

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c.B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

MOTION RECORD

(Motion Returnable May 11, 2020)

April 29, 2020

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TAB 1

Court File No: CV-19-00631363-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

NOTICE OF MOTION

THE RECEIVER, RSM Canada Limited (“RSM” or the “Receiver”), will make a motion before a Judge of the Ontario Superior Court of Justice at 10:00 a.m. on May 11, 2020, or as soon thereafter as the motion can be heard. Please refer to the conference details attached as Schedule “A” hereto in order to attend the motion and advise if you intend to join the motion by emailing Elizabeth Rathbone at elizabeth.rathbone@paliarerland.com. When e-mailing Ms. Rathbone to confirm whether you will be participating on the motion, ensure that you have provided your name, email address and the identity of the party you represent and their interest.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference due to the COVID-19 crisis.

THE MOTION IS FOR:

1. An Order substantially in the form attached as Appendix “A” to this Notice of Motion:
 - (a) approving the Receiver’s Second Report dated April 29, 2020 (the “**Second Report**”) and the Receiver’s conduct and activities to April 29, 2020 discussed therein;
 - (b) sealing Confidential Appendix “K” to the Second Report until the closing of the sale of the property municipally known as 168 Old Kennedy Road, Markham, Ontario (the “**Property**”);
 - (c) directing amount(s) to be paid by the Receiver from the net proceeds from the sale of the Property;
 - (d) authorizing the Receiver to make the Interim Distribution (as defined herein) to Vector Financial Services Limited (“**Vector**”);
 - (e) approving the Receiver’s cash receipts and disbursements for the period December 6, 2019 to April 22, 2020 (the “**R&D**”);
 - (f) approving the fees of the Receiver for the period February 1, 2020 to March 31, 2020;
 - (g) approving the fees of Paliare Roland Rosenberg Rothstein LLP (“**Paliare**”) for the period February 1, 2020 to March 31, 2020; and
 - (h) approving the fees of Cassels Brock & Blackwell LLP (“**Cassels**”) for the period January 1, 2020 to March 31, 2020.

2. An Order substantially in the form attached as Appendix “B” to this Notice of Motion:
- (a) authorizing and directing the Receiver to enter into and carry out the terms of the transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Wu, Xiao Ling In Trust for a company to be incorporated (the “**Purchaser**”) dated April 6, 2020 and amending agreement made as of April 21, 2020 (collectively, the “**APS**”), together with any further minor amendments thereto deemed necessary by the Receiver in its sole opinion;
 - (b) vesting title to the Property in the Purchaser, or as the Purchaser may further direct in writing, free and clear of claims and encumbrances, upon closing of the transaction under the APS and the delivery of a Receiver’s certificate to the Purchaser; and
 - (c) such further relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

A. Background

3. Pursuant to an application made by Vector, by Order of the Ontario Superior Court of Justice (“the **Court**”) dated December 6, 2019 (the “**Appointment Order**”), RSM was appointed as receiver of the Property owned by 168 Old Kennedy Inc. (“**168**” or the “**Debtor**”).

4. The Property consists of approximately 1.46 acres of vacant, undeveloped land located at 168 Old Kennedy Road, Markham, Ontario.
5. Vector is a private lender and mortgage broker in the business of originating and administering mortgage loans in Ontario. Vector holds a first mortgage in the principal amount of \$5,940,000 against the Property.
6. The Debtor failed to repay the principal amount of the loan due and owing on the maturity date of the mortgage and to pay other amounts properly due and owing under the mortgage.
7. On February 10, 2020, the Receiver brought a motion for the purpose of, *inter alia*, approving a sale process and authorizing the Receiver to give access to the fenced-in area of the Property without the Receiver or any party accessing the Property being deemed to be in possession of the Property.
8. On February 21, 2020, the Honourable Justice McEwen issued an Order (the “**Sale Process Order**”), *inter alia*, approving and authorizing the Receiver to commence the sale process described in the First Report and authorizing the Receiver to give access to the fenced-in area on the Property without the Receiver or any other party being deemed to be in possession of the Property.
9. The Appointment Order, the First Report, the Sale Process Order and other court documents have been posted on the Receiver’s website, which can be found at rsmcanada.com/168-Old-Kennedy-Road.

B. Marketing of the Property

10. The Receiver's proposed marketing process for the Property, including the engagement of Avison Young, was described in detail in the First Report. The process was approved pursuant to the Sale Process Order.

11. The marketing of the Property commenced on February 3, 2020. Interested parties were informed that the deadline for offers for the Property to be received was 4:00 p.m. on March 12, 2020 (the "**Offer Deadline**").

12. The Receiver provided Avison Young with a baseline Agreement of Purchase and Sale (the "**Baseline APS**") for distribution to parties who intended to make an offer to purchase the Property and requested that all offers be made on the form of the Baseline APS, with any changes marked.

13. Further steps taken by the Receiver/Avison in connection with the marketing of the Property include the following:

- (a) on February 3 and 26, and March 10, 2020, emails giving notice of the acquisition opportunity were sent to 889, 1,283 and 1298 parties, respectively;
- (b) a brochure was prepared and provided to interested parties who clicked on the link in the email;
- (c) on February 11 and 13, 2020, an advertisement of the acquisition opportunity was published in the Globe and Mail newspaper;

- (d) on February 14, 2020, a listing for the Property was posted on the MLS system;
- (e) on February 14, 2020, two “For Sale” banners were installed on the fence at the Property; and
- (f) an online data room was set up and parties that signed a confidentiality agreement (“**CA**”) were given access to additional information on the Property.

14. In addition, and to further assist with the sales process, the Receiver engaged Pinchin Ltd. to prepare an updated Phase I Environmental Site Assessment (the “**Phase I ESA**”) for the Property. A copy of the Phase I ESA dated March 10, 2020 received from Pinchin Ltd., was posted to the data room on March 10, 2020.

C. The Offers for the Property

15. As of the Offer Deadline, seven offers were submitted to Avison for the Property.

16. Following receipt of these offers, and after review and consultation with Avison Young and Vector, parties representing the four offers regarded as having the most favourable terms (the “**Four Parties**”) were contacted and invited to improve or amend their offers and resubmit by noon of March 17, 2020. Two of these four parties elected to amend their original offers to purchase as of March 17, 2020. Subsequently, on March 19, 2020, one of the Four Parties withdrew its offer.

17. After reviewing the remaining three offers and consulting with Avison Young and Vector, on March 27, 2020, the Four Parties were advised by Avison Young that Vector

was prepared to provide financing to a prospective purchaser, and the Four Parties were provided with the terms of the potential financing (the “**Vector Financing**”). The Four Parties were invited to amend their offers, including taking into consideration the Vector Financing, and resubmit their offers by March 31, 2020.

18. Three parties elected to amend their offers to purchase and the party that had previously advised that it was withdrawing its offer confirmed that it had no further interest in the Property (the “**Third Round Offers**”).

19. The Receiver reviewed the terms of the Third Round Offers. The Receiver considered each of the Third Round Offers, including the offered purchase prices, proposed due diligence periods, due diligence terms, likelihood of closing on a timely basis, etc. The Receiver ultimately proceeded, with the concurrence of Vector, to finalize the offer submitted by the Purchaser. The Receiver worked with Cassels to have certain of the terms of the Purchaser’s offer amended in order for the Receiver to be in a position to accept that offer.

20. On April 8, 2020, the Receiver accepted the Purchaser’s offer and executed the APS. The APS was subject to a 10 calendar day conditional period, due to expire on April 18, 2020.

21. On April 17, 2020, the Purchaser advised that while it was prepared to proceed with the purchase, it was seeking a reduction in the purchase price, as well as an extension of three days to the due diligence period. After negotiations between the Receiver and the Purchaser, on April 22, 2020, a Waiver and Amending Agreement made as of April 21, 2020 (the “**Amending Agreement**”) was executed and the APS

became final, subject to the approval of the Court. Terms of the Amending Agreement included an adjustment to the purchase price, an increase in the quantum of the deposit due, and the waiver by the Purchaser of its conditions.

D. The Sale should be Approved

22. The marketing process undertaken by the Receiver was appropriate for the type of property in question and provided sufficient market exposure to the Property. The Property was exposed to the market since February 3, 2020, notice of the sale of the Property was sent to more than 1,200 parties, and the Property was listed for sale on MLS, on Avison's website and advertised in the Globe and Mail newspaper.

23. As a result of the marketing efforts undertaken, CAs were signed in respect of 16 potential purchasers and seven offers to purchase the Property were received from prospective purchasers.

24. Sufficient efforts were made to obtain the best price for the Property. Further, the marketing process was conducted fairly and in accordance with the Sale Process Order.

25. The Receiver submits that the APS represents the most advantageous offer for the creditors of 168, taking into account both the current economic climate in light of the COVID-19 pandemic and the ongoing costs being incurred by 168, including the interest continuing to accrue on the Debtor's indebtedness to Vector.

26. The Receiver therefore recommends that this Court approve the APS and grant an Order vesting title in the purchased assets in the Purchaser or its assignee upon the closing of the Transaction.

E. Proposed Distribution

27. The Receiver proposes to make the following payments from the net proceeds of sale from the property, after payment of property taxes and commissions payable to Avison Young in respect of the sale of the Property:

- (a) the advance totaling \$15,000 under Receiver Certificate No. 1 plus interest to Vector (the “**Receiver Certificate Advance**”);
- (b) the amount of \$71,262.51, being the total of amounts owing to the Receiver, Paliare and Cassels on account of their respective unpaid accounts; and
- (c) an amount not exceeding the principal advanced by Vector and accrued interest thereon, secured by Vector’s first mortgage over the Property, to Vector (the “**Interim Distribution**”).

28. The Receiver understands that Vector is providing financing to the Purchaser for a portion of the purchase price payable on closing in the amount of \$4,800,000 (the “**Mortgage Amount**”). Accordingly, the Interim Distribution to be paid to Vector will consist of (i) a non-cash payment representing the Mortgage Amount, plus (ii) a cash payment representing the amount of the Vector Statement less the Mortgage Amount and the Receiver Certificate Advance.

F. Sealing the Confidential Appendix

29. Details of the offers submitted for the Property, including matters relating thereto, should be kept confidential until the closing of the Transaction.

30. Public disclosure of this information would have a negative impact on the future marketing of the Property, should the Transaction with the Purchaser not be approved or completed.

G. Statutory and other grounds

31. Rules 1.04, 2.03, 3.02(1), 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and

32. Such further and other grounds as counsel may advise and this Court may permit.

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

- (a) the Second Report of the Receiver dated April 29, 2020 and the appendices attached thereto;
- (b) Confidential Appendix “K” to the Second Report; and
- (c) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

April 29, 2020

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Lawyers for the Receiver

TO: THE SERVICE LIST

VECTOR FINANCIAL SERVICES LIMITED
Applicant

-and-

Court File No. CV-19-00631363-00CL
168 OLD KENNEDY INC.
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Lawyers for the Receiver

Schedule “A”**Conference Details to join Motion via Zoom**

Join Zoom Meeting

<https://us02web.zoom.us/j/9356740477?pwd=anE2MmxVM1IHQXBmVFg1S0EvR2RGUT09>

Meeting ID: 935 674 0477

Password: 406569

Dial by your location

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

Meeting ID: 935 674 0477

Password: 406569

Find your local number: <https://us02web.zoom.us/j/9356740477?pwd=anE2MmxVM1IHQXBmVFg1S0EvR2RGUT09>

APPENDIX "A"

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Second Report and the conduct and activities of the Receiver to April 29, 2020 set out therein be and are hereby approved.
3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel for the period ended March 31, 2020 as set out in the Second Report be and are hereby approved.
4. **THIS COURT ORDERS** that the Receiver's statement of receipts and disbursements for the period December 6, 2019 to April 22, 2020 as set out in the Second Report, be and is hereby approved.
5. **THIS COURT ORDERS** that Confidential Appendix "K" to the Second Report be sealed until the closing of the sale of the Property.
6. **THIS COURT ORDERS** that the Receiver is authorized to pay from the net proceeds of sale of the Property, after payment of property taxes and commissions payable to Avison Young in respect of the sale of the Property, the following (subject to such hold backs as the Receiver determines, in its sole discretion, are appropriate):
 - (a) the advance totaling \$15,000 under Receiver Certificate No. 1 plus interest to Vector Financial Services Limited ("**Vector**");
 - (b) the amount of \$71,262.51, being the total of amounts owing to the Receiver and its counsel on account of their respective unpaid accounts; and
 - (c) the Interim Distribution (as defined in the Second Report) to Vector.
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.

VECTOR FINANCIAL SERVICES LIMITED

-and-

Court File No. CV-19-00631363-00CL
168 OLD KENNEDY INC.

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER

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Lawyers for the Receiver RSM Canada Limited

APPENDIX “B”

Court File No. CV-19-00631363-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	MONDAY, THE 11 TH DAY
)	
JUSTICE)	OF MAY, 2020

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

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

APPROVAL AND VESTING ORDER

THIS MOTION, made by RSM Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of 168 Old Kennedy Road, Markham, Ontario (the "**Property**") owned by 168 Old Kennedy Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Wu, Xiao Ling In Trust for a company to be incorporated made as of April 6, 2020 (as amended) and appended to the Report of the Receiver dated April 29, 2020 (the "**Report**"), and vesting in 2753129 Ontario Inc. (the "**Purchaser**") 168 Old Kennedy Inc.'s ("**168**") right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day by videoconference due to the COVID-19 crisis.

ON READING the Report and on hearing the submissions of counsel for the Receiver and such other counsel as were present and made submissions, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Michelle Jackson sworn April 29, 2020, filed:

1. **THIS COURT ORDERS AND DECLARES** that the 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 the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Receiver's and all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the 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, or other financial or monetary 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 December 6, 2019; (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) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York (#65) 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 Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real 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 Purchased Assets shall stand in the place and stead of the Purchased Assets, 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 Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets 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 Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance 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.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-19-00631363-00CL

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

B E T W E E N:

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OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, AS AMENDED

RECEIVER’S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "**Court**") dated December 6, 2019, RSM Canada Limited was appointed as the receiver (the "**Receiver**") of 168 Old Kennedy Road, Markham, Ontario (the "**Property**") owned by 168 Old Kennedy Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE] (the "Vesting Order"), the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "**Sale Agreement**") between the Receiver and [NAME OF PURCHASER] (the "**Purchaser**") and provided for the vesting in the Purchaser of the Receiver’s and the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets 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 Purchased Assets; (ii) that the conditions to Closing as set out in section 16 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 or the Vesting Order.

THE RECEIVER CERTIFIES the following:

8. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Date of Closing pursuant to the Sale Agreement;
9. The conditions to Closing as set out in section 16 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
10. The Transaction has been completed to the satisfaction of the Receiver; and
11. This Certificate was delivered by the Receiver at [TIME] on ► [DATE].

RSM Canada Limited, solely in its capacity as Court-appointed Receiver of 168 Old Kennedy Road, Markham, Ontario and not in its personal or corporate capacity and without personal or corporate liability

Per: _____

Name: ►

Title: ►

Schedule B – Purchased Assets

All of the Receiver's (if any) and 168 Old Kennedy Inc.'s right, title and interest in and to the Property (as defined in the Sale Agreement) including, without limitation, the following real property:

MUNICIPAL ADDRESS: 168 Old Kennedy Road, Markham, Ontario

PIN 02953-0145 (LT): BLOCK 2, PLAN 65M4289 T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 4, 6, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN THE LIMITS OF PT 1, PL 65R30487, AS IN MA91760; T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 2, 4, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN LIMITS OF PT 5, PL 65R30487, AS IN MA110959; T/W EASE OVER PT E1/2 LT 2, ONC 5, PTS 2, 6, 7 & 8 IN FAVOUR OF PT BLK 1, PL 65M4289 LYING WITHIN LIMITS OF PT 3, PL 65R30487, AS IN R694330; S/T EASE AS IN YR1610522; S/T EASE IN GROSS AS IN YR1684881; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1749103; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1778673; SUBJECT TO AN EASEMENT AS IN YR1905638; SUBJECT TO AN EASEMENT OVER PTS 2, 4 & 6, 65R33280 IN FAVOUR OF BLK 3, PL 65M4289 AS IN YR1936318; CITY OF MARKHAM

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

The following Instruments are to be discharged upon registration of the Vesting Order:

1. Instrument No. YR2668099 is a Charge registered on May 15, 2017 in favour of Vector Financial Services Limited (“**Vector**”) in the amount of \$5,940,000.00.
2. Instrument No. YR2668100 is a General Assignment of Rents registered on May 15, 2017 in favour of Vector as collateral security to the Charge registered as Instrument No. YR2668099.
3. Instrument No. YR2668140 is a Charge registered on May 15, 2017 in favour of 2080552 Ontario Inc. in the amount of \$1,020,038.00.
4. Instrument No. YR2709457 is a Charge registered on July 28, 2017 in favour of 10114812 Canada Corporation in the amount of \$3,500,000.00.

