

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**

SIXTH REPORT OF THE TRUSTEE

(COMPREHENSIVE UPDATE)

MAY 4, 2023



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

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SIXTH REPORT OF THE TRUSTEE

(COMPREHENSIVE UPDATE)

MAY 4, 2023

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. ("**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 over the SML Administration Business, the Appointment Order, among other things, appointed Chaitons LLP as representative counsel (“**Representative Counsel**”) to represent the common interests of the Investors under the Sorrenti SMLs and established certain interim stabilization measures.
3. As set out in the Trustee’s previous reports, prior to the granting of the Appointment Order, the Court granted an order commencing trusteeship proceedings in respect of Building & Development Mortgages Canada Inc. (“**BDMC**”) in Court File Number CV-18-596204-00CL (“**BDMC Proceedings**”). BDMC was the principal mortgage broker used in more recent years by Fortress to raise initial financing from the investing public through syndicated mortgage loans (“**SMLs**”) for early-stage real estate developments. 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 *Mortgage Brokerage Lenders and Administrators Act, 2006*.
4. On May 5, 2020, the Court issued an Order (“**First Omnibus Order**”) that, among other things:
 - (a) required the Trustee to distribute 50% of the Realized Property to the applicable Investors, including, without limitation, authorizing and directing the Trustee to effect a distribution equal to 50% of the Bayview Realized Property, the Gotham Realized Property, and the HVS Realized Property; and

- (b) authorized the Trustee to use 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 (“**Administrative Holdback**”).
5. The Trustee has, in total, delivered five reports to Court (collectively, the “**Reports**”), detailing the Trustee’s activities during these proceedings, providing updates to stakeholders on various projects and providing information in support of Orders sought by the Trustee. Notably on March 31, 2022, the Trustee submitted its fifth report in these proceedings (“**Fifth Report**”), which provided, among other things, a comprehensive update on the Trustee’s activities and support for a reduction to the Administrative Holdback from 50% to 35% of all Realized Property, such that 65% of all Realized Property would be distributed to Investors (the “**Third Omnibus Order**”). A copy of the Third Omnibus Order dated April 12, 2022 is attached as **Appendix “2”**.
 6. This report (“**Report**” or “**Sixth Report**”) is the latest comprehensive update on the Trustee’s activities since the date of the Fifth Report. Capitalized terms not otherwise defined in this Report have the meanings ascribed to them in the Appointment Order and reports previously filed by the Trustee in these proceedings, as applicable.
 7. Materials filed with the Court with respect to these proceedings, including application records, motion materials, the Reports and the various Court orders, are accessible in a section dedicated to these Sorrenti proceedings on the Trustee’s website at: www.faanmortgageadmin.com (“**Trustee’s Website**”). The Trustee intends to maintain the Trustee’s Website for the duration of these proceedings.

PURPOSE OF THE SIXTH REPORT

8. The Trustee is filing this Sixth Report to provide the Court and Sorrenti’s stakeholders with a comprehensive update regarding Sorrenti’s SML Administration Business as well as information regarding the Trustee’s activities since the date of the Fifth Report.
9. In addition to providing project updates and other information to the Court and Sorrenti’s stakeholders, this Sixth Report is filed in support of the Trustee’s request for the following Orders that, among other things:

- (a) (i) approve and ratify the Settlement and Mutual Release Agreement entered into as of April 26, 2023 (“**Sutton Settlement Agreement**”) between ADI Developments (Link) Inc. (“**Sutton Borrower**”), ADI Development Group Inc. (“**ADG**”), 2396674 Ontario Limited (collectively with the Sutton Borrower and ADG, the “**ADI Defendant Companies**”), ADI Developments (Masonry The West) Inc., ADI Developments (Masonry) Inc. (collectively, “**ADI Masonry**”), the Trustee, Olympia Trust Company (“**Olympia**” or “**OTC**”), on behalf of itself and on behalf of the OTC Releasers (as defined in the Sutton Settlement Agreement), Representative Counsel and MSTW Professional Corporation (“**MSTW**”) and Waddell Phillips Professional Corporation (“**WPPC**”), for themselves and for the Sutton Plaintiff (as defined in the Sutton Settlement Agreement, and in such capacity, “**Sutton Plaintiff’s Counsel**”); (ii) direct the Sutton Borrower and/or ADG, as the case may be, to pay the Settlement Payment, less the Initial Payment (as such capitalized terms are defined in the Sutton Settlement Agreement) to the Trustee in accordance with the terms of the Sutton Settlement Agreement; and (iii) order and declare that various releases and related relief become binding and effective upon the service of a Trustee’s certificate on the service list in this proceeding (collectively, “**Sutton Settlement Approval Order**”);
- (b) provided that the Sutton Settlement Approval Order is granted, approve: (i) the proposed distribution of Realized Property to the Sutton Investors (defined herein), in accordance with the Pari Passu Approach (defined herein) (“**Sutton Distribution Order**”); and (ii) an amendment to paragraph 3 of the First Omnibus Order to replace all references to “65%” with “75%” following the receipt by the Trustee of the Additional Realized Property and the filing of a Trustee Certificate, substantially in the form of Schedule A to the Fourth Omnibus Order, confirming the achievement of certain specified conditions precedent. Following the filing of the Trustee’s Certificate, the Trustee shall be required to distribute 75% of any Realized Property obtained by the Trustee *pro rata* to the Investors entitled to such funds, whether received before or after the date of this proposed Order; and
- (c) approve (i) this Sixth Report and the Trustee’s activities as described therein and herein; (ii) the Trustee’s fees and disbursements, including the fees and disbursements of its counsel, for the period from March 1, 2022 to February 28, 2023, as more fully described herein and in the fee affidavits attached hereto; and

(iii) the sealing of the Confidential Manzoor Exhibit and the Confidential De Lellis Exhibit (each as defined herein) (collectively with the Order described in 9(b)(ii) above, “**Fourth Omnibus Order**”);

10. Barring any continued issues and/or restrictions caused by any unforeseen events, such as the COVID-19 pandemic, the Trustee intends to report to the Court approximately every six to ten months with a further comprehensive update regarding these proceedings, or such other date as the Trustee determines is reasonable given activity levels in the various remaining project-specific developments. However, the Trustee also anticipates that it may be necessary to attend before the Court during the next interim period prior to the Trustee’s delivery of its next comprehensive update regarding these proceedings to seek relief or advice and directions from the Court regarding project-specific developments, which may include, among other things, the approval of further settlement or distribution arrangements for certain Sorrenti SMLs, or other general file administration matters.

SCOPE AND TERMS OF REFERENCE

11. In preparing this Sixth Report, the Trustee has relied upon unaudited financial and other information provided by, *inter alia*, Sorrenti, 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.
12. Some of the information used and relied upon in preparing this Sixth 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 Sixth Report may vary from the projections and information used to prepare this Sixth 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 Sixth Report did not constitute an audit or review of such information under GAAS, GAAP or IFRS or any other guidelines.

13. This Sixth 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 Sixth 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 Sixth Report contrary to the provisions of this paragraph.
14. All references to dollars are in Canadian currency.

GENERAL UPDATE

Sorrenti SMLs

15. As at the date of the Appointment Order, 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 were in various stages of development. As at the date of this Sixth Report, there are six¹ projects for which Sorrenti administered loans on behalf of Investors that continue to be actively administered by the Trustee, as the majority of the Trustee's activities related to the other four projects have now been completed.²
16. Since the date of the Fifth Report, the Trustee has continued to take actions, where possible and appropriate, to maximize recoveries for the Investors by actively engaging with borrowers and/or project receivers to monitor the development of the projects, the

¹ The six active projects are the Maple Project, the Bayview Project, the Soba Project, the Sutton Project, the Progress Project, and the Unionvillas Project.

² The four completed projects are the Gotham Project, Harmony Village Sheppard Project, the Victoria Park Project, and the Wismer Project.

sale of remaining units and/or to protect the Investors' loan and security positions. The Trustee also provides partial discharges where such actions are necessary or in the best interests of the Investors, including where such actions are required pursuant to Sorrenti's contractual obligations with borrowers and priority lenders to the projects.

17. While the Trustee actively encourages discussions concerning potential mutually beneficial transactions with Sorrenti's borrowers, it has also been required to remain vigilant in aggressively defending the interests of the Investors from positions being taken by other parties that could further crystallize catastrophic Investor losses. While the Trustee does not control the real estate projects underlying the Sorrenti SMLs (which are in the control of the various borrowers and, in the case of three of the projects, receivers³), the Trustee has and continues to attempt to develop creative strategies to work with the relevant stakeholders in furtherance of its mandate. In addition, the Trustee has and continues to consider the unique circumstances of each project to seek to achieve the best recoveries possible for Investors.
18. The Trustee has encountered complex, difficult and changing circumstances in connection with certain of the Sorrenti real estate development projects. The Sorrenti SMLs were often secured by second, third or fourth ranking charges subordinate to millions of dollars of priority financing. While the outstanding Sorrenti SMLs have all matured, certain Sorrenti SMLs are subject to standstill agreements with senior lenders that prevent the Trustee from taking independent enforcement action without the consent of the senior lenders.
19. To date, as a result of the Trustee's continued efforts, the Trustee has recovered Realized Property totalling approximately \$15.6 million in respect of six Sorrenti SMLs and has collected a further amount of approximately \$2.6 million (prior to accounting for the Administrative Holdback) in respect of the Sutton Project.⁴ Should the requested Orders be granted, the future Sutton Project collections, totalling approximately \$15.3 million, are anticipated to be collected over an approximately three-and-a-half-year period, and will also ultimately form part of the future Realized Property when received.

³ The three projects that are in receivership are the Harmony Village Sheppard Project, the Unionvillas Project and the Victoria Park Project.

⁴ Should all of the Orders required by the Sutton Settlement Agreement not be granted, the Trustee will apply to this Court for advice and direction with respect to the Initial Payment.

20. The following table summarizes the Realized Property to date and the realizations and future anticipated realizations from the Sutton Project:

Project	Type of Transaction	Realized Property (\$)
Bayview	Project completion	4,210,085
Gotham	Settlement	1,420,590
Harmony Village Sheppard	Receivership	1,136,300
Victoria Park	Assignment of Debt and Security	300,000
Progress	Sale by Borrower	6,524,534
Unionvillas ⁵	Receivership	2,000,000
Total Realized Property to date		15,591,509
Sutton Settlement Installments		
Sutton⁶	Settlement – initial payment received by the Trustee	2,494,216
Sutton⁷	Remaining Payments	15,379,632
Total Anticipated Realized Property		\$33,465,357

21. As set out in the Project Analysis Summary (described below), there are three⁸ projects (of the 10 in total) where it is anticipated that there will be minimal or no recovery for Investors due to various factors, including but not limited to, the quantum of the remaining prior ranking secured debt and/or the failure of the relevant real estate development

⁵ As further described herein, the Unionvillas Receiver and the Sunrise Parties have entered into the Unionvillas Settlement Agreement. Given that the Unionvillas Settlement Agreement has not yet been approved by the Court and the resulting uncertainty around the timing and quantum of distributions, no future amounts are included in the table at this time; the Trustee will be preparing a separate Investor Notice in connection with the Unionvillas Settlement Agreement if such agreement is approved by the Court.

⁶ This is the Initial Payment received by the Trustee upon execution pursuant to the Sutton Settlement Agreement, net of \$70,000, which is the initial amount payable to Sutton's Plaintiff's Counsel in accordance with section 16 of the Sutton Settlement Agreement and accordingly the \$70,000 is not included in Realized Property.

⁷ This is the aggregate amount of remaining payments that are due to be paid to the Trustee over time under the Sutton Settlement Agreement, net of \$430,000, which is the aggregate amount of remaining payments that are due to be paid to Sutton Plaintiff's Counsel over time in accordance with section 16 of the Sutton Settlement Agreement and accordingly the \$430,000 is not included in Realized Property.

⁸ The three projects where it is anticipated there will be minimal or no recovery are the Wismer Project, the Maple Project and the Soba Project. Further information on these projects can be found in the Project Analysis Summary.

project. Despite these challenges, the Trustee continues to attempt to maximize recoveries to the extent possible. In circumstances where recoveries may not be possible, the Trustee continues to monitor the projects, where applicable, and to seek information necessary to provide Investors with clarity, certainty and closure regarding their investments that have been outstanding for much longer than originally anticipated.

22. The Trustee recognizes that many Investors have experienced significant hardship as a result of their investments in Fortress-affiliated projects and understands that many of the Investors have suffered and will continue to suffer a devastating financial impact from such investments, collectively reaching tens of millions of dollars. This hardship continues to inform the Trustee's evaluation of potential monetization transactions for the benefit of the Investors wherever possible.
23. The Trustee also continues to prioritize its communications with Investors. The Trustee provides updates to Investors as material project developments occur and responds to Investor inquiries on a regular basis. In addition, the Trustee continues to meet and correspond regularly with Representative Counsel to discuss its activities and refine its strategies. The Trustee is of the view that such correspondence with, and feedback from, Investors and Representative Counsel has assisted the Trustee with its activities throughout these proceedings.
24. It remains unknown how long it will take to complete the administration of the remaining Sorrenti SMLs as many of the remaining loans continue to be challenged by one or more of the following circumstances: (i) considerable quantum of priority debt; (ii) disputes with the relevant borrower; and/or (iii) material estate issues, including complex and ongoing litigation. As well, certain of the transactions completed by the Trustee, such as the Sutton Settlement Agreement, may result in additional Realized Property that is contingent on future events. The Trustee continues to believe that this Court-supervised process provides Investors with enhanced protections and better opportunities to obtain recoveries in light of the challenging circumstances surrounding Fortress and Sorrenti.
25. 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 update, a chart that provides, to the best of the Trustee's knowledge, the capital structure, development status and other project-specific information, for each project ("**Project Analysis Summary**"). A copy of the updated Project Analysis Summary

dated as of April 21, 2023 is attached as **Appendix “3”** and will also be posted to the Trustee’s website.

26. While the Project Analysis Summary contains particularized information with respect to each project, the Trustee cautions that it is only intended to summarize certain aspects of the Trustee’s analysis and understanding with respect to each project as of a specific date. The Trustee continues to refine its analysis based on new developments and information, which can at times have a significant impact on the Trustee’s recommendations. The Trustee notes that certain confidential information, the disclosure of which could be detrimental to the Investors’ interests, has been excluded from the Project Analysis Summary.
27. An update regarding certain Class Actions related to the Fortress projects is provided in paragraphs 31 to 41.
28. Information specific to the Sutton Project, for which Orders are being sought, and updates with respect to the other remaining projects are discussed further in this Report as follows:
 - (a) Paragraphs 43 to 122 provide the facts and evidence in support of the Sutton Settlement Approval Order and the Sutton Distribution Order, in particular:
 - (i) paragraphs 43 to 47 provide a summary of the process leading to the Sutton Settlement Agreement, the Trustee’s recommendation for the distribution of the Settlement Payment and an outline of the Sutton section of the Report;
 - (ii) paragraphs 48 to 64 provide an overview of the Sutton Loans and the current status of the Sutton Project;
 - (iii) paragraphs 65 to 93 set out an outline of the key terms of the Sutton Settlement Agreement and the Trustee’s recommendation to Court for approval of the Sutton Settlement Agreement;
 - (iv) paragraphs 94 to 108 set out the Trustee’s analysis of the relative priorities of the Sutton SMLs; and

(v) paragraphs 109 to 122 set out the possible approaches to distribution of the Settlement Payment between the Sutton SMLs and the Trustee's recommendation regarding the same;

(b) Paragraphs 123 to 153 **Error! Reference source not found.** provide an update with respect to the Unionvillas Project: and

(c) Paragraphs 154 to 167 describe the other project-specific developments.

29. An update regarding the Trustee's recommendation with respect to Realized Property and the Administrative Holdback is provided in paragraphs 168 to 172.
30. An update on the funding of these proceedings and the Trustee's cash flow projections is provided in paragraphs 173 to 183, a summary of the role of, and the Trustee's discussions with, Representative Counsel is provided in paragraphs 184 to 187 and the Trustee's fees and activities are described in paragraphs 188 to 193. The fees of the Trustee's counsel, Osler, Hoskin & Harcourt LLP ("**Osler**") as described in paragraphs 194 to 197.

Class Action Proceedings

31. Sorrenti is a named defendant in five class actions commenced in 2016 and 2017 relating to the following real estate development projects that are known as: (a) Kemp; (b) Collier Centre; (c) Orchard; (d) the Progress Project; and (e) the Sutton Project (collectively, the "**Class Actions**"). The Trustee notes that the last two projects (the Progress Project and the Sutton Project) are projects subject to these Sorrenti proceedings and that the Kemp, Collier Centre and Orchard are projects administered by FAAN Mortgage as part of the BDMC Proceedings.
32. In furtherance of its mandate in these proceedings, the Trustee and its counsel have been involved to the extent necessary in respect of the Class Actions, including interacting with Class Action counsel. The Trustee has reviewed materials filed in the Class Actions and correspondence received from the parties to the Class Actions. The Trustee has also attended case management conferences and hearings in respect of the Class Actions to ensure that matters related to its mandate under the Appointment Order are properly explained to the Class Action court.

33. In early 2021, the plaintiffs in the Class Actions (the “**Class Action Plaintiffs**”) sought to lift the stay of proceedings imposed by the Appointment Order with respect to Sorrenti, solely to allow the actions to continue to recover any proceeds that may be available under insurance policies issued in favour of Sorrenti. The Trustee provided its consent to lift the stay solely to allow access to any insurance policies in accordance with the terms of draft orders negotiated with the parties, which also provide, among other things, that nothing in the Orders shall: (a) require the Trustee to defend or otherwise participate in the action; (b) permit or otherwise entitle the plaintiffs to recover any amounts held by the Trustee pursuant to the Appointment Order; or (c) affect any person’s rights or entitlements relating to any insurance policies issued in favour of Sorrenti. On April 22, 2021, a lift stay order was granted in each of the Class Actions. The lift stay order also lifted the stay imposed by the Appointment Order in the BDMC Proceedings on the same terms.
34. On September 14, 2021, the Case Management Judge declined to impose a timetable in respect of the Class Actions, stating that it was premature to do so given the remaining preliminary steps that remained incomplete, such as delivering the remaining Amended Statements of Claim and other pleadings.
35. Since March 31, 2022 (the date of the Fifth Report), the following procedural developments in the Class Actions have occurred:
- (a) The Class Action Plaintiffs obtained orders replacing certain plaintiffs with new individuals to act as representative plaintiff in the particular Class Action;
 - (b) The Class Action Plaintiffs and certain defendants (namely the Sutton Borrower and ADG (collectively, “**ADI**”)) in the class proceeding related to the Sutton Project (the “**Sutton Class Proceeding**”) consented to an order staying the proceeding as against ADI. The order granted also provides that the Class Action Plaintiffs can bring a motion on 20 days’ notice to lift the stay in respect of claims against ADI that are not pursued or adjudicated in the existing proceedings involving the Trustee before the Court; and
 - (c) The Class Action Plaintiffs delivered the remaining Amended Statements of Claim in certain of the Class Actions.
36. In August 2022, there were developments in the proposed class action initiated by a plaintiff against Olympia in Court File No. CV-20-00643593-00CP (“**OTC Class Action**”).

The Class Action court heard and dismissed the certification motion in the OTC Class Action. The plaintiff in the OTC Class Action has served a notice of appeal from that dismissal order in respect of Colliers Centre. The appeal is scheduled to be heard on May 8, 2023.

37. On December 7, 2022, the Class Action court appointed FAAN Mortgage as the Notice Administrator for the Class Actions (in this capacity, the “**Notice Administrator**”). This role is separate and distinct from FAAN Mortgage’s role as Trustee in these proceedings and the BDMC Proceedings. In its capacity as Notice Administrator, FAAN Mortgage delivered a court-approved notice prepared by MSTW and WPPC, in their capacity as counsel to the Class Action Plaintiffs, (in such capacity, “**Class Counsel**”) to Investors in the Kemp, Sutton and Progress projects, as well as to Investors in the first syndicated mortgage in the Colliers project and Investors in the Orchard project in respect of only the charge registered as Registration Number 141 112 373 (together the “**Class Action Investors**”) (“**Settlement Approval Notice**”). Attached as **Appendix “4”** is the Settlement Approval Notice.
38. The Settlement Approval Notice advised the Class Action Investors that the Class Action Plaintiffs had reached a partial settlement of the Class Actions with (i) BDMC and the Estate of Ildina Galati, deceased, by its Trustee in Bankruptcy Crowe Soberman Inc.; and (ii) FFM Capital Inc.; Rosalia Spadafora; and Saul Perlov (collectively, “**Settling Defendants**”) for \$8 million and \$2.375 million respectively.
39. On January 13, 2023, the Class Action court heard a motion brought by Class Counsel seeking approval of the settlements with the Settling Defendants, appointment of FAAN Mortgage as the Claims Administrator for the Class Actions and certification of the Class Actions for the purposes of implementing the settlements, among other relief. The Class Action court granted Orders approving the settlement. Following receipt of these Orders FAAN Mortgage disseminated a notice drafted by Class Counsel updating the Class Action Investors (“**Notice of Certification and Settlement Approval**”). Attached as **Appendix “5”** is a copy of the Notice of Certification and Settlement Approval.
40. The deadline for Class Action Investors to opt out of the Class Actions was March 10, 2023. The Trustee has been advised by Class Counsel that no Class Action Investors opted out of the Class Actions and, as such all Class Action Investors will receive a distribution of their proportionate share of the settlement funds.

41. There are several remaining non-settling defendants named in the Class Actions that Class Counsel continues to pursue. Class Counsel's activities may give rise to additional future recoveries the timing and quantum of which remains unknown at this time. The Trustee will continue to monitor the Class Actions and will provide general updates to Investors in its next omnibus report to Court.

PROJECT SPECIFIC UPDATES

42. As noted above, as of the date of the Appointment Order, Sorrenti was administering SMLs made to 10 different real estate projects. Details regarding the Sorrenti SMLs with updates since the filing of the Fifth Report are provided below.

Sutton/The Link

43. As set out in the Fifth Report, the Trustee has been engaged in negotiations with the Sutton Borrower, ADG and certain of its affiliates for some time to attempt to reach a consensual resolution in respect of the payment of amounts due to Sorrenti under the Sutton SMLs (as defined below). In addition to negotiating with the Sutton Borrower and ADG, a consensual resolution also required the Trustee to engage in negotiations with Sutton Plaintiff's Counsel, counsel to OTC and Representative Counsel to agree on economic terms that maximized recoveries to the Sutton Investors in the circumstances, and to design a process that would result in the termination of all outstanding or possible litigation related to the matters resolved by any such consensual resolution.
44. As described in more detail below, after extensive arm's length negotiations, all necessary parties have now agreed to and executed the Sutton Settlement Agreement in respect of which the Trustee seeks the Court's approval. A copy of the Sutton Settlement Agreement is attached as **Appendix "6"**.
45. The Trustee recommends that the Court approve the Sutton Settlement Agreement for the reasons described in more detail below. It is the Trustee's view that recoveries to the Sutton Investors can be maximized by allowing ADG and certain of its subsidiary companies to complete certain other real estate development projects that will generate additional funds earmarked for payments to be made to the Trustee on specified dates over the course of several years.
46. In support of the Trustee's request for the Sutton Settlement Approval Order, this section of this Sixth Report includes the following:

- (a) Overview of the Sutton SMLs and the current status of the Sutton Project;
 - (b) Overview of the Trustee's consultation with various stakeholders, all of whom are party to the Sutton Settlement Agreement;
 - (c) Description of the Settlement Payment contemplated by the Sutton Settlement Agreement;
 - (d) Description of the additional guarantees and security contemplated by the Sutton Settlement Agreement;
 - (e) Description of the Court orders contemplated by the Sutton Settlement Agreement and the related termination rights;
 - (f) Overview of the releases contemplated by the Sutton Settlement Agreement;
 - (g) Description of certain other key terms of the Sutton Settlement Agreement;
 - (h) Trustee's assessment of the Sutton Settlement Agreement and recommendation in support of the Sutton Settlement Agreement; and
 - (i) Description of the priorities of the Sutton SMLs and the Trustee's recommendation that the Realized Property generated from the Sutton Settlement be distributed in accordance with the Pari Passu Approach (as defined below).
47. For the purposes of this section of this Sixth Report, all capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Sutton Settlement Agreement.

Background

48. The Sutton Project is a real estate development project consisting of four low rise condominiums with approximately 13,300 square feet of ground floor commercial space located in Burlington, Ontario ("**Sutton Project**"). The Sutton Borrower is indebted to Sorrenti in the combined principal amount of approximately \$19.6 million plus accrued interest ("**Sutton Borrower's Indebtedness**") in respect of two separate syndicated mortgage loan facilities (collectively, the "**Sutton SMLs**") made pursuant to:
- (a) a Loan Agreement ("**Sutton 2012 Loan Agreement**") between Sorrenti, the Sutton Borrower and ADG dated September 4, 2012 ("**Sutton 2012 Loan**"). There are

269 Investors who advanced funds totalling \$11.6 million pursuant to the Sutton 2012 Loan ("**Sutton 2012 Investors**"); and

(b) a Loan Agreement ("**Sutton 2014 Loan Agreement**" and, together with the Sutton 2012 Loan Agreement, the "**Sutton Loan Agreements**") between Sorrenti, the Sutton Borrower and ADG dated April 4, 2014 ("**Sutton 2014 Loan**"). There are 187 Investors who advanced funds totalling \$7.991 million pursuant to the Sutton 2014 Loan ("**Sutton 2014 Investors**", together with the Sutton 2012 Investors, "**Sutton Investors**").

