

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

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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 Releasers shall release the ADI Releasees;
- (b) The Sorrenti Releasers shall release the ADI Releasees;
- (c) The OTC Releasers shall release the ADI Releasees; and
- (d) The ADI Releasers 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 Releasers, including the Sutton Plaintiff; the Trustee for itself and for the other Sorrenti Releasers; and OTC for itself and for the other OTC Releasers from suing the ADI Releasees;
- (b) Preclude the Sutton Investor Releasers, including the Sutton Plaintiff; the Trustee for itself and for the other Sorrenti Releasers; and OTC for itself and for the other OTC Releasers from suing anyone who may claim contribution and indemnity from the ADI Releasees; and
- (c) Require the Sutton Investor Releasers and the OTC Releasers 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**