

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,**  
**R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A**  
**PROPOSAL OF 2301132 ONTARIO INC., OF THE CITY OF PORT**  
**PERRY, IN THE PROVINCE OF ONTARIO**

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**MOTION RECORD**  
**(Returnable September 20, 2018)**

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**Lawyers for 2301132 Ontario Inc. and**  
**2309840 Ontario Inc.**

**TO: ATTACHED SERVICE LIST**

Court File No.: 31-2413442/Estate File No.: 31-2413442  
Court File No.: 31-2413445/Estate File No.: 31-2413445

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**PROPOSAL OF 2309840 ONTARIO INC.**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A**  
**PROPOSAL OF 2301132 ONTARIO INC.**

**Service List**  
(as of September 14, 2018)

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**(Updated September 14, 2018)**

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
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**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,**  
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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
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**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,**  
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**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A**  
**PROPOSAL OF 2309840 ONTARIO INC., OF THE CITY OF PORT**  
**PERRY, IN THE PROVINCE OF ONTARIO**

**NOTICE OF MOTION**

**2301132 ONTARIO INC.** (“**2301132**”) and **2309840 ONTARIO INC.** (“**2309840**”), and together with 2301132, the “**Companies**”), will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), on Thursday, September 20, 2018 at 10:00 am, or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario, for an Order, *inter alia*, pursuant to Sections 50.4(9) and 64.2(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).

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

**THE MOTION IS FOR:**

1. an Order substantially in the form attached at Tab 3 of the Motion Record, *inter alia*:
  - (a) abridging the time for service of this Notice of Motion and the Motion Record so that the motion is properly returnable on September 20, 2018, and dispensing with service on any persons other than those served;



- (b) approving the administrative consolidation of the Companies' proposal proceedings (the "**Proposal Proceedings**") and directing that the style of cause for the consolidated proceedings be as follows:

**Court File No. 31-2413442**  
**Estate File No. 31-2413442**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*  
*ACT, R.S.C. 1985, c. B-3, AS AMENDED***

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF 2301132 ONTARIO INC. AND 2309840  
ONTARIO INC., OF THE CITY OF PORT PERRY, IN THE  
PROVINCE OF ONTARIO**

- (c) approving and adopting the Court's E-Service Protocol (the "**Protocol**") such that service of court documents by email in accordance with the Protocol shall be deemed valid and effective service in the Proposal Proceedings;
- (d) extending the time within which to file a proposal with the Official Receiver by each of the Companies under section 62(1) of the BIA to November 7, 2018;
- (e) approving the activities of KSV Kofman Inc. ("**KSV**"), in its capacity as proposal trustee (the "**Proposal Trustee**"), as set out in the First Report of the Proposal Trustee dated September 13, 2018 (the "**First Report**");
- (f) granting an administration charge in favour of the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Companies, such charge to be in the amount of \$450,000, over all of the Property (as defined in the draft Order attached at Tab 3 of the Motion Record);
- (g) sealing certain communications regarding appraisals for the 2309840 Ontario Properties and 2301132 Ontario Properties (as defined herein) between Colliers International Valuation and Advisory Services ("**Colliers**") and the Proposal Trustee and attached as Confidential Appendix "1" to the First Report;

(h) such other and further relief as counsel may request and this Honourable Court may allow.