49. Copies of the Sutton 2012 Loan Agreement and Sutton 2014 Loan Agreement, each with confidential Investor information redacted, are attached as **Appendices "7"** and **"8"**, respectively.
50. On November 8, 2012, the Sutton Borrower granted a mortgage in the amount of \$5.6 million (as transferred, amended, supplemented, or otherwise modified from time to time, the "**Sutton 2012 First Charge**") that (i) Olympia holds in trust for certain Sutton 2012 Investors who have self-directed accounts with Olympia ("**2012 Olympia Investors**") and (ii) Sorrenti holds in trust for the remaining Sutton 2012 Investors. The Sutton 2012 First Charge was subsequently amended by further registrations, each increasing the principal amount to a final total of \$11.6 million.
51. On February 4, 2014, the Sutton Borrower granted a further mortgage in the amount of \$10.25 million (as transferred, amended, supplemented, or otherwise modified from time to time, the "**Sutton 2012 Second Charge**" and, together with the Sutton 2012 First Charge, the "**Sutton 2012 Mortgage**") that (i) Olympia holds in trust for the 2012 Olympia Investors and (ii) Sorrenti holds in trust for the remaining Sutton 2012 Investors.
52. Copies of the charges for the Sutton 2012 Mortgage (without schedules) as well as a sample Form 9D disclosure for the Sutton 2012 Mortgage with personal information redacted ("**Sutton 2012 9D**") are collectively attached as **Appendix "9"**.
53. The Sutton 2012 Loan was also secured by a general security agreement in favour of Sorrenti executed by the Sutton Borrower on September 4, 2012 ("**Sutton 2012 GSA**").
54. On April 10, 2014, the Sutton Borrower granted a mortgage in the amount of \$3.5 million (as transferred, amended, supplemented, or otherwise modified from time to time, the

“Sutton 2014 Mortgage” and, together with the Sutton 2012 Mortgage, the **“Sutton Mortgages”**) that (i) Olympia holds in trust for certain Sutton 2014 Investors who have self-directed accounts with Olympia and (ii) Sorrenti holds in trust for the remaining Sutton 2014 Investors. The Sutton 2014 Mortgage was subsequently amended by further registrations, each increasing the principal amount to a final total of \$8 million.

55. A copy of the charge for the Sutton 2014 Mortgage (without schedules), a sample Form 9D disclosure for the Sutton 2014 Mortgage with personal information redacted (**“Sutton 2014 9D”**) and the Project Fact Sheet for the Sutton 2014 Loan (the **“Sutton 2014 Fact Sheet”**) are collectively attached as **Appendix “10”**.
56. The Sutton 2014 Loan was also secured by a general security agreement in favour of Sorrenti executed by the Sutton Borrower on April 4, 2014 (**“Sutton 2014 GSA”** and, together with the Sutton 2012 GSA, the **“Existing Sutton GSAs”**).
57. In addition, pursuant to each of the Sutton SMLs, ADG also provided certain guarantees of the Sutton Borrower’s obligations under the Sutton SMLs (**“Sutton Guarantees”**). The Sutton Guarantees are attached as **Appendix “10”**.
58. The Sutton Borrower made payments to the Sutton Investors totaling approximately \$3.471 million (**“Previously Paid Amounts”**) as follows:
 - (a) \$2,456,492 in respect of the Sutton 2012 Loan through January 4, 2016, after which interest began, and continues, to accrue at a *per diem* rate of \$2,577.78; and
 - (b) \$1,014,394 in respect of the Sutton 2014 Loan though July 4, 2016, after which interest began, and continues, to accrue at a *per diem* rate of \$1,775.78.

Overview of the Current Status of the Sutton Project

59. Shortly after the Trustee’s appointment, the Sutton Borrower requested that the Trustee provide partial discharges in connection with the sale of six residential condominium units to third party purchasers. The Trustee agreed to provide the requested discharges on the condition that the Sutton Borrower’s counsel hold the net closing proceeds from the units, totaling approximately \$2.6 million, in trust (**“Trust Funds”**) pending the consent of the Trustee to the release of same.

60. The Trustee understands that all residential units have been sold and have closed, and all 12 commercial units remain unsold (“**Remaining Commercial Units**”). To maximize the recoveries from the sale of the Remaining Commercial Units, the Sutton Borrower has been leasing the units to tenants. The Trustee understands that all but one of the Remaining Commercial Units have now been leased.
61. As set out in the Fifth Report, the Trustee has been advised by the Sutton Borrower that there will be insufficient proceeds from the Sutton Project to repay the Sutton SMLs in full based upon the estimated market value of the Remaining Commercial Units combined with the Trust Funds.
62. Given the anticipated shortfall, the Trustee engaged in discussions with the Sutton Borrower and ADG concerning the amounts owed to Sorrenti and ADG’s obligations under the Sutton Guarantees. As set out in the Fifth Report, on October 19, 2021, the Trustee issued demands and related correspondence to the Sutton Borrower and ADG, and on November 19, 2021, the Trustee served a statement of claim against all of the ADI Defendant Companies (“**Trustee Action**”).
63. On August 25, 2022, ADG and certain of its subsidiaries became subject to a “Notice of Proposal to Revoke Licence and Impose Conditions on Licence” by the Home Construction Regulatory Authority (“**HCRA**”), which notice of proposal was amended on September 27, 2022 (collectively, the “**Notices**”). The proposals in the Notices issued by HCRA, if implemented, would have had a significant impact on ADG, the subsidiaries of ADG named in the Notices, and their respective businesses. On September 8, 2022, ADG appealed the Notices. Almost three months later, on November 24, 2022, ADG and those subsidiaries named in the Notices reached a consensual resolution with HCRA (“**HCRA Settlement**”) with respect to all matters raised in the Notices.
64. The issuance of the Notices delayed settlement discussions between the Trustee and ADG. However, once ADG reached the HCRA Settlement, discussions with the Trustee recommenced. Those discussions ultimately resulted in the Sutton Settlement Agreement.

Overview of the Trustee’s consultation with various stakeholders

65. The Trustee negotiated and consulted extensively with various stakeholders, all of whom are parties to the Sutton Settlement Agreement. The parties to the Sutton Settlement Agreement are:

(a) **The ADI Defendant Companies**, being the Sutton Borrower, ADG and 2396674 Ontario Limited, an affiliate of the Sutton Borrower that receives rental payments from the tenants of the Remaining Commercial Units.

(i) Each of these parties will grant and receive releases in respect of the Sutton SMLs in exchange for various obligations, including payment obligations and reporting obligations, as described below;

(b) **ADI Masonry**, being ADI Developments (Masonry The West) Inc. and ADI Developments (Masonry) Inc., two affiliates of the Sutton Borrower.

(i) The payment obligations described in the Sutton Settlement Agreement are secured by way of a limited recourse guarantee and security to be granted by ADI Masonry, with recourse limited to the Second Charge (which is a second ranking charge granted by ADI Masonry in the amount of \$10 million over real property owned by ADI Masonry);

(c) **The Trustee**, in its capacity as court-appointed trustee, on behalf of Derek Sorrenti and Sorrenti Law Professional Corporation.

(i) The Trustee will collect payments from the applicable parties pursuant to and in accordance with the Sutton Settlement Agreement and administer them in accordance with the various Court orders made in this proceeding. The Trustee will grant and receive the releases contemplated by the Sutton Settlement Agreement and will seek the dismissal of the Trustee Action;

(d) **Olympia or OTC**, on behalf of itself and on behalf of the OTC Releasers.

(i) OTC will receive payments from the Trustee on behalf of certain Investors whose investments are held in self directed accounts with Olympia and will grant and receive the releases contemplated by the Sutton Settlement Agreement. OTC will assist in implementing the terms of the Sutton Settlement Agreement, including by seeking a dismissal of the OTC Third Party Claim;

(e) **Representative Counsel**, in its capacity as Court-appointed representative counsel for the Investors, including the Sutton Investor Releasers.

- (i) Representative Counsel represents all of the Sutton Investor Releasors and will receive a release pursuant to the Sutton Settlement Agreement; and
- (f) **Sutton Plaintiff's Counsel**, namely, *MSTW Professional Corporation and Waddell Phillips Professional Corporation*.

- (i) Sutton Plaintiff's Counsel will receive a release pursuant to the Sutton Settlement Agreement and will assist in implementing the terms of the Sutton Settlement Agreement, including by seeking a dismissal of the Sutton Class Proceeding. In addition, as is standard practice, Sutton Plaintiff's Counsel will receive a payment on account of its fees in an amount to be approved by the Court. The amount of fees proposed to be paid to Sutton Plaintiff's Counsel is \$500,000, ("**Sutton Plaintiff's Counsel Fees**") which will be paid over time, proportionate to the future recoveries, in accordance with the provisions of the Sutton Settlement Agreement.

Description of the Settlement Payment contemplated by the Sutton Settlement Agreement

66. The Sutton Settlement Agreement provides for payments over time resulting in an all-inclusive payment in the amount of \$18,297,216, plus the Current Net Rent Balance, Future Rent Stream and any other payments required by the Sutton Settlement Agreement (collectively, the "**Settlement Payment**"). The Settlement Payment is comprised of the following key payments and milestone dates ("**Settlement Payment Installments**"):

Payment Date	Amount	Description
On execution of the Sutton Settlement Agreement (received)	\$2,564,216	Initial Payment
Within 2 business days following the Closing Date	\$76,632	Current Net Rent Balance
Within 2 business days following the Closing Date, and thereafter, monthly payments	To be determined	Future Rent Stream
Following the Closing Date, within 5 days of receipt by the Sutton Borrower	To be determined	Future Trust Payments

Payment Date	Amount	Description
June 30, 2023*	≥ \$2 million	ADI Valera Payment Milestone
November 15, 2023*	≥ \$5 million	Remaining Commercial Units Sale Proceeds Payment Milestone
June 28, 2024*	≥ \$2 million	ADI Nautique Payment Milestone
December 11, 2026*	≤ \$6,733,000	ADI Thomas Alton Payment Milestone
Total	≥ \$18,373,848	

* or such later date to which the Trustee, in its sole discretion, consents

67. To the extent that any of the Settlement Payment Installments exceed the minimum amount contemplated by the Sutton Settlement Agreement, the final payment to be made from the ADI Thomas Alton Project shall be reduced by the amount of any earlier excess payments.
68. In addition, the Sutton Settlement Agreement contemplates a late payment penalty for each Settlement Payment Installment. If a Settlement Payment Installment is not received within 10 business days of the stated payment deadline then (A) a payment extension fee of 2% of the payment shall be immediately due and payable and (B) interest at a rate of the Bank of Canada prime rate + 2% per annum of the payment due shall immediately begin accruing daily.

Description of the additional guarantees and security contemplated by the Sutton Settlement Agreement

69. As more particularly described above, in connection with the Sutton Loan Agreements, Sorrenti received the Sutton Guarantees and was granted specific security over the Sutton Project which included the Existing Sutton GSAs and the Sutton Mortgages (“**Security**”).
70. In addition to the existing Security already granted by the Sutton Borrower (and which continues to be held by the Trustee as security for the satisfaction of all payments to be made in connection with the Sutton Project, including the payment of the Remaining Commercial Units Sale Proceeds, and the payment of the Future Rent Stream and the

Future Trust Payments), the Sutton Settlement Agreement also contemplates additional guarantees and security being granted in respect of the Settlement Payment.

71. First, if the distributions available to the Sutton Borrower or ADG, as the case may be, to fund any of the Settlement Payment Installments in respect of the Sutton Project, the ADI Valera Project, the ADI Nautique Project or the ADI Thomas Alton Project (collectively, the **"Projects"**), respectively, are deficient or incapable of being made by the applicable payment due date set out in the Sutton Settlement Agreement, then ADG will be required to fund the deficiency or make the scheduled payment in full, as the case may be, by no later than 10 business days after the applicable payment due date.
72. Second, in addition to the existing Security already granted, ADI Masonry will provide a limited recourse guarantee, with recourse strictly limited to the Second Charge (as defined below), in respect of all obligations of the ADI Defendant Companies under the Sutton Settlement Agreement (collectively, the **"Masonry Guaranteed Obligations"**). Furthermore, as security for the payment or performance, as the case may be, in full of the Masonry Guaranteed Obligations, ADI Masonry shall grant to the Trustee a second ranking charge over the property located at 1120 Cooke Blvd., Burlington, Ontario (Part of Lot 6, Concession 1 designated as Part 4 on Plan 20R21020, City of Burlington) (the **"Station West Property"**) in the amount of \$10,000,000 (the **"Second Charge"**). The Second Charge will be subordinate to the existing charge on the Station West Property in the amount of \$31,250,000 in favour of Kingsett Mortgage Corporation (the **"Senior Lender"**), securing existing indebtedness in the amount of \$25 million, on terms acceptable to the Senior Lender. This additional security was important to the Trustee (i) as the existing Security in respect of the Sutton Project will ultimately need to be discharged to allow for the sale of the Remaining Commercial Properties (as discussed below) and (ii) to secure the payments from ADG that are being generated by Projects other than the Sutton Project.
73. The Trustee notes that before the Sutton Settlement Agreement was executed, ADG provided the Trustee with an appraisal of the Station West Property with an effective date of February 1, 2023, which supports a property value of not less than \$35,000,000. In addition, ADG provided to the Trustee (a) a favourable legal opinion explaining the HCRA Settlement's impact (or lack thereof) on ADI Masonry's ability to build and vend the Station West Property in the ordinary course; and (b) the form of a favourable legal opinion to be

issued at the Closing Date, regarding the limited recourse guarantee and the Second Charge granted by ADI Masonry.

74. The Sutton Settlement Agreement also contains further protections, including (a) restrictions on the ability of the Sutton Borrower and ADG to make payments to affiliates other than in the ordinary course of business and consistent with past practice; and (b) consequences should ADG sell, assign, transfer or otherwise reduce its direct or indirect ownership interest in any of the respective Projects.

Description of the Court orders contemplated by the Sutton Settlement Agreement and the related termination rights

75. The Sutton Settlement Agreement contemplates certain parties requesting four orders from the Court and the Class Action court, as follows:
- (a) the Trustee bringing a motion before the Court in this proceeding seeking the Sutton Settlement Approval Order, which is an order approving, among other things, the Sutton Settlement Agreement;
 - (b) if the Sutton Settlement Approval Order is granted and becomes final, Sutton Plaintiff's Counsel bringing a motion in the Sutton Class Proceeding seeking leave to dismiss the Sutton Class Proceeding as against the named ADI defendants with prejudice and without costs ("**Sutton Class Proceeding Order**");
 - (c) if the Sutton Settlement Approval Order is granted and becomes final, Olympia bringing a motion in the OTC Class Action for an order dismissing with prejudice and without costs the Third Party Claim initiated by Olympia against the named ADI defendants in the OTC Class Action ("**OTC Third Party Dismissal Order**"). In addition, Olympia shall advise the Class Action court that if the court is not inclined to grant the Sutton Class Proceeding Order, then Olympia is withdrawing its request for the OTC Third Party Dismissal Order; and
 - (d) if the Sutton Class Proceeding Order and the OTC Third Party Dismissal Order are granted, the Trustee seeking an order dismissing the Trustee Action with prejudice and without costs ("**Trustee Action Dismissal Order**").
76. If the Sutton Settlement Approval Order is not granted, then the Sutton Settlement Agreement shall not become effective.

77. If the Sutton Class Proceeding Order, the OTC Third Party Dismissal Order or the Trustee Action Dismissal Order are not granted, then both the Trustee and the ADI Defendant Companies have the option to terminate the Sutton Settlement Agreement. In addition, if any of the orders, including the Sutton Settlement Approval Order, are materially modified or fail to become final, then both the Trustee and the ADI Defendant Companies have the option to terminate the Sutton Settlement Agreement. Lastly, if, before the Closing Date, any court declines to give effect to any material part of the Sutton Settlement Agreement, then both the Trustee and the ADI Defendant Companies have the option to terminate the Sutton Settlement Agreement.

Overview of the releases contemplated by the Sutton Settlement Agreement

78. The releases contemplated by the Sutton Settlement Agreement only come into effect on the date on which the Trustee's Certificate has been served on the service list in the Trustee Proceeding ("**Closing Date**"). The Trustee cannot serve the Trustee's Certificate until each of the Sutton Settlement Approval Order, the Sutton Class Proceeding Order, the OTC Third Party Dismissal Order, and the Trustee Action Dismissal Order have been granted and become final, and the limited recourse guarantee and the documentation evidencing the Second Charge has been provided to the Trustee and the Second Charge has been registered on title to the Station West Property. Once those conditions are met, the Trustee will serve the Trustee's Certificate and the releases will come into effect.
79. The Sutton Settlement Agreement defines "Releasers" broadly, the four broad groups of releasing parties being the ADI Releasers, the Sorrenti Releasers, the OTC Releasers and the Sutton Investor Releasers. For example, "Sutton Investors Releasers" is defined to include the named plaintiff in the Sutton Class Proceeding as well as "any person who invested in any syndicated mortgage associated with the Loans; and any proposed class member in the Sutton Class Proceeding; and any of the foregoing's respective successors, heirs, executors, administrators, beneficiaries, trustees, assigns, devisees or representatives of any kind, for themselves and any person or entity claiming by or through them in any capacity".
80. As another example, "Sorrenti Releasers" is defined broadly to include:

The Trustee, [Derek Sorrenti], and [Sorrenti Law Professional Corporation] on their own behalf and on behalf of any person or entity claiming by or through them in

any capacity, and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated; and each of their respective past, present and future officers, directors, devisees, employees, agents, principals, contractors, insurers, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, beneficiaries and assigns of each of the foregoing.

81. The Sutton Settlement Agreement also defines “Releasees” broadly and similarly includes three broad groups being the ADI Releasees, the Trustee Releasees and the Sutton Investor Releasees. Using these and similarly broad definitions, the Sutton Settlement Agreement contemplates that on the Closing Date, the following releases will come into effect:
- (a) The Sutton Investor Releasors shall release the ADI Releasees;
 - (b) The Sorrenti Releasors shall release the ADI Releasees;
 - (c) The OTC Releasors shall release the ADI Releasees; and
 - (d) The ADI Releasors shall release the Trustee Releasees and the Sutton Investor Releasees.
82. In addition, on the Closing Date, certain bar orders will come into effect that:
- (a) Preclude the Sutton Investor Releasors, including the Sutton Plaintiff; the Trustee for itself and for the other Sorrenti Releasors; and OTC for itself and for the other OTC Releasors from suing the ADI Releasees;
 - (b) Preclude the Sutton Investor Releasors, including the Sutton Plaintiff; the Trustee for itself and for the other Sorrenti Releasors; and OTC for itself and for the other OTC Releasors from suing anyone who may claim contribution and indemnity from the ADI Releasees; and
 - (c) Require the Sutton Investor Releasors and the OTC Releasors to limit their claims against any Non-Settling Defendant or other person to exclude claims for damages attributable to their aggregate several liability.

83. Nothing in the releases in the Sutton Settlement Agreement excuse any person from performing their obligations pursuant to the Sutton Settlement Agreement.

Description of certain other key terms of the Sutton Settlement Agreement

84. The Sutton Settlement Agreement limits who can enforce the Sutton Settlement Agreement to the Trustee. By signing the Sutton Settlement Agreement, both OTC and Sutton Plaintiff's Counsel agree that, unless the Sutton Settlement Agreement fails to take effect or is terminated, only the Trustee shall have the right, if any, to initiate proceedings to enforce the Sutton Settlement Agreement as against the ADI Releasees or any of them.
85. Pursuant to the Sutton Settlement Agreement, until the Settlement Payment has been paid in full, ADG has agreed to provide certain financial and other reporting in respect of the various projects, subsidiaries and companies mentioned in the Sutton Settlement Agreement. Failure to comply with these reporting obligations may result in a breach that will entitle the Trustee to receive a Reporting Breach Fee from ADG.
86. In addition, the parties to the Sutton Settlement Agreement have agreed to a sale process for the Remaining Commercial Properties that provides the Trustee with meaningful consent and participation rights.
87. Finally, the Sutton Borrower and ADG have made certain customary representations and warranties and have agreed to provide such further assurances as are necessary to effectuate the transactions described in the Sutton Settlement Agreement.

Trustee's Assessment of the Sutton Settlement Agreement and Recommendation

88. The Trustee has been engaged in negotiations with the Sutton Borrower and ADG for more than a year. Assuming the receipt by the Trustee of all Settlement Payment Installments, the Sutton Settlement Agreement results in a return of approximately 91.23% of the outstanding principal balance of the Sutton SMLs or 109% when including Previously Paid Amounts. The recovery is calculated as follows:

Sutton 2012 Loan principal balance	11,600,000
Sutton 2014 Loan principal balance	7,991,000
Total combined principal outstanding (A)	19,591,000
Settlement Payment ⁹ (B)	17,873,848
Previously Paid Amounts (C)	3,470,866
Total Payments (B+C) = (D)	21,344,714
Recovery on principal (B/A)	91.23%
Recovery on principal including Previously Paid Amounts (D/A) ¹⁰	109%

89. The payment obligations contemplated by the Sutton Settlement Agreement are secured by the existing Security in respect of the Sutton Project, as well as by the limited recourse guarantee from ADI Masonry and the Second Charge. In addition, the Sutton Settlement Agreement will fully and finally resolve three outstanding complex and expensive pieces of litigation, including claims advanced in the context of two class actions.
90. Prior to and during the negotiation process, the Trustee considered whether there were any other alternatives to the Sutton Settlement Agreement that may have resulted in a more favourable outcome to the Sutton Investors.
91. Upon review and consideration of the alternatives with its counsel, the Trustee is of the view that one potential alternative to the Sutton Settlement Agreement is to seek the appointment of a receiver over the Sutton Borrower and/ to continue to pursue the Trustee Action. This alternative has a number of challenges including, among other things: (i) additional professional costs that would result from the appointment of a receiver, and (ii) the length of time, risk and cost associated with litigating a claim of this nature, including with respect to the Sutton Guarantees.

⁹ Net of Sutton Plaintiff's Counsel Fees

¹⁰ Sutton Investor recoveries contemplated herein do not include the recoveries payable to the Sutton Investors as a result of settlements in the Class Proceeding, which total approximately \$1.9 million or 10% of the combined principal amounts of the Sutton SMLs, nor does it include future recoveries, if any, to be received from other defendants in the Sutton Class Proceeding.

92. In light of the challenges presented by the alternative outlined above and the benefits and protections provided by the Sutton Settlement Agreement, the Trustee executed the Sutton Settlement Agreement and brought a motion seeking the Court's approval of the Sutton Settlement Agreement. The Trustee, with the support of Representative Counsel, has determined that the Sutton Settlement Agreement is, given the circumstances, in the best interest of the Sutton Investors for the following reasons, among others:
- (a) it avoids the uncertain and potentially prolonged and costly litigation of the Trustee Action and/or the resultant receivership process in respect of the Remaining Commercial Units;
 - (b) the Sutton Settlement Agreement contains specific debt obligations with clearly specified payment deadlines that are required to be paid by ADG;
 - (c) the Sutton Settlement Agreement includes a limited recourse guarantee granted by ADI Masonry as well as the Second Charge, as security in respect of the Settlement Payment;
 - (d) the Sutton Settlement Agreement results in a recovery of approximately 91.23% of the outstanding combined principal balance of the Sutton SMLs or 109% when considering Previously Paid Amounts;
 - (e) the Sutton Settlement Agreement allows the Trustee to monetize the investments of the Sutton Investors who have endured a significant delay in the recovery of their loans given that almost seven years have passed since the maturity dates of the Sutton SMLs; and
 - (f) absent a settlement, there is no immediate prospect of a recovery without incurring further significant professional fees, and there is a risk that the recovery to the Sutton Investors from further litigation and/or the appointment of a receiver over the Sutton Borrower could be much lower and further delay any recovery significantly.
93. The Sutton Settlement Agreement is not effective without Court approval.

Description of the Sutton priorities and the Trustee's Recommendation in respect of a Pari Passu Distribution

94. The Trustee has considered and reviewed the relative priorities between the Sutton 2012 Investors and the Sutton 2014 Investors and their respective potential priority entitlements to the Realized Property generated from the Settlement Payment. Based on the analysis set out below, the Trustee is seeking the proposed Sutton Distribution Order, which provides that the Settlement Payment (net of Sutton Plaintiff's Counsel Fees) be distributed as Realized Property on a *pari passu* basis to all Sutton Investors and *pro rata* to the Sutton Investors entitled to receive such funds, subject to the Administrative Holdback.
95. It is the Trustee's view that a *pari passu* distribution would provide the fairest and most equitable result for all Sutton Investors in the circumstances. This view is based on the Trustee's review of the available documentation and the effect of such documentation on the Sutton Investors, in particular the Sutton 2014 Investors, and the representation to such Investors at the time that they invested that the Sutton 2014 Mortgage would become *pari passu* with the Sutton 2012 Mortgage.

A. Review of Relevant Documentation

96. The following paragraphs summarize the Trustee's analysis regarding the two groups of Sutton Investors, the priorities of their relative mortgages in light of the documentation, disclosures and communications made to such Investors, and the Trustee's view regarding the effects of such documentation.

