell Family Trust	\$1.45 million
Payment to in full Romeo Family Trust	\$600,000
Payment to 270 Corp. (Elena Loan)	the original Elena Loan of 2.25 Million plus outstanding interest was repaid and Elena (through Chris' efforts) then lent CBJ / FEH 5.25 Million Dollars (less pre-paid interest)
Legal Fees	\$200,000
Retained by Hillmount for future advances and to cover interest payments	\$1,000,000
Retained by Bennett Jones LLP in trust by FEH's lawyers earmarked to cover ongoing development expenses for the FEH Lands (the	\$200,000

“Bennett Jones Holdback”);	
Dennis Blain (Niagara)	\$200,000

56. The Plaintiffs state and the fact is that the aforesaid payment of \$1.4 million to Jeffrey Burrell and Salvatore Romeo by Jeff was not authorized or approved by Chris.

57. Notwithstanding the Bressi Funding Agreement and Bressi’s ongoing and continuous representations and assurances (as supported by both Jeff and Randy) that he would provide or facilitate the necessary funding required by CBJ, Bressi did not provide any funding.

58. Bressi’s representations of funding were false representations of fact. Bressi made these representations with a knowledge of their falsehood, or recklessly, without belief in their truth, with the intention that they should be acted upon by Chris. Bressi’s false representations did in fact induce Chris to act. Chris suffered damages as a result of Bressi’s fraudulent misrepresentations. Jeff, Randy, and Romeo knew of or ought to have known that Bressi’s representations were false and fraudulent.

59. In February 2024 and facing the February 28, 2024 deadline for payment of funds, pursuant to the Revised FEH Security Package, and after:

- (a) Jeff had *de facto* relinquished or had been removed from his role as director and CEO of CBJ; and
- (b) Chris had completed his own internal inquiries and investigations into Bressi’s business history and learned about “private” meetings held between Bressi, Jeff and Randy in the Bahamas which took place at the same time as the Revised FEH Security Package was being negotiated, it became clear to Chris that:
 - (i) Bressi had a long history of swindling other business partners out of millions of dollars;
 - (ii) Bressi never intended nor had the means to fund any monies to CBJ or FEH and entered into the Bressi Funding Agreement for the sole purpose of creating a situation where Chris and the other CBJ beneficial

shareholders would be coerced by undue duress (and fear of massive potential personal liability) from Bressi, Randy and Jeff into agreeing to the terms of the Revised FEH Security Package and agreeing to the payment of the Bressi Fee; and

- (iii) Bressi, Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore (and potentially other parties currently unknown to the Plaintiffs) had clandestinely and intentionally entered into an illegal and improper agreement between themselves (the “**Illegal Agreement**”) to maneuver Chris and FEH into such a position where they had no alternative but to agree to the onerous terms of the Revised FEH Security Package, knowing that both CBJ and FEH would inevitably end up in default of same; and
- (iv) said default would then lead to the loss by Chris of any interest or entitlement that he had (directly or indirectly) to the value and equity and all benefits (present or future) in the FEH Lands;

60. The Plaintiffs state and the fact is that the terms of the Illegal Agreement were to be implemented by Bressi, Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore with their joint and mutual intention to achieve the following specific goals:

- (a) Bressi, on his own behalf and on behalf of Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore, would convince Chris that through his “bonding” company, he could and would supply all the funding required by FEH, always knowing that he had no intention nor ability to provide said funds;
- (b) extorting Chris to agree to the payment of the Bressi Fee (portions of which may have been split amongst the parties to the Illegal Agreement) prior to Chris signing off on the Hillmount Financing;
- (c) Randy and TGP, on their own behalf and on behalf of Jeff and Bressi, would induce and effectively coerce Chris into agreeing to the terms of the Revised FEH Security Package by not approving, scuttling or otherwise making it impossible for Chris to raise or secure financing from any third parties other than Hillmount;
- (d) convincing Chris, through their material, intentional and fraudulent misrepresentations to Chris that there would be sufficient funding pursuant to the Bressi Funding Agreement to “solve” all of CBJ’s and FEH’s financial needs;
- (e) taking all other steps, through threats (verbal and in writing), intimidation and restriction of payments due and owing to Chris (based on actions taken by Jeff in intentionally failing to approve said payments to him) into coercing Chris to agree to the terms of the Revised FEH Funding Package knowing that by doing so both CBJ and FEH would default with the end result that Hills (i.e. TGP), Niagara, the Burrel Family Trust, the Romeo Family Trust and Ron would end up owning all of the FEH shares and in sole position to deal with the FEH Lands as they so

choose and without having to go through a Power of Sale or other judicially monitored process to do so;

- (f) once they had control of the FEH Lands through the implementation of the Share Pledge Agreement, Hills (i.e. TGP), Niagara, the Burrel Family Trust, the Romeo Family Trust and Ron would facilitate an immediate private sale of the FEH Lands or the FEH Shares, either directly or indirectly to themselves (through an affiliate, related corporation or “straw” buyer”) or to a “friendly” third party at a price substantially below market value, but sufficiently high enough to cover all of the FEH Indebtedness plus provide them with additional funds as negotiated, with the specific intent to:
 - (i) deprive CBJ, Chris and other members of the CBJ Management team of any of the funds due and owing to them, including all funds due and owing pursuant to the Management Agreement; and
 - (ii) Deprive FEH (and by extension, Chris and other members of the CBJ Management team) of their entitlement to the funds they should have received had the FEH Lands or FEH Shares had been sold on the open market at fair market value;
- (g) place Chris at risk of being personally liable for certain CBJ and FEH debt that he had either personally guaranteed or which he had personally incurred for and on behalf of CBJ or FEH;
- (h) ensure that Hills, Randy and TGP received all funds due and owing to them pursuant to the original Hills VTB plus additional payments and benefits to them;
- (i) ensure that Jeff received all funds due and owing to the Family Trusts, the Ron Burrell Loan plus additional payments and benefits to Jeff; and
- (j) ensure that Bressi receives the Bressi Fee plus additional payments and benefits to him.

61. By those actions and statements set out in (a) – (f) above, induced Chris to:

- (a) agree to the very onerous terms of the Revised FEH Financing Plan; and
- (b) at this same time inducing Chris not to pursue the sale of the FEH Lands on the open market;
- (c) not to pursue the refinancing of the FEH Lands (other than through Hillmount);
- (d) not to register the CBJ Charge against title to the FEH Lands; or
- (e) take any other reasonable and prudent steps to ensure that there would be sufficient funds available when the terms of the Revised FEH Security Package became enforceable so as not lose their strong equity position in the FEH Lands through their respective ownership of the FEH shares.

62. As planned and as part of the Illegal Agreement, both CBJ and FEH defaulted on the repayment obligations set out in the Revised FEH Security Package resulting on February 28, 2024 with Hills, on behalf of the FEH Secured Creditors and other parties to the Revised FEH Security Package, initiating enforcement proceedings under the Share Pledge Agreement and have, to the Plaintiffs' best knowledge, information and belief, now taken possession and ownership of the FEH Shares.

63. The Defendants have entered or are about to enter into a sale of the FEH Lands or have sold the FEH Shares as contemplated pursuant to the Illegal Agreement to a "friendly" third party: Elena Salvatore and Vincent Salvatore Jr., John Doe or XYZ Corp. (the "**Illegal FEH Sale**") at a purchase price which is substantially below its actual market value for the FEH Lands of the FEH Shares.

64. The Defendants Elena Salvatore and Vincent Salvatore Jr., John Doe or XYZ Corp., are purchasing the FEH Lands or have purchased the FEH Shares, and are fully aware of, and are acting in concert with the Defendants' illegal activities and actions as previously described.

65. Chris states and the fact is that their agreements to approve and proceed with:

- (a) the Revised FEH Security Package;
- (b) payment of the Bressi Fee;
- (c) the Hillmount Financing; and
- (d) such further and other approvals, agreements and authorizations as may be proven at trial were made:
 - (i) in reliance on the intentional and fraudulent misrepresentations that had been made to them by Jeff, Randy and Bressi as aforesaid together with such further and other evidence relating thereto as the Plaintiffs shall present to this Honorable Court at trial;
 - (ii) under duress, and induced because of the coercive actions of Jeff, Randy and Bressi as hereinbefore set out in this Claim together with such further

and other evidence relating thereto, as the Plaintiffs shall present to this Honorable Court at trial; and

- (iii) in accordance with the terms of the Illegal Agreement which by its very nature is null and void, against public policy and should be subject to sanction by this Court;

66. Accordingly, the Plaintiffs state and the fact is that the Illegal Agreement and Illegal FEH Sale is illegal, improper and will constitute a conveyance of real property made with the intent to defeat, hinder, delay or defraud creditors or others of their lawful action are void as against such persons and therefore constitutes a fraudulent conveyance in breach of the provisions of the *Fraudulent Conveyances Act*, RSO 1990 Ch. F29.

67. In the alternative, Chris states and the fact is that based on those matters set out above relating to the Illegal Agreement, the Share Pledge Agreement is null and void and unenforceable and accordingly any attempts by any or all of the Defendants to take control, possession or ownership of the FEH Shares from Chris and Jeff (who acquiesced) pursuant to said Share Pledge Agreement are therefore also illegal and unenforceable.