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

(unaffected by the Vesting Order)

Permitted Encumbrances with respect to the Property (as defined in the Sales Agreement) means:

1. The exceptions and qualifications set out in the *Land Titles Act* (Ontario) and/or on the parcel register for the Property;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements, servitudes, rights-of-way, licences, restrictions that run with the land and other encumbrances and/or agreements with respect thereto (including, without limiting the generality of the foregoing, easements, rights-of-way and agreements for sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables);
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due or liens for same which are due but the validity of which are being contested in good faith by the Vendor provided that the Vendor has provided security which in the opinion of the Vendor, acting reasonably, is necessary to avoid any lien, charge or encumbrance arising with respect thereto;
5. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property;
6. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
7. Any breaches of any applicable laws, including, without limitation, outstanding building permits, work orders and deficiency notices;
8. Any subdivision agreements, site plan agreements, development agreements and any other agreements with the municipality, region, publicly regulated utilities or other governmental authorities having jurisdiction;
9. Defects or irregularities in title to the Property;

10. The following instruments registered on title to the Property:
- i. Instrument No. YR1610522 is a notice of an easement registered February 15, 2011 pursuant to which Cottonlane Estates Inc. (“**Cottonlane**”), as owner granted an easement in favour of Rogers Communications Inc. over the Property for the purpose of constructing, repairing, replacing, operating and maintaining its lines of cable television, telecommunications, electric power and service wires and facilities.
 - ii. Instrument No. YR1684881 is a notice of an easement registered July 27, 2011 pursuant to which Cottonlane, as owner granted an easement in favour of Bell Canada over the Property for the purpose of constructing, repairing, replacing, renewing and making additions to telecommunications facilities.
 - iii. Instrument No. 65M4289 is a plan of subdivision registered October 12, 2011.
 - iv. Instrument No. 65R33280 is a reference plan registered October 13, 2011.
 - v. Instrument No. YR1728686 is a notice of a subdivision agreement registered October 18, 2011 between The Corporation of the Town of Markham and Cottonlane which agreement deals with the development of the Property.
 - vi. Instrument No. YR1728727 is a restrictive covenant registered by Cottonlane on October 18, 2011 which deals with restrictions in the development of the Property.
 - vii. Instrument No. YR1749103 is a notice of an easement registered November 28, 2011 pursuant to which Cottonlane, as owner granted an easement in favour of Powerstream Inc. over the Property for the purpose of constructing, repairing, replacing, operating and maintaining the overhead/underground lines of electric power service wires.
 - viii. Instrument No. YR1769961 is a notice of a site plan control agreement registered January 12, 2012 between The Corporation of the Town of Markham and Cottonlane which agreement deals with the development and use and operation of the Property.
 - ix. Instrument No. YR1778672 is a notice of an adjacent development agreement registered February 1, 2012 between Cottonlane and Metrolinx which agreement includes restrictive covenants respecting the development of the Property.
 - x. Instrument No. YR1778673 is a notice of an easement registered February 1, 2012 pursuant to which Cottonlane, as owner granted an easement in favour of Metrolinx over the Property for the purpose of discharging and emitting or releasing emissions.
 - xi. Instrument No. YR1815013 is an amendment to a residential subdivision agreement registered April 30, 2012 which amends the terms of the subdivision agreement registered as Instrument No. YR1728686.
 - xii. Instrument No. YR1905638 is a notice of an easement registered October 31, 2012 pursuant to which Cottonlane, as owner granted an easement in favour of Enbridge Gas Distribution Inc. over the Property for the purpose of surveying,

laying, constructing, installing, operating, using, inspecting, removing, renewing, replacing, altering, enlarging, reconstructing, repairing, expanding and maintaining pipelines.

- xiii. Instrument No. YR1936318 is a notice of an easement registered January 21, 2013 pursuant to which Cottonlane, as owner granted an easement in favour of The Corporation of the City of Markham over the Property for the purpose of ingress and egress and for regulating the lands.
- xiv. Instrument No. 65R34092 is a reference plan registered January 28, 2013.
- xv. Instrument No. YR2668044 is a Transfer from 2080552 Ontario Inc. to 168 Old Kennedy Inc. registered May 15, 2017.
- xvi. Instrument No. YR3044928 is an application to register a court order appointing RSM Canada Limited as receiver for the property registered December 11, 2019.

-and-

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT
TORONTO**

APPROVAL AND VESTING ORDER

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
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Toronto, ON M5V 3H1
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Lawyers for the Receiver

TAB 2

Court File No. CV-19-00631363-00CL

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

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

**SECOND REPORT OF THE RECEIVER OF
168 OLD KENNEDY ROAD, MARKHAM, ONTARIO**

April 29, 2020

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I. INTRODUCTION

1. Pursuant to an application made by Vector Financial Services Limited (“**Vector**”), by Order of the Ontario Superior Court of Justice (“the **Court**”) dated December 6, 2019 (the “**Appointment Order**”), RSM Canada Limited (“**RSM**” or the “**Receiver**”) was appointed as receiver of the property municipally known as 168 Old Kennedy Road, Markham, Ontario (the “**Property**”) owned by 168 Old Kennedy Inc. (“**168**” or the “**Debtor**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order authorizes the Receiver to, among other things:
 - market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate; and
 - sell, convey, transfer, lease or assign the Property with the approval of this Court.
3. The Appointment Order also provides that the Receiver shall not go into possession of the Property and shall not, as a result of taking any steps to secure or maintain the Property, be deemed to be in possession of the Property.
4. On February 10, 2020, the Receiver brought a motion, returnable on February 21, 2020, for the purpose of, *inter alia*, approving a sale process and authorizing the Receiver to give access to the fenced-in area of the Property without the Receiver or any party accessing the Property being deemed to be in possession of the Property. A copy of the Receiver’s first report to the Court dated February 4, 2020, without appendices, in support of the motion is attached hereto as **Appendix “B”**.

-
5. On February 21, 2020, the Honourable Justice McEwen issued an Order (the “**Sale Process Order**”), *inter alia*, approving and authorizing the Receiver to commence the sale process described in the First Report and authorizing the Receiver to give access to the fenced-in area on the Property without the Receiver or any other party being deemed to be in possession of the Property. Copies of the Sale Process Order and Endorsement of Justice McEwen are attached hereto as **Appendix “C”**.
 6. The Appointment Order, the First Report, the Sale Process Order and other court documents have been posted on the Receiver’s website, which can be found at rsmcanada.com/168-Old-Kennedy-Road.
 7. The Receiver has retained the firm of Paliare Roland Rosenberg Rothstein LLP (“**Paliare**”) to act as the Receiver’s independent legal counsel.
 8. The Receiver has retained Cassels Brock & Blackwell LLP (“**Cassels**”), Vector’s counsel, to provide the legal advice and assistance required by the Receiver to effect and complete the sale of the Property.

II. PURPOSE OF REPORT

9. The purpose of this second report to the Court (the “**Second Report**”) is to:
 - (a) report to the Court on the activities of the Receiver from the date of the First Report to April 29, 2020;
 - (b) report to the Court on the results of the sale process for the Property;
 - (c) provide the Court with a summary of the Receiver’s cash receipts and disbursements for the period December 6, 2019 to April 22, 2020 (the “**R&D**”); and

-
- (d) seek an order:
- i. authorizing and directing the Receiver to enter into and carry out the terms of the transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Wu, Xiao Ling In Trust for a company to be incorporated (the “**Purchaser**”) dated April 6, 2020 and amending agreement made as of April 21, 2020 (collectively, the “**APS**”), together with any further minor amendments thereto deemed necessary by the Receiver in its sole opinion;
 - ii. vesting title to the Property in the Purchaser, or into such entity as the Purchaser may further direct in writing, free and clear of claims and encumbrances, upon closing of the Transaction and the delivery of a Receiver’s certificate to the Purchaser;
 - iii. sealing Confidential Appendix “**K**” to the Second Report until the closing of the sale of the Property;
 - iv. directing amount(s) to be paid by the Receiver from the net proceeds from the sale of the Property;
 - v. authorizing the Receiver to make the Interim Distribution (as defined herein) to Vector;
 - vi. approving the Second Report and the Receiver’s conduct and activities set out therein;
 - vii. approving the R&D;
 - viii. approving the fees of the Receiver for the period February 1, 2020 to March 31, 2020;

- ix. approving the fees of Paliare for the period February 1, 2020 to March 31, 2020; and
- x. approving the fees of Cassels for the period January 1, 2020 to March 31, 2020.

Terms of Reference

- 10. In preparing this report and making the comments herein, the Receiver has relied upon certain information from third-party sources (collectively, the “**Information**”). The Receiver has, 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 Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
- 11. Unless otherwise stated, all dollar amounts contained in the Second Report are expressed in Canadian dollars.

III. BACKGROUND

- 12. The Property consists of approximately 1.46 acres of vacant undeveloped land located at 168 Old Kennedy Road, Markham, Ontario.
- 13. Vector is a private lender and mortgage broker in the business of originating and administering mortgage loans in Ontario. Vector holds a first mortgage in the principal amount of \$5,940,000 against the Property (the “**Vector Mortgage**”). As of November 15, 2019, the amount outstanding under the mortgage held by Vector was \$6,214,096.36.

14. The Debtor failed to repay the principal amount of the loan due and owing on the maturity date of the mortgage and to pay other amounts properly due and owing under the mortgage.
15. Vector sought the appointment of the Receiver pursuant to a Notice of Application dated November 22, 2019.
16. On December 6, 2019, the Court issued an Order appointing RSM as receiver of the Property.

IV. MARKETING OF THE PROPERTY

17. The Receiver's plan to market the Property, including the engagement of Avison Young, was set out in the First Report and approved in the Sales Process Order.
18. The marketing of the Property commenced on February 3, 2020. Interested parties were informed that the deadline for offers for the Property to be received was 4:00 p.m. on March 12, 2020 (the "**Offer Deadline**").
19. The Receiver provided Avison Young with a baseline Agreement of Purchase and Sale (the "**Baseline APS**") for distribution to parties who intended to make an offer to purchase the Property and requested that all offers be made on the form of the Baseline APS, with any changes marked.
20. Further steps taken by the Receiver/Avison in connection with the marketing of the Property include the following:
 - on February 3 and 26, and March 10, 2020, emails giving notice of the acquisition opportunity were sent to 889, 1,283 and 1298 parties, respectively;

-
- a brochure (the “**Brochure**”) was prepared and provided to interested parties who clicked on the link in the email;
 - on February 11 and 13, 2020, an advertisement of the acquisition opportunity was published in the Globe and Mail newspaper (the “**Globe Advertisement**”);
 - on February 14, 2020, a listing for the Property was posted on the MLS system (the “**MLS Listing**”);
 - on February 14, 2020, two “For Sale” banners were installed on the fence at the Property; and
 - an online data room was set up and parties that signed a confidentiality agreement (“**CA**”) were given access to additional information on the Property.
21. Copies of the Brochure, the Globe Advertisement and the MLS Listing are attached collectively to this report as **Appendix “D”**.
 22. In addition, and to further assist with the sales process, the Receiver engaged Pinchin Ltd. to prepare an updated Phase I Environmental Site Assessment (the “**Phase I ESA**”) for the Property. A copy of the Phase I ESA dated March 10, 2020 received from Pinchin Ltd., was posted to the data room on March 10, 2020.
 23. Avison’s final Progress Report dated April 22, 2020, which includes the names of the parties that executed a CA, is attached to this report as **Tab 1** to Confidential Appendix “**K**”.

V. SUMMARY OF OFFERS RECEIVED

24. As of the Offer Deadline, seven offers were submitted to Avison for the Property. A summary of the offers received is attached at **Tab 2** to Confidential Appendix “**K**” (the “**First Round Offers**”).
25. Following receipt of the First Round Offers, and after review and consultation with Avison and Vector, parties representing the four offers regarded as having the most favourable terms (the “**Four Parties**”) were contacted and invited to improve or amend their offers and resubmit by noon of March 17, 2020. Two parties elected to amend their original offers to purchase as of March 17, 2020 (the “**Second Round Offers**”). A copy of the summary of Second Round Offers is attached at **Tab 3** to Confidential Appendix “**K**”.
26. Subsequently, on March 19, 2020, one of the Four Parties withdrew its offer.
27. After reviewing the remaining three offers and consulting with Avison and Vector, on March 27, 2020, the Four Parties were advised by Avison that Vector was prepared to provide financing to a prospective purchaser, and the Four Parties were provided with the terms of the potential financing (the “**Vector Financing**”). The Four Parties were invited to amend their offers, including taking into consideration the Vector Financing, and resubmit their offers by March 31, 2020.
28. Three parties elected to amend their offers to purchase and the party that had previously advised that it was withdrawing its offer, confirmed that it had no further interest in the Property (the “**Third Round Offers**”). A copy of the summary of Third Round Offers is attached at **Tab 4** to Confidential Appendix “**K**”.

29. The Receiver reviewed the terms of the Third Round Offers. After considering the Third Round Offers, including the offered purchase prices, proposed due diligence periods, due diligence terms, likelihood of closing on a timely basis, etc., the Receiver proceeded, with the concurrence of Vector, to finalize the offer submitted by the Purchaser. The Receiver worked with Cassels to have certain of the terms of the Purchaser's offer amended in order for the Receiver to be in a position to accept that offer.
30. On April 8, 2020, the Receiver accepted the Purchaser's offer and executed the APS. The APS was subject to a 10 calendar day conditional period, due to expire on April 18, 2020.
31. On April 17, 2020, the Purchaser advised that while it was prepared to proceed with the purchase, it was seeking a reduction in the purchase price, as well as an extension of three days to the due diligence period. After negotiations between the Receiver and the Purchaser, on April 22, 2020, a Waiver and Amending Agreement made as of April 21, 2020 (the "**Amending Agreement**") was executed and the APS became final, subject to the approval of the Court. Terms of the Amending Agreement included an adjustment to the purchase price, an increase in the quantum of the deposit due, and the waiver by the Purchaser of its conditions.

VI. THE APS

32. The APS conforms substantially with the Baseline APS. Salient terms of the APS include (all capitalized terms in this section not defined in the APS are as otherwise defined in the Second Report):

-
- a deposit of 15% of the Purchase Price;
 - the offer is conditional on court approval and the issuance of an order vesting title to the purchased assets in the Purchaser or its assignee free and clear of claims and encumbrances, other than those specifically itemized in the APS;
 - the Purchaser is buying the Property on an “as is, where is” basis; and
 - closing of the sale provided for in the APS is scheduled to occur on the tenth Business Day following the date on which the Vesting Order is granted, or such other date as agreed between the Purchaser and the Receiver.
33. Copies of the executed APS including the Amending Agreement are attached to this report at **Tab 5** and **Tab 6**, respectively, to Confidential Appendix “**K**”.

VII. APPROVAL OF THE SALE

34. The Receiver believes that the marketing process undertaken by the Receiver was appropriate for the type of property in question and provided sufficient market exposure to the Property. The Property was exposed to the market since February 3, 2020, notice of the sale of the Property was sent to more than 1,200 parties, and the Property was listed for sale on MLS, on Avison’s website and advertised in the Globe and Mail newspaper.
35. As a result of the marketing efforts undertaken:
- CAs were signed in respect of 16 potential purchasers; and
 - seven offers to purchase the Property were received from prospective purchasers.

36. The Receiver is of the view that sufficient efforts were made to obtain the best price for the Property and the marketing process was conducted fairly. The Receiver regards the APS as the offer received for the Property which is the most advantageous to the creditors of 168, taking into account the current economic climate in light of the COVID-19 pandemic, ongoing costs being incurred, including the interest continuing to accrue on the Debtor's indebtedness to Vector. The Receiver therefore recommends that this Court approve the APS and grant an Order vesting title in the purchased assets in the Purchaser or its assignee upon the closing of the Transaction.
37. The Receiver believes that details of the offers submitted for the Property including matters relating thereto should be kept confidential until the closing of the transaction. The Receiver is of the view that public disclosure thereof would have a negative impact on the future marketing of the Property, should the transaction with the Purchaser not be approved or completed.
38. The Receiver therefore respectfully requests that Confidential Appendix "K" be sealed until after the closing of the sale of the Property.