B. Sutton 2012 Loan

97. Based solely on the mortgage registrations on title, the Sutton 2012 Mortgage ranks in priority to the Sutton 2014 Mortgage. A copy of the parcel register for the Sutton Project is attached as **Appendix "12"**.
98. As set out in the Sutton 2012 Loan Agreement and the Sutton 2012 9D, the Sutton 2012 Mortgage was a second-ranking mortgage. The Sutton 2012 Loan Agreement only permitted the further subordination or postponement of the Sutton 2012 Mortgage to the following charges:

- (a) The First-Ranking Construction Loan Security, meaning “one or more secured Project construction loans, in favour of arm’s-length lender(s), in an aggregate principal amount not to exceed \$45,000,000, plus a 10% contingency if required”;
 - (b) such non-financial encumbrances as shall be reasonable for the development of the Project; and
 - (c) charge(s) to secure replacement financing.
99. The full principal amount of the Sutton 2012 Loan was fully advanced prior to any advances being made under the Sutton 2014 Loan and therefore the replacement financing provision of the Sutton 2012 Loan Agreement is not engaged.
100. As discussed further below, at the time that the Sutton 2014 Investors entered into their loans, they were told that, while their mortgage was initially third-ranking, it would be moving to a second-ranking position to become *pari passu* with the Sutton 2012 Mortgage.
101. Notwithstanding what was communicated to the Sutton 2014 Investors, based on the documentation available to the Trustee, it is not clear if the Sutton 2012 Investors were made aware of the Sutton 2014 Loan and Sutton 2014 Mortgage, or the circumstances under which the Sutton 2014 Loan was solicited. The Trustee reviewed Sorrenti’s records and cannot find any communications from Sorrenti to the Sutton 2012 Investors regarding the Sutton 2014 Loan or the Sutton 2014 Mortgage, and/or a proposed postponement or merger of the Sutton 2012 Mortgage. There is no evidence that Sorrenti solicited or obtained the consent of Sutton 2012 Investors to the Sutton 2014 Mortgage being made *pari passu* with the Sutton 2012 Mortgage.
102. Consequently, there is no indication that the Sutton 2012 Investors provided express consent for the Sutton 2012 Mortgage to be postponed or subordinated or made to be *pari passu* with the Sutton 2014 Mortgage. Accordingly, the Trustee believes that the Sutton 2012 Investors likely did not agree to the Sutton 2014 Mortgage being made *pari passu* with the Sutton 2012 Mortgage.
103. Based on the above factors, the Trustee is of the view that that:
- (a) the Sutton 2012 Mortgage has a higher priority on title than the Sutton 2014 Mortgage;
 - (b) The Sutton 2012 Investors were told at the time that they entered into the Sutton

2012 Loan Agreement that they would have a second-ranking mortgage and that it would not be subordinated or postponed except to certain specified charges;

- (c) the Sutton 2012 Investors may not have subsequently been made aware that the Sutton 2014 Loan Agreement existed, or that the Sutton 2014 Investors were told that the Sutton 2012 Mortgage and Sutton 2014 Mortgage would be made *pari passu*;
- (d) the Sutton 2012 Investors were not asked for and did not give their consent to the Sutton 2012 Mortgage being made *pari passu* with the Sutton 2014 Mortgage; and
- (e) Sorrenti never executed any *pari passu* or subordination/postponement agreements between the Sutton 2012 Mortgage and the Sutton 2014 Mortgage.

C. Sutton 2014 Loan

104. At the time that the Sutton 2014 Investors entered into their loans, they were advised in the loan documentation that, while their mortgage was initially third-ranking, it would be moving to a second-ranking position.

105. As set out below, the Sutton 2014 Loan Agreement and the Sutton 2014 9D both state that the Sutton 2014 Mortgage would be a “third-ranking mortgage moving to a second-ranking mortgage upon the acceptance and agreement of current mortgage position investors” – i.e., the Sutton 2012 Investors:

(a) The second recital to the Sutton 2014 Loan Agreement states:

“**AND WHEREAS** the Loan will be secured by a third-ranking mortgage against the Property (third ranking mortgage moving to a second-ranking mortgage upon the acceptance and agreement of current mortgage position investors);”

[emphasis added]

(b) Paragraph 6 of the Sutton 2014 9D states:

“Rank of mortgage or charge: **Third-Ranking Charge/Mortgage (third-ranking mortgage moving to a second-ranking mortgage upon the acceptance and agreement of current mortgage position investors) – subject to paragraph 21 below.**”

[emphasis original]

(c) Paragraph 21 of the Sutton 2014 9D states, in part:

“I understand that the Charge/Mortgage in which I have an interest is currently a **Third-Ranking** Charge/Mortgage against the Property (third-ranking mortgage moving to a second-ranking mortgage upon the acceptance and agreement of current mortgage position investors).”

[emphasis original]

106. Although neither the 2014 Loan Agreement nor the Sutton 2014 9D disclose what the relative priority of the Sutton SMLs will be following the Sutton 2014 Mortgage’s advancement to a second-ranking mortgage, the Sutton 2014 Fact Sheet states:

“Upon the approval of all second mortgage investors it is anticipated that the 2nd and 3rd mortgages will merge and become one collective 2nd charge with the ability to increase to a maximum of \$17,600,000.”

[emphasis added]

107. None of the documentation reviewed by the Trustee explicitly advised the Sutton 2014 Investors that the advancement of the Sutton 2014 Mortgage to a second-ranking position might not occur, or that the “current mortgage position investors” had not given their “acceptance and agreement”, and in fact do not appear to have been asked.

108. Based on the factors described above, it is the Trustee’s view that:

- (a) the Sutton 2014 Investors believed that the Sutton 2014 Mortgage would become a second-ranking mortgage and that the acknowledgement and acceptance of the “current mortgage position holders” had either already been solicited or would not be withheld; and
- (b) the Sutton 2014 Investors likely invested based on the belief that such investment would, within a reasonable period of time, be secured by a second-ranking mortgage.

D. Consideration of Available Alternatives

109. Given the circumstances surrounding the Sutton SMLs as outlined above and the related priority considerations, the Trustee considered the fairest and most equitable approach for the distribution of the Settlement Payment to the Sutton Investors.

110. The Trustee considered two potential approaches to distribution, as follows:

- (a) Distributions in accordance with the Sutton Mortgages as they are registered on

title to the Sutton Project (“**Priorities Approach**”), which approach would result in distributions being made first to the Sutton 2012 Investors until such Investors are paid in full (including accrued interest), with any balance then being distributed to the Sutton 2014 Investors; or

(b) Distributions on a *pari passu* basis to all Sutton Investors based on the total principal outstanding under the Sutton SMLs (“**Pari Passu Approach**”).

111. The total amount to be paid to the Trustee under the Sutton Settlement Agreement is \$18,373,848 plus the receipt of certain additional specified sums, the amounts of which are not known with certainty at this time, following the completion of the transaction contemplated in the Sutton Settlement Agreement.
112. For the purposes of the following calculations, the Trustee notes that accrued interest on the Sutton SMLs is as of March 15, 2023.
113. The following table reflects the recoveries on the Sutton SMLs based on the distribution of the Settlement Payment, less the Sutton Plaintiff’s Counsel Fee, using the Priorities Approach:

	2012 Loan (\$)	2014 Loan (\$)	Total (\$)
Principal Outstanding (A)	11,600,000	7,991,000	19,591,000
Accrued Interest (B)	6,676,444	4,279,624	10,956,069
Total Outstanding ((A+B)=C)	18,276,444	12,270,624	30,547,069
Allocation of Settlement Payment (D)	(17,873,848)	-	(17,873,848)
Shortfall incl. accrued interest (D-C)	(402,596)	(12,270,624)	(12,673,221)
Shortfall on Principal (D-A)	-	(7,991,000)	(7,991,000)
Recovery on Principal (D/A)	154%	0%	59.2%

114. As outlined in the table above, when distributed in accordance with the Priorities Approach, the Settlement Payment would be almost sufficient to repay the Sutton 2012 Investors in full, including accrued interest, resulting in a recovery equal to 154% on the principal amount of the Sutton 2012 Loan. However, there would be no funds remaining to repay any amount to the Sutton 2014 Investors.
115. The following table reflects the recoveries on the Sutton SMLs in accordance with the Pari Passu Approach:

	2012 Loan (\$)	2014 Loan (\$)	Total (\$)
Principal Outstanding (A)	11,600,000	7,991,000	19,591,000
Allocation of Settlement Payment (B)	10,583,259	7,290,589	17,873,848
Shortfall on Principal (B-A)	(1,016,741)	(700,411)	(1,717,152)
Recovery on Principal (B/A)	91.23%	91.23%	91.23%

116. As outlined in the table above, the Pari Passu Approach would result in a recovery of 91.23% on the principal balance outstanding for each of the Sutton SMLs.

E. Recommendation

117. Based on the foregoing, the Trustee is of the view that the fairest and most equitable result is to distribute the Settlement Payment on a *pari passu* basis to the Sutton 2012 Investors and the Sutton 2014 Investors.

118. The Trustee notes the following key considerations in reaching this recommendation:

(a) the poor state of Sorrenti's records, which affects the Trustee's ability to rely on the written documentation. Specifically:

- (i) the lack of documentation as to what was or was not disclosed to the Sutton 2014 Investors, beyond that noted above, about the relative priority of the Sutton 2014 Mortgage or whether it was made clear that the Sutton 2012 Investors may not consent to a *pari passu* agreement; and
- (ii) the lack of documentation as to whether the Sutton 2012 Investors were informed of, or gave consent to, the proposed *pari passu* agreement between the Sutton 2012 Mortgage and the Sutton 2014 Mortgage; and

(b) the fact that:

- (i) both the Sutton 2012 Investors and the Sutton 2014 Investors are innocent parties that are being forced to deal with issues affecting the reliability of their respective documentation and the apparent deficiencies in the disclosure that each investor group received;
- (ii) the Sutton 2014 Investors were innocent parties who were harmed by the misleading language and content of the Sutton 2014 Loan Agreement and disclosures;

- (iii) the Sutton 2014 Investors invested based on the representation that their mortgage priority would be higher than what was actually registered on title;
 - (iv) the Sutton 2012 Investors received the benefit of the Sutton 2014 Loan, as it was used for the development of the Sutton Project; and
 - (v) although the Sutton 2012 Investors are also innocent parties, it would not be appropriate in the circumstances for such Investors to receive a return of approximately 154% on principal when equally harmed Investors would receive no return on principal and a shortfall on principal of \$7,991,000 in the aggregate.
119. For these reasons, the Trustee is of the view that the strict application of the priorities as registered on title would be inappropriate and unfair to the Sutton 2014 Investors in the circumstances. The Trustee has shared its analysis with Representative Counsel who supports the Trustee's position.
120. Accordingly, the Trustee is seeking, as part of the proposed Sutton Distribution Order, approval to distribute the Realized Property from the Settlement Payment net of the court-approved Administrative Holdback in accordance with the *Pari Passu* Approach to the Sutton Investors entitled to such funds.
121. The Trustee notes that the proposed distribution methodology is also consistent with the distribution methodology followed by FAAN Mortgage in the BDMC Proceeding and approved by this Court with respect to the CHAT Project, the OML Project, the Orchard Project, the Peter Richmond Project, the South Shore Project and, most recently, the Brookdale Project (as each is defined in FAAN Mortgage's Reports to Court in the BDMC Proceeding), each a project where there were two or more syndicated mortgage loans advanced by investors, which purported to hold differing security positions on title. In each of these cases there were also gaps or inconsistencies in the information and/or dissemination of that information to the respective investors in those projects; accordingly, it was determined in each of those cases that the most equitable and reasonable manner to distribute the funds recovered was on a *pari passu* basis to all of the investors in the respective projects.

Investor Notice

122. The Trustee has delivered a notice to the Sutton Investors concurrently with the service of this Sixth Report (the "**Sutton Investor Notice**"), advising them of the financial details

of the Sutton Settlement Agreement and to provide information to support the Trustee's recommendation that this Court approve the Sutton Settlement Agreement and the distribution to the Sutton Investors by way of the Pari Passu Approach. A copy of the Sutton Investor Notice is attached as **Appendix "13"**.

Unionvillas Project

123. Sorrenti administered an SML in the principal amount of approximately \$8 million ("**Unionvillas SML**") in connection with a 52-unit townhouse development in Markham, Ontario ("**Unionvillas Project**") that was secured by a third ranking charge on title to the townhouse units in the Unionvillas Project.
124. In addition to the registered charge in favour of the Unionvillas SML, there were also first and second ranking charges registered on title in favour of KingSett Mortgage Corporation ("**KingSett**"), which related to the construction financing for the Unionvillas Project.
125. On June 9, 2021, pursuant to the application of KingSett, KSV Restructuring Inc. ("**KSV**") was appointed by the Court as receiver and manager ("**Unionvillas Receiver**") of Sunrise Acquisitions (Hwy 7) Inc. ("**Unionvillas Borrower**") and its property and assets ("**Receivership Proceedings**").
126. At the time of the Unionvillas Receiver's appointment, there were five remaining residential units in the Unionvillas Project, including four units ("**Remaining Units**") which were subject to existing purchase and sale agreements ("**PSAs**"). The PSAs were between the Unionvillas Borrower and the spouses ("**Spouses**") of the Unionvillas Borrower's principals ("**Principals**") at prices that were significantly below their current market value and that involved unusually high deposits. The PSAs also included a requirement for payment of monthly occupancy fees ("**Occupancy Fees**") to the Unionvillas Borrower during the occupancy period through to the closing of each sale transaction.
127. After its appointment, the Unionvillas Receiver retained a real estate broker who marketed and sold the one residential unit that was not subject to a PSA.
128. On October 27, 2021, the Unionvillas Receiver sought and obtained an order of the Court which, among other things, approved the Unionvillas Receiver's recommendation that the PSAs be terminated, repudiated and/or disclaimed and also approved a sale process for the Remaining Units. By February 2022, the Unionvillas Receiver completed sale transactions in respect of the Remaining Units. From the net proceeds, the KingSett debt

was repaid in full, and the Trustee received an initial distribution of \$2 million, on behalf of the Unionvillas Investors (“**Unionvillas Realized Property**”). The Unionvillas Receiver continues to hold additional amounts to fund future receivership costs including with respect to litigation commenced against the Sunrise Parties (defined and discussed below).

129. The Third Omnibus Order approved, among other things, a *pro rata* distribution of 65% of the Unionvillas Realized Property, and any further proceeds received in connection with the Unionvillas Project, to the Unionvillas Investors. The Trustee effected the distribution of the Unionvillas Realized Property to the Unionvillas Investors shortly after issuance of the Third Omnibus Order.
130. The Unionvillas Receiver also advised that it continues to work with the City of Markham and the Region of York to secure the release of the cash collateral posted in respect of the letters of credit issued in favour of such parties, totalling approximately \$966,000 (“**LC Collateral**”). Any claims against the LC Collateral would reduce the amount available for distribution by the Unionvillas Receiver to the Trustee.

Unionvillas Receiver’s Investigation

131. As set out in the Fifth Report, the Unionvillas Receiver has been investigating the Unionvillas Borrower, the Principals, and the circumstances surrounding the Unionvillas Project. The key findings, which are detailed in the Unionvillas Receiver’s various reports, include, among other things, the following:
 - (a) the Unionvillas Borrower paid related companies and persons, including the Principals (collectively, the “**Sunrise Parties**”), material amounts (collectively, the “**Related Party Transactions**”),
 - (b) the Unionvillas Borrower also made certain payments to a purported individual lender (“**Individual Lender**”);
 - (c) the Unionvillas Borrower deliberately attempted to mislead the Unionvillas Receiver by providing inaccurate and incomplete information, including, among other things, by making it appear in its general ledger that the Sunrise Parties were paid significantly less money by the Unionvillas Borrower than was actually paid; and

- (d) the Spouses appear to have breached the terms of their PSAs by not paying the required Occupancy Fees to the Unionvillas Borrower while personally benefiting for more than one year from rent payments they collected pursuant to lease agreements they entered into with respect to the Remaining Units.
132. In light of its findings, and after discussions with the Trustee, the Unionvillas Receiver delivered a notice of motion on July 6, 2022 and subsequently a supporting record (“**Motion for Repayment of Amounts Owing**”), seeking an order, among other things, directing the Sunrise Parties, including the Principals and the Spouses, the Individual Lender, and such other parties as may be necessary or appropriate, to immediately pay to the Unionvillas Receiver all funds improperly diverted from and/or owing to the Unionvillas Borrower.
133. On September 16, 2022, counsel to the Sunrise Parties, including the Principals and the Spouses, served a responding motion record in respect of the Motion for Repayment of Amounts Owing (the “**Responding Record**”). The Responding Record was comprised of an affidavit of Muzammil Kodwavi, one of the Principals, and its exhibits (“**First Kodwavi Affidavit**”). Among other things, the First Kodwavi Affidavit indicated that:
- (a) MNP LLP (“**MNP**”) had been retained to conduct a review of the Unionvillas Borrower's internally and externally prepared financial statements, general ledger statements and bank statements for the period of 2015-2021, for the purpose of responding to the Unionvillas Receiver's findings with respect to amounts paid to the Sunrise Parties; and
- (b) MNP had advised that a report detailing its findings would be rendered to the Unionvillas Borrower by October 18, 2022 (“**MNP Report**”).
134. On September 23, 2022, the Trustee issued a notice to the Unionvillas Investors, providing, among other things, an update regarding the Unionvillas Receiver's investigation into the Unionvillas Borrower as well as actions taken by the Trustee in connection with its application for a bankruptcy order in respect of the Unionvillas Borrower as discussed further below. A copy of the September 23, 2022 notice is attached as **Appendix “14”**.
135. On October 18, 2022, the Sunrise Parties served a supplementary responding motion record, which included a further affidavit from Muzammil Kodwavi (“**Second Kodwavi**”).

Affidavit") and the MNP Report. The MNP Report indicated that, based on MNP's review, the Unionvillas Borrower paid approximately \$12.7 million, on a net basis, to the Sunrise Parties and the Individual Lender.

136. In the Second Kodwavi Affidavit, Mr. Kodwavi, among other things, conceded that the net amount of approximately \$5.5 million paid to the Sunrise Parties ("**Undisputed Amount**") "ought to be repaid to Sunrise" and swore that he "will make repayment [to the Unionvillas Borrower] in the amount of \$5,549,605".
137. In light of Mr. Kodwavi's concession as to the Undisputed Amount owing to the Unionvillas Borrower, the Unionvillas Receiver sought and, on November 2, 2022 obtained, an order ("**Undisputed Amount Payment Order**") from the Court requiring certain of the Sunrise Parties to pay certain specified portions of the Undisputed Amount to the Unionvillas Receiver forthwith. The Trustee understands that the applicable Sunrise Parties did not make the payments required by the Undisputed Amount Payment Order. The Unionvillas Receiver took initial steps to enforce the Undisputed Amount Payment Order, including registering writs of seizure and sale in the venues where the applicable Sunrise Parties were known to own or have an interest in real property.
138. The Undisputed Amount Payment Order was made without prejudice to all other issues engaged on the Motion for Repayment of Amounts Owing and not otherwise addressed in the Undisputed Amount Payment Order. This included issues with respect to, among other things: (i) the joint and several liability of the Acknowledged Debtors to pay the Acknowledged Debt (each as defined in the Undisputed Amount Payment Order); (ii) the balance of the amounts in dispute; and (iii) all related relief sought by the Unionvillas Receiver on the Motion for Repayment of Amounts Owing.
139. On November 23, 2022, the Sunrise Parties delivered a further supplementary responding motion record containing an updated report from MNP, with certain figures in the MNP Report revised ("**Updated MNP Report**"). Notwithstanding these revisions, the Updated MNP Report continued to indicate that, based on MNP's review, the Unionvillas Borrower paid over \$12 million, on a net basis, to the Sunrise Parties and the Individual Lender.
140. The Motion for Repayment of Amounts Owing was scheduled to be heard on December 20, 2022. The Unionvillas Receiver, in consultation with the Trustee, and the Sunrise Parties ultimately agreed to a consent order prior to the hearing that, among other things:

(i) ordered the Sunrise Parties and the Individual Lender to forthwith pay to the Unionvillas Receiver the amounts received by them from the Unionvillas Borrower, totalling \$14,359,012 in the aggregate; and (ii) adjourned the remaining issues, including the Sunrise Parties' joint and several liability, to a hearing originally scheduled for January 31, 2023 ("**Consent Sunrise Parties Full Repayment Order**"). The Consent Sunrise Parties Full Repayment Order also permitted the Sunrise Parties to file an additional 10-page factum (but no new evidence) in respect of the adjourned remaining issues if, and only if, \$500,000 was paid to the Unionvillas Receiver by the end of December 2022. A copy of the Consent Sunrise Parties Full Repayment Order is attached hereto as **Appendix "15"**. The Court later adjourned the hearing to March 23, 2023, due to scheduling conflicts.

141. The Sunrise Parties did not make the payments required by the Consent Sunrise Parties Full Repayment Order. Pursuant to that Order, as a result of the failure to make the required payment of \$500,000 by the end of December 2022, they were not permitted to file a supplementary factum in connection with the March 23, 2023 hearing.
142. A payment of \$25,000 was made by one Sunrise Party on December 29, 2022. In addition, the Receiver garnished \$30,581 from one Sunrise Party's bank account. However, the full amounts to be paid under either Order remain outstanding.
143. The March 23, 2023 hearing was subsequently adjourned to April 14, 2023 due to a medical issue that arose in Court at the return of the hearing.

Bankruptcy of the Unionvillas Borrower

144. While the Motion for Repayment of Amounts Owing was proceeding, the Trustee filed an Application for a Bankruptcy Order in respect of the Unionvillas Borrower. Given the Unionvillas Receiver's findings in the Receivership Proceedings and the nature and timing of the Related Party Transactions, the bankruptcy proceedings were commenced to enable the Unionvillas Trustee (defined below) to potentially impugn any preferences and transfers at undervalue preceding the date of bankruptcy and provide the Unionvillas Trustee with investigatory and other powers required to review and challenge such transactions. A successful challenge of the Related Party Transactions (in whole or in part) undertaken in conjunction with the Unionvillas Receiver's ongoing efforts in the Unionvillas Receivership Proceedings, may assist in the recovery of amounts diverted from the Unionvillas Borrower to the Sunrise Parties.

145. On October 25, 2022, an order was issued adjudging the Unionvillas Borrower bankrupt (“**Bankruptcy Order**”). Pursuant to the Bankruptcy Order, KSV was appointed as the bankruptcy trustee of the Unionvillas Borrower’s estate (“**Unionvillas Trustee**”), subject to affirmation at the first meeting of creditors (“**Meeting**”), which was held on November 16, 2022. The Unionvillas Trustee’s appointment was confirmed at the Meeting and a representative of the Trustee was appointed as the sole inspector in the bankrupt estate of the Unionvillas Borrower.
146. In light of the Undisputed Payment Order, the Full Repayment Order and the then upcoming motion on April 14, 2023, the Unionvillas Trustee decided to delay taking steps in the bankruptcy proceeding until the Motion for Repayment of Amounts Owing is resolved.

The Unionvillas Settlement

147. On April 14, 2023, prior to the hearing of the motion, the Sunrise Parties and the Unionvillas Receiver entered into a settlement agreement (the "**Unionvillas Settlement Agreement**"). The Unionvillas Settlement Agreement contemplates, among other things, that the Sunrise Parties will pay a cumulative amount of \$10.5 million to the Unionvillas Receiver, in \$2 million installments paid every 60 days. The first installment will be due and owing on the later of (i) 60 days after the execution of the Unionvillas Settlement Agreement and (ii) 30 days after the Court grants an order approving the Unionvillas Settlement Agreement. The Unionvillas Receiver has advised the Trustee that a motion in the Unionvillas Receivership Proceeding seeking Court approval of the Unionvillas Settlement Agreement is returnable on May 8, 2023. During the motion on May 8, 2023, the Unionvillas Receiver will also seek an order allowing it to pay to the Trustee on behalf of the Unionvillas Investors any money received through the Unionvillas Settlement Agreement or otherwise up to the full amount owed to the Unionvillas Investors in respect of the Unionvillas SML.
148. In light of the Unionvillas Settlement Agreement, on April 14, 2023 the Unionvillas Receiver, with the consent of the Sunrise Parties, also obtained an Order for the Sunrise Parties to pay approximately \$14.5 million to the Unionvillas Receiver on a joint and several basis (“**April 2023 Order**”). A copy of the April 2023 Order and the related endorsement are attached as **Appendix “16”**.

149. The Unionvillas Settlement Agreement further contemplates that should the Sunrise Parties fail to comply with the payment terms in the Unionvillas Settlement Agreement, or breach certain other terms of the Unionvillas Settlement Agreement, the Unionvillas Receiver may immediately enforce the April 2023 Order.
150. The Unionvillas Settlement Agreement resolves all but one of the issues outstanding in the Motion for Repayment of Amounts Owing. The remaining issue relates to the net amount of \$724,443 paid by the Unionvillas Borrower to the Individual Lender. Although served with the motion materials and Court orders granted so far in the Motion for Repayment of Amounts Owing, the Individual Lender did not participate in the proceeding, and the Court ordered the Individual Lender to repay the \$724,443 to the Unionvillas Receiver. On April 6, 2023 the Individual Lender's counsel filed a motion record asking the Court to set aside the provisions of the Order relating to him which required him to pay \$724,443 to the Unionvillas Receiver. The Trustee understands that counsel for the Unionvillas Receiver and counsel for the Individual Lender are in the process of negotiating a timetable to resolve this outstanding aspect of the Motion for Repayment of Amounts Owing.