68. The oppressive conduct includes, without limitation:

- (a) unilaterally and without authority entering into agreements for and on behalf of both CBJ and FEH that are nullities, void ab initio, against public policy, illegal and based on willful neglect and/or are fraudulent;
- (b) completely ignoring Chris and others in their capacity as legal and beneficial shareholders of CBJ and FEH, by committing both corporations to those agreements referred to in (a) above despite their ongoing and continuous objections and dissent to same;
- (c) failing to provide Chris with full disclosure of all matters relating to, *inter alia*, the Bressi Funding Agreement, the Revised FEH Security Package, the terms and conditions of the Share Pledge Agreement, the Illegal Agreement and the Illegal FEH Sale;
- (d) obtaining funds from the Hillmount Loan for their own personal benefit without payment of any of those funds to Chris;
- (e) unilaterally and without authority preventing Chris or other members of the CBJ Management team from being paid funds due and owing to them from CBJ and

FEH thereby depriving them of any source of funding to retain counsel or other professional advisors to contest steps taken pursuant to the enforcement of the Share Pledge Agreement or prevent the implementation thereof; and

- (f) such further and other particulars as Chris shall provide prior to trial.

69. As previously stated, if the Illegal Agreement and Illegal FEH Sale closes with title and beneficial ownership of the FEH Lands or the FEH Shares have been or are transferred to Elena Salvatore, Vincent Salvatore, John Doe or XYZ Corp., CBJ may have no recourse against FEH for payment of the Management Fee or any other amounts that are currently due and owing to CBJ and will further deprive Chris and others of substantial value arising from their legal and/or beneficial share ownership in those corporations based on the actual and true market value of the FEH Lands.

70. In the further alternative, Chris states and the fact is that the actions taken by Jeff, Elena Salvatore and Vincent Salvatore Jr. constitute material and substantial “oppressive conduct” towards Chris in his capacity as a CBJ and FEH shareholder which permits judicial relief as per the provisions set out in the *OBCA*.

71. Accordingly, Chris is seeking an interim injunction to enjoin the Defendants from selling or otherwise dealing with the FEH Lands or FEH Shares or to any other parties pending the outcome of this Action. Chris states that:

- (a) there is a serious issue to be tried – the alleged conspiracy to defraud Chris
- (b) damages alone will not provide an adequate remedy, in that irreparable harm will be created if the interim injunction is not granted. No fair and reasonable redress would be available after trial if the FEH Lands are sold to a third party; and
- (c) the balance of convenience favours the granting of the interim injunction.

72. Further, the Plaintiffs collectively state and the fact is that they are entitled to immediately charge the FEH Lands by way of a Certificate of Pending Litigation to secure the

FEH Lands and prevent the sale, financing or transfer of the FEH Lands and are further entitled to an order enjoining the transfer of the FEH shares pending the outcome of this Action.

CLAIMS

A. Conspiracy

73. The Defendants engaged in a conspiracy. Each of the individual Defendants conspired to profit from and harm Chris. The particulars of the Defendants' conduct in entering into the Illegal Agreement and the Share Pledge Agreement are described above.

74. The Defendants acted with the predominant purpose of harming Chris. They:

- (a) mapped out the conspiracy and reached the Illegal Agreement on how to maximize the profits from the conspiracy, while minimizing the chances of getting caught;
- (b) acted with the predominant purpose of harming Chris by stripping his interest in FEH; and
- (c) if the sale of the FEH Lands or FEH Shares is not enjoined, they will have caused actual damage to Chris.

75. Similarly, the Defendants' orchestrated unlawful conduct which constituted a conspiracy.

They:

- (a) came to an agreement on how to proceed with the conspiracy and acted in combination with a common design of harming Chris, while profiting themselves;
- (b) acted unlawfully, as set out above by entering into and carrying out the Illegal Agreement;
- (c) directed their unlawful conduct toward Chris;
- (d) knew they were harming Chris; and
- (e) unless the sale of the FEH Lands or the FEH Shares is enjoined, the Defendants will in fact harm Chris.

76. Each of the Defendants played key roles in the conspiracy. While Jeff and Bressi were the puppeteers, the other Defendants played important roles and are accordingly, jointly and severally liable for all damages resulting from the conspiracy.

Breach of Fiduciary Duty and Knowing Assistance

77. Chris was at Jeff's mercy. Jeff had the ability to orchestrate the conspiracy. In his role as a director or FEH and as the trustee of the Burrell Family Trust, Jeff had the obligation to act in the best interests of FEH as well as make full and frank disclosure to Chris. Instead, Jeff acting with the other Defendants, developed a scheme to defraud Chris of more than \$25 million, while destroying the Fort Erie Project, and leaving it with no cash to continue development.

78. FEH was insolvent at the time of Bressei's false promises to fund. Jeff knew that Bressi's representation regarding funding were false and that the Bressi Funding Agreement would never provide the necessary funding to FEH. None of the actions taken by Jeff were in the best interests of FEH and the Plaintiffs. They were purely self-motivated.

79. The remaining Defendants knew or ought to have known that Jeff was acting in breach of his fiduciary duties to FEH. Again, they assisted Jeff in his breaches and profited from that assistance.

Oppression

80. As a shareholder of FEH, Chris is a "complainant" for the purposes of section 248 of the OBCA.

81. Jeff's actions, as one of the directors of FEH, and the actions of Elena Salvatore and Vincent Salvatore as the current directors of FEH, were oppressive and have unfairly disregarded Chris' interests. FEH's business was the development of the FEH Lands and he always had the reasonable expectation that Jeff would act in his best interest toward the development of the FEH Lands.

82. Instead, Jeff used his position as a director or controlling mind of FEH to permit Jeff and the other Defendants to profit from the improvident sale the FEH Shares. Jeff has acted solely in his own interests, to Chris' detriment.

Restitution and Tracing

83. Chris pleads that all the Defendants have been unjustly enriched at Chris' expense and are liable to Chris for all amounts by which they have been unjustly enriched. Chris has been correspondingly deprived of the benefit of these amounts, and there is no juristic reason for the Defendants' enrichment. Chris pleads and rely upon the doctrine of unjust enrichment and claims that he is entitled to restitution from all the Defendants.

84. Chris pleads that the Defendants hold any amounts by which they have been unjustly enriched and the FEH Lands (by Elena Salvatore and Vincent Salvatore) as trust funds or trust assets pursuant to a constructive trust, and that Chris is the beneficiary of those funds and/or assets. Chris further pleads that, given the circumstances, there are no factors that would render the imposition of a constructive trust in favour of Chris unjust.

85. Any funds originating with or that should have been paid to Chris and obtained by any of the Defendants by way of fraud, breach of fiduciary duty, self-dealing, oppression or other improper conduct should be impressed with a trust in favour of Chris.

86. Chris seeks such orders as may be necessary to trace such misappropriated funds, including any such funds or assets currently held by or transferred to any of the Defendants, or transferred to individuals or entities not yet known to Chris.

87. Chris further seek orders requiring the Defendants to disgorge and/or pay restitution in relation to any benefit obtained directly or indirectly as a consequences of the fraud, breach of fiduciary duty, self-dealing, oppression or other improper conduct as pleaded herein, including any assets obtained with funds originating with or that should have been paid to Chris as a shareholder of FEH.

Fraudulent Concealment And Punitive Damages

88. The Defendants fraudulently concealed the Illegal Agreement, which constituted the conspiracy or scheme from Chris. At all material times, they took steps to conceal their conduct from Chris. The Defendants' conduct was unconscionable and designed to hide their unlawful actions.

89. The Defendants' conduct warrants punitive damages. The conspiracy is sufficiently described above. However, for the sake of completeness, the Defendants entered into the Illegal Agreement to siphon millions of dollars away from Chris in the improvident sale of the FEH Lands or FEH Shares to Elena Salvatore, Vincent Salvatore, John Doe and/or XYZ Corp. The Defendants took active steps to conceal the conspiracy.

90. These actions, among the many others described in the Claim, are independent, actionable wrongs, which were carefully designed to defraud Chris. This calculated and fraudulent conduct should offend the court's sense of decency. Pure compensatory damages (i.e., making the Defendants simply pay back what they took and stopping or reversing the sale of the FEH Lands or FEH Shares to either Elena Salvatore, Vincent Salvatore, John Doe or XYZ Corp.) is not enough. Punitive damages are necessary to denounce the Defendants' conduct and deter future parties from devising and carrying out similar schemes.

The Plaintiffs propose that this action be tried on the Commercial List in Toronto.

DATE OF ISSUE: July _____, 2024

GREG ROBERTS PC
1595 16th Avenue, Suite 301
Richmond Hill, ON L3B 3N9

Greg Roberts (LSO# 29644N)
Tel: 416-726-2099
Email: greg.roberts@roblaw.ca
Lawyer for the Plaintiffs

Schedule "A"

85 Crooks Street , Fort Erie and legally described as:

PIN 64233-0064 LT

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL
525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF
BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513; FORT ERIE

CHRIS AGAGNIER
Plaintiff

- and -

CBJ-FORT ERIE HILLS INC. et al.
Defendants

Court File No. CV-24-

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Toronto
(Commercial List)

STATEMENT OF CLAIM

GREG ROBERTS PC
1595 16th Avenue, Suite 301
Richmond Hill, ON L4B 3N9

Greg Roberts (LSO# 29644N)
Tel: 416-726-2099
greg.roberts@roblaw.ca
Lawyer for the Plaintiffs

APPENDIX "L"

Paliare Roland

Ryan Shah
Paliare Roland Rosenberg Rothstein LLP
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

ryan.shah@paliareroland.com
T. 416.646.6356 / F. 416.646.4301

File # 102026

March 7, 2025

VIA EMAIL: greg.roberts@roblaw.ca

Greg Roberts
Greg Roberts PC
1595 16th Avenue, Suite 301
Richmond Hill, ON L4B 3N9

Dear Mr. Roberts:

Re: AGAGNIER et al. v. CBJ-FORT ERIE HILLS INC. et al. (Court File No. CV-24-00723362-00CL)

I am counsel to TDB Restructuring Limited (the “**Receiver**”) in its role as receiver of CBJ - Clearview Garden Estates Inc., CBJ Bridle Park II Inc. and CBJ Developments Inc. (collectively, the “**Debtors**”).