VIII. SECURED OR PRIORITY CLAIMS

39. The Receiver received on April 28, 2020 from Vector a Mortgage Payout Statement current to May 26, 2020 (the "**Vector Statement**") which would be the closing date for the sale per the APS if the Vesting order is granted on May 11, 2020. According to the Vector Statement, the amount owing by the Debtor to Vector and required to discharge the first mortgage will be, as of May 26, 2020, \$6,825,009.22, inclusive of principal, interest, fees and the \$15,000 advance, plus

interest, for which Receiver Certificate No. 1 was issued. A copy of the Vector Statement is attached to this report at **Appendix “E”**.

40. The Receiver has received an opinion from Paliare that, based on the assumptions and subject to the qualifications set out therein, the Vector Mortgage is a valid first charge on the Property (the **“Legal Opinion on Vector Security”**). A copy of the Legal Opinion on Vector Security is attached hereto as **Appendix “F”**.

IX. INTERIM DISTRIBUTION

41. Following the closing of the sale of the Property, and receipt by the Receiver of the net sales proceeds therefrom, funds will be available for the Receiver to make an interim distribution. The Receiver proposes that following closing of the sale of the Property, after payment of property taxes of approximately \$27,500 (based on the balance owing as at April 27, 2020), and commissions payable to Avison Young in respect of the sale of the Property, the Receiver be authorized to additionally pay out, from the proceeds of sale, the following amounts:
- the advance totaling \$15,000 under Receiver Certificate No. 1 plus interest (the **“Receiver Certificate Advance”**) to Vector;
 - the amount of \$71,262.51, being the total of amounts owing to the Receiver, Paliare and Cassels on account of their respective unpaid accounts as of March 31, 2020 (collectively, the **“Receiver’s Expenses”**); and
 - the Interim Distribution (as defined below) to Vector.
42. Vector has requested that the Receiver pay to Vector the balance set out on the Vector Statement, net of the Receiver Certificate Advance.

43. Interest continues to accrue on the outstanding balance of the Vector Mortgage. Therefore, the Receiver is of the view that it is in the interests of all parties that the amounts owing to Vector be paid out promptly as an interim distribution to Vector in order to prevent the accrual of further interest.
44. The Receiver understands that Vector is providing financing to the Purchaser for a portion of the purchase price payable on closing in the amount of \$4,800,000 (the “**Mortgage Amount**”). Accordingly, the interim distribution to be paid to Vector will consist of (i) a non-cash payment representing the Mortgage Amount, plus (ii) a cash payment representing the amount set out on the Vector Statement less the Mortgage Amount and the Receiver Certificate Advance (the “**Interim Distribution**”).
45. The Receiver will be requesting from the other parties who have mortgages over the Property that they provide to the Receiver copies of their security documents and statements of amounts owing to them. The Receiver will report to the Court on the status of the subsequent mortgagees, and the Receiver’s proposed final distribution, in the Receiver’s next report to the Court.
46. The Receiver therefore recommends and requests that this Court direct that:
- the Receiver be authorized to pay to Vector the Receiver Certificate Advance; and
 - the Receiver be authorized to make the Interim Distribution to Vector.

X. RECEIVER’S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

47. Attached as **Appendix “G”** is the Receiver’s Interim Statement of Receipts and Disbursements (the “**R&D**”) for the period December 6, 2019 to April 22, 2020.

During this period, receipts were \$15,039, including an advance of \$15,000 from Vector under Receiver Certificate No. 1, and disbursements were \$10,620, resulting in a net cash balance of \$4,419.

XI. PROFESSIONAL FEES

48. The Receiver's accounts for the period February 1, 2020 to March 31, 2020 total \$18,360.00 in fees, plus HST of \$2,386.80 for a total amount of \$20,746.80 (the "**Receiver's Accounts**"). A copy of the Receiver's Accounts, together with a summary of the accounts, the total billable hours charged per the accounts, and the average hourly rate charged per the accounts, is set out in the Affidavit of Daniel Weisz sworn April 28, 2020 attached hereto as **Appendix "H"**.
49. The accounts of the Receiver's counsel, Paliare, totals \$11,022.50 in fees, \$534.00 in disbursements and \$1,460.75 in HST for a total of \$13,017.25 for the period February 1, 2020 to March 31, 2020 (the "**Paliare Roland Accounts**"). A copy of the Paliare Roland Accounts, together with a summary of the personnel, hours and hourly rates described in the Paliare Roland Accounts, is set out in the Affidavit of Michelle Jackson sworn April 27, 2020 attached to this report as **Appendix "I"**.
50. The account of the Receiver's counsel, Cassels, totals \$7,068.10 in fees and disbursements and \$917.58 in HST for a total of \$7,985.68 for the period January 1, 2020 to March 31, 2020 (the "**Cassels Account**"). A copy of the Cassels Account, together with a summary of the personnel, hours and hourly rates described in the Cassels Account, is set out in the Affidavit of Jonathan Freeman sworn April 27, 2020 attached to this report as **Appendix "J"**.

XII. CONCLUSION

51. The Receiver respectfully requests that the Court make an Order:

- (i) authorizing and directing the Receiver to enter into and carry out the terms of the APS, together with any further minor amendments thereto deemed necessary by the Receiver in its sole opinion;
- (ii) vesting title to the Property in the Purchaser, or as the Purchaser may further direct in writing, free and clear of claims and encumbrances, upon closing of the transaction under the APS and the delivery of a Receiver's certificate to the Purchaser;
- (iii) sealing Confidential Appendix "K" to the Second Report until the closing of the sale of the Property;
- (iv) directing amount(s) to be paid by the Receiver from the net proceeds from the sale of the Property;
- (v) authorizing the Receiver to make the Interim Distribution to Vector;
- (vi) approving the Second Report and the Receiver's conduct and activities set out therein;
- (vii) approving the R&D; and
- (viii) approving the Receiver's Accounts, the Paliare Roland Accounts and the Cassels Account.

All of which is respectfully submitted to this Court as of this 29th day of April, 2020.

RSM CANADA LIMITED

In its capacity as Court-appointed Receiver of
168 Old Kennedy Road, Markham, Ontario
and not in its personal capacity

A handwritten signature in black ink, appearing to be 'D. Weisz', written over a horizontal line.

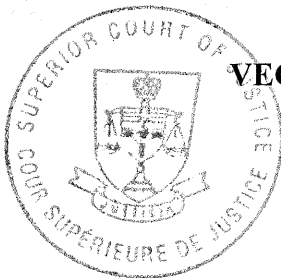
Per: Daniel Weisz, CPA, CA, CFF, CIRP, LIT
Senior Vice President

APPENDIX “A”

Court File No. CV-19-00631363-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	The Honourable)	FRIDAY, THE 6th
	Mr. Justice)	
JUSTICE	Penny)	DAY OF DECEMBER, 2019



VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

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

ORDER
(appointing Receiver)

THIS APPLICATION 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 (in such capacities, the "Receiver") without security, of the real property municipally known as 168 Old Kennedy Road, Markham, Ontario and legally described as set out on Schedule "A" hereto (the "Property") owned by 168 Old Kennedy Inc. (the "Debtor"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Noah Mintz sworn November 20, 2019 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and such other parties listed on the Counsel Slip, no one appearing for any other party although duly served as appears from the affidavit of service of Christopher Maniaci sworn November 26, 2019 and the affidavit of service of Deborah Ferguson sworn December 2, 2019 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 Record is hereby abridged and validated so that this application 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 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 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 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 engage consultants, appraisers, agents, real estate brokers, 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;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor with respect to the Property and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor with respect to the Property;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (g) 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 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;
- (h) to market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property with the approval of this Court, and notice under section 31 of the Ontario *Mortgages Act* shall not be required;

- (j) to apply for any vesting order or other orders necessary to convey the Property to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting the Property;
- (k) 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;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to the Property;
- (m) to apply for any permits, licences, approvals or permissions with respect to the Property 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 Debtor;
- (n) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; and
- (o) 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 Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (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 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 Property, 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.

NO PROCEEDINGS AGAINST THE RECEIVER

7. 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 PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of 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 Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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

10. 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 Debtor in connection with or relating to the Property, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor in connection with or relating to the Property 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 Debtor in connection with or relating to the Property 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.

RECEIVER TO HOLD FUNDS

12. 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 the Property and the collection of any accounts receivable in whole or in part in connection with or relating to the Property, 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

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor. 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

14. 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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

NO POSSESSION BY THE RECEIVER

15. THIS COURT ORDERS that the Receiver shall not go into possession of the Property. For greater certainty, the Receiver shall not, as a result of taking any steps to secure or maintain the Property, be deemed to be in possession of the Property.

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 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 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 \$100,000 (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 "B" 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: rsmcanada.com/168-old-kennedy-road.

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 Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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.

27. THIS COURT ORDERS that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

28. 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.

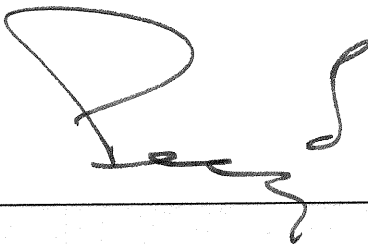
29. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. 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.

31. 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.

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

33. 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.



ENTERED AT / INSCRIT À TORONTO
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LE / DANS LE REGISTRE NO:

DEC 06 2019

PER / PAR: JS

SCHEDULE "A"**LEGAL DESCRIPTION OF THE PROPERTY**

The lands and premises municipally known as 168 Old Kennedy Road, Markham, Ontario and legally described as:

PIN 02953-0145 (LT): BLOCK 2, PLAN 65M4289 T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 4, 6, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN THE LIMITS OF PT 1, PL 65R30487, AS IN MA91760; T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 2, 4, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN LIMITS OF PT 5, PL 65R30487, AS IN MA110959; T/W EASE OVER PT E1/2 LT 2, ONC 5, PTS 2, 6, 7 & 8 IN FAVOUR OF PT BLK 1, PL 65M4289 LYING WITHIN LIMITS OF PT 3, PL 65R30487, AS IN R694330; S/T EASE AS IN YR1610522; S/T EASE IN GROSS AS IN YR1684881;; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1749103; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1778673; SUBJECT TO AN EASEMENT AS IN YR1905638; SUBJECT TO AN EASEMENT OVER PTS 2, 4 & 6, 65R33280 IN FAVOUR OF BLK 3, PL 65M4289 AS IN YR1936318; CITY OF MARKHAM

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that RSM Canada Limited, the receiver and manager (the "Receiver") of the real property municipally known as 168 Old Kennedy Road, Markham, Ontario owned by 168 Old Kennedy Inc. (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 application 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 _____, 20__.

RSM CANADA LIMITED, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

APPENDIX “B”

Court File No. CV-19-00631363-00CL

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

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

**FIRST REPORT OF THE RECEIVER OF
168 OLD KENNEDY ROAD, MARKHAM, ONTARIO**

February 4, 2020

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I. INTRODUCTION

1. Pursuant to an application made by Vector Financial Services Limited (“**Vector**”), by Order of the Ontario Superior Court of Justice (“the **Court**”) dated December 6, 2019 (the “**Appointment Order**”), RSM Canada Limited (“**RSM**” or the “**Receiver**”) was appointed as receiver of the property municipally known as 168 Old Kennedy Road, Markham, Ontario (the “**Property**”) owned by 168 Old Kennedy Inc. (“**168**” or the “**Debtor**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order authorizes the Receiver to, among other things:
 - a) exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - b) 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 engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - c) market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate; and
 - d) sell, convey, transfer, lease or assign the Property with the approval of this Court.

3. The Appointment Order also provides that the Receiver shall not go into possession of the Property and shall not, as a result of taking any steps to secure or maintain the Property, be deemed to be in possession of the Property.
4. The Appointment Order and other court documents have been posted on the Receiver's website, which can be found at rsmcanada.com/168-Old-Kennedy-Road.
5. The Receiver has retained the firm of Paliare Roland Rosenberg Rothstein LLP ("**Paliare**") to act as the Receiver's independent legal counsel.

II. PURPOSE OF REPORT

6. The purpose of this first report to the Court (the "**First Report**") is to:
 - (a) report to the Court on the activities of the Receiver from the date of its appointment to January 31, 2020;
 - (b) provide background information about the Property;
 - (c) summarize the recommended sale and marketing process by which offers will be solicited for the Property, including through the retention of Avison Young Commercial Real Estate (Ontario) Inc. ("**Avison Young**") to act as listing agent in the sale process (the "**Sale Process**");
 - (d) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period December 6, 2019 to January 31, 2020; and
 - (e) seek an order:
 - i. approving the Sale Process;

-
- ii. authorizing the Receiver to give access to the fenced-in area on the Property to the Receiver, its agents, any prospective purchaser of the Property and/or their agents, or any other party and declaring that the aforementioned access to the Property shall not result in the Receiver or any other party being deemed to be in possession of the Property;
 - iii. approving the First Report and the Receiver's conduct and activities set out therein;
 - iv. approving the R&D (defined below);
 - v. approving the fees of the Receiver for the period ending January 31, 2020; and
 - vi. approving the fees of Paliare for the period ending January 31, 2020.

Terms of Reference

7. In preparing this report and making the comments herein, the Receiver has relied upon certain information from third-party sources (collectively, the "**Information**"). The Receiver has, 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 Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
8. Unless otherwise stated, all dollar amounts contained in the First Report are expressed in Canadian dollars.

III. BACKGROUND

9. The Property consists of approximately 1.46 acres of vacant undeveloped land located at 168 Old Kennedy Road, Markham, Ontario.
10. Vector is a private lender and mortgage broker in the business of originating and administering mortgage loans in Ontario. Vector holds a first mortgage in the principal amount of \$5,940,000 against the Property. As of November 15, 2019, the amount outstanding under the mortgage held by Vector was \$6,214,096.36.
11. The Debtor failed to repay the principal amount of the loan due and owing on the maturity date of the mortgage and to pay other amounts properly due and owing under the mortgage.
12. Vector sought the appointment of the Receiver pursuant to a Notice of Application dated November 22, 2019.
13. On December 6, 2019, the Court issued an Order appointing RSM as receiver of the Property.

IV. RECEIVER'S ACTIVITIES TO DATE

Securing the Property

14. In order to monitor the condition of the Property on an ongoing basis, the Receiver entered into an agreement with Richmond Advisory Services Inc. ("**Richmond**") for Richmond to provide certain property management services including:
 - i) periodic site inspection of the Property; and

-
- ii) obtaining quotes for repairs and maintenance and overseeing work to be done, as required.
15. The Receiver attended at the Property and noted that the site is surrounded on all four sides by metal fencing. The fencing along the south side of the Property appeared to be part of a fence relating to a neighbouring property, with temporary metal fencing installed along the other three sides of the Property. The Receiver noted that the temporary fencing along the west side of the Property had been moved to create an opening that allowed entry inside the fenced-in area, as well as another gap in the fencing. The Receiver arranged for Richmond to attend at the Property to close the openings in the temporary fencing, and chain and padlock the fence to prevent unauthorized access to the Property.
16. Based on information received from the Debtor's counsel on December 19, 2019 (discussed below), the Receiver determined that the temporary fencing was rented by 168 from Quick Fence Inc. ("**Quick Fence**") and that rental payments were in arrears. The Receiver has made arrangements with Quick Fence for the continuing rental of the temporary fencing.
17. As the Receiver has not taken possession of the Property, site inspections consist of checking the condition of the fence and for any signs of trespass or garbage dumping on the Property, but have not to date included entering inside the fenced area.

Insurance

18. The Receiver obtained its own liability insurance with coverage effective December 6, 2019. The Receiver's current coverage is scheduled to expire on June 6, 2020.
19. As the Property is vacant, site inspections of the Property are required by the Receiver's insurer. Periodic site inspections will be continued until the Property is sold.

Statutory Notices

20. On December 16, 2019, the Receiver sent a Notice and Statement of Receiver pursuant to Section 245(1) of the Bankruptcy and Insolvency Act (the "**BIA**") to the known creditors of the Property (the "**245 Notice**") as identified through a title search of the Property and a Personal Property Security Registration System ("**PPSA**") search of the Respondent. The Receiver requested of the Debtor a list of the creditors of the Property, but no information was provided as of December 16, 2019. A copy of the 245 Notice is attached hereto as **Appendix "B"**.
21. On December 19, 2019, and subsequent to the mailing of the 245 Notice, the Receiver received from the Debtor's counsel a list of creditors. The 245 Notice was mailed on December 23, 2019 to creditors on that list who were not previously sent the 245 Notice.