Conclusion Regarding the Unionvillas Project

151. As the Unionvillas Settlement Agreement has not yet been approved by the Court and no payments thereunder have been made to the Unionvillas Receiver, and as the future costs associated with the Receivership are uncertain, at this time the amount, if any, of a further recovery for the Unionvillas Investors continues to be unknown. If payments under the Unionvillas Settlement Agreement are not made, a significant shortfall on the principal balance of the Unionvillas SML made to the Unionvillas Borrower may result.
152. The Trustee has delivered a notice to the Unionvillas Investors concurrently with the service of this Sixth Report ("**Unionvillas Investor Notice**"), advising them of the above-noted activities of the Unionvillas Receiver including entering into the Unionvillas Settlement Agreement, which remains subject to Court approval. A copy of the Unionvillas Investor Notice is attached as **Appendix "17"**.
153. The Trustee will continue to work with the Unionvillas Receiver to consider and coordinate next steps in the Receivership proceedings in an effort to maximize recoveries for the Unionvillas Investors.

Other Remaining Projects

Ten88/Progress Project:

154. Sorrenti administered an SML in connection with a real estate development in Toronto, Ontario (“**Progress Project**”) with approximately \$17.3 million in principal outstanding that was secured by a second ranking charge registered on title to phase two of the Progress Project (“**Progress Phase 2**”).
155. As set out in detail in the Trustee’s fourth report to Court and the Fifth Report, the Progress Project borrower, Empire Pace (1088 Progress) Ltd. (“**Progress Borrower**”), entered into an agreement of purchase and sale (“**Progress Sale Transaction**”) with a third-party purchaser in respect of Progress Phase 2. On January 31, 2022, an Order was granted by the Court approving the Progress Sale Transaction and on March 11, 2022 the Progress Sale Transaction closed resulting in remaining proceeds of approximately \$6.5 million being paid to the Trustee, on behalf of the Progress Investors.
156. The Third Omnibus Order approved, among other things, a *pro rata* distribution of 65% of the Realized Property received or to be received in connection with the Progress Project, to the Progress Investors, which distribution was made by the Trustee following the issuance of the Third Omnibus Order.
157. While the proceeds from the Progress Sale Transaction are the primary recovery available to the Progress Investors, the Progress Borrower also has certain other remaining sundry assets. The Progress Borrower, in consultation with the Trustee, continues to attempt to realize on such assets, including cash collateral posted in respect of certain letters of credit issued to the City of Toronto, HST refunds and parking spaces that remain unsold from phase 1 of the Progress Project. If realized, the net proceeds of such recoveries would also be payable to the Trustee, on behalf of the Progress Investors; however, the quantum and timing of such further recovery, if any, remains unknown at this time.

Bayview Project:

158. Sorrenti administered an SML (“**Bayview SML**”) with respect to a completed 234-unit condominium development project located in Toronto, Ontario in the total principal amount of approximately \$19.8 million. 504 Investors advanced funds to the Bayview Project (“**Bayview Investors**”). According to Sorrenti’s records, Sorrenti received approximately \$18 million on June 25, 2019 as a partial repayment of the Bayview SML.

159. At the time of the Trustee's appointment, an outstanding principal amount of \$1.7 million remained unpaid, and as of the date of this Report, the Bayview Project borrower ("**Bayview Borrower**") continues to remain indebted under the Bayview SML in the principal amount of approximately \$1.7 million plus accrued and unpaid interest of approximately \$1 million (together with any additional interest, fees, costs and other allowable charges, as applicable, the "**Bayview Borrower's Indebtedness**").
160. Since its appointment, the Trustee has corresponded with the Bayview Borrower and its counsel regarding the repayment of the Bayview Borrower's Indebtedness and the Bayview Borrower has advised the Trustee (through its counsel) that it has insufficient funds to repay the full amount of the remaining balance. The Trustee has requested information from the Bayview Borrower with respect to the Bayview Borrower's Indebtedness and intends to continue engaging with the Bayview Borrower. However, the quantum and timing of any additional payment in respect of the Bayview SML remains uncertain.

Mapleview Commons/Julien Court Project:

161. Sorrenti administered two SMLs in the total principal amount of approximately \$6 million and \$2.1 million, respectively ("**Maple SMLs**"), which are secured by charges registered on title in second and third positions, respectively, in connection with a 16-unit low rise residential development in Maple, Ontario ("**Maple Project**"). There continues to be one unsold unit and certain letters of credit issued with respect to the Maple Project.
162. There is one charge registered on title to the Maple Project in priority to the Maple SMLs' charges, and the Trustee understands that the outstanding obligations secured by such charge totalled approximately \$3.2 million as of April, 2023 ("**Maple Priority Debt**").
163. As set out in the Fifth Report, based on the list price for the remaining unsold unit, the potential realizable value of the letters of credit and the quantum of the Maple Priority Debt, the Trustee believes that there will likely be insufficient proceeds available to repay any of the Maple SMLs.

Soba Project:

164. As at the date of the Appointment Order, Sorrenti administered one SML ("**Soba SML**")¹¹ with approximately \$10.3 million of principal advanced, which is secured by a charge registered on title in third position to the remaining unsold units of a 209-unit condominium development in Ottawa, Ontario ("**Soba Project**").
165. Contemporaneously with the registration of the condominium in 2020, the borrower under the Soba SML ("**Soba Borrower**") refinanced its construction loan with its senior secured lender, MCAP Financial Corporation ("**MCAP**"), and obtained an inventory loan in respect of the unsold units in the maximum amount of \$12.05 million ("**Inventory Loan**"). As described in the Fifth Report, the Trustee postponed Sorrenti's charge to the charge registered by MCAP, which was a condition imposed by MCAP in respect of the Inventory Loan.
166. The Trustee understands that 15 residential units, certain parking and storage units, and the commercial space remain unsold. Since the Fifth Report, one residential unit sale has closed, and the net proceeds from the sale were paid to MCAP. The Trustee is advised that the remaining balance owing to MCAP as at March 1, 2023 was approximately \$3.7 million. In addition to the charge in favour of MCAP, there is a charge registered on title in priority to the Soba SML in the principal amount of \$10.9 million in favour of BJL Properties Inc. ("**BJL**"), an entity related to the Soba Borrower and controlled by Mr. Brad Lamb. Should the funds purportedly advanced by BJL be repaid in accordance with the BJL charge, which is registered in priority to the Soba SML, pursuant to a postponement issued by Sorrenti in November 2018 (the "**Soba Postponement**"), the Trustee understands that there will be insufficient proceeds to repay any of the Soba SML.
167. The Trustee and its counsel are continuing to consider the Soba Postponement and the Trustee anticipates engaging with the Soba Borrower and BJL once the parties have a better understanding of the proceeds that will remain after repayment in full of the MCAP loan.

¹¹ Based upon the Trustee's review of Sorrenti's records, 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.

REALIZED PROPERTY AND ADMINISTRATIVE HOLDBACK

168. The Trustee continues to receive numerous communications from Investors detailing hardships that they are experiencing as a result of their investments in the Sorrenti SMLs due to delayed repayments, returns on investment below expectations and/or partial or total losses. The Trustee has been advised by Representative Counsel that it also continues to receive similar communications. The communications have included inquiries about a further reduction in the Administrative Holdback.
169. Pursuant to the First Omnibus Order, as amended by the Third Omnibus Order, the Trustee is authorized to distribute 65% of all Realized Property and is required to retain the remaining 35% as an Administrative Holdback to fund the administration of these proceedings.
170. Since the date of the Third Omnibus Order, the Trustee has only collected the Initial Payment in respect of the Sutton Settlement Agreement. Accordingly, at this time, the Trustee is not in a position to implement a further reduction to the Administrative Holdback. However, in light of the Trustee's expectation that it will receive further Realized Property in the future and in order to expedite the implementation of a further reduction of the Administrative Holdback without incurring the cost of returning to Court, the Trustee is recommending a further reduction to the percentage of Realized Property that it must retain to fund the administration of these proceedings upon the receipt by the Trustee of a further \$10 million in Realized Property ("**Additional Realized Property**"), in addition to the Initial Payment under the Sutton Settlement Agreement already collected. The Trustee is therefore seeking an Order authorizing such reduction to the Administrative Holdback, the implementation of which would be subject to the Trustee filing a certificate confirming it has received the Additional Realized Property. If approved, the Trustee would be authorized to distribute an additional amount equal to 10% of all Realized Property upon the receipt of the Additional Realized Property and the filing of a Trustee's Certificate. This would result in 75% of all Realized Property being distributed by the Trustee and 25% being retained as an Administrative Holdback to fund the administration of these proceedings. Should Realized Property be generated in excess of the Additional Realized Property, the Trustee will re-evaluate the quantum of the Administrative Holdback.
171. The Trustee has consulted with Representative Counsel regarding this recommendation, and Representative Counsel agrees that the proposed retention of 25% of all Realized

Property, upon the receipt of the Additional Realized Property, and the proposed distribution of all other Realized Property is fair and reasonable in the circumstances.

172. As set out in the Third Report and the Fifth Report, the Trustee acknowledges that these proceedings may have a disproportionate impact on certain Investors, including the Bayview Individual Investors. Accordingly, should there be funds remaining from the Administrative Holdback once the Trustee's administration is complete, the Trustee will develop an allocation formula to fairly and equitably allocate the cost of the administration of these proceedings among the Investors, in order to determine the appropriate distribution of such remaining funds.

RECEIPTS AND DISBURSEMENTS AND CASH FLOW PROJECTION

General

173. In accordance with the Appointment Order, the Trustee continues to engage in the activities described in this Sixth Report 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 is functionally insolvent and has no revenue. As such the Trustee's continued use of the Administrative Holdback, is essential to fund these proceedings and to continue to carry out the Trustee's mandate in accordance with the Orders of the Court.

Cash receipts and disbursements for the Projection Period

174. In the Fifth Report, the Trustee provided a forecast for the projected receipts and disbursements related to the administration of this estate for the period March 12, 2022 to September 30, 2022 ("**Projection Period**"). The following table reflects the variance analysis for the Projection Period:

	(\$000s)		
	Projected	Actual	Variance
Receipts			
Collections and other receipts	6	11	5
Administrative Holdback	700	700	-
Total receipts	706	711	5
Disbursements			
Operating costs	97	57	40
Appraisals	12	5	7
Professional fees	1,638	1,327	311
Total disbursements	1,747	1,389	358
Operating Net cash flow	(1,041)	(678)	363
Payments on account of Reduction to			
Administrative Holdback	(1,077)	(1,077)	-
Net cash flow	(2,118)	(1,755)	363

The detailed variance analysis for the Projection Period is attached as **Appendix "16"**.

175. Certain variances during the Projection Period are explained as follows:

Professional Fees: The positive variance is a timing difference, which was reversed between October 2022 and February 2023, as detailed below.

176. In addition, the actual receipts and disbursements for the period following the Projection Period (being October 1, 2022 to February 28, 2023) are summarized below:

	(\$000s)
Receipts	
Administrative Holdback	-
Collections and other receipts	19
Total receipts	19
Disbursements	
Operating costs	19
Professional fees	362
Total disbursements	381
Net cash flow	(362)

177. The Trustee notes the following with respect to the above chart:

Professional Fees: Relate to fees accrued in the Projection Period that were paid between October 1, 2022 and February 28, 2023, as well as fees incurred after the Projection Period.

Funds in the Trustee’s Possession

178. A summary of the funds in the Trustee’s possession as at February 28, 2023 is provided in the table below.

		(\$000s)	
Type	Primary Purpose	As at Mar 11, 2022	As at Feb. 28, 2023
Estate	Used to fund the cost of the trusteeship proceedings, including remaining funds from the Administrative Holdback	3,173	1,055
Realized	Held pending Investor distributions	4,241	-
Potential Trust Funds	Funds that may have been held in trust for certain individuals or corporations	316	316
Total		<u>7,730</u>	<u>1,371</u>

179. Estate Property: As noted previously, since the issuance of the First Omnibus Order, the Estate Property has been used to fund Sorrenti’s operating costs and to enable the Trustee and Representative Counsel to fulfill their mandates in these proceedings. Funds held by the Trustee in respect of the Administrative Holdback are maintained in these accounts.

180. Potential Trust Funds: Based on the information currently available to the Trustee, it appears that there are certain funds that may have been held by Sorrenti for certain individuals or companies, though the purpose and terms thereof remain unknown. The Trustee continues to review Sorrenti’s records in respect of these amounts.

Projected receipts and disbursements for the period ending October 31, 2023

181. The Trustee prepared a monthly cash flow projection (“**Cash Flow Projection**”) for the period March 1, 2023 to October 31, 2023 (“**Cash Flow Period**”).

182. A summary of the Cash Flow Projection is provided in the following table:

	(\$000s)
Receipts	1,608
Disbursements	
Independent contractors	42
Office, IT and other	33
Total operating disbursements	<u>75</u>
Appraisal fees	5
Professional fees	1,558
Total disbursements	<u>1,638</u>
Net cash flow	<u>(30)</u>
Opening Cash – Estate Property	1,055
Net cash flow	<u>(30)</u>
Projected Closing Cash – Estate Property	<u>1,025</u>

183. The primary assumptions underlying the Cash Flow Projection are as follows:

Projected Receipts: Assumes that the Sutton Settlement Agreement is approved by the Court and implemented in accordance with its terms. Thus, the projected receipts reflect the receipt of the Administrative Holdback from the following Settlement Payment Installments, net of the Sutton Plaintiff’s Counsel Fees: (i) Initial Payment, which as discussed above has already been received by the Trustee in the Cash Flow Period; and (ii) ADI Valera Payment Milestone. Should the ADI Valera Payment Milestone not be achieved by its June 30, 2023 deadline, the projected receipts would vary materially from forecast.

Projected Disbursements: These amounts relate primarily to operating costs and professional fee disbursements. The majority of the operating costs are related to independent contractors retained by the Trustee to assist with the administration of the Sorrenti estate and IT services. 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 were accrued and unpaid as at February 28, 2023.

REPRESENTATIVE COUNSEL

184. Pursuant to the Appointment Order, Chaitons LLP was appointed Representative Counsel to represent the common interests of the Investors who participate in Sorrenti SMLs, including the common interests of Investors in any particular Sorrenti SML.
185. The Trustee understands that Representative Counsel continues to receive regular 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.
186. The Trustee also understands that Representative Counsel has been dealing with numerous 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, while urging Investors to individually seek independent legal advice with respect to any causes of action that they may wish to pursue.
187. The Trustee also continues to consult with Representative Counsel when appropriate, and the Trustee and its counsel are in regular contact with Representative Counsel, in particular, with respect to all significant decisions that would likely have a material impact on Investor recoveries.

ACTIVITIES OF THE TRUSTEE

188. In addition to the activities described above, since the date of the Fifth Report, the Trustee's activities have also included, among other things:
 - (a) engaging with borrowers regarding their particular real estate development project and Sorrenti SML by seeking detailed updates on the progress of the projects and associated financial reporting;
 - (b) engaging with Representative Counsel on behalf of the Investors with respect to all aspects of the SML Administration Business, including attending meetings and conference calls on a regular basis;
 - (c) reviewing updated appraisals commissioned by the Trustee and corresponding with the appraisers retained by the Trustee, as appropriate;

- (d) engaging with a planning consultant in order to obtain information relating to projects underlying the Sorrenti SMLs;
- (e) corresponding with the Unionvillas Receiver and its counsel;
- (f) engaging with Class Counsel in respect of the Class Actions;
- (g) engaging with certain SML borrowers' counsel in respect of the Class Actions;
- (h) making distributions in accordance with the reduction to the Administrative Holdback as approved in the Third Omnibus Order in respect of the Bayview Project, the Gotham Project, the HVS Project and the Victoria Park Project (each as defined in the Reports) to the Investors entitled to those distributions.
- (i) attending to partial discharges of Sorrenti's security interests to facilitate sales of individual units in the ordinary course, in accordance with Sorrenti's contractual obligations;
- (j) drafting and circulating Investor notices;
- (k) posting court materials on the Trustee's website; and
- (l) in accordance with the provisions of the Appointment Order, accessing certain of Sorrenti's records.

189. The Trustee has been engaging with Investors since its appointment and has responded to regular telephone calls and email correspondence from Investors. Investors contact the Trustee to seek general information about the proceedings, the role of the Trustee and Representative Counsel, as well as specific information regarding the projects that are the subject of their investments or payments that they receive from the Trustee. The Trustee endeavours to respond to all inquiries in a timely manner. Investor communications have been and will remain a critical and time-consuming part of the Trustee's mandate.

FEES OF THE TRUSTEE

190. 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 become more clear, be allocated to the

various projects based on appropriate considerations and in accordance with further Court Orders.

191. The fees of the Trustee for the period between March 1, 2022 to February 28, 2023 total \$539,412.35, before HST, and HST applicable to such amount totals \$70,123.61, for an aggregate amount of \$609,535.96. 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 “17”**. The average hourly rate for the Trustee over the referenced billing period was approximately \$506.31/hour.
192. 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**”).
193. 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. The Court has granted similar relief during the pendency of these proceedings, including in the Third Omnibus Order.

FEES OF THE TRUSTEE’S COUNSEL

194. The fees of Osler as counsel to the Trustee for the period between March 1, 2022 to February 28, 2023 total \$1,191,012, Osler incurred \$3,879.24 of reimbursable expenses and disbursements during the period, and HST applicable to such amounts total \$155,267.14, for an aggregate amount of \$1,350,149.38. Invoices for the fees, reimbursable expenses, disbursements, 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 “18”**. The average hourly rate for Osler over the referenced billing period was \$956.71/hour (excluding reimbursable expenses, disbursements and HST).

195. 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**”).
196. 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. The Court has granted similar relief during the pendency of these proceedings, including in the Third Omnibus Order.
197. 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

198. 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, and to make decisions, in consultation with Representative Counsel, that, in the circumstances, the Trustee believes are in the best interests of the Investors.
199. In light of the foregoing, the Trustee respectfully recommends that the requested Orders be granted by the Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of May, 2023.

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**

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


REGISTRAR C. Irwin GREFIER-Registral

Court File No.

CV-19-628258-0002

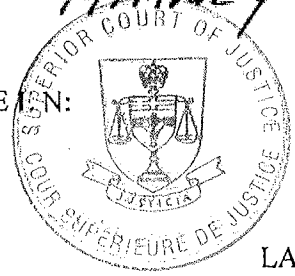
ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

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

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

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

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;

- 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;

- 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

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

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

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

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

(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

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

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

- 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

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.

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

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

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

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

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,

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.

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.

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

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.

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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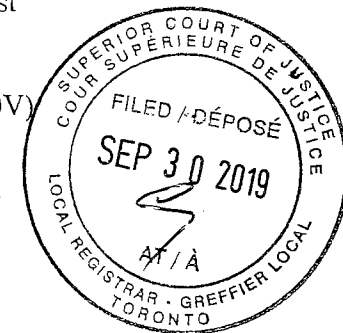
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Lawyers for the Applicant



Appendix 2:

Third Omnibus Order dated April 12, 2022



Electronically issued : 12-Apr-2022
Délivré par voie électronique
Toronto

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE KIMMEL)
TUESDAY, THE 12TH
DAY OF APRIL, 2022

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**

THIRD OMNIBUS ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc. ("**FAAN Mortgage**"), 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) approving an amendment to paragraph 3 of the First Omnibus Order (as defined in the Fifth Report (as defined below)) to replace all references to “50%” with “65%”, (ii) authorizing the Trustee to effect a distribution to the applicable Investors in an amount equal to 65% of the Realized Property whether received before or after the date of this Order, including authorizing and directing the Trustee to effect a distribution: (a) to the Progress Investors in an amount equal to 65% of the Progress Realized Property, and (b) to the Unionvillas Investors in an amount equal to 65% of the Unionvillas Realized Property (each as defined in the Fifth Report), (iii) approving the Fourth Report of the Trustee dated January 14, 2022 (the “**Fourth Report**”) and the Fifth Report of the Trustee dated March 31, 2022 (the “**Fifth Report**”) 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 March 1, 2021 to February 28, 2022, and (v) sealing certain confidential exhibits to the Fee Affidavits (as defined below), was heard this day by videoconference in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic;

ON READING the Fourth Report and Fifth Report, the affidavit of Naveed Manzoor sworn March 31, 2022 and attached as Appendix “15” to the Fifth Report (the “**Manzoor Affidavit**”) and the affidavit of Michael De Lellis sworn March 30, 2022 and attached as Appendix “16” to the Fifth 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 else appearing for any other person on the service list, as appears from the affidavit of service of Chloe Nanfara sworn March 31, 2022, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record, and the Fifth 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 Fifth Report.

REALIZED PROPERTY

3. **THIS COURT ORDERS** that paragraph 3 of the First Omnibus Order is amended to replace all references to “50%” with “65%”.

4. **THIS COURT ORDERS** that the Trustee shall distribute 65% of the Realized Property obtained *pro rata* to the Investors entitled to such funds, whether received before or after the date of this Order, including:

- (a) a distribution to Progress Investors in an amount equal to 65% of the Progress Realized Property; and
- (b) a distribution to Unionvillas Investors in an amount equal to 65% of the Unionvillas Realized Property.

TRUSTEE'S REPORTS, ACTIVITIES, FEES AND DISBURSEMENTS

5. **THIS COURT ORDERS** that the Fourth Report and the Fifth Report and all the actions, conduct and activities of the Trustee as set out in the Fourth Report and the Fifth Report be and are hereby approved; provided, however that only FAAN Mortgage, in its capacity as Trustee and in its personal capacity and only with respect to its own liability in such capacities, shall be entitled to rely upon or utilize in any way such approval.

6. **THIS COURT ORDERS** that the fees and disbursements of the Trustee and its counsel, as set out in the Fifth 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 March 1, 2021 to February 28, 2022 are approved: fees of \$849,225.30 (plus applicable taxes of \$110,399.29 for an aggregate amount of \$959,624.59), and
- (b) the following fees and disbursements of Osler, Hoskin & Harcourt LLP, counsel to the Trustee, for the period from March 1, 2021 to February 28, 2022 are approved:

fees of \$948,570.00 and disbursements of \$6,475.02 (plus applicable taxes of \$124,000.45 for an aggregate amount of \$1,079,045.47).

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.

GENERAL

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada.

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.



Digitally signed by Jessica
Kimmel
Date: 2022.04.12 15:10:07 -04'00'

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

THIRD 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

Appendix 3:

Sorrenti SML Project Analysis Summary as of April 26, 2023

Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business
 Summary of Project Status as at April 26, 2023
 (\$C, Unaudited)

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of April 26, 2023.
 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:	<p>Pre-construction Construction has not commenced. Rezoning and development approvals may be submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced.</p> <p>Construction Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction.</p> <p>Completed Construction is complete, and assets remain to be realized.</p> <p>Exited 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.</p>
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No.	Project Name	Number of Investors	Status	Capital Stack (see note 2)	Maturity Date	Project	Enforcement Proceeding
1	Gotham	145	Exited	n/a	n/a	On January 30, 2020, the Trustee sought and obtained Court approval of a settlement agreement in the amount of approximately \$1.42M in respect of the Sorrenti debt on the Gotham Project, which amount was distributed to Investors net of the Administrative Holdback.	n/a
2	Harmony Village - Sheppard ("HVS")	542	Exited	n/a	n/a	n/a	Property was sold pursuant to a receivership in 2016 and the HVS syndicated mortgage loan ("SML") was discharged from title. The HVS Receiver distributed \$19.5M to Sorrenti for Investors. The HVS Receiver made a further distribution to the Trustee of \$1.06M in October, 2019, which was distributed by the Trustee to investors in 2020, net of the Administrative Holdback. The HVS Receiver made a final distribution to the Trustee of \$76,299.74 in December 2020, which amount was distributed to Investors in 2021, net of the Administrative Holdback.
3	Mapleview Commons (Julien Court)	155	Construction	1st: MarshallZehr Group Inc. ("MarshallZehr") and Firm Capital Mortgage Funding Inc. \$3.32M (as at April, 2023) 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 substantially complete and there is one unsold unit remaining. The net proceeds from sales to date have been used to repay MarshallZehr. Based on the list price for the Remaining Maple Asset and the quantum of the priority debt, the Trustee believes that there will be limited, if any, Realized Property available to repay any of the Maple SMLs.	n/a
4	Progress Manors (TEN88)	364	Exited	n/a	n/a	The first phase of the project ("Phase 1") is comprised of 105 stacked townhomes, which have been sold and closed. The borrower entered into an agreement of purchase and sale with a third-party purchaser for the phase 2 lands. On January 31, 2022, an Order was granted by the Court approving the sale transaction and the transaction closed on March 11, 2022, at a purchase price of \$14M. Residual proceeds of approximately \$6.5M (net of closing costs and the repayment of the first mortgage) were paid to the Trustee on behalf of the Progress Investors. The Trustee has distributed these proceeds, net of the Administrative Holdback, to the Progress Investors. The borrower has other remaining sundry assets and is in the process of attempting to realize on such assets, including cash collateral posted in respect of certain letters of credit issued to the City of Toronto, HST refunds and three parking spaces remaining unsold from Phase 1. Once realized, the net proceeds of such realizations, if any, would also be payable to the Trustee, on behalf of the Progress Investors, however, the quantum and timing of such recovery is unknown at this time.	n/a
5	Residences of Bayview (Lotus)	504	Exited	n/a	n/a	The project is a 234 unit condominium located in Toronto, which has been 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. The Trustee is in discussion with the borrower with respect to the outstanding indebtedness remaining.	n/a

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

Summary of Project Status as at April 26, 2023

(\$C, Unaudited)

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of April 26, 2023.