Today, I became aware that CBJ Developments Inc. commenced an action against various defendants before the Ontario Superior Court of Justice (Commercial List) bearing court file no. CV-24-00723362-00CL (the “**Ontario Action**”).

I understand that you are counsel to CBJ Developments Inc. and Chris Agagnier in connection with the Ontario Action.

CBJ Developments Inc. commenced the Ontario Action without the knowledge or authorization of the Receiver, despite the fact that CBJ Developments Inc. was explicitly prohibited from doing so by the terms of the Order of Justice Penny, dated January 26, 2024, appointing TD Restructuring Limited as Receiver of the Debtors (the “**Order**,” enclosed herewith).

Paragraph 3(a) of the Order provides that the Receiver exercises control over the assets of the Debtors (which assets include any choses in action). Paragraph 3(i) of the Order empowers the Receiver to prosecute proceedings related to the Debtor, to the exclusion of all other persons, including the Debtors themselves and all persons acting on behalf of the Debtors (such as Mr. Agagnier).

The Receiver demands that Mr. Agagnier, CBJ Developments Inc., or anyone acting on behalf of CBJ Developments Inc., refrain from taking any steps in the Ontario Action without the explicit written

MR207

Paliare Roland

consent of the Receiver. Any person that refuses to comply with this demand is in violation of the Order, and the Receiver reserves all rights and remedies in connection with the same.

Additionally, I note that the Receiver has already addressed a similar issue with Mr. Agagnier relating to an action commenced by Mr. Agagnier in Alberta, purportedly on behalf of CBJ Developments Inc. (the “**Alberta Action**”). I enclose a copy of the statement of claim in the Alberta Action as well as correspondence from Jeffrey Larry of February 28, 2025, demanding that CBJ Developments Inc. refrain from taking any steps in the Alberta Action without the consent of the Receiver.

Yours very truly,
Paliare Roland Rosenberg Rothstein LLP



Ryan Shah
RS:RS

Encls.

c: J. Larry
B. Tannenbaum

APPENDIX "M"

TDB Restructuring Limited
Court-Appointed Receiver of CBJ Developments Inc., CBJ - Clearview Garden
Estates Inc., CBJ - Bridle Park II Inc.
Interim Statement of Receipts and Disbursements
For the period January 26, 2024 to February 28, 2025

Receipts

Sale of Land - Deposit	\$	1,000,000
Payment from Secured Creditor		77,132
HST Refunds		60,596
Receiver's Certificate - advance (Note 1)		50,000
Interest		9,831
Rental Income		6,814
Cash on hand		1,520
HST Collected		887
Insurance refund		243
Total receipts	\$	<u>1,207,024</u>

Disbursements

Payments to Secured Creditors	\$	500,000
Commission		125,000
Receiver's Certificate - Repayment (Note 1)		51,336
Property Tax		20,893
Insurance		4,821
Miscellaneous		1,022
Receiver's Fees		225,077
Legal Fees		152,686
HST Paid		65,261
Total disbursements	\$	<u>1,146,095</u>

Excess of Receipts over Disbursements	\$	<u><u>60,930</u></u>
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Note:

1. This amount represents an advance from Boulder View Holdings Inc. secured by Receiver Certificates No. 1. This advance of \$50,000.00 was repayed on June 17, 2024 with interest of \$1,336.00, totalling \$51,336.00.

E & OE

APPENDIX "N"

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

1180554 ONTARIO LIMITED

Applicant

- and -

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC.,
CBJ – BRIDLE PARK II INC.**

Respondent

AFFIDAVIT OF BRYAN A. TANNENBAUM
(Sworn March 4, 2025)

I, **BRYAN A. TANNENBAUM**, of the City of Toronto, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am a Managing Director of TDB Restructuring Limited (“**TDB**”) and as such I have personal knowledge of the matters to which I hereinafter depose, save and except those matters based upon information and belief, in which case I have stated the source of such facts, all of which I verily believe to be true.
2. Pursuant to an order of the Court dated January 26, 2024, RSM Canada Limited (“**RCL**”) was appointed as receiver (the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business

carried on by the Debtors, including all proceeds of. Effective February 1, 2024, the name RCL was changed to TDB Restructuring Limited (“**TDB**”). By Order of the Ontario Superior Court of Justice (Commercial List) dated March 1, 2024, TDB replaced RCL as the Receiver.

3. Attached hereto and marked as **Exhibit “A”** to this my affidavit are copies of invoices issued by TDB for fees incurred by TDB in respect of the receivership proceedings for the period September 1, 2024, to February 28, 2025 (the “**Period**”). The total fees charged for the Period are \$63,169.00, and HST of \$8,211.97 for a total of \$71,380.97. The average hourly rate charged during the Period was \$488.55.

4. The invoices are a fair and accurate description of the services provided and the amounts charged by TDB for the Period.

5. The Receiver estimates that its further fees through the completion of the Receiver’s mandate will be \$10,000.

6. Attached hereto and marked as **Exhibit “B”** is a schedule summarizing the invoices in Exhibit “A”, the total billable hours charged, the total fees charged and the average hourly rate charged.

7. I make this affidavit in support of a motion for an Order approving the Receiver’s fees and disbursements and for no other or improper purpose.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario, on)
the 4th day of March 2025)
)
)
)
)
)
)
)
)
)



A Commissioner, etc.

Arif Nazarali Dhanani,
a Commissioner, etc., Province of Ontario,
for TDB Restructuring Limited.
Expires April 21, 2026.



BRYAN A. TANNENBAUM

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF BRYAN A. TANNENBAUM SWORN BEFORE
ME THIS 4th DAY OF MARCH 2025**



A Commissioner, etc.

Arif Nazarali Dhanani,
a Commissioner, etc., Province of Ontario,
for TDB Restructuring Limited.
Expires April 21, 2026.



To TDB Restructuring Limited
 Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview
 Garden Estates Inc., CBJ – Bridle Park II Inc.
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

TDB Restructuring Limited
 Licensed Insolvency Trustee

11 King St. W., Suite 700
 Toronto, ON M5H 4C7

info@tdbadvisory.ca
 416-575-4440
 416-915-6228

tdbadvisory.ca

Date October 7, 2024

Client File 39-001
Invoice TDB #7
No. 2410009

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview Garden Estates Inc., CBJ – Bridle Park II Inc. (collectively referred to as the “Debtors”) for the period September 1, 2024, to September 30, 2024.

Date	Professional	Description
9/3/2024	Tanveel Irshad	Meeting with B. Tannenbaum, J. Berger and N. Thurairatnam to discuss file update; prepare Statement of Receipts and Disbursements.
9/3/2024	Bryan Tannenbaum	Telephone call from M. Lean of Dickinson Wright LLP (“Dickinson”); payment of Dickinson billing processed; review and edit the Second Report to Court.
9/3/2024	Jennifer Hornbostel	Prepare and post transaction.
9/4/2024	Tanveel Irshad	Review correspondence from Canada Revenue Agency (“CRA”).
9/4/2024	Bryan Tannenbaum	Continue edit of second report; email from R. Shah of Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”) re status/timing of court report.
9/5/2024	Tanveel Irshad	Review lease agreements to determine if HST is applicable and correspond with N. Thurairatnam.
9/6/2024	Tanveel Irshad	Call with N. Thurairatnam re HST collected on rent and update D. Nishimura and J. Hornbostel.
9/6/2024	Bryan Tannenbaum	Start to edit draft second report after receiving changes from N. Thurairatnam.
9/6/2024	Nisan Thurairatnam	Edit the draft second report of the Receiver.
9/7/2024	Nisan Thurairatnam	Edits to the report following review comments.
9/7/2024	Bryan Tannenbaum	Final comments and edits and email same to N. Thurairatnam and J. Berger; email re service list on website.
9/9/2024	Jeff Berger	Review Receiver's Second Report and edit same.
9/9/2024	Donna Nishimura	Post document to the client webpage on the TDB website.
9/9/2024	Bryan Tannenbaum	Review R. Shah email with service list; email from L. Rittman re insurance renewal for other property; response sent; meet with N. Thurairatnam to put through final edits/changes to the draft report before sending to Paliare Roland.
9/9/2024	Nisan Thurairatnam	Several edits to the Court report following comments after review; meeting with J. Berger and B. Tannenbaum re same; meeting with B. Tannenbaum re the download, save and summary of purchase agreements.

