

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

BETWEEN

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER SECTION 49.47 OF THE
LAW SOCIETY ACT, R.S.O. 1990, c. L.8 and SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O. 1990 c. C.43**

**MOTION RECORD OF FAAN MORTGAGE ADMINISTRATORS INC., IN ITS
CAPACITY AS COURT-APPOINTED TRUSTEE
(OMNIBUS ORDER; LRO DIRECTION ORDER)**

March 6, 2020

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Sorrenti and Sorrenti Law Professional Corporation in
respect of the Syndicated Mortgage Loan
Administration Business

TO: SERVICE LIST

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SUPERIOR COURT OF JUSTICE
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**APPLICATION UNDER SECTION 49.47 OF THE
LAW SOCIETY ACT, R.S.O. 1990, c. L.8 and SECTION 101 OF
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(As of March 6, 2020)

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TAB A

Court File No. CV-19-628258-00CL

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

BETWEEN

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Applicant

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LAW SOCIETY ACT, R.S.O. 1990, c. L.8 and SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O. 1990 c. C.43**

**NOTICE OF MOTION
(Motion for Omnibus Order and LRO Direction Order)**

FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (the “**Trustee**”) of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**Sorrenti SMLs**”) in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates, and any entity under common control with FRDI (the “**SML Administration Business**”) pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 17, 2020 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR:

1. An Order (the “**Omnibus Order**”) substantially in the form attached to the Motion Record at Tab “C”, *inter alia*:
 - (a) if necessary, abridging the time for service of this Notice of Motion, the Motion Record, and the Second Report of the Trustee dated March 6, 2020 (the “**Second Report**”) and dispensing with service on any person other than those served;
 - (b) approving certain amendments to the interim stabilization measures set out in paragraph 14 of the Appointment Order (as defined below) to, *inter alia*:
 - (i) authorize the Trustee to distribute 50% of the Realized Property (as defined below) to the applicable Investors (as defined below), including, without limitation, authorizing and directing the Trustee to effect a distribution:
 - (A) to Bayview Individual Investors in an amount equal to 50% of the Bayview Realized Property (as each term is defined below),
 - (B) to Gotham Investors in an amount equal to 50% of the Gotham Realized Property (as each term is defined below); and
 - (C) to the HVS Investors in an amount equal to 50% of the HVS Realized Property (as each term is defined below); and
 - (ii) authorize the Trustee to use the retained Realized Property as an administrative holdback to fund the cost of these proceedings, including to pay operating and professional costs associated with the SML Administration Business; and
 - (c) approving the First Report of the Trustee dated January 22, 2020 (the “**First Report**”, and together with the Second Report, the “**Reports**”) and the Second Report, as well as the Trustee’s activities described therein, and approving the Trustee’s fees and disbursements, including the fees and disbursements of its counsel, for the period from September 30, 2019 to January 31, 2020, as more fully described in the Second Report, the affidavit of Naveed Manzoor sworn March 6,

2020 and attached as Appendix 14 to the Second Report (the “**Manzoor Affidavit**”), and the affidavit of Michael De Lellis sworn March 6, 2020 and attached as Appendix 15 to the Second Report (the “**De Lellis Affidavit**” and together with the Manzoor Affidavit, the “**Fee Affidavits**”); and

(d) sealing certain exhibits to the Fee Affidavits.

2. An Order (the “**LRO Direction Order**”) substantially in the form attached to the Motion Record at Tab “D”, *inter alia*, directing the applicable Land Registry Office to, upon the filing by the Trustee of one or more certificate(s) with the Court, expunge and delete the Appointment Order from title to the property(ies) identified in such certificate(s).

3. Such further and other relief as the Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

1. On September 30, 2019, pursuant to an order (the “**Appointment Order**”) of the Court FAAN Mortgage Administrators Inc. was appointed as Trustee over all of the assets, undertakings and properties in the possession, power or control of Sorrenti relating to the SML Administration Business, including, without limitation, all of the assets in the possession or under the control of Sorrenti, its counsel (if any), agents and/or assignees relating to the SML Administration Business but held on behalf of any other party, including, but not limited to, lenders under any Sorrenti SML (“**Investors**”), brokers, or borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively referred to as “**Property**”);

2. In addition to appointing the Trustee, the Appointment Order, *inter alia*:

(a) appointed Chaitons LLP as representative counsel (“**Representative Counsel**”) to represent the common interests of the Investors; and

(b) established certain interim stabilization measures that require the Trustee to:

(i) hold, until further Order of the Court, in a separate account all: (1) funds from the SML Administration Business that were in Sorrenti’s possession, or that

may come into Sorrenti's or the Trustee's possession, in each case as a result of a repayment (in whole or in part) of principal on any Sorrenti SML, whether or not (i) secured by any real property charges, (ii) received before or after the date of the Appointment Order, or (iii) paid or payable in trust, plus (2) all interest paid or payable to Sorrenti or the Trustee in connection with the SML Administration Business at the time such repayment (in whole or in part) of principal is made (collectively, "**Realized Property**") and report to the Court with a recommendation regarding next steps with respect to the Realized Property; and

- (ii) hold in a separate account all funds (other than Realized Property) that were in Sorrenti's possession on or prior to the date of the Appointment Order as well as any amounts (other than Realized Property) paid or payable to Sorrenti or the Trustee after the date of the Appointment Order, including in respect of interest where principal is not repaid, fees, expenses or other amounts, (collectively, "**Estate Property**") and use such Estate Property as set out in the Appointment Order, including to pay operating and professional costs associated with the SML Administration Business.
3. On January 22, 2020, the Trustee submitted its First Report to Court. The First Report provided the Court and stakeholders with the Trustee's recommendation in favour of a settlement agreement reached with Bel-Ottawa Inc. (the "**Gotham Borrower**") relating to a 242-unit condominium tower in Ottawa, Ontario (the "**Gotham Project**") that provided for a payout to the Investors ("**Gotham Investors**") under various loan agreements entered into with the Gotham Borrower that were administered by Derek Sorrenti, in trust (as bare trustee) and secured by the Gotham Project (the "**Gotham Settlement Agreement**");
 4. The Order approving the Gotham Settlement Agreement was issued on January 30, 2020 (the "**Gotham Settlement Approval Order**") and, pursuant to the Gotham Settlement Approval Order, the proceeds of the settlement transaction in the amount of \$1,420,590 (the "**Gotham Realized Property**") were deemed to be Realized Property, though no order was made at that time authorizing or directing the Trustee to distribute such funds;

5. The Gotham Realized Property is currently being held by the Trustee in accordance with the terms of the Appointment Order;

Need for the Omnibus Order

6. Concurrently with the filing of this Notice of Motion, the Trustee is filing the Second Report, which provides the Court and stakeholders a comprehensive update with respect to the various projects in these proceedings, as well as an update on the Trustee's activities undertaken since the date of the Appointment Order;

Distribution of Realized Property

7. The Trustee has received numerous communications from Investors detailing hardships that they are experiencing as a result of their investments in the Sorrenti SMLs (including, in many cases, delayed repayments, returns on investment below expectations and/or losses thereon) and has been advised by Representative Counsel that it has received similar communications. The Trustee understands the potentially detrimental impact that results from delays in the borrowers under Sorrenti SMLs repaying those obligations, if at all;

8. Pursuant to the Appointment Order, the Court granted the Trustee a first-priority charge and Representative Counsel a second-priority charge over the Property, including Realized Property, as security for the payment of their respective professional fees and expenses;

9. The Trustee, its legal counsel and Representative Counsel are incurring expenses in an effort to generate the maximum amount of Realized Property possible in the circumstances for the benefit of Investors;

10. The Trustee is recommending that a portion of the Realized Property in its possession be distributed to Investors at this time;

11. The Trustee has determined that it is appropriate to seek the Court's authorization to distribute an amount equal to 50% of any Realized Property, whether held as of the date of the Second Report or received in the future, to the Investors entitled to such funds on a *pro rata* basis and to retain the remaining Realized Property to fund the cost of these proceedings (the

“**Administrative Holdback**”), including to pay operating and professional costs associated with the SML Administration Business;

12. The Realized Property in the Trustee’s possession is primarily comprised of (a) approximately \$4.2 million (“**Bayview Realized Property**”) that was held by Sorrenti on the date of the Appointment Order owing to 95 individual Investors (“**Bayview Individual Investors**”) in respect of a Sorrenti SML made in connection with a completed 234-unit condominium development project located in Toronto, Ontario, (b) the Gotham Realized Property, and (c) proceeds in the amount of approximately \$1.06 million (the “**HVS Realized Property**”) received by the Trustee on behalf of Investors in a Sorrenti SML (“**HVS Investors**”) made with respect to a real estate development property in Toronto, Ontario (the “**HVS Project**”), which were received on October 15, 2019 as a distribution from a receiver appointed over the HVS Project;

13. Should additional Realized Property be obtained with respect to certain of the Sorrenti SMLs in the coming months, it is possible that at a later date the Trustee will seek a further Order from the Court that, among other things, authorizes it to distribute a higher percentage of Realized Property to the Investors entitled to such funds;

Administrative Holdback

14. Since the granting of the Appointment Order, the Trustee has continued to address many significant issues that were facing the Respondents and the real estate development projects;

15. In particular, the Trustee has continued to carry out its mandate to protect the interests of Investors and to generate the maximum amount of Realized Property possible in the circumstances, which involves complicated and time consuming activities that are being carried out in circumstances where the SML Administration Business has no revenue;

16. Pursuant to the interim stabilization measures implemented in the Appointment Order, the Trustee has access to certain limited amounts constituting Estate Property. However, the Trustee currently has no access to any funds other than the Estate Property;

17. In accordance with the Appointment Order, the Trustee has been using the Estate Property to pay certain costs and expenses so that the Trustee can continue to discharge its Court-ordered mandate for the benefit of the Investors;

18. The Estate Property will soon be exhausted and, accordingly, the Trustee is seeking the Court's authorization to use a portion of the Realized Property going forward to fund these proceedings, which will enable the Trustee to continue discharge its duties under the Appointment Order to protect the interests of the Investors and to otherwise fund the cost of these proceedings, including to pay operating and professional costs associated with the SML Administration Business;

19. Absent such authorization, the Trustee will not have sufficient funds available to carry out its mandate during the period ending October 31, 2020, and Investor interests would likely be significantly prejudiced;

20. The Trustee understands that Representative Counsel supports the Trustee's recommendation regarding the establishment and quantum of the Administrative Holdback;

21. The Trustee acknowledges that these proceedings may have a disproportionate impact on certain Investors. Accordingly, the Trustee intends to develop an allocation formula at the appropriate time to fairly and equitably allocate the cost of the administration of these proceedings among the Investors;

22. Any Realized Property that is not utilized will continue to be held in an interest-bearing account and such interest earned shall be used to offset costs incurred in the administration of these proceedings.

Approval of Reports, Trustee's Activities, and Trustee's and its Counsel's Fees and Disbursements

23. As part of the Omnibus Order, the Trustee seeks the Court's approval of the First Report and the Second Report and all of the actions, conduct and activities of the Trustee as set out therein, including the Trustee's and its counsel's fees and disbursements incurred in respect of such activities, as more fully set out in the Manzoor Affidavit (including confidential exhibit "D" thereto

(the “**Confidential Manzoor Exhibit**”) and the De Lellis Affidavit (including confidential exhibit “D” thereto (the “**Confidential De Lellis Exhibit**”));

Sealing Order

24. The following two-part test applies when determining whether a sealing order should be granted:

- (a) Is the order necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk?
- (b) Do the salutary effects of the order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings?¹;

25. The Confidential Manzoor Exhibit and the Confidential De Lellis Exhibit filed in connection with this motion contain confidential, privileged and commercially sensitive information regarding the projects and Sorrenti generally which, if made public, would be materially prejudicial to the Trustee and Sorrenti and could have a material adverse effect on the recoveries that may ultimately be available to Investors in these proceedings;

26. There are no reasonable measures available to protect this information as an alternative to an Order sealing this information from the public record. However, to mitigate any detrimental consequences of the sealing Order and to promote a fair and open proceeding, the Manzoor Affidavit and the De Lellis Affidavit contain detailed summaries of the activities of the Trustee and its counsel that are more fully reported in the Confidential Manzoor Exhibit and the Confidential De Lellis Exhibit, as well as detailed information regarding the fees incurred to date; and

¹ *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para 53.

27. The salutary effects of a sealing Order outweigh the deleterious effects, as the sealing Order would protect the interests of the Investors and their potential recoveries in these proceedings, while the deleterious effects are minimized by the inclusion of detailed summaries of the Trustee's and its counsel's activities in the Manzoor Affidavit and the De Lellis Affidavit;

LRO Direction Order

28. The Appointment Order authorizes the Trustee to register the Appointment Order on title to the projects where necessary or desirable;

29. In certain instances, the applicable land registry offices ("LROs") have required that the Appointment Order be registered on title before the LROs will recognize the Trustee's authority to sign certain documents that are to be registered on title (such as postponements or discharges);

30. However, the Trustee understands that certain LROs have stated that they will not remove a court order from title unless they are provided with another court order as authority for doing so;

31. Since the Appointment Order is only relevant while the Trustee (on behalf of Sorrenti and the Investors) retains an interest in the property, there will be times when it will be necessary to have the Appointment Order removed from title;

32. The Trustee is seeking the LRO Direction Order from this Court to give the Trustee the discretion to have the Appointment Order removed from title when the Trustee determines that it is necessary, which determination is proposed to be evidenced by the delivery of a Trustee's certificate to that effect;

33. The issuance of the LRO Direction Order will permit the Trustee to continue to efficiently administer the syndicated mortgage loans and not incur unnecessary expenses in coming before the Court for removal of the Appointment Order on a case by case basis.

General

34. The provisions of the *Law Society Act*, R.S.O. 1990, c. L.8, including section 49.47 thereof, as amended;

35. The Appointment Order;

36. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 41 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
37. Sections 101 and 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
38. The inherent and equitable jurisdiction of this Honourable Court; and
39. 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 this Motion:

1. The Second Report of the Trustee and the appendices thereto; and
2. Such further and other evidence as counsel may advise and this Court may permit.

March 6, 2020

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in its capacity as Court-appointed Trustee of Derek
Sorrenti and Sorrenti Law Professional Corporation
in respect of the Syndicated Mortgage Loan
Administration Business

TO: SERVICE LIST

LAW SOCIETY OF ONTARIO

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Applicant

Respondents

Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

NOTICE OF MOTION
(Motion for Omnibus Order and
LRO Direction Order)

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TAB B

Court File No. CV-19-628258-00CL

BETWEEN

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

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, C. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43**

SECOND REPORT OF THE TRUSTEE

(COMPREHENSIVE UPDATE)

March 6, 2020



FAAN Mortgage Administrators Inc.
Court-Appointed Trustee of the
Respondents in respect of the Syndicated
Mortgage Loan Administration Business

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Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990. C. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43

SECOND REPORT OF THE TRUSTEE

(COMPREHENSIVE UPDATE)

March 6, 2020

INTRODUCTION

1. On September 30, 2019, pursuant to an order ("**Appointment Order**") of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) ("**Court**"), FAAN Mortgage Administrators Inc. ("**FAAN Mortgage**") was appointed as trustee ("**Trustee**") over all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, "**Sorrenti**") relating to Sorrenti's trusteeship and administration of syndicated mortgage loans ("**Sorrenti SMLs**") in projects affiliated with Fortress Real Developments Inc. ("**FRDI**") and all of its direct or indirect affiliates, and any entity under common control with

FRDI (collectively, “**Fortress**”) (“**SML Administration Business**”), including, without limitation, all of the assets in the possession or under the control of Sorrenti, its counsel (if any), agents and/or assignees relating to the SML Administration Business but held on behalf of any other party, including, but not limited to, lenders under any Sorrenti SML (“**Investors**”), brokers, or borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively referred to as “**Property**”). The Trustee’s appointment resulted from an application made by the Law Society of Ontario (“**LSO**”) under Section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended (“**Law Society Act**”), and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended. Mr. Sorrenti consented to the Trustee’s appointment. A copy of the Appointment Order is attached hereto as **Appendix “1”**.

2. In addition to appointing the Trustee, the Appointment Order, *inter alia*:
 - (a) empowered and authorized the Trustee to, among other things:
 - (i) take possession and control of the Property and all proceeds, receipts and disbursements arising out of or from the Property;
 - (ii) receive, preserve, protect and maintain control of the Property, including but not limited to, the holding of mortgage security in trust and administering of the mortgages;
 - (iii) manage, operate, and carry on the SML Administration Business;
 - (iv) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time to assist with the exercise of the Trustee’s powers and duties;
 - (v) receive and collect all monies and amounts now owed or hereafter owing to Sorrenti in connection with the SML Administration Business and to exercise all remedies of Sorrenti in collecting such monies;
 - (vi) settle, extend or compromise any indebtedness owing to Sorrenti in connection with the SML Administration Business;
 - (vii) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such

terms and conditions of sale as the Trustee in its discretion may deem appropriate;

- (viii) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business; and
 - (ix) restructure the Property in a manner that the Trustee consider reasonable;
- (b) appointed Chaitons LLP as representative counsel (“**Representative Counsel**”) to represent the common interests of the Investors under the Sorrenti SMLs;
- (c) established certain interim stabilization measures that require the Trustee to:
- (i) hold, until further Order of the Court, in a separate account all: (1) funds from the SML Administration Business that were in Sorrenti’s possession, or that may come into Sorrenti’s or the Trustee’s possession, in each case as a result of a repayment (in whole or in part) of principal on any Sorrenti SML, whether or not (i) secured by any real property charges, (ii) received before or after the date of the Appointment Order, or (iii) paid or payable in trust, plus (2) all interest paid or payable to Sorrenti or the Trustee in connection with the SML Administration Business at the time such repayment (in whole or in part) of principal is made (collectively, “**Realized Property**”) and report to the Court with a recommendation regarding next steps with respect to the Realized Property; and
 - (ii) hold in a separate account all funds (other than Realized Property) that were in Sorrenti’s possession on or prior to the date of the Appointment Order as well as any amounts (other than Realized Property) paid or payable to Sorrenti or the Trustee after the date of the Appointment Order, including in respect of interest where principal is not repaid, fees, expenses or other amounts, (collectively, “**Estate Property**”) and use such Estate Property as set out in the Appointment Order, including to pay operating and professional costs associated with the SML Administration Business. (Realized Property and Estate Property are both included within the definition of “Property” as set out in the Appointment Order)
- (d) ordered that, with the exception of any ongoing, pending or future regulatory proceedings by the LSO under the Law Society Act: (1) no proceeding against or

in respect of Sorrenti in connection with the SML Administration Business, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of the Court; and (2) any and all proceedings currently under way against or in respect of any of the SML Administration Business or the Property are stayed and suspended pending further Order of the Court;

(e) provided the Trustee and its counsel with a first ranking charge on the Property ("**Trustee's Charge**") to secure their reasonable fees and disbursements in connection with the Trustee's mandate under the Appointment Order; and

(f) provided Representative Counsel with a charge on the Property ranking immediately subordinate to the Trustee's Charge to secure its reasonable fees and disbursements in connection with its mandate under the Appointment Order.

3. The affidavit of Nadia Musclow, Manager, Trustee Services of the LSO, sworn on September 30, 2019, was filed in connection with the LSO's application for the Appointment Order ("**Musclow Affidavit**"). The Musclow Affidavit contains background information regarding Sorrenti and the SML Administration Business. A copy of the Musclow Affidavit is attached hereto as **Appendix "2"** (without exhibits).
4. In its capacity as proposed Trustee, FAAN Mortgage filed a report to Court dated September 29, 2019 ("**Pre-Filing Report**"). A copy of the Pre-Filing Report is attached hereto as **Appendix "3"** (without appendices).
5. On January 22, 2020, the Trustee submitted its first report in these proceedings ("**First Report**"). The First Report provided the Court and stakeholders with the Trustee's recommendation in favour of a settlement agreement with Bel-Ottawa Inc. ("**Gotham Borrower**") relating to a 242-unit condominium tower in Ottawa, Ontario ("**Gotham Project**") that provided for a payout to the Investors under various loan agreements entered into with the Gotham Borrower that were administered by Derek Sorrenti, in trust (as bare trustee) and secured by the Gotham Project ("**Gotham Settlement Agreement**"). The Order approving the Gotham Settlement Agreement was issued on January 30, 2020 ("**Gotham Settlement Approval Order**"). Pursuant to the Gotham Settlement Approval Order, the Gotham Realized Property (as defined below) was deemed to be Realized Property, though no order was made at that time authorizing or directing the Trustee to

distribute such funds. Accordingly, the Gotham Realized Property is currently being held by the Trustee in accordance with the terms of the Appointment Order.

6. Materials filed with the Court with respect to these proceedings (other than confidential materials filed under seal), including the Musclow Affidavit, the LSO's application record, motion materials, Court reports and the Orders and endorsements issued by the Court, are accessible at a section dedicated to these Sorrenti proceedings on the Trustee's website at: www.faanmortgageadmin.com ("**Trustee's Website**").
7. Capitalized terms not otherwise defined in this second report of the Trustee ("**Second Report**") have the meanings ascribed to them in the Appointment Order.

PURPOSE OF THE SECOND REPORT

8. This is the Trustee's first comprehensive report to Court since the commencement of the Sorrenti proceedings. The purpose of this Second Report is to provide the Court and Sorrenti's stakeholders with a detailed update on the Trustee's activities since the date of the Appointment Order and to support the Trustee's request for:
 - (a) an Order ("**First Omnibus Order**"), *inter alia*:
 - (i) approving certain amendments to the interim stabilization measures set out in paragraph 14 of the Appointment Order to, *inter alia*,
 - (1) authorize the Trustee to distribute 50% of the Realized Property (as defined in the Appointment Order) to the applicable Investors, including, without limitation, authorizing and directing the Trustee to effect a distribution:
 - (A) to Bayview Individual Investors (defined herein) in an amount equal to 50% of the Bayview Realized Property;
 - (B) to Gotham Investors (defined below) in an amount equal to 50% of the Gotham Realized Property; and

- (C) to the HVS Investors (defined herein) in an amount equal to 50% of the HVS Realized Property;
 - (2) authorize the Trustee to use the retained Realized Property as an administrative holdback to fund the cost of these proceedings, including to pay operating and professional costs associated with the SML Administration Business; and
 - (ii) approving the First Report and this Second Report, as well as the Trustee's activities described therein and herein, and the Trustee's fees and disbursements, including the fees and disbursements of its counsel, for the period from September 30, 2019 to January 31, 2020, as more fully described herein and in the fee affidavits attached hereto;
 - (iii) sealing the Confidential Manzoor Exhibit and the Confidential De Lellis Exhibit (each as defined below); and
 - (b) an Order ("**LRO Direction Order**"), *inter alia*, directing the applicable Land Registry Office to, upon the filing by the Trustee of one or more certificate(s) with the Court, expunge and delete the Appointment Order from title to the property(ies) identified in such certificate(s).
9. In support of the Trustee's request for the above noted relief, this Second Report describes the following matters:
- (a) certain background information concerning the SML Administration Business;
 - (b) the Trustee's activities to date and updates regarding the status of the various real estate development projects associated with the active Sorrenti SMLs;
 - (c) details regarding the funds held in Sorrenti's trust account utilized for the SML Administration Business as of the date of Trustee's appointment, and details regarding funds received by the Trustee following its appointment; and

- (d) the projected cash flows for the SML Administration Business (“**Cash Flow Projection**”) from March 1, 2020 through to October 31, 2020 (“**Cash Flow Period**”).
10. The Trustee intends to report back to the Court on or about October 31, 2020 with a further comprehensive update regarding these proceedings. The report to be filed will give the Court, Investors, borrowers and other stakeholders further information regarding the Sorrenti SMLs and information regarding the Trustee’s activities during that period.
11. The Trustee anticipates that it will likely be necessary to prepare shorter project specific reports during the intervening period and may be required to attend before the Court to seek relief or advice and directions from the Court regarding such project specific issues.

SCOPE AND TERMS OF REFERENCE

12. In preparing this Second Report, the Trustee has relied upon unaudited financial and other information provided by, *inter alia*, Sorrenti, Building & Development Mortgages Canada Inc. (“**BDMC**”), Fortress, certain Investors and certain of the borrowers who have borrowed funds under the Sorrenti SMLs. However, the Trustee notes that it cannot be certain that it is in receipt of all applicable and relevant information with respect to the projects described herein and the SML Administration Business. While the Trustee reviewed various documents provided to it (including, among other things, unaudited internal information, appraisals and financial projections), the Trustee’s review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Assurance Standards (“**GAAS**”), Generally Accepted Accounting Principles (“**GAAP**”), or International Financial Reporting Standards (“**IFRS**”). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAS, GAAP or IFRS, or any other guidelines, with respect to such information.
13. Some of the information used and relied upon in preparing this Second Report consists of financial projections and other information received from various third parties, including appraisals and project cost information. The Trustee cautions that the projections and other information used and relied upon are generally based upon assumptions and estimates about future events and/or market conditions that are not ascertainable or that could change. As such, the information presented in this Second Report may vary from the projections and information used to prepare this Second Report and the actual results

may differ both from the results projected therein and herein. Even if the assumptions relied upon therein or herein materialize, the variations from the projections could be significant. The Trustee's review of the future oriented information used to prepare this Second Report did not constitute an audit or review of such information under GAAS, GAAP or IFRS or any other guidelines.

14. This Second Report has been prepared for the use of the Court and Sorrenti's stakeholders as general information relating to the SML Administration Business and to assist the Court with respect to the relief sought by the Trustee. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose and the Trustee will not assume responsibility for losses incurred by the reader as a result of circulation, publication, reproduction or use of this Second Report contrary to the provisions of this paragraph.
15. All references to dollars are in Canadian currency.

BACKGROUND

Overview

16. On April 20, 2018, the Superintendent of Financial Services obtained an Order of the Court under section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29 ("**MBLAA**") and section 101 of the *Court of Justice Act*, R.S.O. 1990 c. C.43 appointing FAAN Mortgage as the trustee of BDMC (in such capacity, the "**BDMC Trustee**") in proceedings under Court File Number CV-18-596204-00CL ("**BDMC Proceedings**").
17. BDMC was the principal mortgage broker used in recent years by Fortress to raise initial financing from the investing public through syndicated mortgage loans ("**SMLs**") for early stage real estate developments. FRDI and its affiliates are development consultants or borrowers with respect to various real property development projects. The real property in question often consisted of vacant lands or projects taken over from other developers, including, in some cases, projects that were facing financial difficulties.
18. In their earliest form, the Trustee understands that certain SMLs involving Fortress utilized BDMC as the mortgage broker and Sorrenti as the mortgage administrator. Sorrenti operated as a mortgage administrator pursuant to a licensing exemption available for lawyers in the MBLAA.

19. The Trustee understands that starting in or around 2012, BDMC commenced acting as both mortgage broker and mortgage administrator for new SML's involving Fortress projects. The Trustee further understands that in 2016, a process was commenced to transfer 8¹ of the Sorrenti-administered SMLs to BDMC for administration ("**Transferred SMLs**"). The Transferred SMLs are not part of the Trustee's mandate in the Sorrenti proceedings and are instead subject to the BDMC Proceedings. The Trustee understands that the real estate development projects that are associated with the Sorrenti SMLs that had relatively shorter estimated completion timeframes were not included as part of the Transferred SMLs. Information on the Transferred SMLs has been included in reports filed by the BDMC Trustee in the BDMC Proceedings.
20. As of the date of the Appointment Order, the Trustee understands that Sorrenti was administering approximately \$95 million of SMLs, which funds were advanced by approximately 2,900 individual Investors. These funds were advanced in connection with 10 different real estate projects that are in various stages of development. To the best of the Trustee's knowledge, Sorrenti had previously administered 15 other SMLs that were not active at the time of the Trustee's appointment.
21. The Trustee has been advised by the LSO that on February 19, 2020, the Law Society Tribunal – Hearing Division (the "**Tribunal**") issued an order which provides that, on an interim interlocutory basis:
 - (a) Sorrenti shall not engage in the practice of mortgage administration in syndicated mortgage loans/investments or act as trustee in respect of syndicated mortgage loans/investments; and
 - (b) Sorrenti shall not engage, directly or indirectly, including by instructing another lawyer or non-lawyer or by providing legal services or advice or by registering instruments, in the practice of law in relation to major development proposals known as syndicated mortgage investments (collectively, the "**Tribunal Order**").

¹ The BDMC Trustee previously reported in its seventh report to Court dated May 10, 2019, that there were 10 SMLs that comprise the Transferred SMLs, but upon review of Sorrenti's records, it appears that two of the SMLs that were previously thought to have been transferred to BDMC's administration were never in fact administered by Sorrenti.

22. The Trustee has been in communication with the LSO regarding the Tribunal's proceedings and has provided requested information to the LSO regarding Sorrenti's SML Administration Business. The Trustee understands that the next Tribunal hearing in this matter is scheduled for April 1-2, 2020. A copy of the Tribunal Order is attached as **Appendix "4"**.
23. The following table summarizes the status of the active SMLs that were administered by Sorrenti as at the date of the Appointment Order.

| SML/Project Name | Project Status | Remaining SML Principal Outstanding (\$000s) |
|--------------------------|---------------------------------|---|
| Progress/Ten88 | Pre-construction | 17,327 |
| Victoria Park Place | Pre-construction | 12,641 |
| Bayview | Exited | 1,879 |
| Gotham | Complete (Exited ²) | 1,245 |
| Harmony Village Sheppard | Exited | 9,424 |
| Wismer/The Mark/Eldin | Complete | 6,621 |
| Sutton/Link | Complete | 19,591 |
| Soba | Construction | 10,316 |
| Mapleview/Julien Court | Construction | 8,100 |
| Unionvillas | Construction | 8,000 |
| Total | | <u>95,144</u> |

24. To assist Investors in understanding the status of their particular Sorrenti SML and the applicable real estate development project associated with it, the Trustee has created, and continues to periodically update, a chart that provides, to the best of the Trustee's knowledge, the capital structure and development status of each project and other project-specific information ("**Project Analysis Summary**"). The Project Analysis Summary has been separately posted to the Trustee's Website. A copy of the Project Analysis Summary dated as of March 4, 2020 is attached hereto as **Appendix "5"**.

² As described in paragraph 54, below, the Trustee executed and obtained Court approval of a settlement agreement with respect to the Gotham Project and the settlement transaction contemplated therein has been completed.

Sorrenti Loan Structure

25. The funds loaned by Investors through the Sorrenti SMLs were generally advanced for the stated purpose of providing financing for the early stages of a real estate development project. The use of proceeds from these loans was represented to include repaying vendor take back mortgages and bridge loans, obtaining initial development approvals, funding various consultants involved in conceiving and commencing a real estate development and other “soft costs” associated with the development. These funds were also often used to pay interest on other third-party priority loans made to the applicable borrower in question.
26. According to Sorrenti’s records, significant portions of the sums advanced by Investors through Sorrenti were used to pay “development consultant fees”. The development consultant fees that were paid from the initial advance(s) generally represent an aggregate amount equal to approximately 35% of the principal amount advanced under the applicable Sorrenti SML. The Trustee understands that a portion of this fee (approximately 50%) would be paid to (i) the Investors’ brokers; (ii) BDMC in its capacity as the borrower’s broker; and (iii) Sorrenti. The balance, net of any additional fees, would be paid to Fortress. The amount paid to Sorrenti was typically calculated as \$100 per Investor plus HST, per year of loan term in the applicable SML, and paid in advance as the funds were raised from Investors. Further, the Trustee understands that, as more particularly described below, Sorrenti appears to have charged additional administration fees from time to time on certain SMLs that does not appear to have been specified in any agreement.
27. Although the funds advanced through the Sorrenti SMLs are secured by mortgages held by Sorrenti on the related real property and certain other security, in many cases, the Sorrenti SMLs rank second or lower in priority in respect of the specific real property in issue, and behind the mortgages securing the sums owing to senior lenders, in amounts that are often significant.

Promissory Notes

28. The Trustee understands that starting in approximately 2011, certain Fortress entities (“**Fortress P-Note Lenders**”) began issuing promissory notes (“**Promissory Notes**”) to individual investors (“**Fortress P-Note Investors**”) for investment in real estate

development projects. The Trustee understands that exempt market dealers may have been involved in the issuance of the Promissory Notes to Fortress P-Note Investors.

29. The Trustee further understands that Promissory Notes were utilized by Fortress P-Note Lenders to advance funds to borrowers in connection with real estate development projects that were already being used as collateral to secure SMLs. It appears that one of the reasons for the use of Promissory Notes may have been that the applicable borrowers were unable to borrow additional funds through SMLs at the time. Based upon the information available to the Trustee, Promissory Notes were issued by Fortress P-Note Lenders in respect of the Gotham Project, Wismer Project (defined below) and Soba Project (defined below), in amounts totalling approximately \$7.6 million.
30. Based on a review of the land title registries, it appears that certain of the applicable Fortress P-Note Lenders registered a charge on title to the applicable properties and that such charges were registered on title subsequent to the charges registered by Sorrenti in respect of the Sorrenti SMLs.
31. The Trustee has received inquiries from several Fortress P-Note Investors (including from certain Gotham Fortress P-Note Investors, as described below) regarding the status of their investment and has been advised by certain of those investors that they have not received substantive or timely updates or communications from the applicable Fortress P-Note Lender. The Trustee notes that the Appointment Order provides for an appointment solely with respect to the Sorrenti SMLs and the SML Administration Business.
32. Where appropriate, as a Court Officer, the Trustee has provided certain information to Fortress P-Note Investors that may be of assistance to them in response to the inquiries that it received. However, as part of those responses, the Trustee also advised the applicable Fortress P-Note Investors that the Trustee is not appointed to represent their interests except to the extent that any such investors are also Investors in a Sorrenti SML. To prevent any confusion about the scope of the Trustee's mandate pursuant to the Appointment Order, the Trustee has developed a standard form communication to Fortress P-Note Investors to advise them of the foregoing ("**P-Note Notice**"). The P-Note Notice will be substantially in the form attached hereto as **Appendix "6"**.

33. Going forward, the Trustee intends to send the P-Note Notice to any Fortress P-Note Investor who contacts the Trustee with respect to their investment.³

ACTIVITIES OF THE TRUSTEE

General

34. Since the date of the Appointment Order, the Trustee has familiarized itself with the Sorrenti SMLs and the related real estate development projects and engaged with borrowers and other stakeholders regarding the Investors' interests. The Trustee has conducted a preliminary analysis of each project and the Sorrenti SMLs made in respect of each project in order to, *inter alia*, understand the potential recovery for Investors in each of those SMLs. Among other things, the Trustee's project specific analysis generally consists of an analysis of:
- (a) the status and, if applicable, the milestones for, and progress of, each project;
 - (b) the capital structure, debt obligations and available documents related thereto;
 - (c) the relative priorities of the debt obligations;
 - (d) the potential impact on Investor recoveries of specific terms of the relevant Sorrenti loan documents;
 - (e) the current value of the project (including in some cases, by reviewing and analyzing existing appraisals or commissioning new appraisals); and
 - (f) the alternatives available for Investors in the circumstances.
35. As part of its analysis, the Trustee has sought to obtain an understanding of the material terms of the senior loans secured on each of the projects and the other financing sources relied upon by the applicable borrowers, postponements previously executed by Sorrenti and Sorrenti's relative rights and obligations in respect of the Sorrenti SMLs that were made to finance the projects. The Trustee continues to communicate with and seek

³ Where appropriate, the Trustee may include project specific information in the P-Note Notice.

information from the borrowers, senior lenders and other stakeholders with respect to these matters.

36. The Trustee is working with its legal counsel and other advisors, in consultation with Representative Counsel, to develop strategies in an effort to maximize recoveries for Investors on each project and, where appropriate, communicating with Investors regarding the Sorrenti SMLs. The Trustee is in frequent communication with Representative Counsel with respect to the status of the Sorrenti SMLs.
37. The Trustee has also been working with certain borrowers to discuss opportunities for the Sorrenti SMLs to exit projects where an exit is feasible and, in the Trustee's view, in the best interests of the Investors. As many of the projects involving the Sorrenti SMLs are considerably advanced or complete, it is possible that repayment transactions for certain of the Sorrenti SMLs will occur later in 2020 and into 2021. However, certain of the projects may require a longer timeframe to complete the administration of the applicable Sorrenti SMLs.
38. The Trustee's review of the Sorrenti SMLs is ongoing and its understanding of the projects continues to develop as, among other things, milestones are achieved or missed, additional information is obtained from stakeholders, and other material developments arise. In light of the foregoing, it is not yet appropriate for the Trustee to make final recommendations with respect to a number of the Sorrenti SMLs. The Trustee will continue to monitor the development of the projects and will present recommendations as and when appropriate.

Investor Communications

39. The Trustee has been engaging with Investors since its appointment. The Trustee provided Investors with notice of the Trustee's and Representative Counsel's appointment, notice of significant developments on certain of the projects that are the subject of their investments and has responded to a number of telephone calls and email correspondence from Investors regarding the Trustee's appointment and the status of the Sorrenti SMLs and the related projects. Investor communications have been and will remain a critical and time-consuming part of the Trustee's mandate.

Other Matters

40. In addition to the activities described above, since the Trustee's appointment, the Trustee's activities have included, among other things:
- (a) engaging with parties involved in the SML Administration Business, including Derek Sorrenti and Fortress;
 - (b) engaging with borrowers regarding their particular real estate development project and Sorrenti SML by seeking detailed updates on the progress on the projects and associated financial reporting;
 - (c) commissioning appraisals for certain projects, where appropriate;
 - (d) sending notice of the Trustee's and Representative Counsel's appointment on October 4, 2019 ("**October 2019 Investor Notice**") to all Investors for whom the Trustee had contact information in accordance with the Appointment Order. A copy of the October 2019 Investor Notice is attached hereto as **Appendix "7"**;
 - (e) sending an update notice on December 2, 2019 to all Investors with respect to additional activities undertaken by the Trustee since delivery of the October 2019 Investor Notice ("**December 2019 Investor Notice**"). A copy of the December 2019 Investor Notice is attached hereto as **Appendix "8"**;
 - (f) drafting the First Report and attending at Court in respect of the Gotham Settlement Agreement approval motion;
 - (g) engaging with the LSO and its legal counsel, including responding to inquiries made by the LSO in respect of the SML Administration Business, Sorrenti's records related to the SML Administration Business and the Trustee's ongoing activities;
 - (h) engaging with Sorrenti's bank regarding the Trustee's appointment, and obtaining control of the bank account utilized by Sorrenti to conduct the SML Administration Business, as discussed below;

- (i) establishing post-appointment bank accounts to hold the Estate Property and Realized Property in accordance with the Appointment Order (as described further below); and
- (j) in accordance with the provisions of the Appointment Order, obtaining access to certain of Sorrenti's banking, accounting and other records.