V. SALE PROCESS

22. The Appointment Order authorizes the Receiver to market the Property for sale, including advertising and soliciting offers in respect of the Property.
23. In furtherance of same, the Receiver invited three realtors, Avison Young, CBRE Limited (“**CBRE**”) and Colliers International (“**Colliers**”), to each submit listing proposals for the marketing and sale of the Property.
24. After reviewing the proposals submitted including discussions/correspondence with each of Avison Young, CBRE and Colliers, the Receiver, with the concurrence of Vector, entered into a listing agreement with Avison Young to market the Property for sale. A copy of the listing agreement, which has been executed by the Receiver and Avison Young, is attached hereto as Appendix “**C**” (the “**Listing Agreement**”).
25. The recommended Sale Process for the Property is summarized in the table below:

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Due diligence	➤ Avison Young to review all available documents concerning the Property, including environmental reports and planning and development reports.	Completed
Finalize marketing materials	➤ Avison Young and the Receiver to: <ul style="list-style-type: none"> ○ populate an online data room; ○ prepare a confidentiality agreement (“CA”); 	Ongoing

Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<ul style="list-style-type: none"> ○ prepare form of Agreement of Purchase and Sale (“APS”). 	
Prospect Identification	<ul style="list-style-type: none"> ➤ Avison Young to develop a master prospect list. Avison Young will qualify and prioritize prospects; and ➤ Avison Young will have pre-marketing discussions with targeted developers. 	Ongoing
<i>Phase 2 – Marketing</i>		
Stage 1	<ul style="list-style-type: none"> ➤ Mass market introduction, including: <ul style="list-style-type: none"> ○ offering summary and marketing materials printed; ○ publication of the acquisition opportunity in <i>The Globe and Mail</i> (National Edition); ○ telephone and email canvassing of leading prospects; and ○ meet with and interview bidders. 	Commenced February 3, 2020
Stage 2	<ul style="list-style-type: none"> ➤ Avison Young to provide detailed information to qualified prospects which sign the CA, and access to the data room; and ➤ Avison Young to facilitate all diligence by interested parties. 	February 2020
Stage 3	<ul style="list-style-type: none"> ➤ Prospective purchasers to submit APS’ or other proposals. 	Deadline for offers currently scheduled for March 12, 2020
<i>Phase 3 – Offer Review and Negotiations</i>		
	<ul style="list-style-type: none"> ➤ Proposal short listing ➤ 2nd Round Bids - Prospective purchasers may be asked to re-submit APS’. 	March 2020
Selection of Successful Bids	<ul style="list-style-type: none"> ➤ Select successful bidder and finalize definitive documents. 	March to April 2020

Summary of Sale Process		
Milestone	Description of Activities	Timeline
Sale Approval Motion and Closing	➤ Motion for sale approval and close transaction.	May to June 2020

26. Additional aspects of the Sale Process include:
- a) the Real Property will be marketed on an “as is, where is” basis;
 - b) the Receiver will have the right to reject any and all offers, including the highest offer; and
 - c) any transaction will be subject to Court approval.
27. The Receiver will provide information on the Receiver’s/Avison Young’s marketing efforts at the time that the Receiver seeks the approval of the Court of an agreement of purchase and sale entered into by the Receiver.

VI. ACCESS TO THE PROPERTY DURING THE SALE PROCESS

28. In order not to be deemed as having taken possession of the Property, the Receiver and Richmond have not, to date, entered inside the fenced-in area at the Property. As part of the sale process for the Property to be conducted, the Receiver anticipates that a prospective purchaser may wish to access the fenced-in area on the Property for various purposes including having its consultant or expert walk on the property, conduct testing or prepare a report on the condition of the Property, etc. The Receiver is concerned that such access by the Receiver, its agents (including Avison Young and RAS), or any prospective purchaser of the Property and/or their agents, or any other party, may result in the Receiver or that party being deemed to be in possession of the Property.

29. Therefore the Receiver requests that the Court make an Order authorizing the Receiver to give access to the fenced-in area on the Property to the Receiver, its agents, or any prospective purchaser of the Property and/or their agents, or any other party, and declaring that the aforementioned access to the Property shall not result in the Receiver or any other party being deemed to be in possession of the Property.

VII. SECURED OR PRIORITY CLAIMS

30. The following is a list of the PPSA claims registered against 168 in the Personal Property Security Registration System as of November 7, 2019 and in the Land Registry (“PIN”) as of November 11, 2019:

Name of Registrant	Amount	PPSA	PIN
Vector Financial Services Limited	\$5,940,000	√	√
Alai Developments Inc. (formerly 2080552 Ontario Inc.)	\$1,020,038		√
10114812 Canada Corporation	\$3,500,000		√
Olympia Trust Company	Unknown	√	

31. Attached hereto as **Appendices “D”** and **“E”**, respectively, are copies of the PPSA and PIN searches.
32. The validity and enforceability of the above-noted claims have not, as of the date of this report, been reviewed by the Receiver. The Receiver will seek an opinion from Paliare on the validity and enforceability of secured claims against the Property at the time the Receiver seeks an Order authorizing the Receiver to make a distribution of funds in the Receiver’s possession and will provide to the Court at that time a summary of the opinion received.

33. In addition to the above, the Receiver has contacted the City of Markham which has informed the Receiver that the unpaid property taxes in respect of the Property were \$14,764.37 for 2019 taxes. The first instalment payable for 2020 taxes is \$5,898 due February 5, 2020. The Receiver will address the payment of the outstanding property taxes upon the sale of the Property.

VIII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

34. Attached as **Appendix "F"** is the Receiver's Interim Statement of Receipts and Disbursements (the "**R&D**") for the period December 6, 2019 to January 31, 2020. During this period, receipts were \$15,000, consisting of an advance of \$15,000 from Vector under Receiver Certificate No. 1, and disbursements were \$3,998, resulting in a net cash balance of \$11,002.
35. The above-noted advance from Vector, plus accrued interest thereon, will be repaid by the Receiver upon the sale of the Property.

IX. PROFESSIONAL FEES

36. The Receiver's accounts for the period ending January 31, 2020 total \$23,057.50 in fees, plus HST of \$2,997.48 for a total amount of \$26,054.98 (the "**Receiver's Accounts**"). A copy of the Receiver's Accounts, together with a summary of the accounts, the total billable hours charged per the accounts, and the average hourly rate charged per the accounts, is set out in the Affidavit of Daniel Weisz sworn February 4, 2020 attached hereto as Appendix "**G**".

37. The account of the Receiver's counsel, Paliare, totals \$3,060.00 in fees and \$397.80 in HST for a total of \$3,457.80 for the period ending January 31, 2020 (the "**Paliare Roland Account**"). A copy of the Paliare Roland Account, together with a summary of the personnel, hours and hourly rates described in the Paliare Roland Account, is set out in the Affidavit of Sarita Sanasie sworn February 4, 2020 attached to this report as Appendix "H".

X. CONCLUSION

38. The Receiver respectfully requests that the Court make an Order:

- a) approving the Sale Process;
- b) authorizing the Receiver to give access to the fenced-in area on the Property to the Receiver, its agents, or any prospective purchaser of the Property and/or their agents, or any other party, and declaring that the aforementioned access to the Property shall not result in the Receiver or any other party being deemed to be in possession of the Property;
- c) approving the First Report and the Receiver's conduct and activities to January 31, 2020;
- d) approving the R&D; and
- e) approving the Receiver's Accounts and the Paliare Roland Account.

All of which is respectfully submitted to this Court as of this 4th day of February, 2020.

RSM CANADA LIMITED

In its capacity as Court-appointed Receiver of
168 Old Kennedy Road, Markham, Ontario
and not in its personal capacity



Per: Daniel Weisz, CPA, CA, CFF, CIRP, LIT
Senior Vice President

APPENDIX “C”

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR) FRIDAY THE 21ST DAY
JUSTICE M. EWEN) OF FEBRUARY, 2020

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent



APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

SALE PROCESS ORDER

THIS MOTION, made by RSM Canada Limited ("**RSM**"), in its capacity as the Court-appointed receiver (the "**Receiver**"), without security, of the property municipally known as 168 Old Kennedy Road, Markham, Ontario (the "**Property**") owned by 168 Old Kennedy Inc. (the "**Debtor**"), seeking among other relief, an Order approving a sale process, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver, dated February 4, 2020 (the "**First Report**"), and on hearing the submissions of counsel for the Receiver and such other counsel as were present as indicated on the Counsel Slip, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Eichel Archer sworn February 11, 2020, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

APPROVAL OF SALE PROCESS AND AVISON YOUNG LISTING AGREEMENT

2. **THIS COURT ORDERS** that the retention of Avison Young Commercial Real Estate (Ontario) Inc. ("**Avison Young**") as the listing agent for the Property and the entering into by the Receiver of the listing agreement with Avison Young (the "**Listing Agreement**") be and is hereby approved.

3. **THIS COURT ORDERS** that the sale process (the "**Sale Process**"), as described in the First Report, be and hereby is approved.

4. **THIS COURT ORDERS** that the Receiver is hereby authorized to commence and carry out the Sale Process and to take such further steps as are considered necessary or desirable in carrying out the terms of the Sale Process, subject to prior approval of this Court being obtained before completion of any transactions under the Sale Process.

5. **THIS COURT ORDERS** that the Receiver is authorized to give access to the fenced-in area on the Property, as described in the First Report, to the Receiver, its agents, or any prospective purchaser of the Property and/or their agents, or any other party, and declares that such access shall not result in the Receiver or any other party being deemed to be in possession of the Property.

6. **THIS COURT ORDERS** that the Receiver and its respective affiliates, partners, directors, officers, employees, representatives and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from gross negligence or wilful misconduct

of the Receiver in performing its obligations under the Sale Process as determined by this Court.

APPROVAL OF RECEIVER'S FIRST REPORT AND CONDUCT

7. **THIS COURT ORDERS** that the First Report, and the conduct and activities of the Receiver, as described therein, be and hereby are approved.

8. **THIS COURT ORDERS** that the Receiver's statement of receipts and disbursements as of January 31, 2020 as set out in the First Report, be and is hereby approved.

9. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period ended January 31, 2020, as set out in the First Report, be and are hereby approved.

10. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's counsel, Paliare Roland Rosenberg Rothstein LLP, for the period ended January 31, 2020, as set out in the First Report, be and are hereby approved.

GENERAL

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

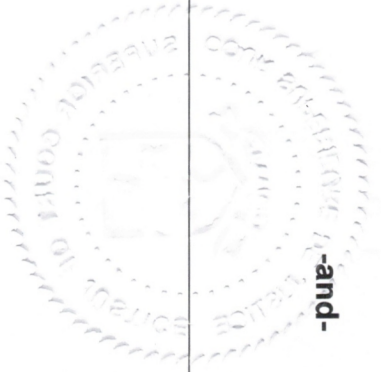


SUPERIOR COURT OF JUSTICE
ENTERED
FEB 21 2020
COUR SUPÉRIEURE DE JUSTICE
ENTRÉ

JP

Applicant

-and-



Court File No. CV-19-00631363-00CL
168 OLD KENNEDY INC.

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

SALE PROCESS ORDER
(FEBRUARY 21, 2020)

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West
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Tel: 416.646.4300
Fax: 416.646.4301

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

Elizabeth Rathbone (LSO# 70331U)
Tel: 416.646.7488
elizabeth.rathbone@paliareroland.com

Lawyers for the Receiver RSM Canada Limited

COUNSEL SLIP

COURT FILE

NO.: CV-19-04631363-0061DATE: FEB 21 2020NO. ON LIST 6TITLE OF
PROCEEDING

VECTOR FINANCIAL SERVICES LIMITED

188 OLD KENNERLY INC.

V.

COUNSEL FOR:

- PLAINTIFF(S)
 APPLICANT(S)
 PETITIONER(S)

Jeffrey Larry
 Sr Receiver RSM Canada

PHONE 46 646 4730FAX 46 646 4301EMAIL: jefflarry@palmarisland.com

COUNSEL FOR:

- DEFENDANT(S)
 RESPONDENT(S)

PHONE _____

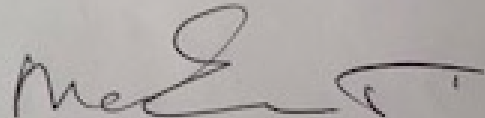
FAX _____

EMAIL _____

JUDICIAL NOTES:

21 Feb 20

The Sales Process Order shall go as per the draft filed & signed. I have reviewed it with counsel. The Sales Process set out is fair & reasonable and it is also fair & reasonable that the Receiver or parties not be deemed to be in possession so that the Property can be reasonably marketed. The motion was unopposed.



APPENDIX “D”



ZONED & PARTIALLY APPROVED DEVELOPMENT OPPORTUNITY

168 OLD KENNEDY ROAD, MARKHAM, ON



Platinum member

Offering Memorandum
Capital Markets Group

Avison Young has been retained on an exclusive basis by RSM Canada Limited (“Receiver”) to advise on and manage the sale of 168 Old Kennedy Road, Markham, Ontario (the “Property”). The Property presents investors with the opportunity to acquire a 1.46 acre residential development site near the intersection of Old Kennedy Road and Steeles Avenue.

A Site Plan Approval Application (“SPAA”) was submitted in 2018 requesting 16 live/work townhomes and 48 stacked townhomes, totalling 64 units. Committee of Adjustment (final and binding) approval was given in December 2019, approving the necessary Zoning By-Law changes, and York Region Planning Department provided its conditional approval of this intended development in August, 2019.

The site is located at the corner of Old Kennedy Road and Aldergrove Drive, less than 500 metres north of Steeles Avenue. The immediate area has undergone regentrification in recent years, with some older and/or redundant commercial-industrial properties being demolished and re-built with medium to high density residential uses. The Property is close to major thoroughfares and highways (407, 404), and various schools, retail/commercial amenities (e.g., Pacific Mall, proposed Remington Centre-including the Grand Residences, etc.)

Partially Approved Development Site



The Property has approved zoning, and conditional approval from York Region, in place to permit the intended development of 64 dwelling units.

Exceptional Residential Demand in the Area



High profile, corner location in close proximity to recently built and/or planned medium density residential developments. Area undergoing regentrification, and demand for housing in City of Markham is growing.

Excellent Location



Close proximity to various commercial, retail and other amenities (e.g., retail plazas, schools, etc.)

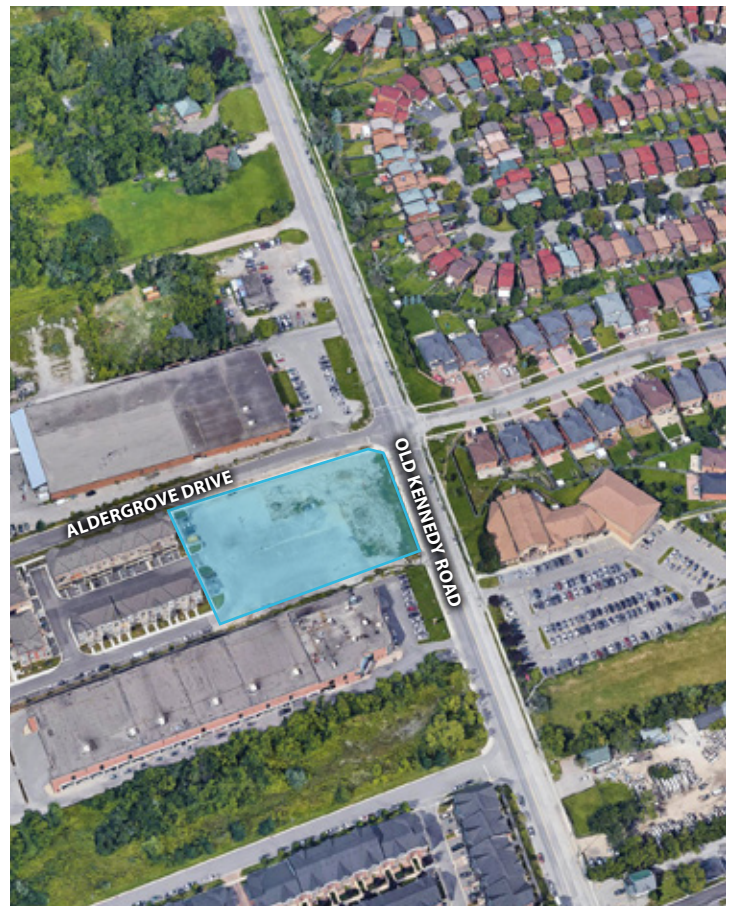
Great Connectivity Across the GTA



Quick access to major thoroughfares (e.g., Steeles, Kennedy) and highways (404, 407), providing access to the rest of the GTA. Various bus routes operated in the area by the TTC and York Region Transit

Property Details

Site Area	1.462 acres
Frontages	175 ft on Old Kennedy Road 286 ft on Aldergrove Drive
Official Plan	Mixed Use and Residential Mid Rise
Zoning	CA1*369 under By-Law 177-96 – amended by CofA decision to permit a maximum of 64 dwelling units



Development Potential

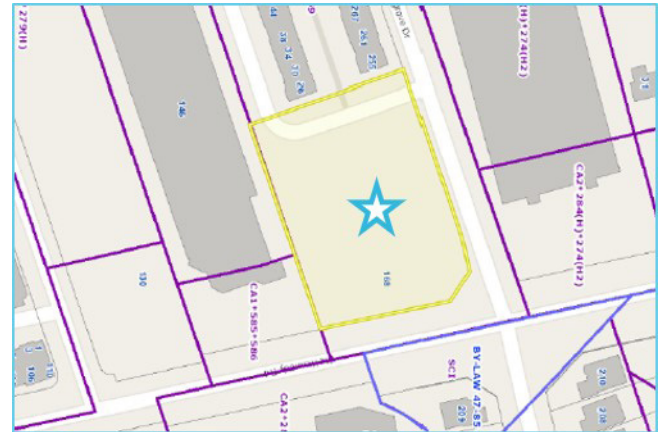
The site has zoning approval and conditional Site Plan Application approval from the Region of York for the development of a 64 townhouse and/or live-work unit complex, which includes a small on-site parkette and an underground parking level.