Date	Professional	Description
9/10/2024	Tanveel Irshad	Call with CRA re outstanding returns.
9/10/2024	Bryan Tannenbaum	Receipt and review of L. Rittman email with insurance premium quote; approve same.
9/11/2024	Tanveel Irshad	Correspond with N. Thurairatnam re change of mailing address for CRA and update B. Tannenbaum; correspond with N. Thurairatnam re rent of tenants and save leases to iManage; email B. Tannenbaum re same; email tenant re outstanding rent payment.
9/11/2024	Nisan Thurairatnam	Review email correspondence with insurance re extension; receipt and review of email re CRA address change, internal correspondence re same; review internal update re rent collections; attend to matters re rent collections.
9/11/2024	Bryan Tannenbaum	Email from J. Burrell re CRA; response sent; email from J. Larry of Paliare Roland regarding status inquiry from the second mortgagee's lawyer; response sent to confirm status with him, etc.; review of J. Larry email to D. Badham; email from M. Lean re exact closing date and response sent; email from N. Thurairatnam re rent arrears and follow up.
9/11/2024	Jennifer Hornbostel	Prepare payment.
9/12/2024	Tanveel Irshad	Calls with N. Thurairatnam re statement of receipts and disbursements; update same; call with N. Thurairatnam re update court report.
9/12/2024	Bryan Tannenbaum	Teams call with J. Larry, R. Shah and N. Thurairatnam to review the draft report to court and discuss issues; email to secured lender for updated discharge statement; email to Paliare Roland re security opinion status; re-edit draft court report considering our discussion with Paliare Roland and discuss with N. Thurairatnam; review of insurance premium invoice and arrange for payment of same.
9/12/2024	Nisan Thurairatnam	Attend a call with counsel re comments received on the report; attend a call with B. Tannenbaum re updates to the report; update report and send back to counsel; compile appendices.
9/13/2024	Bryan Tannenbaum	Receipt and review of Paliare Roland final security opinion.
9/15/2024	Bryan Tannenbaum	Review of J. Larry comments on the court report; email N. Thurairatnam to clean up, etc.
9/16/2024	Anne Baptiste	Prepare bank reconciliation.
9/16/2024	Tanveel Irshad	Follow up with tenant re rent payment; review correspondence from CRA and email J. Berger.
9/16/2024	Bryan Tannenbaum	Review of email to D. Marsdan for rent arrears; emails re discharge statement dating.
9/17/2024	Tanveel Irshad	Correspond with N. Thurairatnam and revise Statement of Receipts and Disbursements.
9/17/2024	Nisan Thurairatnam	Prepare next turn of the Second Report.
9/17/2024	Bryan Tannenbaum	Receipt and review of secured creditors discharge statement; review final edits to report with N. Thurairatnam; review of R. Shah email with fee affidavit for report.
9/17/2024	Jennifer Hornbostel	Create fee affidavit.
9/18/2024	Bryan Tannenbaum	Discuss payment of insurance premium with J. Hornbostel; review emails re same; review of final draft of second court report and discuss with N. Thurairatnam.
9/18/2024	Nisan Thurairatnam	Clean up edits provided by Counsel; updates to report; meeting with B. Tannenbaum re same.
9/18/2024	Jennifer Hornbostel	Prepare and post transaction.

Date	Professional	Description
9/19/2024	Bryan Tannenbaum	Telephone call with M. Lean re affidavit of fees; receipt of M. Lean affidavit of fees; return for edits, etc.; receipt and review of J. Ough email regarding status and response sent.
9/19/2024	Nisan Thurairatnam	Review and comments on counsel's fee affidavit.
9/20/2024	Nisan Thurairatnam	Finalize report for B. Tannenbaum to sign.
9/21/2024	Nisan Thurairatnam	Compile report and appendices and send same to counsel.
9/22/2024	Bryan Tannenbaum	Receipt and review of CRA letter request for information prior to receivership; forward to C. Agagnier and J. Burrell for response.
9/23/2024	Tanveel Irshad	Review email correspondence from J. Berger and B. Tannenbaum re CRA corporate tax correspondence.
9/23/2024	Bryan Tannenbaum	Receipt and review of J. Larry email to M. Lean regarding the purchaser's lawyer's comments to the proposed changes to the vesting order wording; receipt and review of M. Lean response.
9/23/2024	Jennifer Hornbostel	Post transaction.
9/24/2024	Tanveel Irshad	Update S.246(2) notice and send to N. Thurairatnam for review.
9/24/2024	Bryan Tannenbaum	Review Paliare Roland email re finalizing notice of motion.
9/26/2024	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
9/27/2024	Nisan Thurairatnam	Email correspondence re serving report.
9/27/2024	Jennifer Hornbostel	Post receipt.
9/30/2024	Bryan Tannenbaum	Receipt and review of CRA request for HST returns; discuss with N. Thurairatnam re same.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	16.20	\$ 695	\$ 11,259.00
Jeff Berger, CPA, CA, CIRP, LIT	Managing Director	2.20	\$ 575	1,265.00
Nisan Thurairatnam, CPA	Manager	10.10	\$ 425	4,292.50
Tanveel Irshad	Associate	3.50	\$ 295	1,032.50
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	2.30	\$ 150	345.00
Total hours and professional fees		<u>34.30</u>		\$ 18,194.00
HST @ 13%				2,365.22
Total payable				\$ 20,559.22



To TDB Restructuring Limited
 Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview
 Garden Estates Inc., CBJ – Bridle Park II Inc.
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

TDB Restructuring Limited
 Licensed Insolvency Trustee

11 King St. W, Suite 700
 Toronto, ON M5H 4C7
 info@tdbadvisory.ca
 416-575-4440
 416-915-6228
 tdbadvisory.ca

Date November 27, 2024

Client File 39-001
Invoice TDB #8
No. 2411024

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview Garden Estates Inc., CBJ – Bridle Park II Inc. (collectively referred to as the “Debtors”) for the period October 1, 2024, to October 31, 2024.

Date	Professional	Description
10/1/2024	Tanveel Irshad	Review general ledger and update HST tracking schedule; assemble filing package for J. Berger's review; attend a call with Canada Revenue Agency (“CRA”) re HST; email N. Thurairatnam re tenant contact information in order to follow up re outstanding rent payment.
10/1/2024	Bryan Tannenbaum	Telephone call from Debtors re personal guarantees and CRA request for HST information; receipt and review of Motion Record sent to service list; email to V. Salvatore re Motion Record.
10/1/2024	Nisan Thurairatnam	Attend to emails re serving report.
10/2/2024	Bryan Tannenbaum	Email from D. Badham to Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”) regarding not being served, etc.; Paliare Roland response, etc.; review of D. Badham email to Paliare Roland regarding potential objection and request for appraisals; review of J. Larry of Paliare Roland response re appraisals; review of Paliare Roland Factum.
10/3/2024	Tanveel Irshad	Correspond with N. Thurairatnam re outstanding HST returns.
10/3/2024	Donna Nishimura	Post document to the client webpage on the TDB website.
10/3/2024	Bryan Tannenbaum	Receipt of Paliare Roland email to service list recirculating motion material.
10/3/2024	Nisan Thurairatnam	Attend to matters in response to a letter from CRA and correspond with T. Irshad re same.
10/4/2024	Tanveel Irshad	Extract Court Report from Notice of Motion and correspond with D. Nishimura to post on our website; correspond with N. Thurairatnam and revise S.246(2) report and send to B. Tannenbaum for review; review edits from B. Tannenbaum; update receivership tracking schedule.
10/4/2024	Bryan Tannenbaum	Review and edit interim S.246(2) report; receipt and review of Mr. Pilehver email and letter regarding an adjournment; response sent; review of J. Larry email to D. Badham regarding his client's position for court; telephone call from M. Castelli re status and potential request by others for adjournment; receipt and review of D. Badham email to J. Larry advising of his client's objection and

Date	Professional	Description
		adjournment request; email from J. Larry re same; email to J. Larry with instructions.
10/4/2024	Donna Nishimura	Post document to the client webpage on the TDB website.
10/4/2024	Nisan Thurairatnam	Review letter from B. Pilehver re an extension to obtain the AVO; review email from D. Badham re his clients to request adjournment; review several emails with counsel re adjournment; review S.246(2) notice and the statement of receipts and disbursements.
10/5/2024	Bryan Tannenbaum	Receipt and review of J. Larry email to applicant and purchaser's counsel regarding second mortgagee position for court on Monday; review of P. Mantini response to J. Larry; review of J. Larry reply; email from M. Castelli; response to M. Castelli email; receipt and review of email from B. Pilehver and response sent.
10/7/2024	Jeff Berger	Prepare for and attend motion re approval of sale; receipt and review of affidavit from D. Badham in support of request for adjournment; discussion with B. Tannenbaum re same.
10/7/2024	Nisan Thurairatnam	Attend to several emails with counsel re second mortgagee's request for adjournment; correspond with B. Tannenbaum and T. Irshad re outstanding rent payment from tenant.
10/7/2024	Tanveel Irshad	Correspond with B. Tannenbaum and N. Thurairatnam re outstanding rent payment from tenant; revise S.246(2) report and obtain B. Tannenbaum's signature; save final version to iManage.
10/7/2024	Bryan Tannenbaum	Telephone call from J. Larry re his conversation with D. Badham this morning; receipt and review of D. Badham email to service list with affidavit in support of our client's request for an adjournment of today's motion; receipt and review of J. Kulathungam of Teplitsky LLP email to D. Badham; attend Court and adjourned to October 23rd; telephone debrief with J. Kulathungam; conference call with J. Kulathungam and M. Castelli re debrief; review of D. Badham's response to J. Kulathungam; email and response to Royal LePage on court result and adjournment; review and sign S.246(2) report; review of J. Larry email to D. Badham regarding additional materials to be filed; correspond with T. Irshad and N. Thurairatnam re outstanding rent payment from tenant.
10/8/2024	Donna Nishimura	Post document to the client webpage on the TDB website.
10/8/2024	Bryan Tannenbaum	Receipt and review of Court Endorsement.
10/8/2024	Jennifer Hornbostel	Fax S.246(2) report to the Office of the Superintendent of Bankruptcy.
10/10/2024	Anne Baptiste	Prepare bank reconciliation.
10/10/2024	Bryan Tannenbaum	Receipt and review of Court Endorsement to the service list.
10/11/2024	Tanveel Irshad	Review mail from CRA re HST filing package; review general ledger and update HST tracking schedule.
10/15/2024	Bryan Tannenbaum	Receipt and review of J. Kulathungam email regarding response from D. Badham; J. Kulathungam email to D. Badham.
10/16/2024	Tanveel Irshad	Call with CRA officer re HST returns.
10/16/2024	Bryan Tannenbaum	Receipt and review of D. Badham email not disputing sale.
10/16/2024	Jennifer Hornbostel	Prepare and post payment.
10/17/2024	Bryan Tannenbaum	Receipt and review of the Receiver's Factum.
10/21/2024	Bryan Tannenbaum	Receipt and review of A. Iqbal emails regarding his retainer by certain investors; arrange call; teams call with A. Iqbal and H. Murray re their retainer and seeking adjournment; email re same to J. Larry; receipt and review of A. Iqbal email re same; review of J. Larry response; forward email to M. Castelli and