PROJECT SPECIFIC UPDATES

41. As noted above, to assist Investors in understanding the status of their particular Sorrenti SML, the Trustee has prepared a Project Analysis Summary and posted same to the Trustee's Website (see **Appendix "5"**). Additional details regarding each of the projects related to the Sorrenti SMLs are provided below.

Completed/Exited Projects

42. Bayview Project: Certain Investors ("**Bayview Investors**") participated in a Sorrenti SML in the principal amount of approximately \$19.8 million ("**Bayview SML**") with respect to a completed 234-unit condominium development project located in Toronto, Ontario ("**Bayview Project**"). Registration for the condominium occurred in 2018. As set out in the Pre-Filing Report, on May 23, 2019, the BDMC Trustee appeared before the Court seeking an Order in the BDMC Proceedings that, among other things, authorized the BDMC Trustee to execute a direction authorizing Pine Ridge Building Corp.'s ("**Bayview Borrower**") legal counsel to pay Sorrenti approximately \$18 million ("**Bayview Funds**") representing funds realized from the Bayview Project ("**Direction to Pay**"). As the Bayview Project is not part of the BDMC Proceedings, the Court granted the requested Order, which was limited to authorizing the BDMC Trustee to execute the Direction to Pay in order to assist in facilitating a payment to Sorrenti, in its capacity as administration of the Bayview SML. The BDMC Trustee subsequently executed the Direction to Pay. According to Sorrenti's records, Sorrenti received the Bayview Funds on June 25, 2019.
43. Based on the Trustee's review of Sorrenti's records, it appears that Sorrenti commenced distributing the Bayview Funds in August 2019, net of \$111,700 held back by Sorrenti for administration costs. As at the date of the Appointment Order, 409 of 504 Bayview Investors received a distribution of the Bayview Funds. Mr. Sorrenti advised the Trustee that due to issues he was facing in confirming contact information for the remaining 95 Bayview Investors ("**Bayview Individual Investors**"), as of the date of the Appointment

Order, he was still in the process of distributing a portion of the Bayview Funds to those Investors. Based upon the Trustee's review of Sorrenti's books and records, as of the date of the Appointment Order, approximately \$4.2 million of the Bayview Funds remained ("**Bayview Realized Property**") to be distributed by Sorrenti to the Bayview Individual Investors.

44. As discussed further starting at paragraph 104 below, immediately prior to the issuance of the Appointment Order, Mr. Sorrenti made four payments from the Sorrenti SML Account (defined below) to his general account. The Trustee notes that one of these payments was for \$111,700 of administration costs in respect of the Bayview SML. As discussed below, this amount is currently held in the Sorrenti SML Account and constitutes Estate Property pursuant to the Appointment Order.
45. Following its appointment by the Court, the Trustee has located contact information for the Bayview Individual Investors in Sorrenti's records and cross-checked the Bayview Individual Investors' addresses against the BDMC investor database. On December 2, 2019, the Trustee sent a notice ("**Bayview Notice**") to the Bayview Individual Investors regarding the Trustee's intended next steps, including with respect to making distributions at a future date subject to an administrative holdback in an amount to be approved by the Court. A copy of the Bayview Notice is attached hereto as **Appendix "9"**.
46. As discussed in further detail starting at paragraph 125 below, the Trustee is seeking an Order authorizing and directing the Trustee to make a distribution of the Bayview Realized Property to the Bayview Individual Investors on a *pro rata* basis in an amount equal to 50% of the Bayview Realized Property. The proposed Administrative Holdback (defined below) on distributions of Realized Property generally is discussed later in this Second Report, along with certain of the factors that the Trustee will take into account when determining its recommended allocation of the costs of administering these proceedings among the Investors.
47. There is approximately \$1.9 million of outstanding principal plus associated accrued and accruing interest due under the Bayview SML. Counsel to the Bayview Borrower recently advised the Trustee that: (i) the Bayview Borrower has a \$1 million bond outstanding with Tarion Warranty Corporation, (ii) a technical audit has not yet been completed, and (iii) certain deficiencies have been identified and such deficiencies may be material. The

Trustee continues to communicate with counsel to the Bayview Borrower regarding the outstanding amounts due in respect of the Bayview SML.

48. Gotham Project: The Gotham Borrower was the borrower under a Sorrenti SML (“**Gotham SML**”) with respect to the Gotham Project. The total principal amount advanced by Investors in the Gotham SML (“**Gotham Investors**”) was approximately \$6.6 million (“**Total Principal Amount**”). Construction is complete and the condominium was registered in 2016, at which time approximately \$5.35 million of the Total Principal Amount was repaid (along with accrued interest to that date). At the time of the Trustee’s appointment, the total remaining principal due in respect of the Gotham SML was \$1,245,590 (“**Reduced Principal Amount**”), plus accrued interest.
49. Since its appointment, the Trustee had been in discussions with the Gotham Borrower regarding, among other things, the timing of repayment of the Gotham SML (which had already matured) and the use of funds by the Gotham Borrower in respect of the Gotham Project.
50. As described in the First Report, the Trustee negotiated and ultimately received an irrevocable settlement offer (“**Gotham Offer**”) from the Gotham Borrower that provided for a payment to the Trustee, on behalf of the Gotham Investors, in an amount equal to 100% of the Reduced Principal Amount plus \$175,000 of the outstanding accrued interest for a total payment of \$1,420,590, which would result in the Gotham Investors recovering an average of 141% of the Total Principal Amount when previously paid principal and interest is taken into account (“**Gotham Settlement**”). The Gotham Settlement was conditional upon Court approval and a release of all future obligations of the Gotham Borrower with respect to the Gotham SML.
51. The Trustee presented the Gotham Offer to the Gotham Investors by sending a notice on January 7, 2020 (“**Gotham Feedback Request**”). The Gotham Feedback Request recommended acceptance of the Gotham Offer and requested that the Gotham Investors provide their feedback, whether for or against the acceptance of such offer, and provide any other general feedback. A copy of the Gotham Feedback Request was attached as Appendix “3” to the First Report, which is available on the Trustee’s Website.
52. The Trustee received a response rate of approximately 58% in number and 58% in value of the Gotham SML. Of those responses, 100% in number of those Investors who voted

and 100% in value of the loans held by those Investors who voted, voted in favour of the Trustee accepting the Gotham Offer.

53. Accordingly, the Trustee proceeded to execute the settlement agreement with respect to the Gotham Offer and, on January 22, 2020, the Trustee issued the First Report and served a motion seeking Court approval of the Gotham Settlement. A copy of the First Report is attached hereto as **Appendix “10”** without appendices.
54. The Court issued the Gotham Settlement Approval Order approving the Gotham Settlement on January 30, 2020. A copy of the Gotham Settlement Approval Order is attached hereto as **Appendix “11”**.
55. The Gotham Settlement transaction closed on January 31, 2020, and the Trustee is in receipt of the settlement amount of \$1,420,590 (**“Gotham Realized Property”**).
56. At the time the Gotham Realized Property was received, the Trustee was required to hold it pursuant to the terms of the Appointment Order, pending a recommendation to the Court regarding next steps with respect to Realized Property. As such, subject to the Court’s approval of the Administrative Holdback, the Trustee is seeking an Order allowing it to make a distribution of 50% of the Gotham Realized Property to the Gotham Investors. The proposed Administrative Holdback on distributions of Realized Property is discussed later in this Second Report.
57. As referred to above, the Trustee notes that it has received certain inquiries from Fortress P-Note Investors in relation to the Gotham Project (**“Gotham Fortress P-Note Investors”**) regarding the Gotham Settlement Agreement, the Gotham Settlement Approval Order, and their impact on such Gotham Fortress P-Note Investors’ Promissory Note investment.
58. The Trustee notes that the Gotham Settlement Agreement does not compromise amounts that the applicable Fortress P-Note Lender, Fortress Gotham 2011 Limited (**“Fortress Gotham”**), may be owed by the Gotham Borrower or the priority of any underlying investment made by the Gotham Fortress P-Note Investors. To the best of the Trustee’s knowledge based solely on a review of title to the Gotham Project, the charge registered in favour of Fortress Gotham (on behalf of the Gotham Fortress P-Note Investors) was registered subsequent to the charge in favour of Sorrenti (on behalf of the Gotham Investors) and was postponed by Fortress Gotham in favour of a charge granted to BJL Properties Inc. (**“BJL”**). The Trustee has been advised by BJL that the amount owing to

BJL as at October 10, 2019 was approximately \$6.3 million. As a result of the postponement executed by Fortress Gotham in favour of BJL, it appears that any future proceeds from the Gotham Project may be paid to BJL in priority to the Gotham Fortress P-Note Investors.

59. The Trustee is aware that representatives of Fortress have advised certain Gotham Fortress P-Note Investors that, as a result of the Gotham Settlement Agreement, any proceeds that would have been due to Fortress Gotham will instead be sent by the Gotham Borrower to the Trustee for distribution to the Gotham Investors. The Trustee notes that as a result of the terms of the Gotham Settlement Agreement (as approved in the Gotham Settlement Approval Order), Sorrenti on behalf of the Gotham Investors continues to be entitled to recover in priority to any Fortress-related entity only up to the amount of approximately \$168,000.
60. Harmony Village Sheppard Project: Certain Investors ("**HVS Investors**") participated in a Sorrenti SML ("**HVS SML**") with respect to a real estate development property in Toronto, Ontario ("**HVS Project**"), which is subject to a receivership proceeding that commenced in 2016. HVS Investors advanced approximately \$28.84 million to the borrower of the HVS SML in connection with the HVS Project.
61. On January 20, 2016, Rosen Goldberg Inc. was appointed by the Court as receiver of the HVS Project ("**HVS Receiver**"). At the time of the appointment of the HVS Receiver, construction had not yet commenced on the HVS Project.
62. In the context of the receivership proceedings, the land comprising the HVS Project was sold in 2017 pursuant to a Court-approved sale process and the obligations secured by mortgages on the HVS Project that were registered on title to the property in priority to the HVS Investors' charge were repaid. As part of this transaction, the charge securing the HVS SML was discharged from title. The HVS Receiver subsequently distributed approximately \$19.5 million to Sorrenti on behalf of the HVS Investors, which represents a return of approximately 67% of the original principal advanced under the HVS SML. After this payment, approximately \$9.4 million of principal remained outstanding under the HVS SML. Based upon the Trustee's review of Sorrenti's records, Sorrenti distributed approximately \$19.4 million of the \$19.5 million to the HVS Investors. The Trustee has contacted Sorrenti to request documentation with respect to the amount withheld from the distribution to the HVS Investors.

63. Shortly after the Trustee's appointment, the Trustee contacted the HVS Receiver to understand the status of the receivership and to determine if there would be further funds available for the HVS Investors. The HVS Receiver advised that it intended to make a further distribution to the Trustee of \$1.06 million, which represents the proceeds of a development deposit that was provided by the borrower of the HVS SML to the City of Toronto and recovered by the HVS Receiver. This amount was received by the Trustee on October 16, 2019 ("**HVS Realized Property**").
64. Subject to the Court's approval of the Administrative Holdback, the Trustee is seeking an Order allowing it to make a distribution of 50% of the HVS Realized Property to the HVS Investors.
65. The HVS Receiver has also advised the Trustee that there may be a further nominal and final amount to be distributed by the HVS Receiver to the Trustee in 2020 from certain tax refunds totalling up to \$80,000. The Trustee will advise whether any further monies are received from the HVS Receiver in a subsequent report.
66. The Mark and Mount Joy/Wismer/Eldin Project: Sorrenti administered two separate SMLs in the amounts of approximately \$3.8 million and \$2.8 million ("**Wismer SMLs**") made in connection with a real estate development in Markham, Ontario that consists of one 220-unit condominium tower ("**The Mark**") and 44 townhomes ("**Mount Joy**") (collectively, the "**Wismer Project**").⁴
67. The Trustee understands that the Mount Joy phase of the Wismer Project commenced in 2012 and that sales in respect of all townhouse units closed in 2014. The Trustee further understands that Sorrenti provided discharges as against the Mount Joy portion of the Wismer Project in connection with such sales. There were no amounts paid to Sorrenti from the proceeds of the Mount Joy phase to reduce the amounts owing under the Wismer SMLs.
68. The Trustee understands that The Mark phase of the Wismer Project commenced in 2012, that construction was completed in 2019, and that sales in respect of most residential condominium units also closed in 2019. The Trustee further understands that Sorrenti

⁴ Sorrenti's records with respect to the Wismer SMLs appear to be incomplete. Accordingly, this section of the Second Report represents the Trustee's current understanding of the Wismer Project and the Wismer SMLs and is subject to material change.

provided discharges as against these residential condominium units in connection with such closings. There were no amounts paid to Sorrenti from the proceeds of these residential condominium unit closings available to reduce the amounts owing under the Wismer SMLs.

69. The Trustee understands from 1839314 Ontario Inc. (name changed to Pace Developments (The Mark) Ltd.) ("**Wismer Borrower**") that the only remaining assets are certain units in The Mark that remain unsold ("**Remaining Units**"), which continue to be subject to charges in favour of Sorrenti.
70. Based on a recent search of title to The Mark, MarshallZehr Group Inc. ("**MarshallZehr**") currently has a charge registered against the Remaining Units that is registered on title to such properties in priority to the charge securing the Wismer SMLs. The Trustee understands from MarshallZehr that it provided construction financing for the construction of The Mark. MarshallZehr has further advised that an amount in excess of \$19 million remains owing to it by the Wismer Borrower in respect of such construction financing.
71. MarshallZehr has requested that the Trustee provide partial discharges of the charges securing the Wismer SMLs in conjunction with sales of the Remaining Units, which the Trustee is reviewing. MarshallZehr has advised the Trustee that it anticipates that after the Remaining Units are sold, MarshallZehr will incur a shortfall in respect of its advances made in respect of The Mark. Accordingly, the Trustee's current understanding is that there is unlikely to be any recovery for Investors in connection with the Wismer SML.
72. In addition, the Trustee is aware that:
 - (a) the Wismer Borrower and ECMI GP Inc., the construction manager of The Mark, are involved in litigation that relates to delays and construction quality issues; and
 - (b) 1839392 Ontario Limited, a partner in the Wismer Project, applied for and obtained an Order from the Court dated July 16, 2019 appointing the Fuller Landau Group Inc. as Inspector of the Wismer Borrower pursuant to section 161(2) of the *Business Corporations Act*, R.S.O. 1900, c. B-16, as amended. The Trustee understands that the Inspector's mandate is to investigate the affairs of 1839314 Ontario Inc. and the Wismer Project and to report to the Court on its findings.

73. The Trustee intends to continue to investigate matters relating to the Wismer Project, including the aforementioned proceedings. The Trustee intends to provide further updates regarding these matters in a subsequent report to the Court.
74. Sutton/The Link Project: Sorrenti administered two SMLs ("**Sutton SMLs**") in connection with four low rise condominiums with approximately 13,300 square feet of ground floor commercial space located in Burlington, Ontario ("**Sutton Project**"). The Sutton SMLs consist of approximately \$11.6 million of debt secured by a second ranking charge on title to the Sutton Project and approximately \$8 million secured by a third ranking charge on title to the Sutton Project. The Trustee understands that Adi Development Group Inc., an entity related to the borrower under the Sutton SMLs ("**Sutton Borrower**"), has provided guarantees in connection with each of the Sutton SMLs.
75. The Trustee also understands that (i) the construction lender for the Sutton Project has been repaid in full, and (ii) Aviva Insurance Company of Canada is the only remaining party that holds a charge registered on title to the Sutton Project in priority to charges registered in favour of the Sutton SMLs.
76. The Sutton Borrower requested the Trustee to provide partial discharges of the Sutton SMLs in conjunction with the sale of six condominium units to third party purchasers. The Trustee requested and reviewed information related to the sales including the applicable agreements of purchase and sale, the statement of adjustments and the Sutton Borrower's proposed use of funds. The Trustee agreed to provide the requested discharges on the condition that the Sutton Borrower's legal counsel hold the net closing proceeds (net of HST, commissions and legal costs) in trust pending the consent of the Trustee to release same. Legal counsel to the Sutton Borrower presently holds approximately \$2.75 million in its trust account from the above noted sale proceeds.
77. The Trustee further understands that (i) other than 2 parking and 4 locker units, all residential units have been sold and closed, and (ii) all 12 commercial units remain unsold.
78. The Trustee has requested and has received from the Sutton Borrower, among other things: (i) a pro forma for the projected proceeds from the remaining unsold assets, and (ii) financial records relating to the Sutton Project, including cost consultant reports, in order to understand the uses of funds. In addition, the Trustee has commissioned an appraisal on the commercial units. Furthermore, the Trustee intends to continue to engage

with the Sutton Borrower and other parties to discuss the distribution of the \$2.75 million noted above, the sale of the remaining assets, and the repayment of amounts due under the Sutton SMLs.

Pre-construction Projects

79. Victoria Park Project: Sorrenti administered an SML ("**Victoria Park SML**") made in connection with a 1.9-acre real estate development in Toronto, Ontario ("**Victoria Park Project**"), which consists of approximately \$12.6 million of debt secured by a third-ranking charge on title to the Victoria Park Project. The site is approved for 147 stacked townhomes and is currently in the pre-construction phase.
80. Since its appointment, the Trustee had been in discussions with 1682 Victoria Park Avenue Inc., the borrower under the Victoria Park SML, ("**Victoria Park Borrower**") and representatives of Findev Inc. ("**Findev**"), who holds a second-ranking charge on title to the Victoria Park Project, regarding a potential transaction involving the Victoria Park SML. The Trustee understands that prior to its appointment, Sorrenti had been in discussions with the Victoria Park Borrower and Findev regarding a similar transaction. The most recent form of the transaction discussed with the Trustee would have resulted in the Victoria Park Borrower remaining in control of the Victoria Park Project and an entity related to the Victoria Park Borrower obtaining an absolute assignment of the Victoria Park SML.
81. In connection with a review of the proposed transaction, the Trustee requested from the Victoria Park Borrower, among other things, additional information regarding the uses of amounts advanced to the Victoria Park Borrower, including significant payments and loans made to parties related to the Victoria Park Borrower ("**Victoria Park Related Party Transactions**"). Given that the Victoria Park Borrower was unable to provide satisfactory explanations and documentation to support the foregoing payments and loans, the Trustee had concerns with the proposed transaction that would have precluded any ability for the Trustee to further investigate the Victoria Park Related Party Transactions.
82. On December 3, 2019, Findev issued a demand for repayment to the Victoria Park Borrower and a Notice of Intention to Enforce Security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* and, on December 23, 2019, Findev issued a Notice of Sale Under Mortgage ("**Notice of Sale**"). The Notice of Sale stated that unless the full

amount of the outstanding debt owing to Findev (stated to total \$5,568,522.71 including interest and fees through December 19, 2019) was paid by the Victoria Park Borrower on or before January 24, 2020, Findev would sell the subject property.

83. In addition to the amount owing to Findev, the Trustee understands that the Victoria Park Borrower owes approximately \$7.5 million to CMLS Financial Ltd., who holds a first-ranking charge registered on title to the subject property.
84. Following the issuance of the Notice of Sale, the Trustee reached out separately to Findev and the Victoria Park Borrower to discuss next steps with respect to the Victoria Park Project, including but not limited to obtaining details regarding any planned sales or marketing process. On January 9, 2020, the Trustee's counsel wrote to counsel to Findev (i) confirming that the Trustee has an interest in the Victoria Park Project, (ii) advising that the Trustee's Court-ordered mandate includes protecting Investors' interests, (iii) requesting the details of Findev's plans for realizing upon the property, and (iv) offering to explore options that could be mutually beneficial and to participate in any realization process undertaken by Findev so as to maximize value.
85. On January 28, 2020, counsel to Findev advised, among other things, that Findev had appointed RSM Canada Limited as private receiver of the Victoria Park Project ("**Victoria Park Receiver**"). The Trustee subsequently contacted the Victoria Park Receiver to request the details of its planned realization process, including, among other things, the method of marketing, the marketing timeline and the information to be disclosed to prospective purchasers. The Victoria Park Receiver advised that the Victoria Park Project will be listed for sale with a commercial real estate broker and would provide the Trustee with details of the planned process when they are determined.
86. The Trustee intends to remain in contact with the Victoria Park Borrower and the Victoria Park Receiver regarding the Victoria Park Project in order to discuss various options that the Trustee believes may increase the recovery from the sale of the property.
87. Ten88/Progress Project: Sorrenti administered an SML ("**Progress SML**") in connection with a real estate development located at 1088 Progress Avenue in Toronto, Ontario ("**Progress Project**"), which consists of approximately \$17.3 million of debt secured by a second ranking charge on title to the Progress Project. The Trustee understands that the first phase of the Progress Project, which is comprised of 105 stacked townhomes, has

been completed and all townhomes have been sold and closed. The Trustee is advised that Sorrenti subsequently discharged its charge securing the Progress SML from the real property comprising phase one of the Progress Project and that there were no proceeds available to the Progress Investors. Based on the information provided to date to the Trustee, it appears that the proceeds from Phase one were used, at least in part, to pay down prior ranking loans. As Sorrenti's records in the possession of the Trustee do not contain information on the Progress Borrower's (defined below) use of such funds, the Trustee has requested such information from the Progress Borrower.

88. Phase two is currently in pre-construction, which the Trustee understands is intended to be comprised of both residential apartments and ground floor retail space ("**Progress Phase 2**").
89. The Trustee understands from Sorrenti that, in early 2019, Empire Pace (1088 Progress) Ltd., the borrower under the Progress SML, ("**Progress Borrower**") approached Sorrenti with a proposal to sell the real estate underlying Progress Phase 2, which would result in, among other things, Sorrenti agreeing to discharge its mortgage on Progress Phase 2, though Sorrenti, on behalf of the Investors in the Progress SML, would retain a continued interest in the commercial portion of the project.
90. Sorrenti provided the Trustee with a copy of a non-binding letter of intent dated February 5, 2019 ("**LOI**") from Everest Group of Companies ("**Everest**") The LOI indicates an interest in purchasing Progress Phase 2 and has the following key terms:
 - (a) the LOI required the discharge of the Progress SML;
 - (b) no cash proceeds were contemplated to be paid to the Investors in the Progress SML ("**Progress Investors**");
 - (c) the Progress Investors would retain an interest in only the commercial/retail portion of Progress Phase 2, which Everest would build and deliver to the Progress Investors prior to it being leased or sold;
 - (d) the Progress Investors would not retain an interest in the residential component of Progress Phase 2;
 - (e) the LOI was conditional on due diligence to be performed by Everest; and
 - (f) the LOI would expire by its terms on February 11, 2019.

91. Sorrenti advised that on or about August 13, 2019, approximately six months after the LOI expired, Sorrenti issued a notice to the Progress Investors recommending their approval of the LOI and providing a copy of the LOI ("**Progress Notice**"). A copy of the Progress Notice is attached hereto as **Appendix "12"**. The deadline for responses set out in the Progress Notice was August 23, 2019. Sorrenti advised the Trustee that the majority of the Progress Investors that provided feedback were in support of the LOI, however, Sorrenti's records do not appear to contain a full set of responses from Investors.
92. The Trustee has been advised by Sorrenti that the proposed transaction was not completed prior to the issuance of the Appointment Order due to, among other things, the need to determine a process by which the commercial/retail portion of Progress Phase 2 would be sold once construction is commenced and completed by the Progress Borrower.
93. Shortly after its appointment, the Trustee's counsel was contacted by counsel to the Progress Borrower regarding the LOI and to arrange a meeting with the Trustee regarding same. Contemporaneously, the Trustee wrote to the Progress Borrower (with attention to the principal of Pace Developments Inc. ("**PDI**")) to request information pertaining to the Progress Project. After the passage of several weeks, a representative of the Progress Borrower advised the Trustee that PDI was no longer involved with the Progress Project and advised the Trustee to contact Empire Communities, a developer that is one of the project partners through one of its related companies.
94. In advance of the proposed meeting with the Progress Borrower and its counsel, the Trustee requested certain information from the Progress Borrower for the Trustee to assess the status of Progress Phase 2 and the LOI. The Trustee's information requests included, among other things, the identity of the principals of the Progress Borrower, financial statements for the Progress Borrower, the uses of funds in the Progress Project, information related to the LOI and Everest, and prior appraisals of the Progress Project in the possession of the Progress Borrower.
95. The Trustee was provided with some but not all the information requested. Notwithstanding the outstanding information required by the Trustee, on January 31, 2020, the Trustee attended a telephone call with the shareholders of the Progress Borrower, being representatives of PDI, MMS Enterprise Holdings Inc. (an Empire Communities company), Fortress, and the Progress Borrower's legal counsel. The call was constructive, and the Trustee again requested information concerning the Progress Project, which the

Progress Borrower undertook to provide. To date, the Trustee has not yet received the information requested.

96. The Trustee continues to attempt to assess the status of the Progress Project and the options available to the Progress Investors.

Construction Projects

97. Mapleview Commons/Julien Court Project: Sorrenti administered two SMLs (together, the “**Maple SMLs**”) in connection with a 16-unit low rise residential development in Maple, Ontario (“**Maple Project**”), which consist of approximately \$6 million of Sorrenti SML debt secured by a second ranking charge on title to the Maple Project and approximately \$2.1 million of Sorrenti SML debt secured by a third ranking charge on title to the Maple Project. Construction is nearing completion and the borrower under the Maple SMLs (“**Maple Borrower**”) has advised the Trustee that the marketing of the units is expected to commence in early 2020, with closings anticipated in mid to late 2020. The Trustee has been in communication with the Maple Borrower and is monitoring the progress of the Maple Project.
98. The only charge registered on title to the Maple Project in priority to the charge securing the Maple SMLs is registered in favour of MarshallZehr and Firm Capital Mortgage Funding Inc. The Trustee understands that the outstanding obligations secured by such charge are in the amount of approximately \$13.5 million. Based upon the information and advice provided to the Trustee by the Maple Borrower and the Trustee’s review of same, Realized Property may be available for Investors from the Maple Project.
99. Unionvillas Project: Sorrenti administered an SML (“**Unionvillas SML**”) in connection with a 52-unit townhouse development in Markham, Ontario (“**Unionvillas Project**”), which consists of approximately \$8 million of debt secured by a third ranking charge on title to the Unionvillas Project. Construction is nearly complete and there are 10 residential units remaining that are subject to the Unionvillas SML charge.
100. Since the Trustee’s appointment, Sunrise Acquisitions (HWY 7) Inc., the borrower under the Unionvillas SML, (“**Unionvillas Borrower**”) requested partial discharges of the Unionvillas SML in conjunction with the sale of 17 completed residential homes to third party purchasers. The Trustee requested and reviewed information related to the sales including the applicable agreement of purchase and sale, the statement of adjustments

and the Unionvillas Borrower's proposed use of funds, which included paying certain construction trades that were completing the Unionvillas Project and repaying senior construction financing and granted the requested discharges. Once the Unionvillas Borrower's construction financing is repaid in full, the proceeds from the sale of the remaining homes are expected to be paid to the Trustee, on behalf of the Investors under the Unionvillas SML. Based upon the information and advice provided to the Trustee by the Unionvillas Borrower, the Trustee anticipates that Investors in the Unionvillas SML may recover a substantial portion (or potentially all) of their principal advances to the Unionvillas Borrower made through the Unionvillas SML.

101. Soba Project: Sorrenti administered an SML ("**Soba SML**") in connection with a 209-unit condominium development located in Ottawa, Ontario that is currently under construction ("**Soba Project**"). There is approximately \$10.3 million⁵ of Soba SML debt secured by a fifth ranking charge registered on title to the Soba Project. According to Soba Ottawa Inc., the borrower under the Soba SML, ("**Soba Borrower**") the Soba Project is expected to be completed and registered in 2020. The Trustee understands that 32 condominium units remain unsold.
102. Based upon the Trustee's review of Sorrenti's records and a title search of the subject property, in November 2018, Sorrenti postponed its charges in favour of the Soba SML to a charge in the principal amount of \$10.9 million in favour of B JL, which the Trustee understands is a company related to the Soba Borrower and controlled by Mr. Brad Lamb. The Trustee understands from Mr. Lamb that B JL advanced funds to the Soba Borrower in order to continue construction and service priority debt obligations related to the Soba Project. The Trustee and its counsel are in the process of reviewing the postponement, the advances purported to have been made by B JL, and the impact of same on the Soba Project and the interests of the Investors under the Soba SML.
103. The Trustee has made requests of the Soba Borrower to provide financial information pertaining to the Soba Project to the Trustee, including, but not limited to, up to date financial statements, cost consulting reports, information related to uses of funds on the project and residential unit pre-sale data. To date, the Soba Borrower has provided certain

⁵ Based upon the Trustee's review of Sorrenti's records, it appears that there was an additional SML for approximately \$6.9 million advanced to the Soba Borrower that was administered by Sorrenti, which was repaid in 2015. The Trustee understands that this SML ranked in priority to the Soba SML.

information to the Trustee but has indicated that the Soba Project is projected to incur significant losses. The Trustee continues to engage with the Soba Borrower to obtain the remaining information that it has requested to evaluate the Soba Project and the potential recoveries to Investors under the Soba SML.

SORRENTI SML BANK ACCOUNT AND POST-APPOINTMENT BANKING

104. As at the date of the Appointment Order, the Trustee understands from Sorrenti that it maintained one trust bank account at the Royal Bank of Canada ("**Bank**") for, among other things, the purposes of administering the Sorrenti SMLs ("**Sorrenti SML Account**"). Upon issuance of the Appointment Order, the Trustee secured control of the Sorrenti SML Account, which at that time had a balance of \$5,479,649.
105. In accordance with the Appointment Order, the Trustee requested that the Bank change the signing authorities on the Sorrenti SML Account to be only representatives of the Trustee, and the Bank implemented the Trustee's request.
106. The Trustee immediately reviewed the recent activity in the Sorrenti SML Account and noted that on September 30, 2019 (the date of the Appointment Order), four cheques payable to Sorrenti Law Professional Corporation had cleared the Sorrenti SML Account ("**Reversed Cheques**"), which are summarized below:

| Cheque Number | Cheque Date | Date Cleared | Project | Amount (\$) |
|----------------------|--------------------|---------------------|----------------|--------------------|
| 21723 | Sept. 27/19 | Sept. 30/19 | Sutton | 250,000 |
| 21721 | Sept. 27/19 | Sept. 30/19 | Unknown | 12,381 |
| 21722 | Sept. 27/19 | Sept. 30/19 | King Charlotte | 12,500 |
| 21720 | Sept. 27/19 | Sept. 30/19 | Bayview | 111,700 |
| Total | | | | 386,581 |

Upon inquiry from the Trustee, Mr. Sorrenti advised that on September 27, 2019, Sorrenti issued the Reversed Cheques from the Sorrenti SML Account and that he deposited them into his general account on September 30, 2019. By September 27, 2019, Sorrenti was aware of the LSO's pending application for the Appointment Order.

107. As a result of the issuance of the Appointment Order, which, as described above, provided a stay of proceedings, implemented certain interim stabilization measures, and appointed FAAN Mortgage as Trustee over the Property, the Trustee immediately contacted the

Bank regarding the Reversed Cheques that Sorrenti deposited into his general account after the Appointment Order became effective. The Trustee provided the Bank with the Appointment Order, and the Reversed Cheques were reversed by the Bank. The amounts subject to the Reversed Cheques were returned to the Sorrenti SML Account, such that the balance increased to \$5,866,230.

108. On October 4, 2019, Mr. Sorrenti emailed the Trustee to attempt to provide support for fees charged in respect of the Bayview SML and, among other things, requested the return of the funds subject to the Reversed Cheques.
109. On October 10, 2019, the Trustee responded to Mr. Sorrenti's email of October 4, 2019, denying his request and advising of the stay of proceedings and the interim stabilization measures imposed by the Appointment Order.
110. A summary of the changes to the Sorrenti SML Account balance from the time of the Trustee's appointment to October 16, 2019, is as follows:

| | Amount (\$) |
|--|-------------------------|
| Balance as of September 30, 2019 | 5,479,649 |
| Plus: Reversed Cheques | 386,581 |
| Balance as of October 1, 2019 | 5,866,230 |
| Payment from HVS Receiver | 1,060,000 |
| Sorrenti SML Account Balance as at October 16, 2019 | <u>6,926,230</u> |

111. The Trustee established post-appointment bank accounts for purposes of carrying out its duties under the Appointment Order ("**Post-Appointment Accounts**") and transferred the balance in the Sorrenti SML Account of \$6,926,230 to the Post-Appointment Accounts.
112. On January 30, 2020, the Trustee received the Gotham Settlement proceeds of approximately \$1.42 million and deposited these funds into one of the Post-Appointment Accounts.
113. A breakdown of the allocation of the balance in the Post-Appointment Accounts is provided below, which has been prepared by the Trustee based upon the books and records of Sorrenti available to the Trustee. The Trustee continues to review Sorrenti's records and accordingly this summary is subject to revision and the revisions may be material.

| Sorrenti SML | Nature of Funds | Estate/Realized Property | Amount (\$) |
|---|--|--------------------------|------------------|
| 1. Realized Property | | | |
| Bayview | Repayment from Bayview Borrower | Realized | 4,210,085 |
| Harmony Village Sheppard | Repayment from HVS Receiver | Realized | 1,060,000 |
| Gotham | Proceeds of Gotham Settlement | Realized | 1,420,590 |
| Various inactive Sorrenti SMLs (Note 1) | Repayment of principal from borrowers | Realized | 79,906 |
| Total Realized Property (A) | | | 6,770,581 |
| 2. Estate Property | | | |
| Various active Sorrenti SMLs | Interest and fees | Estate | 720,405 |
| Various inactive Sorrenti SMLs | Interest and fees | Estate | 310,455 |
| Total Estate Property (B) (Note 2) | | | 1,030,860 |
| 3. Other | | | |
| Various amounts | (Note 3) | To be determined | 316,097 |
| BDMC administered SMLs (Note 4) | Funds held by Sorrenti in respect of certain of the Transferred SMLs | To be determined | 229,282 |
| Total Property to be determined as Estate or Realized Property (C) | | | 545,379 |
| Cash balance before administrative disbursements (A+B+C) | | | 8,346,820 |
| Administrative disbursements | | | (39,721) |
| Cash balance as at February 29, 2020 (Note 5) | | | 8,307,099 |

Note 1 – These funds appear to relate 15 Investors that had uncashed cheques from SMLs that were paid out prior to the Trustee's appointment. As this amount constitutes Realized Property, the Trustee intends to distribute 50% of this amount to these Investors should the Omnibus Order be granted.

Note 2 – Includes \$386,581, which is the amount of the Reversed Cheques.

Note 3 – These funds appear to have been held by Sorrenti for certain individuals or companies, though the purpose and terms thereof are not known at this time. The Trustee continues to review Sorrenti's records and inquire of Sorrenti in respect of these amounts.

Note 4 – At the time of the Trustee's appointment, Sorrenti held funds for certain of the Transferred SMLs. The Trustee is reviewing information related to these funds and, at a future date, anticipates making a recommendation to the Court regarding such funds.

Note 5 – Prior to payment of certain costs that have accrued but not yet been paid (certain appraisal costs and all professional costs), which are included in the Cash Flow Projection.

CASH FLOW PROJECTION AND FUNDING OF THESE PROCEEDINGS

114. In accordance with the Appointment Order, the Trustee continues to engage in the activities described in the foregoing sections to carry out its Court-ordered mandate to protect the interests of the Investors. These activities are complicated, time-consuming, and are being carried out in circumstances where the SML Administration Business has no revenue.
115. Pursuant to the interim stabilization measures implemented in the Appointment Order, the Trustee has access to certain limited amounts constituting Estate Property, however the Trustee currently has no access to any funds other than the Estate Property. In accordance with the Appointment Order, the Trustee has been using the Estate Property to pay certain costs and expenses so that the Trustee can continue to discharge its Court-ordered mandate for the benefit of the Investors. However, the Estate Property is projected to be exhausted during the Cash Flow Period and, accordingly, the Trustee is seeking the Court's authorization to use a portion of the Realized Property in connection with the administration of the Sorrenti SMLs. A similar authorization was granted by the Court in the BDMC Proceedings. Absent such authorization, the Trustee will not have sufficient funds available to carry out its mandate during the Cash Flow Period, and Investor interests would likely be significantly prejudiced. The Trustee's recommendation with respect to the use of Realized Property in connection with these proceedings is set out further below.
116. The Trustee prepared the Cash Flow Projection on a monthly basis for the Cash Flow Period, which ends on October 31, 2020. The Cash Flow Projection has been prepared by the Trustee based upon: (i) the Trustee's review of Sorrenti's records, (ii) its own analysis, and (iii) third-party estimates. The Cash Flow Projection is attached hereto as **Appendix "13"**.
117. A summary of the Cash Flow Projection is provided in the following table:

| | Amount (000s) |
|---|------------------|
| Receipts | - |
| Disbursements | |
| Personnel costs | 85 |
| Office, IT and other | 38 |
| Total Operating Disbursements | <u>123</u> |
| Appraisal fees | 41 |
| Professional fees | 2,456 |
| Total disbursements | <u>2,620</u> |
| Net cash flow | <u>(2,620)</u> |
| Opening Cash – Estate Property ⁶ | 990 |
| Net cash flow | <u>(2,620)</u> |
| Projected Closing Cash – Estate Property | <u>(1,630)</u> |

118. As has been the case in the cash flow projections presented in the BDMC Proceedings, there are no cash receipts from the SML Administration Business projected during the Cash Flow Period. Historically, Sorrenti's primary source of revenue was funds raised from Investors in the form of an administration fee of \$100.00 per Investor per year of the term of the applicable loan. These funds were generally collected at the time of the initial advance of the funds from the Investors. The Trustee understands that from time to time Sorrenti would also charge SML borrowers for certain activities (e.g. execution and delivery of discharges and postponements) and, in some cases, for the administration fee of \$100.00 per Investor per year with respect to periods beyond the original term of the applicable Sorrenti SML.
119. The Trustee notes that no interest has been paid by the borrowers under the Sorrenti SMLs since the Trustee's appointment (other than the interest paid under the Gotham Settlement Agreement).
120. The Cash Flow Projection estimates total operating disbursements of approximately \$123,000. Further, it is contemplated that the professional fees of the Trustee, its counsel, and Representative Counsel will be paid during the Cash Flow Period, including the fees that are accrued and unpaid as at January 31, 2020.

⁶ The Opening Cash – Estate Property amount is net of approximately \$39,000 of disbursements to date.