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

<p>LEGEND: <i>Pre-construction</i> Construction <i>Completed</i> Exited</p>	<p>Construction has not commenced. Rezoning and development approvals may be submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced.</p> <p>Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction.</p> <p>Construction is complete, and assets remain to be realized.</p> <p>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.</p>
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No.	Project Name	Number of Investors	Status	Capital Stack (see note 2)	Maturity Date	Project	Enforcement Proceeding
6	Soba	188	Completed	1st: MCAP Financial Corporation \$3.7M (as at March 1, 2023) 2nd: Aviva Insurance Company of Canada ("Aviva") \$13M 3rd: BJL Properties \$10.9M 4th: Sorrenti 2 \$10.3M	Sorrenti 2nd: January 2, 2017 (extend date January 2, 2018) Matured.	The project is a 209 unit completed condominium located in Ottawa. The condominium registered in 2020 and 15 units remain unsold. The borrower has indicated that it is projecting to incur significant losses on the project. Should the funds purportedly advanced by BJL (a party related to the borrower) to the project be repaid in accordance with the BJL charge, which is registered in priority to the Soba SML, pursuant to a postponement issued by Sorrenti in November 2018, the Trustee understands that there will be insufficient proceeds to repay any of the Soba SML.	n/a
7	Victoria Park Place (Solotex)	282	Exited	n/a	n/a	n/a	RSM Canada Limited was appointed by a priority mortgagee as a private receiver of the project. The receiver entered into an agreement of purchase and sale with Plazacorp Investments Limited ("Purchaser"). On June 11, 2020, an order authorizing the sale to the Purchaser was granted by the Court, which enabled the Purchaser to obtain title to the project free and clear of any existing security, with no proceeds being available to the Victoria Park SML from the sale. In September 2020, the Trustee entered into an assignment agreement ("Victoria Park Assignment") with an affiliate of the Purchaser ("Assignee"), which, among other things, assigned Sorrenti's claims against the borrower (other than the certain excluded claims against parties related to the borrower) to the Assignee for consideration of \$300,000, which amount was distributed to Investors, net of the Administrative Holdback.
8	The Sutton (Link Condos + Towns)	456	Completed	1st: Sutton 2012 Loan \$11.6M 2nd: Sutton 2014 Loan \$8M	Original: October 4, 2015 Matured. 3rd: April 4, 2016 Matured.	Project consists of 4 low rise condominiums and approximately 13,300 square feet of ground floor commercial space ("Commercial Units") located in Burlington, Ontario. All residential units were sold prior to the Trustee's appointment. Shortly after the Trustee's appointment, the borrower requested that the Trustee provide partial discharges in connection with the closing of the final six condominium units to third party purchasers. The Trustee agreed on the condition that the borrower's counsel hold the net closing proceeds of approximately \$2.6M in trust from these sales ("Trust Funds").	<p>The Trustee was advised by the borrower that there will be insufficient proceeds to repay the Sutton SMLs in full based on the estimated value of the Commercial Units and the Trust Funds. On October 19, 2021, the Trustee issued demands and certain other correspondence to the borrower and Adi Development Group Inc. ("Guarantor") requiring payment in full of the borrower's indebtedness. On November 18, 2021, the Trustee served the borrower, Guarantor and a wholly owned subsidiary with a Statement of Claim seeking, among other things, repayment in full of the borrower's indebtedness.</p> <p>With a view to arriving at a consensual resolution with respect to the amounts owing to the Sutton Investors, the Trustee, the borrower and the Guarantor engaged in discussions and have entered into a settlement agreement ("Sutton Settlement Agreement") that includes, among other things, payments over time of approximately \$18.3M and certain other ancillary amounts ("Settlement Amount") by the borrower and/ Guarantor, and additional security in respect of all obligations under the Sutton Settlement Agreement by way of a second ranking charge on certain development land owned by an affiliate of the borrower. On execution of the Sutton Settlement Agreement the borrower made initial payments of approximately \$2.6M, in respect of the Settlement Amount, to the Trustee from the Trust Funds.</p> <p>The Trustee is seeking the approval of the Court of the Sutton Settlement Agreement and the distribution of the Settlement Amount to the Sutton Investors on a <i>pari-passu</i> basis, net of the Administrative Holdback.</p>

Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business
 Summary of Project Status as at April 26, 2023
 (\$C, Unaudited)

Derived from Sorrenti records, information provided by Fortress, project borrowers, and other third parties, as of April 26, 2023.
 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:	Construction has not commenced. Rezoning and development approvals may be submitted/fully approved and in certain projects the marketing, sales and/or leasing program has commenced.
Pre-construction	Demolition or clearing of on-site structures/improvements complete, construction has started via site servicing, excavation, renovation or hard construction.
Construction	Construction is complete, and assets remain to be realized.
Completed	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.
Exited	

No.	Project Name	Number of Investors	Status	Capital Stack (see note 2)	Maturity Date	Project	Enforcement Proceeding
9	Wismer3 (The Mark, Mount Joy and Eldin)	108	Exited	n/a	n/a	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. All remaining units in the Mark have now been sold and closed and the net proceeds were paid to MarshallZehr, who held a charge on title to The Mark in priority to the Wismer SMLs. MarshallZehr continues to be owed approximately \$15.6M. MarshallZehr advised the Trustee that it anticipates receiving a further, and final, distribution of approximately \$1.5M on account of ancillary assets, including through the release of municipal and Tarion security. Accordingly, there will be insufficient proceeds from the sale of the borrower's real property to repay MarshallZehr in full and therefore, there are no funds available to repay any amounts owing under the Wismer SMLs.	n/a
10	Unionvillas (Uptowns of Unionville)	145	Exited	n/a	n/a	n/a	<p>On June 9, 2021, KSV Restructuring Inc. was appointed by the Court as receiver and manager (" Unionvillas Receiver") of the borrower. At the time of the Unionvillas Receiver's appointment, there were five remaining townhouse units in the Unionvillas project, which the Unionvillas Receiver has since sold, with Court approval, and an initial distribution of \$2M was paid to the Trustee, on behalf of the Investors. The Trustee has distributed this amount, net of the Administrative Holdback, to the Unionvillas Investors.</p> <p>The Unionvillas Receiver has also investigated the borrower, the principals of the borrower (" Principals") and the circumstances surrounding the project and its key findings include, among other things, material funds were paid by the borrower to related companies and persons including the Principals (" Sunrise Parties") in contravention of the borrower's various loan agreements. In light of its findings, the Unionvillas Receiver filed motion materials, seeking an order, among other things, directing repayment of all funds improperly diverted from and/or owing to the borrower. After several court attendances, on December 20, 2022, an Order was granted ordering: (i) the Sunrise Parties to pay \$14.3M to the Unionvillas Receiver, and (ii) adjourned the remaining issues, including the Sunrise Parties' joint and several liability.</p> <p>On April 14, 2023, in lieu of proceedings with a contested motion, the Unionvillas Receiver and certain of the Sunrise Parties entered into a settlement agreement ("Settlement Agreement"), which contemplates payments to the Unionvillas Receiver totaling \$10.5M, in \$2M installments paid every 60 days. In addition, the settlement parties consented to an Order that can only be enforced if the Sunrise Parties fail to comply with the Settlement Agreement ("Consent Judgment"). If the Sunrise Parties fail to comply with their settlement obligations, the Consent Judgment requires them to pay \$14.5M on a joint and several basis. There continues to be uncertainty around the timing and quantum of further distributions, if any, to Investors as the Settlement agreement has not yet been approved the Court and the payments pursuant to the agreement have not yet been made.</p>

**Sorrenti Law Professional Corporation and Derek Sorrenti ("Sorrenti") Syndicated Mortgage Loan Administration Business
Project Analysis Summary as at April 26, 2023 - Notes**
(Unaudited)

Note 1: The Trustee cautions that the Project Analysis Summary is only intended to summarize the status of the projects as at April 26, 2023. New developments and new information can at times have a significant impact on the status of the projects and the Trustee's recommendations in respect of same. Further, certain confidential information has been excluded from the Project Analysis Summary.

Note 2: Capital stack contains information provided to the Trustee at different points in time by various sources regarding the amounts advanced under the various registered charges. The registered charges may be different than the amount due. Actual balances may vary and those variances may be material. The capital stack information is provided for reference only and the Trustee or any other party may dispute the quantum and/or priority of any mortgage. Furthermore, other encumbrances may exist that have not been registered on title.

Appendix 4:

Class Action Settlement Approval Notice

Short Form Notice of Hearing

NOTICE OF HEARING FOR CERTIFICATION AND PARTIAL SETTLEMENT APPROVAL

Fortress Syndicated Mortgages Class Actions in respect of:

**Collier Centre, Barrie
Harmony Simcoe/The Kemp, Barrie
Orchard, Calgary
Sutton/The Link, Burlington
Ten88 Progress, Toronto**

You are receiving this notice because you invested in a syndicated mortgage loan in respect of one or more of the following developments:

- the **Collier Centre Project First Syndicated Mortgage only**, located at 90 Collier Street and 55 Mulcaster Street, Barrie, Ontario, in respect of the charge registered as Instrument SC1005953;
- the **Harmony Simcoe/The Kemp Project**, located at 51, 53, 55 and 75 Bradford Street, Barrie, Ontario, in respect of the charge registered as Instrument SC983678.
- the **Sutton/The Link Project**, located at 5210, 5218, 5226, 5236 Dundas Street and 2500 Burloak Drive in Burlington, Ontario in respect of the charges registered as Instruments HR1062915, HR1163232, or HR1174204;
- the **Orchard Project** located at 602, 606, 610, 620, 624, 626 and 628 12th Avenue S.E., in Calgary, Alberta in respect of the charge registered as Registration Number 141 112 373; or
- the **Progress/Ten88 Project**, located at 1088 Progress Avenue, Toronto, Ontario in respect of the charge registered as Instrument AT3101004.

Proposed class actions have been commenced in respect of each of these developments. Because you invested in one or more of these syndicated mortgage loans, you are a potential class member.

A Partial Settlement has been reached with the Defendants, Building & Development Mortgages Canada Inc. (formerly carrying on business as Centro Mortgage Inc.) (“BDMC”), and the Estate of Ildina Galati, deceased, by its Trustee in Bankruptcy Crowe Soberman Inc. (“Galati”) (together, the “BDMC Defendants”) in each of these proposed class actions.

A Partial Settlement has also been reached with the Defendants FFM Capital Inc., Rosalia Spadafora and Saul Perlov (together, the “FFM Defendants”). The FFM Defendants were only included as defendants in the actions involving the Collier Centre, Orchard, and Sutton/The Links Development Projects.

All five actions will be continuing against all other Defendants named in each of these actions.

You can review the Settlement Agreements at: www.fortressclassaction.ca under the Documents tab.

Under the terms of the BDMC Partial Settlement, the BDMC Defendants will pay a settlement fund totaling **\$8,000,000.00**, inclusive of legal costs, interest and taxes, as a full and final settlement of the five claims made against them. BDMC is being operated in a trusteeship, and Ms. Galati’s Estate is bankrupt. The settlement fund is being paid by BDMC’s insurer.

Under the terms of the FFM Partial Settlement, the FFM Defendants will pay a settlement fund totaling **\$2,375,000.00**, inclusive of legal costs, interest and taxes, as a full and final settlement of the three claims made against it. FFM Capital Inc. is a bankrupt company. The settlement fund is being paid by FFM’s insurer. Under the Partial Settlement, FFM will also provide the Plaintiffs with documents and evidence that will assist in the prosecution of the actions against the remaining Defendants.

Before the settlements are final, they have to be approved by the Ontario Superior Court of Justice. The court hearing to decide if these actions should be allowed to proceed as class actions, and to decide if the Partial Settlements are fair, reasonable and in the best interest of the Classes, and therefore should be approved is scheduled for **Friday, January 13, 2023** and will be heard by videoconference.

If the Settlements are approved, then the net Settlement Funds will be divided between the Class Actions and distributed to the Class Members (investors) in each of the Class Actions. The manner in which the Settlement Funds are to be allocated between the five/three actions will be determined by the Court based upon the recommendations of Class Counsel and FAAN Mortgage Administrators Inc.

None of the allegations made against the Settling Defendants has been proven in court, and the Settling Defendants deny all the allegations that have been made against them. If a settlement had not been reached, the Settling Defendants would be defending the Class Actions and opposing the certification of these actions as class proceedings. The settlement is a compromise of the parties’ positions and is not an admission of liability or fault by the Settling Defendants.

Your legal rights will be impacted if the Partial Settlement is approved. You have the right to either attend at the settlement approval hearing or to make written submissions to the Court about the Settlement Agreement. More details about the Partial Settlement and how to make submissions to the Court are in the long form notice posted at www.fortressclassaction.ca, or you can contact the Class Counsel at the addresses

referenced below for more details, or to obtain a copy of the videoconference link for the approval hearing.

At the same time as the hearing for certification and approval of the Settlement Agreement, the Plaintiffs' lawyers will ask the Court to approve their legal fees and expenses to be paid from the Settlement Funds. The legal fees requested will 25% of the Settlement Fund, plus taxes and disbursements.

Questions about this Notice, the Class Actions or the Partial Settlements should be directed to:

Waddell Phillips Professional Corporation Barristers 36 Toronto Street, Suite 1120 Toronto, ON M5C 2C5 reception@waddellphillips.ca Tel: 1-888-684-5545 (toll-free) Fax: 416-477-1657	MSTW Professional Corporation Barrister and Solicitor 1301- 20 Adelaide Street E Toronto, ON M5C 2T6 mwine@mstwlaw.com Tel: 416-477-5524 Fax: 416-777-2050
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The Ontario Superior Court of Justice has authorized distribution of this Notice, however, questions about this Notice should NOT be directed to the Court.

Appendix 5:

Notice of Certification and Settlement Approval

NOTICE OF PARTIAL CLASS ACTION CERTIFICATION
and APPROVAL OF SETTLEMENTS

Fortress Syndicated Mortgages Class Actions in respect of:
Collier Centre, Barrie Harmony
Simcoe/The Kemp, Barrie
Orchard, Calgary
Sutton/The Link, Burlington
Ten88 Progress, Toronto

You are receiving this notice because you invested in one or more of the following “Fortress” syndicated mortgage loans in respect of five Development Projects:

- the **Collier Centre Project First Syndicated Mortgage only**, located at 90 Collier Street and 55 Mulcaster Street, Barrie, Ontario, in respect of the charge registered as Instrument SC1005953;
- the **Harmony Simcoe/The Kemp Project**, located at 51, 53, 55 and 75 Bradford Street, Barrie, Ontario, in respect of the charge registered as Instrument SC983678.
- the **Sutton/The Link Project**, located at 5210, 5218, 5226, 5236 Dundas Street and 2500 Burloak Drive in Burlington, Ontario in respect of the charges registered as Instruments HR1062915, HR1163232, or HR1174204;
- the **Orchard Project** located at 602, 606, 610, 620, 624, 626 and 628 12th Avenue S.E., in Calgary, Alberta in respect of the charge registered as Registration Number 141 112 373; or
- the **Progress/Ten88 Project**, located at 1088 Progress Avenue, Toronto, Ontario in respect of the charge registered as Instrument AT3101004.

Class actions have been commenced in respect of these five Development Projects:

- *Arlene McDowell and Saviero Aversa v. Fortress Real Capital Inc. and others* CV-16-558165-00CP (Collier Centre)

- *The Estate of Bryan Madryga by his Estate Administrator Rebecca Shaw v. Fortress Real Capital Inc. and others* CV-16-565287-00CP (Harmony Simcoe/The Kemp)
- *Arlene McDowell and The Estate of Bryan Madryga by his Estate Administrator Rebecca Shaw v. Fortress Real Capital Inc. and others* CV-17-570361-00CP (Orchard)
- *Arlene McDowell v. Fortress Real Capital Inc. and others* CV-16-560268-00CP (Progress/Ten88)
- *Sandra Medland v. Fortress Real Capital Inc. and others* CV-16-561293-00CP (Sutton/The Link)

(together, the “Class Actions”)

This notice provides you with important information about the Class Actions that you need to be aware of because there are **two important developments** that can impact your legal rights.

1. The Actions have been Certified for Settlement Purposes

The Class Actions brought in respect of each of these Development Projects have been certified as class proceedings as against the Defendants, Building & Development Mortgages Canada Inc. (formerly carrying on business as Centro Mortgage Inc.) (“BDMC”), and the Estate of Ildina Galati, deceased, by its Trustee in Bankruptcy Crowe Soberman Inc. (“Galati”) (together, the “BDMC Defendants”).

The court has also certified the actions involving the Collier Centre, Orchard, and Sutton/The Links Development Projects as against the Defendants FFM Capital Inc., Rosalia Spadafora and Saul Perlov (together, the “FFM Defendants”). [The FFM Defendants were only included as defendants in the actions involving these three Development Projects.]

The BDMC Defendants and the FFM Defendants, together, are referred to as the “Settling Defendants”.

2. The Court has Approved Settlements with the BDMC Defendants and the FFM Defendants

The Ontario Superior Court of Justice has approved a settlement with the BDMC Defendants that will fully and finally resolve the Class Members’ claims against the BDMC Defendants in all five actions. The BDMC Defendants will pay \$8 million inclusive of all interest, court costs, administrative costs, and legal fees in exchange for a full and final release from the Class.

The Court has also approved a settlement with the FFM Defendants that will fully and finally resolve the Class Members’ claims against the FFM Defendants in the Collier Centre, Orchard, and Sutton/The Links actions. The FFM Defendants will pay \$2.375 million inclusive of all interest, court costs, administrative costs, and legal fees in exchange for a full and final release from the Class Members in these three actions.

The Court has approved legal fees payable to Class Counsel of \$2,593,750, which is equal to 25% of each of the settlement funds, plus HST and disbursements. Class Counsel have been retained on a contingency fee basis, and have paid all the expenses related to the actions, and have not been paid for their services since the Class Actions were started in 2016 and 2017.

This Notice only contains a summary of how the certification and settlement of these actions affect you. Go to www.fortressclassaction.ca to review the Long Form Notice for more details, or contact Class Counsel at the addresses below if you have any questions.

CERTIFICATION OF THE ACTIONS AGAINST THE SETTLING DEFENDANTS

The Court has granted orders certifying the five actions as class proceedings as against the BDMC Defendants, for the purpose of effecting the settlement, and naming the plaintiffs as the representative plaintiffs. The Court has also granted orders certifying the Collier Centre, Orchard, and Sutton/The Links actions as class proceedings as against the FFM Defendants, for the purpose of effecting that settlement.

There are other defendants in each of the five actions that have not settled, and the Class Actions will be continuing against those non-settling defendants.

The Class Members in each of the Class Actions are:

For CV-16-558165-00CP (Collier Centre):

All persons in Canada who invested prior to January 30, 2015 in a syndicated mortgage in respect of the Collier Centre Project No. 1, registered against title to lands located at 90 Collier Street and 55 Mulcaster Street, Barrie, Ontario, as Instrument SC1005953.

For CV-16-565287-00CP (Harmony Simcoe/The Kemp):

All persons in Canada who invested in a syndicated mortgage in respect of the Harmony Simcoe Project, registered against title to lands located at 51, 53, 55 and 75 Bradford Street, Barrie, Ontario, as Instrument SC983678.

CV-17-570361-00CP (Orchard):

All persons in Canada who invested in a syndicated mortgage in respect of the Orchard Project, registered against title to lands located at 602, 606, 610, 620, 624, 626 and 628 12th Avenue S.E., in Calgary, Alberta as Registration Number 141 112 373.

For CV-16-560268-00CP (Progress/Ten88):

All persons in Canada who invested in a syndicated mortgage in respect of the Ten88 (Progress) Project, registered against title to lands located at 1088 Progress Avenue, Toronto, Ontario as Instrument AT3101004.

CV-16-561293-00CP (Sutton/The Link):

All persons in Canada who invested in a syndicated mortgage in respect of the Sutton/The Link Project, registered against title to lands located at 5210, 5218, 5226, 5236 Dundas Street and 2500 Burloak Drive in Burlington, Ontario as Instruments HR1062915, HR1163232, or HR1174204.

You have received this Notice because you have been identified by FAAN, the mortgage administrator, as a Class Member in one or more of these Class Actions.

What the Class Actions are About

In each of the five Class Actions, the Plaintiffs assert claims against the Settling Defendants for breach of contract, negligence, negligent misrepresentation, fraudulent misrepresentation, and conspiracy. The claims seek payment of damages (money) to the Class Members to compensate them for the losses that they have suffered from their investments in the syndicated mortgage loans for each of these Development Projects.

None of the allegations made against the Settling Defendants has been proven in court, and the Settling Defendants deny all the allegations that have been made against them. If a settlement had not been reached, the Settling Defendants would be defending the Class Actions and opposing the certification of these actions as class proceedings. The settlement is a compromise of the parties' positions and is not an admission of liability or fault by the Settling Defendants.

What you Need to Do Now

If you want to remain in the Class Action(s) and participate in the settlement(s), then you do not need to do anything. You are automatically included in the Class Action, if you meet the class definition. Your share of the settlement funds will be calculated by FAAN and distributed to you by FAAN.

If you do not want to be involved in the Class Action(s), and you do not want to be paid a portion of the settlement funds, then you need to “Opt Out” of the Class Action(s).

<p>How to OPT OUT</p>	<p>If you choose to Opt Out of the Class Action(s), then you will not be bound by any Court orders. This means you will get no payments or benefits from the settlements with the Settling Defendants, or any future settlements or trial judgment. This also means you will not be bound to any negative results in respect of the remaining parts of the Class Actions.</p> <p>If you Opt Out, you keep the right to sue any of the Settling Defendants on your own - however, you should be aware that there are limitation periods and bankruptcy proceedings that apply to your claim, and you should seek legal advice as soon as possible to determine your right to bring an individual action.</p> <p>To Opt Out you must notify Class Counsel in writing by no later than March 10, 2023.</p>
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	<p>To validly Opt Out you must send an Opt Out Notice that includes:</p> <ul style="list-style-type: none"> • your full name and contact information; • the Development Project(s) in which you invested; • a written statement that says that you do not wish to participate in the Class Action(s), and are choosing to Opt Out; and • your signature or electronic equivalent <p>Opt Out Notices may be sent to Class Counsel by mail, email, fax, or courier to one of the addresses set out below, and must be received, and in the case of Canada Post mail, post-marked, by no later than 5 pm E.T. on March 10, 2023.</p>
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For more information, including details about the Class Actions or the Settlements, visit www.fortressclassaction.ca , or contact Class Counsel at:

<p>Waddell Phillips Professional Corporation Barristers 36 Toronto Street, Suite 1120 Toronto, ON M5C 2C5 reception@wadellphillips.ca Tel: 1-888-684-5545 (toll-free) Fax: 416-477-1657</p>	<p>MSTW Professional Corporation Barristers and Solicitors 1301- 20 Adelaide Street E Toronto, ON M5C 2T6 mwine@mstwlaw.com Tel: 416-477-5524 Fax: 416-777-2050</p>
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The Ontario Superior Court of Justice approved this notice, however, if you have questions or comments contact Class Counsel and NOT the Court.

Appendix 6:

Sutton Settlement Agreement

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This settlement and mutual release agreement (the “**Agreement**”) is entered into as of April 26, 2023.

Between:

ADI Developments (Link) Inc.
(“**ADI LINK**”)

- and -

ADI Development Group Inc.
(“**ADG**”)

- and -

2396674 Ontario Limited
(collectively with ADI Link and ADG, the “**ADI Defendant Companies**”)

- and -

ADI Developments (Masonry The West) Inc. and ADI Developments (Masonry) Inc.
(collectively, “**ADI Masonry**”)

- and -

FAAN Mortgage Administrators Inc., in its capacity as court-appointed trustee over all of the assets, undertakings and properties of Derek Sorrenti (“**Sorrenti**”) and Sorrenti Law Professional Corporation (“**SLPC**”) relating to their trusteeship and administration of certain syndicated mortgage loans, including the Loan Agreements
(in such capacity, the “**Trustee**”)

- and -

Olympia Trust Company (“**OTC**”), on behalf of itself and on behalf of the OTC Releasors

- and -

Chaitons LLP, in its capacity as court-appointed representative counsel for the Investors in the Trustee Proceeding, including the Sutton Investor Releasors
(in such capacity, the “**Representative Counsel**”)

- and -

MSTW Professional Corporation and Waddell Phillips Professional Corporation, for themselves and for the Sutton Plaintiff
(in such capacity, “**Sutton Plaintiff’s Counsel**”)

Recitals:

- A. Despite the belief of the ADI Defendant Companies that they are not liable as alleged in relation to the Released Claims, for good and valuable consideration, received, each of the ADI Defendant Companies and ADI Masonry are entering into this Agreement to avoid the further expense, inconvenience and burden of the existing litigation and any other present or future litigation or proceedings arising out of the facts that gave rise to the existing litigation, and to achieve a full and final resolution of all of the Released Claims that could be made against any of the ADI Releasees. The ADI Defendant Companies and ADI Masonry have reviewed and fully understand the terms of this Agreement and have concluded that a full and final settlement of the Released Claims against the ADI Releasees according to the terms set forth below is fair and reasonable and in the best interests of the ADI Defendant Companies and ADI Masonry, respectively;
- B. The Trustee, OTC, Representative Counsel, and Sutton Plaintiff's Counsel, on their own behalf and on behalf of the Sorrenti Releasors, OTC Releasors, Sutton Investor Releasors and Sutton Plaintiff, respectively, have reviewed and fully understand the terms of this Agreement and have concluded that a full and final settlement of the Released Claims according to the terms set forth below is fair, reasonable and in the best interests of the Sorrenti Releasors, OTC Releasors, Sutton Investor Releasors and Sutton Plaintiff, respectively;
- C. Representative Counsel confirms that it represents all of the Sutton Investor Releasors and that none of the Sutton Investor Releasors have opted out of such representation in accordance with Representative Counsel's appointment order;
- D. For the purposes of the settlement only and contingent on obtaining the Approval Order as provided for in this Agreement, ADG and ADI LINK have consented to a lift of the stay granted by the court in the Sutton Class Proceeding in an order dated January 13, 2022, solely for the limited purpose of obtaining the Sutton Class Proceeding Order; and
- E. The Parties agree that the Released Claims shall be settled and, to the extent they are asserted by a Releasor in any proceeding, dismissed with prejudice as against the applicable Releasees only, subject to the granting of the Approval Order and on the terms and conditions of this Agreement, as follows:

Settlement Terms:

1. Definitions:	For the purpose of this Agreement only, including the recitals and the appendices attached hereto, capitalized terms shall have the meanings set forth below:
"Addendum":	The prescribed form of Tarion Addendum that is to be attached to each Purchase Agreement
"ADG":	ADI Development Group Inc.