Date	Professional	Description
		J. Kulathungam; review of their responding emails; review of J. Larry email to A. Iqbal and his response confirming per first secured awareness.
10/22/2024	Tanveel Irshad	Review letter from CRA.
10/22/2024	Bryan Tannenbaum	Review of M. Haddon email to J. Larry re adjournment request; email from J. Larry re same; email and response to Royal LePage regarding court.
10/23/2024	Jeff Berger	Receipt and review of Court Orders and Endorsement; discuss same with B. Tannenbaum.
10/23/2024	Nisan Thurairatnam	Review statement of receipts and disbursements.
10/23/2024	Bryan Tannenbaum	Email to J. Larry with first email from the shareholders requesting adjournment; email from Royal LePage for a call and response sent; attend Court for sale approval; debrief call with J. Larry; receipt and review of Endorsement and Court Orders.
10/23/2024	Jennifer Hornbostel	Update statement of receipts and disbursements.
10/24/2024	Donna Nishimura	Post Orders and Endorsement to the client webpage on the TDB website.
10/28/2024	Tanveel Irshad	Assemble general ledger and HST support schedule for J. Berger's review; email J. Berger cover letter to CRA and paper HST returns; email J. Hornbostel to file HST returns and fax same to CRA.
10/28/2024	Nisan Thurairatnam	Receipt and review draft letter to CRA re RT0001.
10/28/2024	Jennifer Hornbostel	Review email from T. Irshad and file returns for Q1, Q2, Q3 and fax to CRA re RT0001.
10/29/2024	Tanveel Irshad	Review email from CRA re outstanding HST returns and reply re same.
10/29/2024	Bryan Tannenbaum	Receipt and review of insurance renewal and premium to November 30, 2024.
10/29/2024	Jennifer Hornbostel	Prepare insurance cheque.
10/30/2024	Bryan Tannenbaum	Email to lawyers for fee estimates and closing date; telephone call with M. Lean of Dickinson Wright LLP re closing date and accounting, etc.
10/30/2024	Nisan Thurairatnam	Receipt and review email from B. Tannenbaum re status of closing and associated fees.
10/30/2024	Jennifer Hornbostel	Mail insurance cheque.
10/31/2024	Nisan Thurairatnam	Review email from B. Tannenbaum to Dickinson Wright and Paliare Roland re closing and professional fees; review emails re outstanding HST; review email correspondence with CRA.
10/31/2024	Tanveel Irshad	Correspond with B. Tannenbaum re the status of HST returns; correspond with CRA via email re any outstanding corporate tax returns.
10/31/2024	Bryan Tannenbaum	Correspond with T. Irshad re the status of HST returns.
10/31/2024	Jennifer Hornbostel	Provide tax statements.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	12.30	\$ 695	\$ 8,548.50
Jeff Berger, CPA, CA, CIRP, LIT	Managing Director	1.60	\$ 575	920.00
Nisan Thurairatnam, CPA	Manager	3.40	\$ 425	1,445.00
Tanveel Irshad	Associate	2.50	\$ 295	737.50
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	3.00	\$ 150	450.00
Total hours and professional fees		22.80		\$ 12,101.00
HST @ 13%				1,573.13
Total payable				\$ 13,674.13

GST/HST: 80784 1440 RT0001



To TDB Restructuring Limited
 Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview
 Garden Estates Inc., CBJ – Bridle Park II Inc.
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

TDB Restructuring Limited
 Licensed Insolvency Trustee

11 King St. W., Suite 700
 Toronto, ON M5H 4C7

info@tdbadvisory.ca
 416-575-4440
 416-915-6228

tdbadvisory.ca

Date January 15, 2025

Client File 39-001
Invoice TDB #9
No. 2501014

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview Garden Estates Inc., CBJ – Bridle Park II Inc. (collectively referred to as the “Debtors”) for the period November 1, 2024, to December 31, 2024.

Date	Professional	Description
11/1/2024	Tanveel Irshad	Correspond with D. Nishimura re statement of receipts and disbursements (“R&D”).
11/1/2024	Bryan Tannenbaum	Review N. Thurairatnam’s email to M. Lean of Dickinson Wright LLP attaching property tax bills; review R&D to determine estimated deficiency and funds required, etc.
11/1/2024	Nisan Thurairatnam	Review emails re updated R&D; emails with M. Lean re property tax payments.
11/1/2024	Donna Nishimura	Correspond with T. Irshad re R&D.
11/4/2024	Bryan Tannenbaum	Various conversations and emails with M. Lean on the statement of adjustments; receipt and review of email re same from M. Lean.
11/7/2024	Anne Baptiste	Prepare bank reconciliation.
11/7/2024	Bryan Tannenbaum	Attend to payment processing for commissions and remittance from Dickinson Wright, etc.
11/8/2024	Bryan Tannenbaum	Request corrected commission invoice from Royal LePage; receipt of same and requisition payment.
11/8/2024	Jennifer Hornbostel	Prepare payment.
11/11/2024	Nisan Thurairatnam	Attend a meeting with J. Berger and B. Tannenbaum to discuss all aspects of mandate.
11/11/2024	Bryan Tannenbaum	Review of email from K. Siong regarding investor clients and information requested; meeting with J. Berger and N. Thurairatnam to discuss all aspects of mandate; review and response to Cushman & Wakefield re closing date and status of commission payment.
11/11/2024	Jeff Berger	Attend a meeting with N. Thurairatnam and B. Tannenbaum to discuss all aspects of mandate.
11/12/2024	Bryan Tannenbaum	Receipt and review of Trans Global Partners Newsletter to its investors; forward same to counsel and secured lender.
11/13/2024	Nisan Thurairatnam	Email correspondence with a creditor; receipt and review updated R&D.

Date	Professional	Description
11/13/2024	Jennifer Hornbostel	Update R&D.
11/14/2024	Bryan Tannenbaum	Review accounting; call with N. Thurairatnam regarding R&D.
11/14/2024	Nisan Thurairatnam	Receipt and review of updated R&D; attend a call with B. Tannenbaum re same; update the statement with J. Hornbostel and send update email to internal team re adjustments needed to the accounting.
11/14/2024	Jennifer Hornbostel	Update R&D with N. Thurairatnam.
11/15/2024	Bryan Tannenbaum	Receipt and review of insurance cancellation form; sign and return.
11/15/2024	Nisan Thurairatnam	Attend a call with J. Hornbostel re R&D.
11/15/2024	Jennifer Hornbostel	Post payments and update R&D.
11/19/2024	Bryan Tannenbaum	Receipt and review of BrokerLink email regarding insurance premium refund cheque; email confirming mailing address.
11/21/2024	Nisan Thurairatnam	Receipt and review email from creditor; correspondence with B. Tannenbaum re same.
11/22/2024	Tanveel Irshad	Call with N. Thurairatnam re next steps of mandate; prepare email to B. Tannenbaum and J. Berger re same.
11/22/2024	Nisan Thurairatnam	Call with T. Irshad re next steps of mandate.
11/26/2024	Nisan Thurairatnam	Review email correspondence with Canada Revenue Agency ("CRA"); update R&D and provide same to B. Tannenbaum.
11/26/2024	Tanveel Irshad	Email correspondence with CRA re HST refund.
11/26/2024	Bryan Tannenbaum	Review of T. Irshad email to CRA re HST refund; review of CRA response requesting returns again.
11/27/2024	Margarita Cargher	Call with N. Thurairatnam re background for the Third Report of the Receiver and next steps.
11/27/2024	Nisan Thurairatnam	Review the First and Second Reports of the Receiver; send updated to M. Cargher; attend a call with M. Cargher re background of file and to discuss the draft Third Report of the Receiver.
11/27/2024	Jennifer Hornbostel	Prepare payment.
11/29/2024	Margarita Cargher	Draft the Third Report of the Receiver.
12/2/2024	Nisan Thurairatnam	Meeting with M. Cargher re draft Third Report of the Receiver; review and edit same.
12/2/2024	Margarita Cargher	Meeting with N. Thurairatnam to edit the Third Report of the Receiver.
12/3/2024	Bryan Tannenbaum	Review creditor/investor inquiry.
12/3/2024	Tanveel Irshad	Review and receipt of email from CRA officer re status of HST refund.
12/3/2024	Nisan Thurairatnam	Email correspondence with an unsecured creditor.
12/4/2024	Nisan Thurairatnam	Email correspondence with creditor.
12/10/2024	Anne Baptiste	Prepare bank reconciliation.
12/12/2024	Jennifer Hornbostel	Prepare payment.
12/17/2024	Jennifer Hornbostel	Post payment.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	5.40	\$ 695	3,753.00
Nisan Thurairatnam, CPA	Manager	4.60	\$ 425	1,955.00
Margarita Cargher, MBA, MAcc	Manager	3.90	\$ 425	1,657.50
Tanveel Irshad	Associate	0.70	\$ 295	206.50
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	3.50	\$ 150	525.00
Total hours and professional fees		<u>18.10</u>		\$ 8,097.00
HST @ 13%				1,052.61
Total payable				\$ 9,149.61

GST/HST: 80784 1440 RT0001



To TDB Restructuring Limited
 Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview
 Garden Estates Inc., CBJ – Bridle Park II Inc.
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

TDB Restructuring Limited
 Licensed Insolvency Trustee

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 416-915-6228

tdbadvisory.ca

Date February 20, 2025

Client File 39-001
Invoice TDB #10
No. 2502022

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview Garden Estates Inc., CBJ – Bridle Park II Inc. (collectively referred to as the “Debtors”) for the period January 1, 2025, to January 31, 2025.