121. Overall, there is a funding deficiency of approximately \$1.63 million through to the end of the Cash Flow Period. As the SML Administration Business has no projected cash receipts and no available funds other than the Estate Property, which, as noted above, is projected to be exhausted during the Cash Flow Period, the Trustee is seeking the Court's authorization to use a portion of the Realized Property in order to fund these proceedings, which will enable the Trustee to continue to carry out its Court-ordered mandate to protect the interests of the Investors.

RECOMMENDATION REGARDING REALIZED PROPERTY

122. The Trustee has received numerous communications from Investors detailing hardships that they are experiencing as a result of their investments in the Sorrenti SMLs (including, in many cases, delayed repayments, returns on investment below expectations and/or losses thereon) and has been advised by Representative Counsel that it has received similar communications. The Trustee understands the potentially detrimental impact that results from delays by the borrowers under Sorrenti SMLs in repaying their obligations thereunder, if at all, and related delays in the Trustee distributing any Realized Property to Investors.
123. Pursuant to the Appointment Order, the Court granted the Trustee a first-priority charge and Representative Counsel a second-priority charge over the Property, including Realized Property, as security for the payment of their respective professional fees and expenses. The Trustee, its legal counsel and Representative Counsel are incurring expenses to generate the maximum amount of Realized Property possible in the circumstances for the benefit of Investors.
124. Notwithstanding the Trustee's and Representative Counsel's charges over the Realized Property, the Trustee is recommending that a portion of the Realized Property in its possession be distributed to Investors at this time. The Trustee is also seeking authorization to retain a portion of those amounts that the Trustee reasonably expects may be required to fund the cost of these proceedings. The Trustee, its legal counsel and Representative Counsel are relying on the charges granted under the Appointment Order and the prospect of future Realized Property for the balance of their professional fees and for the work to be performed in the coming months.

125. Based on the Trustee's review of the Cash Flow Projection, the Trustee has determined that it is appropriate at this time to seek this Court's authorization to distribute an amount equal to 50% of any Realized Property, whether held as of the date of this Second Report or received in the future, to the Investors entitled to such funds on a *pro rata* basis and to retain the remaining Realized Property to fund the cost of these proceedings, including to pay operating and professional costs associated with the SML Administration Business ("**Administrative Holdback**"). This is the same structure that the Court approved in the BDMC Proceedings. The Trustee has consulted with Representative Counsel regarding this recommendation. The Trustee understands that Representative Counsel supports the Trustee's recommendation regarding the establishment and quantum of the Administrative Holdback. The Trustee is therefore seeking an Order authorizing it to distribute 50% of Realized Property to the Investors entitled to receive same and to retain 50% of Realized Property as an Administrative Holdback to fund the cost of these proceedings, including to pay operating and professional costs associated with the SML Administration Business. Accordingly, the Trustee is also seeking orders allowing it to distribute 50% of the Bayview Realized Property, the Gotham Realized Property, and the HVS Realized Property to the Investors entitled to receive such funds.
126. Should additional Realized Property be obtained with respect to certain of the Sorrenti SMLs in the coming months, it is possible that at a later date the Trustee will seek a further Order from the Court that, among other things, authorizes it to distribute a higher percentage of Realized Property. Further, as noted above, the Estate Property will be exhausted during the Cash Flow Period. As such, the Trustee is of the view that it must retain a portion of the Realized Property and utilize the Administrative Holdback to fund activities intended to maximize the recovery of additional Realized Property in the future.
127. The Trustee acknowledges that these proceedings may have a disproportionate impact on Investors. Accordingly, the Trustee intends to develop an allocation formula at the appropriate time to fairly and equitably allocate the cost of the administration of these proceedings among the Investors. The Trustee is particularly cognizant of the situation facing the Bayview Individual Investors (described above), which it will take into account and which will be a significant factor when determining the manner in which the costs of these proceedings will be shared among the Investors. This will ensure that Investors receive as much Realized Property as possible in the circumstances and are

compensated (to the extent possible) in a fair and equitable manner for any additional burdens imposed on such Investors as a result of these proceedings.

128. The exact terms of the allocation formula will need to be developed at a later date, when more Realized Property has been generated and the Trustee is in a better position to determine an appropriate allocation of the expenses associated with these proceedings among the different Sorrenti SMLs. The Trustee will consider a number of factors in connection with any such allocation, including the timing of receipt of the Realized Property, the size and length of time that a given loan remained outstanding during the proceeding, the key terms of the applicable loan agreement, and other relevant factors. The allocation formula may, if possible, also include some compensation to those Investors whose Realized Property is used to fund the proceedings. The purpose of the allocation formula is to ensure that Investors in particular Sorrenti SMLs do not bear a disproportionate share of the costs of these proceedings, and, as such, Investors in certain Sorrenti SMLs may receive a further distribution at a later date in accordance with the allocation formula.
129. Any Realized Property that is not utilized will continue to be held in an interest-bearing account and such interest earned shall be used to offset costs incurred in the administration of these proceedings.

REPRESENTATIVE COUNSEL

130. Pursuant to the Appointment Order, Chaitons LLP was appointed Representative Counsel to represent the common interests of the approximately 2,900 Investors who participate in Sorrenti SMLs, including the common interests of Investors in any particular Sorrenti SML.
131. Following the issuance of the Appointment Order, the Trustee provided Representative Counsel with extensive information regarding the Investors, including contact information for Investors and, where available, the applicable loan documentation entered into by each Investor and Sorrenti.
132. In the October 2019 Investor Notice, the Trustee notified all Investors of the Trustee's and Representative Counsel's appointments, provided Investors with Representative Counsel's contact information and the details regarding the process to opt out of representation by Representative Counsel. This information was also posted on the Trustee's Website.

133. To date, 3 Investors with a total of \$156,500 invested through Sorrenti have opted out of representation by Representative Counsel.
134. Representative Counsel has established a toll-free number and dedicated email address to facilitate Investor communications. The Trustee understands that Representative Counsel receives a large volume of calls and written correspondence and has been responding in a timely manner to such communications to the extent that the inquiries pertain to legal issues covered by Representative Counsel's mandate.
135. The Trustee also understands that Representative Counsel has been dealing with a large volume of inquiries from Investors regarding their rights and remedies and potential causes of action against third parties, including potential sources of recovery other than the borrowers under the various Sorrenti SMLs.
136. The Trustee has also consulted with Representative Counsel when appropriate, and the Trustee and its counsel are in regular contact with Representative Counsel, in particular with respect to significant decisions that would likely have a material impact on Investor recoveries.

LAND TITLE OFFICES

137. The Appointment Order authorizes the Trustee to register the Appointment Order on title to the projects where necessary or desirable. In certain instances, the applicable land registry offices ("**LROs**") have required that the Appointment Order be registered on title before the LROs will recognize the Trustee's authority to sign certain documents that are to be registered on title (such as postponements or discharges). However, the Trustee understands that certain LROs have stated that they will not remove a court order from title unless they are provided with another court order as authority for doing so. Since the Appointment Order is only relevant while the Trustee (on behalf of Sorrenti and the Investors) retains an interest in the property, there will be times when it will be necessary to have the Appointment Order removed from title.
138. One example of such an instance occurred in respect of the transaction involving the Gotham Project. To facilitate the execution and registration of partial discharges in favour of third-party purchasers of dwellings prior to the completion of the settlement transaction, the Appointment Order was registered on title to the Gotham Project. As discussed above, the Gotham Project has since been exited. However, the Appointment Order remains on

title, where it may cause issues for the Gotham Borrower and third-party unit purchasers as they seek to deal with their property in the ordinary course.

139. There are likely to be other instances where the Trustee determines that it is appropriate to have the Appointment Order registered on, and subsequently removed from, title to a project. As such, the Trustee is seeking the LRO Direction Order from this Court to give the Trustee the discretion to have the Appointment Order removed from title when the Trustee determines that it is necessary, which determination is proposed to be evidenced by the delivery of a Trustee's certificate to that effect. The issuance of the LRO Direction Order will permit the Trustee to continue to efficiently administer the syndicated mortgage loans and not incur unnecessary expenses in coming before the Court for removal of the Appointment Order on a case by case basis. A similar Order was sought and granted in the BDMC Proceedings.

TRUSTEE FEES

140. Pursuant to the terms of the Appointment Order, the Trustee and its legal counsel shall be paid their reasonable fees and disbursements and shall pass their accounts from time to time. The Trustee and its legal counsel are tracking their time by project. For certain tasks that affect all Investors, including general notices and the preparation of general reports to Court and the related Court materials, the time will be charged to a general account that will, at a later date once the totality of realizations are more clear, be allocated to the various projects based on appropriate considerations and in accordance with further Court Orders. The fees of the Trustee for the period between September 30, 2019 to January 31, 2020 total \$290,294.80, before HST; and HST applicable to such amount totals \$37,738.32, for an aggregate amount of \$328,033.12. Invoices for the fees of the Trustee, including summaries of the activities of the Trustee for the applicable period, are provided in the affidavit of Naveed Manzoor ("**Manzoor Affidavit**"), attached hereto as **Appendix "14"**. The average hourly rate for the Trustee over the referenced billing period was approximately \$436.24/hour.
141. Detailed docket information in respect of the fees and disbursements of the Trustee for this period will be included in the confidential exhibit to the Manzoor Affidavit that is being filed separately with the Court ("**Confidential Manzoor Exhibit**").

142. The Trustee is seeking a sealing order with respect to the Confidential Manzoor Exhibit due to the fact that the information contained in the Trustee's detailed invoices includes privileged and commercially sensitive information regarding the projects and the SML Administration Business generally, and the disclosure of that privileged and/or commercially sensitive information could have a material adverse effect on the recoveries that may ultimately be available to Investors in these proceedings. Similar sealing Orders have been granted in the BDMC Proceedings.

FEES OF THE TRUSTEE'S COUNSEL

143. The fees of Osler, Hoskin & Harcourt LLP ("**Osler**") as counsel to the Trustee for the period between September 30, 2019 to January 31, 2020 total \$200,256.50; Osler incurred \$5,225.05 of disbursements during the period; and HST applicable to such amounts totals \$26,662.62, for an aggregate amount of \$232,144.17 (excluding disbursements and HST). Invoices for the fees, reimbursable expenses and applicable taxes of Osler, including summaries of Osler's activities in relation thereto, are provided in the affidavit of Michael De Lellis ("**De Lellis Affidavit**"), attached hereto as **Appendix "15"**. The average hourly rate for Osler over the referenced billing period was \$712.15/hour.
144. Detailed docket information in respect of the fees and disbursements of Osler for this period will be included in the confidential exhibit to the De Lellis Affidavit that is being separately filed with the Court ("**Confidential De Lellis Exhibit**").
145. The Trustee is seeking a sealing order with respect to the Confidential De Lellis Exhibit due to the fact that the information contained in Osler's detailed invoices includes privileged and commercially sensitive information regarding the projects and the SML Administration Business generally, and the disclosure of that privileged and/or commercially sensitive information could have a material adverse effect on the recoveries that may ultimately be available to Investors in these proceedings. Similar sealing Orders have been granted in the BDMC Proceedings.
146. The Trustee is of the view that the hourly rates charged by Osler are consistent with the rates charged by major law firms practicing in the area of insolvency and restructuring in the Toronto market, and that the fees charged are reasonable in the circumstances.

CONCLUSION

147. The Trustee is working diligently to fulfill its mandate to protect the interests of the Investors and enhance the prospects that the Investors will recover amounts they advanced through the Sorrenti SMLs. Among other things, the Trustee continues to administer the Sorrenti SMLs, refine its analysis in respect of the Sorrenti SMLs and to make decisions, in consultation with Representative Counsel, that, in the circumstances, the Trustee believes are in the best interests of the Investors.
148. Based on the Trustee's review of the Cash Flow Projection, the Trustee has determined that it is appropriate at this time to seek this Court's authorization to distribute an amount equal to 50% of any Realized Property and to retain the balance as an Administrative Holdback. The Trustee has consulted with Representative Counsel regarding this recommendation and understands that Representative Counsel supports the Trustee's recommendation regarding the Administrative Holdback. The Trustee is hopeful that further Realized Property will be generated in the future allowing for a reduction in the percentage of the Administrative Holdback at a later date.
149. In light of the foregoing, the Trustee respectfully recommends that the Court issue the First Omnibus Order and the LRO Direction Order in the forms attached to the Trustee's motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of March, 2020.

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.,
SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION
IN RESPECT OF THE SYNDICATED MORTGAGE LOAN
ADMINISTRATION BUSINESS, AND NOT
IN ITS PERSONAL OR ANY OTHER CAPACITY**

TAB 1

Appendix 1:

Appointment Order dated September 30, 2019

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTEST QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU SCEAU DE LA COUR SUPÉRIEURE DE JUSTICE A TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 1st DAY OF October 20 19
FAIT A TORONTO LE 1er JOUR DE Octobre 20 19

C. Irwin
REGISTRAR / GREFFIER

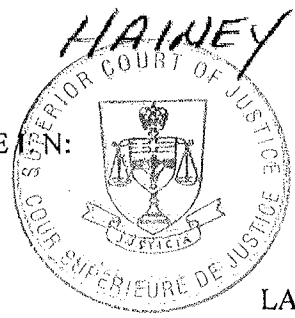
Court File No. *CV-19-628258-0002*

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
JUSTICE)
HAINES)

Monday, THE *30th*
DAY OF *SEPTEMBER*, 2019

BETWEEN:
(Court Seal)



LAW SOCIETY OF ONTARIO

Applicant

and

DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

ORDER

THIS APPLICATION, made by the Law Society of Ontario (the "Law Society") for an Order pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 appointing FAAN Mortgage Administrators Inc. ("FAAN Mortgage") as trustee (in such capacity, the "Trustee"), without security, of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation ("Respondents") relating to the Respondents' trusteeship and administration of syndicated

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mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates, and any entity under common control with FRDI (collectively, “**Fortress**”), was heard this day at 330 University Avenue, Toronto, Ontario, M5G 1R7.

ON READING the Notice of Application, the Affidavit of Nadia Musclow, the Affidavit of Nadiatou Fagbemi, the Pre-Filing Report of FAAN Mortgage, the consent of FAAN Mortgage to act as Trustee, the consent of the Respondents, and on hearing the submissions of the lawyer(s) for the parties,

SERVICE

1. THIS COURT ORDERS that the time for service and filing 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 49.47 of the *Law Society Act* and section 101 of the *Courts of Justice Act*, FAAN Mortgage is hereby appointed as Trustee, without security, of all of the assets, undertakings and properties in the possession, power or control of the Respondents relating to the Respondents’ professional business (as defined in the *Law Society Act*) of trusteeship and administration of syndicated mortgage loans in Fortress projects (the “**Syndicated Mortgage Loan Administration Business**”), including, without limitation, all of the assets in the possession or under the control of the Respondents, its counsel (if any), agents and/or assignees relating to the Syndicated Mortgage Loan Administration Business but held on behalf of any other party, including, but not limited to, lenders under any syndicate mortgage loans (“**Investors**”), brokers, or

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borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively referred to as “**Property**”), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the “**Real Property Charges**”), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder, the period of which appointment shall run from 12:01 a.m. on the date hereof until such date that all assets under all syndicated mortgage loans related to the Syndicated Mortgage Loan Administration Business have been realized and all Property has been distributed to those entitled to it.

3. THIS COURT ORDERS that nothing in this Order in any way interferes with or alters the terms of the Appointment Order dated April 20, 2018 granted by this Court in court file number CV-18-596204-00CL (the “**BDMC Proceeding**”), or any other Order made in the BDMC Proceeding.

IDENTIFICATION OF THE PROPERTY

4. THIS COURT ORDERS that in order to protect the privilege and confidentiality of the documents and information pertaining to that portion of the Respondents’ professional business that is unrelated to the Syndicated Mortgage Loan Administration Business, the Law Society is hereby authorized, without bond, to review all of the information and documents in the possession of the Respondents, including client files, corporate records and seals, financial books and records, electronic data, email accounts and any electronic devices containing any client information or client data, trust funds, general accounts, practice related materials and client property of any kind that is in the possession, power or control of the Respondents, for the purpose of identifying the Property and separating it

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from all other property of the Respondents, including client files, corporate records and seals, documents, financial books and records, electronic data, email accounts and any electronic devices containing any client information or client data, trust funds, general accounts, law practice related materials and client property of any kind that is in the possession, power or control of the Respondents that does not relate to the Syndicated Mortgage Loan Administration Business (the “**Excluded Property**”), and to take possession of the Excluded Property (the foregoing being referred to herein as the “**Identification**”).

5. THIS COURT ORDERS that the duty to provide access and cooperation as set out in paragraphs 9-13 below shall apply equally to the Law Society in respect of the Identification process.
6. THIS COURT ORDERS that following the Identification, the Law Society shall provide the Property to the Trustee.
7. THIS COURT ORDERS that in the event that the Trustee is provided with any Excluded Property, the Trustee shall inform the Law Society upon becoming aware of its possession of any Excluded Property and return such Excluded Property to it. Such disclosure to the Trustee shall not be interpreted as a waiver of solicitor-client privilege that may exist as between the Respondents and the clients referenced in the Excluded Property.

TRUSTEE’S POWERS

8. THIS COURT ORDERS that the Trustee 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 Trustee is hereby expressly empowered and authorized to

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do any of the following where the Trustee considers it necessary or desirable with respect to the Property:

- a. subject to paragraphs 4-7 above, to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- b. subject to paragraphs 4-7 above, to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of Investors, the administering of the mortgages, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- c. to manage, operate, and carry on the Syndicated Mortgage Loan Administration Business, including, without limitation, the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the Syndicated Mortgage Loan Administration Business, or cease to perform any contracts of the Respondents related to the Syndicated Mortgage Loan Administration Business;
- d. to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Trustee's powers and duties, including, without limitation, those conferred by this Order;

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- e. to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the Respondents' Syndicated Mortgage Loan Administration Business or any part or parts thereof;
- f. to receive and collect all monies and accounts now owed or hereafter owing to the Respondents in connection with the Syndicated Mortgage Loan Administration Business and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents, including, without limitation, such security held on behalf of Investors;
- g. to settle, extend or compromise any indebtedness owing to the Respondents in connection with the Syndicated Mortgage Loan Administration Business;
- h. 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 Respondents in connection with the Syndicated Mortgage Loan Administration Business, the Property or the Trustee, 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;
- i. to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;

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- j. with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in such case notice under subsection 63(4) of the *Ontario Personal Property Security Act* or section 31 of the *Ontario Mortgages Act*, as the case may be, shall not be required;
- k. to restructure the Property in a manner that the Trustee considers reasonable, including, without limitation, the conversion, in whole or in part, of the Property or any part or parts thereof, out of the ordinary course of business, into an alternative or different interest in the capital structure of the Property or any part or parts thereof, including, without limitation, an ownership interest therein;
- l. to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- m. to report to, meet with and discuss with such affected Persons (as defined below) as the Trustee deems appropriate on all matters relating to the Property and the Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustees deems advisable;
- n. to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- o. to apply for any permits, licences, approvals or permissions with respect to the Syndicated Mortgage Loan Administration Business as may be required by any

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governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Trustee, in the name of the Respondents;

- p. to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondents;
- q. to exercise any shareholder, partnership, joint venture or other rights which the Respondents may have with respect to the Property or the Syndicated Mortgage Loan Administration Business; and
- r. to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Trustee 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 Respondents, without interference from any other Person and without regard to any arrangement in existence as of the date hereof between the Respondents and Investors as to how and when such actions or steps are to be taken. For greater certainty, the Trustee shall be and is empowered to take such actions or steps without seeking instructions from Investors where the Trustee determines, in its sole discretion, that it is necessary and appropriate to do so (having regard for the interests of Investors), and in all other cases, the Trustee is specifically authorized to continue to comply with the existing arrangements, including any deemed consent provisions contained therein. Nothing in this paragraph is intended to limit the Law Society's ability to carry out the Identification.

DUTY TO PROVIDE ACCESS AND COOPERATION TO THE TRUSTEE

9. THIS COURT ORDERS that, for the purpose of conducting the Identification described in paragraph 4 above, the Respondents shall provide the Law Society with access to their business premises at 310-3300 Highway 7, Vaughan, Ontario, and any other premises or storage facilities maintained by the Respondents in connection with their professional business that contain Property or Excluded Property, during customary business hours at the Law Society's request.
10. THIS COURT ORDERS that (i) the Respondents; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) all other individuals, firms, corporations, governmental bodies or agencies or other entities having notice of this Order, including, without limitation, Fortress, any entity that is a joint venture among a Fortress entity and another entity, and each director, officer, employee and agent of Fortress (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Trustee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Trustee, and shall deliver all such Property to the Trustee upon the Trustee's request.
11. THIS COURT ORDERS that, pursuant to and without limiting the generality of the foregoing, all Persons shall, unless otherwise instructed by the Trustee (i) deliver to the Trustee (or, in the case of RRSP or other registered funds administered by Olympia Trust Company ("**OTC**"), Computershare Trust Company of Canada ("**Computershare**") or any other person acting for Investors in respect of investments held through RRSPs or other registered accounts or funds (each an "**RRSP Trustee**"), not release to any Person

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without further Order of this Court) any and all monies held in trust that are related to the Syndicated Mortgage Loan Administration Business (collectively, the "**Trust Funds**"), which Trust Funds, for greater certainty, include any and all monies in any OTC, Computershare or other RRSP Trustee account that are purported to be held in trust for the Investors in or beneficiaries under any of the Real Property Charges, including, without limitation, all monies held by way of interest reserves to satisfy interest payments to such Investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents related to the Syndicated Mortgage Loan Administration Business.

12. THIS COURT ORDERS that all Persons shall forthwith advise the Trustee of the existence of any books, emails, user accounts, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Respondents related to the Syndicated Mortgage Loan Administration Business, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information, including copies of any previously performed electronic back ups (the foregoing, collectively, the "**Records**") in that Person's possession or control, and, subject to paragraph 7 above, shall provide to the Trustee or the Law Society or permit the Trustee or the Law Society to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 12 or in paragraph 13 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to

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the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

13. 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 Trustee for the purpose of allowing the Trustee 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 Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the information.

INTERIM STABILIZATION MEASURES

14. THIS COURT ORDERS that the Trustee shall:

- a. hold, until further Order of the Court, in a separate account all (1) funds from the Syndicated Mortgage Loan Administration Business that are currently in the Respondents' possession, or that may come into the Respondents' or Trustee's possession, in each case as a result of a repayment (in whole or in part) of principal

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on any loan or other indebtedness owing to or administered by the Respondents on behalf of Investors in connection with the Syndicated Mortgage Loan Administration Business, whether or not (i) secured by any Real Property Charges in the name of the Respondents or in the name of OTC, Computershare or any other RRSP Trustee, (ii) received before or after the date of this Order, or (iii) paid or payable in trust, plus (2) all interest paid or payable to the Respondents or the Trustee in connection with the Syndicated Mortgage Loan Administration Business at the time such repayment (in whole or in part) of principal is made (collectively "**Realized Property**") and shall report to the Court with a recommendation regarding next steps with respect to the Realized Property, including any potential distribution of any Realized Property to the Investors; and

- b. hold in a separate account all funds (other than Realized Property) that were in the Respondents' possession on or prior to the date of this Order as well as any amounts (other than Realized Property) paid or payable to the Respondents or the Trustee (in trust or otherwise) after the date of this Order, including in respect of interest where principal is not repaid, fees, expenses or other amounts, (collectively "**Estate Property**") and shall be authorized to use such Estate Property as set out in this Order and as further clarified herein.
- c. For greater certainty, Realized Property and Estate Property shall be included within the definition of "Property" as set out in this Order.

15. THIS COURT ORDERS and confirms that, with the exception of Realized Property, the Trustee is hereby empowered and authorized, but not obligated, to use any Property

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(including for greater certainty Estate Property) to aid the Trustee in complying with this Order and carrying out its mandate, as the Trustee, in its sole discretion, considers necessary or desirable for the effective administration of the estate including, without in any way limiting the generality of the foregoing, to do any of the following:

- d. to provide a retainer for and to pay the professional fees, expenses and disbursements of the Trustee, its counsel, and any experts or other advisors retained by the Trustee pursuant to this Order, whether incurred prior to or after the date of this Order;
- e. to pay expenses of the Respondents that the Trustee reasonably believes are necessary to carry out the Syndicated Mortgage Loan Administration Business, including, without limitation, payroll, rent, utilities, taxes and other statutory remittances;
- f. to pay expenses incurred in the administration of any loan or indebtedness administered by the Respondents in connection with the Syndicated Mortgage Loan Administration Business, including, without limitation, in connection with obtaining new appraisals of any property or, if necessary, taking any enforcement action;
- g. to make protective disbursements to or on behalf of a borrower or in respect of a mortgaged project, provided that any such disbursement shall be an advance made to the applicable borrower in respect of such project and the amount of such advance plus any applicable expenses incurred in connection therewith shall be

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added to the sum owing by the borrower and shall be added to the Real Property Charge in respect of same; or

h. to pay general expenses of the Respondents or the Trustee, in that capacity, not covered by the foregoing,

in each case without interference from any other Person and without regard to any arrangement in existence as of the date hereof between the Respondents, any borrower, any Investor or any other person.

16. THIS COURT ORDERS that, in using any Property in accordance with this Order, the Trustee shall keep detailed records regarding the source and use for such payments and shall report to the Court from time to time regarding same.

17. THIS COURT ORDERS that the Trustee is authorized, but not required, to apply for any licenses as the Trustee determines are necessary or desirable for it to hold in connection with its mandate.

REPRESENTATIVE COUNSEL

18. THIS COURT ORDERS that Chaitons LLP is hereby appointed as counsel ("**Representative Counsel**") for all Investors in respect of these proceedings (including, without limitation, all those persons who are Investors as a result of having investments held through registered retirement savings plans ("**RRSPs**") or other registered accounts or funds with RRSP Trustees regarding their common interests in the loans and other indebtedness administered by the Respondents in their Syndicated Mortgage Loan Administration Business, including the common interests of Investors in any particular

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loan or other indebtedness administered by the Respondents, unless and until written notice is provided by a particular Investor to Representative Counsel that such Investor does not wish to be represented by Representative Counsel.

19. THIS COURT ORDERS that, in fulfilling its mandate under Paragraph 18, Representative Counsel shall act in the best interests of the Investors and shall take such necessary and appropriate steps or actions as Representative Counsel deems fit from time to time, including, where appropriate, to give such consents on behalf of Investors that may be necessary or desirable in the circumstances, provided however that Representative Counsel shall not be obligated to take any step or action where Representative Counsel determines (in consultation with the Trustee) that the best interests of Investors would not be served by any such step or action.

20. THIS COURT ORDERS that Representative Counsel shall have no obligation to consult with, follow the instructions of, or provide an opinion to, any individual Investor in connection with the discharge of its duties under this Order.

21. THIS COURT ORDERS that, subject to paragraphs 4-7 above, the Law Society or the Trustee shall provide to Representative Counsel, without charge to the Investors, the following information, documents and data (including personal information), to the extent such information, documents or data is in the Law Society and/or Trustee's possession or control in respect of these proceedings (the "**Information**"):

- a. the names, last known addresses and last known email addresses (if any) of the Investors (the "**Investor Contact Information**"); and

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- b. such additional information, documents and data (including personal information) as may be reasonably requested in writing by Representative Counsel and which is (i) relevant to the Investors' participation in these proceedings and (ii) reasonably necessary for Representative Counsel to fulfill its mandate in these proceedings, or as ordered by the Court,

provided that the Law Society and its counsel or the Trustee and its counsel may recover their time and expenses for so doing at their standard rates. This Order shall be sufficient legal authority for the Law Society or the Trustee to disclose the Information to Representative Counsel under the *Personal Information Protection and Electronic Documents Act* (Canada), other applicable privacy legislation, or any other applicable law without the knowledge or consent of the individual Investors or any other person, the Law Society and/or Trustee are not required to obtain any consent from any Investor or any other person to authorize disclosure of the Information to Representative Counsel, and the Law Society and Trustee shall have no liability whatsoever for making such disclosures in accordance with the terms hereof.

22. THIS COURT ORDERS that notice of the granting of this Order shall be sent by Representative Counsel (or by the Law Society or Trustee on behalf of Representative Counsel) to each Investor by electronic or regular mail at the address for such Investor provided within seven business days of the date of receipt by Representative Counsel of the Investor Contact Information, and that the notice shall also be posted on the Trustee's website at www.faanmortgageadmin.com.

23. THIS COURT ORDERS that any Investor who does not wish to be represented by Representative Counsel in these proceedings shall notify the Trustee and Representative

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Counsel, in writing, that he, she or it is opting out of representation by delivering a notice by electronic or regular mail and such Investor shall thereafter not be bound by the actions of Representative Counsel and shall represent himself, herself or itself or be represented by any counsel that he, she or it may retain exclusively at his, her or its own expense.

24. THIS COURT ORDERS that Representative Counsel may communicate with any Investor who has not opted out pursuant to Paragraph 23 hereof by electronic or regular mail at the addresses provided pursuant to Paragraph 21(a) or such other addresses provided by the applicable Investor to Representative Counsel.
25. THIS COURT ORDERS that Representative Counsel shall have no liability as a result of its appointment or the performance of its duties or in carrying out the provisions of this Order and any subsequent Orders in these proceedings, save and except for any gross negligence or willful misconduct on its part.
26. THIS COURT ORDERS that, subject to prior approval by the Trustee or further Order of the Court, Representative Counsel shall be paid its reasonable fees and disbursements, at its standard rates and charges, and shall be entitled to and is hereby granted a charge (the "**Representative Counsel Charge**") on the Property as security for its fees and disbursements in respect of these proceedings, both before and after the making of this Order, and that the Representative Counsel Charge shall form a charge on the Property ranking immediately subordinate in priority to the Trustee's Charge (as defined below) but ranking in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

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27. THIS COURT ORDERS that, subject to prior approval by the Trustee or further Order of the Court, Representative Counsel is entitled to be paid its fees and disbursements from any distributions to be made to the Investors in these proceedings.
28. THIS COURT ORDERS that all reasonable professional fees and disbursements that may be incurred by Representative Counsel, whether incurred prior to or after the date of this Order, will form part of the indebtedness owing to the Investors.
29. THIS COURT ORDERS that Representative Counsel shall be given notice of all motions in these proceedings, and that the giving of notice to Representative Counsel shall constitute service on all of the Investors who have not opted out pursuant to Paragraph 23 hereof.
30. THIS COURT ORDERS that Representative Counsel shall be at liberty and is authorized at any time to apply to this Court for advice and directions in the performance or variation of its powers and duties.

LAND TITLE DOCUMENTS

31. In addition to any other powers granted to the Trustee in this Order, the Trustee is hereby empowered:
- a. to direct the applicable land registry office, registrar, other official or similar government authority under *The Land Titles Act* (Ontario), the *Land Registration Reform Act* (Ontario), or any other comparable legislation in any province ("**Real Property Authority**") to register a copy of this Order and any other Orders in respect of the Property, notwithstanding the requirements of s. 191 of the *Land Titles Act*, RSA

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2000, c L-4, or the provisions of any other similar provincial enactment, and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is, for the purposes of this paragraph 31, expressly waived, and for such purposes the Trustee shall be treated as if it were a receiver appointed pursuant to the *Bankruptcy and Insolvency Act*, RSC, 1985, c B-3 (“**BIA**”); and

b. to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondents for any purpose pursuant to this Order, including, without limitation, any documents in connection with any registration, discharge, partial discharge, transfer, assignment, postponement, subordination or similar dealings in respect of any mortgage or interest in land (each, a "**Land Title Document**") and, for greater certainty, the applicable Real Property Authority is hereby directed, following (i) registration of this Order or being presented with a certified true copy of this Order and (ii) being presented with such Land Title Document, to register such Land Title Document to register, discharge, partially discharge, transfer, assign, postpone, subordinate or otherwise deal with such mortgage in accordance with such Land Title Document without any obligation to inquire into the propriety of the execution or effect of such Land Title Document.

NO PROCEEDINGS AGAINST THE TRUSTEE

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

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

33. THIS COURT ORDERS that, with the exception of any ongoing, pending or future regulatory proceedings by the Law Society under the *Law Society Act*: (i) no Proceeding against or in respect of any of the Respondents in connection with the Syndicated Mortgage Loan Administration Business, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of any of the Respondents' Syndicated Mortgage Loan Administration Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

34. THIS COURT ORDERS that all rights and remedies against the Respondents in connection with the Syndicated Mortgage Loan Administration Business, the Trustee, or affecting the Property (including, without limitation, pursuant to any arrangement in existence as of the date hereof between the Respondents and any other Person in relation to the Syndicated Mortgage Loan Administration Business and Investors), are hereby stayed and suspended except with the written consent of the Trustee 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 Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents 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

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security interest; (iv) prevent the registration of a claim for lien; or (v) prevent the filing and service of a statement of claim solely to permit the perfection of a lien, provided that no further proceedings on such statement of claim shall be permitted other than pursuant to paragraph 33.

NO INTERFERENCE WITH THE TRUSTEE

35. 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 Respondents in respect of the Syndicated Mortgage Loan Administration Business, without written consent of the Trustee or leave of this Court, including, for greater certainty, any authority granted to the Respondents to act as an administrator or trustee of syndicated mortgage loans. Nothing in this paragraph is intended to constrain the ability of the Law Society to complete the Identification as described above.

CONTINUATION OF SERVICES

36. THIS COURT ORDERS that all Persons having oral or written agreements with the Respondents in relation to the Syndicated Mortgage Loan Administration Business, 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 Respondents that is used (in whole or in part) by the Respondents in connection with the Syndicated Mortgage Loan Administration Business are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or

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terminating the supply of such goods or services as may be required by the Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided that such continued use by the Trustee does not interfere with the operation of that portion of the Respondents' professional business that does not include the Mortgage Administration Business and provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

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

EMPLOYEES

38. THIS COURT ORDERS that all employees of the Respondents in connection with the Syndicated Mortgage Loan Administration Business shall remain the employees of the Respondents until such time as the Trustee, on the Respondents' behalf, may terminate the employment of such employees. The Trustee shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Trustee may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) and 81.6(3) of the BIA or under the *Wage Earner Protection Program Act* ("WEPP").

PIPEDA

39. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Trustee 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 Trustee, 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 Respondents, and

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shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE TRUSTEE'S LIABILITY

41. THIS COURT ORDERS THAT (a) FAAN Mortgage shall incur no liability or obligation relating to or arising from any activities undertaken by it prior to the date of this Order in respect of the Respondents or the Syndicated Mortgage Loan Administration Business,

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including, without limitation, activities undertaken by FAAN Mortgage to assist the Law Society in its application for this Order and to gain a better understanding of the projects currently being administered by the Respondents; and (b) the Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, in each case, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the WEPP. Nothing in this Order shall derogate from the protections afforded the Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE'S ACCOUNTS

42. THIS COURT ORDERS that the Trustee and counsel to the Trustee 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, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the "**Trustee'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 Trustee'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 subsections 14.06(7), 81.4(4) and 81.6(2) of the *BIA*.
43. THIS COURT ORDERS that the Trustee and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Trustee and its legal counsel are hereby referred to the Commercial List of the Ontario Superior Court of Justice.

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44. THIS COURT ORDERS that prior to the passing of its accounts, the Trustee 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 Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

45. THIS COURT ORDERS that the Trustee 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 \$1,000,000 (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 Trustee 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 “**Trustee’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 Trustee’s Charge, the Representative Counsel Charge and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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47. THIS COURT ORDERS that the Trustee is at liberty and authorized to issue Trustee certificates for any amount borrowed by it pursuant to this Order.

48. THIS COURT ORDERS that the monies from time to time borrowed by the Trustee pursuant to this Order or any further order of this Court and any and all Trustee'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 Trustee's Certificates.

SERVICE AND NOTICE

49. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, the service of documents made in accordance with the Protocol shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

50. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee 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 Respondents' creditors in relation to the Syndicated Mortgage Loan Administration Business or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be

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received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

51. THIS COURT ORDERS that the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
52. 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 Trustee 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 Trustee as may be necessary or desirable to give effect to this Order or to assist in carrying out the terms of this Order.
53. THIS COURT ORDERS that the Trustee 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 Trustee 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.
54. 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, or such shorter period of time as the Court may permit, to the Trustee, and to any other party likely to be affected by the order sought.

-29-

55. THIS COURT ORDERS that this Order is without prejudice to the Respondents' ability to apply to this Court for a determination in respect of his administration fees or other monies to which he claims an entitlement up until the date of this Order, further to the notice requirements set out in paragraph 54.



Signature

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

SEP 30 2019

PER / PAR: 

LAW SOCIETY OF ONTARIO
Applicant

-and- DEREK SORRENTI et al
Respondents

CV-19-628258-0001
Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

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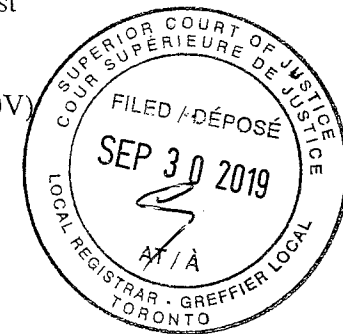
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Lawyers for the Applicant



TAB 2

Appendix 2:

Affidavit of Nadia Musclow sworn on September 30, 2019 (without exhibits)

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

LAW SOCIETY OF ONTARIO

Applicant

and

DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

AFFIDAVIT OF NADIA MUSCLOW

I, Nadia Musclow, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Manager, Trustee Services of the Law Society of Ontario (the “Law Society”) and, as such, have knowledge of the matters contained in this Affidavit. Where my knowledge is based on information and belief, I state the source of such knowledge and believe it to be true.
2. Derek Sorrenti, is a lawyer, licensed to practise law by the Law Society of Ontario, and presently carrying on his professional business as Sorrenti Law Professional Corporation. Derek Sorrenti and Sorrenti Law Professional Corporation are hereinafter referred to collectively as the “Respondents”.

3. The Law Society seeks to have FAAN Mortgage Administrators Inc. (“FAAN Mortgage” or the “Proposed Trustee”), a professional mortgage administrator, appointed as trustee of that portion of the Respondent’s professional business where he is acting in the capacity of mortgage administrator for Fortress Real Developments and certain related entities (collectively, “Fortress”) with respect to a number of syndicated mortgage investments (hereinafter referred to as the Respondents’ “Mortgage Administration Business”). FAAN Mortgage is currently acting as Trustee over Building and Development Mortgages Canada Inc. (“BDMC”), previously Centro Mortgage Inc (“Centro”), in respect of Fortress projects (the “BDMC Proceeding”).

4. In preparing this Affidavit, I have reviewed the Pre-Filing Report of the Proposed Trustee (attached hereto as **Exhibit 1**), the Affidavit of Nadiatou Fagbemi (the “Fagbemi Affidavit”) as well as various court documents posted on the FAAN Mortgage website which describe the proceeding by which FAAN Mortgage came to be appointed as Trustee in the BDMC Proceeding.