“ADG Subsidiary Companies”:	Collectively, ADI Nautique, ADI Thomas Alton, and ADI Valera, and each an “ADG Subsidiary Company”
“ADI Defendant Companies”:	Collectively, ADI LINK, ADG, and 2396674 Ontario Limited
“ADI LINK”:	Adi Developments (Link) Inc.
“ADI LINK Project”:	A project located at 5220-5230 Dundas Street, Burlington, ON
“ADI Masonry”:	Collectively, ADI Developments (Masonry) Inc. and ADI Developments (Masonry The West) Inc.
“ADI Nautique”:	ADI Morgan Developments (Lakeshore) Inc.
“ADI Nautique Project”:	A new home project located at 374 Martha Street, Burlington, ON
“ADI Orders”:	The OTC Third Party Dismissal Order, the Trustee Action Dismissal Order, and the Sutton Class Proceeding Order
“ADI Releasees”:	Jointly and severally, individually and collectively, each of the ADI Defendant Companies and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated (as long as there is a connection with an ADI company); and each of their respective past, present and future officers, directors, devisees, employees, agents, principals, contractors, insurers, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing
“ADI Releasers”:	The ADI Defendant Companies for themselves and on behalf of any person or entity claiming by or through them in any capacity and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated (as long as there is a connection with an ADI company); and each of their respective past, present and future officers, directors, devisees, employees, agents, principals, contractors, insurers, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, beneficiaries and assigns of each of the foregoing
“ADI Thomas Alton”:	Collectively, ADI Morgan Developments (Thomas Alton) Inc. and Thomas Alton Midrise Towns Inc.

“ADI Thomas Alton Project”:	A new home project located at 4853 Thomas Alton, Boulevard, Burlington, ON
“ADI Valera”:	Collectively, 4880 Valera Road Inc. and ADI Developments (Valera) Inc.
“ADI Valera Project”:	A new home project located at 4880 Valera Road, Burlington, ON
“Alleged Obligations”:	<p>Collectively, all obligations and amounts claimed to be owing under or in relation to any of the Loans, the Loan Agreements, the Guarantees, or the Security, including but not limited to:</p> <ul style="list-style-type: none"> • Principal claimed to be owing under the 2012 Loan Agreement in the amount of \$11,600,000; • Accruing, accrued and unpaid interest claimed to be owing under the 2012 Loan Agreement in the amount of \$6,372,266.55 as at November 15, 2022 (per diem at \$2,577.78); • Principal claimed to be owing under the 2014 Loan Agreement in the amount of \$7,991,000; and • Accruing, accrued and unpaid interest claimed to be owing under the 2014 Loan Agreement in the amount of \$4,070,082.60 as at November 15, 2022 (per diem at \$1,775.78)
“Approval Order”:	An order from the Ontario Superior Court of Justice (Commercial List) substantially in the form appended hereto as Appendix “B”
“Agreement”:	This Settlement and Mutual Release Agreement
“Closing Date”:	The date on which the Trustee’s Certificate has been served on the service list in the Trustee Proceeding
“Current Net Rent Balance”:	\$76,632, calculated as the remaining balance (after payment of project costs) of rents collected from tenants of the LINK Commercial Properties prior to January 1, 2023, in the amount of \$108,012, less \$30,000 to be applied in payment of property taxes payable in January 2023 and less \$1,380 to be applied in payment of condo fees payable in January 2023
“Disposition Payment Failure”:	Has the meaning ascribed to it in section 3
“Effective Date”:	The date on which the Approval Order becomes Final
“Final”:	Final, when used in relation to a court order or judgment, means that all rights of appeal from such order or judgment have expired or have been exhausted (including a right of appeal arising after the granting of leave if leave to appeal is required), and the ultimate court of appeal to which an appeal (if any) was taken has upheld such order or judgment

<p>“Future Rent Stream”:</p>	<p>All rent that has been and continues to be collected from the tenants of the LINK Commercial Properties from and after January 1, 2023, net of (i) actual out-of-pocket expenses materially consistent with the rent forecast provided to the Trustee as at January 2023 and (ii) in the event that the remaining vacant unit (or units, if subdivided) is leased, the amount of the commission payable to the leasing broker and the costs of any required leasehold improvements provided that the ADI Defendant Companies will obtain the written consent of the Trustee prior to entering into a lease for the remaining vacant unit (or units, if subdivided). All Parties have agreed that: (i) no legal fees will be deducted in calculating the Future Rent Stream; (ii) management fees deducted in calculating the Future Rent Stream shall not exceed \$2,500 per month; (iii) the property taxes deducted in calculating the Future Rent Stream shall not exceed the actual property taxes on the Project; and (iv) the other expenses used to calculate the Future Rent Stream shall not exceed 110% of the expenses represented in the rent forecast without the prior written consent of the Trustee, acting reasonably.</p>
<p>“Future Trust Payments”:</p>	<p>Has the meaning ascribed to it in section 6</p>
<p>“Guarantees”:</p>	<p>Guarantees claimed to be given by ADG in connection with the obligations of ADI LINK, the Loan Agreements, the Security, or the Loans, including, without limitation, (i) a guarantee dated November 7, 2012, whereby ADG guaranteed all of the obligations of ADI LINK under the 2012 Loan Agreement; and/or (ii) guarantees dated April 4, 2014, whereby ADG guaranteed all of the obligations of ADI LINK under the 2014 Loan Agreement and the 2014 Charge</p>
<p>“HCRA Settlement”:</p>	<p>Minutes of Settlement dated November 24, 2022 between ADG et al. and The Registrar, Home Construction Regulatory Authority</p>
<p>“Investors”</p>	<p>The lenders under any syndicated mortgage loans which are under the administration of the Trustee</p>
<p>“Initial Payment”:</p>	<p>Has the meaning ascribed to it in section 6</p>
<p>“LINK Commercial Properties”:</p>	<p>The commercial properties identified on PIN 07184-4641 and PIN 07184-4642</p>
<p>“LINK Commercial Properties Sale Process”:</p>	<p>Has the meaning ascribed to it in section 7</p>
<p>“LINK Property”:</p>	<p>Collectively, the LINK Commercial Properties and the LINK Sundry Assets</p>
<p>“LINK Sale Proceeds”:</p>	<p>Has the meaning ascribed to it in section 3</p>

<p>“LINK Sundry Assets”:</p>	<p>Other sundry assets owned by ADI LINK, including any unsold parking/storage units and the lessor’s interest under the lease agreements with the Link Commercial Properties tenants</p>
<p>“Listing Agent”:</p>	<p>Has the meaning ascribed to it in Appendix “A”</p>
<p>“Loans” and “Loan Agreements”:</p>	<p>The loan facilities made available to ADI LINK pursuant to or relating to the terms of (i) a loan agreement made as of September 4, 2012 (as amended, supplemented, or otherwise modified from time to time, the “2012 Loan Agreement”) and (ii) a loan agreement made as of April 4, 2014 (as amended, supplemented, or otherwise modified from time to time, the “2014 Loan Agreement”) (collectively with the 2012 Loan Agreement, the “Loan Agreements”)</p>
<p>“Masonry Guaranteed Obligations”:</p>	<p>Has the meaning ascribed to it in section 5</p>
<p>“Non-Settling Sutton Defendant(s)”:</p>	<p>The defendants named in the Sutton Class Proceeding against whom the Sutton Class Proceeding has not been dismissed</p>
<p>“Occupancy”:</p>	<p>As defined in the Addendum, being the right to use or occupy the home in accordance with the Purchase Agreement.</p>
<p>“OTC”:</p>	<p>Olympia Trust Company</p>
<p>“OTC Action”:</p>	<p>The action commenced by Daniele Raponi as proposed representative plaintiff under the <i>Class Proceedings Act, 1992</i>, S.O. 1992, c. 6, as amended) and bearing Court File No. CV-20-00643593-00CP</p>
<p>“OTC Releasers”:</p>	<p>OTC on its own behalf and on behalf of any person or entity claiming by or through them in any capacity, and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated; and each of their respective past, present and future officers, directors, devisees, employees, agents, principals, contractors, insurers, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, beneficiaries and assigns of each of the foregoing</p>
<p>“OTC Third Party Claim”:</p>	<p>The Third Party Claim advanced against ADI Developments (Link) Inc. (f.k.a. ADI Developments Sutton Inc.), ADI Development Group Inc. and Tariq Adi bearing Court File No. CV-20-00643593-0A31 and arising from the OTC Action</p>

“OTC Third Party Dismissal Order”:	An order substantially in the form appended hereto as Appendix “D”
“Parties”:	The ADI Defendant Companies, ADI Masonry, the Trustee, OTC, Sutton Plaintiff’s Counsel, and Representative Counsel
“Payment Cure Date”:	Has the meaning ascribed to it in section 3
“Payment Extension Fee”:	Has the meaning ascribed to it in section 3
“Payment Milestone”:	Has the meaning ascribed to it in section 3
“Prohibited Intercompany Payment”:	Has the meaning ascribed to it in section 3
“Projects”:	Collectively, the ADI LINK Project, the ADI Valera Project, the ADI Nautique Project and the ADI Thomas Alton Project, and each individually, a “Project”
“Proportionate Liability”:	The proportion of any judgment in the Sutton Class Proceeding or the OTC Action, as applicable, that, had the ADI Defendant Companies not settled, the Court would have apportioned to the ADI Releasees.
“Purchase Agreement”:	The agreement of purchase and sale between a Vendor and a Purchaser relating to a condominium unit or units in a Project
“Purchaser”:	A party who has entered into a Purchase Agreement with the respective Vendor for a condominium unit or units in a Project
“Recovery Plan”:	Has the meaning ascribed to it in section 23
“Recovery Plan Default”:	Has the meaning ascribed to it in section 23
“Released Claims”:	Any and all manner of claims, complaints, demands, actions, suits, causes of action, whether class, representative, individual or otherwise in nature, whether personal or subrogated, damages of any kind whenever incurred, declaratory relief, liabilities of any nature whatsoever, including without limitation assigned claims, claims for injunction, contribution, indemnity, interest, costs, expenses, administration expenses, and lawyers’ fees and expenses, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to the Loans, the Loan Agreements, the Guarantees, the Security, the LINK Property and/or the Alleged Obligations and/or any allegation or matter raised or which could have been raised in the Sutton Class Proceeding or in the OTC Action in

	respect of the ADI LINK Project; provided, however, that the Parties shall not be released from any obligations under this Agreement
“Releasees”:	The ADI Releasees, the Trustee Releasees, and the Sutton Investor Releasees
“Releasers”:	The ADI Releasers, the Sorrenti Releasers, the OTC Releasers, and the Sutton Investor Releasers
“Remaining Trust Funds”:	Has the meaning ascribed to it in section 6
“Reporting Breach Fee”:	Has the meaning ascribed to it in section 18
Reporting Breach Fee Payment Deadline”:	Has the meaning ascribed to it in section 18
“Reporting Milestone”:	Has the meaning ascribed to it in section 18
“Representative Counsel”:	Chaitons LLP, in its capacity as court-appointed representative counsel for the Investors in the Trustee Proceeding, including the Sutton Investor Releasers
“Second Charge”:	Has the meaning ascribed to it in section 5
“Security”:	<p>Security for the Loans that is claimed to include, but to not be limited to, the following:</p> <p>(i) a mortgage registered as a charge on title to real property owned by ADI LINK that was receipted as Instrument No. HR1062915 in the initial principal amount of \$5.6 million (as subsequently increased to a principal amount of \$11.6 million pursuant to Instrument No. HR1163239 and as variously transferred, amended, supplemented, or otherwise modified from time to time);</p> <p>(ii) a mortgage registered as a charge on title to real property owned by ADI LINK that was receipted as Instrument No. HR1163232 in the initial principal amount of \$10.25 million (as variously transferred, amended, supplemented, or otherwise modified from time to time);</p> <p>(iii) a mortgage registered as a charge on title to real property owned by ADI LINK that was receipted as Instrument No. HR1174204 in the initial principal amount of \$3.5 million (as subsequently increased to a principal amount of \$8 million pursuant to Instrument No. HR1262284 and as variously transferred, amended, supplemented, or otherwise modified from time to time, the “2014 Charge”);</p>

	(iv) a General Security Agreement executed by ADI LINK on September 4, 2012 (as amended or otherwise modified from time to time); and (v) a General Security Agreement executed by ADI LINK on April 4, 2014 (as amended or otherwise modified from time to time)
“Senior Lender”:	Has the meaning ascribed to it in section 5
“Settlement Payment”:	Has the meaning ascribed thereto in section 3
“Settlement Payment Installment”:	Has the meaning ascribed thereto in section 3
“SLPC”:	Sorrenti Law Professional Corporation
“Sorrenti”:	Derek Sorrenti
“Sorrenti Releasers”:	The Trustee, Sorrenti, and SLPC on their own behalf and on behalf of any person or entity claiming by or through them in any capacity, and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated; and each of their respective past, present and future officers, directors, devisees, employees, agents, principals, contractors, insurers, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, beneficiaries and assigns of each of the foregoing
“Station West Property”:	Has the meaning ascribed to it in section 5
“Submission Date”:	Has the meaning ascribed to it in section 23
“Sutton Class Proceeding”:	The proceeding commenced against various defendants including ADI LINK and ADG under the <i>Class Proceedings Act, 1992</i> , S.O. 1992, c. 6, as amended bearing Court File No. CV-16-561293-00 CP
“Sutton Class Proceeding Order”:	An order dismissing the Sutton Class Proceeding as against the ADI Releasees, substantially in the form appended hereto as Appendix “E”
“Sutton Investor Releasers” and “Sutton Investor Releasees”:	The Sutton Plaintiff; and any person who invested in any syndicated mortgage associated with the Loans; and any class member in the Sutton Class Proceeding; and any of the foregoing’s respective successors, heirs, executors, administrators, beneficiaries, trustees, assigns, devisees or representatives of any kind, for themselves and any person or entity claiming by or through them in any capacity
“Sutton Plaintiff”:	The representative plaintiff in the Sutton Class Proceeding

“Sutton Plaintiff’s Counsel”:	MSTW Professional Corporation and Waddell Phillips Professional Corporation for themselves and for the Sutton Plaintiff, or any counsel of record in the Sutton Class Proceeding who succeed them
“Sutton Plaintiff’s Counsel Fees”:	Has the meaning ascribed thereto in section 16
“Sutton Realized Property”:	All or any portion of the Settlement Payment which has been received by the Trustee
“Tarion”:	Tarion Warranty Corporation
“Trustee”:	FAAN Mortgage Administrators Inc., in its capacity as court-appointed trustee over all of the assets, undertakings and properties of Sorrenti and SLPC relating to their trusteeship and administration of certain syndicated mortgage loans, including the Loan Agreements
“Trustee Action”:	Trustee’s action against the ADI Defendant Companies in Court File No. CV-21-00672230-00CL
“Trustee Action Dismissal Order”:	An order substantially in the form appended hereto as Appendix “C”
“Trustee Proceeding”:	The proceeding in Court File No. CV-19-00628258-00CL
“Trustee Releasees”:	Jointly and severally, individually and collectively, each of the Trustee, OTC (as trustee), Sorrenti, SLPC, Sutton Plaintiff’s Counsel and Representative Counsel and any and all of their past, present and future, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated; and each of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing
“Trustee’s Certificate”:	As defined in Schedule “A” to Appendix “B”
“Unavoidable Delay”	As defined in the Addendum, being an event that delays Occupancy and which is a strike, fire, explosion, flood, act of God, civil insurrection, act of war, act of terrorism or pandemic, which is beyond the reasonable control of the Vendor and is not caused or contributed to by the fault of the Vendor
“Unavoidable Delay Conditions Precedent”:	The following conditions precedent must have each occurred for an event to qualify as an Unavoidable Delay Event in respect of the ADI Nautique Project and the ADI Thomas Alton Project: (i) the respective Vendor provides written notice to a Purchaser, with concurrent delivery to the

	Trustee, noting that the Vendor is of the view that an Unavoidable Delay Event has occurred on such Project; and (ii) Tarion has issued written confirmation that the event described in the notice in (i) has caused an Unavoidable Delay
“Unavoidable Delay Event”:	The event(s) described in the written confirmation issued by Tarion, and provided to the Trustee, that has caused an Unavoidable Delay
“Unavoidable Delay Period”:	In respect of the ADI Nautique Project and the ADI Thomas Alton Project, means the lesser of (i) the number of days for which the Unavoidable Delay Event actually persists and (ii) the number of days for which Occupancy of the ADI Nautique Project or ADI Thomas Alton Project, as applicable, was delayed due to the Unavoidable Delay Event
“Vendor”:	As defined in the respective Purchase Agreements for the ADI Nautique Project and the ADI Thomas Alton Project, being ADI Nautique for the ADI Nautique Project, and ADI Thomas Alton for the ADI Thomas Alton Project
2. When Agreement is Effective:	This Agreement shall not be effective and binding on any Party until the Effective Date, at which time the Agreement will be effective and binding on all Parties unless terminated in accordance with the terms herein.
3. All Inclusive Settlement Payment:	<p>Further to the payments which ADI LINK previously made during the term of the Loan Agreements, including without limitation the \$3.5 million in payments which ADI LINK made during the term of the Loan Agreements, ADI LINK, in respect of the projects noted below or ADG, as the case may be, will pay, direct, or cause to be paid or directed, to the Trustee in trust an all-inclusive payment in the amount of \$18,297,216 plus the Current Net Rent Balance, Future Rent Stream and any other payments required by this Agreement (collectively, the “Settlement Payment”).</p> <p>Subject to the other terms of this Agreement, the Settlement Payment will be paid as follows:</p> <ol style="list-style-type: none"> i. \$2,564,216 by ADI LINK as the Initial Payment, as provided for below; ii. Following the Closing Date, not less than \$5.0 million (and up to the total net proceeds realized from the LINK Property (the “LINK Sale Proceeds”)) by ADI LINK by the earlier of the sale of the LINK Property or November 15, 2023, or such later date to which the Trustee in its sole discretion consents; iii. Within 2 business days following the Closing Date, (A) the Current Net Rent Balance in the amount of \$76,632 by, or on behalf of, ADI LINK; (B) the Future Rent Stream amounts

	<p>for January, February and March 2023; and (C) thereafter, monthly payments to be made by, or on behalf of, ADI LINK within 2 business days following the end of the preceding month in respect of the Future Rent Stream received for that preceding month, which monthly payments shall continue until the sale of the LINK Property;</p> <p>iv. Following the Closing Date, release of the Future Trust Payments received by ADI LINK within 5 business days of such receipt;</p> <p>v. Following the Closing Date, not less than \$2.0 million by the earlier of June 30, 2023 and the date on which distributions of at least \$2.0 million have been made by ADI Valera with respect to ADG's direct or indirect equity interest, or such later date to which the Trustee in its sole discretion consents;</p> <p>vi. Following the Closing Date, not less than \$2.0 million by the earlier of June 28, 2024 and the date on which distributions of at least \$2.0 million have been made by ADI Nautique with respect to ADG's direct or indirect equity interest, or such later date to which the Trustee in its sole discretion consents;</p> <p>vii. Following the Closing Date, \$6,733,000 by the earlier of December 11, 2026 and the date on which distributions of at least \$6,733,000 have been made by Thomas Alton with respect to ADG's direct or indirect equity interest, or such later date to which the Trustee in its sole discretion consents, provided that, if the LINK Sale Proceeds paid to the Trustee exceed \$5,000,000 then the \$6,733,000 payment obligation shall be reduced by the amount by which the LINK Sale Proceeds paid to the Trustee exceeds \$5,000,000 and provided further that any Future Trust Payments that are paid to the Trustee will cause the \$6,733,000 payment obligation to be reduced by the amount of such Future Trust Payment; and</p> <p>provided, in each case, that if the distributions available to ADI LINK or ADG from any of the ADG Subsidiary Companies to fund any of the required payments are deficient or incapable of being made by the applicable payment due date set out above, ADG will be required to fund the deficiency or make the scheduled payment in full, as the case may be, by no later than 10 business days after the applicable payment due date; and further provided in each case that, if ADG or any ADI Subsidiary Company remits payment for more than the required amounts in any of (i)-(vi) above the amount payable in (vii) above shall be reduced by such overpayment.</p>
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If the Trustee does not receive any of the payments contemplated by (i)-(vii) (each, a “**Settlement Payment Installment**”), above, within 10 business days (a “**Payment Cure Date**”) of the stated payment deadline (a “**Payment Milestone**”), then (A) a payment extension fee of 2% of the payment shall be immediately due and payable and (B) interest at the Bank of Canada prime rate + 2% per annum of the payment due shall immediately begin accruing daily (collectively, the “**Payment Extension Fee**”), in each case, payable by ADG on the date when the contemplated payment is made. (For example, if the \$2 million payment contemplated in (v) above is not made by June 30, 2023, then the payment extension fee shall be due and shall start to accrue interest on July 17, 2023.)

With respect to the ADI Nautique Project and the ADI Thomas Alton Project, if the Unavoidable Delay Conditions Precedent have occurred, then the applicable payment due date set out above in such Project will be extended by the lesser of (i) the Unavoidable Delay Period for that Project, and (ii) 12 months, provided that the Trustee may, in its sole and absolute discretion, consent to a further extension of the applicable due date for a Project.

The ADI Defendant Companies covenant to provide the Trustee with any and all correspondence with Purchasers, Tarion or other parties in respect of an Unavoidable Delay or an event that a Vendor asserts is an Unavoidable Delay, such correspondence to include, but not limited to, all notices sent to Purchasers in respect of an Unavoidable Delay, and any Conciliation Assessment Report(s) and/or Decision Letter(s) in respect of a delayed occupancy warranty claim by a Purchaser relating to the Unavoidable Delay Event.