Date	Professional	Description
1/2/2025	Bryan Tannenbaum	Receipt and review of C. Agagnier email; response thereto.
1/6/2025	Tanveel Irshad	Email to Canada Revenue Agency (“CRA”) to follow up on HST refund.
1/7/2025	Tanveel Irshad	Call from CRA officer re unsecured claim; discuss same with B. Tannenbaum; prepare statement of receipts and disbursements (“R&D”) and email to J. Berger, B. Tannenbaum and N. Thurairatnam.
1/7/2025	Nisan Thurairatnam	Receipt and review of email correspondence with CRA; receipt and review of updated R&D.
1/7/2025	Bryan Tannenbaum	Receipt and review of CRA email regarding CBJ Clearview Garden Estates liability; discuss same with T. Irshad; review of updated R&D.
1/8/2025	Tanveel Irshad	Review email from CRA officer confirming timing of HST refunds; confirm refund amount and discuss same with B. Tannenbaum; review emails from B. Tannenbaum to J. Larry of Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”) and M. Lean of Dickinson Wright LLP to confirm if there are any outstanding billings; review proof of claim from CRA.
1/8/2025	Bryan Tannenbaum	Review of updated R&D; emails to M. Lean and J. Larry to confirm accounts current; review of CRA’s unsecured claim and discuss with T. Irshad; receipt and review of C. Agagnier email re purchase price of sale transaction and response sent.
1/8/2025	Nisan Thurairatnam	Receipt and review of letter from CRA re unsecured claim.
1/13/2025	Anne Baptiste	Prepare bank reconciliation.
1/14/2025	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
1/14/2025	Jennifer Hornbostel	Post receipt.
1/15/2025	Nisan Thurairatnam	Review the outstanding HST schedule; attend call with CRA; discuss HST with T. Irshad; follow up with Dickinson Wright re outstanding accounts.
1/15/2025	Tanveel Irshad	Follow up call with CRA re status of HST refund and confirmation of amount; review follow up email from N. Thurairatnam re outstanding accounts with M. Lean.

Date	Professional	Description
1/16/2025	Jennifer Hornbostel	Post payment.
1/17/2025	Bryan Tannenbaum	Receipt and review of J. Burrell email requesting information; response sent with information requested.
1/20/2025	Nisan Thurairatnam	Receipt and review of legal invoice; arrange payment.
1/20/2025	Jennifer Hornbostel	Prepare payment.
1/22/2025	Tanveel Irshad	Update HST tracking schedule; assemble with general ledger for J. Berger's review; review same with J. Berger; review of deposit of HST refund cheque.
1/22/2025	Jeff Berger	Review and approve HST filing; discuss same with T. Irshad.
1/22/2025	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
1/22/2025	Jennifer Hornbostel	Post receipt of HST.
1/23/2025	Tanveel Irshad	File HST return; save confirmation to iManage; update HST tracking schedule; arrange for First Report of the Receiver to be posted to the website; call with N. Thurairatnam re Third Report of the Receiver; review and edit same.
1/23/2025	Donna Nishimura	Post First Report of the Receiver to the client webpage on the TDB website.
1/23/2025	Bryan Tannenbaum	Review status of file and accounting; discuss with N. Thurairatnam.
1/23/2025	Nisan Thurairatnam	Prepare the Third Report of the Receiver; call with T. Irshad re same.
1/24/2025	Jeff Berger	Review and process vendor payments.
1/24/2025	Tanveel Irshad	Review previous reports and continue to review and edit the Third Report of the Receiver; prepare and assemble appendices.
1/24/2025	Bryan Tannenbaum	Review and edit of the Third Report of the Receiver.
1/24/2025	Nisan Thurairatnam	Several revisions to the Third Report; review the accounting from the date of receivership to date and update R&D; review HST tracker and correspond with CRA re timing of receivable; review file for any outstanding administrative matters to be completed prior to applying for discharge.
1/24/2025	Jennifer Hornbostel	Prepare and post payment.
1/27/2025	Nisan Thurairatnam	Attend a meeting with B. Tannenbaum and T. Irshad re the Third Report of the Receiver; edit same; send same to R. Shah of Paliare Roland for comments; receipt and review of comments and further Third Report of the Receiver; attend a call with CRA to obtain an update re the final HST credit on file.
1/27/2025	Bryan Tannenbaum	Review and edit the Third Report of the Receiver; review with T. Irshad and N. Thurairatnam; review accounting; review HST refund status; review of email to J. Larry; review of R. Shah response and comments.
1/27/2025	Tanveel Irshad	Meeting with B. Tannenbaum and N. Thurairatnam re revisions to draft Third Report of the Receiver; revise same; update R&D; email same to N. Thurairatnam; review of email to J. Larry re draft Third Report of the Receiver; review emails re court date; review comments on draft Third Report of the Receiver from R. Shah and implement same.
1/28/2025	Tanveel Irshad	Review subsequent emails re timing of court date.
1/28/2025	Nisan Thurairatnam	Receipt and review of two property tax bills from the Township; review same; call with the Township to clarify dates and inform Township that the property was sold; email to Township re same.
1/29/2025	Tanveel Irshad	Review emails between B. Tannenbaum and R. Shah to set up meeting to discuss timing of court report.
1/29/2025	Bryan Tannenbaum	Emails with R. Shah re timing of court date.
1/31/2025	Tanveel Irshad	Prepare S.246(2) notice and R&D.

Date	Professional	Description
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	7.00	\$ 750	5,250.00
Jeff Berger, CPA, CA, CIRP, LIT	Managing Director	0.20	\$ 595	119.00
Nisan Thurairatnam, CPA	Manager	13.00	\$ 450	5,850.00
Tanveel Irshad	Associate	9.90	\$ 325	3,217.50
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	1.70	\$ 195	331.50
Total hours and professional fees		<u>31.80</u>		\$ 14,768.00
HST @ 13%				1,919.84
Total payable				\$ 16,687.84

*Annual increase in rates effective January 1, 2025.

GST/HST: 80784 1440 RT0001



To TDB Restructuring Limited
 Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview
 Garden Estates Inc., CBJ – Bridle Park II Inc.
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

TDB Restructuring Limited
 Licensed Insolvency Trustee

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 Toronto, ON M5H 4C7

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 416-915-6228

tdbadvisory.ca

Date March 4, 2025

Client File 39-001
Invoice TDB #11
No. 2503003

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ Developments Inc., CBJ – Clearview Garden Estates Inc., CBJ – Bridle Park II Inc. (collectively referred to as the “Debtors”) for the period February 1, 2025, to February 28, 2025.

Date	Professional	Description
2/3/2025	Tanveel Irshad	Review property tax statements; call and leave message to Township re ownership change; call from Township re same; email update to N. Thurairatnam and B. Tannenbaum.
2/3/2025	Nisan Thurairatnam	Receipt and review of another set of property tax statements received in mail; respond to B. Tannenbaum re error by Township; call with T. Irshad to discuss calling the Township to re-explain the property has been sold.
2/4/2025	Tanveel Irshad	Correspond with B. Tannenbaum and N. Thurairatnam re Receiver's Certificate No. 1 for S.246(2) notice; continue to prepare S.246(2) notice and statement of receipts and disbursements (“R&D”); finalize and email same to J. Hornbostel to file with the Office of the Superintendent of Bankruptcy (“OSB”).
2/4/2025	Nisan Thurairatnam	Receipt and review of S.246(2) notice; review R&D; update same.
2/4/2025	Jennifer Hornbostel	File S.246(2) notice with the OSB.
2/5/2025	Tanveel Irshad	Review letters from Canada Revenue Agency (“CRA”) re reminder to file corporate tax returns; call with CRA representative re same.
2/6/2025	Nisan Thurairatnam	Further edits to the Report to Court; review and update appendixes; review notes in file to ensure all matters are addressed.
2/7/2025	Nisan Thurairatnam	Next turn of draft of Report to Court; review appendixes re same.
2/9/2025	Anne Baptiste	Prepare bank reconciliation.
2/10/2025	Tanveel Irshad	Review of HST refund cheque from CRA; discuss same with B. Tannenbaum and N. Thurairatnam.
2/10/2025	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
2/10/2025	Nisan Thurairatnam	Receipt and review of HST cheque from CRA; compare same to HST tracker and reconcile same.
2/10/2025	Jennifer Hornbostel	Post receipt.
2/12/2025	Nisan Thurairatnam	Review and further edit the Report to Court.