Background

5. The Respondents operate a professional business from premises located at 310-3300 Highway 7 in Vaughan, Ontario (the “Business Premises”).

6. The Respondents’ Mortgage Administration Business is that portion of their professional business wherein they have provided independent legal advice to investors obtaining syndicated mortgages in Fortress projects, brokered by BDMC and Centro, and have been acting as a bare trustee and mortgage administrator for investors in syndicate mortgages brokered by BDMC/Centro through the syndicate mortgage product marketed as Fortress.

7. As Derek Sorrenti is a lawyer, he is able to administer mortgages under the exemption in the *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29 (the “MBLAA”) from licencing requirements applicable to lawyers.

8. In his capacity as mortgage administrator, Mr. Sorrenti holds title to the mortgages underlying the syndicated mortgage loans on behalf of investors, and acts in a fiduciary capacity to administer and enforce the syndicated mortgage loans on behalf of the investors. His function is, among other things, to accept invested funds provided by investors, to ensure the investor’s investment is registered, to disburse the mortgage loan proceeds, to request interest and principal repayments when required, to disburse payments to the investors, and to report to all investors as required.

9. As a result of complaints received from investors, the Law Society has initiated investigations into Mr. Sorrenti’s conduct arising out of his mortgage administration practice.

RCMP Investigation

10. I understand from reviewing the *R v Canadian Broadcasting Corp.*, 2018 ONSC 5167 decision and various news articles that the RCMP commenced an investigation into Fortress and its principals based on complaints from investors. Copies of the *R v Canadian Broadcasting Corp* decision and several Globe and Mail articles are attached hereto as **Exhibits 2 and 3**.

11. On April 13, 2018, the RCMP executed several search warrants in relation to Fortress and associated entities. The RCMP alleged in the information to obtain (“ITO”) the search warrants that Fortress and some of its principals engaged in investor fraud, specifically, that Fortress defrauded investors by knowingly misrepresenting the appraised value of various development properties. The RCMP further alleged that the loan ratios were in excess of 100%, which meant

that the investments were not RRSP eligible – something that was also misrepresented to investors. The RCMP further alleged that the investment funds were not used for the purposes disclosed to the investors.

BDMC Proceeding

12. As part of its role, the Financial Services Regulatory Authority (“FSRA”), formerly the Financial Services Commission of Ontario (“FSCO”) prosecutes regulatory proceedings relating to the regulated sectors defined in the in the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, chap. 28 (the “FSCO Act”). The mortgage brokering industry is one of the regulated sectors defined in the FSCO Act, and includes mortgage agents, mortgage brokers, mortgage brokerages and mortgage administrators, as defined in the MBLAA.

13. Beginning in 2015, FSCO investigated BDMC for potential breaches of MBLAA and its associated regulations. Prior to February 1, 2018, BDMC brokered and administered investments in syndicated mortgage loans sold to the investing public, principally relating to development projects in which Fortress and related entities are involved.

14. Over \$600 million has been invested in BDMC by over 11,000 individual investors. As of April 19, 2018, FSCO had received numerous complaints from investors regarding BDMC’s activities and the performance of their investments in BDMC compared to the promises made to them at the time they invested.

15. As a result of its investigations, FSCO was of the view that there are serious regulatory issues associated with BDMC syndicated mortgage loans.

16. On January 31, 2018, FSCO entered into a settlement agreement with a number of the licensed entities and individuals in the Fortress network, including BDMC, and certain individuals holding Mortgage Broker licences (the “Settlement Agreement”). Among other things, the Settlement Agreement required BDMC to enter into and comply with a management and administration agreement appointing FAAN Mortgage as the independent manager of BDMC’s syndicated mortgage administration business.

17. On February 1, 2018, FSCO obtained an order suspending BDMC’s mortgage brokerage licence on consent.

18. FAAN Mortgage assumed the role as independent manager on February 7, 2018. However, BDMC failed to comply with certain terms of the Settlement Agreement, making it difficult for FAAN Mortgage to perform its responsibilities. These difficulties were made worse by the RCMP investigation into BDMC for syndicated mortgage fraud.¹ Ultimately, FAAN Mortgage lost confidence in BDMC’s ability to comply with the settlement agreement.

19. On April 20, 2018, the Superintendent of Financial Services (the “Superintendent”) brought an Application to the Superior Court of Justice - Commercial List under section 37 of the MBLAA and section 101 of the Court of Justice Act, R.S.O. 1990 c. C.43 for an order appointing FAAN Mortgage as trustee of all of the assets, undertakings and properties of BDMC (the “BDMC Proceeding”). The Application Record contains an Affidavit from Brendan Forbes, legal counsel at the Ministry of the Attorney General Civil Law Division, FSCO Branch sworn April 19, 2018, which is attached as Exhibit A to the Fagbemi Affidavit.

¹ Forbes Affidavit, paras 8-9.

20. The Honourable Justice Hainey granted the Application by Order dated April 20, 2018 (“the Appointment Order”), a copy of which is attached as Appendix 1 to the Pre-Filing Report of the Proposed Trustee.

21. Among other things, the Appointment Order empowers the Trustee to take possession of all assets, undertakings and properties of BDMC, to exercise control over such property, manage and carry on BDMC’s business, to enter into agreements with any trustee in bankruptcy appointed in respect of BDMC, and to receive and collect all monies owing to BDMC.

22. As noted above, Mr. Sorrenti is not licenced as a mortgage administrator. Under the MBLAA, lawyers are not required to hold a licence in order to trade in, deal in or administer mortgages. FSRA is of the view that the Respondents are therefore outside FSRA’s jurisdiction to prosecute regulatory issues under MBLAA. Accordingly, the Respondents’ Mortgage Administration Business is not part of the Appointment Order and is outside of FAAN Mortgage’s current mandate under the Appointment Order.

Sorrenti Document Production Requests

23. The Appointment Order requires all persons with property, funds, records, documents or information related to the business and affairs of BDMC to provide such property, funds, records, documents and information to the Trustee and to cooperate fully with the Trustee with respect to its mandate.

24. As set out in paragraphs 12-22 of the Pre-Filing Report of the Proposed Trustee, I understand that the Trustee and its counsel formally contacted the Respondents on numerous occasions for over six months to request information in relation to Fortress projects on which the

mortgage administrator duties had transferred from the Respondents to BDMC (“the Transferred Projects”). The Respondents did not comply with the Trustee’s information requests.

25. Accordingly, the Trustee sought and obtained an Order requiring the Respondents to comply with the Appointment Order and to provide the Trustee with a detailed list of all information related to the Transferred Projects and with a plan and proposed schedule for the delivery of such documents, records and information to the Trustee, within 30 days of the date of the Order (the “Omnibus Order”). A copy of the Omnibus Order is attached as Appendix 2 to the Pre-Filing Report of the Proposed Trustee.

26. I understand from FAAN Mortgage that the Respondents were provided with a copy of the Omnibus Order shortly after it was obtained but that FAAN Mortgage has continued to experience difficulty obtaining information from the Respondents.

Concerns of FSRA re Sorrenti Projects

27. As set out in the Fagbemi Affidavit, FSRA has a number of concerns relating to the Respondents’ Mortgage Administration Business. Although FSRA does not regulate the Respondents, it has received a number of complaints from investors regarding the administration of the Respondents’ Mortgage Administration Business. In addition, FSRA has received information as part of its investigation into the Fortress networks which relates to the Respondents’ Mortgage Administration Business.

28. Based on its review of the available information, FSRA staff is concerned that:

- (a) The Respondents have failed to respond to investor inquiries and to produce documents as required by the FAAN Trusteeship;

- (b) The Respondents do not have the capacity to manage its mortgage administration activities;
- (c) The Respondents have failed to distribute all of the funds they have received in respect of the Bayview Project (\$18 million); and
- (d) The principals of Fortress and related entities continue to seek to play a role in projects under the FAAN Trusteeship. This influence could be exacerbated in the Respondents' Mortgage Administration Business given the lack of resources available to the Respondents to administer those projects.

29. I understand also from FRSA that they have received the first page of a number of key agreements governing the relationship between the Respondents and syndicated mortgage investors, and that the first page of the agreements are identical to the key agreements relating to the BDMC Projects. The agreements grant the mortgage administrator significant authority, which can have a direct impact on investor interests. Accordingly, FSRA is of the view that "It is essential that these powers be exercised by a mortgage administrator whose sole loyalty is to investors and who has the expertise and capacity to undertake this work in a timely and competent manner. FSRA believes that the appointment of a trustee will support these criteria."²

30. As a result of their concerns, FSRA supports the Law Society's Application. It is the view of FSRA that investors related to the Respondents' Mortgage Administration Business deserve the same level of protection already afforded to the investors in the in the Fortress projects currently subject to the Appointment Order.

² Fagbemi Affidavit, para 36.

Investor Complaints to the BDMC Trustee and Representative Counsel to the Investors re the Respondents' Mortgage Administration Business

31. Since its appointment, as set out in paragraphs 31-32 and Appendix 5 of the Pre-Filing Report of the Proposed Trustee, FAAN Mortgage has received numerous calls and emails from concerned investors who require clarification and/or information concerning the syndicated mortgage loans in which they are invested, and the underlying Fortress/BDMC projects. I understand FAAN Mortgage is frequently contacted by investors on projects for which the Respondents are the mortgage administrator, including some of the investors in relation to the Bayview Project referenced above.

32. I understand from representative counsel to the investors in the BDMC Proceeding, Chaitons LLP, that it also frequently receives communications from concerned investors seeking clarification and/or information concerning the syndicated mortgage loans administered by the Respondents in which they are invested, and the underlying Fortress/BDMC projects. Examples of these communications, redacted to protect investor privacy, are attached hereto as **Exhibit 4**.

33. These communications indicate that investors have had difficulty obtaining responses to their emails and calls to the Respondents, and are unable to determine the status of their investments despite the projects having completed some time ago.

Concerns of the Law Society

34. The Law Society does not have independent information concerning the status of the Fortress project syndicated mortgage loans being administered by the Respondents. However, Mr. Sorrenti has advised the Law Society that he is presently administering syndicated mortgage loans in respect of the following 10 Fortress projects:

- (a) Gotham
- (b) Harmony Village Sheppard
- (c) Mapleview/Julian Court
- (d) SoBa
- (e) The Sutton/Link Condos + Towns
- (f) Wismer 3
- (g) Lotus/Bayview Village
- (h) Victoria Park Place/Vic Towns
- (i) Progress/TEN88
- (j) Uptowns of Unionville/UnionVillas

35. There may be additional projects of which the Law Society is presently unaware.

36. The Law Society has learned that, in response to some investor requests, the Respondents' have advised that Mr. Sorrenti will not be responding to further requests as his office does not have the capacity to deal with the volume of mortgage investors with an interest in the syndicated mortgages he is administering. Specifically, Mr. Sorrenti has advised that he is "inundated with similar requests from many of the over 3000 syndicate mortgage investors who have been thrust into our purview." Attached as **Exhibit 5** is an example of a communication from Mr. Sorrenti to one of the investors dated March 26, 2019, redacted.

37. Mr. Sorrenti also advised the Law Society that it is “unsustainable” for the Respondents to continue to act as administrator for all of the syndicated mortgage investors. He explained that at that time, he had only 1.5 staff members in addition to himself, and could not service the 3000 syndicated mortgage investors who were at one time serviced by the mortgage brokerages. A copy of Mr. Sorrenti’s email dated April 9, 2019 is attached hereto at **Exhibit 6**.

38. On September 20, 2019, counsel to the Law Society sent a letter to Mr. Sorrenti advising him that it had been retained to commence an application under section 49.47 of the *Law Society Act* to obtain a trusteeship order in respect to the administration of mortgages related to Fortress projects. A copy of that letter is attached hereto at **Exhibit 7**.

39. On September 24, 2019, Mr. Sorrenti sent an email to the Law Society’s counsel (attached hereto as **Exhibit 8**) advising of the names and status of the Fortress projects he is administering. That evening, myself and several individuals from the Law Society, as well as the Law Society’s counsel, had a telephone call with Mr. Sorrenti at which time he provided further information regarding the status of the projects.

40. On September 26, 2019, I attended at the Respondents’ Business Premises together with another Law Society staff member, counsel for the Law Society, and employees of FAAN Mortgage to conduct a meeting with Mr. Sorrenti. During that meeting, I learned that:

- (a) The Respondents currently have only 1 part-time staff member in addition to Mr. Sorrenti working in his office;
- (b) The Respondents are unable to manage the volume of investors to whom they are responsible;

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- (c) Mr. Sorrenti has paid himself mortgage administration fees that have not been disclosed to investors;
- (d) The Respondents do not have access to tools that would assist them in administering the mortgages, such as “Mortgage Office” software, or funds that would allow them to obtain independent appraisals of the projects in which the syndicated mortgages have invested; and
- (e) The Respondents maintain both electronic and paper records related to the Mortgage Administration Business, some of which is stored in an offsite storage facility.

41. Based on the information collected as part of its trusteeship of BDMC, and during the meeting with Mr. Sorrenti on September 26, 2019, FAAN Mortgage prepared a chart reflecting the current status of the projects which appears at paragraph 33 of the Pre-Filing Report of the Proposed Trustee.

42. On September 27, 2019, counsel to the Law Society sent a letter to Mr. Sorrenti requesting a list of each investor for each project Mr. Sorrenti is administering. Further, Mr. Sorrenti was requested to refrain from taking the following actions without first consulting counsel to the Law Society:

- (a) Issuing or releasing any further payments (including distributing cheques in relation to the Bayview project);
- (b) Utilizing any of the monies in the mortgage administration trust account, including in order to pay your own mortgage administration fees; and

- (c) Taking any action/making any decisions in respect of the projects which would bind investors.

A copy of that letter is attached hereto as **Exhibit 9**.

43. Shortly after the above noted letter was sent, Mr. Sorrenti forwarded several emails to the Law Society and its counsel, as follows:

- (a) Mr. Sorrenti forwarded an exchange between him and Norman Winter regarding the discharge of the 25 UnionVillas mortgages. Mr. Sorrenti requested that counsel for the Law Society contact Mr. Winter's office as Mr. Sorrenti was about to discharge the syndicated mortgages. Mr. Sorrenti also indicated that he is authorized to distribute funds in relation to the Bayview project as per Court Order, and requested an immediate discussion regarding fees Mr. Sorrenti feels are properly earned. A copy of that email exchange is attached hereto as **Exhibit 10**;
- (b) Mr. Sorrenti forwarded an email that he had received from Sajjad Hussain of Sunrise Homes regarding the discharge of 25 mortgages on the UnionVillas project. Mr. Hussain stated that failure to discharge the mortgages would jeopardize the project as the sales on the 25 homes are set to close on September 30, 2019. A copy of that email correspondence is attached hereto as **Exhibit 11**;
- (c) Mr. Sorrenti sent an email to counsel to the Law Society advising that he had received a further email from Mr. Winter requesting the urgent discharge of mortgages on 25 units relating to a project called "UnionVillas". A copy of that email correspondence is attached hereto as **Exhibit 12**; and

- (d) Mr. Sorrenti sent an email to the CEO of the Law Society, Diana Mills, advising of the urgent request on the Unionvillas project and requesting the immediate attention of the Law Society in relation to the project. A copy of that letter is attached hereto as **Exhibit 13**.

44. I understand from my counsel that following receipt of these emails, counsel to the Law Society telephoned Mr. Sorrenti and left a voicemail requesting that he call back to discuss his emails. I understand from my counsel that Mr. Sorrenti did not return the call.

45. Following the voicemail message, counsel to the Law Society wrote to Mr. Sorrenti to confirm that the Law Society had not been appointed as a trustee and cannot make determinations with respect to the proposed transaction, but had requested that he refrain from taking steps in respect of the Fortress projects in light of its intention to appoint a trustee. Counsel also requested that, in anticipation of the contemplated trusteeship appointment application, Mr. Sorrenti provide all documents and correspondence in respect of the UnionVillas project. A copy of that letter is attached hereto as **Exhibit 14**.

46. On September 29, 2019 Mr. Sorrenti responded to this letter indicating that he had read the draft order appointing FAAN as trustee but that the urgency of the matter has lead him to conclude that the immediate execution of the requested discharges by Norman Winter's office is proper. A copy of that email is attached hereto as **Exhibit 15**.

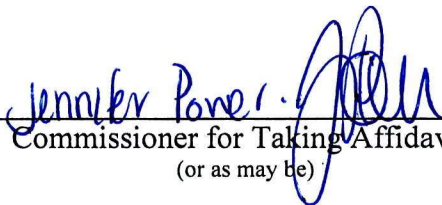
47. On September 29, 2019, Mr. Sorrenti forwarded a further email he had received from Vince Petrozza of Fortress highlighting Mr. Sorrenti's obligations under the Loan Agreement and Subordination Agreements in respect of the UnionVillas project. A copy of that email and the agreements is attached hereto as **Exhibit 16**.

The Proposed Order


48. Based on the above, the Law Society is of the opinion that a trusteeship order over the Respondents' Mortgage Administration Business is necessary for the protection of the public, specifically in order to protect the 3,000 syndicated mortgage investors whose mortgages are currently being administered by the Respondents. It appears that Mr. Sorrenti has neglected this aspect of his professional business without making adequate provision for the protection of investor interests.

49. In light of all of the circumstances set out above, I believe that FAAN Mortgage is the appropriate party to act as Trustee of the Respondents' Mortgage Administration Business. This would allow for all of the known Fortress projects to be managed by a single administrator, who already possesses significant experience with and understanding of the Fortress projects.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on September 30..., 2019



Jennifer Power
Commissioner for Taking Affidavits
(or as may be)

}


NADIA MUSCLOW

TAB 3

Appendix 3:

Pre-filing report of the Proposed Trustee dated September 29, 2019 (without appendices)

Court File No. CV-●

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

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE LAW SOCIETY ACT, R.S.O. 1990. c. L.8
AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43**

PRE-FILING REPORT OF THE PROPOSED TRUSTEE

FAAN MORTGAGE ADMINISTRATORS INC.

SEPTEMBER 29, 2019



FAAN Mortgage Administrators Inc.
Proposed Trustee of the Respondents

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INTRODUCTION

1. FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**” or the “**Proposed Trustee**”) has been advised that the Law Society of Ontario (“**LSO**” or the “**Applicant**”) intends to make an application pursuant to section 49.47 of the *Law Society Act, R.S.O. 1990, c. L.8* and section 101 of the *Courts of Justice Act, R.S.O. 1990, c. C.43* seeking the appointment of FAAN Mortgage as trustee, without security, of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**SMLs**”) in projects affiliated with Fortress Real Developments Inc. and certain related entities (collectively, “**Fortress**”).
2. The purpose of this report is to provide this Honourable Court and the Respondent's stakeholders with information regarding the following, together with the Proposed Trustee's comments as appropriate:
 - (a) Background information concerning FAAN Mortgage’s involvement in Court-proceedings involving Building and Development Mortgages Canada Inc. (“**BDMC**”) (the “**BDMC Proceeding**”) in respect of SMLs that, as discussed further below, are related to the SML’s currently being administered by Sorrenti;
 - (b) FAAN Mortgage’s dealings, in its capacity as trustee (the “**BDMC Trustee**”) over all of the assets, undertakings and properties of BDMC, with Sorrenti, including an update on document production requests made to Sorrenti in respect of critical information concerning the SMLs that were previously administered by Sorrenti and currently administered by the BMDC Trustee;
 - (c) The status of a recent partial distribution that Sorrenti made to investors in a specific SML that is currently being administered by Sorrenti;

- (d) Complaints made to the BDMC Trustee by investors in SMLs administered by Sorrenti;
and
- (e) A list of SMLs, including a list of the underlying projects, that appear to be currently administered by Sorrenti.

SCOPE AND TERMS OF REFERENCE

3. In preparing this report, the Proposed Trustee has relied upon unaudited financial and other information obtained from publicly available sources and/or from, *inter alia*, the books and records of BDMC, Sorrenti, investors and/or individuals who have contacted the BDMC Trustee.
4. While the Proposed Trustee has reviewed the various information that it has obtained, the Proposed Trustee's review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Assurance Standards ("**GAAS**"), Generally Accepted Accounting Principles ("**GAAP**"), or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Proposed Trustee expresses no opinion or other form of assurance pursuant to GAAS, GAAP or IFRS, or any other guidelines, with respect to such information.
5. This report has been prepared for the use of this Court and Sorrenti's stakeholders as general information relating to the SMLs that are administered by Sorrenti and to assist the Court with respect to the LSO's application for relief. Accordingly, the reader is cautioned that this report may not be appropriate for any other purpose.
6. All references to dollars are in Canadian currency unless otherwise noted.

BACKGROUND

7. On April 20, 2018, the Superintendent of Financial Services (the “**Superintendent**”) obtained an Order under section 37 of the *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29 and section 101 of the *Court of Justice Act, R.S.O. 1990 c. C.43* appointing FAAN Mortgage as trustee over all of the assets, undertakings and properties of BDMC. A copy of the Order dated April 20, 2018 in the BDMC Proceeding (the “**Appointment Order**”) is attached hereto as **Appendix “1”**.
8. The BDMC Trustee has filed 10 reports to Court in the BDMC Proceeding. Those reports and other court materials related to the BDMC Proceeding are accessible on the BDMC Trustee’s website at www.faanmortgageadmin.com.
9. BDMC was the principal mortgage broker and administrator used in recent years by Fortress to raise initial financing through SMLs from the investing public for early stage real estate developments. Fortress and its affiliates are development consultants or borrowers with respect to various real property development projects.
10. As set out in the affidavit filed by the Superintendent in support of the Appointment Order, since 2013, BDMC has acted as mortgage administrator for approximately 60% to 70% of the development projects involving Fortress. The other 30% to 40% of SMLs that relate to Fortress projects are administered by lawyers who operate under the MBLAA’s exemption from licensing requirements applicable to lawyers.¹
11. It is the BDMC Trustee’s understanding that Derek Sorrenti, an Ontario lawyer, through his professional corporation, Sorrenti Law Professional Corporation acted as administrator with respect to a number of SMLs made in respect of Fortress related projects. Certain of these loans are still administered by Sorrenti

¹ Affidavit of Brendan Forbes Affidavit sworn April 19, 2018 (“Forbes Affidavit”), Application Record of the Superintendent of Financial Services, para 33.

(the “**Sorrenti Projects**”) and others were transferred to BDMC by Sorrenti prior to the BDMC Trustee’s involvement (the “**Transferred Projects**”). The Sorrenti Projects are not part of the BDMC Trustee’s mandate and are not subject to the BDMC Proceeding, while the Transferred Projects are part of the BDMC Trustee’s mandate and are subject to the BDMC Proceeding.²

SORRENTI DOCUMENT PRODUCTION REQUESTS

12. The Appointment Order requires, among other things, that all persons with property, funds, records, documents or information related to the business and affairs of BDMC to provide such property, funds, records, documents and information to the BDMC Trustee and to cooperate fully with the BDMC Trustee with respect to its mandate.³ Sorrenti did not comply with the BDMC Trustee’s information requests. Accordingly, as set out below, the BDMC Trustee sought and obtained an Order requiring Sorrenti to comply with the Appointment Order and to provide the Trustee with a detailed list of all information related to the Transferred Projects. A copy of the Omnibus Order in the BDMC Proceeding (including paragraphs 6 and 7 related to Sorrenti) dated May 23, 2019 is attached hereto as **Appendix “2”**. A copy of the BDMC Trustee’s Seventh Report (without appendices other than Appendix “9”), which, among other things, describes the circumstances leading up to the Omnibus Order is attached hereto as **Appendix “3”**.
13. The BDMC Trustee’s mandate requires that the BDMC Trustee understand each project and the status of each syndicated mortgage loan, to enable it to make informed decisions regarding the administration of those loans in order to protect the investors in the BDMC projects. The BDMC Trustee can only make informed decisions where it has conducted a detailed review of the relevant information, and a significant amount of relevant information was not in BDMC’s possession on the date the BDMC Trustee was

² Seventh Report of the Trustee dated May 10, 2019 (“Seventh Report”), para 135

³ Order of Justice Hailey dated April 20, 2018 (“Appointment Order”), paras 4-7

appointed. To facilitate the BDMC Trustee's discharge of its mandate, the Appointment Order (and in particular paragraphs 4 to 7 thereof) required persons with property, funds, records, documents or information related to the business and affairs of BDMC to provide such property, funds, records, documents and information to the BDMC Trustee.⁴

14. The BDMC Trustee and its counsel formally contacted Sorrenti on numerous occasions for over six months to request critical information related to the Transferred Projects. This followed several months of more informal requests for information by BDMC (at the request of the BDMC Trustee). Among other things, the BDMC Trustee has requested trust account records, full closing books for the applicable loan agreements and related transactions, diligence summaries and other relevant information. The BDMC Trustee needs access to this information to properly assess settlement offers, postponement requests and structured sale proposals with respect to the Transferred Projects and to discharge its court-ordered mandate.⁵
15. Sorrenti did not comply with the BDMC Trustee's information requests. Sorrenti advised the BDMC Trustee that staffing issues, record storage complications and other obligations delayed the delivery of the requested materials.⁶
16. The BDMC Trustee was concerned that Sorrenti had not made any material efforts to provide the BDMC Trustee's requested information. Accordingly, the BDMC Trustee advised Sorrenti that it intended to seek a production order. In response to this notice, Sorrenti contacted the BDMC Trustee to advise that he would commence providing information, including the trust account records.⁷

⁴ Appointment Order, paras 4-7; Seventh Report, para 140

⁵ Seventh Report, para 141

⁶ Seventh Report, para 142

⁷ Seventh Report, para 142

17. Sorrenti did not deliver this information. Selected copies of the BDMC Trustee's correspondence with Sorrenti are attached as Appendix 9 to the Seventh Report.
18. Accordingly, the BDMC Trustee sought and obtained an Order requiring Sorrenti to comply with the Appointment Order and to provide the BDMC Trustee with a detailed list of all information related to the Transferred Projects, along with a plan and proposed schedule for the delivery of such documents, records and information to the BDMC Trustee, within 30 days of the date of the Order.⁸
19. Sorrenti was provided with a copy of the Omnibus Order shortly after its issuance. He did not comply with the terms of the order requiring him to provide the plan and required schedule within 30 days. Sorrenti advised that staff shortages and other administrative issues made it difficult for him to comply with the BDMC Trustee's information requests.
20. In order to facilitate obtaining information from Sorrenti, the BDMC Trustee suggested that a representative of the BDMC Trustee attend at Sorrenti's office to obtain the materials it required to fulfill its mandate. The BDMC Trustee's representative attended at Sorrenti's offices on July 3, 2019 and was provided with some of the information that the BDMC Trustee had requested including certain trust account details for the Transferred Projects from Sorrenti's 'PC Law' accounting software (in excel spreadsheet format). The BDMC Trustee had requested all emails related to the Transferred Projects and copies of Sorrenti's bank statements. This information was not made available on July 3, 2019 but Sorrenti agreed that the BDMC Trustee's representative could re-attend at a later date to obtain this information.
21. The BDMCs Trustee's subsequent review of the information obtained resulted in additional inquiries as the information provided appeared incomplete including, among other things, unexplained remaining balances in the relevant PC Law accounting ledgers.

⁸ Omnibus Order

22. The BDMC Trustee requested numerous times to schedule a re-attendance at Sorrenti's office to obtain the missing information; however, Sorrenti ultimately did not permit the BDMC Trustee to re-attend at his office citing, among other things, staff shortages, solicitor-client privilege issues and that the information requested still had to be located and organized.

THE BAYVIEW PROJECT

23. As part of its motion to obtain the Omnibus Order (and as also described in the Seventh Report), the BDMC Trustee obtained the Court's authorization to sign a direction with respect to a project located at 5, 7, 9, 11 and 15 Kenaston Gardens and 577 Sheppard Ave., Toronto, known as the "**Bayview Project**". The requested direction authorizes counsel to the borrower, Pine Ridge Building Corp. ("**Pine Ridge**"), to pay approximately \$18 million to Sorrenti in respect of a syndicated mortgage loan made to Pine Ridge and administered by Sorrenti ("**Direction to Pay**").⁹
24. The BDMC Trustee had been advised that Pine Ridge required it to execute the Direction to Pay before it would distribute any funds to Sorrenti because BDMC remained the named lender that is party to the loan agreement with Pine Ridge in respect of the syndicated mortgage loan to the Bayview Project ("**Pine Ridge Loan Agreement**"). The BDMC Trustee investigated matters related to the Bayview Project. The underlying documentation related to the Bayview Project contained several inconsistencies. However, based on, among other things, an affidavit sworn by Mr. Sorrenti, the BDMC Trustee determined that Sorrenti was the acting administrator of the Pine Ridge Loan Agreement.¹⁰

⁹ Seventh Report, para 136

¹⁰ Seventh Report, paras 137-138

25. Although the Bayview Project is outside the Trustee's mandate, the BDMC Trustee brought a motion to seek relief from the Court to obtain the requested authorization in order to assist the individual SML investors in the Bayview Project in recovering at least a portion of their investment.
26. Mr. Sorrenti swore an Affidavit in connection with the Trustee's application for the Direction to Pay. In his Affidavit, Mr. Sorrenti explained that he expected approximately \$18 million to become available for repayment: "I am advised that the Initial Loan Repayment to be paid to Sorrenti pursuant to the Direction to Pay is approximately \$18,000,000.00, less mortgage administration-related expenses which will not exceed \$90,000.00 and the costs with respect to this motion which will not exceed \$25,000.00, As such, there will be an aggregate distribution of approximately \$17,885,000.00 which shall be paid to the remaining 505 Bayview Project investors / lenders pro rata in accordance with the applicable agreements between Sorrenti and each individual investor / lender".¹¹
27. Sorrenti also undertook to distribute the funds: "I confirm and undertake, that any and all funds received by Sorrenti from Pine Ridge or its lawyer William Friedman in respect of the repayment of the Loan, shall, after payment of mortgage administration-related expenses, be distributed, pro rata, to all individual investors lenders in accordance with the applicable agreements between Sorrenti and each individual investor lender."¹²
28. This order was granted by the Court on May 23, 2019. However, it appears that the distribution was not made until several months after due to, among other things, staffing issues of Sorrenti. The BDMC Trustee received from an investor a copy of a memorandum from Sorrenti dated August 12, 2019 which it understands was distributed to the Bayview Village syndicated mortgage investors. In the memorandum, Sorrenti advises that his office had recently received a significant portion of the amount due to be repaid

¹¹ Affidavit of Derek Sorrenti sworn April 25, 2019, Motion Record of the Trustee dated May 10, 2019 ("Sorrenti Affidavit") at para 21

¹² Sorrenti Affidavit at para 20

to the syndicated mortgage investors. He indicates that, for “cash”, “non-registered” or registered Olympia Trust Company investors, a cheque is provided representing their pro-rata distribution of 90.5% of the original investment amount. The BDMC Trustee notes that the memorandum does not provide a breakdown of the monies received by Sorrenti, the amount paid to all Bayview Village syndicated mortgage investors and any deductions made therefrom. In addition, the memorandum does not provide any information relating to amounts remaining with Sorrenti, if any.

29. Regarding payment of additional funds from the Bayview Project, including the balance of the principal and accrued interest, Sorrenti advises that the borrower’s lawyer indicated that payment of the balance would still take some time as the Tarion Warranty had 1.5 years remaining and the technical audit is outstanding. Sorrenti indicates that it is therefore not in a position to provide any additional information about the timing of additional principal or interest payments associated with the loan. A copy of the memorandum is attached hereto as **Appendix “4”**.
30. As discussed in paragraph 33 below, on September 26, 2019, representatives of FAAN Mortgage attended a meeting at Sorrenti’s office with the LSO, its legal counsel and Mr. Sorrenti to gain a better understanding of the various projects that are currently being administered by Sorrenti. In that meeting Mr. Sorrenti advised that due to, among others, issues he was facing in locating addresses for a significant number of investors, he was still in the process of distributing the remaining Bayview Project funds. At that meeting, Mr. Sorrenti was unable to confirm the quantum of the Bayview Projects Funds remaining in Sorrenti’s possession.

INVESTOR COMPLAINTS RE: SORRENTI ADMINISTERED PROJECTS

31. The BDMC Proceeding has been the subject of numerous court hearings and has received significant media coverage as have issues regarding Fortress generally. As a result, the BDMC Trustee has received numerous inquiries from investors in Fortress projects, including the Sorrenti Projects. It has become clear to the BDMC Trustee that there is confusion among the Fortress syndicated mortgage lenders as to whether or not their investment is covered by the BDMC Proceeding. Part of that confusion can be explained by the fact that many investors made loans with respect to both BDMC projects and Sorrenti Projects. As a result, despite the Sorrenti Projects not being part of its mandate, the BDMC Trustee is frequently contacted by investors on projects for which Sorrenti is the administrator, including some of the investors in the Bayview Project described above.
32. By way of example, on August 16, 2019, the Trustee received an email from an investor attaching an email exchange with Sorrenti in relation to an investment. In response to the investor's email requesting an update about the Sutton Drive project, Sorrenti responded that his office "simply does not have the capacity to deal with the volume of calls and drop ins we receive from investors in many Fortress syndicated mortgages each and every day...Obviously, this is an untenable situation to which no one has been able to provide a solution". A copy of the email exchange (redacted to protect investor privacy) is attached hereto as **Appendix "5"**.

SORRENTI PROJECTS

33. Based on information in its possession, information obtained from publicly available sources, and a meeting amongst representatives of the LSO, LSO legal counsel, FAAN Mortgage and Mr. Sorrenti on September 26, 2019, FAAN Mortgage has prepared a list of the current underlying projects that were funded by SMLs and are currently administered by Sorrenti, which is set out below. FAAN Mortgage

notes that the list may not be complete and only lists those SMLs that appear to be active; however, it has prepared the list to assist the investors in identifying the SMLs currently administered by Sorrenti.

| | Project Name(s) | Street Address of Lands | Borrower Name(s) |
|-----|-----------------------------------|---|---|
| 1. | Gotham | 324, 326, 328 Gloucester St & 226 Lyon St., Ottawa, Ontario | Bel Ottawa Inc. |
| 2. | Harmony Village Shepard | 3260 Sheppard Avenue East, Scarborough, Ontario | Harmony Village-Sheppard Inc. |
| 3. | Mapleview Commons | 9891 & 9869 Keele St. Vaughan, Ontario | Empire Pace (Maple) Ltd. |
| 4. | Progress Manors | 1088 Progress Avenue, Scarborough, Ontario | Empire Pace (1088) Progress Ltd. |
| 5. | Residences of Bayview/Lotus | 5,7,9,11,15 Kenaston & 577 Sheppard Avenue East, Toronto Ontario | Pine Ridge Building Corp. |
| 6. | Soba | 203 Catherine Street Ottawa, Ontario | Soba Ottawa Inc. |
| 7. | Solotex/Victoria Park Place | 1650-1682 Victoria Park Avenue, Toronto, Ontario | 1682 Victoria Park Avenue Inc. |
| 8. | The Sutton/The Link | 5236,5226,5218,5210 Dundas Street, 2500 Burloak Drive, Burlington, Ontario | ADI Development Sutton Inc., ADI Developments (LINK) Inc. |
| 9. | Wismer/Eldin | Block 27, Plan 65M 4071 Markham, Ontario | 1839314 Ontario Inc. Name Changed to: Pace Developments (The Mark) Inc. Great Eldin Investments |
| 10. | Unionvillas/Uptowns of Unionville | 4116, 4128, & 4142 Highway 7 East, on the north side of Highway 7, east of Birchmount Road, Ontario | Sunrise Acquisitions (Hwy 7) Inc. |

34. While FAAN Mortgage has some knowledge with respect to the status of these projects based on the meeting with Mr. Sorrenti and from other sources, it does not have sufficient details to comment on their viability or specific details of their status at this time.

CONCLUSION

35. FAAN Mortgage understands that the Law Society of Ontario brings this Application to appoint FAAN Mortgage as the trustee for the purposes of administering the Sorrenti Projects. FAAN Mortgage is a licensed mortgage administrator pursuant to the *Mortgage Brokerages, Lenders, and Administrators Act, 2006*. Furthermore, FAAN Mortgage believes that the knowledge it has gained and the processes it has

implemented in its capacity as the BDMC Trustee will assist in making this proceeding streamlined and efficient. FAAN Mortgage therefore has consented to acting as the trustee in this capacity and has reviewed the Law Society's proposed Order in this Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of September, 2019.

FAAN Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.,
SOLEY IN ITS CAPACITY AS PROPOSED TRUSTEE
AND NOT IN ITS PERSONAL OR ANY OTHER CAPACITY**

TAB 4

Appendix 4:

Law Society Tribunal Order dated February 19, 2020



File No.: 20H-007

**LAW SOCIETY TRIBUNAL
HEARING DIVISION**

David A. Wright (Chair)

February 19, 2020

BETWEEN:

Law Society of Ontario

Applicant

and

Derek Francesco Sorrenti and Sorrenti Law Professional Corporation

Respondents

ORDER – MOTION

In this proceeding concerning Derek Francesco Sorrenti, 1999, of Vaughan, and Sorrenti Law Professional Corporation, the panel considered the respondents' motion for:

- an adjournment of the hearing scheduled for February 20, 2020.

The panel orders:

1. The hearing is adjourned on the following term.
2. On an interim interlocutory basis, the respondents shall not practise law except in accordance with the following restrictions:
 - a. The respondents shall not in engage in the practice of mortgage administration in syndicated mortgage loans/investments or act as trustee in respect of syndicated mortgage loans/investments.
 - b. The respondents shall not engage, directly or indirectly, including by instructing another lawyer or non-lawyer or by providing legal services or advice or by registering instruments, in the practice of law in relation to major development proposals known as syndicated mortgage investments.

David A. Wright

TAB 5

Appendix 5:

Sorrenti SML Project Analysis Summary as of March 4, 2020

Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business

Summary of Project Status as at March 4, 2020

(Unaudited)

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of March 4, 2020.