Building GFA (*)	
Live-Work Units and Townhouses (fronting Old Kennedy)	25,658 sf
Stacked Townhouses	44,553 sf
Total	70,211 sf

Unit Breakdown (*)	
1- Bedroom Live-Work Units	8
3-Bedroom Townhouse Units	8
2-Bedroom Stacked Townhouse Units	48
Total Units	64

Amenities(*)	
On-Site Parking	148
Bicycle Parking	66
Lockers	64

(* as per Project Statistics and Site Plan prepared by OneSpace Unlimited Inc.)



Zoning Image



- Greenway
- Mixed Use Health Care Campus
- Countryside
- Mixed Use Heritage Main Street
- Hamlets
- Commercial
- Transportation and Utilities
- Business Park Employment
- Parkway Belt West
- Business Park Office Priority Employment
- Private Open Space
- Service Employment
- Residential Estate
- General Employment
- Residential Low Rise
- Intensification Area
- Residential Mid Rise
- Future Urban Area
- Residential High Rise
- Future Neighbourhood Area
- Mixed Use Low Rise
- Future Employment Area
- Mixed Use Mid Rise
- Secondary Plan Area Specific Policy
- Mixed Use High Rise
- Deferral Area
- Mixed Use Office Priority

Official Plan Use

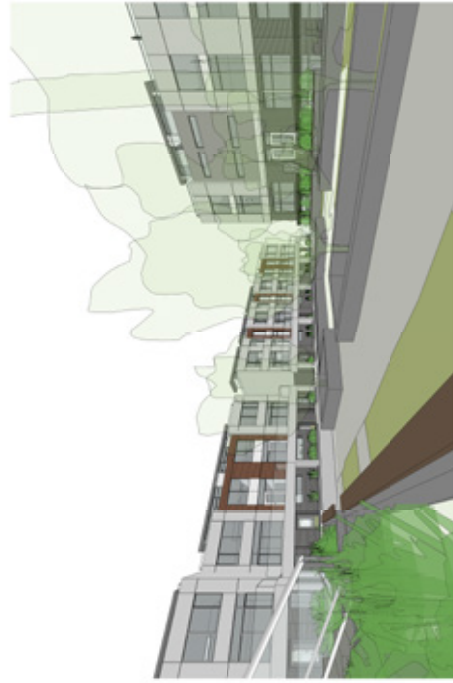




1 Exterior View 4 - facing North-East @ Block 2 & 3
Scale:



2 Exterior View 5 - facing South-East @ U/G Parking Ramp Entrance
Scale:



3 Exterior View 6 - facing South-East @ Parkette
Scale:

The property is presently a vacant, unimproved corner site and is relatively level with street grade.

Legal Description

BLOCK 2, PLAN 65M4289 T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 4, 6, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN THE LIMITS OF PT 1, PL 65R30487, AS IN MA91760; T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 2, 4, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN LIMITS OF PT 5, PL 65R30487, AS IN MA110959; T/W EASE OVER PT E1/2 LT 2, ONC 5, PTS 2, 6, 7 & 8 IN FAVOUR OF PT BLK 1, PL 65M4289 LYING WITHIN LIMITS OF PT 3, PL 65R30487, AS IN R694330; S/T EASE AS IN YR1610522; S/T EASE IN GROSS AS IN YR1684881;; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1749103; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1778673; SUBJECT TO AN EASEMENT AS IN YR1905638; SUBJECT TO AN EASEMENT OVER PTS 2, 4 & 6, 65R33280 IN FAVOUR OF BLK 3, PL 65M4289 AS IN YR1936318; CITY OF MARKHAM

P.I.N. 02953-0145 (LT)

Offering Process

The Property is being sold “as is, where is” on an unpriced basis by RSM Canada Limited, solely in its capacity as Court-Appointed Receiver of 168 Old Kennedy Road, Markham, Ontario with no personal or corporate liability (the “Vendor”).

A Bid Date for offers will be established shortly, and all interested parties will be given advance notice once the Bid Date has been established.

For additional details regarding the Property, including access to the electronic data room, please contact the Listing Agents.



For more information please contact:

Kelly Avison AACI, Principal*
416.673.4030
kelly.avison@avisonyoung.com

Ben Sykes SIOR, Principal†
905.283.2324
ben.sykes@avisonyoung.com

Avison Young Commercial Real Estate (Ontario) Inc.
18 York Street, Toronto, ON M5J 2T8
Phone: 416.955.0000 Fax: 416.955.0724

avisonyoung.com
avisonyoungcapitalmarkets.com

†Sales Representative *Broker

Firm Capital Monthly Distributions
7.35% Yield*
 Property Trust (FCD.UN-TSXV) www.FirmCapital.com
 *As at February 6th, 2020

AVISON YOUNG | **CUSHMAN & WAKEFIELD** **FOR SALE - INVESTMENT OPPORTUNITY**
 4342 QUEEN STREET, NIAGARA FALLS, ON



- 148,571 sf office building on a 2.8 acre site near downtown, next to the Canada-US border
- Proximity to GO/VIA Rail station, Greyhound bus terminal, and public transit
- 91% occupied - primarily by federal and provincial government tenants

Richard Chilcott*, Principal
 416.673.4053
 richard.chilcott@avisonyoung.com

Jonathan Yuan*, Vice President
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Nick Yanovski*, AACI, Principal
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Michael (Mickey) Swartz*, Senior Vice President
 416.359.2372
 mickey.swartz@cushwake.com

*Broker *Sales Representative

avisonyoung.ca | cushmanwakefield.com
 Avison Young Commercial Real Estate (Ontario) Inc., Brokerage | Cushman & Wakefield ULC, Brokerage

AVISON YOUNG **For Sale**
 RESIDENTIAL DEVELOPMENT OPPORTUNITY
 168 OLD KENNEDY ROAD, MARKHAM, ON



- 1.46 acre residential development site
- Zoned for 64 dwelling units
- Close proximity to recently built and /or planned residential developments
- Access to various amenities and great connectivity across the GTA

Kelly Avison*, AACI, Principal
 416.673.4030
 kellyavison@avisonyoung.com

Ben Sykes*, SIOR, Principal
 905.283.2324
 ben.sykes@avisonyoung.com


*Broker *Sales Representative

avisonyoung.ca | Avison Young Commercial Real Estate (Ontario) Inc., Brokerage

2020 CANADA'S BEST MANAGED COMPANIES Platinum member

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614 12th AVENUE SE CALGARY, ALBERTA



- Located across the street from the new Calgary Flames Arena and in the Victoria Park Area Re-development Plan
- CC-X Multi-Residential High Rise
- Site Size - 60,548 SF (1.39 Acres)
- No height restriction
- Proposed GFA is 544,932 SF (9 FAR)
- 220 metres to new subway
- Located in the heart of the Rivers District Master Plan

Pricing to be determined with a bid date set for March 18, 2020

HARVEY RUSSELL
 403-750-0525
 harvey.russell@cbre.com
 cbre.ca

CBRE
 CBRE Limited, Real Estate Brokerage

JLL **For Sale**
 2.2 Acres For Sale



3439 69 Street NW, Calgary, AB

- Anchored by a Real Canadian Superstore, this will be a major draw for the entire area.
- Site is only 5 minutes from Canada Olympic Park and less than 20 minutes to Downtown.
- Site servicing and subdivision is expected in the summer of 2020.

Ken Westhaver*
 +1 403 456 2209
 Ken.Westhaver@am.jll.com

Ryan Murphy*
 +1 403 456 5582
 Ryan.J.Murphy@am.jll.com

JLL Real Estate Services, Inc.
 *Sales Representative | www.jll.ca


CALL 1-800-387-5400 TGAM.CA/SUBSCRIBE

CALL 1-800-387-5400 | TGAM.CA/SUBSCRIBE

The Property was posted on MLS system on February 14th, 2020

Prepared by: **GEORGINA PENNY, Administrator**
AVISON YOUNG COMMERCIAL REAL ESTATE (ONTARIO), BROKERAGE
 18 York St Ste 400 Box #4, Toronto, ON M5J2T8 416-955-0000

Printed on 02/14/2020 2:45:27 PM

	168 OLD KENNEDY Rd Markham Ontario L3R0L5 Markham Milliken Mills East York 356-31-Z SPIS: N Taxes: \$24,520.00 / 2019 / Annual Legal: P.I.N.: 02953-0145 (LT)	List: \$9,000,000.00 For Sale For: Sale Last Status: New DOM: 1
	Land Designated Residential Com Cndo Fee: Dir/Cross St: Old Kennedy Road / Aldergrove	Occup: Vacant Freestanding: Y SPIS: N Lse Term Mnths: / Holdover: 90 Franchise:

MLS#: N4692945 Sellers: RSM Canada Limited solely in its capacity as Court-Appointed Receiver* Contact After Exp: N
 Possession Remarks: 30 days/TBC
 PIN#: 029530145 ARN#:

Total Area: 1.46 Acres Ofc/Apt Area: Indust Area: Retail Area: Apx Age: Volts: Amps: Zoning: CA1*369, further amended by Cmtee of Adj Truck Level: Grade Level: Drive-In: Double Man: Clear Height: Sprinklers: Heat: Phys Hdcp-Eqp:	Survey: Lot/Bldg/Unit/Dim: 175 x 286 Feet Lot Lot Irreg: Bay Size: %Bldg: Washrooms: Water: Municipal Water Supply: Sewers: San+Storm Avail A/C: Utilities: A Garage Type: Park Spaces: #Trl Spc: Energy Cert: Cert Level: GreenPIS:	Soil Test: Out Storage: Rail: Crane: Basement: Elevator: UFFI: Assessment: Chattels: LLBO: Days Open: Hours Open: Employees: Seats: Area Infi:
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Bus/Bldg Name: Actual/Estimated: Taxes: Insur: Mgmt: Maint:	Heat: Hydro: Water: Other:	For Year: Gross Inc/Sales: -Vacancy Allow: -Operating Exp: =NetIncB4Debt:	Financial Stmt: EstValueInv At Cost: Com Area Upcharge: % Rent:
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Client Remks: 1.462 acre, corner development site located in prime Markham location, with partial development approvals in place permitting 64 dwelling units. Detailed data room is available upon execution of LA's NDA form. All parties encouraged to review data room files prior to offer submission. Property being sold "as is", on an "unpriced" basis by Receiver with a tentative bid date for offers of March 12th, 2020. MLS pricing is for posting purposes only.
Extras: *(of 168 Old Kennedy Road, Markham, Ontario with no personal or corporate liability). Data room files include historic Phase 2 ESA and RSC Certificate; Seller has commissioned updated Phase 1 ESA report.
Brkage Remks: Receiver has sole right to accept or reject any and all offers. Commissions to cooperating brokers only paid upon successful closing and upon receipt of full commissions from Seller-Receiver by Listing Broker. Vendor's form of APS must be used.

AVISON YOUNG COMMERCIAL REAL ESTATE (ONTARIO), BROKERAGE Ph: 416-955-0000 Fax: 416-955-0724
 18 York St Ste 400 Box #4 Toronto M5J2T8
 KELLY JOHN AVISON, Broker 416-673-4030
 BEN SYKES, Salesperson 905-283-2324
Contract Date: 2/13/2020 **Condition:** **Ad:** N
Expiry Date: 6/19/2020 **Cond Expiry:** **Escape:**
Last Update: 2/14/2020 **CB Comm:** 1.25% **Original:** \$9,000,000.00

APPENDIX "E"



MORTGAGE PAYOUT STATEMENT

April 28, 2020

168 Old Kennedy Inc.
505 Highway 7 East
Thornhill, ON L3T 7T1
Attention: Sammy Wing Fu Hui

Dear Sammy:

RE: Property : 1st Mortgage Loan on 168 - 178 Old Kennedy Road, Markham
Reference No. : 17-18

The following summarizes the amounts required to pay out the loan on the above-noted property:

Payout Date	May 26, 2020
Principal Balance	\$5,940,000.00
Interest Charges @ 12.00% per annum to May 26, 2020	\$560,296.12
	\$0.00
Loan Charges *For additional details see itemization attached	\$324,713.10
Less Credit for Trust Balance as of date of this statement	(\$0.00)
TOTAL AMOUNT PAYABLE	\$6,825,009.22

HST# 10550 1209RT0001
E. & O.E.

These figures are subject to change with any subsequent transactions and do not include any legal fees. We reserve the right to amend this Statement should any changes occur that would increase the total amount payable. **Please note that this Statement expires on June 9, 2020**, after which this Statement shall become null and void and additional charges may apply in accordance with the terms of your mortgage.

Per diem interest will be **\$2,159.53** for each additional day past **May 26, 2020**.

Payment must be made by wire transfer only to **VECTOR FINANCIAL SERVICES LIMITED** or their solicitors as directed.

Yours truly,
VECTOR FINANCIAL SERVICES LIMITED
Per:

Mitchell Oelbaum
Chief Operating Officer
FSRA Licence No. M13001562



**SCHEDULE OF LOAN CHARGES ACCOMPANYING
THE MORTGAGE PAYOUT STATEMENT**

Borrower : **168 Old Kennedy Inc.**
 Property : **1st Mortgage Loan on 168 - 178 Old Kennedy Road, Markham**
 Reference No. : **17-18**

04/29/2019	Outstanding earnest Fee per Commitment Letter	\$50,000.00
07/01/2019	Over Holding Fee for Jul 2019	\$14,850.00
08/01/2019	Over Holding Fee for Aug 2019	\$14,850.00
09/01/2019	Over Holding Fee for Sep 2019	\$14,850.00
09/26/2019	Annual review fee - 2 @ \$565.00	\$1,130.00
09/26/2019	Bank wire fee	\$15.00
09/26/2019	Discharge fee	\$500.00
09/26/2019	Regulatory fee (incl. HST)	\$847.50
09/26/2019	Reimbursement of expenses paid	\$4,829.83
09/26/2019	Statement fee - 2 @ \$395.50	\$791.00
09/29/2019	Bank processing	\$500.00
10/01/2019	Over Holding Fee for Oct 2019	\$14,850.00
10/31/2019	Pelican Woodcliff Inv#221075 -pd by broker	\$1,130.00
11/01/2019	Default Administration Fee (incl. HST)	\$2,825.00
11/01/2019	Over Holding Fee for Nov 2019	\$14,850.00
12/01/2019	Default Administration Fee (incl. HST)	\$5,650.00
12/01/2019	Over Holding Fee for Dec 2019	\$14,850.00
12/12/2019	Receiver Certificate #1	\$15,000.00
12/31/2019	Cassels Brock Inv#2101821: 168 Old Kennedy Rd	\$49,499.27
01/01/2020	Default Administration Fee (incl. HST)	\$5,650.00
01/01/2020	Over Holding Fee for Jan 2020	\$14,850.00
02/01/2020	Default Administration Fee (incl. HST)	\$5,650.00
02/01/2020	Over Holding Fee for Feb 2020	\$14,850.00
03/01/2020	Default Administration Fee (incl. HST)	\$5,650.00
03/01/2020	Over Holding Fee for Mar 2020	\$14,850.00
03/03/2020	Statement fee (incl. HST)	\$395.50
04/10/2020	Default Administration Fee (incl. HST)	\$5,650.00
04/10/2020	Over Holding Fee for Apr 2020	\$14,850.00
05/10/2020	Default Administration Fee (incl. HST)	\$5,650.00
05/10/2020	Over Holding Fee for May 2020	\$14,850.00
	<u>TOTAL</u>	<u>\$324,713.10</u>

HST# 10550 1209RT0001
E. & O.E.