Date	Professional	Description
2/13/2025	Tanveel Irshad	Update Third Report of the Receiver and respective appendices; arrange for preparation of fee affidavit.
2/13/2025	Nisan Thurairatnam	Continue to edit the Report to Court; emails to T. Irshad and J. Hornbostel re fee affidavit; review closing checklist and close out all administrative matters.
2/13/2025	Jennifer Hornbostel	Update fee affidavit.
2/16/2025	Tanveel Irshad	Follow up with J. Hornbostel re fee affidavit.
2/18/2025	Tanveel Irshad	Review draft affidavit of fees.
2/18/2025	Jennifer Hornbostel	Prepare payment.
2/20/2025	Jennifer Hornbostel	Prepare and post payment.
2/24/2025	Tanveel Irshad	Update draft Third Report of the Receiver with information from fee affidavit; review email from N. Thurairatnam to R. Shah of Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland") re court date and review of draft Third Report.
2/24/2025	Nisan Thurairatnam	Further edits to Report and send same with all comments to B. Tannenbaum; meeting with B. Tannenbaum to discuss same; send same to R. Shah.
2/24/2025	Bryan Tannenbaum	Review and edit final draft report to court; discuss with N. Thurairatnam; receipt and review of J. Larry of Paliare Roland email attaching letter from Lenczner Slaght LLP re action by BBJ in Alberta.
2/25/2025	Tanveel Irshad	Correspond with N. Thurairatnam re periods for fee affidavit due to Court date.
2/26/2025	Tanveel Irshad	Review emails re arrangement of court date; review comments from R. Shah on draft Third Report of the Receiver.
2/26/2025	Nisan Thurairatnam	Receipt and review of email from R. Shah re edits to Report and Court date; review comment on payout statement; discuss same with B. Tannenbaum; review updated R&D to determine amount to be sent to the secured creditor.
2/26/2025	Bryan Tannenbaum	Receipt and review of R. Shah email with comments on final third report to court; email to N. Thurairatnam re discharge amount.
2/27/2025	Tanveel Irshad	Review APS and provide B. Tannenbaum legal name of purchaser.
2/27/2025	Bryan Tannenbaum	Receipt and review of R. Shah draft email (letter) to the Debtor; response with comments.
2/27/2025	Nisan Thurairatnam	Receipt and review of draft response from R. Shah to Debtor re the Alberta action; further edits to Court Report re reporting the same.
2/28/2025	Bryan Tannenbaum	Receipt and review of J. Larry letter to Debtor to refrain from taking actions in name of company; receipt and review of R. Shah email attaching further update to court report to reference Debtor's recent Alberta action; discuss with N. Thurairatnam.
2/28/2025	Nisan Thurairatnam	Receipt and review of next turn of Report to Court from R. Shah; discuss same with B. Tannenbaum.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	2.90	\$ 750	2,175.00
Nisan Thurairatnam, CPA	Manager	14.00	\$ 450	6,300.00
Tanveel Irshad	Associate	3.70	\$ 325	1,202.50
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	1.70	\$ 195	331.50
Total hours and professional fees		22.30		\$ 10,009.00
HST @ 13%				1,301.17
Total payable				\$ 11,310.17

*Annual increase in rates effective January 1, 2025.

GST/HST: 80784 1440 RT0001

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF BRYAN A. TANNENBAUM SWORN BEFORE
ME THIS 4th DAY OF MARCH 2025**



A Commissioner, etc.

Arif Nazarali Dhanani,
a Commissioner, etc., Province of Ontario,
for TDB Restructuring Limited.
Expires April 21, 2026.

**In the Matter of the Receivership of
 CBJ Developments Inc., CBJ - Clearview Garden Estates Inc., CBJ - Bridle Park II Inc.
 Summary of Receiver's Fees
 For the Period September 1, 2024 to February 28, 2025**

Invoice #	Invoice Date	Period	Hours	Fees	Disburse - ments	Subtotal	HST	Total	Average Hourly Rate
TDB #7	07-Oct-24	September 1, 2024 to September 30, 2024	34.3	\$ 18,194.00	\$ -	\$ 18,194.00	\$ 2,365.22	\$ 20,559.22	\$ 530.44
TDB #8	27-Nov-24	October 1, 2024 to October 31, 2024	22.8	\$ 12,101.00	\$ -	\$ 12,101.00	\$ 1,573.13	\$ 13,674.13	\$ 530.75
TDB #9	15-Jan-25	November 1, 2024 to December 31, 2024	18.1	\$ 8,097.00	\$ -	\$ 8,097.00	\$ 1,052.61	\$ 9,149.61	\$ 447.35
TDB #10	20-Feb-25	January 1, 2025 to January 31, 2025	31.8	\$ 14,768.00	\$ -	\$ 14,768.00	\$ 1,919.84	\$ 16,687.84	\$ 464.40
TDB #11	04-Mar-25	February 1, 2025 to February 28, 2025	22.3	\$ 10,009.00	\$ -	\$ 10,009.00	\$ 1,301.17	\$ 11,310.17	\$ 448.83
Total			129.3	\$ 63,169.00	\$ -	\$ 63,169.00	\$ 8,211.97	\$ 71,380.97	\$ 488.55

APPENDIX "O"

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

B E T W E E N:

1180554 ONTARIO LIMITED

Applicant

-and-

**CBJ DEVELOPMENTS INC., CBJ – CLEARVIEW GARDEN ESTATES INC. and
CBJ – BRIDLE PARK II INC.**

Respondents

**AFFIDAVIT OF BEATRICE LOSCHIAVO
(Sworn March 3, 2025)**

I, Beatrice Loschiavo, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am an assistant at the law firm of Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”). I have personal knowledge of the matters to which I hereinafter refer.
2. Paliare Roland has provided legal services to and incurred disbursements on behalf of the Receiver. The detailed invoices attached hereto and marked as **Exhibit “A”** are dockets (the “**Dockets**”) which set out Paliare Roland’s fees and disbursements from September 6, 2024 to February 28, 2025. The Dockets describe the services provided and the amounts charged by Paliare Roland.
3. The following is a summary of the professionals whose services are reflected in the Dockets, including hourly rates, fees billed, hours billed and the average hourly rate charged by Paliare Roland. The hourly rates charged are the usual hourly rates for this type of matter charged by Paliare Roland for the listed professionals.

Professional	Hourly Rate	Hours Billed	Fees Billed
Jeff Larry	\$950/hr	14.40	\$13,730.00
Ryan Shah	\$500/hr	15.70	\$7,850.00
Douglas Montgomery	\$550/hr	10.10	\$5,555.00
Meredith Francis	\$275/hr	1.30	\$357.50
Pooja Patel	\$275/hr	2.30	\$632.50
Subtotal			\$28,125.00

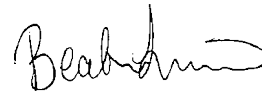
4. Inclusive of HST and disbursements, the total amount of the Dockets are **\$33,206.28**
5. Paliare Roland estimates that its further fees through the completion of the Receiver's mandate will be \$7,500.

SWORN remotely by Beatrice Loschiavo at)
the City of Toronto, in the Province of)
Ontario before me, on this 3rd day of)
March, 2025 in accordance with *O. Reg.*)
431/20, Administering Oath or Declaration)
Remotely)



A Commissioner for taking Affidavits

Afshin Ahmad Chowdhury, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires May 2, 2026.



BEATRICE LOSCHIAVO

This is **Exhibit "A"**
Referred to in the Affidavit of Beatrice Loschiavo
Affirmed remotely before me this 3rd day of February, 2025



A Commissioner for Taking Affidavits (or as may be)

Afshen Ahmed Chowdhury, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires May 2, 2025.

Paliare Roland

Paliare Roland Rosenberg Rothstein LLP
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

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Private and Confidential
Bryan Tannenbaum
TDB Restructuring Limited
11 King Street West, Suite 700
Box 27
Toronto, Ontario M5H 4C7

November 30, 2024
Invoice No.: 131472
Our File No.: 6595-102026

RE: CBJ Developments Inc.

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending November 30, 2024:

OUR FEES	\$ 25,750.00
Non Taxable Disbursements	299.35
Total Disbursements subject to HST	996.18
Total HST	<u>3,477.00</u>
INVOICE TOTAL	<u><u>\$ 30,522.53</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:



Jeffrey Larry

Paliare Roland

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November 30, 2024
Invoice No.: 131472
Our File No.: 6595-102026

RE: CBJ Developments Inc.