Until each portion of the Settlement Payment is paid in full in respect of the applicable Project named in (v) to (vii), above, the ADI LINK shall not, and ADG shall not and shall cause the ADG Subsidiary Companies to not, without the prior written consent of the Trustee, acting reasonably, pay to ADI LINK, ADG or any of ADG’s subsidiaries and related parties, any amounts from the applicable Project, (any such payment without the prior written consent of the Trustee being a “**Prohibited Intercompany Payment**”), provided that any amount paid in the ordinary course to ADI LINK, ADG or any of ADG’s subsidiaries and related parties for development, sales, construction management and construction services provided to one or more of the Projects in the ordinary course of business and consistent with past practice shall not be a Prohibited Intercompany Payment. Any Prohibited Intercompany Payment shall constitute a breach of this Agreement and, upon any Prohibited Intercompany Payment being paid, the portion of the

	<p>Settlement Payment connected thereto shall become immediately due and payable to the Trustee and shall be subject to the additional payment extension fee described above until such payment is received by the Trustee.</p> <p>Notwithstanding, the payment deadlines in (v) to (vii), if ADG sells, assigns, transfers or otherwise reduces its direct or indirect ownership interest in any of the respective Projects, then the portion of the Settlement Payment connected thereto is immediately due and payable to the Trustee and shall be subject to the additional payment extension fee described above until such payment is received by the Trustee (any failure to make such payment within two (2) business days of such sale or reduction being a “Disposition Payment Failure”). In the event of a Disposition Payment Failure, ADG shall provide to the Trustee unredacted copies of all agreements or other transaction documents associated with its sale or reduction of its ownership interest. The Parties acknowledge and agree that the foregoing is not intended to apply to the individual sale of units in any of the respective Projects.</p>
<p>4. No Further Liability:</p>	<p>Except as otherwise provided herein, the Settlement Payment is agreed to be paid in full satisfaction of all Released Claims as against the ADI Releasees.</p> <p>The Settlement Payment is all-inclusive. Except for the obligations set out herein, the ADI Releasees will have no further liability for any payments, including, without limitation, any liability or responsibility for distribution or administration, any responsibility or liability for any tax or tax filings, any notice or administration costs, counsel fees, or any other fees or costs. For greater certainty, but without limiting the generality of the foregoing, the ADI Releasees shall have no responsibility or liability with respect to any of the administration or distribution of the Settlement Payment, the administration of this Agreement, or the payment of any legal fees, disbursements, expenses or costs of or incurred by the Trustee, Representative Counsel, the Sorrenti Releasers or the Sutton Investor Releasers.</p>
<p>5. Additional Security for Settlement Payment:</p>	<p>Following the ADI Orders becoming final and immediately prior to the Closing Date, in addition to the Security already granted by ADI LINK, which will be held by the Trustee as security for the obligations set out in section 3(i) to 3(iv) above, ADI Masonry acknowledges and agrees that, for good and valuable consideration received, ADI Masonry shall provide a limited recourse guarantee, with recourse strictly limited to the Second Charge (as defined below), in respect of all obligations of the ADI Defendant Companies under this Agreement (collectively, the “Masonry Guaranteed Obligations”) and, as security for the payment or performance, as the case may be, in full of the Masonry Guaranteed</p>

	<p>Obligations, ADI Masonry shall grant to the Trustee a second ranking charge over the property located at 1120 Cooke Blvd., Burlington, Ontario (Part of Lot 6, Concession 1 designated as Part 4 on Plan 20R21020, City of Burlington) (the “Station West Property”) in the amount of \$10,000,000 (the “Second Charge”). The Second Charge will be subordinated and postponed to the existing charge on the Station West Property in the amount of \$31,250,000 in favour of Kingsett Mortgage Corporation (the “Senior Lender”), securing existing indebtedness in the amount of \$25 million, on terms acceptable to them. The limited recourse guarantee and the documentation evidencing the Second Charge shall be in form and substance satisfactory to the Trustee, acting reasonably. Before execution of the Agreement, ADG shall provide the Trustee with an appraisal with an effective date no earlier than November 30, 2022, which supports a property value of not less than \$35,000,000. The Trustee acknowledges that ADG has provided the Trustee with (a) a favourable legal opinion explaining the HCRA Settlement’s impact (or lack thereof) on ADI Masonry’s and ADG’s ability to build and vend the Station West Property in the ordinary course; and (b) the form of a favourable legal opinion to be issued at the Closing Date, regarding the limited recourse guarantee and the Second Charge granted by ADI Masonry, which opinion is in form and substance satisfactory to the Trustee.</p> <p>At any time when the balance of the Settlement Payment to be paid is less than \$10 million, ADG upon seven (7) business days prior written notice to the Trustee, may reduce the amount of the Second Charge to match an amount equal to the balance of the Settlement Payment then owing plus 25%. In the event of any proposed refinancing of the Station West Property, the Trustee will be required to postpone and subordinate the Second Charge to the first charge in favour of the refinancing lender, provided that a then current appraisal that is in form and substance satisfactory to the Trustee, acting reasonably, supports a property value of not less than the combined amount of the refinancing and the Second Charge.</p>
<p>6. Initial Payment:</p>	<p>Concurrent with execution of this Agreement by the Parties, ADG will, or will cause ADI LINK to, deposit with the Trustee, in trust, an initial payment in the amount of \$2,564,216 (the “Initial Payment”).</p> <p>The Trustee shall hold the Initial Payment in trust until the Effective Date, at which time the Initial Payment will become part of the Sutton Realized Property. The Initial Payment shall not be distributed to the Sutton Investor Releasees until after the Closing Date, at which time the Trustee may distribute the Sutton Realized Property in accordance with court orders in the Trustee Proceeding. Should any of the ADI Orders not become Final, the Trustee shall forthwith bring a motion to the court</p>

	<p>(Trustee Proceeding) on notice to ADG and ADI LINK for advice and direction regarding the treatment of the Initial Payment.</p> <p>ADG will, or will cause ADI LINK to, release the Initial Payment from monies which it currently holds in trust with its solicitors, Spadafora and Murphy LLP. ADG will retain the balance of the trust funds (approximately \$100,000) as security (“Remaining Trust Funds”) and funding for the projected costs to be incurred to satisfy outstanding Tarion warranty deficiencies and completion of landlord leasehold improvements. Once all Tarion warranty deficiencies and landlord leasehold improvement obligations owed by the ADI Defendant Companies have been satisfied, any surplus Remaining Trust Funds shall be paid to the Trustee (“Future Trust Payments”) together with a full accounting and, if requested by the Trustee, supporting documentation for the use of funds.</p>
<p>7. LINK Commercial Properties Sale Process and Release of LINK Commercial Properties Security:</p>	<p>Following the Closing Date, unless otherwise agreed by ADI LINK and the Trustee, the LINK Commercial Properties Sale Process described herein shall occur by the dates and in the manner described in Appendix “A” (“LINK Commercial Properties Sale Process”).</p> <p><i>Release of Security:</i> For good and valid consideration, the Trustee shall continue to hold the Security held by it over the LINK Commercial Properties as security for the obligations set out in 1(i) to 1(iv) above. Upon receipt by the Trustee in full of the LINK Sale Proceeds and all other amounts contemplated in 1(i) to 1(iv) above, the Trustee agrees to release the Security held by it over the LINK Commercial Properties to facilitate the sale of the LINK Commercial Properties.</p>
<p>8. Release of Second Charge and Security:</p>	<p>Upon receipt of payment in full of the Settlement Payment, the Trustee agrees to release the Second Charge, such that there is no remaining security.</p>
<p>9. Approval Order</p>	<p>Following execution of this Agreement, the Trustee will bring a motion requesting the Approval Order. Any material changes to the Approval Order are subject to the Parties’ consent.</p>
<p>10. Dismissal of Sutton Class Proceeding:</p>	<p>In accordance with this section, the Sutton Class Proceeding shall be dismissed as against the ADI LINK and ADG with prejudice and without costs. Within 3 business days of the Approval Order becoming Final, Sutton Plaintiff’s Counsel shall bring a motion seeking the Sutton Class Proceeding Order. Any material changes to the Sutton Class Proceeding Order are subject to the Sutton Plaintiff’s Counsel’s, ADI Defendant Companies’, and Trustee’s consent.</p>

	<p>By signing this Agreement, Sutton Plaintiff's Counsel agrees that unless this Agreement fails to take effect or is terminated in accordance with the terms of this Agreement, only the Trustee shall have the right, if any, to initiate proceedings to enforce this Agreement as against the ADI Releasees or any of them.</p>
<p>11. OTC Third Party Dismissal Order:</p>	<p>In accordance with this section, the OTC Third Party Claim shall be dismissed with prejudice and without costs. Concurrent with Sutton Plaintiff's Counsel requesting the Sutton Class Proceeding Order, OTC will request from the court the OTC Third Party Dismissal Order. By executing this Agreement, each Party directs its lawyer to execute the consent in the form attached to this Agreement at Appendix "D", if that Party's consent is required. Any material changes to the OTC Third Party Dismissal Order are subject to the Parties' consent. OTC shall advise the court that if the court is not inclined to grant the Sutton Class Proceeding Order, then OTC is withdrawing its request for the OTC Third Party Dismissal Order.</p> <p>By signing this Agreement, OTC agrees that unless this Agreement fails to take effect or is terminated in accordance with the terms of this Agreement, only the Trustee shall have the right, if any, to initiate proceedings to enforce this Agreement as against the ADI Releasees or any of them.</p>
<p>12. Dismissal of Trustee Action:</p>	<p>In accordance with this section, the Trustee Action shall be dismissed with prejudice and without costs. Within 3 business days of the Sutton Class Proceedings Order and the OTC Third Party Dismissal Order becoming Final, the Trustee will request from the court the Trustee Action Dismissal Order. By executing this Agreement, each Party directs its lawyer to execute the consent in the form attached to this Agreement at Appendix "C", if that Party's consent is required. Any material changes to the Trustee Action Dismissal Order are subject to the ADI Defendant Companies' and Trustee's consent.</p>
<p>13. Release of the ADI Releasees:</p>	<p>(a) Upon the Closing Date, the Sutton Investor Releasors, including the Sutton Plaintiff, the Trustee for itself and for the other Sorrenti Releasors, and OTC for itself and for the other OTC Releasors shall be deemed to, and do hereby, release and forever discharge the ADI Releasees of and from any and all Released Claims. It is a material term of the Agreement that the court approves this release of the ADI Releasees from all of the Released Claims.</p> <p>(b) Upon the Closing Date, the Sutton Investor Releasors, including the Sutton Plaintiff, the Trustee for itself and for the other Sorrenti Releasors, and OTC for itself and for the other OTC Releasors shall not now or hereafter make, institute, maintain, continue, intervene in,</p>

or assert, commence or threaten to commence, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, claim, proceeding or demand, of any nature whatsoever, against any ADI Releasee in connection with the Released Claims or against any other person who may claim contribution, indemnity, or other claim over or relief from any ADI Releasee in connection with the Released Claims, and all such claims shall be forever barred, prohibited and enjoined, including without limitation against OTC in the OTC Action. However, for greater certainty, (i) the Sutton Class Proceeding is permitted to proceed against all Non-Settling Sutton Defendants subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against any Non-Settling Sutton Defendant, named or unnamed alleged co-conspirator, or other person; (ii) the OTC Action is permitted to proceed against OTC subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against OTC, any named or unnamed alleged co-conspirator, or other person; and (iii) OTC shall not be precluded from maintaining any existing third party claim in the OTC Action against any defendant that is not an Adi Releasee subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against any of the existing third party defendants, named or unnamed alleged co-conspirator, or other person.

- (c) Upon the Closing Date, each Sutton Investor Releasor, including the Sutton Plaintiff, the Trustee for itself and for the other Sorrenti Releasors and OTC for itself and for the other OTC Releasors shall be deemed to irrevocably consent to the dismissal as against the ADI Releasees, without costs and with prejudice, of any and all proceedings in respect of their Released Claims in any jurisdiction.
- (d) Upon the Closing Date, any and all proceedings asserting Released Claims brought by or on behalf of the Trustee, the Sorrenti Releasors, the Sutton Investor Releasors, the OTC Releasors, Sutton Plaintiff's Counsel, and the Sutton Plaintiff shall have been dismissed as against the ADI Releasees, without costs and with prejudice.
- (e) Upon the Closing Date, in the event that any Sutton Investor Releasor, including the Sutton Plaintiff, the Trustee, any Sorrenti Releasor, or any OTC Releasor should make any claim or demand or commence or threaten to commence any action, claim or proceeding against the ADI Releasees in connection with the Released Claims in contravention of this Agreement, this Agreement may be raised as a complete bar to any such demand, action, claim or proceeding.

<p>14. Release by the ADI Releasers:</p>	<p>(a) Upon the Closing Date, the ADI Defendant Companies, on behalf of the ADI Releasers, shall be deemed to, and do hereby, release and forever discharge the Trustee Releasees and the Sutton Investor Releasees from any Released Claims.</p> <p>(b) Upon the Closing Date, the ADI Defendant Companies, on behalf of the ADI Releasers, shall not now or hereafter make, institute, maintain, continue, intervene in, or assert, commence or threaten to commence, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, claim, proceeding or demand, of any nature whatsoever, against any Trustee Releasee or Sutton Investor Releasee in connection with the Released Claims or against any other person who may claim contribution, indemnity, or other claim over or relief from any Trustee Releasee or Sutton Investor Releasee, arising out of, in respect of or relating in any way to any of the Released Claims.</p> <p>(c) Upon the Closing Date, in the event that any ADI Releaser should hereafter make any claim or demand or commence or threaten to commence any action, claim or proceeding against any Trustee Releasee or Sutton Investor Releasee in connection with the Released Claims in contravention of this Agreement, this Agreement may be raised as a complete bar to any such demand, action, claim or proceeding.</p> <p>(d) For greater certainty, however, nothing in this Agreement shall prevent or preclude any of the ADI Releasers from taking steps to enforce the Agreement or any order contemplated by this Agreement, as permitted by this Agreement.</p>
<p>15. Contribution and Indemnity Claims Bar Order:</p>	<p>The Approval Order shall contain a bar order substantially similar to paragraphs 12 and 13 of the Model Order (Settlement Approval) prepared by the Ontario Class Action Bench-Bar Liaison Committee as a guide for courts and practitioners.</p>
<p>16. Sutton Plaintiff's Counsel Payment:</p>	<p>Subject to court approval, the payment of a total amount of \$500,000 to the Sutton Plaintiff's Counsel (the "Sutton Plaintiff's Counsel Fees") shall be allocated from the Settlement Payment in accordance with the following schedule:</p> <ul style="list-style-type: none">i. 14% of the Sutton Plaintiff's Counsel Fees within 20 business days of the Closing Date;

	<ul style="list-style-type: none">ii. 27% of the Sutton Plaintiff's Counsel Fees concurrently with the portion of the Settlement Payment related to the LINK Sale Proceeds;iii. 11% of the Sutton Plaintiff's Counsel Fees concurrently with the portion of the Settlement Payment related to the Valera project;iv. 11% of the Sutton Plaintiff's Counsel Fees concurrently with the portion of the Settlement Payment related to the Nautique; andv. 37% of the Sutton Plaintiff's Counsel Fees concurrently with the portion of the Settlement Payment related to the Thomas Alton project. <p>The draft Approval Order attached as Appendix B includes approval of such allocation to Sutton Plaintiff's Counsel.</p>
17. Early Settlement Payment:	Notwithstanding the terms and conditions above, the Parties agree that if ADG or the ADI Defendant Companies desire, in their sole discretion, to make an early payment of the Settlement Payment, or any portion of it, the Trustee, ADG and the ADI Defendant Companies will negotiate in good faith to achieve such early payment. The schedule set out in paragraph 16 for payment allocated to Sutton Plaintiff's Counsel from the Settlement Payment shall be modified to allow early payment to Sutton Plaintiff's Counsel in the same proportion as the early payment received.
18. Reporting:	<p>Until payment in full of the Settlement Payment and in addition to any other reporting covenant set out herein, ADG will provide or will cause to be provided, reporting as detailed below for each Project subject to this Agreement until: (a) such Project has been sold; and/or (b) the applicable payment in respect of such Project has been made and received by the Trustee:</p> <ul style="list-style-type: none">(i) quarterly cost consultant reports to the Trustee for each of the Valera, Nautique, and Thomas Alton Projects by 60 calendar days after the end of the quarter;(ii) quarterly project updates for all Projects, including updates of unit sales projections (for the Thomas Alton and Nautique Projects) by 60 calendar days after the end of the quarter;(iii) quarterly updates for all steps taken to obtain development approvals (including information with respect to the documentation submitted to and/or copies of any correspondence received from the relevant municipalities) for the Station West Property by 60 calendar days after the end of the quarter;

	<p>(iv) monthly rent roll and reporting of amounts collected from the tenants of the LINK Commercial Properties by 30 calendar days after the end of the month;</p> <p>(v) within twenty-five (25) days following ADG’s quarter end, internally prepared financial statements prepared by a qualified person in accordance with generally accepted accounting principles for ADG; and</p> <p>(vi) within one hundred and twenty (120) days following their respective fiscal year ends, externally prepared financial statements, prepared by a qualified person (and subject to a review engagement for ADG) in accordance with generally accepted accounting principles, consistent with prior years for each of:</p> <ul style="list-style-type: none"> A. the ADI Defendant Companies (up to the end of the fiscal year in which the LINK Commercial Properties are sold) and ADG; B. ADI Valera; C. ADI Nautique; D. ADI Thomas Alton; and E. ADI Masonry. <p>If the Trustee does not receive any of the reporting contemplated by (i)-(v) on the stated deadline for such reporting to be received (a “Reporting Milestone”), and such reporting is not received by the Trustee within five (5) business days after notice to ADG that the Reporting Milestone has been missed, a reporting breach fee of \$2,500 per covenant breach (the “Reporting Breach Fee”) shall be payable by ADG to the Trustee on such date (<i>i.e.</i>, five (5) business days after the notice of breach, being the “Reporting Breach Fee Payment Deadline”) and thereafter accrue interest at of the Bank of Canada prime rate + 2% per annum of the Reporting Breach Fee.</p> <p>In addition, until payment in full of the Settlement Payment, if ADG or any ADI Party receives a notice pursuant to paragraph 2(f) of the HCRA Settlement, then ADG shall immediately provide a copy of such notice to the Trustee as well as any response or submission and subsequent Notice of Proposal and/or Order.</p>
<p>19. Confidentiality:</p>	<p>All documents and information provided by or on behalf of any of the ADI Defendant Companies or their counsel under or in connection with this Agreement shall be confidential and may only be disclosed with the prior written consent of counsel for the ADI Defendant Companies.</p>
<p>20. No Admission of Liability:</p>	<p>This Agreement is made without admission of liability. Neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the</p>

	Releasees or evidence of the truth of any claim or allegation against the Releasees.
21. Right to Terminate the Agreement:	<p>Only if one or more of the following events occur, the Trustee and the ADI Defendant Companies shall each, in their respective sole discretion, have the option to terminate this Agreement in its entirety:</p> <ul style="list-style-type: none">(i) A court declines to sign any of the ADI Orders;(ii) Any of the ADI Orders or the Approval Order is materially modified, set aside on appeal, or otherwise fails to become Final; or(iii) At any time prior to the Closing Date, any court declines to give effect to any material part of this Agreement. <p>With respect to (ii), above, any order, ruling or determination made by any court with respect to any fees, expenses, disbursements, or costs of any nature of Sutton Plaintiff's Counsel, the Trustee, Trustee's counsel, Representative Counsel, OTC, OTC's counsel, or any notice or administration fees, or other legal or funding fees or costs, shall not be deemed to be a material modification of the ADI Orders and shall not provide any basis for the termination of this Agreement, except any such order, ruling or determination that is inconsistent with sections 3 or 4 of this Agreement or that imposes any further financial obligation on any of the ADI Releasees, which shall give rise to a right on the part of the ADI Defendant Companies, in their sole discretion, to terminate the Agreement.</p> <p>With respect to (ii), above, any order, ruling or determination made by any court with respect to any distribution of the Settlement Payment or the Sutton Realized Property following the Closing Date, shall not be deemed to be a material modification of all, or a part, of the ADI Orders and shall not provide any basis for the termination of this Agreement, except any such order, ruling or determination that is inconsistent with sections 3 or 4 of this Agreement or that imposes any further financial obligation on any of the ADI Releasees, which shall give rise to a right on the part of the ADI Defendant Companies, in their sole discretion, to terminate the Agreement.</p> <p>If the Trustee or the ADI Defendant Companies wish to terminate the Settlement Agreement pursuant to this section 21, notice of such decision to terminate the Agreement must be provided in writing to the Trustee or the ADI Defendant Companies, as applicable, within five (5) days of an event under this section having occurred.</p> <p>The Parties acknowledge that the form and content of the releases of the ADI Releasees contemplated in section 13, the definition of the Releasers,</p>

	<p>the bar order contemplated by section 15 and the with prejudice and without costs dismissals of the OTC Action, Trustee Action and Sutton Class Proceeding against the ADI Releasees provided for herein are material terms of this Agreement and the failure of any court to approve such releases, bar order and dismissals in materially the same terms as set out in this Agreement shall give rise to a right on the part of the ADI Defendant Companies, in their sole discretion, to terminate the Agreement.</p>
22. Consequences of Termination of this Agreement:	<p>If the Agreement is terminated, it shall have no further force and effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or proceeding; provided that the provisions of sections 19, 20 and 21, and the definitions in this Agreement needed to give effect to those sections, shall survive the termination and continue in full force and effect.</p>
23. Recovery Plan:	<p>In the event that the Trustee does not receive a Settlement Payment Installment by the corresponding Payment Milestone and such Settlement Payment Installment and the corresponding Payment Extension Fee is not received by the Trustee by the corresponding Payment Cure Date, ADI LINK and ADG shall provide a recovery plan (“Recovery Plan”) to the Trustee for its consideration within twenty (20) days of such Payment Cure Date (the “Submission Date”), which Recovery Plan shall include: (i) a proposed payment date or schedule for the Settlement Payment Installment and Payment Extension Fee (which, for the avoidance of doubt, shall continue accrue interest at the rate set forth in this Agreement until all applicable amounts are repaid in full); (ii) the sources of funds from which such payment(s) will be made, which shall include comprehensive details regarding any contingencies associated with ADI LINK and/or ADG’s receipt thereof, as applicable; and (iii) an exhaustive set of proposed terms and conditions associated therewith.</p> <p>In the event that a Recovery Plan is required pursuant to this section 22, the following shall constitute a “Recovery Plan Default”: (i) failure by ADI LINK and ADG to deliver a Recovery Plan by the applicable Submission Date; or (ii) if a Recovery Plan is delivered by the Submission Date and such Recovery Plan (or any proposed modifications thereto) is not accepted by the Trustee, in its sole and absolute discretion, within fifteen (15) days of the applicable Submission Date.</p>
24. Remedies:	<p>The Trustee, ADG, the ADI Defendant Companies and ADI Masonry each expressly reserve all of their respective remedies, powers, rights, authorities and privileges in relation to this Agreement (including, in the case of the Trustee, the Security over the Link Commercial Properties, the Second Charge and the limited recourse guarantee provided in connection therewith), at law, in equity or otherwise, and all such remedies, powers,</p>

	<p>rights, authorities and privileges are cumulative and are in addition to, without prejudice to and shall not be deemed to exclude, any other remedy, power, right, authority and privilege expressly provided hereunder, and all such remedies and powers, right, authorities and privileges may be exercised concurrently and at any time as the applicable Party sees fit, including with respect to any breach of this Agreement.</p> <p>For the avoidance of doubt and without limitation, the following constitute a breach of this Agreement by ADG, or the ADI Defendant Companies, as applicable: a Recovery Plan Default, ADG's failure to pay any Payment Extension Fee and ADG and ADI LINK failing to pay the corresponding Settlement Payment Installment by the Payment Cure Date, ADG's failure to pay the Reporting Breach Fee and remedy the corresponding missed reporting obligation by the applicable Reporting Breach Fee Payment Deadline, a Prohibited Intercompany Payment or a Disposition Payment Failure.</p>
25. Tax:	<p>The ADI Releasees shall have no responsibility to make any filings relating to the Sutton Realized Property, will not be considered a payee of any income earned on the Sutton Realized Property, and will have no responsibility to pay tax on any interest or income earned on the Sutton Realized Property or pay taxes, if any on the Sutton Realized Property.</p>
26. Other Terms:	<p>(a) Time is of the essence in the performance of the Parties' respective obligations.</p> <p>(b) This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable in Ontario.</p> <p>(c) This Agreement enures to the benefit of and is binding upon the Parties and their successors, heirs and assigns in accordance with the terms of the Agreement.</p> <p>(d) This Agreement, including the recitals set forth above and the appendices attached hereto, constitutes the entire agreement between the Parties in respect of the subject matter hereof and supersedes all prior negotiations and understandings in respect of the subject matter hereof. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound.</p> <p>(e) No Party may assign this Agreement or any rights or obligations under this Agreement without the prior written consent of each of the other Parties.</p>

	<p>(f) The Parties represent and warrant that they have not assigned to any person or corporation any of their actions, causes of action, claims, complaints or demands for payment, or their potential actions, causes of action, claims, complaints or demands for payment, whether at law or in equity, as released above.</p> <p>(g) Each of the undersigned represents that they are fully authorized to enter into the terms and conditions of, and to execute, this Agreement on behalf of the Parties and the persons set out below.</p> <p>(h) This Agreement may be executed by the Parties in counterparts and the counterparts may be executed and delivered by electronic means, with all counterparts together constituting one agreement.</p>
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IN WITNESS OF WHICH the Parties have duly executed this Agreement.

Date: April 27, 2023

ADI Developments (LINK) Inc.
ADI Development Group
2396674 Ontario Limited

By: 

Name: Tariq Adi
Title: Chief Executive Officer

Date: April 27, 2023

ADI Developments (Masonry The West) Inc.
ADI Developments (Masonry) Inc.

By: 

Name: Tariq Adi
Title: Chief Executive Officer

Date: April 27, 2023

**FAAN Mortgage Administrators Inc.,
in its capacity as court-appointed
trustee over all of the assets,
undertakings and properties of
Sorrenti and SLPC relating to their
trusteeship and administration of
certain syndicated mortgage loans,
including the Loan Agreements**

By: 

Name: Naveed Manzoor

Title: President

Date: April , 2023

**Olympia Trust Company, on behalf of itself
and on behalf of the OTC Releasors**

By: _____

Name: Jonathan Bahnuik

Title: General Counsel

Date: April , 2023

**Chaitons LLP, for the Sutton Investor
Releasors**

By:

Name: George Benchetrit

Title: Partner

Date: April 26, 2023

**MSTW Professional Corporation for itself
and for the Sutton Plaintiff**

By:



Name: Mitchell Wine

Title: Principal

Date: April 26, 2023

**Waddell Phillips Professional
Corporation for itself and for the
Sutton Plaintiff**

By: 

Name: Margaret L. Waddell

Title: COO and Partner

Date: April ___, 2023

**FAAN Mortgage Administrators Inc.,
in its capacity as court-appointed
trustee over all of the assets,
undertakings and properties of
Sorrenti and SLPC relating to their
trusteeship and administration of
certain syndicated mortgage loans,
including the Loan Agreements**

By: _____

Name: Naveed Manzoor

Title: President

Date: April ___, 2023

**Olympia Trust Company, on behalf of itself
and on behalf of the OTC Releasors**

By: _____

Name: Jonathan Bahnuik

Title: General Counsel

Date: April 26, 2023

**Chaitons LLP, for the Sutton Investor
Releasors**

By:  _____

Name: George Benchetrit

Title: Partner

Date: April ____, 2023

**MSTW Professional Corporation for itself
and for the Sutton Plaintiff**

By: _____

Name: Mitchell Wine

Title: Principal

Date: April ___, 2023

**Waddell Phillips Professional
Corporation for itself and for the
Sutton Plaintiff**

By: _____

Name: Margaret L. Waddell

Title: COO and Partner

Date: April ___, 2023

**FAAN Mortgage Administrators Inc.,
in its capacity as court-appointed
trustee over all of the assets,
undertakings and properties of
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certain syndicated mortgage loans,
including the Loan Agreements**

By: _____

Name: Naveed Manzoor

Title: President

Date: April ___, 2023

**Olympia Trust Company, on behalf of itself
and on behalf of the OTC Releasors**

By:  _____

Name: Jonathan Bahnuik

Title: General Counsel

Date: April ___, 2023

**Chaitons LLP, for the Sutton Investor
Releasors**

By: _____

Name: George Benchetrit

Title: Partner

Date: April ___, 2023

**MSTW Professional Corporation for itself
and for the Sutton Plaintiff**

By: _____

Name: Mitchell Wine

Title: Principal

Date: April ___, 2023

**Waddell Phillips Professional
Corporation for itself and for the
Sutton Plaintiff**

By: _____

Name: Margaret L. Waddell

Title: COO and Partner

Appendix “A”: Listing and Sale Process

Listing Agreement: The LINK Commercial Properties will be listed for sale with Rene Serin, of Cushman & Wakefield, the real estate brokerage currently engaged in the leasing of the LINK Commercial Properties (the “**Listing Agent**”). ADI LINK, with the consent of the Trustee, will enter into a standard listing agreement with the Listing Agent. The listing agreement shall include, among other things, full consent rights for the Trustee and full/direct access to, and communication with, the Listing Agent.