APPENDIX “F”

**PALIARE
ROLAND**

BARRISTERS

Chris G. Paliare
Ian J. Roland
Ken Rosenberg
Linda R. Rothstein
Richard P. Stephenson
Nick Coleman
Donald K. Eady
Gordon D. Capern
Lily I. Harmer
Andrew Lokan
John Monger
Odette Soriano
Andrew C. Lewis
Megan E. Shortreed
Massimo Starnino
Karen Jones
Robert A. Centa
Nini Jones
Jeffrey Larry
Kristian Borg-Olivier
Emily Lawrence
Tina H. Lie
Jean-Claude Killey
Jodi Martin
Michael Fenrick
Ren Bucholz
Jessica Latimer
Lindsay Scott
Alysha Shore
Denise Cooney
Paul J. Davis
Lauren Pearce
Elizabeth Rathbone
Daniel Rosenbluth
Glynnis Hawe
Emily Home
Hailey Bruckner
Charlotté Calon

COUNSEL

Stephen Goudge, Q.C.

COUNSEL

Ian G. Scott, Q.C., O.C.
(1934 - 2006)

April 27, 2020

VIA EMAIL

Daniel Weisz
Senior Vice-President
RSM Canada Limited
11 King St. W., Suite 700, Box 27,
Toronto, Ontario, Canada, M5H 4C7

Dear Mr. Weisz:

Re: 168 Old Kennedy Inc. ("168" or the "Debtor")

You have asked us in your capacity as court-appointed receiver and manager of the real property located at 168 Old Kennedy Road, Markham, Ontario, having the legal description set out in Schedule "E" (the "**Property**"), to review certain loan, security and related documentation relating to the Debtor's indebtedness to Vector Financial Services Limited ("**Vector**") and, in particular, Vector's security over the Property.

SCOPE OF REVIEW

The scope of our review is limited to a) those security and related documents listed in Schedule "A" hereto and b) the Search Results (defined below) (collectively, the "**Documents**"). The only searches and inquiries conducted by us are those referred to in this letter, the results of which are summarized in Schedule "D" attached hereto (the "**Search Results**").

We reviewed the Documents generally to identify any aspect of the Documents or any registrations which did not appear complete and regular on their face, or which appeared to raise material issues. We have also listed in Schedule "A" attached hereto documents that were not reviewed even though they are referenced in the Documents.

This report is limited to the laws of the Province of Ontario and the federal laws of Canada applicable therein. We express no opinion with respect to the validity of Documents to the extent such validity is governed by the laws of any other Jurisdiction.

ASSUMPTIONS AND QUALIFICATIONS

Our opinion as to the validity of the Documents is subject to the assumptions and qualifications set out in Schedules "B" and "C", respectively, attached hereto.

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 WELLINGTON STREET WEST 35TH FLOOR TORONTO ONTARIO M5V 3H1 T 416.646.4300

SEARCH RESULTS

Corporate History

Our corporate search conducted on April 14, 2020 reveals that the Debtor was incorporated on March 20, 2017 pursuant to the laws of the Province of Ontario.

Personal Property Searches

We conducted searches against the Debtor as noted in Schedule "D" under the following statutes:

1. *Bankruptcy and Insolvency Act* (Canada);
2. Section 427 of the *Bank Act* (Canada);
3. *Executions Act* (Ontario); and
4. *Personal Property Security Act* (Ontario) (the "**PPSA**").

The results of our searches are summarized in Schedule "D". The Province of Ontario does not have a system for registering title to personal property and, accordingly, we cannot confirm whether the Debtor holds title to any of the personal property referred to herein.

Real Property Searches

On April 13, 2020, we conducted a search of title to the Property. The following is a summary of the results of the search and is not a full investigation of title to the Property. Given the limited nature of a search we do not express any opinion as to title to the Property.

The parcel register for the Property which we obtained as part of our search shows the following registrations:

PIN No. 02953-0145 (LT)

1. Charge/Mortgage in favour of Vector registered on May 15, 2017 as instrument No. YR2668099 (the "**Vector Mortgage**");
2. Notice of Assignment of Rents General to Vector registered on May 15, 2017 as instrument No. YR2668100;
3. Charge/Mortgage in favour of 2080552 Ontario Inc. registered on May 15, 2017 as instrument No. YR2668140 (the "**208 Mortgage**");
4. Charge/Mortgage in favour of 10114812 Canada Corporation registered on July 28, 2017 as instrument No. YR2709457 (the "**101 Mortgage**"); and

5. Application Court Order of the Ontario Superior Court of Justice in favour of Vector filed on December 11, 2019 as instrument No. YR3044928.

An execution search was conducted against the Debtor in Ontario on April 14, 2020, which search revealed that there were no writs of execution registered against the Debtor.

CERTIFICATE OF STATUS

We obtained a certificate of status dated April 14, 2020 in respect of the Debtor issued by the Ministry of Government Services confirming the corporate existence of the Debtor as at that date.

SECURITY REVIEW

Subject to the assumptions and qualifications set out in this letter, we have the following comments and opinions with respect to the Documents.

Vector Loan

Pursuant to a binding loan proposal agreement dated April 12, 2017, and a commitment letter dated May 3, 2017, Vector loaned the Debtor the principal amount of \$5,940,000.00.

As security for the loan, the Debtor granted to Vector a first-ranking charge over the Property (being the Vector Mortgage) as well as a general assignment of rents and a general security agreement in favour of Vector.

We understand that the indebtedness, liabilities and obligations of the Debtor to Vector was guaranteed by the Debtor's principals (the "**Guarantors**") in favour of Vector (the "**Guarantees**"), however we have not reviewed the Guarantees or any associated documents in connection with this opinion. In respect of Vector's loan to the Debtor:

1. *Vector Mortgage*. The Vector Mortgage grants, by its terms, a fixed, first-ranking charge on the Property in favour of Vector.
2. *Assignment of Rents*. The Assignment of Rents was registered against title to the Property on May 15, 2017. The Assignment of Rents provides that the Debtor assigned to Vector all existing and future leases and rents derived from the Property.
3. *PPSA Registrations*. Vector is registered as a secured party against, among other things, the Debtor's inventory, equipment, and accounts.

OPINIONS WITH RESPECT TO VALIDITY AND PRIORITY OF SECURITY

In our opinion, based on the assumptions and subject to the qualifications set out herein, the Vector Mortgage is a valid first charge on the Property.

This review is provided to you in your capacity as court-appointed receiver of the Debtor pursuant to the order of the Honourable Mr. Justice Penny dated December 6, 2019. This letter may not be relied on by any other person without our prior written consent.

Please do not hesitate to contact us if you wish to discuss any of the foregoing.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Jeffrey Larry
JL:ss
Encl.

SCHEDULE "A"**DOCUMENTS REVIEWED**

Documents not defined below shall have the meaning ascribed to them in the body of the security review letter.

Vector Loan and Security Documents:

4. Charge/Mortgage granted by the Debtor in favour of Vector, in the original principal sum of \$5,940,000.00, registered on May 15, 2017 as instrument No. YR2668099.
1. Notice of Assignment of Rents General in favour of Vector registered on May 15, 2017 as instrument No. YR2668100.
2. General Security Agreement given by the Debtor, dated May 4, 2017, for all present and future indebtedness of the Debtor to Vector arising out of the Vector Mortgage, perfected by financing statements registered as (i) no. 20170508 1205 1590 3388, file reference no. 727386552, and (ii) no. 20190531 1015 9234 6694, file reference no. 751798827.

DOCUMENTS NOT REVIEWED

The following documents have not been reviewed as part of giving this opinion:

1. All loan and security documentation in respect of the Guarantee;
2. The 208 Mortgage;
3. The 101 Mortgage.

SCHEDULE "B"**ASSUMPTIONS**

For the purposes of conducting this review, we have assumed the following:

1. that the signatures on the Documents are genuine and that the Documents submitted to us as photocopies or facsimile copies conform to authentic original Documents, and that all Documents were fully completed prior to execution and delivery;
2. that the Debtor had at all relevant times the necessary corporate status, power and capacity, as applicable, to grant to Vector the Documents to which it is party and to perform its obligations under each of those Documents;
3. that there are no leases in respect of the Property, thus no outstanding amounts owing to any of the lessees under any leases that could have priority to the Vector Mortgage;
4. that the Documents were duly authorized, executed and delivered to and in favour of Vector;
5. that the Documents were provided, as the case may be, to Vector by the Debtor on the basis of informed consent and advice and for value;
6. that Vector holds proper evidence of the amount of indebtedness owed to it by the Debtor and the dates on which such indebtedness was incurred;
7. that none of the Documents has been assigned, amended, superseded, released, discharged or otherwise impaired, either in whole or in part;
8. that the Debtor holds legal and beneficial title to the Property and that the Property was, at the time of the granting of the relevant security interest, and is presently, in Ontario;
9. the accuracy and completeness of the descriptions of all property of the Debtor referred to in any Document;
10. that there are no agreements to which the Debtor is a party or was a party at the time of the execution of the Documents which might impair its ability to execute and deliver or grant any of the Documents to which it is a party or to perform any of its obligations thereunder;
11. that none of the Documents, originals or copies of which we examined, has been amended (except as set out in this letter), and there are no other agreements or understandings between the parties that would amend, supplement or qualify any provisions of the Documents;

12. to the extent that a security interest in investment property (as defined in the PPSA) has been granted by the Debtor to Vector, Vector has control of such investment property;
13. that no execution creditor or other person has seized or caused seizure of any asset of the Debtor; and
14. that the public records examined by us in connection with this report were complete and accurate when examined.

SCHEDULE "C"**QUALIFICATIONS**

1. We express no opinion with respect to title to any of the personal property or the Property charged by the Documents.
2. We express no opinion as to the priority of any security interest created by the Documents as against any statutory liens, charges, deemed trusts or other priorities.
3. We express no opinion as to any security interest created by the Documents with respect to any property of the Debtor that is transformed in such a way that it is not identifiable or traceable or any proceeds of property of the Debtor that are not identifiable or traceable.
4. We express no opinion as to the creation or validity of any charge of, assignment or transfer of or security interest in any of the following property or any interest of the Debtor or the Guarantor therein: (i) any policy of insurance or contract of annuity; (ii) any permits, quotas, licenses and other property which is not personal property; and (iii) any property consisting of a receivable, license, approval, privilege, franchise, permit, lease or agreement (collectively, the "Special Property") to the extent that the terms of the Special Property or any applicable law prohibits its assignment or requires as a condition of its assignability, a consent, approval, notice or other authorization or registration which has not been made or given.
5. No opinion is expressed under the terms of this opinion with respect to the laws of any jurisdiction (other than Ontario) to the extent that such laws may govern the validity, perfection, effect of perfection or non-perfection of the security interests created by the Documents as a result of the application of Ontario conflict of law rules.
6. We did not investigate whether, any steps were taken in connection with the registration of the Documents or of any of the interests created thereunder: (i) under the Patent Act (Canada), the Trade-marks Act (Canada), the Industrial Designs Act (Canada), the Integrated Circuit Topography Act (Canada), the Copyright Act (Canada) or the Plant Breeders' Rights Act (Canada); (ii) in respect of any vessel which is registered or recorded under the Canada Shipping Act (Canada); (iii) in respect of any rolling stock to which the provisions of the Canada Transportation Act (Canada) or the Shortline Railways Act (Ontario) may apply; or (iv) under the Financial Administration Act (Canada).
7. Provisions of the Document which purport to exculpate any secured party from liability for its acts or which purport to confirm the continuance of

obligations notwithstanding any act or omission or other matter are subject to the discretion of an Ontario Court.

8. An Ontario Court may decline to enforce the rights of indemnity and contribution potentially available under the Documents to the extent that they are found to be contrary to equitable principles or public policy.
9. An Ontario Court may decline to enforce those provisions of the Documents which purport to allow a determination, calculation or certificate of a party thereto as to any manner provided for therein to be final, conclusive and binding upon any other party thereto if such determination is found to be inaccurate on its face or to have reached or made on an arbitrary or fraudulent basis.
10. Wherever any matter or thing is to be determined or done in the discretion of any secured party, such discretion may be required to be exercised in a commercially reasonable manner and in good faith.
11. With respect to the charge of, or transfer or pledge or assignment of, or the granting of a security interest in, any account or like personal property pursuant to the Documents, notice may have to be given to the obligor thereunder and the secured creditors may be subject to the equities between the obligor and the grantor of the security interest in the event that it wishes to enforce any such account or like personal property as against the obligor under such account or like personal property.
12. Powers of attorney contained in any of the Documents, although expressed to be irrevocable, may in some circumstances be revoked, including without limitation, pursuant to the Substitute Decisions Act (Ontario).
13. Pursuant to section 8 of the Interest Act (Canada), no fine, penalty or rate of interest may be exacted on any arrears of principal or interest secured by a mortgage on real property that has the effect of increasing the charge on the arrears beyond the rate of interest payable on principal money not in arrears.

SCHEDULE "D"**SUMMARY OF SECURITY SEARCHES AGAINST 168 OLD KENNEDY INC.
(the "DEBTOR")****Corporate History**

The Debtor was incorporated on March 20, 2017 pursuant to the laws of the Province of Ontario.

Personal Property Security Act (Ontario)

(File Currency: April 13, 2020)

1. Secured Party: Vector Financial Services Limited

Debtor: 168 Old Kennedy Inc.

Collateral Classification: Inventory, Equipment, Accounts, Other

General Collateral Description: Security documentation relating to property located at and municipally known as 168-178 Old Kennedy Road, Markham, Ontario (Loan No. 17-18)

Registration No.: 20170508 1205 1590 3388

File No. 727386552

Registration Date: May 8, 2017

Registration Period: 4 Years

Expiry Date: May 8, 2021

2. Secured Party: Vector Financial Services Limited

Debtor: 168 Old Kennedy Inc.

Collateral Classification: Inventory, Equipment, Accounts, Other

General Collateral Description: All of the debtor's present and after-acquired personal property located at, on or about the lands and premises municipally known as 168 to 178 Old Kennedy Road, Markham, Ontario, or used or acquired

in Connection with or primarily related to the business of the debtor conducted on or with respect to such lands and premises (Loan No. 19-17).

Registration No.: 20190531 1015 9234 6694

File No. 751798827

Registration Date: May 31, 2019

Registration Period: 3 Years

Expiry Date: May 31, 2022

3. Secured Party: Olympia Trust Company

Debtor: 168 Old Kennedy Inc.

Collateral Classification: None marked

General Collateral Description: connection with or primarily related to the business of the debtor conducted on or with respect to such lands and premises (Loan No. 19-17)

Registration No.: 20190531 1015 9234 6694

File No. 751798827

Registration Date: May 31, 2019

Registration Period: 3 years

Expiry Date: May 31, 2022

Bank Act (Ontario)

Date of Search: April 13, 2020

CLEAR

Official Receiver (Bankruptcy)**BIA Estate No:** 31-458836**BIA Estate Name:** 168 OLD KENNEDY INC.**Estate Type:** Receivership**Date of Proceeding:** December 6, 2019**Total Liabilities:** \$0**Executions:** Ontario (all 49 Ontario enforcement offices)**Date of Search:** April 14, 2020

CLEAR

SCHEDULE "E"**LEGAL DESCRIPTION OF REAL PROPERTY**

Municipal Address: 168 Old Kennedy Road, Markham, Ontario

PIN No. 02953-0145 (LT): BLOCK 2, PLAN 65M4289 T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 4, 6, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN THE LIMITS OF PT 1, PL 65R30487, AS IN MA91760; T/W EASE OVER PT E1/2 LT 2, CON 5, PTS 2, 4, 7 & 8, PL 65R30487 IN FAVOUR OF PT BLK 2, PL 65M4289 LYING WITHIN LIMITS OF PT 5, PL 65R30487, AS IN MA110959; T/W EASE OVER PT E1/2 LT 2, ONC 5, PTS 2, 6, 7 & 8 IN FAVOUR OF PT BLK 1, PL 65M4289 LYING WITHIN LIMITS OF PT 3, PL 65R30487, AS IN R694330; S/T EASE AS IN YR1610522; S/T EASE IN GROSS AS IN YR1684881;; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1749103; SUBJECT TO AN EASEMENT IN GROSS AS IN YR1778673; SUBJECT TO AN EASEMENT AS IN YR1905638; SUBJECT TO AN EASEMENT OVER PTS 2, 4 & 6, 65R33280 IN FAVOUR OF BLK 3, PL 65M4289 AS IN YR1936318; CITY OF MARKHAM

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APPENDIX “G”

RSM Canada Limited
Court Appointed Receiver of
168 Old Kennedy Road, Markham, Ontario
Interim Statement of Receipts and Disbursements
For the period December 6, 2019 to April 22, 2020

Receipts	
Advance from secured lender (1)	\$ 15,000
Interest Income	39
Total receipts	\$ <u>15,039</u>
Disbursements	
Insurance	\$ 1,000
Outside Consulting	2,995
Miscellaneous	425
Property management fees	1,075
Fence rentals and repairs	2,540
Site inspections	1,760
HST/PST paid	825
Total disbursements (2) & (3)	\$ <u>10,620</u>
Net funds on hand	\$ <u><u>4,419</u></u>

- (1) The amount of \$15,000 represents funds advanced by Vector Financial Services Limited under Receiver Certificate No. 1.
- (2) The above numbers do not include Receiver's fees of \$46,801.78 incurred for the period of November 14, 2019 to March 31, 2020.
- (3) The above numbers do not include legal fees of \$24,460.73 incurred for the period of December 11, 2019 March 31, 2020.