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending November 30, 2024:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
06/09/24	JL	Correspondence and internal meetings re materials;	950.00	0.30	285.00
07/09/24	JL	Review and revise materials for approval;	950.00	0.80	760.00
07/09/24	RS	Revise service list; email client re. same; email to clerks re. instruments on title; prepare security opinion;	500.00	0.60	300.00
09/09/24	MF	Pull various reports and provide instructions, as requested;	275.00	0.60	165.00
09/09/24	RS	Review and revise second report; research re. credit bids;	500.00	1.10	550.00
10/09/24	MF	Assist with requested searches; emails with legal teams;	275.00	0.70	192.50
11/09/24	JL	Discussion re forfeited deposit and report;	950.00	0.40	380.00
11/09/24	RS	Draft notice of motion; review and revise report;	500.00	0.80	400.00

ERRORS AND OMISSIONS EXCLUDED TERMS: DUE UPON RECEIPT. AMOUNTS ARE STATED IN CANADIAN DOLLARS UNLESS OTHERWISE INDICATED.
INTEREST AT THE RATE OF 4.8% PER ANNUM WILL BE CHARGED ON ALL AMOUNTS NOT PAID WITHIN ONE MONTH FROM THE DATE OF THIS INVOICE.
HARMONIZED SALES TAX REGISTRATION NUMBER 88366 4518 RT 0001

MR238

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
12/09/24	RS	Meet with receiver re. report; prepare security opinion; email assistant re. motion record; draft AVO;	500.00	1.40	700.00
13/09/24	JL	Revise and finalize security opinion; discussion of issues with R. Shah;	950.00	0.80	760.00
13/09/24	RS	Format security opinion; send same to receiver; draft factum;	500.00	0.20	100.00
15/09/24	RS	Email purchaser's counsel re. name of entity taking title;	500.00	0.20	100.00
16/09/24	RS	Draft AVO; draft factum for AVO; research for same;	500.00	1.10	550.00
17/09/24	JL	Review and revise drafts of Receiver's reports; revise forms of Approval and Vesting Orders; correspondence; meeting with R. Shah; correspondence with B. Tannenbaum;	950.00	2.10	1,995.00
17/09/24	RS	Review fee affidavit; revise AVOs; email purchaser's counsel re. same; meet with J. Larry and D. Montgomery re. hearing; review and revise report; draft factum;	500.00	2.10	1,050.00
18/09/24	JL	Discussion with R. Shah; final revisions to Approval and Vesting Order; correspondence re outstanding issues;	950.00	0.30	285.00
18/09/24	RS	Draft AVO factum; research re. same; draft order;	500.00	2.40	1,200.00
20/09/24	RS	Draft factum;	500.00	1.20	600.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
21/09/24	JL	Review and revise Notice of Motion; correspondence with D. Montgomery;	950.00	0.80	760.00
23/09/24	DM	Review and incorporation of J. Larry comments to factum;	550.00	3.30	1,815.00
27/09/24	DM	Compilation and updating of motion record; instructions to C. Baumtrog re same;	550.00	0.90	495.00
29/09/24	DM	Revisions to motion record;	550.00	0.20	110.00
30/09/24	JL	Call with M. Lean; revise Orders; revise and serve motion record;	950.00	0.90	855.00
30/09/24	DM	Final review of and revisions to motion record; e-mails with B. Loschiavo and J. Larry re finalization and service;	550.00	1.10	605.00
01/10/24	JL	Review and revise draft Orders; correspondence with D. Montgomery;	950.00	0.40	380.00
01/10/24	DM	Revisions to factum; e-mail to J. Larry re same;	550.00	0.40	220.00
02/10/24	JL	Correspondence with D. Badham; correspondence with Receiver; drafting and revising factum;	950.00	1.90	1,805.00
02/10/24	DM	Further revisions to factum to incorporate J. Larry comments; review of factum footnotes; service of factum; follow up correspondence with counsel;	550.00	2.10	1,155.00
02/10/24	PP	Finalizing factum for D. Montgomery;	275.00	2.30	632.50
04/10/24	JL	Correspondence regarding adjournment request from D.	950.00	0.30	285.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
		Badham; correspondence with counsel;			
05/10/24	JL	Correspondence with counsel; prepare for hearing;	950.00	0.60	570.00
06/10/24	JL	Prepare for hearing; various correspondence;	950.00	1.10	1,045.00
07/10/24	JL	Prepare for and attend at hearing; calls with counsel; calls with Receiver;	950.00	1.20	1,140.00
07/10/24	DM	Revisions to draft orders; co-ordinating additional matters in advance of vesting hearing;	550.00	1.20	660.00
08/10/24	JL	Review endorsement;	950.00	0.20	190.00
17/10/24	JL	Review and finalize updated factum;	950.00	0.40	380.00
17/10/24	DM	Revisions to factum; e-mail to J. Larry re same;	550.00	0.50	275.00
18/10/24	DM	Revisions to court materials; instructions to C. Baumtrog re CaseLines for hearing;	550.00	0.40	220.00
21/10/24	JL	Various correspondence with counsel and Receiver re upcoming hearing;	950.00	0.30	285.00
23/10/24	JL	Prepare for and attend at hearing;	950.00	1.10	1,045.00
23/10/24	RS	Call with J. Larry re. orders; revise orders; upload same to Caselines; attend hearing; edit notes re. same;	500.00	0.90	450.00

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Patel, Pooja (PP)	2.30	275.00	632.50
Montgomery, Douglas (DM)	10.10	550.00	5,555.00
Shah, Ryan (RS)	12.00	500.00	6,000.00
Francis, Meredith (MF)	1.30	275.00	357.50

Larry, Jeffrey (JL)	13.90	950.00	13,205.00
	<u>39.60</u>		
OUR FEES			\$ 25,750.00
HST at 13%			3,347.50
<u>Non Taxable Disbursements:</u>			
Search Disbursement - Non-taxable			299.35
<u>Taxable Disbursements:</u>			
27/08/24	Execution Searches Re: CSP Voucher No. 37118 for Invoice No. 6195224 issued by: (130)CIBC	35.91	
27/08/24	Execution Searches Re: CSP Voucher No. 37119 for Invoice No. 6195058 issued by: (130)CIBC	137.14	
10/09/24	Execution Searches Re: CSP Voucher No. 37556 for Invoice No. 6215336 issued by: (130)CIBC	39.00	
	Search Disbursement	<u>784.13</u>	
Total Disbursements			996.18
HST at 13%			<u>129.50</u>
INVOICE TOTAL			<u><u>\$ 30,522.53</u></u>

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Bryan Tannenbaum
TDB Restructuring Limited
11 King Street West, Suite 700
Box 27
Toronto, Ontario M5H 4C7

November 30, 2024
Invoice No.: 131472
Our File No.: 6595-102026

RE: CBJ Developments Inc.

**REMITTANCE COPY
PLEASE REMIT WITH PAYMENT**

OUR FEES	\$ 25,750.00
Non Taxable Disbursements	299.35
Total Disbursements subject to HST	996.18
Total HST	<u>3,477.00</u>
INVOICE TOTAL	<u><u>\$ 30,522.53</u></u>

MR243

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TDB Restructuring Limited
11 King Street West, Suite 700
Box 27
Toronto, Ontario M5H 4C7

February 28, 2025
Invoice No.: 133099
Our File No.: 6595-102026

Attention: Bryan Tannenbaum

RE: CBJ Developments Inc.

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending February 28, 2025:

OUR FEES	\$ 2,375.00
Total HST	<u>308.75</u>
INVOICE TOTAL	<u><u>\$ 2,683.75</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:



Jeffrey Larry

Paliare Roland

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February 28, 2025
Invoice No.: 133099
Our File No.: 6595-102026

Attention: Bryan Tannenbaum

RE: CBJ Developments Inc.

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending February 28, 2025:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
10/12/24	RS	Call with creditor about invoice;	500.00	0.10	50.00
17/12/24	RS	Various correspondence issuance of orders;	500.00	0.40	200.00
16/01/25	RS	Email creditor re. question;	500.00	0.10	50.00
27/01/25	RS	Review and revise third report; prepare notice of motion re. same; correspondence re. motion;	500.00	1.10	550.00
28/01/25	RS	Email applicant's counsel re. discharge;	500.00	0.10	50.00
29/01/25	RS	Call with B. Tannenbaum re. scheduling discharge motion;	500.00	0.10	50.00
31/01/25	RS	Correspondence re. scheduling discharge motion;	500.00	0.10	50.00
25/02/25	RS	Email client re. report; review same; email B. Loschiavo re. fee affidavit;	500.00	0.10	50.00
26/02/25	JL	Call with A. Parley; discussion with R. Shah;	1,050.00	0.50	525.00

ERRORS AND OMISSIONS EXCLUDED TERMS: DUE UPON RECEIPT. AMOUNTS ARE STATED IN CANADIAN DOLLARS UNLESS OTHERWISE INDICATED.
INTEREST AT THE RATE OF 4% PER ANNUM WILL BE CHARGED ON ALL AMOUNTS NOT PAID WITHIN ONE MONTH FROM THE DATE OF THIS INVOICE.
HARMONIZED SALES TAX REGISTRATION NUMBER 88366 4518 RT 0001

MR246

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
26/02/25	RS	Prepare motion materials; meet with J. Larry re. Alberta action; update service list;	500.00	0.50	250.00
27/02/25	RS	Draft letter re. Alberta action; revise report;	500.00	0.70	350.00
28/02/25	RS	Send letter re. Alberta action; revise report; email client re. same;	500.00	0.40	200.00

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Shah, Ryan (RS)	3.70	500.00	1,850.00
Larry, Jeffrey (JL)	0.50	1,050.00	525.00
	<u>4.20</u>		

OUR FEES \$ 2,375.00
 HST at 13% 308.75

INVOICE TOTAL \$ 2,683.75

Paliare Roland

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Toronto, Ontario M5H 4C7

February 28, 2025
Invoice No.: 133099
Our File No.: 6595-102026

Attention: Bryan Tannenbaum

RE: CBJ Developments Inc.

**REMITTANCE COPY
PLEASE REMIT WITH PAYMENT**

OUR FEES	\$ 2,375.00
Total HST	<u>308.75</u>
INVOICE TOTAL	<u><u>\$ 2,683.75</u></u>

MR248

1180554 ONTARIO LIMITED.

-and- CBJ DEVELOPMENTS INC. et al.

Applicant

Respondents

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

FEE AFFIDAVIT OF BEATRICE LOSCHIAVO

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Lawyers for the Receiver, TDB Restructuring Limited

1180554 ONTARIO LIMITED
Applicant

-and-

CBJ DEVELOPMENTS INC., et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**MOTION RECORD OF THE RECEIVER (MOTION
MARCH 18, 2025)**

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**Lawyers for the Receiver, TDB Restructuring
Limited**