Sale Process: Within 1 week of this Agreement being executed, ADI LINK and the Trustee will work together, acting reasonably, to develop a listing process and timetable to achieve the sale of the LINK Properties in an expeditious manner and in any event by November 15, 2023 or such other date that the Trustee may agree to, acting in its sole and absolute discretion. The listing process and timetable shall describe:

- The date by which the confidential data room will be available as well as the form of NDA.
- The date by which a list of the proposed buyer targets will be circulated amongst ADI LINK and the Trustee.
- The date by which the listing will commence.
- The deadline for submission of offers.
- Once determined, the dates in the listing process and timetable can only be changed by the Trustee, acting in its sole and absolute discretion.

ADI LINK’s counsel, with input from the Trustee and the Listing Agent, shall prepare a form of agreement of purchase and sale to be used for the transaction (“**Form of APS**”) and the Listing Agent shall provide the Form of APS to the interested parties to submit their offers and shall include a copy of same in the data room. Any changes to the Form of APS must be tracked by the offerors in their offers.

ADI LINK will immediately provide the Trustee with copies of all offers submitted to the Listing Agent. ADI LINK will not, without the prior written consent of the Trustee, acting reasonably, accept any offer.

Conduct During the Sale Process: Throughout the sale process, the Listing Agent shall report directly and concurrently to ADI LINK and the Trustee. The Trustee shall have full consent/approval rights in respect of the above noted sale process and in respect of offer acceptance by ADI LINK.

The Trustee may communicate directly with the Listing Agent, without the presence of, or consent of, ADI LINK.

ADI LINK shall not, without the consent of the Trustee, acting reasonably, further encumber the LINK Commercial Properties in any way.

ADI LINK shall direct any and all interested parties and/or questions regarding the sale process and the LINK Commercial Properties to the Listing Agent.

Appendix “B”: Form of Approval Order

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) _____ DAY, THE _____
JUSTICE)
DAY OF _____, 2023

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**

**ORDER
(Sutton Settlement Agreement Approval)**

THIS MOTION, made by FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”), 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 (“**Sorrenti**”) or Sorrenti Law Professional Corporation (“**SLPC**”) relating to Sorrenti’s and SLPC’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*, (i) approving and ratifying the Settlement and Mutual Release Agreement attached at Schedule “B” to this Order (the “**Sutton Settlement Agreement**”); and (ii) ordering ADI LINK and ADG, as the case may be, to pay the Settlement Payment to the Trustee in accordance with and subject to the terms of the Sutton Settlement Agreement, was heard this day by videoconference;

ON READING the Sixth Report of the Trustee dated April ●, 2023 (“**Sixth Report**”), and on hearing the submissions of counsel for the Trustee; Chaitons LLP, in its capacity as Representative Counsel; counsel for the ADI Defendant Companies; counsel for OTC; Sutton Plaintiff’s Counsel; and such other counsel as were present, no one else appearing for any other person on the service list, as appears from the affidavit of service of [*X] sworn [*DATE], 2023, filed;

INTERPRETATION

1. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Sutton Settlement Agreement, as applicable.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Sixth Report on the Service List and on the Sutton Investor Releasors is hereby validated so that notice of this Motion is approved, this Motion is properly returnable today and the Court hereby dispenses with further service thereof.

APPROVAL OF THE SUTTON SETTLEMENT AGREEMENT

3. **THIS COURT ORDERS** that (i) the Sutton Settlement Agreement be and is hereby approved in its entirety and shall be implemented and enforced in accordance with its terms; (ii) ADI LINK and/or ADG, as the case may be, are hereby directed to pay the Settlement Payment (less the Initial Payment) to the Trustee in trust subject to and in accordance with the terms of the Sutton Settlement Agreement; and (iii) the execution of the Sutton Settlement Agreement by the Trustee, OTC and Representative Counsel is hereby ratified and approved, and the Trustee, OTC

and Representative Counsel are hereby authorized and directed to comply with all of their obligations under the Sutton Settlement Agreement.

4. **THIS COURT ORDERS** that the Sutton Settlement Agreement is fair, reasonable and in the best interests of the Sutton Investor Releasors, the Sorrenti Releasors, and the OTC Releasors.

5. **THIS COURT ORDERS** that this Order, including the Sutton Settlement Agreement, is binding upon each of the Sutton Investor Releasors, the Sorrenti Releasors, and the OTC Releasors, including those persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this Action.

6. **THIS COURT ORDERS** that an allocation of \$500,000 from the Settlement Payment shall be made to Sutton Plaintiff's Counsel in accordance with the terms of the Sutton Settlement Agreement.

7. **THIS COURT ORDERS** that should the Sutton Class Proceeding Order, OTC Third Party Dismissal Order, and Trustee Action Dismissal Order become Final orders and all steps required by the Sutton Settlement Agreement in conjunction with the granting of the security in respect of the Station West Property have been completed, the Trustee shall serve a Trustee's certificate on the Service List substantially in the form attached as Schedule "A" hereto (the "**Trustee's Certificate**").

8. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate as soon as practicable after service thereof.

9. **THIS COURT ORDERS AND DECLARES** that, upon the Closing Date:

- (a) The Sutton Investor Releasors, the Sorrenti Releasors, and the OTC Releasors, hereby release, extinguish, expunge, and discharge all of the Released Claims as against the ADI Releasees;
- (b) Any and all proceedings asserting Released Claims as against the ADI Releasees by any of the Sutton Investor Releasors, the Sorrenti Releasors, or the OTC Releasors shall be dismissed against the ADI Releasees, without costs and with prejudice;
- (c) The Sutton Investor Releasors, the Sorrenti Releasors, and the OTC Releasors shall be enjoined from making, instituting, maintaining, continuing, intervening in, or

asserting, commencing or threatening to commence, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, claim, proceeding or demand, of any nature whatsoever, against any one or more of the ADI Releasees in connection with the Released Claims and this Order may be raised as a complete bar to any such action, claim, proceeding or demand, and any such actions, claims or proceedings in which the Sutton Investor Releasors, the Sorrenti Releasors, or the OTC Releasors assert Released Claims against the ADI Releasees shall be dismissed with prejudice and without costs as against the ADI Releasees;

- (d) The Sutton Investor Releasors, the Sorrenti Releasors, and the OTC Releasors shall not now or hereafter institute, maintain, continue, intervene in, or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any proceeding, cause of action, claim or demand against any person who might claim over against any of the ADI Releasees, or who might claim contribution and indemnity under any statutory provision or otherwise from any of the ADI Releasees, or who might seek declaratory relief in a third party proceeding against any of the ADI Releasees in connection with the Released Claims and all such claims are forever barred, prohibited and enjoined, including without limitation against OTC in the OTC Action. However, for greater certainty, (i) the Sutton Class Proceeding is permitted to proceed against all Non-Settling Sutton Defendants subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against any Non-Settling Sutton Defendant, named or unnamed alleged co-conspirator, or other person; (ii) the OTC Action is permitted to proceed against OTC subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against OTC, any named or unnamed alleged co-conspirator, or other person; and (iii) OTC shall not be precluded from maintaining any existing third party claim in the OTC Action against any defendant that is not an ADI Releasee subject to the terms of the Approval Order and provided no relief for or arising from any Released Claims is sought against any of the existing third party defendants, named or unnamed alleged co-conspirator, or other person;
- (e) All claims for contribution, indemnity or other claims over, whether asserted, unasserted, or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to or arising from the Released Claims, which were or could have been brought in any action by any Non-Settling Sutton Defendant, any named or unnamed co-conspirator that is not an ADI Releasee or by any other person or party, including OTC, against an ADI Releasee or by an ADI Releasee against any Non-Settling Sutton Defendant or any named or unnamed co-conspirator that is not an ADI Releasee or any other person or party, including OTC, are barred, prohibited and enjoined in accordance with the terms of this Order;
- (f) If, in the absence of this Order, any person made or could have made a claim for contribution, indemnity or other claim over, whether in equity or in law, by statute or otherwise, from or against any one or more of the ADI Releasees in connection with the Released Claims, then:

- (i) The Sutton Investor Releasers, the Sorrenti Releasers, and the OTC Releasers shall not be entitled to claim or recover from any Non-Settling Sutton Defendant in the Sutton Class Proceeding, named or unnamed alleged co-conspirator, or from any other person, including without limitation OTC in OTC Action, that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs that corresponds to the proportionate liability of the Adi Releasees proven at trial or otherwise;
- (ii) The Sutton Investor Releasers and the OTC Releasers shall limit their claims against any Non-Settling Sutton Defendant(s), named or unnamed alleged co-conspirator or other person, including without limitation OTC in the OTC Action, to include only, and shall only seek to recover from any Non-Settling Sutton Defendant(s) in the Sutton Class Proceeding, named or unnamed alleged co-conspirator, or any other person, including OTC in the OTC Action, such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs attributable to the aggregate of the several liability of each Non-Settling Sutton Defendant in the Sutton Class Proceeding, named or unnamed alleged co-conspirator that is not an ADI Releasee, or other person that is not an ADI Releasee, and of OTC in the OTC Action, if any, and, for greater certainty, the Sutton Investor Releasers and OTC Releasers shall only be entitled to claim and seek to recover on a joint and several basis as between each Non-Settling Sutton Defendant(s) in the Sutton Class Proceeding, named or unnamed alleged co-conspirator and/or any other person or party that is not an ADI Releasee, including OTC in OTC Action, if any, if permitted by law;
- (iii) For the sole purpose of determining the liability of the Non-Settling Defendants in the Sutton Class Proceeding and OTC and the third parties in the OTC Action that are not ADI Releasees, the Court shall have full authority to determine the Proportionate Liability of the ADI Releasees at the trial or other disposition of either the Sutton Class Proceeding or the OTC Action, regardless of whether the ADI Releasees participate in that proceeding, provided that the Proportionate Liability of the ADI Releasees shall only apply in the Sutton Class Proceeding and the OTC Action, if and as applicable, and shall only apply for the purpose of determining the liability of the Non-Settling Defendants in the Sutton Class Proceeding and the defendant and third parties in the OTC Action and shall not be binding on, or constitute a finding against, the ADI Releasees for any purpose whatsoever in those or any other proceeding, nor may such determination modify the terms of the Sutton Settlement Agreement. Such determination shall happen only once. Subject to the foregoing, the Parties hereto shall not object to: (A) the proceeding in which such determination is made being the OTC Action, rather than in the Sutton Class Proceeding; or (B) any Party hereto, at that Party's election, appearing and being heard on such determination; and

- (iv) Subject to the Sutton Settlement Agreement, the Sorrenti Releasors no longer have claims for contribution, indemnity or other claim over and shall not assert any claims against any person who has made or could have made a claim for contribution, indemnity or other claim over, whether in equity or in law, by statute or otherwise, from or against any one or more of the ADI Releasees in connection with the Released Claims.
- (g) Further to the OTC Third Party Claim and the OTC Action, from the date the Sutton Settlement Agreement is fully executed, the ADI Defendant Companies shall not intentionally dispose of or destroy any documents then in their power, possession or control that are relevant to matters in issue in the OTC Third Party Claim and shall take reasonable commercial steps to prevent any automated disposal or destruction of such documents. The foregoing obligations shall terminate if the claims commenced by any current or future plaintiff(s) in the OTC Action do not include or no longer include claims for recovery of monies in respect of the ADI LINK Project or if the plaintiff in the OTC Action is unsuccessful in reversing the decision to refuse certification of the OTC Action in such plaintiff's pending appeal or any subsequent appeal. Only OTC shall have the right, if any, to initiate proceedings to enforce this term. In any event, a breach of this section by the ADI Defendant Companies, or any of them, is not a breach of the Sutton Settlement Agreement.
- (h) For any Sutton Investor Releasor who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors, the use of the terms "Sutton Investor Releasors" and "Released Claims" in this Order does not constitute a release of claims by such Sutton Investor Releasor but that Sutton Investor Releasor instead covenants and undertakes not to sue, make in any way any of the Released Claims or to threaten, commence, or continue any of the Released Claims in any jurisdiction against the ADI Releasees;
- (i) Nothing in this Order is intended to or shall limit, restrict, or affect any position, argument or defence that may be asserted by the Non-Settling Sutton Defendants in the Sutton Proceeding or the OTC Action regarding the reduction of any judgment against them;
- (j) Except as provided herein, this Order does not affect any claims or causes of action that any Sutton Investor Releasors have or may have against any Non-Settling Sutton Defendant(s) or named or unnamed co-conspirators who are not ADI Releasees; and
- (k) The Approval of the Sutton Settlement Agreement and any reasons given by this Court in relation thereto, except in relation to the bar order provisions at paragraph (e) and any reasons given in connection with the bar order provisions at paragraph (f) above, are without prejudice to the rights and defences of the Non-Settling Sutton Defendants in connection with the Sutton Class Proceeding and, without restricting the generality of the foregoing, may not be relied on by any person to establish jurisdiction, the criteria for certification (including class definition) or the

existence or elements of the causes of action asserted in the Sutton Class Proceeding as against the Non-Settling Sutton Defendants or any other person.

NO FURTHER LIABILITY OR RESPONSIBILITY

10. **THIS COURT ORDERS** that, except for the obligations set out herein and in the Sutton Settlement Agreement, the ADI Releasees will have no further liability for any payments, including, without limitation, any liability or responsibility for distribution or administration, any responsibility or liability for any tax or tax filings, any notice or administration costs, counsel fees, or any other fees or costs. For greater certainty, but without limiting the generality of the foregoing, the ADI Releasees shall have no responsibility or liability with respect to any of the administration or distribution of the Settlement Payment, the administration of the Sutton Settlement Agreement, or the payment of any legal fees, disbursements, expenses or costs of or incurred by the Trustee, Representative Counsel, Sutton Plaintiff's Counsel, OTC, the Sorrenti Releasees or the Sutton Investor Releasees.

AID AND RECOGNITION

11. **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.

12. **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.

Schedule “A”: Form of Trustee’s Certificate

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

**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**

TRUSTEE’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated September 30, 2019, FAAN Mortgage Administrators Inc. was appointed as the trustee (in such capacity, the “**Trustee**”) of all of the assets, undertakings and properties in the possession, power or control of Derek Sorrenti (“**Sorrenti**”) or Sorrenti Law Professional Corporation (“**SLPC**”) relating to Sorrenti’s and SLPC’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.

B. Pursuant to an Order of the Court dated [*DATE] (the “**Approval Order**”), the Court approved the Settlement Agreement effective as of [*DATE], 2023 (the “**Sutton Settlement Agreement**”).

C. The Approval Order contemplated that the Closing Date would occur upon the Trustee delivering the Trustee’s Certificate to the service list in the Trustee Proceeding.

D. The Approval Order states that the Trustee shall certify in the Trustee’s Certificate that the Court has granted the ADI Orders.

E. The Approval Order states that the Trustee shall certify that the limited recourse guarantee and the documentation evidencing the Second Charge has been provided to the Trustee and the Second Charge has been registered on title to the Station West Property.

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

THE TRUSTEE CERTIFIES the following:

1. The Court granted the Sutton Class Proceeding Order on [date] and such order has become Final;
2. The Court granted the OTC Third Party Dismissal Order on [date] and such order has become Final;
3. The Court granted the Trustee Action Dismissal Order on [date] and such order has become Final; and
4. The limited recourse guarantee and the documentation evidencing the Second Charge has been provided to the Trustee and the Second Charge has been registered on title to the Station West Property.

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 undertaking, property and assets of
Sorrenti and SLPC, and in no other capacity**

Per: _____

Name:

Title:

LAW SOCIETY OF ONTARIO

- and -

Court File No. CV-19-628258-00CL
**DEREK SORRENTI and SORRENTI LAW
PROFESSIONAL CORPORATION**

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(SUTTON SETTLEMENT AGREEMENT)

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

Appendix “C”: Form of Trustee Action Dismissal Order

Court File No. CV-21-00672230-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

B E T W E E N:

**FAAN MORTGAGE ADMINISTRATORS INC. IN ITS CAPACITY AS COURT-
APPOINTED TRUSTEE OF DEREK SORRENTI AND SORRENTI PROFESSIONAL
LAW CORPORATION UNDER SECTION 49.47 OF THE LAW SOCIETY ACT, RSO
1990, c. L.8 AND SECTION 101 OF THE COURTS OF JUSTICE ACT, RSO 1990, c. C.43**
Plaintiff

- and -

**ADI DEVELOPMENTS (LINK) INC., ADI DEVELOPMENT GROUP INC.
and 2396674 ONTARIO LIMITED**

Defendants

CONSENT

The parties hereto, by their counsel, consent to an Order in the form attached as Schedule “A”.

Counsel for the parties hereby certify that insofar as their own clients are concerned, the Order to which this consent is given does not affect a party under disability.

DATE: [*DATE], 2023

Osler, Hoskin & Harcourt LLP
Lawyers for the Plaintiff, FAAN Mortgage
Administrators Inc. in its capacity as Court
Appointed Trustee of Derek Sorrenti and Sorrenti
Law Professional Corporation

DATE: [*DATE], 2023

McMillan LLP
Lawyers for ADI Development Group Inc., ADI
Development Group Inc. and 2396674 Ontario
Limited

Schedule “A”

Court File No. CV-21-00672230-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

THE HONOURABLE)
) , THE
)
)
) DAY OF [*DATE], 2023

**FAAN MORTGAGE ADMINISTRATORS INC. IN ITS CAPACITY AS COURT-
APPOINTED TRUSTEE OF DEREK SORRENTI AND SORRENTI PROFESSIONAL
LAW CORPORATION UNDER SECTION 49.47 OF THE LAW SOCIETY ACT, RSO
1990, c. L.8 AND SECTION 101 OF THE COURTS OF JUSTICE ACT, RSO 1990, c. C.43**
Plaintiff

- and -

**ADI DEVELOPMENTS (LINK) INC., ADI DEVELOPMENT GROUP INC.
and 2396674 ONTARIO LIMITED**

Defendants

ORDER

THIS MOTION, made on consent for an order dismissing the action without costs was read this day at Toronto, Ontario.

ON READING the Order granted in the Ontario Superior Court of Justice in Court File No. CV-19-628258-00CL dated XXX, approving the Sutton Settlement Agreement (the “Approval Order”);

AND ON NOTING that the Approval Order requires the dismissal of this proceeding on a with prejudice and without costs basis;

ON READING the consent of the parties and it appearing that this order will not affect the rights of any person under a disability,

1. **THIS COURT ORDERS** that the action of the Plaintiff is hereby dismissed, with prejudice and without costs.

FAAN MORTGAGE ADMINISTRATORS INC. IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF DEREK SORRENTI AND SORRENTI PROFESSIONAL LAW CORPORATION UNDER SECTION 49.47 OF THE LAW SOCIETY ACT, RSO 1990, c. L.8 AND SECTION 101 OF THE COURTS OF JUSTICE ACT, RSO 1990, c. C.43

and

ADI DEVELOPMENTS (LINK) INC., ADI DEVELOPMENT GROUP INC. and 2396674 ONTARIO LIMITED

Plaintiff

Defendant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

DISMISSAL ORDER

OSLER, HOSKIN & HARCOURT LLP

100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Michael De Lellis (LSO# 48038U)
Tel: 416.862.5997
Email: mdelellis@osler.com

Jeremy Dacks (LSO# 41851R)
Tel: 416.862.4923
Email: jdacks@osler.com

Lawyers for the Plaintiff

FAAN MORTGAGE ADMINISTRATORS INC. IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF DEREK SORRENTI AND SORRENTI PROFESSIONAL LAW CORPORATION UNDER SECTION 49.47 OF THE LAW SOCIETY ACT, RSO 1990, c. L.8 AND SECTION 101 OF THE COURTS OF JUSTICE ACT, RSO 1990, c. C.43

ADI DEVELOPMENTS (LINK) INC., ADI DEVELOPMENT GROUP INC. and 2396674 ONTARIO LIMITED

Defendant

Plaintiff

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

CONSENT

OSLER, HOSKIN & HARCOURT LLP

100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Michael De Lellis (LSO# 48038U)
Tel: 416.862.5997
Email: mdelellis@osler.com

Jeremy Dacks (LSO# 41851R)
Tel: 416.862.4923
Email: jdacks@osler.com

Lawyers for the Plaintiff

Appendix “D”: Form of OTC Third Party Dismissal Order

Court File No. CV-20-00643593-0A31

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DANIELE RAPONI

Plaintiff

- and -

OLYMPIA TRUST COMPANY

Defendant

- and -

**ADI DEVELOPMENTS (LINK) INC. (F.K.A. ADI DEVELOPMENTS SUTTON INC.),
ADI DEVELOPMENT GROUP INC. and TARIQ ADI**

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

CONSENT

The parties hereto, by their counsel, consent to an Order in the form attached as Schedule “A”.

Counsel for the parties hereby certify that insofar as their own clients are concerned, the Order to which this consent is given does not affect a party under disability.

DATE: [*DATE], 2023

Blake, Cassels & Graydon LLP
Lawyers for the Defendant

DATE: [*DATE], 2023

McMillan LLP
Lawyers for the Third Parties ADI Developments
(Link) Inc., ADI Development Group Inc. and Tariq
Adi

Schedule “A”

Court File No. CV-20-00643593-0A31

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) , THE
)
)
) DAY OF [*DATE], 2023

B E T W E E N:

DANIELE RAPONI

Plaintiff

- and -

OLYMPIA TRUST COMPANY

Defendant

- and -

**ADI DEVELOPMENTS (LINK) INC. (F.K.A. ADI DEVELOPMENTS SUTTON INC.),
ADI DEVELOPMENT GROUP INC. and TARIQ ADI**

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made on consent for an order dismissing Olympia Trust Company’s Third Party Claim against the Third Parties with prejudice and without costs was read this day at the Toronto, Ontario.

ON READING the Order granted in the Ontario Superior Court of Justice in Court File No. CV-19-628258-00CL dated XXX, approving the Sutton Settlement Agreement (the “**Approval Order**”);

AND ON NOTING that the Approval Order requires the dismissal of this proceeding as against the Third Parties on a with prejudice and without costs basis;

ON READING the consent of the parties and it appearing that this order will not affect the rights of any person under a disability,

1. **THIS COURT ORDERS** that Olympia Trust Company's Third Party Claim against the Third Parties is hereby dismissed, with prejudice and without costs.

DANIELE RAPONI
Plaintiff

and **OLYMPIA TRUST COMPANY**
Defendant

Court File No. CV-20-00643593-0A52

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

ORDER

[*BLAKES]

Appendix “E”: Form of Sutton Class Proceeding Order

Court File No. CV-16-561293-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) , THE
)
)
) DAY OF [*DATE], 2023

BETWEEN:

SANDRA MEDLAND

Plaintiff

-and-

FORTRESS REAL CAPITAL INC., FORTRESS REAL DEVELOPMENTS INC., ADI DEVELOPMENTS (LINK) INC., ADI DEVELOPMENT GROUP INC., BUILDING & DEVELOPMENT MORTGAGES CANADA INC., ESTATE OF ILDINA GALATI by its Trustee in Bankruptcy CROWE SOBERMAN INC., FFM CAPITAL INC., ROSALIA SPADAFORA, SAUL PERLOV, DEREK SORRENTI, and SORRENTI LAW PROFESSIONAL CORPORATION

Defendants

Proceeding under the *Class Proceeding Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an order (i) lifting the stay of proceedings granted in respect of ADI Developments (LINK) Inc. and ADI Development Group Inc. (collectively, the “**ADI Defendants**”) in the order of this Court dated January 13, 2022 (the “**ADI Stay Order**”), and (ii) approving the dismissal of the within action as against the ADI Defendants, without costs, and with prejudice, was read this day at [*was heard this day by judicial videoconference] at Toronto, Ontario.

ON READING the Order granted in the Ontario Superior Court of Justice in Court File No. CV-19-628258-00CL dated XXX, approving the Sutton Settlement Agreement (the “**Approval Order**”);

AND ON NOTING that the Approval Order requires the dismissal of this proceeding on a with prejudice and without costs basis;

ON READING the affidavit of [*X] and the consent of the ADI Defendants and on hearing the submissions of the lawyers for the parties,

1. **THIS COURT ORDERS** that the stay of proceedings granted in the ADI Stay Order is lifted for the sole purpose of dismissing the action as against the ADI Defendants.
 2. **THIS COURT ORDERS** that this action be and is hereby dismissed as against the ADI Defendants, without costs, and with prejudice.
 3. **THIS COURT ORDERS** that the dismissal of this action is a defence to a subsequent action against the ADI Defendants, arising from or related to the subject matter of this action.
 4. **THIS COURT ORDERS** that notice of the dismissal of this action is not required under s. 19 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, and is hereby dispensed with.
 5. **THIS COURT ORDERS** that there shall be no costs of this motion.
-