The Trustee has not audited, reviewed or fully verified the accuracy or completeness of the information contained herein or any assumptions in respect thereof.

| | |
|---|--|
| LEGEND: Pre-construction Construction Completed Exited | Rezoning and development approvals are submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced. Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction. Construction is complete, and assets remain to be realized. All of the assets have been sold or the loan has been paid in full or in part, and the Sorrenti mortgage(s) has been discharged. |
|---|--|

| No. | Project Name | Number of Investors | Status | Capital Stack (see note 2) | Maturity Date | Project | Enforcement Proceeding |
|-----|------------------------------------|---------------------|------------------|--|--|---|--|
| 1 | Gotham | 145 | Exited | N/A | July 5, 2014 (extend date July 5, 2015) MATURED. | Completed condominium tower in Ottawa. Investors were repaid approximately 85% of their principal investment in 2016 from an inventory loan obtained by the borrower. The borrower and the Trustee agreed to a settlement of the outstanding balance in December, 2019 and the settlement was approved by the Court on January 30, 2020. The Gotham settlement resulted in the Trustee collecting all of the remaining principal due in respect of the Gotham syndicated mortgage loan ("SML") and a portion of the outstanding accrued interest. | n/a |
| 2 | Harmony Village - Sheppard ("HVS") | 542 | Exited | Sorrenti - \$9.4M* *remaining principal balance net of partial principal repayment of approximately \$19.5M in 2017. | November 15, 2016 (extend date May 15, 2018) MATURED. | n/a | Property was sold pursuant to a receivership in 2016 and the HVS SML was discharged from title. The HVS Receiver distributed \$19.5M to Sorrenti for Investors, which represents a return of approximately 67% of the original principal advanced under the SML. The HVS Receiver made a further distribution to the Trustee of \$1.06M in October, 2019 and a final nominal amount may be distributed to the Trustee later in 2020. |
| 3 | Mapleview Commons (Julien Court) | 155 | Construction | 1st: MarshallZehr Group Inc. (" MarshallZehr ") and Firm Capital Mortgage Funding Inc. \$13.5M (as at November 30, 2019) 2nd: Sorrenti Original \$6M 3rd: Sorrenti 3rd \$2.1M | Original: July 16, 2015 (extend date January 16, 2016) MATURED. 3rd: May 1, 2017 (extend date May 1, 2018) MATURED. | Project is a 16-unit low rise development in the GTA. Construction is nearing completion and marketing of the units is expected to commence early in 2020. | n/a |
| 4 | Progress Manors (TEN88) | 364 | Pre-construction | 1st: Cameron Stephens Financial Corporation - \$7M 2nd: Sorrenti \$17.3M | February 10, 2016 MATURED. | The project is a development located at 1088 Progress Avenue in Toronto. The first phase of the project has been built and comprised 105 stacked townhomes, which have been sold and closed. Phase two is currently in pre-development and is planned to include both residential and commercial units. | n/a |

Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of March 4, 2020.

Summary of Project Status as at March 4, 2020

The Trustee has not audited, reviewed or fully verified the accuracy or completeness of the information contained herein or any assumptions in respect thereof.

(Unaudited)

| | |
|---|--|
| LEGEND: Pre-construction Construction Completed Exited | Rezoning and development approvals are submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced. Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction. Construction is complete, and assets remain to be realized. All of the assets have been sold or the loan has been paid in full or in part, and the Sorrenti mortgage(s) has been discharged. |
|---|--|

| No. | Project Name | Number of Investors | Status | Capital Stack (see note 2) | Maturity Date | Project | Enforcement Proceeding |
|-----|---|---------------------|------------------|---|--|---|---|
| 5 | Residences of Bayview (Lotus) | 504 | Exited | Sorrenti \$1.9M* *Net of partial principal repayment of approximately \$18M received by Sorrenti in 2019. | May 31, 2016 (extend date May 31, 2017) Matured. | The project is a 234 unit condominium located in Toronto, which has registered and the Sorrenti SML has been discharged. The borrower repaid \$18M or approximately 90% of the principal advanced under this loan. No unsold units remain and the borrower is realizing on sundry assets. | n/a |
| 6 | Soba | 188 | Construction | 1st: MCAP Financial Corporation \$57M 2nd: Duca Financial Services Credit Union Ltd. \$6.985M 3rd: Aviva Insurance Company of Canada ("Aviva") \$13M 4th: BJI Properties \$10.9M 5th: Sorrenti 2 \$10.3M | Sorrenti 2nd: January 2, 2017 (extend date January 2, 2018) Matured. | The project is a 209 unit condominium located in Ottawa, which is nearing completion. The condominium is expected to register in 2020 and 32 units remain unsold. The borrower has indicated that it is projecting to incur significant losses on the project. | n/a |
| 7 | Victoria Park Place (Solotex) | 282 | Pre-construction | 1st: CMLS Financial Ltd. \$7.5M 2nd: Findev Inc. \$5.6M 3rd: Sorrenti \$12.6M | November 1, 2016 (extend date November 1, 2017) Matured. | The property comprises 1.9 acres on Victoria Park Avenue in Toronto ("Property"). The site is approved for the development of 147 stacked townhouse units. | Findev Inc., the second priority mortgagee, issued a s.244 Notice on December 3, 2019, a Notice of Sale Under Mortgage on December 23, 2019 and recently advised that it appointed a private receiver to sell the Property. |
| 8 | The Sutton (Link Condos + Towns) | 456 | Completed | 1st: Aviva \$16M (charge amount) 2nd: Sorrenti Original \$11.6M 3rd: Sorrenti 3rd \$8M | Original: October 4, 2015 Matured. 3rd: April 4, 2016 Matured. | Project consists of 4 low rise condominiums and approximately 13,300 of ground floor commercial space located in Burlington, Ontario. The project is nearing completion. All residential units have been sold and closed. 12 Commercial units, 4 locker units and 2 parking spaces remain unsold. | n/a |
| 9 | Wismer3 (The Mark, Mount Joy and Eldin) | 108 | Completed | 1st: MarshallZehr \$19M 2nd: Aviva \$13.5M 3rd: Sorrenti (Wismer 3) \$3.8M 4th: Sorrenti (Eldin) \$2.8M | (Wismer 3) December 15, 2013 Matured. (Eldin) November 1, 2014 Matured. | Project consists of 1 condominium tower (The Mark) and 46 townhomes (Mount Joy) located in Markham, Ontario. The Mount Joy phase commenced in 2012 and was completed in 2014. The Trustee understands that there were no amounts paid to Sorrenti from this phase. Construction of The Mark was completed in 2019, and there were no amounts paid to Sorrenti from closings completed to date. Certain units remain unsold. MarshallZehr, the priority lender on this project, has advised the Trustee that it is anticipating a shortfall in respect of its remaining loan balance; accordingly, the Trustee's current understanding is that there is unlikely to be any recovery from the project for the Sorrenti SMLs. The Trustee is aware that (i) the project partners and construction manager are in the midst of litigation involving the project and (ii) an Inspector has been appointed to investigate the affairs of the borrower and to report to the Court on its findings. | n/a |

Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business
 Summary of Project Status as at March 4, 2020
 (Unaudited)

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of March 4, 2020.
 The Trustee has not audited, reviewed or fully verified the accuracy or completeness of the information contained herein or any assumptions in respect thereof.

| | |
|---|--|
| LEGEND: Pre-construction Construction Completed Exited | Rezoning and development approvals are submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced. Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction. Construction is complete, and assets remain to be realized. All of the assets have been sold or the loan has been paid in full or in part, and the Sorrenti mortgage(s) has been discharged. |
|---|--|

| No. | Project Name | Number of Investors | Status | Capital Stack (see note 2) | Maturity Date | Project | Enforcement Proceeding |
|-----|-------------------------------------|---------------------|--------------|---|---------------------------------|---|------------------------|
| 10 | Unionvillas (Uptowns of Unionville) | 145 | Construction | 1st: Kingsett Mortgage Corporation ("Kingsett") \$32M (original charge) 2nd: Kingsett \$5.5M (original charge) (*Approximately \$7.6M owing under both Kingsett charges at January 24, 2020) 3rd: Sorrenti \$8M | August 20, 2017 Matured. | 52 - unit townhouse development in Markham, Ontario. 10 units remaining to close in 2020. | n/a |

TAB 6

Appendix 6:

Promissory Note Notice



[DATE]

[NAME OF FORTRESS P-NOTE INVESTOR]

Re: Syndicated Mortgage Loans administered by Derek Sorrenti or Sorrenti Law Professional Corporation

On September 30, 2019, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) (the “**Appointment Order**”), FAAN Mortgage Administrators Inc. was appointed as trustee (in such capacity, the “**Trustee**”) of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Professional Law Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**Sorrenti SMLs**”) in projects affiliated with in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates, and any entity under common control with FRDI (collectively, “**Fortress**”) (the “**SML Administration Business**”). The Trustee’s appointment resulted from an application made by the Law Society of Ontario under Section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, each as amended.

The purpose of this notice is to address certain inquiries that the Trustee is receiving from individual investors (“**Fortress P-Note Investors**”) that advanced funds to certain Fortress entities (“**Fortress P-Note Lenders**”) by way of promissory notes (“**Promissory Notes**”) for investment in real estate development projects that were already being used as collateral to secure certain of the Sorrenti SMLs.

Fortress P-Note Investors

Based on the information available to the Trustee with respect to the SML Administration Business, the Trustee understands that the Fortress P-Note Investors loaned amounts totaling approximately \$7.6 million in connection with (a) the development of a 242-unit condominium tower in Ottawa, Ontario (the “**Gotham Project**”) involving Bel-Ottawa Inc., (b) the development of a project consisting of one 220-unit condominium tower and 44 townhomes located in Markham, Ontario (collectively, the “**Wismer Project**”) involving 1839314 Ontario Inc. (now known as Pace Developments (The Mark) Ltd.) and Great Eldin Investments Ltd., and (c) the development of a 210-unit condominium located in Ottawa, Ontario (the “**Soba Project**”) involving Soba Ottawa Inc.

Based upon a review of the applicable land title registries, it appears that the certain of the Fortress P-Note Lenders registered a charge on title and that such charges were registered on title subsequent to the charges registered by Sorrenti in respect of the Sorrenti SMLs.

The Trustee has received several inquiries from Fortress P-Note Investors regarding the status of their Promissory Note investments and has been advised by certain of those investors that they have not received substantive or timely updates or communications from the applicable Fortress P-Note Lender.

The Trustee notes that the Appointment Order provides for an appointment solely with respect to the Sorrenti SMLs and the SML Administration Business. Accordingly, the Trustee is not appointed



to represent the interests of the Fortress P-Note Investors, except to the extent that any such investors are also an investor in a Sorrenti SML.

You may access Court materials and other information related to the Sorrenti proceedings, including the Appointment Order, at: www.faanmortgageadmin.com.

Yours very truly,

**FAAN MORTGAGE ADMINISTRATORS INC.,
SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION
IN RESPECT OF THE SYNDICATED MORTGAGE LOAN
ADMINISTRATION BUSINESS, AND NOT IN ITS PERSONAL OR ANY OTHER CAPACITY**

TAB 7

Appendix 7:

Trustee's Notice to Investors dated October 4, 2019



October 4, 2019

NOTICE TO INVESTORS IN SYNDICATED MORTGAGE LOANS ADMINISTERED BY SORRENTI

Re: Your loan in a Syndicated Mortgage Loan administered by Derek Sorrenti or Sorrenti Law Professional Corporation

We are writing to inform you that, on September 30, 2019, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) (the “**Appointment Order**”), FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”) was appointed as trustee (the “**Trustee**”) over all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**Sorrenti SMLs**”) in projects affiliated with Fortress Real Developments Inc. and certain related entities. The Trustee’s appointment resulted from an application made by the Law Society of Ontario under Section 49.47 of the *Law Society Act, R.S.O. 1990. c. L.8*, and section 101 of the *Courts of Justice Act*, as amended.

Pursuant to the terms of the Appointment Order, the Trustee will assume responsibility for the management of all administration duties in connection with the Sorrenti SMLs. Attached to this notice as Schedule “A” is a listing of the active Sorrenti SMLs presently known to the Trustee. This listing may be amended from time to time based on additional information obtained by the Trustee.

The administration duties to be managed by the Trustee include (i) collecting funds from borrowers; (ii) remitting payments to investors; (iii) reviewing and communicating with investors regarding any borrower requests for an extension to the dates established in the Sorrenti SMLs; (iv) reviewing and communicating with investors regarding any borrower requests for a subordination of a Sorrenti SML; (v) if necessary, taking enforcement action where a SML is in default; and (vi) reporting to Court.

FAAN Mortgage is a licensed mortgage administrator under Ontario’s *Mortgage Brokerages, Lenders, and Administrators Act, 2006, Licence # 12995*.

You may access Court materials related to these proceedings, including the Appointment Order and future updates regarding the Sorrenti SMLs, at: www.faanmortgageadmin.com.

The Appointment Order and the Trustee’s mandate thereunder does not pertain to any portion of Sorrenti’s law practice that does not relate to the administration of the Sorrenti SMLs. The Law Society will be assisting FAAN Mortgage with identifying the materials in Sorrenti’s possession that relate to the administration of the Sorrenti SMLs. If you have inquiries regarding the law practice of Sorrenti that do not involve the Sorrenti SMLs you should contact Mr. Sorrenti.

The Trustee requests that each Sorrenti SML investor send an email to info@faanmortgageadmin.com to confirm your current email address, mailing address and telephone contact information. If you do not have access to email, please contact us at the toll-free telephone number below to make alternative arrangements for the exchange of information.

The Appointment Order also appointed Chaitons LLP as representative counsel (“**Representative Counsel**”) for all investors in respect of these proceedings regarding their common interests, including where such investments are held through RRSPs or other registered accounts or funds, unless and until written notice is provided by a particular investor to Representative Counsel that such investor does not wish to be represented by Representative Counsel. If you do not wish to be represented by Representative Counsel, you may opt-out of the group in accordance with Paragraph 23 of the Appointment Order by completing the form attached hereto as Schedule “B”. You can contact Representative Counsel by email at sorrentiinvestors@chaitons.com or by telephone at: 1-833-777-0037.

Should you have any questions regarding these proceedings or the Sorrenti SMLs, please refer to the frequently asked questions posted on the Trustee’s website or contact the Trustee at the following email address and telephone number:

Email: **Info@FAANMortgageAdmin.com**
Toll-Free Telephone Number: **1-833-495-3338**

Yours truly,

Faan Mortgage Administrators Inc.

**FAAN Mortgage Administrators Inc.
solely in its capacity as Court-Appointed Trustee
of the Syndicated Mortgage Loan Administration practice of
Derek Sorrenti or Sorrenti Law Professional Corporation
and in no other capacity**

Schedule “A”

| Project Name(s) | Street Address of Lands | Borrower Name(s) |
|-----------------------------------|---|---|
| Gotham | 324, 326, 328 Gloucester St & 226 Lyon St., Ottawa, Ontario | Bel Ottawa Inc. |
| Harmony Village Sheppard | 3260 Sheppard Avenue East, Scarborough, Ontario | Harmony Village-Sheppard Inc. |
| Mapleview Commons | 9891 & 9869 Keele Street, Vaughan, Ontario | Empire Pace (Maple) Ltd. |
| Progress Manors | 1088 Progress Avenue, Scarborough, Ontario | Empire Pace (1088 Progress) Ltd. |
| Residences of Bayview/Lotus | 5,7,9,11,15 Kenaston & 577 Sheppard Avenue East, Toronto Ontario | Pine Ridge Building Corp. |
| Soba | 203 Catherine Street Ottawa, Ontario | Soba Ottawa Inc. |
| Solotex/Victoria Park Place | 1650-1682 Victoria Park Avenue, Toronto, Ontario | 1682 Victoria Park Avenue Inc. |
| The Sutton/The Link | 5236,5226,5218,5210 Dundas Street, 2500 Burloak Drive, Burlington, Ontario | ADI Development Sutton Inc., ADI Developments (LINK) Inc. |
| Wismer/Eldin | Block 27, Plan 65M 4071 Markham, Ontario | 1839314 Ontario Inc. Name Changed to: Pace Developments (The Mark) Inc. Great Eldin Investments |
| Unionvillas/Uptowns of Unionville | 4116, 4128, & 4142 Highway 7 East, on the north side of Highway 7, east of Birchmount Road, Ontario | Sunrise Acquisitions (Hwy 7) Inc. |

Schedule “B”

Court File No. CV-19-628528-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents**OPT-OUT FORM**

TO: Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9
Email: sorrentiinvestors.com

I, _____, am an Investor as defined in the Order dated September 30, 2019 (the “Appointment Order”) granted by the Ontario Superior Court of Justice (Commercial List) in this proceeding, in that I invested the sum of \$_____ with respect to the project known as _____ administered by Derek Sorrenti and/or Sorrenti Law Professional Corporation.

Under Paragraph 23 of the Appointment Order, investors who do not wish Chaitons LLP to act as their representative counsel may opt out.

I hereby notify you that I wish to exercise my option to opt out of representation by Chaitons LLP under the Appointment Order and will be represented as an independent individual party at my own expense to the extent I wish to appear or participate in this proceeding.

Date

Print Name:

TAB 8

Appendix 8:**Trustee's Notice to Investors dated December 2, 2019**



December 2, 2019

Dear Lender,

Re: Your loan in a Syndicated Mortgage Loan administered by Derek Sorrenti or Sorrenti Law Professional Corporation

As you are aware, on September 30, 2019, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) (the “**Appointment Order**”), FAAN Mortgage Administrators Inc. was appointed as trustee (in such capacity, the “**Trustee**”) of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**Sorrenti SMLs**”) in projects affiliated with Fortress Real Developments Inc. and certain related entities. The Trustee’s appointment resulted from an application made by the Law Society of Ontario under Section 49.47 of the *Law Society Act, R.S.O. 1990. c. L.8*, and section 101 of the *Courts of Justice Act*, each as amended. The Appointment Order also appointed Chaitons LLP as representative counsel to persons who made loans through the Sorrenti SMLs.

Attached to this notice as Schedule “A” is a listing of the active Sorrenti SMLs presently known to the Trustee. This listing may be amended from time to time based on additional information obtained by the Trustee.

The purpose of this notice is to provide an update further to our notice dated October 4, 2019. Pursuant to the terms of the Appointment Order, the Trustee has assumed the administration duties in connection with the Sorrenti SMLs. Since its appointment, the Trustee has, among other things: (i) obtained control of Sorrenti’s trust bank account used for the administration of the Sorrenti SMLs; (ii) made contact with the borrowers of the Sorrenti SMLs to obtain information about the status of, and planned next steps for, the related projects; (iii) reviewed steps taken by Sorrenti in respect of the Sorrenti SMLs during the period prior to the Trustee’s appointment; and (iv) reviewed borrower requests for partial discharges on residential property sale closings and, where appropriate and subject to certain terms imposed by the Trustee, provided same.

The Trustee’s current intention is to provide a comprehensive update to the Court and other stakeholders in a report that the Trustee expects to file with the Court in early 2020, which will, among other things, provide an update on the status of the Sorrenti SMLs, summarize the Trustee’s activities to such date, and provide support for any relief to be requested by the Trustee at that time.

You may access Court materials and other information related to these proceedings, including the Appointment Order and future updates regarding the Sorrenti SMLs, at: www.faanmortgageadmin.com.

Should you have any questions regarding these proceedings or the Sorrenti SMLs, please refer to the frequently asked questions posted on the Trustee's website or contact the Trustee at the following email address and telephone number (if you are contacting us by email, please use the subject line **Sorrenti Appointment**):

Email: **Info@FAANMortgageAdmin.com**
Toll-Free Telephone Number: **1-833-495-3338**

Should you wish to contact Representative Counsel, their contact information is below:

Email: **Sorrentiinvestors@chaitons.com**
Toll-Free Telephone Number: **1-833-777-0037**

Yours truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE
OF THE SYNDICATED MORTGAGE LOAN ADMINISTRATION PRACTICE OF
DEREK SORRENTI OR SORRENTI LAW PROFESSIONAL CORPORATION
AND IN NO OTHER CAPACITY**

Schedule “A”

| Project Name(s) | Street Address of Lands | Borrower Name(s) |
|-----------------------------------|---|---|
| Gotham | 324, 326, 328 Gloucester St & 226 Lyon St., Ottawa, Ontario | Bel Ottawa Inc. |
| Harmony Village Sheppard | 3260 Sheppard Avenue East, Scarborough, Ontario | Harmony Village-Sheppard Inc. |
| Mapleview Commons | 9891 & 9869 Keele Street, Vaughan, Ontario | Empire Pace (Maple) Ltd. |
| Progress Manors | 1088 Progress Avenue, Scarborough, Ontario | Empire Pace (1088 Progress) Ltd. |
| Residences of Bayview/Lotus | 5,7,9,11,15 Kenaston & 577 Sheppard Avenue East, Toronto Ontario | Pine Ridge Building Corp. |
| Soba | 203 Catherine Street Ottawa, Ontario | Soba Ottawa Inc. |
| Solotex/Victoria Park Place | 1650-1682 Victoria Park Avenue, Toronto, Ontario | 1682 Victoria Park Avenue Inc. |
| The Sutton/The Link | 5236,5226,5218,5210 Dundas Street, 2500 Burloak Drive, Burlington, Ontario | ADI Development Sutton Inc., ADI Developments (LINK) Inc. |
| Wismer/Eldin | Block 27, Plan 65M 4071 Markham, Ontario | 1839314 Ontario Inc. Name Changed to: Pace Developments (The Mark) Inc. Great Eldin Investments |
| Unionvillas/Uptowns of Unionville | 4116, 4128, & 4142 Highway 7 East, on the north side of Highway 7, east of Birchmount Road, Ontario | Sunrise Acquisitions (Hwy 7) Inc. |

TAB 9

Appendix 9:

**Trustee's Notice to Certain Bayview Investors dated
December 2, 2019**



December 2, 2019

NOTICE TO CERTAIN INVESTORS IN RESIDENCES OF BAYVIEW/LOTUS SYNDICATED MORTGAGE LOAN ADMINISTERED BY SORRENTI (“BAYVIEW SMLs”)

Re: Syndicated Mortgage Loan (the “Bayview Loan”) made to Pine Ridge Building Corp. (“Borrower”), pursuant to a loan agreement dated June 14, 2013 (“Bayview SML Agreement”) regarding the property located at 5, 7, 9, 11 & 15 Kenaston & 577 Sheppard Avenue East, Toronto, Ontario (the “Bayview Project”).

As you are aware, on September 30, 2019, pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”) was appointed as trustee (in such capacity, the “**Trustee**”) of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (the “**Sorrenti SMLs**”) in projects affiliated with Fortress Real Developments Inc. and certain related entities. The Trustee’s appointment resulted from an application made by the Law Society of Ontario under Section 49.47 of the *Law Society Act, R.S.O. 1990. c. L.8*, and section 101 of the *Courts of Justice Act*, each as amended. The Appointment Order also appointed Chaitons LLP as representative counsel to persons who made loans through the Sorrenti SMLs (“**Representative Counsel**”).

We are writing to you in our capacity as Trustee regarding the syndicated mortgage loan made by you to the Borrower in respect of the Bayview Project.

On May 23, 2019, FAAN Mortgage appeared before the Court in its capacity as trustee (in such capacity, the “**BDMC Trustee**”) of Building & Development Mortgages Canada Inc. (“**BDMC**”) seeking an order of the Court in separate court proceedings related to BDMC that would, among other things, authorize the BDMC Trustee to execute a direction authorizing the Borrower’s legal counsel to pay approximately \$18 million (the “**Bayview Funds**”) to Sorrenti in respect of the Bayview Loan (the “**Direction to Pay**”). The Court granted the requested Order and the BDMC Trustee subsequently executed the Direction to Pay. On June 25, 2019 Sorrenti received the Bayview Funds.

In late August, 2019, Sorrenti commenced distributing the Bayview Funds to certain of the Bayview SMLs; however, a portion of the Bayview Funds had not yet been distributed by Sorrenti as of the date of the Appointment Order. Sorrenti advised that it was unable to complete the distribution as it did not have updated contact information for certain of the Bayview SMLs (the “**Remaining Bayview SMLs**”).

As of the date of the Appointment Order, the distribution to you of your portion of the Bayview Funds had not been made by Sorrenti, or the cheque sent to you by Sorrenti had not yet cleared Sorrenti’s bank account.

Pursuant to the terms of the Appointment Order and in particular, paragraph 14 thereof, the Trustee is required to hold, until further order of the Court, all funds from the Sorrenti SML administration business in its possession or that may come into its possession, which includes the remainder of the Bayview Funds.

The Trustee's current intention is to report to the Court and other stakeholders regarding this matter in early 2020 and to recommend to the Court that the Trustee be authorized to distribute the remaining Bayview Funds, subject to an initial administrative holdback in an amount to be approved by the Court.

Should circumstances permit, the Trustee's current intention (if possible) is to ultimately effect repayment of the initial administrative holdback to the Remaining Bayview SMLs on a pro rata basis over time and subject only to a deduction for the cost of the specific time and related expenses to be spent by the Trustee and its counsel to effect the distribution of the remaining Bayview Funds and to continue to administer the Bayview Loan. At this time, the certainty and timing of any such repayment is not known.

You may access Court materials and other information related to these proceedings, including the Appointment Order and future updates regarding the Sorrenti SMLs, at: www.faanmortgageadmin.com.

Should you have any questions regarding these proceedings or the Bayview Loan, please refer to the frequently asked questions posted on the Trustee's website or contact the Trustee at the following email address and telephone number (if you are contacting us by email, please use the subject line **Bayview**):

Email: **Info@FAANMortgageAdmin.com**
Toll-Free Telephone Number: **1-833-495-3338**

Should you wish to contact Representative Counsel, their contact information is below:

Email: **Sorrentiinvestors@chaitons.com**
Toll-Free Telephone Number: **1-833-777-0037**

Yours truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE
OF THE SYNDICATED MORTGAGE LOAN ADMINISTRATION PRACTICE OF
DEREK SORRENTI OR SORRENTI LAW PROFESSIONAL CORPORATION
AND IN NO OTHER CAPACITY**

TAB 10

Appendix 10:

Trustee's First Report to Court dated January 22, 2020 (without appendices)

Court File No. CV-19-628258-00CL

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

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE LAW SOCIETY ACT, R.S.O. 1990. C. L.8
AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C. 43**

FIRST REPORT OF THE TRUSTEE

JANUARY 22, 2020



FAAN Mortgage Administrators Inc.
Court-Appointed Trustee of the
Respondents in respect of the Syndicated
Mortgage Loan Administration Business

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| Appendix 2 | Affidavit of Nadia Musclow sworn on September 30, 2019 (without exhibits) |
| Appendix 3 | Gotham Feedback Request dated January 7, 2020 |
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Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, C. L.8 AND SECTION 101 OF
THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43

FIRST REPORT OF THE TRUSTEE

January 22, 2020

INTRODUCTION

1. On September 30, 2019, pursuant to an order (“**Appointment Order**”) of the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (“**Court**”), FAAN Mortgage Administrators Inc. was appointed as trustee (“**Trustee**”) over all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans (“**Sorrenti SMLs**”) in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates, and any entity under common control with FRDI (collectively, “**Fortress**”) (“**SML Administration Business**”), including, without limitation, all of the assets in the possession or under the control of Sorrenti, its counsel (if any), agents and/or assignees relating to the SML Administration Business but held on behalf of any other party, including, but not limited to, lenders under any Sorrenti SML (“**Investors**”), brokers, or

borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively referred to as “**Property**”). The Trustee’s appointment resulted from an application made by the Law Society of Ontario (“**LSO**”) under Section 49.47 of the *Law Society Act, R.S.O. 1990. c. L.8*, as amended (“**Law Society Act**”), and section 101 of the *Courts of Justice Act, R.S.O. 1990, C. C. 4, as amended*. Mr. Sorrenti consented to the Trustee’s appointment. A copy of the Appointment Order is attached as **Appendix “1”**.

2. In addition to appointing the Trustee, the Appointment Order, *inter alia*:
 - (a) empowered and authorized the Trustee to, among other things:
 - (i) take possession and control of the Property and all proceeds, receipts and disbursements arising out of or from the Property;
 - (ii) receive, preserve, protect and maintain control of the Property, including but not limited to, the holding of mortgage security in trust and administering of the mortgages;
 - (iii) manage, operate, and carry on the SML Administration Business;
 - (iv) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time to assist with the exercise of the Trustee’s powers and duties;
 - (v) receive and collect all monies and amounts now owed or hereafter owing to Sorrenti in connection with the SML Administration Business and to exercise all remedies of Sorrenti in collecting such monies;
 - (vi) settle, extend or compromise any indebtedness owing to Sorrenti in connection with the SML Administration Business;
 - (vii) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;

- (viii) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business; and
 - (ix) restructure the Property in a manner that the Trustee consider reasonable;
- (b) appointed Chaitons LLP as representative counsel (“**Representative Counsel**”) to represent the collective interests of the Investors under the Sorrenti SMLs;
- (c) established certain interim stabilization measures that require the Trustee to:
 - (i) hold, until further Order of the Court, in a separate account all: (1) funds from the SML Administration Business that were in Sorrenti’s possession, or that may come into Sorrenti or the Trustee’s possession, in each case as a result of a repayment (in whole or in part) of principal on any Sorrenti SML, whether or not (i) secured by any real property charges, (ii) received before or after the date of the Appointment Order, or (iii) paid or payable in trust, plus (2) all interest paid or payable to Sorrenti or the Trustee in connection with the SML Administration Business at the time such repayment (in whole or in part) of principal is made (collectively “**Realized Property**”) and report to the Court with a recommendation regarding next steps with respect to the Realized Property; and
 - (ii) hold in a separate account all funds (other than Realized Property) that were in Sorrenti’s possession on or prior to the date of the Appointment Order as well as any amounts (other than Realized Property) paid or payable to Sorrenti or the Trustee after the date of the Appointment Order, including in respect of interest where principal is not repaid, fees, expenses or other amounts, (collectively “**Estate Property**”) and use such Estate Property as set out in the Appointment Order, including to pay operating and professional costs associated with the SML Administration Business. (Realized Property and Estate Property are both included

within the definition of "Property" as set out in the Appointment Order).

- (d) ordered that, with the exception of any ongoing, pending or future regulatory proceedings by the LSO under the *Law Society Act*: (1) no proceeding against or in respect of Sorrenti in connection with the SML Administration Business, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of the Court; and (2) any and all proceedings currently under way against or in respect of any of the SML Administration Business or the Property are stayed and suspended pending further Order of the Court;
 - (e) provided the Trustee and its counsel with a first ranking charge on the Property ("**Trustee's Charge**") to secure their reasonable fees and disbursements in connection with the Trustee's mandate under the Appointment Order; and
 - (f) provided Representative Counsel with a charge on the Property ranking immediately subordinate to the Trustee's Charge to secure its reasonable fees and disbursements in connection with its mandate under the Appointment Order;
3. The affidavit of Nadia Musclow, Manager, Trustee Services of the LSO, sworn on September 30, 2019, was filed in connection with the LSO's application for the Appointment Order ("**Musclow Affidavit**"). The Musclow Affidavit contains background information regarding Sorrenti and the SML Administration Business. A copy of the Musclow Affidavit is attached as **Appendix "2"** (without exhibits).

PURPOSE OF THE FIRST REPORT

4. The purpose of this report ("**First Report**") is to provide the Court and stakeholders with the Trustee's recommendation regarding the Gotham Project (as defined below) based on Investor feedback, and to support the Trustee's request for an Order ("**Gotham Settlement Approval Order**") that, among other things:
- (a) (i) approves the Settlement Agreement ("**Gotham Settlement Agreement**"), including the late payment fee contemplated by Section 4 thereof, if any ("**Late Payment Fee**"), among Bel-Ottawa Inc. ("**Gotham**

Borrower”), Olympia Trust Company (“**OTC**”), and the Trustee, with such minor amendments as the Trustee and the other parties to the Gotham Settlement Agreement may agree upon to permit the completion of the transaction contemplated thereby; (ii) directs the Gotham Borrower to pay \$1,420,590 forthwith to the Trustee in accordance with the terms of the Gotham Settlement Agreement (such funds, the “**Gotham Realized Property**”); and (iii) approves and ratifies the execution of the Gotham Settlement Agreement by the Trustee and OTC and authorizes and directs the Trustee and OTC to comply with all of their obligations under the Gotham Settlement Agreement;

- (b) releases, extinguishes, expunges and discharges all of the Gotham Borrower’s obligations to Derek Sorrenti, in trust (as bare trustee) (“**Sorrenti Lender**”), OTC, and the individual Investors (“**Gotham Individual Lenders**”) under various loan agreements entered into with the Gotham Borrower that are administered by Sorrenti Lender and secured by the Charge (as defined in the Gotham Settlement Agreement) (collectively, as amended, supplemented or otherwise modified, the “**Gotham Loan Agreement**”)¹ and related security, agreements and instruments delivered pursuant thereto, including the Charge (collectively, the “**Gotham Loan Obligations**”) and all security interests granted to Sorrenti Lender, OTC or the Gotham Individual Lenders in and to the assets of the Gotham Borrower to secure the Gotham Loan Obligations, including the Charge (“**Loan Encumbrances**”) upon the delivery to the Gotham Borrower and filing with the Court of a copy of the Trustee’s certificate confirming, among other things, the Trustee’s receipt of the \$1,420,590 payment (“**Trustee’s Certificate**”), and ordering that none of the Trustee, Sorrenti Lender, OTC or any Gotham Individual Lenders have any claim against the Gotham Borrower in respect of the Gotham Loan Obligations or the Loan

¹ The Gotham Settlement Agreement describes the Gotham Loan Agreement as a single loan agreement between Sorrenti Lender and the Gotham Borrower. However, upon further examination of Sorrenti’s books and records, the Trustee discovered that, as a technical matter, loan advances were made pursuant to a number of individual loan agreements that together constitute the Gotham Loan Agreement. Accordingly, the Gotham Settlement Approval Order contains a provision deeming the description of the Gotham Loan Agreement contained in the Gotham Settlement Agreement to be modified to the extent necessary to render it consistent with the term “Loan Agreement” as defined in paragraph 4 of the Gotham Settlement Approval Order.

Encumbrances; provided, however, that the Gotham Borrower is not released from any obligations under the Gotham Settlement Agreement; and

- (c) declares that the release agreement (“**Release Agreement**”) to be given to the Trustee, Sorrenti, OTC, and each Gotham Individual Lender who loaned funds to the Gotham Borrower pursuant to the Gotham Loan Agreement and all related loan documents, each of their respective officers, directors, legal counsel, agents, employees, and each of their respective successors and assigns (collectively, the “**Releasees**”) by the Gotham Borrower on behalf of itself, its affiliates, and their respective shareholders, agents, directors, officers, employees, and each of their respective successors and assigns (collectively, the “**Releasors**”) shall be binding and effective on the Releasors in favour of the Releasees upon the delivery of the Trustee’s Certificate to the Gotham Borrower and the filing of a copy of the Trustee’s Certificate with the Court.

- 5. In support of the Trustee’s request for the Gotham Settlement Approval Order, this First Report describes the following matters:
 - (a) An overview of the Gotham Project;
 - (b) The details of the Gotham Loan Obligations;
 - (c) The details of the settlement offer received by the Trustee and the Gotham Settlement Agreement; and
 - (d) Information that supports the Trustee’s recommendation that the Gotham Settlement Agreement be approved.
- 6. The Trustee intends to report back to the Court prior to the end of February 2020 to give the Court, Investors, borrowers, brokers and other stakeholders further information regarding, among other things, Sorrenti and the SML Administration Business (including projected cash flows), details regarding the funds held in Sorrenti’s trust account utilized for the Sorrenti SMLs as of the date of Trustee’s appointment, details regarding funds received by the Trustee following its appointment, the Trustee’s activities, updates regarding the status of the Sorrenti SMLs, proposed next steps in these proceedings

regarding Realized Property and distributions to be made to the Gotham Individual Lenders from the Gotham Realized Property.

SCOPE AND TERMS OF REFERENCE

7. In preparing this First Report, the Trustee has relied upon unaudited financial and other information provided by, *inter alia*, Sorrenti, Fortress, and the Gotham Borrower. However, the Trustee notes that it cannot be certain that it is in receipt of all applicable and relevant information with respect to the Gotham Project and the SML Administration Business. While the Trustee reviewed various documents provided by Sorrenti, Fortress, the Gotham Borrower and other third parties (including, among other things, unaudited internal information and financial projections), the Trustee's review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Assurance Standards ("**GAAS**"), Generally Accepted Accounting Principles ("**GAAP**"), or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAS, GAAP or IFRS, or any other guidelines, with respect to such information.
8. The Trustee cautions that the projections and other information used and relied upon are generally based upon assumptions and estimates about future events and/or market conditions that are not ascertainable or that could change. As such, the information presented in this First Report may vary from the projections and information used to prepare this First Report and the actual results may differ both from the results projected therein. Even if the assumptions relied upon therein or herein materialize, the variations from the projections could be significant. The Trustee's review of the future oriented information used to prepare this First Report did not constitute an audit or review of such information under GAAS, GAAP, IFRS or any other guidelines.
9. This First Report has been prepared for the use of this Court and Sorrenti's stakeholders as general information relating to the SML Administration Business and the Gotham Project and to assist the Court with respect to the Trustee's request for the proposed Gotham Settlement Approval Order. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose.
10. All references to dollars are in Canadian currency unless otherwise noted.

OVERVIEW OF THE GOTHAM LOAN OBLIGATIONS

11. The Trustee understands that the total principal advanced by the Gotham Individual Lenders pursuant to the Gotham Loan Agreement (“**Gotham Loan**”) was approximately \$6.6 million (“**Total Principal Amount**”). The Trustee understands further that approximately \$5.35 million of the Total Principal Amount was repaid by the Gotham Borrower in 2016. As at November 30, 2019, the total remaining principal due to the Gotham Individual Lenders was \$1,245,590 (“**Current Principal Amount**”), plus accrued interest of \$326,621.²
12. The Gotham Loan Agreement was scheduled to mature on July 5, 2014. The Gotham Loan Agreement contains, at the option of the Gotham Borrower, the ability to extend the term of the Gotham Loan for up to 12 additional months. The Gotham Borrower exercised this option and, accordingly, the Gotham Loan matured on July 5, 2015 and is in default.
13. There is no debt registered on title to the Gotham Project in priority to the Gotham Loan.

BACKGROUND AND CURRENT STATUS OF THE GOTHAM PROJECT

14. The Gotham Loan Agreement was entered into in connection with the Gotham Borrower’s development of a 242-unit condominium tower in Ottawa, Ontario (“**Gotham Project**”). Construction of the Gotham Project is complete and the condominium was registered in 2016, at which time the Gotham Borrower repaid approximately \$5.35 million of the principal amount owing in respect of the Gotham Loan (“**Previously Paid Principal**”), leaving the Current Principal Amount outstanding. However, at that time approximately 72 units remained unsold despite the Gotham Borrower’s marketing efforts. The Gotham Borrower advised the Trustee that the Ottawa market has been unfavourable and that while it was able to sell sufficient units to fully repay the priority debt that ranked ahead of the Gotham Loan, as of December 2019, 14 units remained to be sold by the Gotham Borrower (“**Remaining Units**”), the proceeds of which would be necessary for repayment of the Gotham Loan. The Gotham Borrower has also advised that it could take until mid-2020 or later to sell the Remaining Units.
15. Since its appointment, the Trustee has been in discussions with the Gotham Borrower regarding, among other things, the sale of the Remaining Units, the timing of repayment of the Gotham Loan, and the use of funds by the Gotham Borrower in respect of the

² Per diem interest, which has continued to accrue since November 30, 2019, is \$276.80.