This Appendix forms part of the Second Report of the Receiver dated April 29, 2020 and should only be read in conjunction therewith.

APPENDIX "H"

Court File No. CV-19-00631363-00CL

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

BETWEEN:**VECTOR FINANCIAL SERVICES LIMITED**

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

**AFFIDAVIT OF DANIEL WEISZ
(Sworn April 28, 2020)**

I, **DANIEL WEISZ**, of the City of Vaughan, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Vice-President of RSM Canada Limited ("**RSM**") 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 Ontario Superior Court of Justice dated December 6, 2019, RSM Canada Limited was appointed as receiver of the property municipally known as 168 Old Kennedy Road, Markham, Ontario.

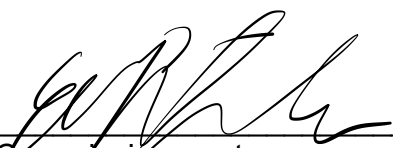
3. Attached hereto and marked as Exhibit "A" to this my affidavit are copies of invoices issued by RSM for fees and disbursements incurred by the Receiver in respect of these proceedings for the period February 1, 2020 to March 31, 2020 (the "Period"). The total fees charged for the Period are \$18,360.00 plus HST of \$2,386.80 for a total of \$20,746.80. The average hourly rate charged during the Period was \$488.30.

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

5. 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.


6. 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 ^{by video conference} at the City of
Toronto, in the Province of Ontario,
this 28th day of April, 2020



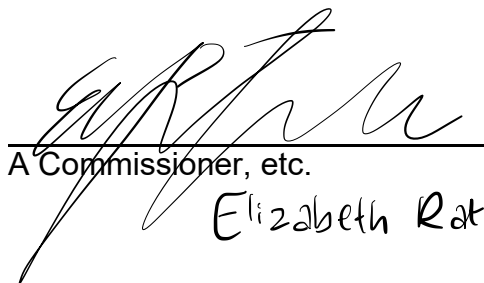
A Commissioner, etc.
Elisabeth Rathbone

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DANIEL WEISZ

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF DANIEL WEISZ SWORN BEFORE ME
THIS 28th DAY OF APRIL, 2020**



A Commissioner, etc.

Elizabeth Rathbone



GST/HST: 80784 1440 RT 0001

111

RSM CANADA LIMITED
Licensed Insolvency Trustee
11 King St W, Suite 700, Box 27
Toronto, ON M5H 4C7

T +1 416 480 0160
F +1 416 480 2646

www.rsmcanada.com

To RSM Canada Limited
Court-appointed Receiver of
168 Old Kennedy Road
11 King Street West, Suite 700
Toronto, ON M5H 4C7

Date March 5, 2020

Client File 7840515-10001

Invoice 3

No. 5917156

For professional services rendered with respect to the appointment of RSM Canada Limited as Court-appointed Receiver of 168 Old Kennedy Road, Markham, Ontario (the "Property") for the period February 1, 2020 to February 29, 2020.

Date	Professional	Description
02/03/2020	Daniel Weisz	Review changes to disclaimer re data room and discussion with B. Wong on same; review summary of activities; review updated draft of Receiver's first report to the Court and update; respond to email from A. Kumar re request to submit offer.
02/03/2020	Brenda Wong	Review final version of agreement of purchase and sale and forward PDF and Word copies to Avison Young; review revised disclaimer and send to J. Larry of Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland") for comments, finalize disclaimer and send to Avison Young; update affidavit of fees and review changes to Receiver's draft report; email sales summary to Avison Young for its review; compile appendices for the report; reference report to source documents; call and email to Pinchin Ltd. ("Pinchin") to request quote for a Phase 1 environmental site assessment ("Phase 1"); call from prospective purchaser.
02/04/2020	Brenda Wong	Make updates to the draft report and send to J. Larry for review; send updated service list and final report with appendices to Paliare Roland.
02/04/2020	Daniel Weisz	Discussion with J. Larry on status of report to the Court; discussion with B. Wong on same; review account rendered by Paliare Roland; review, update and finalize report to the Court, review draft order and provide comments to J. Larry; discussion with B. Wong re status of Phase 1 quote.
02/05/2020	Brenda Wong	Access and review Avison Young data room set up for the sale of the Property, prepare list of additional creditors not included in the Receiver's Notice and Statement of Receiver and email to Avison Young receivership documents to be posted to the data room.
02/05/2020	Daniel Weisz	Discussion with B. Wong re Avison Young data room re the marketing of the property; email to J. Larry and J. Freeman re same.

Date	Professional	Description
02/07/2020	Daniel Weisz	Review and sign cheques; review proposal from Pinchin and discussion with B. Wong on same.
02/07/2020	Brenda Wong	Emails and calls with Avison Young re Pinchin quote; review Pinchin proposal; emails with Pinchin re scope; review and respond to email from G. McCallum, counsel for one of the mortgagees; update the service list.
02/07/2020	Anne Baptiste	Prepare disbursement cheques; prepare bank reconciliation.
02/10/2020	Brenda Wong	Review draft Notice of Motion.
02/11/2020	Brenda Wong	Review motion record served February 10 and arrange for posting of documents to the Receiver's webpage; email to Pinchin re the Receiver's requested changes to the proposal.
02/12/2020	Brenda Wong	Review email from Avison Young; email to Richmond Advisory Services Inc. ("RAS") re sale banners being installed at the Property; review and make edits to MLS listing forms and arrange for signing and return of same to Avison Young.
02/12/2020	Bryan Tannenbaum	Sign listing agreement.
02/14/2020	Anne Baptiste	Filing of banking documentation.
02/15/2020	Daniel Weisz	Discussion with a party re the sales process for the Property.
02/18/2020	Daniel Weisz	Discussion with J. Larry re Court application on Friday.
02/19/2020	Brenda Wong	Follow up with Pinchin re the Receiver's requested revisions to Pinchin's proposal and scheduling a time for Pinchin to start; respond to email from prospective purchaser; respond to email from Cassels Brock LLP.
02/19/2020	Daniel Weisz	Exchange emails with J. Larry re motion scheduled for Friday; review information request from K. Avison of Avison Young and email to Vector Financial Services Ltd. ("Vector") re same.
02/20/2020	Daniel Weisz	Email to K. Avison re request for information; review emails re status of commencement of Phase 1 review.
02/20/2020	Brenda Wong	Emails with Pinchin and RAS re scheduling a site visit.
02/21/2020	Anne Baptiste	Filing of banking documentation.
02/21/2020	Brenda Wong	Review revised proposal letter from Pinchin and emails and call to Pinchin to request revised Authorization to Proceed ("ATP"); review revised ATP; review information request by Pinchin for its review and send copies of documents in the Receiver's possession to Pinchin; emails to Pinchin and RAS to confirm site visit; email to Avison Young to provide update on Phase I review.
02/21/2020	Daniel Weisz	Prepare for and attend in Court re the Receiver's motion; discussion with B. Wong on Pinchin engagement letter and sign same; email to Avison Young re status of marketing update.
02/24/2020	Daniel Weisz	Review Court order and email to Vector re same, review marketing update from Avison Young.
02/24/2020	Brenda Wong	Review Avison Young progress report; email to Wood PLC re status of its quote; respond to email from Cassels Brock re Order issued on February 21; review RAS invoice.
02/25/2020	Daniel Weisz	Discussion with H. Chaiton of Chaitons LLP.

March 5, 2020
 Invoice 3
 Page 3

Date	Professional	Description
02/28/2020	Brenda Wong	Attend to call from Canada Revenue Agency re outstanding CT and HST returns for 168 Old Kennedy Inc.
		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	President	0.1	\$575	\$ 57.50
Daniel R. Weisz, CPA, CA, CFF, CIRP, LIT	Senior Vice President	6.9	\$550	3,795.00
Brenda Wong, CIRP, LIT	Senior Manager	6.6	\$425	2,805.00
Anne Baptiste	Estate Administrator	0.7	\$125	87.50
Total hours and professional fees		14.3		\$ 6,745.00
HST @ 13%				876.85
Total payable				\$ 7,621.85

VISA/MASTERCARD

Payments can be made by calling the Accounts Receivable Department at 647.726.0483.

WIRE PAYMENT DETAILS

Please contact Donna Nishimura at 647.727.3552 for wire instructions.



GST/HST: 80784 1440 RT 0001

RSM CANADA LIMITED
Licensed Insolvency Trustee
 11 King St W, Suite 700, Box 27
 Toronto, ON M5H 4C7

T +1 416 480 0160
 F +1 416 480 2646

www.rsmcanada.com

To RSM Canada Limited
 Court-appointed Receiver of
 168 Old Kennedy Road
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

Date April 17, 2020

Client File 7840515-10001

Invoice 4

No. 5967791

For professional services rendered with respect to the appointment of RSM Canada Limited as Court-appointed Receiver of 168 Old Kennedy Road, Markham, Ontario (the "Property") for the period March 1, 2020 to March 31, 2020.

Date	Professional	Description
03/02/2020	Brenda Wong	Review email re debtor's refinancing and commitment letter provided; emails with Pinchin Ltd. ("Pinchin") re delivery of its report and status; call with K. Avison of Avison Young re status and review Avison Young's marketing report.
03/02/2020	Daniel Weisz	Review commitment letter provided by counsel to the debtor and email to J. Larry of Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland") re same; discussion with J. Larry on same; discussion with M. Oelbaum of Vector Financial Services Ltd. ("Vector") to request mortgage discharge statement and email to M. Oelbaum re same.
03/03/2020	Daniel Weisz	Discussion with H. Chaiton of Chaitons LLP and reply to email from H. Chaiton; email to J. Larry re mortgage discharge statement requested by the debtor.
03/04/2020	Daniel Weisz	Review mortgage payout statement and forward same and additional information to J. Larry; review summary of activities.
03/06/2020	Anne Baptiste	Filing of banking documentation; prepare disbursement cheques.
03/06/2020	Brenda Wong	Call and email with unsecured creditor re inquiry, and email to J. Larry re same.
03/09/2020	Brenda Wong	Review and respond to email from Pinchin re zoning; review Pinchin's preliminary comments re the site and forward to Avison Young, call with K. Avison and email to Pinchin re same.
03/10/2020	Brenda Wong	Call from second mortgagee with questions on sales process; review email from K. Avison and call re status; review Pinchin Phase I report and forward to Avison Young.
03/10/2020	Daniel Weisz	Review email from K. Avison; discussion with K. Avison and forward email to J. Larry; preliminary review of report received from Pinchin; discussion with

Date	Professional	Description
		M. Oelbaum re status; review Agreement of Purchase and Sale ("APS") and second mortgage relating to the property and email to J. Larry re same.
03/11/2020	Brenda Wong	Review emails and documents re development charges.
03/11/2020	Daniel Weisz	Review files and draft letter to City of Markham re development charges, discussion with J. Larry on same, finalize letter and send.
03/12/2020	Daniel Weisz	Correspondence with K. Avison and Vector with respect to the marketing process.
03/13/2020	Anne Baptiste	Filing of banking documentation.
03/13/2020	Brenda Wong	Review offer summary and offers; call with Avison Young re offers; call with Avison Young and Vector re offers received; start drafting second report to Court.
03/13/2020	Daniel Weisz	Draft confidentiality agreement; discussion with M. Oelbaum re same; review summary of offers received; conference call with B. Sykes, K. Avison and B. Wong re offers received; conference call with B. Sykes, K. Avison, M. Oelbaum, N. Mintz and B. Wong re offers received; discussion with J. Larry and subsequent discussion with K. Avison; discussion with A. Lai re status of the Receiver's sales process.
03/16/2020	Brenda Wong	Discussion with K. Avison re status; continue drafting second report to Court.
03/16/2020	Daniel Weisz	Review email from A. Lai, discussion with A. Lai and respond to email received; discussion with M. Oelbaum on status; review and filing of emails.
03/17/2020	Brenda Wong	Continue drafting Receiver's second report.
03/17/2020	Daniel Weisz	Email to J. Freeman re APS; review summary of second round of offers received.
03/17/2020	Anne Baptiste	Prepare bank reconciliation.
03/18/2020	Brenda Wong	Review updated summary of offers; call with Avison Young and J. Larry re second round of offers.
03/18/2020	Daniel Weisz	Prepare for and attend conference call with K. Avison, B. Sykes, J. Larry and B. Wong to discuss the second round offers received; email to M. Oelbaum; discussion with J. Freeman re status of offers and email to J. Freeman re same.
03/18/2020	Echa Odeh	Prepare affidavit of fees and fee summary.
03/19/2020	Brenda Wong	Call with D. Weisz, Avison Young and J. Larry re status of offers.
03/19/2020	Daniel Weisz	Prepare for and attend conference call with K. Avison, N. Mintz, J. Larry and B. Wong re status of offers; email to M. Oelbaum re same; review proposed email to be sent by K. Avison; discussion with J. Larry re status of offers.
03/20/2020	Brenda Wong	Call with D. Weisz, Avison Young, J. Larry re status of offers.
03/20/2020	Daniel Weisz	Email to K. Avison re summary of offers; review updated summary of offers; conference call with K. Avison, B. Sykes, B. Wong and J. Larry to discuss the status of offers; discussion with M. Oelbaum; review email from K. Avison.
03/20/2020	Daniel Weisz	Review email from K. Avison re discussion with potential purchaser and exchange emails with K. Avison re same.
03/24/2020	Daniel Weisz	Review correspondence from J. Minster and discussion with J. Larry on same; conference call with K. Avison, B. Sykes, J. Larry and B. Wong re the status of

Date	Professional	Description
		offers; email to J. Freeman re same; discussion with H. Chaiton and email to H. Chaiton payout information.
03/24/2020	Brenda Wong	Review email from Avison Young; call with D. Weisz, J. Larry and Avison Young re offers.
03/25/2020	Brenda Wong	Call with Vector, J. Larry and D. Weisz re offers.
03/25/2020	Daniel Weisz	Review email from H. Chaiton; review APS contemplated to be accepted by the Receiver; review listing agreement with Avison Young; discussion with J. Larry re same; prepare for and attend conference call with M. Oelbaum, N. Mintz, J. Larry and B. Wong to discuss the status of offers received for the property.
03/26/2020	Daniel Weisz	Discussion with N. Mintz re financing potentially available to purchaser; discussion with J. Freeman re the status of various matters; review email from N. Mintz and forward same to J. Larry.
03/27/2020	Daniel Weisz	Discussion with J. Larry re responding to H. Chaiton and status of offers re proposed financing terms; exchange emails with K. Avison re same; prepare for and attend conference call with M. Oelbaum, N. Mintz, K. Avison, B. Sykes and J. Larry to discuss the status of offers and proposed financing terms.
03/31/2020	Daniel Weisz	Exchange emails with J. Larry re status of offers; review email from K. Avison re status of offers; filing of emails.
		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.