Gotham Project. During this time, the Gotham Borrower has also requested that the Trustee provide the Gotham Borrower with partial discharges of the mortgage registered on title to the Gotham Project securing the Gotham Loan in conjunction with the sale of several condominium units to third party purchasers.

16. Prior to delivering any such discharges, the Trustee requested and reviewed information related to such sales, including the applicable agreements of purchase and sale, any amendments thereto, the statements of adjustments, and the Gotham Borrower's proposed use of proceeds. Following its review and once the requested documentation was in an acceptable form, the Trustee agreed to provide the requested discharges on the condition that the Gotham Borrower's legal counsel hold the net closing proceeds (net of HST, commissions, and legal costs) in trust pending the consent of the Trustee to the release of same. Legal counsel to the Gotham Borrower advised that it holds \$1,605,036.07 in its trust account from the above noted sale proceeds.
17. The Gotham Borrower has provided information to the Trustee that indicates that the Gotham Project has been unprofitable. The Gotham Borrower has advised the Trustee that certain of the Gotham Borrower's affiliates have provided additional funding to the Gotham Project to complete construction, service priority debt obligations, and fund the carrying costs of any unsold units. The Trustee has been advised by the Gotham Borrower that the total outstanding amount of such advances is in excess of \$5 million. The Trustee understands that these advances are secured by charges on the Gotham Project that were registered on title subsequent to the charge registered by Sorrenti Lender and, as such, are subordinate to the Gotham Loan. In addition, the Trustee understands that certain additional amounts were raised by the Gotham Borrower pursuant to promissory notes. Based on a review of title to the Gotham Project, the Trustee understands that these amounts are secured by a charge that was registered on title subsequent to the charge registered in favour of Sorrenti Lender securing the Gotham Loan.

OFFER AND FEEDBACK REQUEST

18. The Gotham Borrower has presented the Trustee with an irrevocable offer in the form of the Gotham Settlement Agreement, which was negotiated by the Trustee, that provides for the payment by the Gotham Borrower of \$1,420,590 ("**Offer**") in advance of the Remaining Units being sold. The Offer represents a repayment equal to 100% of the Current Principal Amount plus an additional payment of \$175,000 on account of the

outstanding accrued interest. When previously paid interest of \$2,547,360 (“**Previously Paid Interest**”) is factored into the analysis, the Offer plus the Previously Paid Interest and Previously Paid Principal would result in a return of approximately 141% of the Total Principal Amount.³ The recovery is calculated as follows:

| | |
|---|---------------------|
| Total Principal Amount (A) | \$ 6,595,600 |
| Previously Paid Principal | 5,350,010 |
| Previously Paid Interest | 2,547,360 |
| Principal repayment per the Offer | 1,245,590 |
| Interest payment per the Offer | 175,000 |
| Total payments (B) | <u>\$ 9,317,960</u> |
| Recovery percentage on Total Principal Amount (B/A) | 141% |

19. The Gotham Borrower has provided the Trustee with evidence of sufficient available funds to make the \$1,420,590 payment. If the Gotham Settlement Agreement is approved by the Court, such payment is expected to be made by the Gotham Borrower to the Trustee shortly following Court approval.
20. As noted above, the Gotham Settlement Agreement includes the Late Payment Fee, which provides that, in the event the Gotham Borrower fails to pay any portion of the Offer within 14 calendar days from the date of the Gotham Settlement Approval Order, the Gotham Borrower shall pay a late payment fee to the Trustee, on behalf of Sorrenti Lender, in an amount equal to 10% of the Offer.
21. The Trustee consulted with Representative Counsel regarding the Offer, and, following that consultation, presented the Offer to the Gotham Individual Lenders by delivering a notice to those lenders on January 7, 2020. This notice requested that such lenders consider the Offer and provide their feedback, whether for or against the acceptance of the Offer, and provide any other general feedback (“**Gotham Feedback Request**”). A copy of the Gotham Feedback Request is attached as **Appendix “3”**.

³ The percentage recovery represents an overall recovery on the Total Principal Amount of approximately \$6.595 million. Individual realizations will vary by Gotham Individual Lender depending on when each Gotham Individual Lender advanced funds to the Gotham Borrower.

22. It should be noted that the Gotham Feedback Request stated that the overall recovery to the Investors, when Previously Paid Principal and Previously Paid Interest is factored into the analysis, was approximately 111% (versus the 141% noted above). The Gotham Feedback Request was prepared by the Trustee based upon Sorrenti's records. After the issuance of the Gotham Feedback Request, the Trustee determined that there was an error in Sorrenti's records resulting from a misallocation between interest and principal and, as a result, the original principal amount of the Gotham Loan was overstated while the interest paid to date by the Gotham Borrower was understated. The updated recovery analysis herein results in an improvement to the overall percentage recovery for the Gotham Individual Lenders as compared to the recovery stated in the Gotham Feedback Request. Given that the updated recovery analysis does not impact the Gotham Settlement Agreement, including the payment thereunder, the Trustee did not revise and reissue the Gotham Feedback Request.
23. As of the filing of this First Report, the Trustee had received 87 formal votes in response to the Gotham Feedback Request, representing a response rate of approximately 58% in number and approximately 58% in value of the Gotham Loan. 87 of the Gotham Individual Lenders, representing 100% in number and 100% in value of such loans voting, voted in favour of the Trustee accepting the Offer.
24. Acceptance of the Offer would result in the Gotham Individual Lenders foregoing additional accrued interest of approximately \$151,000, which would otherwise be due on the Gotham Loan (assuming the Gotham Loan was repaid on or about November 30, 2019⁴).
25. Pursuant to the Gotham Loan Agreement, under certain circumstances, the Gotham Individual Lenders could also be entitled to a deferred lender fee. Based on the Trustee's review of the financial information provided by the Gotham Borrower and the Gotham Loan Agreement, the minimum deferred lender fee requirements under the Gotham Loan Agreement will likely not be met and, accordingly, the deferred lender fee set out in the Gotham Loan Agreement would likely not be payable to the Gotham Individual Lenders.
26. As set out in the Gotham Feedback Request, the following considerations were taken into account by the Trustee in completing its assessment of the Offer:

⁴ As noted above, since November 30, 2019, additional interest has continued to accrue at a per diem rate of \$276.80.

- (a) The Offer provides certainty regarding the amount and a time frame for the repayment of the Gotham Loan;
- (b) The Gotham Borrower has advised that absent the Offer, it will discontinue funding the cash flows required to maintain the Remaining Units. If the Gotham Borrower does not continue to fund such costs, the Trustee may be required to take enforcement or other protective steps, increasing the recovery related costs and extending the timeline for the Gotham Loan to be repaid (if at all). The Trustee is of the view that the potential costs and risks associated with such a scenario outweigh the added benefit that may be obtained by the Trustee by not accepting the Offer (i.e. the potential for additional interest of approximately \$151,000 as at November 30, 2019); and
- (c) The Offer results in a return on the Gotham Loan of approximately 141% of the Total Principal Amount when Previously Paid Interest and Previously Paid Principal is taken into account.

27. Given the above considerations, and the feedback received from the Gotham Individual Lenders, the Trustee has accepted the Offer, as described below, and executed the Gotham Settlement Agreement. The Gotham Settlement Agreement requires the Trustee to use commercially reasonable efforts to seek the Gotham Settlement Approval Order, but the remaining terms of the Gotham Settlement Agreement are only binding on the Trustee, Sorrenti Lender and OTC should the agreement be approved and ratified by the Court.

GOTHAM SETTLEMENT AGREEMENT

28. The Offer is conditional, among other things, upon the release and discharge of all Gotham Loan Obligations and all Loan Encumbrances, and a Court order being obtained providing that none of the Trustee, Sorrenti Lender, OTC or any Gotham Individual Lenders have any claim against the Gotham Borrower in respect of the Gotham Loan Obligations or the Loan Encumbrances (though the Gotham Borrower is not to be released from any obligations under the Gotham Settlement Agreement) in consideration of the payment due under the Gotham Settlement Agreement.

29. The Gotham Settlement Agreement also provides that the Gotham Borrower is to deliver a Release Agreement to the Trustee providing that the Gotham Borrower, on behalf of itself and the other Releasers, releases all of the Releasees (namely, the Trustee, Sorrenti, OTC, and each Gotham Individual Lender⁵ who loaned funds to the Gotham Borrower pursuant to the Gotham Loan Agreement and all related loan documents, each of their respective officers, directors, agents, employees, and each of their respective successors and assigns) from all obligations under such loan documents.
30. The Gotham Borrower has also made certain representations and warranties and has agreed to provide such further assurances as are necessary to effectuate the transaction set out in the Offer. These representations and warranties include, among other things, that to the best of the Gotham Borrower's knowledge, none of Fortress or any of its affiliates is or will become entitled to receive any consideration from the Gotham Project ("**Fortress Consideration**"). Further, the Gotham Settlement Agreement contains a covenant in favour of the Trustee that, among other things, should the Gotham Borrower or any of its affiliates come into the possession or control of any Fortress Consideration, such Fortress Consideration will be paid to the Trustee (until all amounts that would have otherwise been payable to Sorrenti Lender under the Gotham Loan Agreement have been paid in full).
31. If the Court issues the proposed Gotham Settlement Approval Order, then the settlement set out therein will be effective upon the delivery to the Gotham Borrower by the Trustee of the Trustee's Certificate certifying that the conditions precedent set out in the Gotham Settlement Agreement are satisfied and the filing of the Trustee's Certificate with the Court. The Trustee therefore executed the Gotham Settlement Agreement and has brought a motion seeking this Court's approval of the Gotham Settlement Agreement and the issuance of the Gotham Settlement Approval Order.
32. Further, if the Gotham Settlement Approval Order is granted, the Trustee will thereafter work with the Gotham Borrower to complete the settlement transaction and intends to subsequently seek Court approval to make one or more distributions of the Gotham Realized Property to the Gotham Individual Lenders net of an administrative holdback to

⁵ Certain Gotham Individual Lenders originally advanced funds through B2B Trust. The Trustee understands that these accounts are now held at OTC and that B2B Trust does not have a charge on the Property.

be retained by the Trustee. The Trustee intends to make a recommendation to the Court regarding the quantum of the administrative holdback prior to the end of February.

33. A copy of the Gotham Offer, including the form of Gotham Settlement Agreement, is attached as **Appendix “4”**.

CONCLUSION AND RECOMMENDATION

34. The Trustee recommends that the proposed Gotham Settlement Approval Order be granted by the Court. The Gotham Settlement Agreement contemplates receipt of amounts equal to 100% of the Current Principal Amount due under the Gotham Loan as well as an additional payment of \$175,000 on account of outstanding accrued interest, which together with the Previously Paid Interest and Previously Paid Principal, results in a return on the Gotham Loan of approximately 141% of the Total Principal Amount. If implemented, the Gotham Settlement Agreement will result in approximately \$1.42 million of Gotham Realized Property in the near term, which, subject to Court authorization at a subsequent hearing, would permit the Trustee to make a distribution of a portion of the Gotham Realized Property to the Gotham Individual Lenders. The Trustee obtained only positive responses to the Gotham Offer from affected Gotham Individual Lenders as 100% in number and 100% in value voting favoured acceptance of the Offer. Further, Representative Counsel has advised the Trustee that it supports the Trustee’s motion seeking the Gotham Settlement Approval Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of January, 2020.

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.,
SOLELY IN ITS CAPACITY AS
COURT-APPOINTED TRUSTEE OF
DEREK SORRENTI AND SORRENTI LAW
PROFESSIONAL CORPORATION IN RESPECT OF
THE SYNDICATED MORTGAGE LOAN
ADMINISTRATION BUSINESS, AND NOT
IN ITS PERSONAL OR ANY OTHER CAPACITY**

TAB 11

Appendix 11:

Order approving the Gotham Settlement on January 30, 2020

Court File No.: CV-19-628258-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

THURSDAY, THE 30TH

JUSTICE HAINEY

)

DAY OF JANUARY, 2020

)

BETWEEN:



LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER SECTION 49.47 OF THE
LAW SOCIETY ACT, R.S.O. 1990, c. L.8 and SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O. 1990 c. C.43**

GOTHAM SETTLEMENT APPROVAL ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”), in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”), of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of

FRDI's direct or indirect affiliates, and any entity under common control with FRDI, pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, (i) approving and ratifying the Settlement Agreement dated as of December 17, 2019 (the "**Gotham Settlement Agreement**") among Bel-Ottawa Inc. (the "**Borrower**"), the Trustee and Olympia Trust Company ("**OTC**"); (ii) ordering the Borrower to pay \$1,420,590 and, if applicable, the Late Payment Fee (as defined in the Gotham Settlement Agreement) to the Trustee pursuant to, and in accordance with, the Gotham Settlement Agreement; and (iii) ordering the Borrower, the Trustee and OTC to comply with the Gotham Settlement Agreement, was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the First Report of the Trustee dated January 22, 2020 (the "**First Report**"), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, counsel to the Borrower and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Sean Stidwill sworn January 23, 2020, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the First Report and the Gotham Settlement Agreement, as applicable.

APPROVAL OF THE GOTHAM SETTLEMENT AGREEMENT

3. **THIS COURT ORDERS** that (i) the Gotham Settlement Agreement be and is hereby approved in its entirety, including without limitation the Late Payment Fee contemplated by Section 4 thereof, with such minor amendments as the Trustee and the other parties to the Gotham Settlement Agreement may agree upon to permit the completion of the transactions

contemplated thereby; (ii) the Borrower is hereby directed to pay \$1,420,590 forthwith to the Trustee in accordance with the terms of the Gotham Settlement Agreement (such funds, the **“Gotham Realized Property”**); and (iii) the execution of the Gotham Settlement Agreement by the Trustee and OTC is hereby ratified and approved, and the Trustee and OTC are hereby authorized and directed to comply with all of their obligations under the Gotham Settlement Agreement.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee’s certificate to the Borrower substantially in the form attached as Schedule “A” hereto (the **“Trustee’s Certificate”**) and the filing of a copy of the Trustee’s Certificate with the Court, all of the Borrower’s obligations to Derek Sorrenti, in trust (as bare trustee) (**“Sorrenti Lender”**), OTC, and the individual lenders (the **“Gotham Individual Lenders”**) under various loan agreements entered into with the Borrower that are administered by Sorrenti Lender and secured by the Charge (as defined in the Gotham Settlement Agreement) (collectively, as amended, supplemented or otherwise modified, the **“Loan Agreement”**), the Charge, and any agreements or instruments delivered pursuant thereto (the **“Loan Documents”**) (collectively, the **“Gotham Loan Obligations”**) and all security interests granted to Sorrenti Lender, OTC or the Gotham Individual Lenders in and to the assets of the Borrower to secure the Gotham Loan Obligations and related registrations on title, including the Charge, (the **“Loan Encumbrances”**) are hereby released, waived, extinguished, expunged, discharged and deleted and that none of the Trustee, Sorrenti Lender, OTC or any Gotham Individual Lender shall have any claim against the Borrower in respect of the Gotham Loan Obligations or the Loan Encumbrances; provided, however, that the Borrower shall not be released from any obligations under the Gotham Settlement Agreement. To facilitate the implementation and completion of the settlement transaction approved by this Order, the defined term “Loan Agreement” contained in the Gotham Settlement Agreement shall be deemed to be modified to the extent necessary to make it consistent with the term “Loan Agreement” as defined in this paragraph.

5. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee’s Certificate as soon as practicable after delivery thereof to the Borrower.

6. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Trustee's Certificate to the Borrower and the filing of a copy of the Trustee's Certificate with the Court, the Gotham Realized Property is and shall be deemed to be "Realized Property" as defined in the Order of this Court dated September 30, 2019 (the "**Appointment Order**") and that all of the Gotham Individual Lenders' rights and claims under the Loan Agreement, the Charge and the Loan Documents shall attach to the Gotham Realized Property and shall have the same nature and priority as they had prior to the consummation of the Gotham Settlement Agreement, including pursuant to the Appointment Order.

7. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Registry Division of Peel (#4) of an Application to Register an Order in the form prescribed by the applicable Land Registry Office and attaching a copy of this Order and the executed Trustee's Certificate, the Land Registrar is hereby directed to delete and expunge from title to the real property identified in Schedule "B" hereto (the "**Real Property**") all of the Loan Encumbrances listed in Schedule "C" hereto.

8. **THIS COURT ORDERS** that upon the delivery of the Trustee's Certificate to the Borrower and the filing of a copy of the Trustee's Certificate with the Court, the release agreement in the form attached as Schedule "D" hereto ("**Release Agreement**") to be given to the Trustee, Sorrenti, OTC, and each Gotham Individual Lender who loaned funds to the Borrower pursuant to the Loan Agreement and all related Loan Documents, each of their respective officers, directors, agents, legal counsel, employees, and each of their respective successors and assigns (collectively, the "**Releasees**") by the Borrower on behalf of itself, its affiliates, and their respective shareholders, agents, directors, officers, employees, and each of their respective successors and assigns (collectively, the "**Releasers**") shall be binding and effective on the Releasers in favour of the Releasees.

AID AND RECOGNITION OF FOREIGN COURTS

9. **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 Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that the Trustee 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 Trustee 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.

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

JAN 30 2020

PER / PAR: C.D.

A handwritten signature in cursive script, reading "Hainey J.", written over a horizontal line.

Schedule “A” – Form of Trustee’s Certificate

Court File No.: CV-19-628258-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, c.
L.8, and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43**

TRUSTEE’S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated September 30, 2019, FAAN Mortgage Administrators Inc. was appointed as the trustee (the “**Trustee**”) of the assets, undertakings, and properties of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of FRDI’s direct or indirect affiliates, and any entity under common control with FRDI.
- B. Pursuant to an Order of the Court made on January 30, 2020 (the “**Gotham Settlement Approval Order**”), the Court approved and ratified the Settlement Agreement dated as of

December 17, 2019 (the “**Gotham Settlement Agreement**”) among Bel-Ottawa Inc. (the “**Borrower**”), the Trustee and Olympia Trust Company (“**OTC**”) and ordered that all of the Borrower’s obligations to Derek Sorrenti, in trust (as bare trustee) (“**Sorrenti Lender**”), OTC, and the individual lenders (“**Gotham Individual Lenders**”) under the Loan Agreement (as defined in the Gotham Settlement Approval Order), the Charge (as defined in the Gotham Settlement Agreement), and the Loan Documents (as defined in the Gotham Settlement Approval Order) (collectively, the “**Gotham Loan Obligations**”) and all security interests granted to Sorrenti Lender, OTC or the Gotham Individual Lenders in and to the assets of the Borrower to secure the Gotham Loan Obligations and related registrations on title, including the Charge, (the “**Loan Encumbrances**”) be released, waived, extinguished, expunged and discharged and that none of the Trustee, Sorrenti Lender, OTC or any Gotham Individual Lender shall have any claim against the Borrower in respect of the Gotham Loan Obligations or the Loan Encumbrances, provided, however, that the Borrower shall not be released from any obligations under the Gotham Settlement Agreement, and that the release of the Gotham Loan Obligations and the Loan Encumbrances is to be effective upon the delivery by the Trustee to the Borrower of a certificate confirming, among other things, (i) the payment of \$1,420,590 to the Trustee by the Borrower in accordance with the terms of the Gotham Settlement Agreement; (ii) that the conditions precedent to the Gotham Settlement Agreement, as set out in Section 11 of the Gotham Settlement Agreement, have been satisfied or waived by the Trustee; and (iii) the settlement has been completed in accordance with the Gotham Settlement Agreement.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Gotham Settlement Approval Order.

THE TRUSTEE CERTIFIES the following:

1. The Gotham Settlement Approval Order has been granted by the Court and no material objections (in the sole opinion of the Trustee) were raised by individual lenders or by any other part at the motion for approval of the Gotham Settlement Approval Order, or, if any material objection is raised, the appeal periods in respect of the Gotham Settlement Approval Order have expired with no appeal being filed or, if an appeal has been filed, any such appeal or motion for leave to appeal has been fully disposed of with no further right of appeal or leave to appeal;

2. The Borrower has paid, and the Trustee has received, \$1,420,590 pursuant to the Gotham Settlement Agreement;
3. If applicable, the Borrower has paid, and the Trustee has received, the Late Payment Fee pursuant to the Gotham Settlement Agreement;
4. The Borrower has provided the Release Agreement to the Releasees;
5. The Borrower has certified that all of the representations and warranties contained in the Gotham Settlement Agreement continue to be true as of the Closing Date;
6. The Borrower continues to be in compliance with all of the terms of the Gotham Settlement Agreement;
7. The other conditions set out in the Gotham Settlement Agreement have been satisfied or waived by the Trustee; and
8. The settlement has been completed in accordance with the Gotham Settlement Agreement.

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

**FAAN Mortgage Administrators Inc., solely
in its capacity as Court-appointed Trustee of
the assets, undertakings, and properties of
Derek Sorrenti or Sorrenti Law Professional
Corporation in respect of the Syndicated
Mortgage Loan Administration Business, and
in no other capacity**

Per: _____

Name:

Title:

Schedule "B" – Real Property

1. PIN 15987-0422 (LT)

Description: UNIT 2, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

2. PIN 15987-0424 (LT)

Description: UNIT 4, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

3. PIN 15987-0426 (LT)

Description: UNIT 6, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

4. PIN 15987-0430 (LT)

Description: UNIT 10, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

5. PIN 15987-0431 (LT)

Description: UNIT 11, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

6. PIN 15987-0432 (LT)

Description: UNIT 12, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

7. PIN 15987-0433 (LT)

Description: UNIT 13, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT

TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

8. PIN 15987-0436 (LT)

Description: UNIT 16, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

9. PIN 15987-0440 (LT)

Description: UNIT 20, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

10. PIN 15987-0442 (LT)

Description: UNIT 22, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

11. PIN 15987-0443 (LT)

Description: UNIT 23, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

12. PIN 15987-0446 (LT)

Description: UNIT 26, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

13. PIN 15987-0447 (LT)

Description: UNIT 27, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

14. PIN 15987-0448 (LT)

Description: UNIT 28, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

15. PIN 15987-0449 (LT)

Description: UNIT 29, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

16. PIN 15987-0450 (LT)

Description: UNIT 30, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

17. PIN 15987-0451 (LT)

Description: UNIT 31, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

18. PIN 15987-0452 (LT)

Description: UNIT 32, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

19. PIN 15987-0453 (LT)

Description: UNIT 33, LEVEL E, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

20. PIN 15987-0413 (LT)

Description: UNIT 32, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

21. PIN 15987-0407 (LT)

Description: UNIT 26, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

22. PIN 15987-0404 (LT)

Description: UNIT 23, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

23. PIN 15987-0403 (LT)

Description: UNIT 22, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

24. PIN 15987-0399 (LT)

Description: UNIT 18, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

25. PIN 15987-0397 (LT)

Description: UNIT 16, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

26. PIN 15987-0393 (LT)

Description: UNIT 12, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

27. PIN 15987-0392 (LT)

Description: UNIT 11, LEVEL D, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT

TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

28. PIN 15987-0370 (LT)

Description: UNIT 31, LEVEL C, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

29. PIN 15987-0368 (LT)

Description: UNIT 29, LEVEL C, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

30. PIN 15987-0356 (LT)

Description: UNIT 17, LEVEL C, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

31. PIN 15987-0345 (LT)

Description: UNIT 6, LEVEL C, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

32. PIN 15987-0332 (LT)

Description: UNIT 29, LEVEL B, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

33. PIN 15987-0330 (LT)

Description: UNIT 27, LEVEL B, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

34. PIN 15987-0324 (LT)

Description: UNIT 21, LEVEL B, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

35. PIN 15987-0305 (LT)

Description: UNIT 2, LEVEL B, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

36. PIN 15987-0291 (LT)

Description: UNIT 29, LEVEL A, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

37. PIN 15987-0289 (LT)

Description: UNIT 27, LEVEL A, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

38. PIN 15987-0276 (LT)

Description: UNIT 14, LEVEL A, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

39. PIN 15987-0235 (LT)

Description: UNIT 7, LEVEL 15, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

40. PIN 15987-0173 (LT)

Description: UNIT 7, LEVEL 11, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

41. PIN 15987-0141 (LT)

Description: UNIT 7, LEVEL 9, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

42. PIN 15987-0125 (LT)

Description: UNIT 7, LEVEL 8, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

43. PIN 15987-0109 (LT)

Description: UNIT 7, LEVEL 7, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

44. PIN 15987-0082 (LT)

Description: UNIT 12, LEVEL 5, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

45. PIN 15987-0077 (LT)

Description: UNIT 7, LEVEL 5, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

46. PIN 15987-0070 (LT)

Description: UNIT 16, LEVEL 4, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

47. PIN 15987-0061 (LT)

Description: UNIT 7, LEVEL 4, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

48. PIN 15987-0054 (LT)

Description: UNIT 16, LEVEL 3, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

49. PIN 15987-0038 (LT)

Description: UNIT 8, LEVEL 2, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

50. PIN 15987-0037 (LT)

Description: UNIT 7, LEVEL 2, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

51. PIN 15987-0035 (LT)

Description: UNIT 5, LEVEL 2, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

52. PIN 15987-0022 (LT)

Description: UNIT 22, LEVEL 1, OTTAWA-CARLETON STANDARD CONDOMINIUM PLAN NO. 987 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN OC1758714; CITY OF OTTAWA

Schedule "C" – Loan Encumbrances

1. Instrument No. OC1254115 registered July 5, 2011 being a Charge in favour of Derek Sorrenti to secure the original principal amount of \$3,400,000.00.
2. Instrument No. OC1255913 registered July 11, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti and Olympia Trust
3. Instrument No. OC1259514 registered July 19, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
4. Instrument No. OC1259519 registered July 19, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
5. Instrument No. OC1261962 registered July 25, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
6. Instrument No. OC1266610 registered August 4, 2011, being a Notice of Agreement Amending Charge registered as Instrument No. OC1254115
7. Instrument No. OC1268197 registered August 10, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
8. Instrument No. OC1271529 registered August 17, 2011 being a Postponement of the Charge registered as Instrument No. OC1254115 to a Notice of Agreement registered as Instrument No. OC1271527
9. Instrument No. OC1271532 registered August 17, 2011 being a Postponement of the Charge registered as Instrument No. OC1254115 to a Notice of Agreement registered as Instrument No. OC1271530
10. Instrument No. OC1274782 registered August 25, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
11. Instrument No. OC1278397 registered August 31, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
12. Instrument No. OC1282529 registered September 13, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust

13. Instrument No. OC1285889 registered September 21, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
14. Instrument No. OC1291633 registered October 6, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
15. Instrument No. OC1302652 registered November 4, 2011 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
16. Instrument No. OC1361683 registered May 15, 2012 being a Notice of Agreement Amending the Charge registered as Instrument No. OC1254115
17. Instrument No. OC1362055 registered May 15, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust and B2B Trust
18. Instrument No. OC1371084 registered June 8, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
19. Instrument No. OC1372953 registered June 14, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
20. Instrument No. OC1379969 registered June 29, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
21. Instrument No. OC1381919 registered July 6, 2012 being a Postponement of the Charge registered as Instrument No. OC1254115 to a Charge registered as Instrument No. OC1366141 in favour of Aviva Insurance Company of Canada
22. Instrument No. OC1394794 registered August 3, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
23. Instrument No. OC1436798 registered December 7, 2012 being a Postponement of the Charge registered as Instrument No. OC1254115 to a Notice of Agreement registered as Instrument No. OC1436797
24. Instrument No. OC1439946 registered December 18, 2012 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust

25. Instrument No. OC1616836 registered September 4, 2014 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
26. Instrument No. OC1627881 registered October 14, 2014 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
27. Instrument No. OC1640815 registered November 27, 2014 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti, Olympia Trust Company and B2B Trust
28. Instrument No. OC1724159 registered September 23, 2015 being a Postponement of the Charge registered as Instrument No. OC1254115 to a Notice of Agreement registered as Instrument No. OC1724156
29. Instrument No. OC1764276 registered February 12, 2016 being a Transfer of Charge registered as Instrument No. OC1254115 to Derek Sorrenti and Olympia Trust Company

Schedule “D” – Release Agreement

[DATE]

TO: FAAN Mortgage Administrators Inc., as Court-appointed Trustee of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) (in such capacity, the “**Trustee**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of FRDI’s direct or indirect affiliates, and any entity under common control with FRDI

AND TO: Olympia Trust Company (“**OTC**”)

Re: Release granted in connection with repayment and settlement of the Gotham Loan Obligations pursuant to Gotham Settlement Agreement

Dear Sirs/Mesdames

Reference is made to the Gotham Settlement Approval Order of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-19-628258-00CL (the “**Order**”) and the Settlement Agreement dated as of December 17, 2019 among Bel-Ottawa Inc. (the “**Borrower**”), the Trustee and OTC (the “**Settlement Agreement**”). All capitalized terms used in this agreement (the “**Release Agreement**”) shall, unless otherwise defined herein, have the same meanings given to them in the Order.

1. The Borrower hereby certifies that all of its representations and warranties contained in the Settlement Agreement are true and accurate in all material respects as of the date hereof and that it is in compliance with all covenants, terms and provisions of the Settlement Agreement.
2. The Borrower has paid the Trustee \$1,420,590 and, if applicable, the Late Payment Fee (as defined in the Settlement Agreement) pursuant to the Settlement Agreement and waives, and shall not assert, any right of set-off or any other defence to the payment of such amounts.
3. In consideration of the acceptance of \$1,420,590 and, if applicable, the Late Payment Fee in full and final satisfaction of the Gotham Loan Obligations payable to Sorrenti Lender and to OTC by the Borrower under the Loan Agreement, which are in excess of \$1,572,211, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower (on behalf of itself, its affiliates, and their respective shareholders, agents, directors, officers, employees, and each of their respective successors and assigns) (collectively, the “**Releasors**”) hereby releases, discharges and acquits the Trustee, Sorrenti, OTC, and each lender or investor who loaned funds to the Borrower pursuant to the Loan Agreement and all related Loan Documents, each of their respective officers, directors, agents, legal counsel, employees, and each of their respective successors and assigns (collectively, the “**Releasees**”) from any and all claims, demands, rights, liabilities, and causes of action, whether in law or in

equity, whether known or unknown, that any Releasor, at any time had or has, or that they or their respective successors or assigns hereafter have or may have against the Releasees directly or indirectly arising out of or in any way related to the Loan Agreement, the Loan Documents, the proceedings initiated by the Order of the Ontario Superior Court of Justice (Commercial List) dated September 30, 2019, or any transactions hereunder or thereunder.

This Release Agreement shall be effective immediately upon the delivery of the Trustee's Certificate and may be relied upon by any of the Releasees, whether or not such Releasee is a party to this Release Agreement or the Settlement Agreement.

This Release Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, and may be executed and delivered by facsimile or .pdf file transmitted by email, and all such counterparts, .pdf files and facsimiles when so executed and delivered shall be deemed to be an original and all of which when taken together shall constitute but one and the same Release Agreement.

This Release Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario.

Yours truly,

BEL-OTTAWA INC.

By:

Name:

Title:

Accepted and agreed to by:

FAAN MORTGAGE

ADMINISTRATORS INC., solely in its capacity as Court-appointed Trustee of Derek Sorrenti or Sorrenti Law Professional Corporation in respect of the Syndicated Mortgage Loan Administration Business, and in no other capacity

By:

Name:

Title:

OLYMPIA TRUST COMPANY

By:

Name:

Title:

LAW SOCIETY OF ONTARIO

- and -

**DEREK SORRENTI and SORRENTI LAW
PROFESSIONAL CORPORATION**

Applicant

Respondents

Court File No. CV-19-628258-00CL

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

Proceedings commenced at Toronto

GOTHAM SETTLEMENT APPROVAL ORDER

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Lawyers for FAAN Mortgage Administrators Inc.,
in its capacity as Court-appointed Trustee of Derek
Sorrenti or Sorrenti Law Professional Corporation in
respect of the Syndicated Mortgage Loan
Administration Business

TAB 12

Appendix 12:

Sorrenti's Notice to Progress Investors dated August 13, 2019



SORRENTI LAW
PROFESSIONAL CORPORATION

August 13, 2019

Dear Lender:

Re: Syndicated Mortgage Loan (“**Loan**”) made to Empire Pace (1088 Progress) Ltd. (“**Borrower**”) pursuant to the loan agreement dated July 31, 2012 (“**Loan Agreement**”) in respect of property located at 1088 Progress Avenue, Scarborough, ON (“**TEN88 Project**” or “**Property**”)

Request for approval regarding the Syndicated Mortgage Loan to Empire Pace (1088 Progress) Ltd.

This is a report to the Syndicate Mortgage Investors (“**SMI**”) in the TEN88 Project, and a request for their approval by Sorrenti Law Professional Corporation (“**SLPC**”) on a “go forward” course of action.

On July 31, 2012, SLPC, acting as Mortgage Administrator, (“**Administrator**”), signed a Loan Agreement with the Borrower on behalf of the SMI. The Loan Agreement contained an extended maturity date of February 2016.

SLPC is providing the following notice in our capacity as Administrator and you are receiving this communication because you have been identified as an SMI in the TEN88 Project.

TEN88 Project Overview

The Ten88 Project, also known as “Progress Manors” is a 2-phase residential development proposed to consist of a mix of stacked townhomes and high-rise residential towers close to the 401, Centennial College and the Scarborough University of Toronto campus.

Phase 1 of the project completed and delivered 105 stacked townhomes in late 2017, with all homes now registered.

The development plan for Phase 2 consists of a high-density 18-storey residential condominium with 272 units, and a ground floor retail component. SLPC is advised that there is currently a Site-Specific Zoning By-law in place for the height and density in the current plan.

A prospective purchaser, of the Phase 2 Lands, Everest Group (“**Everest**”), recently submitted a letter of intent (the “**LOI**”) to the Borrower to acquire the Project. A copy of the LOI is attached to this notice as Schedule “A”.

Below is a high-level summary of various options and “go forward” financial scenarios available for the TEN88 Project.

The potential arrangement with Everest **is conditional upon the discharge of the syndicated mortgage security** held by SLPC in trust for all SMI from title of the residential component of the Property.

Accordingly, the following options have been presented to SLPC in exchange for consenting to the partial discharge of your SMI security from title to the residential component of the Property.

Facts considered:

SLPC has based all information and assumptions referenced herein on information it has received from various third party consultants.

The Property currently is encumbered by a current first mortgage with a balance of approximately **\$7,000,000** in favour of Cameron Stephens. There is a current second mortgage registered in favour of the SMI of approximately **\$17,370,000**.

Previous distributions to SMI have been made in the approximate amount of \$3,300,000. Therefore, for the purposes of this report, a return of \$14,000,000 to the SMI is considered as 'net 100' baseline, i.e. the full return of an SMI's original invested principal amount.

Option 1: Sell the Property on the open market

SLPC has been advised that real estate brokers have noted that the litigation history on this site will be a factor in the pricing of possible future offers. Further, they have highlighted to SLPC that there is currently a significant amount of land inventory on the market within proximity to the subject site with significant entitlements in place, which are actively being marketed at \$25-30psf.

Based on this \$psf range, SLPC is advised that the available GFA would yield a valuation of between \$5.78M to \$6.94M.

This range is lower than the current 1st mortgagee's balance.

SLPC is advised by third party consultants that the above factors will likely also negatively affect the perceived current market value of the TEN88 Project.

A sale price on the open market will also have to factor in commissions and closing costs. This would also require a complete discharge of the Loan from title to the Property.

Under this scenario, the net return available to all SMI under this scenario is unknown.

Option 2: Structured Sale of the Property to Everest

Everest is an established developer based in Vancouver with a strong track record of completions.

Everest appears willing to enter into a purchase agreement where they agree to complete the full building (residential and commercial) and assign **100%** of the commercial/retail space to the benefit of the SMI.

Based on the Everest offer, SLPC has performed the following analysis, which is based on the above-referenced assumptions and information SLPC has received.

The Everest proposal would provide approximately **25,000** square feet of commercial/retail space. This amount is fully allowed and permissible based on the current zoning on the site.

- A) Based on current market prices (zero appreciation between now and completion) of **\$25/sq ft** (and a 5% cap rate) this would yield an estimated return of approximately **\$11,363,000**.

Factoring in **\$3,300,000** of payments made to SMI to date, the above distribution is anticipated to result in a gross receipt of **\$14,663,000** or **84.42%** of the original invested amount which would be distributed to all SMI after deduction of professional and administrative fees.

- B) Based on average 5 year growth rates (same appreciation over next 5 years), prices would be expected to be around **\$30/sq ft** (and the same 5% cap rate) this would yield an estimated return of approximately **\$13,600,000**.

Factoring in **\$3,300,000** of payments made to SMI to date, the above distribution is anticipated to result in a gross receipt of **\$16,900,000** or **97.29%** of the original invested amount which would be distributed to all SMI after deduction of professional and administrative fees.

- C) Based on a higher 5 year growth rate (increased appreciation over next 5 years), prices would be expected to be around **\$35/sq ft** (and the same 5% cap rate) this would yield an estimated return of approximately **\$16,000,000**.

Factoring the **\$3,300,000** of payments made to SMI to date, the above distribution is anticipated to result in a gross receipt of **\$19,300,000** or **111.38%** of the original invested amount which would be distributed to all SMI after deduction of professional and administrative fees.

Option 3: Allow the Property to go into Power of Sale

Should a resolution to sell the Property on the open market or under a structured sale not proceed, then it is expected that the Property will be listed under power of sale proceedings by the first mortgagee.

Should the Property be listed in the near term under a distressed sale, the recovery, if any, for the TEN88 SMI would be dependent on proceeds remaining for the sale after full repayment to the priority lender.

The outcome of a power of sale is unknown at this time.

Options 1, 2 & 3 above are jointly referred to as the "Available Options"

Assessment of the Available Options to TEN88 SMI:

The following considerations have been considered by SLPC, as Administrator, in assessing the various Available Options to the TEN88 SMI.

- The sale of the Property on the open market has unknown results to SMI at this time;
- The syndicate Loan Agreement maturity date has passed;
- Additional costs will be incurred from commissions and closing of an open market sale, based on the contract that could be commissions between 3-5% and an additional 5-10% for penalties, legal fees and potential receiver costs;
- The amount of land inventory available in the surrounding area at this time;
- The Structured sale to Everest allows security of the full syndicate debt to remain registered on the commercial component of the land;
- Everest is an established developer with a strong background offering a solution to SMI with a realistic timeline.
- The comparable sales in the surrounding areas (sample chart below):

| 1088 PROGRESS AVENUE COMPARABLE LAND SALES | | | | | |
|--|----------------------|----------------------------|---------------|--------------------------------|--------------------------------|
| ADDRESS | TOTAL SQUARE FOOTAGE | TIME ON MARKET (in months) | SELLING PRICE | EXPECTED PRICE PER SQUARE FOOT | ACHIEVED PRICE PER SQUARE FOOT |
| 675-695 PROGRESS AVENUE | 1,611,896 | ~10 | UNSOLD | \$40 | UNSOLD |
| 2035 Kennedy Road | 1,197,948 | ~43 | 25,000,000.00 | Unknown | \$ 20.87 |
| 253 Markham Road and 12, 20 and 30 Dunelm Street | 395,068 | Unknown | 20,650,000.00 | Unknown | \$ 52.27 |

- SLPC is advised that the 2035 Kennedy Road comparable is the closest completed hi-rise transaction in the vicinity of the subject site, and has superior proximity to Highway 401 and Scarborough City Center. At its transacted price of \$20.87psf, the subject site at 1088 Progress would be valued at \$4.83M

SLPC understands that Everest is ready to enter in into a formal Agreement of Purchase and Sale (“APS”) to purchase the Property. Everest appears to be the preeminent buyer/developer option for the TEN88 Project to allow SMI to maximize their return on investment at the present time.

SLPC recognizes that the Available Options presented herein are not the ideal outcome of SMI, who participated in the loan to TEN88,

Accordingly SLPC is seeking feedback as to which option you, as an identified TEN88 Lender would prefer SLPC to accept on your behalf.

Given the above information, you as the TEN88 SMI have the following options:

- 1) Allow the Property to proceed to a Sale on the Open Market, OR
- 2) Pursue a Structured Sale to Everest with SMI security remaining on the commercial component of the Property, OR
- 3) Allow the Property to move into Power of Sale

Based on the information provided above, it would appear to SLPC that “Option 2” is the optimal option available to SMI in order to attempt to maximize the recovery of monies owed to all SMI.

Next Steps

At this time, SLPC, as an Administrator, recommends that each SMI review this report, and the Available Options presented herein, carefully and arrange to obtain independent legal advice, if desired.

Attached as Schedule “B” hereto is an instruction letter addressed to SLPC as Administrator, which gives each SMI an opportunity to select any of the Available Options.

If you agree to accept any one of the Available Options, please return the instruction letter by mail, email, or fax, within ten (10) days of the date of this report, indicating your choice.

Ten (10) days, after the date that this report has been delivered to the SMI, SLPC in its capacity as Administrator, and in no other capacity, may indicate which (if any) of the Available Options has been accepted by the SMI, in an exercise of discretion granted pursuant to the terms of the Loan Agreement and loan related documents.

If you have any objections to the acceptance of one of the Available Options, you should also advise the Administrator by returning the instruction letter with your comments within ten (10) days.

A prompt response to this report is required from all Ten88 SMI, in the circumstances.

Should you have any questions in relation to this notice, the contact information for SLPC is below. If you are contacting us by phone or email, please reference TEN88 Project).

Email: mortgageadmin@sorrentilaw.com (preferred)

Local Telephone Number: 905-264-6414 x 430

Fax: 905-264-6413 :

SORRENTI LAW PROFESSIONAL CORPORATION,
as mortgage administrator

Schedule "A"
Everest Letter of Intent – See Attached

Schedule "B"
TEN88 Project Instruction Form

Re: TEN88 Project Report & Request for Approval

TO: Sorrenti Law Professional Corporation. ("Administrator")

RE: Available Options to SMI for the loan made to Empire Pace (1088 Progress) Ltd. ("Borrower")

I, _____ (**Print Lender Name**) have received a request from the Administrator dated August ____, 2019, to review and approve one of the following Available Options in relation to the Loan:

Option 1: Sell the Property on the Open Market:

- i) It is unknown what sale price will be achieved for the Property;
- ii) There will be commissions and closing costs associated with a sale of the Property on the open market;
- iii) The mortgage security will be required to be discharged from the Property;
- iv) The net return of money available to SMI under this option is unknown.

Option 2: Structured Sale of the Property to Everest

- i) 100% assignment to SMI of the commercial and retail component of the Property (25,000 square feet, which is fully allowed and permissible based on the current zoning of the site according to project consultants);
- ii) Estimated SMI potential return of: 84.42% based on the current market, 97.29% based on average 5 year growth rates, or 111.38% based on a higher 5 year growth rate, according to project consultants;

Option 3: Power of Sale

- i) Property would be listed for sale by the prior mortgagee under distressed conditions,
- ii) The net return of money available to SMI under this option is unknown.

Selection of the Available Options:

The undersigned SMI hereby provides the following feedback with respect to my interest in the Loan Agreement as described above (mark one only):

_____ Yes, I prefer SLPC authorize Option 1, a Sale of the Property on the Open Market

_____ Yes, I prefer SLPC authorize Option 2, a Structured Sale of the Property to Everest

_____ Yes I prefer SLPC authorize Option 3, allow the Property to be sold via Power of Sale

If you have additional feedback with respect to the Available Options, please provide full details regarding the nature of your feedback, question or concern below:

Certification:

By returning this instruction form and signing below, I certify that (a) I have full power and authority to give instructions with respect to the Available Options and I am aware the potential effects of my selection on my investment under the Loan Agreement; (b) I have read the Available Options and SLPC Notice to Lenders dated August ____, 2019; (c) I have obtained such independent legal and/or professional advice as I deem necessary in the circumstances; and (d) I confirm that I hold the following interest in the Syndicated Mortgage Loan administered by SLPC pursuant to the Loan Agreement:

Principal in the amount of \$_____ .

Print Name_____

Signature_____

Date_____

Please return this form using one of the following methods:

i) if by **email**: mortgageadmin@sorrentilaw.com **Subject line: "TEN88 Election"**

ii) if by **mail** to the following address:

#310 - 3300 Highway 7

Vaughan, ON

L4K 4M3

_____ **iii) if by fax**: 905-264-6413 **Subject line: "TEN88 Election"**

February 5, 2019

EMPIRE PACE (1088 PROGRESS LIMITED)

25 Brodie Drive
Richmond Hill, Ontario
L4B 3F7

Attention: Zafir Rashid, CEO, Everest Group of Companies
Jawad Rathore, CEO, Fortress Real Developments

Re: Letter of Intent (the “LOI”) – 1088 Progress ,Scarborough ON (the “Property

Set out herein is a non-binding expression of the intent of **EVEREST GROUP OF COMPANIES** (the “**Purchaser**”) to acquire the Property from **EMPIRE PACE (1088 PROGRESS LIMITED)** (the “**Vendor**”) and the terms and conditions which, if accepted by the Vendor, would form the basis of a formal Agreement of Purchase & Sale (the “**APS**”) between the Vendor and the Purchaser with respect to the Property.

Administrator and lender/investor consent is required for the transaction to proceed.

1. Purchase Price:

The purchase price for the Property (the “**Purchase Price**”) shall be Fourteen Million Canadian Dollars (CDN\$14,000,000.00).

The Purchase Price shall be satisfied by the deposits referred to in Section 2 below and by payment by the Purchaser on the Closing Date (as defined herein), by certified cheque, wire transfer or electronic funds transfer, of the balance of the Purchase Price less Two Million Dollars (\$2,000,000), to be allocated to the Vendor as per below, due, subject to usual and customary adjustments to be negotiated and set out in the APS.

- a) One Million Dollars (\$1,000,000) to be paid to the Vendor upon closing
- b) The Purchaser shall give and the Vendor shall take back a VTB mortgage in the amount of One Million Dollars (\$1,000,000) maturing on the earlier of the start of construction (defined as the date of construction funding) or One (1) year from the Closing Date.

In exchange for providing a full discharge of the syndicate mortgages on the property, the Purchaser will convey the entirety of the commercial space within the tower to be constructed on the subject site to the holders of the existing syndicate mortgages. The Purchaser will deliver this space as a shell.

A postponement agreement will be issued by the administrator of the existing syndicate mortgages, which will contain language acceptable to the Purchaser with respect to the necessary protections against future legal actions, and postponement and subordination to any and all project/construction related debt.

2. Deposits:

First Deposit: The Purchaser agrees to deliver to the Vendor’s solicitor a first deposit in the amount of One Hundred Thousand Dollars (\$100,000.00) within Two (2) business days after the APS has been fully and mutually executed by the Vendor and the Purchaser, and such deposit to be held in an interest bearing account by the Vendor’s solicitor, in trust in accordance with the APS with interest accruing for the benefit of the Purchaser. If the Purchaser does not satisfy or waive the due diligence conditions contained in the APS in accordance with the terms of the APS, the First Deposit will be returned to the Purchaser with interest and without deduction without any further right or recourse by one party against the other on the earlier of the date that is two (2) days after: (a) the expiry of the Due Diligence Period; and (b) the date on which the Purchaser delivers written notice to the Vendor that it has not satisfied and will not waive the due diligence conditions in the APS.

Second Deposit: The Purchaser agrees to deliver to the Vendor’s solicitor a second deposit of Nine Hundred Thousand Dollars (\$900,000.00) within Three (3) business days after waiver and/or satisfaction of the due diligence conditions contained in accordance with the APS, and

such deposit (together with the First Deposit) to be held in an interest bearing account by the Vendor's solicitor, in trust in accordance with the APS with interest accruing for the benefit of the Purchaser.

The First Deposit and the Second Deposit are, collectively, referred to herein as the "**Deposits**".

3. Closing Date:

The date of closing of this transaction shall be thirty (30) days following delivery of written notice by the Purchaser of waiver or satisfaction of the Purchaser's Due Diligence Condition defined herein (the "**Closing Date**"). Vacant possession of the Property shall be provided to the Purchaser on the Closing Date.

4. Due Diligence Condition:

The Purchaser shall have a period of Thirty (30) days from the date that the APS is fully executed by the Vendor and the Purchaser and the Purchaser has received all of the Vendor's Deliveries (as defined below) (the "**Due Diligence Period**") to:

- (a) review the Vendor's Deliveries, conduct title and other searches, review compliance with applicable laws and zoning and conduct such tests, inspections, audits and studies of the Property including, without limitation, phase 1 and phase 2 environmental site assessments and geotechnical and soil stability tests, and review such other documents relating to the Property that the Purchaser determines to be necessary or desirable, in its sole, subjective and absolute discretion, to satisfy itself, in its sole, subjective and absolute discretion with: (i) the Vendor's Deliveries; (ii) the physical and environmental state and condition of the Property; (iii) title to the Property including that any encumbrance registered against title to the Property permitted by the APS will not interfere with the intended development and use of the Property by the Purchaser; (iv) that the Purchaser's intended development and use of the Property is economically and financially viable; and (v) any and all other matters touching or concerning the Property or which may affect the development, use, enjoyment or operation of the Property that the Purchaser determines to be necessary or desirable in its sole, subjective and absolute discretion; and
- (b) satisfy itself, in its sole, subjective and absolute discretion that it can arrange financing to finance the acquisition of the Property on terms and conditions satisfactory to the Purchaser, in its sole, subjective and absolute discretion.

Where Purchaser is, in its sole determination and sole, subjective and absolute discretion, dissatisfied with the results of any matters described in paragraph 4(a) and (b) above and any matters that it has investigated and/or been made aware of in respect of the Property during the Due Diligence Period, the Purchaser shall have the right to terminate the APS and the Deposits shall be returned to the Purchaser with interest and without deduction without any further right or recourse by one party against the other.

Following the full execution of the APS and until the Closing Date of the transaction contemplated herein, the Vendor shall provide the Purchaser and all its advisors, consultants and contractors with access to the Property during regular business hours as the Purchaser, acting reasonably, considers to be necessary or desirable in connection with its due diligence review, future planning and marketing with respect to its user and ownership of the Property.

The Vendor covenants and agrees to assist the Purchaser as much as is commercially reasonable and to make itself and its employees, consultants and contractors available in order for the Purchaser to fully conduct reasonable due diligence on the Property. The Vendor agrees to obtain reliance letters from any and all consultants that have obtained environmental site reports, geotechnical reports, soil stability reports and other similar reports included in the Vendor's Deliveries.

The Purchaser shall have the right to waive the foregoing condition at the Purchaser's sole option.

5. Vendor's Deliverables:

The Vendor will deliver or cause to be delivered to the Purchaser within Two (2) business days following execution of the APS the following (collectively, the "**Vendor's Deliveries**"):

- a) Copies of any and all surveys of the Property in the possession or control of the Vendor;

- b) Copies of any and all soil tests, engineering reports, environment site assessment reports, geotechnical reports, soil stability reports, environmental audits and reports, building condition reports and all other reports and studies relating to the Property in the possession or control of the Vendor;
- c) Copies of architectural plans, floor plans, mechanical drawings, electrical drawings, etc. for the Property;
- d) Copies of all other agreements affecting the Property.

6. Agreements of Purchase & Sale:

The Purchaser will prepare and deliver to the Vendor a draft form of the APS, based on this LOI within two (2) business days following the execution of this LOI by both parties. The parties agree to use reasonable efforts to conclude execution of the APS within two (2) business days following Vendor's receipt of the proposed form of APS from the Purchaser. The APS shall incorporate the terms set forth herein and contain the usual and customary representations, warranties, covenants, indemnities and agreements of the Vendor and other terms that are typically and customarily contained in agreements of purchase and sale in respect of lands and premises similar in kind to the Property.

7. Confidentiality:

This LOI, the APS, the Purchase Price, any negotiations and/or discussions between the Vendor and the Purchaser and any information provided by either party to the other with respect to this transaction or the Property, shall be kept strictly confidential and no public announcements will be made in respect thereof, provided that the parties may give such information on a confidential basis to their employees, professional advisors, consultants and the Purchaser's prospective lenders as may be required to conduct the Purchaser's due diligence investigations and to carry out the transaction contemplated by this Letter of Intent or as required by law.

8. Exclusive Negotiations:

The Vendor covenants and agrees with the Purchaser that immediately upon the acceptance of this LOI by the Vendor and pending the finalizing and execution of the APS, the Vendor will cease and discontinue, and will cause its brokers and agents to cease and discontinue, any existing discussions or negotiations in respect of a sale of the Property or any part thereof and the Vendor will not, and will cause its brokers and agents not to, enter into or continue any discussions or negotiations with any other party relating to the sale of the Property and will not solicit, encourage, entertain, accept, deal with or enter into any other letters of intent, offers to purchase or agreements to purchase the Property or any part thereof from any other party unless and until the Purchaser has confirmed to the Vendor in writing that has determined not to enter into the APS.

9. Non-Binding Letter of Intent:

This LOI is a non-binding letter of intent and does not, and is not intended to, create contractual relations or legally binding obligations between the parties save and except that the provisions contained in paragraphs 7 and 8 of this LOI shall be binding obligations and covenants of the Vendor and the Purchaser and enforceable against the Vendor and the Purchaser, as applicable. This LOI is an expression of the Purchaser's present intention and its willingness to continue negotiations which could lead to a satisfactory negotiation of an APS and neither this letter of intent nor any subsequent acts, conduct, communications, discussions, negotiations, dealings of any type, preparation of any further drafts of this letter of intent, expenditure of funds nor the undertaking of actions in furtherance of the proposed transaction shall be considered partial performance nor shall it create, or be construed as creating, any binding and enforceable rights or obligations on the part of either the Vendor or the Purchaser to enter into or continue any discussions or negotiations to enter into the APS.

If this LOI is acceptable to you, please indicate such by executing and returning a copy of this LOI to the Purchaser via electronic mail transmission, on or before 5:00 p.m. on February 11, 2019.

DATED at Toronto this 11th day of February, 2019.

EVEREST GROUP OF COMPANIES

Per:  _____

Name: Zafir Rashid

Title:CEO

I have authority to bind the corporation.

AGREED on this 11th day of February, 2019.

EMPIRE PACE.

Per: _____

Name: _____

Title: _____

I/We have authority to bind the corporation.

TAB 13

Appendix 13:

Cash Flow Projection to October 31, 2020

Sorrenti Law Professional Corporation or Derek Sorrenti - Syndicated Mortgage Loan Administration Business

Cash Flow Projection for the Period Ending October 31, 2020

(Unaudited; \$C)

| | Note | Mar | Apr | May | Jun | Jul | Aug | Sept | Oct | Total |
|--|------|-----------|-----------|-----------|-----------|-----------|-------------|-------------|-------------|-------------|
| Collections and other receipts | 1 | - | - | - | - | - | - | - | - | - |
| Total receipts | | - | - | - | - | - | - | - | - | - |
| Personnel | 2 | 10,649 | 10,649 | 10,649 | 10,649 | 10,649 | 10,649 | 10,649 | 10,649 | 85,195 |
| IT costs | 3 | 2,770 | 2,770 | 2,770 | 2,770 | 2,770 | 2,770 | 2,770 | 2,770 | 22,160 |
| Office expenses | | 1,500 | 1,500 | 1,500 | 1,500 | 1,500 | 1,500 | 1,500 | 1,500 | 12,000 |
| Bank charges | | 500 | 500 | 500 | 500 | 500 | 500 | 500 | 500 | 4,000 |
| Operating costs | | 15,419 | 15,419 | 15,419 | 15,419 | 15,419 | 15,419 | 15,419 | 15,419 | 123,355 |
| Appraisals | 4 | 27,000 | 7,000 | 7,000 | - | - | - | - | - | 41,000 |
| Professional fees | 5 | 930,658 | 200,000 | 200,000 | 200,000 | 200,000 | 200,000 | 200,000 | 325,000 | 2,455,658 |
| Total disbursements | | 973,077 | 222,419 | 222,419 | 215,419 | 215,419 | 215,419 | 215,419 | 340,419 | 2,620,013 |
| Net cash flow | | (973,077) | (222,419) | (222,419) | (215,419) | (215,419) | (215,419) | (215,419) | (340,419) | (2,620,013) |
| Opening balance - Estate Property | 6 | 989,502 | 16,425 | (205,995) | (428,414) | (643,834) | (859,253) | (1,074,673) | (1,290,092) | 989,502 |
| Net cash inflow/(outflow) | | (973,077) | (222,419) | (222,419) | (215,419) | (215,419) | (215,419) | (215,419) | (340,419) | (2,620,013) |
| Closing cash balance - Estate Property | | 16,425 | (205,995) | (428,414) | (643,834) | (859,253) | (1,074,673) | (1,290,092) | (1,630,511) | (1,630,511) |

Notes

- No receipts of Estate Property are forecasted during the cash flow period as the timing and likelihood of same are uncertain at this time.
- Represents contractor costs.
- Includes estimated software and other IT costs required for the SML Administration Business.
- Based on estimates provided by the appraisal firms.
- Represents the payment of fees (including HST) to the Trustee, its legal counsel and Representative Counsel. These payments do not reflect all amounts that may become due and owing to the professionals throughout the cash flow period. The amount projected to be paid in March, 2020 relates to services provided up to February 29, 2020.
- Opening Estate Property Balance is net of approximately \$39,721 of administrative disbursements paid by the Trustee since the commencement of these proceedings.

TAB 14

Appendix 14:

Manzoor Affidavit

Court File No. CV-19-628258-00CL

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

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, C. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43

**AFFIDAVIT OF NAVEED MANZOOR
(sworn March 6, 2020)**

I, Naveed Manzoor, of the Town of Oakville, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a managing director of FAAN Mortgage Administrators Inc., the Court-Appointed Trustee (the “**Trustee**”), without security, of all of the assets, undertakings and properties of the Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of FRDI’s direct or indirect affiliates, and any entity under common control with FRDI, in these proceedings and as

such have knowledge of the matters hereinafter deposed. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.¹

2. I make this affidavit in support of a motion by the Trustee for, among other things, approval of the fees and disbursements of the Trustee.

3. In addition to the description of the activities of the Trustee contained in its First Report dated January 22, 2020 and its Second Report dated March 6, 2020, attached hereto as Exhibit "A" is a copy of each invoice issued by the Trustee for the period between September 30, 2019 and January 31, 2020 (the "**Approval Period**") setting out the Trustee's fees, reimbursable expenses and applicable taxes for the relevant period, along with a summary of the activities undertaken by the Trustee in connection with such invoice. I confirm that these accounts accurately reflect the services provided by the Trustee in this matter for the Approval Period and the fees and disbursements claimed by it for the Approval Period.

4. Attached hereto as Exhibit "B" is a schedule of the accounts rendered by the Trustee for the fees and disbursements incurred in connection with the activities summarized in Exhibit "A" undertaken in these proceedings during the Approval Period.

5. Attached hereto as Exhibit "C" is a schedule summarizing the individuals who have worked on this matter, including their roles, hours and rates during the Approval Period.

6. Confidential Exhibit "D" (the "**Confidential Manzoor Exhibit**") hereto contains true copies of the dockets rendered by the Trustee for activities undertaken during the Approval Period. The Trustee is seeking a sealing order with respect to the Confidential Manzoor Exhibit

¹ Capitalized terms used and not otherwise defined in this affidavit have the meanings given to them in the Second Report to Court of the Trustee dated March 6, 2020.

due to the fact that the information contained in the Trustee’s detailed dockets includes privileged and commercially sensitive information regarding the projects and the Respondents generally, and the disclosure of that privileged and/or commercially sensitive information could have a material adverse effect on the recoveries that may ultimately be available to Investors in these proceedings.

7. To the best of my knowledge, the total hours, fees and disbursements incurred by the Trustee for the Approval Period are reasonable and appropriate in the circumstances.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario, on March 6, 2020



Commissioner for Taking Affidavits



Naveed Manzoor

SEAN STIDMAN

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF NAVEED MANZOOR
SWORN BEFORE ME ON THIS 6th DAY OF MARCH, 2020



A Commissioner for Taking Affidavits

SEAN STIDWELL

Exhibit A



Invoice 118

October 31, 2019

Re: **FAAN Mortgage Administrators Inc. in its capacity as Court appointed Trustee ("Trustee") of Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti")**

Invoice for the period September 30 to October 31, 2019

The Trustee's activities for the period September 30 to October 31, 2019 ("**Period**"), include, but are not limited to the following:

Project Matters

- Throughout the Period the Trustee dealt with numerous project specific matters and corresponded with Osler Hoskin & Harcourt LLP ("**Osler**"), the Trustee's counsel, and Chaitons LLP ("**Chaitons**"), representative counsel, as necessary regarding same, including, but not limited to, the following:
 - Gotham Project – reviewing partial discharge requests from the borrower and its counsel and corresponding with Osler regarding same. Engaging in discussions with the borrower regarding a proposed settlement offer to the syndicated mortgage lenders that advanced funds to the Gotham Project and negotiating the terms of same with the Borrower including attending conference calls and other correspondence. Corresponding with the borrower regarding the status of the project and reviewing accounting records provided by the borrower;
 - Victoria Park Place Project – reviewing information provided by the borrower and counsel to a senior lender to the project. Reviewing the terms of a potential transaction involving the syndicated mortgage loan ("**SML**") that was proposed by the borrower. Arranging for an appraisal of the property;
 - Bayview/Lotus Project – reviewing documentation relating to the partial distribution of funds completed by Sorrenti prior to the appointment of the Trustee;
 - Harmony Village Sheppard ("**HVS**") Project – correspondence with the Court-appointed receiver of the project ("**Receiver**") regarding the status of the proceedings. Reviewing the receiver's motion materials and related Court orders. Corresponding with the receiver regarding a payment made to the Trustee by the Receiver;



- Unionvillas/Uptowns of Unionville Project – reviewing partial discharge requests from the borrower and its counsel. Attending meetings and conference calls with the borrower regarding the status of the project. Reviewing accounting and other information provided by the borrower;
- Progress/Ten88 (“**Progress**”) Project – reviewing information provided by Sorrenti regarding the borrower’s proposal to sell its remaining property and related settlement agreement with Sorrenti, which proposed by Sorrenti to the Progress SML investors in August, 2019 (“**Progress Proposed Settlement**”). Corresponding with and requesting information from the borrower and its counsel in respect of the status of the project and the terms of the Progress Proposed Settlement;
- Sutton Project – attending a meeting with the borrower regarding the status of the project and reviewing information provided by the borrower;
- Wismer/The Mark/Eldin Project – corresponding with and requesting information from the borrower;
- Mapleview Project – corresponding with and requesting information from the borrower; and
- Soba Project – attending a conference call with the borrower regarding the status of the project;
- Providing project specific updates to the investors upon request; and
- Logging and responding to numerous investor calls and emails during the Period.

General Matters

- Analyzing the various projects subject to the Sorrenti SMLs and obtaining and reviewing information from borrowers and other parties in respect of same;
- Preparing the Project Analysis Summary and posting same to the Trustee’s website;
- Drafting and finalizing a notice to all Sorrenti syndicated mortgage lenders in respect of the motion heard by the Court on September 30, 2019 whereby FAAN Mortgage Administrators Inc. was appointed as Trustee and Chaitons was appointed as representative counsel;
- Drafting a letter to the borrowers under the Sorrenti SMLs to advise of the Trustee’s appointment and request project-related and financial information in respect of the borrowers;
- **Attending calls not specifically identified above, including with certain borrowers, and**



other stakeholders regarding various aspects of these proceedings;

- Attending calls and meetings with Derek Sorrenti regarding, among other things, banking, accounting records, document production matters and internal discussions regarding same;
- Corresponding with Olympia Trust Company on a periodic basis regarding various matters related to the Sorrenti SMLs;
- Compiling information required by appraisers for the preparation of appraisals and responding to the appraisers inquiries in respect of same;
- Overseeing the process established to prepare summaries of the various tranche closings on each Sorrenti SML and corresponding internally regarding same;
- Establishing post-appointment bank accounts in accordance with the Appointment Order;
- Reviewing Sorrenti's banking and accounting records;
- Attending periodic investor meetings at the Trustee's office;
- Attending meetings at Sorrenti's office with representatives of the Law Society of Ontario ("LSO");
- Corresponding periodically with the LSO regarding the Appointment Order;
- Reviewing and updating the Trustee's website for these proceedings;
- Preparing a list of frequently asked questions in respect of these proceedings and posting same to the Trustee's website for these proceedings;
- Corresponding with Chaitons on a periodic basis regarding these proceedings;
- Attending meetings, calls and exchanging numerous and daily emails with Osler regarding these proceedings; and
- Dealing with all other meetings, correspondence, etc. pertaining to this matter.

| | | |
|--------------------------------------|----|-------------------|
| Total fees per attached time summary | \$ | 90,687.65 |
| HST | | 11,789.39 |
| Total | \$ | <u>102,477.04</u> |



FAAN Mortgage Administrators Inc.
 Derek Sorrenti and Sorrenti Law Professional Corporation
Time Summary
 For the period September 30, 2019 to October 31, 2019

| Name | Title | Rate | Hours | Amount |
|---------------------|-------------------|-------------|---------------|---------------------|
| Naveed Manzoor | Managing Director | \$ 475 | 39.25 | \$ 18,643.75 |
| Daniel Sobel | Managing Director | \$ 475 | 115.70 | \$ 54,957.50 |
| Shelby Draper | Senior Director | \$ 400 | 2.75 | \$ 1,100.00 |
| Naomi Lieberman | Manager | \$ 330 | 2.68 | \$ 884.40 |
| Nick Niktikakis | Manager | \$ 300 | 50.34 | \$ 15,102.00 |
| Total | | | 210.72 | \$ 90,687.65 |
| Average hourly rate | | | | <u>\$ 430.37</u> |



Invoice 119

November 30, 2019

Re: **FAAN Mortgage Administrators Inc. in its capacity as Court appointed Trustee ("Trustee") of Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti")**

Invoice for the period November 1 to 30, 2019

The Trustee's activities for the period November 1 to 30, 2019 ("**Period**"), include, but are not limited to the following:

Project Matters

- Throughout the Period the Trustee dealt with numerous project specific matters and corresponded with Osler Hoskin & Harcourt LLP ("**Osler**"), the Trustee's counsel, and Chaitons LLP ("**Chaitons**"), representative counsel, as necessary regarding same, including, but not limited to, the following:
 - Gotham Project – continuing to review partial discharge requests from the borrower and its counsel. Continuing discussions with the borrower regarding a proposed settlement offer to the syndicated mortgage lenders that advanced funds to the Gotham Project ("**Gotham Settlement Transaction**"). Attending conference calls with the borrower regarding the status of the project and continuing to review certain accounting records provided by the borrower in order to determine the appropriate next steps with respect to the Gotham Settlement Transaction;
 - Victoria Park Place Project – continuing the Trustee's review of information provided by the borrower and counsel to a senior lender to the project. Continuing to review the terms of a potential transaction involving the syndicated mortgage loan that was proposed by the borrower and corresponding internally regarding same. Reviewing the appraisal commissioned by the Trustee for the property and corresponding with the appraiser;
 - Bayview/Lotus Project – continuing to review information relating to the partial distribution of funds that was completed by Sorrenti prior to the appointment of the Trustee and responding to numerous investor inquiries in respect of same;



- Unionvillas/Uptowns of Unionville Project – continuing to review partial discharge requests from the borrower and its counsel. Attending conference calls with the borrower regarding the status of the project and continuing to review accounting and other information provided by the borrower;
- Progress/Ten88 (“**Progress**”) Project – reviewing information provided by Sorrenti regarding a possible settlement arrangement proposed by Sorrenti to the syndicated mortgage lenders in August, 2019 (“**Progress Proposed Settlement**”). Corresponding with and requesting information from the borrower in respect of the status of the project and the proposed terms of the Progress Proposed Settlement; Arranging for an appraisal of the property;
- Sutton Project – corresponding with the borrower and its counsel and reviewing information provided by the borrower regarding the status of the project;
- Wismer/The Mark/Eldin Project – corresponding with and attending a meeting with the borrower and reviewing information provided by the borrower;
- Mapleview Project – corresponding with attending a meeting with the borrower and reviewing information provided by the borrower;
- Providing project specific updates to the investors upon request; and
- Logging and responding to numerous investor calls and emails during the Period.

General Matters

- Drafting notices to investors;
- Attending calls not specifically identified above including with certain borrowers and other stakeholders regarding various aspects of these proceedings;
- Attending calls with Derek Sorrenti regarding, among other things, banking, accounting records, document production matters and internal discussions regarding same;
- Overseeing the process established to prepare summaries of the various tranche closings on each Sorrenti loan and corresponding internally regarding same;
- Continuing to analyze the various projects subject to the Sorrenti SMLs and obtaining and reviewing information from borrowers and other parties in respect of same;
- Updating the Project Analysis Summary;
- Corresponding with Olympia Trust Company on a periodic basis regarding various matters related to the Sorrenti SMLs;



- Maintaining post-appointment bank accounts in accordance with the Appointment Order;
- Attending periodic investor meetings at the Trustee's office;
- Corresponding periodically with the LSO regarding the Appointment Order;
- Maintaining and updating the Trustee's website for these proceedings;
- Corresponding with Chaitons on a periodic basis regarding these proceedings;
- Paying operating and administrative expenses;
- Attending meetings, calls and exchanging numerous daily emails with Osler regarding these proceedings; and
- Dealing with all other meetings, correspondence, etc. pertaining to this matter.

| | | |
|--------------------------------------|----|------------------|
| Total fees per attached time summary | \$ | 70,847.70 |
| HST | | 9,210.20 |
| Total | \$ | <u>80,057.90</u> |



FAAN Mortgage Administrators Inc.
 Derek Sorrenti and Sorrenti Law Professional Corporation

Time Summary

For the period November 1 to 30, 2019

| Name | Title | Rate | Hours | Amount |
|-----------------|-------------------|-------------|---------------|---------------------|
| Naveed Manzoor | Managing Director | \$ 475 | 29.45 | \$ 13,988.75 |
| Daniel Sobel | Managing Director | \$ 475 | 100.15 | \$ 47,571.25 |
| Shelby Draper | Senior Director | \$ 400 | 0.75 | \$ 300.00 |
| Naomi Lieberman | Manager | \$ 330 | 1.19 | \$ 392.70 |
| Nick Niktikakis | Manager | \$ 300 | 28.65 | \$ 8,595.00 |
| Total | | | 160.19 | \$ 70,847.70 |

Average hourly rate \$ 442.27



Invoice 120

December 31, 2019

Re: **FAAN Mortgage Administrators Inc. in its capacity as Court appointed Trustee ("Trustee") of Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti")**

Invoice for the period December 1 to 31, 2019

The Trustee's activities for the period December 1 to 31, 2019 ("**Period**"), include, but are not limited to the following:

Project Matters

- Throughout the Period the Trustee dealt with numerous project specific matters and corresponded with Osler Hoskin & Harcourt LLP ("**Osler**"), the Trustee's counsel, and Chaitons LLP ("**Chaitons**"), representative counsel, as necessary regarding same, including, but not limited to, the following:
 - Gotham Project – continuing to review partial discharge requests from the borrower and its counsel and corresponding with Osler regarding same. Engaging in ongoing discussions with the borrower regarding a proposed settlement offer to the syndicated mortgage lenders that advanced funds to the Gotham Project and negotiating and finalizing the terms thereof ("**Gotham Settlement Transaction**"). Attending numerous calls with the Borrower regarding the Gotham Settlement Transaction. Drafting and finalizing a notice to investors in respect of the Gotham Settlement Transaction and corresponding extensively with Osler and Chaitons regarding same;
 - Victoria Park Place Project – continuing the Trustee's review of information provided by the borrower and by counsel to a senior lender to the project. Reviewing a potential transaction involving the syndicated mortgage loan ("**SML**") that was proposed by the borrower. Reviewing the appraisal of the property commissioned by the Trustee. Reviewing the notice of intention to enforce security and the notice of sale issued by the second mortgagee in respect of the Victoria Park Place Project;
 - Unionvillas/Uptowns of Unionville Project – Continuing to review partial discharge requests from the borrower and its counsel. Attending conference calls with the borrower regarding the status of the project and continuing to review accounting and other information provided by the borrower in respect of same;



- Progress/Ten88 (“**Progress**”) Project – reviewing information provided by Sorrenti regarding a possible settlement arrangement proposed by Sorrenti in August, 2019 to the Progress syndicated mortgage lenders (“**Progress Proposed Settlement**”). Corresponding with and requesting information from the borrower in respect of the status of the project and the proposed terms of the Progress Proposed Settlement and correspondence with the borrower’s legal counsel regarding same;
- Sutton Project – corresponding with the borrower and its counsel in order to obtain financial and other information related to the project and reviewing partial discharge requests from the borrower and its counsel;
- Wismer/The Mark/Eldin Project – corresponding with the borrower, reviewing information provided by the borrower and attending calls with the first mortgagee regarding discharges being requested from the Trustee;
- Mapleview Project – corresponding with the borrower regarding the status of the project and reviewing information provided by the borrower;
- Drafting, finalizing and distributing a notice to:
 - The syndicated mortgage lenders who advanced funds to the Bayview Project dated December 2, 2019; and
 - all Sorrenti syndicated mortgage lenders dated December 2, 2019.
- Providing project specific updates to the investors upon request; and
- Logging and responding to numerous investor calls and emails during the Period.