April 17, 2020
 Invoice 4
 Page 4

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Daniel R. Weisz, CPA, CA, CFF, CIRP, LIT	Senior Vice President	15.7	\$ 550	\$ 8,635.00
Brenda Wong, CIRP, LIT	Senior Manager	6.6	\$ 425	2,805.00
Echa Odeh	Senior Associate	0.5	\$ 225	112.50
Anne Baptiste	Estate Administrator	0.5	\$ 125	62.50
Total hours and professional fees		<u>23.3</u>		\$ 11,615.00
HST @ 13%				1,509.95
Total payable				\$ 13,124.95

VISA/MASTERCARD

Payments can be made by calling the Accounts Receivable Department at 647.726.0483.

WIRE PAYMENT DETAILS

Please contact Donna Nishimura at 647.727.3552 for wire instructions.

Invoices are due upon receipt.
 RSM Canada Limited

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF DANIEL WEISZ SWORN BEFORE ME
THIS 28th DAY OF APRIL, 2020**


A Commissioner, etc.
Elizabeth Rathbone

**In the Matter of the Receivership of
168 Old Kennedy Road, Markham, Ontario
Summary of Receiver's Fees
For the Period February 1, 2020 to March 31, 2020**

Invoice Date	Period	Hours	Fees	HST	Total	Average Hourly Rate
05-Mar-20	February 1 to February 29, 2020	14.3	\$ 6,745.00	\$ 876.85	\$ 7,621.85	\$ 471.68
17-Apr-20	March 1 to March 31, 2020	23.3	11,615.00	1,509.95	13,124.95	498.50
	Total	37.6	\$ 18,360.00	\$ 2,386.80	\$ 20,746.80	\$ 488.30

APPENDIX "I"

Court File No: CV-19-00631363-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

**AFFIDAVIT OF MICHELLE JACKSON
(Sworn April 27, 2020)**

I, Michelle Jackson, of the Town of Milton, 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. Pursuant to the order of the Honourable Justice Penny dated December 6, 2019 (the "**Appointment Order**"), RSM Canada Limited was appointed as the receiver (the "**Receiver**") without security, of the real property municipally known as 168 Old Kennedy Road, Markham, Ontario.
3. Pursuant to the Appointment Order, Paliare Roland has provided services to and incurred disbursements on behalf of the Receiver. The detailed invoices attached hereto and marked as **Exhibit "A"** (the "Dockets") set out Paliare Roland's fees and disbursements from February 1, 2020 to March 31, 2020. The

Dockets describe the services provided and the amounts charged by Paliare Roland.

4. 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 charged by Paliare Roland for the listed professionals.

Professional	Hourly Rate	Hours Billed	Fees Billed
Jeff Larry, Partner, 2001 Call	\$725.00/hr	11.60	8,410.00
Elizabeth Rathbone, Associate, 2016 Call	\$475.00/hr	5.50	2,612.50
Subtotal		17.10	11,022.50


5. Inclusive of HST and disbursements, the total amount of the Dockets are **\$13,017.25**.

SWORN BEFORE ME, by video)
 conference from the Town of Milton,)
 Province of Ontario,)
 To the City of Toronto, Province of)
 Ontario on April 27, 2020.)



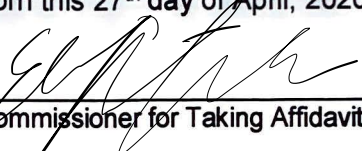
 A Commissioner for taking Affidavits

Elizabeth Rathbone



 Michelle Jackson

This is Exhibit "A" referred to in
the Affidavit of Michelle Jackson
sworn this 27th day of April, 2020



A Commissioner for Taking Affidavits

Elizabeth Rathbone



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
Canada

416.646.4300
paliareroland.com

Private and Confidential
Danny Weisz
RSM Canada Limited
11 King Street West, Suite 700
Box 27
Toronto, Ontario M5H 4C7

March 31, 2020
Invoice No.: 95679
Our File No.: 6595-96983

RE: 168 Old Kennedy

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending March 31, 2020:

Total Fees	\$ 11,022.50
Non Taxable Disbursements	320.00
Total Disbursements subject to HST	214.00
Total HST	1,460.75

INVOICE TOTAL

\$ 13,017.25

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:

Jeffrey Larry



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
Canada

416.646.4300
paliareroland.com

Private and Confidential
Danny Weisz
RSM Canada Limited
11 King Street West, Suite 700
Box 27
Toronto, Ontario M5H 4C7

March 31, 2020
Invoice No.: 95679
Our File No.: 6595-96983

RE: 168 Old Kennedy

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending March 31, 2020:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
03/02/20	JL	Review and comment on Receiver's Report;	725.00	1.30	942.50
04/02/20	JL	Finalize motion materials;	725.00	0.50	362.50
10/02/20	JL	Preparing motion record and draft Order;	725.00	1.50	1,087.50
10/02/20	ER	Draft notice of motion; e-mails with Receiver re same; e-mails and confers with J Larry re same; prepare, review, revise, and coordinate service of motion record;	475.00	3.40	1,615.00
11/02/20	JL	Review and comment on quote and terms from Pinchin; email with D. Weisz;	725.00	0.20	145.00
18/02/20	JL	Call with D. Weisz; call with Ferrari Jaeger;	725.00	0.40	290.00
20/02/20	ER	Prepare documents for hearing;	475.00	1.20	570.00
21/02/20	JL	Prepare for and attend at court on sales process approval motion;	725.00	1.50	1,087.50
24/02/20	ER	E-mails with order and endorsement; circulate same to service list;	475.00	0.40	190.00

ERRORS AND OMISSIONS EXCLUDED TERMS: DUE UPON RECEIPT. AMOUNTS ARE STATED IN CANADIAN DOLLARS UNLESS OTHERWISE INDICATED.
INTEREST AT THE RATE OF 2% 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

RSM Canada Limited

Invoice No.: 95679
 Our File No.: 6595-
 96983
 Page No.: 2

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
02/03/20	JL	Call with debtor's counsel; call with D. Weisz; review issue re: APS; email to E. Rathbone;	725.00	0.70	507.50
02/03/20	ER	Review commitment; e-mail to J Larry re discharge;	475.00	0.50	237.50
04/03/20	JL	Call and email correspondence with J. Minster;	725.00	0.20	145.00
10/03/20	JL	Call with D. Weisz; review APS and mortgage re development charges;	725.00	0.60	435.00
13/03/20	JL	Calls with D. Weisz re: sales process;	725.00	0.50	362.50
19/03/20	JL	Various calls with D. Weisz; call with Avison Young; review and respond to emails about purchases;	725.00	1.20	870.00
20/03/20	JL	Call with Avison and RSM;	725.00	0.50	362.50
23/03/20	JL	Review email re status and update on offers;	725.00	0.20	145.00
24/03/20	JL	Call with Avison Young and RSM; email correspondence;	725.00	0.30	217.50
25/03/20	JL	Conference calls to discuss sales process and offers;	725.00	0.70	507.50
26/03/20	JL	Call with K. Avison and D. Weisz;	725.00	0.50	362.50
27/03/20	JL	Review email correspondence from K. Avison; call with D. Weisz; conference call with Vector and RSM and Avison Young;	725.00	0.60	435.00
31/03/20	JL	Correspondence with K. Avison re offers;	725.00	0.20	145.00

RSM Canada Limited

Invoice No.: 95679
 Our File No.: 6595-
 96983
 Page No.: 3

TIME SUMMARY

MEMBER	POSITION	HOURS	RATE	VALUE
Jeffrey Larry (JL)	Partner	11.60	725.00	8,410.00
Elizabeth Rathbone (ER)	Associate	5.50	475.00	2,612.50
OUR FEES				\$ 11,022.50
HST at 13%				1,432.93

Non Taxable Disbursements:

11/02/20	Filing Fee Re: Notice of Motion Cheque No. 36794 for Ref 96983 issued to Ministry of Finance	320.00
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Taxable Disbursements:

	Laser Copies	68.50	
	Photocopies	0.50	
26/02/20	Process Server Fees/Disbursements Re: Issue and Enter Order Voucher No. 25732 for Invoice No. 155084 issued by (581) Nixon Legal Services Inc.	60.00	
05/03/20	ACL Action Commencement Re: ACL Voucher No. 25825 for Invoice No. 25047 issued by (557) Korbitec Inc	85.00	
Total Taxable Disbursements			214.00
HST at 13%			27.82

INVOICE TOTAL**\$ 13,017.25**



35th Floor
 155 Wellington St. West
 Toronto, Ontario M5V 3H1
 Canada

416.646.4300
 paliareroland.com

Private and Confidential
 Danny Weisz
 RSM Canada Limited
 11 King Street West, Suite 700
 Box 27
 Toronto, Ontario M5H 4C7

March 31, 2020
 Invoice No.: 95679
 Our File No.: 6595-96983

RE: 168 Old Kennedy

**REMITTANCE COPY
 PLEASE REMIT WITH PAYMENT**

Total Fees	\$ 11,022.50
Non Taxable Disbursements	320.00
Total Disbursements subject to HST	214.00
Total HST	<u>1,460.75</u>
INVOICE TOTAL	<u><u>\$ 13,017.25</u></u>

-and-

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT
TORONTO**

AFFIDAVIT OF MICHELLE JACKSON

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
Elizabeth Rathbone (LSO# 70331U)
Tel: 416.646.7488
elizabeth.rathbone@paliareroland.com

Lawyers for the Receiver

APPENDIX “J”

Court File No: CV-19-00631363-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

168 OLD KENNEDY INC.

Respondent

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

**AFFIDAVIT OF JONATHAN FREEMAN
(Sworn April 27, 2020)**

I, Jonathan Freeman, of the City of Toronto, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am a partner at the law firm of Cassels Brock & Blackwell LLP ("Cassels"). I have personal knowledge of the matters to which I hereinafter refer.
2. Pursuant to the order of the Honourable Justice Penny dated December 6, 2019 (the "**Appointment Order**"), RSM Canada Limited was appointed as the receiver (the "**Receiver**") without security, of the real property municipally known as 168 Old Kennedy Road, Markham, Ontario.
3. Pursuant to the Appointment Order, Cassels has provided services to and incurred disbursements on behalf of the Receiver. The detailed invoice attached hereto and marked as **Exhibit "A"** (the "Dockets") set out Cassels' fees and

disbursements from January 1, 2020 to March 31, 2020 The Dockets describe the services provided and the amounts charged by Cassels

4. 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 Cassels. The hourly rates charged are the usual hourly rates charged by Cassels for the listed professionals.

Professional	Hourly Rate	Hours Billed	Fees Billed
Jonathan Freeman, Partner	\$725.00/hr	7.70	5,775.00
David Ward, Partner	\$890.00/hr	0.50	445.00
John Birch, Partner	\$875.00/hr	0.20	175.00
Jeremy Bornstein, Associate	\$525.00/hr	0.70	367.50
Kwaku Tabi, Associate	\$495.00/hr	0.40	198.00
Ave Bross, Associate	\$375.00/hr	0.20	75.00
Subtotal		9.70	7,035.50

5. Inclusive of HST and disbursements, the total amount of the Dockets are **\$7,985.68.**

SWORN BEFORE ME, at the City of)
 Toronto, in the Province of Ontario this)
 27th day of April, 2020.)

David Redmond

A Commissioner, etc.

David Redmond

Jonathan Freeman

Jonathan Freeman

-and-

VECTOR FINANCIAL SERVICES LIMITED

Applicant	Respondent
	<p>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST</p> <p>PROCEEDING COMMENCED AT TORONTO</p>
	<p>AFFIDAVIT OF JONATHAN FREEMAN</p>
	<p>CASSELS BROCK & BLACKWELL LLP 40 King Street West Suite 2100 Toronto, ON M5H 3C2 Tel: 416.869.5300 Fax: 416.360.8877 Jonathan Freeman (LSO# 51289L) Tel: 416.860.2927 jfreeman@cassels.com</p> <p>Lawyers for the Receiver</p>

Cassels

Attn: Daniel Weisz
RSM Canada Limited
11 King Street West, Suite 700
Toronto, ON M5H 4C7

Invoice No: 2108659
Date: April 27, 2020
Matter No.: 054215-00001
GST/HST No.: R121379572

Lawyer: Freeman, Jonathan
Tel.: (416) 860-2927
E-mail: jfreeman@cassels.com

Re: RSM Canada Limited re Receiver Sale of 168 Old Kennedy Road, Markham, ON

Fees for professional services rendered up to and including March 31, 2020

Our Fees	7,035.50
Disbursements	32.60
Total Fees and Disbursements	7,068.10
HST @ 13.00%	917.58
TOTAL DUE (CAD)	7,985.68

We are committed to protecting the environment. Please provide your email address to payments@cassels.com to receive invoice and reminder statements electronically.

REMITTANCE ADVICE

Canadian Dollar EFT and Wire Payments:

Bank of Nova Scotia
44 King St. West,
Toronto, ON, M5H 1H1
Bank I.D.: 002
Transit No.: 47696
Account No.: 0073911
Swift Code: NOSCCATT
Email payment details to
payments@cassels.com

Cheque Payments:

Cassels Brock & Blackwell LLP
Finance & Accounting (Receipts)
Scotia Plaza, Suite 2100
40 King Street West
Toronto, Ontario, M5H 3C2
Canada

Invoice No: 2108659
Matter No.: 054215-00001
Amount: **CAD 7,985.68**

Payment due upon receipt. Please return remittance advice(s) with cheque

Cassels Brock & Blackwell LLP
RSM Canada Limited
Re: RSM Canada Limited re Receiver Sale of 168 Old Kennedy
Road, Markham, ON

Page 2 of 3
Invoice No: 2108659
Matter No. 054215-00001

FEE DETAIL

Date	Name	Description
Jan-15-20	K. Tabi	Review of voicemail from land registry office; review of registration of court order; telephone call to land registry office; re-registration of court order;
Jan-15-20	Bross, Ave	Reviewing the Application to register a court order;
Jan-21-20	D. Ward	Call with Dan Weisz regarding status of all receivership issues;
Jan-22-20	D. Ward	Review correspondence - draft APS from Danny Weisz;
Jan-28-20	J. Freeman	Review and comment on draft form of purchase agreement; review and respond to email correspondence.
Jan-29-20	J. Freeman	Review and respond to e-mail correspondence; attend to matters re amending form of purchase agreement;
Jan-30-20	J. Freeman	Review and respond to e-mail correspondence; review and amend purchase agreement;
Jan-31-20	J. Freeman	Review and respond to e-mail correspondence re: comments on purchase agreement; amend purchase agreement;
Feb-05-20	J. Freeman	Review and respond to e-mail correspondence re: data room access.
Feb-10-20	J. Bornstein	Review receiver's court materials; draft correspondence re same;
Feb-19-20	J. Bornstein	Draft correspondence to J Birch re February 21, 2020 hearing re approval of the sales process; Draft email and attend call with receiver to discuss status;
Feb-19-20	J. Birch	Emails to and from and call to J. Bornstein regarding Feb 21 sales process motion;
Feb-24-20	J. Bornstein	Review and draft correspondence with receiver; review sales process approval order and endorsement; draft correspondence to client reporting same;
Mar-17-20	J. Freeman	Review and respond to e-mail correspondence;
Mar-18-20	J. Freeman	Call with D. Weisz re: offers to purchase; review and compare offer to purchase; consider amendments to offer to purchase.
Mar-19-20	J. Freeman	Review and compare purchase agreement from [REDACTED] to template form of purchase agreement; review and respond to e-mail correspondence from D. Weisz;
Mar-26-20	J. Freeman	Call with Receiver re: update on sale process.
Our Fees		7,035.50
HST @ 13.00%		914.62
TOTAL FEES & TAXES (CAD)		7,950.12

DISBURSEMENT SUMMARY

Non-Taxable Disbursements

Parcel Register	9.80
Total Non-Taxable Disbursements	9.80

Cassels Brock & Blackwell LLP
RSM Canada Limited
Re: RSM Canada Limited re Receiver Sale of 168 Old Kennedy
Road, Markham, ON

Page 3 of 3
Invoice No: 2108659
Matter No. 054215-00001

Taxable Disbursements

Parcel Register	22.80
Total Taxable Disbursements	<u>22.80</u>
HST @ 13.00%	2.96
Total Taxable Disbursements & Taxes	<u>25.76</u>

TOTAL DISBURSEMENTS & TAXES (CAD)	35.56
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TOTAL FEES	7,035.50
TOTAL DISBURSEMENTS	32.60
TOTAL TAXES	917.58
TOTAL FEES, DISBURSEMENTS & TAXES (CAD)	<u>7,985.68</u>

**CONFIDENTIAL APPENDIX "K" TO THE
SECOND REPORT OF THE RECEIVER**

Dated April 29, 2020

VECTOR FINANCIAL SERVICES LIMITED

-and-

Court File No. CV-19-00631363-00CL

168 OLD KENNEDY INC.

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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