General Matters

- Attending calls not otherwise described above, with certain borrowers regarding, among other things, project status updates, upcoming project milestones and timing to completion;
- Attending calls with Derek Sorrenti regarding, among other things, banking, accounting records, document production matters and engaging in internal discussions regarding same;
- Continuing to compile information required by appraisers for the preparation of appraisals and responding to the appraisers inquiries in respect of same;



- Corresponding with Olympia Trust Company on a periodic basis regarding various matters related to the Sorrenti SMLs;
- Overseeing the process established to prepare summaries of the various tranche closings on each Sorrenti loan;
- Continuing to analyze the various projects subject to the Sorrenti SMLs and obtaining and reviewing information from borrowers and other parties in respect of same;
- Updating the Project Analysis Summary;
- Maintaining post-appointment bank accounts in accordance with the Appointment Order;
- Attending periodic investor meetings at the Trustee's office;
- Corresponding periodically with the LSO regarding the Appointment Order;
- Maintaining and updating the Trustee's website for these proceedings;
- Corresponding with Chaitons on a periodic basis regarding these proceedings;
- Paying operating and administrative expenses;
- Attending meetings, calls and exchanging numerous emails with Osler regarding all aspects of these proceedings; and
- Dealing with all other meetings, correspondence, etc. pertaining to this matter.

| | | |
|--------------------------------------|----|------------------|
| Total fees per attached time summary | \$ | 45,131.95 |
| HST | | 5,867.15 |
| Total | \$ | <u>50,999.10</u> |



FAAN Mortgage Administrators Inc.
Derek Sorrenti and Sorrenti Law Professional Corporation

Time Summary

For the period December 1 to 31, 2019

| Name | Title | Rate | Hours | Amount |
|-----------------|-------------------|-------------|---------------|---------------------|
| Naveed Manzoor | Managing Director | \$ 475 | 13.95 | \$ 6,626.25 |
| Daniel Sobel | Managing Director | \$ 475 | 60.00 | \$ 28,500.00 |
| Shelby Draper | Senior Director | \$ 400 | 0.25 | \$ 100.00 |
| Naomi Lieberman | Manager | \$ 330 | 9.79 | \$ 3,230.70 |
| Nick Niktikakis | Manager | \$ 300 | 22.25 | \$ 6,675.00 |
| Total | | | 106.24 | \$ 45,131.95 |

Average hourly rate \$ 424.81



Invoice 121

January 31, 2020

Re: **FAAN Mortgage Administrators Inc. in its capacity as Court appointed Trustee ("Trustee") of Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti")**

Invoice for the period January 1 to 31, 2020

The Trustee's activities for the period January 1 to 31, 2020 ("**Period**"), include, but are not limited to the following:

Project Matters

- Throughout the Period the Trustee dealt with numerous project specific matters and corresponded with Osler Hoskin & Harcourt LLP ("**Osler**"), the Trustee's counsel, and Chaitons LLP ("**Chaitons**"), representative counsel, as necessary regarding same, including, but not limited to, the following:
 - Gotham Project – continuing to review partial discharge requests from the borrower and its counsel. Drafting, finalizing and distributing a notice to investors in respect of a proposed settlement agreement with the borrower ("**Gotham Settlement Transaction**"). Responding to investor inquiries regarding the Gotham Settlement Transaction and compiling investor feedback regarding same; attending at Court in respect of the approval motion for the Gotham Settlement Transaction;
 - Victoria Park Place Project – reviewing a Notice of Sale Under Mortgage ("**Notice of Sale**") issued by the second mortgagee registered on title and corresponding with the mortgagee's counsel in respect of same;
 - Bayview/Lotus Project – continuing to review information relating to the partial distribution of funds completed by Sorrenti prior to the appointment of the Trustee and responding to numerous investor inquiries in respect of same;
 - Unionvillas/Uptowns of Unionville Project – continuing to review partial discharge requests from the borrower and its counsel. Attending conference calls with the borrower regarding the status of the project and continuing to review accounting and other information provided by the borrower;



- Progress/Ten88 Project – continuing to review information provided by Sorrenti regarding a possible settlement arrangement with the borrower and corresponding with the borrower regarding same (“**Progress Proposed Settlement**”). Requesting information from the borrower in respect of the status of the project and related to the Progress Proposed Settlement. Corresponding with the borrower’s legal counsel and attending a call with representatives of the borrower and its counsel regarding the Progress Proposed Settlement; Reviewing the appraisal commissioned by the Trustee for the property and corresponding with the appraiser; and
- Sutton Project – reviewing information provided by the borrower and requesting additional information from the borrower in order to assess the current status of the project and projected recoveries. Reviewing partial discharge requests from the borrower and its counsel and corresponding regarding same. Attending calls with representatives of the borrower.
- Drafting the Trustee’s First Report to Court dated January 22, 2020 in respect of motion materials returnable January 30, 2020 (“**January 30th Motion**”) to approve, among other things, the Gotham Settlement Transaction;
- Corresponding extensively with with Osler and Chaitons regarding the January 20th Motion;
- Drafting and finalizing the draft notice of motion and the draft Court order in respect of the January 30th Motion and corresponding with Osler regarding same;
- Drafting and finalizing a notice to investors in respect of the January 30th Motion;
- Drafting, finalizing and distributing an investor notice in respect of the Notice of Sale issued on the Victoria Park Place Project;
- Drafting and preparing the Trustee’s First Report to court dated January 22, 2020 in respect of the motion returnable January 30, 2020 whereby the Trustee was seeking approval of the Gotham Settlement Transaction, and corresponding with Osler and Chaitons regarding same;
- Drafting and preparing the Trustee’s Second Report to court dated March 6, 2020 in respect of the omnibus motion returnable March 17, 2020;
- Providing project specific updates to the investors upon request; and
- Logging and responding to numerous investor calls and emails during the Period.
- Preparing a cash flow projection for these proceedings;



General Matters

- Attending calls not specifically described above with certain borrowers regarding, among other things, the status of their projects, upcoming milestones and timing to completion;
- Overseeing the process established to prepare summaries of the various tranche closings on each Sorrenti loan and corresponding internally regarding same;
- Continuing to compile information required by appraisers for the preparation of appraisals and responding to the appraisers inquiries in respect of same;
- Continuing to analyze the various projects subject to the Sorrenti SMLs and obtaining and reviewing information from borrowers and other parties in respect of same;
- Updating the Project Analysis Summary;
- Corresponding with Olympia Trust Company on a periodic basis regarding various matters related to the Sorrenti SMLs;
- Maintaining post-appointment bank accounts in accordance with the Appointment Order;
- Attending periodic investor meetings at the Trustee's office;
- Corresponding periodically with the LSO regarding the Appointment Order;
- Maintaining and updating the Trustee's website for these proceedings;
- Corresponding with Chaitons on a periodic basis regarding these proceedings;
- Paying operating and administrative expenses;
- Attending meetings, calls and exchanging numerous emails with Osler regarding these proceedings; and
- Dealing with all other meetings, correspondence, etc. pertaining to this matter.

| | | |
|--------------------------------------|----|------------------|
| Total fees per attached time summary | \$ | 83,627.50 |
| HST | | 10,871.58 |
| Total | \$ | <u>94,499.08</u> |



FAAN Mortgage Administrators Inc.
Derek Sorrenti and Sorrenti Law Professional Corporation

Time Summary

For the period January 1 to 31, 2020

| Name | Title | Rate | Hours | Amount |
|---------------------|-------------------|-------------|---------------|---------------------|
| Naveed Manzoor | Managing Director | \$ 525 | 16.00 | \$ 8,400.00 |
| Daniel Sobel | Managing Director | \$ 495 | 108.20 | \$ 53,559.00 |
| Shelby Draper | Senior Director | \$ 440 | 1.00 | \$ 440.00 |
| Naomi Lieberman | Manager | \$ 395 | 16.90 | \$ 6,675.50 |
| Nick Niktikakis | Manager | \$ 315 | 46.20 | \$ 14,553.00 |
| Total | | | 188.30 | \$ 83,627.50 |
| Average hourly rate | | | | <u>\$ 444.12</u> |

THIS IS EXHIBIT "B" REFERRED TO IN
THE AFFIDAVIT OF NAVEED MANZOOR
SWORN BEFORE ME ON THIS 6th DAY OF MARCH, 2020



A Commissioner for Taking Affidavits

SEAN STIDWILL

EXHIBIT B

FAAN Mortgage Administrators Inc.
Sorrenti Law Professional Corporation and Derek Sorrenti

Invoice Summary

(Unaudited; \$C)

| Invoice No. | Date | Billing Period | Fees | HST | Total |
|--------------------|-------------|----------------------------------|-------------------|------------------|-------------------|
| 118 | 31-Oct-19 | September 30 to October 31, 2019 | 90,687.65 | 11,789.39 | 102,477.04 |
| 119 | 30-Nov-19 | November 1 to 30, 2019 | 70,847.70 | 9,210.20 | 80,057.90 |
| 120 | 31-Dec-19 | December 1 to 31, 2019 | 45,131.95 | 5,867.15 | 50,999.10 |
| 121 | 31-Jan-20 | January 1 to 31, 2020 | 83,627.50 | 10,871.58 | 94,499.08 |
| Total | | | 290,294.80 | 37,738.32 | 328,033.12 |

THIS IS EXHIBIT "C" REFERRED TO IN
THE AFFIDAVIT OF NAVEED MANZOOR
SWORN BEFORE ME ON THIS 6th DAY OF MARCH, 2020

Sean Stidwill

A Commissioner for Taking Affidavits

SEAN STIDWILL

EXHIBIT C

FAAN Mortgage Administrators Inc.
 Sorrenti Law Professional Corporation and Derek Sorrenti
Summary of Hours and Fees by Staff Member
 (Unaudited; \$C)

| Professional | Role | Rate (\$) | Hours | Amount (\$) |
|---------------------|-------------------|------------------|---------------|--------------------|
| Naveed Manzoor | Managing Director | 475-525 | 98.65 | 47,658.75 |
| Daniel Sobel | Managing Director | 475-495 | 384.05 | 184,587.75 |
| Shelby Draper | Senior Director | 400-440 | 4.75 | 1,940.00 |
| Naomi Lieberman | Manager | 330-395 | 30.56 | 11,183.30 |
| Nick Niktikakis | Manager | 300-315 | 147.44 | 44,925.00 |
| Total | | | 665.45 | 290,294.80 |
| Average Hourly Rate | | | | <u>436.24</u> |

THIS IS CONFIDENTIAL EXHIBIT "D" REFERRED TO IN
THE AFFIDAVIT OF NAVEED MANZOOR
SWORN BEFORE ME ON THIS 6th DAY OF MARCH, 2020



A Commissioner for Taking Affidavits

SEAN STIDWILL

Exhibit D

**THIS EXHIBIT IS REDACTED IN ITS ENTIRETY
AND IS SUBJECT TO A REQUEST FOR A SEALING ORDER**

LAW SOCIETY OF ONTARIO
Applicant

- and -

DEREK SORRENTI and SORRENTI LAW PROFESSIONAL CORPORATION
Respondents

Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF NAVEED MANZOOR
(sworn March 6, 2020)

OSLER, HOSKIN & HARCOURT LLP
1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8
Phone: 416-362-2111
Fax: 416-862-6666

Michael De Lellis (LSO# 48038U)
Jeremy Dacks (LSO# 41851R)

Lawyers for FAAN Mortgage Administrators Inc., in its capacity as Court-Appointed Trustee of Derek Sorrenti or Sorrenti Law Professional Corporation in respect of the Syndicated Mortgage Loan Administration Business

TAB 15

Appendix 15:

De Lellis Affidavit

Court File No. CV-19-628258-00CL

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

BETWEEN

THE LAW SOCIETY OF ONTARIO

Applicant

- and -

DEREK SORRENTI AND SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, C. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43

**AFFIDAVIT OF MICHAEL DE LELLIS
(sworn March 6, 2020)**

I, Michael De Lellis, of the Town of Oakville, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a barrister and solicitor qualified to practice law in the Province of Ontario and am a partner with Osler, Hoskin & Harcourt LLP (“**Osler**”), counsel for FAAN Mortgage Administrators Inc., in its capacity as Court-Appointed Trustee (the “**Trustee**”), without security, of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of FRDI’s direct or indirect affiliates, and any entity

under common control with FRDI, in these proceedings and as such have knowledge of the matters hereinafter deposed. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.¹

2. I make this affidavit in support of a motion by the Trustee for, among other things, approval of the fees and disbursements of the Trustee and its counsel.

3. Attached hereto as Exhibit "A" is a copy of each invoice issued by Osler for the period between September 30, 2019 and January 31, 2020 (the "**Approval Period**") setting out Osler's fees, reimbursable expenses and applicable taxes for the relevant period, along with a summary of the activities undertaken by Osler in connection with such invoice. I confirm that these accounts accurately reflect the services provided by Osler in this matter for the Approval Period and the fees and disbursements claimed by it for the Approval Period.

4. Attached hereto as Exhibit "B" is a schedule of the accounts rendered by Osler to the Trustee for the fees and disbursements incurred by Osler in connection with the activities summarized in Exhibit "A" undertaken in these proceedings during the Approval Period.

5. Attached hereto as Exhibit "C" is a schedule summarizing the respective years of call and billing rates of each of the professionals at Osler that rendered services to the Trustee, the hours worked by each such individual and a blended hourly rate for fees incurred during the Approval Period.

6. Confidential Exhibit "D" (the "**Confidential De Lellis Exhibit**") hereto contains true copies of the full accounts rendered by Osler to the Trustee for activities undertaken during

¹ Capitalized terms used and not otherwise defined in this affidavit have the meanings given to them in the Second Report to Court of the Trustee dated March 6, 2020.

the Approval Period. The Trustee is seeking a sealing order with respect to the Confidential De Lellis Exhibit due to the fact that the information contained in Osler's detailed invoices includes privileged and commercially sensitive information regarding the projects and the Respondents generally, and the disclosure of that privileged and/or commercially sensitive information could have a material adverse effect on the recoveries that may ultimately be available to Investors in these proceedings.

7. To the best of my knowledge, the rates charged by Osler throughout the course of these proceedings are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services. I believe that the total hours, fees and disbursements incurred by Osler for the Approval Period are reasonable and appropriate in the circumstances.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario on March 6, 2020



Commissioner for Taking Affidavits

SEAN STIDWELL



Michael De Lellis

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF MICHAEL DE LELLIS
SWORN BEFORE ME ON THIS 6th DAY OF MARCH 2020



A Commissioner for Taking Affidavits

SEAN STIDWILL

Exhibit A

OSLER, HOSKIN & HARCOURT LLP
 1 First Canadian Place
 PO BOX 50
 Toronto ON M5X 1B8
 CANADA
 416.362.2111 main
 416.862.6666 facsimile

OSLER

FAAN Mortgage Administrators Inc.
 20 Adelaide Street East
 Suite 920
 Toronto, ON M5C 2T9
 CANADA

Invoice No.: 12375669
 Date: November 29, 2019
 Client No.: 232833

GST/HST No.: 121983217 RT0001

Attention: Naveed Manzoor

Contact: Michael De Lellis
 Direct Dial: (416) 862-5997
 E-mail: MDeLellis@osler.com

Revision of invoice 12343999

For professional services rendered for Sorrenti Law Professional Corporation Syndicated Mortgage Loan Administration (F#1204815).

| | |
|-------------------------|------------------|
| OUR FEE HEREIN | 50,500.00 |
| REIMBURSABLE EXPENSES * | 1,253.60 |
| HST @ 13% | 6,719.59 |
| TOTAL (CAD): | 58,473.19 |

* Includes non-taxable expenses of 64.40 CAD

PAYMENT DUE UPON RECEIPT



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



REMITTANCE ADVICE

Canadian Dollar EFT and Wire Payments:

TD Canada Trust
 751 3rd Street S.W.
 Calgary, Alberta T2P 4K8
 Transit No: 80629-0004
 Account No: 5219313
 SWIFT Code: TDOMCATTOR

Email payment details to payments@osler.com,
 referencing invoice number(s) being paid.

Cheque Payments:

Osler, Hoskin & Harcourt LLP
 FINANCE & ACCOUNTING
 (RECEIPTS)
 1 First Canadian Place
 PO BOX 50
 Toronto, Ontario M5X 1B8
 Canada

Please return remittance advice(s) with
 cheque.

Invoice No.: 12375669
 Client No.: 232833
 Amount: 58,473.19 CAD

osler.com

EXPENSE SUMMARY

| DESCRIPTION | AMOUNT |
|--------------------------------------|-----------------|
| <u>EXPENSES - TAXABLE</u> | |
| Printing Costs | 24.00 |
| Copies of Documents | 101.50 |
| Teraview Search Charges | 10.75 |
| Title-Related Searches-Toronto | 1,052.95 |
| <u>EXPENSES - NON-TAXABLE</u> | |
| Registration Fees | 64.40 |
| TOTAL (CAD): | 1,253.60 |

Invoice dated November 29, 2019

For services rendered for FAAN Mortgage Administrators Inc. in its capacity as Court-appointed trustee of Derek Sorrenti or Sorrenti Law Professional Corporation relating to the Syndicated Mortgage Loan Administration Business for the period between September 30, 2019 to October 31, 2019:

- Gotham: Attending on borrower partial discharge request matters; attending to related correspondence; attending on diligence with respect to mortgage and loan documents; registering Appointment Order on title; attending to inquiries from counsel with respect to same;
- Sutton: Attending on borrower partial discharge request matters; attending to related correspondence; attending on diligence of mortgage and loan documents; attending to inquiries from counsel with respect to same;
- Union Villas: Attending on borrower partial discharge request matters; attending to related correspondence; attending on diligence with respect to title and loan documents; registering Appointment Order on title; attending to inquiries from counsel with respect to same;
- General: Engaging with the Trustee extensively regarding multiple matters, including projects not referred to above; preparing for and attending court for application for Appointment Order; participating in numerous discussions with counsel to various stakeholders; attending on discussions with Representative Counsel; reviewing and revising investor notices; attending to general real estate diligence requests; attending on status updates and meetings.

OSLER, HOSKIN & HARCOURT LLP
 1 First Canadian Place
 PO BOX 50
 Toronto ON M5X 1B8
 CANADA
 416.362.2111 main
 416.862.6666 facsimile

OSLER

FAAN Mortgage Administrators Inc.
 20 Adelaide Street East
 Suite 920
 Toronto, ON M5C 2T9
 CANADA

Invoice No.: 12353118
 Date: December 16, 2019
 Client No.: 232833

GST/HST No.: 121983217 RT0001

Attention: Naveed Manzoor

Contact: Michael De Lellis
 Direct Dial: (416) 862-5997
 E-mail: MDeLellis@osler.com

For professional services rendered for Sorrenti Law Professional Corporation Syndicated Mortgage Loan Administration (F#1204815).

| | |
|-----------------------|------------------|
| OUR FEE HEREIN | 27,642.50 |
| REIMBURSABLE EXPENSES | 244.55 |
| HST @ 13% | 3,625.32 |
| TOTAL (CAD): | 31,512.37 |

PAYMENT DUE UPON RECEIPT



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



REMITTANCE ADVICE

Canadian Dollar EFT and Wire Payments:

TD Canada Trust
 751 3rd Street S.W.
 Calgary, Alberta T2P 4K8
 Transit No: 80629-0004
 Account No: 5219313
 SWIFT Code: TDOMCATTOR

Email payment details to payments@osler.com, referencing invoice number(s) being paid.

Cheque Payments:

Osler, Hoskin & Harcourt LLP
 FINANCE & ACCOUNTING
 (RECEIPTS)
 1 First Canadian Place
 PO BOX 50
 Toronto, Ontario M5X 1B8
 Canada

Please return remittance advice(s) with cheque.

Invoice No.: 12353118
 Client No.: 232833
 Amount: 31,512.37 CAD

osler.com

EXPENSE SUMMARY

| DESCRIPTION | AMOUNT |
|---|---------------|
| <u>EXPENSES - TAXABLE</u> | |
| Printing Costs | 24.75 |
| OnCorp Fees for Searches/Certificates/Filings | 94.10 |
| Title-Related Searches-Toronto | 125.70 |
| TOTAL (CAD): | 244.55 |

Invoice dated December 16, 2019

For services rendered for FAAN Mortgage Administrators Inc. in its capacity as Court-appointed trustee of Derek Sorrenti or Sorrenti Law Professional Corporation relating to the Syndicated Mortgage Loan Administration Business for the period between November 1, 2019 to November 30, 2019:

- Gotham: Attending on borrower partial discharge request matters;
- Sutton: Attending on borrower partial discharge request matters; attending to related correspondence; attending on diligence of mortgage and loan documents; attending to inquiries from counsel with respect to same;
- Victoria Park: Reviewing financial information relating to the syndicated mortgage loan; reviewing mortgage and loan documents; corresponding with counsel to the priority mortgagee;
- General: Engaging with the Trustee extensively regarding multiple matters, including projects not referred to above, potential transactions, case strategies, and financial analyses; reviewing various mortgage and loan documents; attending on status updates and meetings; attending to Investor notice matters; attending on discussions with Representative Counsel; conducting corporate searches and reporting thereon; conducting title searches and reporting thereon.

OSLER, HOSKIN & HARCOURT LLP
 1 First Canadian Place
 PO BOX 50
 Toronto ON M5X 1B8
 CANADA
 416.362.2111 main
 416.862.6666 facsimile

OSLER

FAAN Mortgage Administrators Inc.
 20 Adelaide Street East
 Suite 920
 Toronto, ON M5C 2T9
 CANADA

Attention: Naveed Manzoor

Invoice No.: 12362934
 Date: January 21, 2020
 Client No.: 232833

GST/HST No.: 121983217 RT0001

Contact: Michael De Lellis
 Direct Dial: (416) 862-5997
 E-mail: MDeLellis@osler.com

For professional services rendered for Sorrenti Law Professional Corporation Syndicated Mortgage Loan Administration (F#1204815).

| | |
|-----------------------|------------------|
| OUR FEE HEREIN | 25,498.00 |
| REIMBURSABLE EXPENSES | 336.30 |
| HST @ 13% | 3,358.46 |
| TOTAL (CAD): | 29,192.76 |

PAYMENT DUE UPON RECEIPT



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



REMITTANCE ADVICE

Canadian Dollar EFT and Wire Payments:

TD Canada Trust
 751 3rd Street S.W.
 Calgary, Alberta T2P 4K8
 Transit No: 80629-0004
 Account No: 5219313
 SWIFT Code: TDOMCATTOR

Email payment details to payments@osler.com,
 referencing invoice number(s) being paid.

Cheque Payments:

Osler, Hoskin & Harcourt LLP
 FINANCE & ACCOUNTING
 (RECEIPTS)
 1 First Canadian Place
 PO BOX 50
 Toronto, Ontario M5X 1B8
 Canada

Please return remittance advice(s) with
 cheque.

Invoice No.: 12362934
 Client No.: 232833
 Amount: 29,192.76 CAD

osler.com

EXPENSE SUMMARY

| DESCRIPTION | AMOUNT |
|---|---------------|
| <u>EXPENSES - TAXABLE</u> | |
| Printing Costs | 65.70 |
| OnCorp Fees for Searches/Certificates/Filings | 229.20 |
| Title-Related Searches-Toronto | 41.40 |
| TOTAL (CAD): | 336.30 |

Invoice dated January 21, 2020

For services rendered for The Trustee Administrators Inc. in its capacity as Court-appointed trustee of Derek Sorrenti or Sorrenti Law Professional Corporation relating to the Syndicated Mortgage Loan Administration Business for the period between December 1, 2019 to December 31, 2019:

- Gotham: Attending on borrower partial discharge request matters; attending on matters relating to potential transactions; attending to Investor notice matters;
- Victoria Park: reviewing notice of sale and attending on matters relating to same;
- General: Engaging with the Trustee extensively regarding multiple matters, including projects not referred to above, potential transactions, and case strategies; attending to Investor notice matters; attending on status updates and meetings.

OSLER, HOSKIN & HARCOURT LLP
 1 First Canadian Place
 PO BOX 50
 Toronto ON M5X 1B8
 CANADA
 416.362.2111 main
 416.862.6666 facsimile

OSLER

FAAN Mortgage Administrators Inc.
 20 Adelaide Street East
 Suite 920
 Toronto, ON M5C 2T9
 CANADA

Invoice No.: **12371993**
 Date: **February 21, 2020**
 Client No.: **232833**

GST/HST No.: **121983217 RT0001**

Attention: **Naveed Manzoor**

Contact: **Michael De Lellis**
 Direct Dial: **(416) 862-5997**
 E-mail: **MDeLellis@osler.com**

For professional services rendered for Sorrenti Law Professional Corporation Syndicated Mortgage Loan Administration (F#1204815).

| | |
|-------------------------|-------------------|
| OUR FEE HEREIN | 96,616.00 |
| REIMBURSABLE EXPENSES * | 3,390.60 |
| HST @ 13% | 12,959.25 |
| TOTAL (CAD): | 112,965.85 |

* Includes non-taxable expenses of 320.00 CAD

PAYMENT DUE UPON RECEIPT



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



REMITTANCE ADVICE

Canadian Dollar EFT and Wire Payments:

TD Canada Trust
 751 3rd Street S.W.
 Calgary, Alberta T2P 4K8
 Transit No: 80629-0004
 Account No: 5219313
 SWIFT Code: TDOMCATTTOR

Email payment details to payments@osler.com,
 referencing invoice number(s) being paid.

Cheque Payments:

Osler, Hoskin & Harcourt LLP
 FINANCE & ACCOUNTING
 (RECEIPTS)
 1 First Canadian Place
 PO BOX 50
 Toronto, Ontario M5X 1B8
 Canada

Please return remittance advice(s) with
 cheque.

Invoice No.: **12371993**
 Client No.: **232833**
 Amount: **112,965.85 CAD**

osler.com

EXPENSE SUMMARY

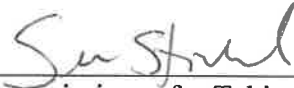
| DESCRIPTION | AMOUNT |
|---|-----------------|
| <u>EXPENSES - TAXABLE</u> | |
| Printing Costs | 299.10 |
| OnCorp Fees for Searches/Certificates/Filings | 63.90 |
| Title-Related Searches-Toronto | 2,707.60 |
| <u>EXPENSES - NON-TAXABLE</u> | |
| Notice of Motion | 320.00 |
| TOTAL (CAD): | 3,390.60 |

Invoice dated February 21, 2020

For services rendered for FAAN Mortgage Administrators Inc. in its capacity as Court-appointed trustee of Derek Sorrenti or Sorrenti Law Professional Corporation relating to the Syndicated Mortgage Loan Administration Business for the period between January 1, 2020 to January 31, 2020:

- Gotham: Attending on borrower partial discharge request matters; attending to Investor notice matters; participating in internal discussions regarding same; attending on settlement transaction matters, including drafting settlement agreement; drafting Gotham Settlement Approval Order and preparing schedules to same; reviewing project documents in connection with same; drafting Trustee's First Report and considering issues related thereto; preparing Notice of Motion; preparing oral submissions for attendance at Court; attending at Court hearing; attending on closing matters;
- SOBA: Attending on borrower partial discharge request matters; attending to related correspondence; attending on diligence with respect to mortgage and loan documents; conducting title searches;
- Sutton: Attending on borrower partial discharge request matters; attending to related correspondence; reviewing loan documents;
- The Mark: Attending on borrower partial discharge request matters; attending to related correspondence;
- Victoria Park: Attending to Investor notice matters; corresponding with senior lender regarding notice of sale;
- General: Engaging with the Trustee extensively regarding multiple matters, including projects not referred to above, potential transactions, case strategies, financial analyses, and court attendance matters; attending on status updates and meetings; conducting title searches; conducting PPSA searches; attending on related diligence.

THIS IS EXHIBIT "B" REFERRED TO IN
THE AFFIDAVIT OF MICHAEL DE LELLIS
SWORN BEFORE ME ON THIS 6th DAY OF MARCH 2020



A Commissioner for Taking Affidavits

SEAN STIDWILL

EXHIBIT B

| Date of Account | For Billing Period Ending | Fees | Expenses / Disbursements* | Taxes | Total |
|------------------------|----------------------------------|--------------|----------------------------------|--------------|--------------|
| November 29, 2019 | October 31, 2019 | \$50,500.00 | \$1,253.60 | \$6,719.59 | \$58,473.19 |
| December 16, 2019 | November 30, 2019 | \$27,642.50 | \$244.55 | \$3,625.32 | \$31,512.37 |
| January 21, 2020 | December 31, 2019 | \$25,498.00 | \$336.30 | \$3,358.46 | \$29,192.76 |
| February 21, 2020 | January 31, 2020 | \$96,616.00 | \$3,390.60 | \$12,959.25 | \$112,965.85 |
| Total | - | \$200,256.50 | \$5,225.05 | \$26,662.62 | \$232,144.17 |

*Includes non-taxable expenses

THIS IS EXHIBIT "C" REFERRED TO IN
THE AFFIDAVIT OF MICHAEL DE LELLIS
SWORN BEFORE ME ON THIS 6th DAY OF MARCH 2020



A Commissioner for Taking Affidavits

SEAN STIDWILL

EXHIBIT C

| <u>Name</u> | <u>Year of Call (if applicable)</u> | <u>Billing Rate (\$/Hour)</u> | <u>Hours Worked</u> |
|--------------------|---|-------------------------------|--------------------------|
| Calvaruso, Martino | 2009 | 2019: 725 | 2019: 2.5 |
| Dacks, Jeremy | 1999 | 2019: 905 2020: 945 | 2019: 20.7 2020: 29.8 |
| De Lellis, Michael | 2003 | 2019: 900 2020: 940 | 2019: 59.2 2020: 35.0 |
| Diamond, Adriana | N/A | 2019: 200 | 2019: 5.9 |
| Disenhouse, Joshua | 2014 | 2019: 620 | 2019: 0.9 |
| Erickson, Justine | 2016 | 2019: 535 | 2019: 8.6 |
| Fairfax, Jennifer | 2003 | 2019: 780 | 2019: 2.3 |
| Gidari, Lisa | N/A | 2020: 405 | 2020: 0.6 |
| Herceg, Suzanne | N/A | 2019: 450 | 2019: 0.6 |
| MacEachern, Kevin | N/A | 2020: 205 | 2020: 1.0 |
| Nielsen, Ryan | 2009 | 2019: 750 | 2019: 0.8 |
| Obal, Shelley | 1985 | 2020: 1,105 | 2020: 1.5 |
| Read, Charlene | N/A | 2020: 315 | 2020: 4.3 |
| Stidwill, Sean | 2016 | 2019: 535 2020: 590 | 2019: 31.1 2020: 45.5 |
| Storm, Lorna | N/A | 2019: 250 2020: 300 | 2019: 13.5 2020: 13.8 |
| Williams, Martina | N/A | 2020: 250 | 2020: 3.6 |
| | | Total: | 281.2 |

- 2 -

| | |
|--|----------|
| Blended Rate (excluding expenses / disbursements and HST) $\$200,256.50 \div 281.2 \text{ hours}^2 =$ | \$712.15 |
|--|----------|

² Certain invoices issued in respect of the Approval Period include fees charged for services provided on a fixed fee basis and, accordingly, there are no hours associated with those fees included in calculation of the 'Blended Rate'.

THIS IS CONFIDENTIAL EXHIBIT "D" REFERRED TO IN
THE AFFIDAVIT OF MICHAEL DE LELLIS
SWORN BEFORE ME ON THIS 6th DAY OF MARCH 2020

Sean Stidwill

A Commissioner for Taking Affidavits

SEAN STIDWILL

Exhibit D

**THIS EXHIBIT IS REDACTED IN ITS ENTIRETY
AND IS SUBJECT TO A REQUEST FOR A SEALING ORDER**

LAW SOCIETY OF ONTARIO
Applicant

- and -

DEREK SORRENTI and SORRENTI LAW PROFESSIONAL CORPORATION
Respondents

Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF MICHAEL DE LELLIS
(sworn March 6, 2020)

OSLER, HOSKIN & HARCOURT LLP
1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8
Phone: 416-362-2111
Fax: 416-862-6666

Michael De Lellis (LSO# 48038U)
Jeremy Dacks (LSO# 41851R)

Lawyers for FAAN Mortgage Administrators
Inc., in its capacity as Court-Appointed Trustee
of Derek Sorrenti or Sorrenti Law Professional
Corporation in respect of the Syndicated
Mortgage Loan Administration Business

TAB C

Court File No.: CV-19-628258-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

| | | |
|--------------------|---|-------------------------------|
| THE HONOURABLE MR. |) | TUESDAY, THE 17 TH |
| |) | |
| JUSTICE HAINEY |) | DAY OF MARCH, 2020 |

BETWEEN:

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, c. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43**

OMNIBUS ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”) pursuant to an Order of this Court made on September 30, 2019 (the “**Appointment Order**”) of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated

mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates and any entity under common control with FRDI (the “**SML Administration Business**”), pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, (i) authorizing the Trustee to effect a distribution of 50% of Realized Property (as defined in the Appointment Order) to the applicable Investors, including without limitation, a distribution to Bayview Individual Investors in an amount equal to 50% of the Bayview Realized Property, a distribution to Gotham Investors in an amount equal to 50% of the Gotham Realized Property, and a distribution to the HVS Investors in an amount equal to 50% of the HVS Realized Property (as each such term is defined in the Second Report (as defined below)); (ii) authorizing the Trustee to use all or any portion of the retained Realized Property to aid the Trustee in complying with the Appointment Order and in carrying out its mandate, including to pay operating and professional costs associated with the SML Administration Business; (iii) approving the Reports (as defined below) and the activities of the Trustee described therein; (iv) approving the Trustee’s fees and disbursements, including the fees and disbursements of its counsel, for the period from September 30, 2019 to January 31, 2020, and (v) sealing certain confidential exhibits to the Fee Affidavits (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the First Report of the Trustee dated January 22, 2020 (the “**First Report**”), the Second Report of the Trustee dated March 6, 2020 (the “**Second Report**” and together with the First Report, the “**Reports**”), the affidavit of Naveed Manzoor sworn March 6, 2020 and attached as Appendix “14” to the Second Report (the “**Manzoor Affidavit**”) and the affidavit of Michael De Lellis sworn March 6, 2020 and attached as Appendix “15” to the Second Report (the “**De Lellis Affidavit**” and, collectively with the Manzoor Affidavit, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of ● sworn ●, 2020, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Second Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order but not defined herein shall have the meanings given to them in the Second Report.

REALIZED PROPERTY

3. **THIS COURT ORDERS** that the Trustee shall distribute 50% of all Realized Property obtained *pro rata* to the Investors entitled to such funds, whether received before or after the date of this Order, including without limitation:
 - (a) a distribution to Bayview Individual Investors in an amount equal to 50% of the Bayview Realized Property;
 - (b) a distribution to Gotham Investors in an amount equal to 50% of the Gotham Realized Property; and
 - (c) a distribution to the HVS Investors in an amount equal to 50% of the HVS Realized Property.
4. **THIS COURT ORDERS AND DECLARES** that the Trustee is hereby authorized to use all or any portion of the retained Realized Property to aid the Trustee in complying with the Appointment Order and in carrying out its mandate, as the Trustee, in its sole discretion, considers necessary or desirable for the administration of the estate, including with respect to those matters set out in paragraph 15 of the Appointment Order and the operating and professional costs associated with the SML Administration Business.

TRUSTEE'S REPORTS, ACTIVITIES, FEES AND DISBURSEMENTS

5. **THIS COURT ORDERS** that each of the Reports and all the actions, conduct and activities of the Trustee as set out in each of the Reports, be and are hereby approved.

6. **THIS COURT ORDERS** that the fees and disbursements of the Trustee and its counsel, as set out in the Second Report and the Fee Affidavits, be and are hereby approved, as follows:

- (a) the following fees and disbursements of the Trustee for the period from September 30, 2019 to January 31, 2020 are approved: fees of \$290,294.80 (plus applicable taxes of \$37,738.32 for an aggregate amount of \$328,033.12), and
- (b) the following fees and disbursements of Osler, Hoskin & Harcourt LLP, counsel to the Trustee, for the period from September 30, 2019 to January 31, 2020 are approved: fees of \$200,256.50 and disbursements of \$5,225.05 (plus applicable taxes of \$26,662.62 for an aggregate amount of \$232,144.17).

SEALING

7. **THIS COURT ORDERS** that Exhibit “D” of the Manzoor Affidavit and Exhibit “D” of the De Lellis Affidavit shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

AID AND RECOGNITION OF FOREIGN COURTS

8. **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 Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that the Trustee 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.



LAW SOCIETY OF ONTARIO

- and -

**DEREK SORRENTI and SORRENTI LAW
PROFESSIONAL CORPORATION**

Applicant

Respondents

Court File No. CV-19-628258-00CL

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

Proceedings commenced at Toronto

OMNIBUS ORDER

OSLER, HOSKIN & HARCOURT LLP

P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Michael De Lellis (LSO# 48038U)
Jeremy Dacks (LSO# 41851R)

Tel: (416) 362-2111

Fax: (416) 862-6666

Lawyers for FAAN Mortgage Administrators Inc.,
in its capacity as Court-appointed Trustee of Derek
Sorrenti or Sorrenti Law Professional Corporation in
respect of the Syndicated Mortgage Loan
Administration Business

TAB D

Court File No.: CV-19-628258-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

| | | |
|--------------------|---|-------------------------------|
| THE HONOURABLE MR. |) | TUESDAY, THE 17 TH |
| |) | |
| JUSTICE HAINEY |) | DAY OF MARCH, 2020 |

BETWEEN:

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, c. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43**

LAND REGISTRY OFFICE DIRECTION ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”) pursuant to an Order of this Court made on September 30, 2019 (the “**Appointment Order**”) of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its

direct or indirect affiliates, and any entity under common control with FRDI, pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, directing the land registrar of the applicable land registry office to, upon the delivery of a copy of this Order and a certificate substantially in the form attached as Schedule “A” hereto (a “**Trustee’s Certificate**”), delete and expunge the Land Title Instrument from title to the Property (as each such term is defined below), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the Second Report of the Trustee dated March 6, 2020 (the “**Second Report**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of ● sworn ●, 2020, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Second Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order but not defined herein shall have the meanings given to them in the Second Report.

DIRECTION REGARDING APPOINTMENT ORDER

3. **THIS COURT ORDERS** that the Trustee may file a Trustee’s Certificate with the Court certifying that (a) the Appointment Order has been registered by or on behalf of the Trustee on title to the property identified in such Trustee’s Certificate (the “**Property**”) with the applicable land registry office (such registration as identified in such Trustee’s Certificate, the “**Land Title Instrument**”), and (b) the Trustee requires that such Land Title Instrument be deleted and expunged from title to the Property.
4. **THIS COURT ORDERS** that, upon receipt of a copy of this Order and the applicable Trustee’s Certificate, the applicable land registry office is hereby directed to delete and expunge the Land Title Instrument from title to the Property.

GENERAL

5. **THIS COURT ORDERS** that the Trustee and its affiliates, partners, employees and agents shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing any of their duties in carrying out the provisions of this Order, except to the extent that such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Trustee, as determined by this Court.

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that the Trustee 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.

SCHEDULE “A”

Form of Trustee’s Certificate

Court File No.: CV-19-628258-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

LAW SOCIETY OF ONTARIO

Applicant

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Respondents

**APPLICATION UNDER
SECTION 49.47 OF THE *LAW SOCIETY ACT*, R.S.O. 1990, c. L.8
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43**

TRUSTEE’S CERTIFICATE

(LAND REGISTRY OFFICE DIRECTION ORDER)

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 30, 2019 (the “**Appointment Order**”), FAAN Mortgage Administrators Inc. was appointed as the trustee (in such capacity, the “**Trustee**”) of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Law Professional Corporation (collectively, “**Sorrenti**”) relating to Sorrenti’s trusteeship and administration of syndicated mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of FRDI’s direct or indirect affiliates, and any entity under common control with FRDI (the “**Syndicated Mortgage Loan Administration Business**”).

B. Pursuant to an Order of the Court made on March 17, 2020 (the “**LRO Direction Order**”), the Court directed the land registry office listed below to delete and expunge the Land Title Instrument from title to the Property (each as defined below).

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the LRO Direction Order.

THE TRUSTEE CERTIFIES the following:

(a) the Appointment Order has been registered by or on behalf of the Trustee on title to the property identified in the table below (the “**Property**”) with the applicable land registry office (such registration, the “**Land Title Instrument**”); and

(b) the Trustee requires that such Land Title Instrument be deleted and expunged from title to the Property.

| Land Registry Office | PIN | Registration Number | Registration Date |
|----------------------|-----|---------------------|-------------------|
| ● | ● | ● | ● |

This Certificate was filed by the Trustee at _____ [TIME] on _____ [DATE].

FAAN MORTGAGE ADMINISTRATORS INC., solely in its capacity as Court-appointed Trustee of the undertaking, property and assets of Derek Sorrenti or Sorrenti Law Professional Corporation in respect of the Syndicated Mortgage Loan Administration Business, and in no other capacity

Per: _____

Name:

Title:

LAW SOCIETY OF ONTARIO

- and -

DEREK SORRENTI and SORRENTI LAW PROFESSIONAL CORPORATION

Applicant

Respondents

Court File No. CV-19-628258-00CL

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

Proceeding commenced at Toronto

**LAND REGISTRY OFFICE
DIRECTION ORDER**

OSLER, HOSKIN & HARCOURT LLP

1 First Canadian Place, P.O. Box 50

Toronto, ON M5X 1B8

Phone: 416-362-2111

Fax: 416-862-6666

Michael De Lellis (LSO# 48038U)

Jeremy Dacks (LSO# 41851R)

**Lawyers for FAAN Mortgage Administrators
Inc., in its capacity as Court-Appointed Trustee
of Derek Sorrenti or Sorrenti Law Professional
Corporation in respect of the Syndicated
Mortgage Loan Administration Business**

LAW SOCIETY OF ONTARIO

- and -

**DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION**

Applicant

Respondents

Court File No. CV-19-628258-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

MOTION RECORD OF THE TRUSTEE
(Omnibus Order; LRO Direction Order)

OSLER, HOSKIN & HARCOURT LLP

P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Michael De Lellis (LSUC# 48038U)
Jeremy Dacks (LSUC# 41851R)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for FAAN Mortgage Administrators Inc., in its capacity as Court-appointed Trustee of Derek Sorrenti and Sorrenti Law Professional Corporation in respect of the Syndicated Mortgage Loan Administration Business