**THE GROUNDS FOR THE MOTION ARE:**

1. on August 24, 2018, each of the Companies filed a Notice of Intention to Make a Proposal pursuant to section 50.4 of the BIA (each, an “**NOI**”) and appointed KSV as Proposal Trustee in respect of each of the Proposal Proceedings;
2. each of the Companies is an Ontario corporation with their registered head office in Port Perry, Ontario and is wholly owned by 2399806 Ontario Inc. (“**2399806**”). The president and sole shareholder of 2399806 is Brian Tilley (“**Tilley**”);
3. each of the Companies is a single purpose entity that owns specific real property for the purpose of developing and constructing a residential townhouse project;
4. 2309840 is the owner of the properties municipally known as 10 Lindsay Court, 13758 Highway 7 and 22/24 Dayfoot Drive, all of which are located in Georgetown, Ontario (the “**2309840 Ontario Properties**”);
5. 2301132 is the owner of the properties municipally known as 8 Lindsay Court and 13764 Highway 7, both of which are also located in Georgetown, Ontario (the “**2301132 Ontario Properties**”);
6. 2491324 Ontario Inc. (“**2491324**”), an affiliate of the Companies controlled by Tilley but not a party to the Proposal Proceedings, holds an option to purchase the property municipally known as 12 Lindsay Court (the “**Purchase Option Property**”);
7. the option on the Purchase Option Property requires that the option holder own all of the 2309480 Ontario Properties and 2301132 Ontario Properties;

8. with the exception of the Dayfoot Drive properties, the remaining 2309840 Properties and 2301132 Properties were to be developed as part of a residential townhouse development after the acquisition of the Purchase Option Property;
9. the registered mortgages on the 2309480 Ontario Properties are in favour of the following mortgagees (in order of registration):
  - (a) **10 Lindsay Court** - (i) Statis Group Inc. and 2561388 Ontario Inc.; (ii) JYR Real Capital Mortgage Investment Corp., Liang Xu and Leaping Loft Ltd. (together, “**JYR**”); (iii) Building and Development Mortgages Canada Inc. (“**BMDC**”); and (iv) Brian Tilley;
  - (b) **13758 Highway 7** - (i) Home Trust Company (“**Home Trust**”); (ii) JYR; (iii) BDMC and (iv) and (v) BDMC and Olympia Trust Company (“**BMDC/Olympia**”); and
  - (c) **22/24 Dayfoot Drive** - (i) Harbouredge Investment Corporation (“**Harbouredge**”); (ii) JYR; (iii) BDMC; and (iv) and (v) BDMC/Olympia;
10. the registered mortgages on the 2301132 Ontario Properties are in favour of the following mortgagees (in order of registration):
  - (a) **8 Lindsay Court** - (i) 2413349 Ontario Inc. and Derek Martin (together, “**Martin**”), as assignee of Home Trust; (ii) JYR; (iii) BDMC; and (iv) and (v) BMDC/Olympia; and
  - (b) **13764 Highway 7** - (i) Harbouredge; (ii) JYR; (iii) BMDC; and (iv) and (v) BDMC/Olympia;
11. certain of the Companies’ secured lenders, namely Harbouredge and Home Trust (in respect of 8 Lindsay Court prior to the assignment to Martin), have delivered to the Companies certain notices required prior to their being able to enforce their security;

12. the principal purpose of the Proposal Proceedings is to create a stabilized environment to allow the Companies to enter into a transaction in respect of the 2309840 Ontario Properties, the 2301132 Ontario Properties and the Purchase Option Property which 2491324 has agreed to include in a sale and investor solicitation process (“SISP”). Further in that regard, the Companies’, with the assistance of the Proposal Trustee, are finalizing the terms of an agreement of purchase and sale with Rescom Capital (“Rescom”) pursuant to which Rescom will act as the stalking horse bidder in the SISP;
13. approval of the SISP will be the subject of a future motion in the Proposal Proceedings;
14. the Proposal Trustee has contacted Colliers to prepare appraisals. Although they are not prepared as the date of this motion, the appraisals are expected imminently and will be filed with the Court on a sealed basis as part of the motion for approval of the SISP;
15. in the interim, the communications regarding the appraisals between Colliers and the Proposal Trustee, attached as Confidential Appendix “1” to the First Report, should be sealed as they contain confidential and commercially sensitive information that, if made public at this time, could detrimentally affect the SISP;
16. the Companies seek an order administratively consolidating the Companies’ Proposal Proceedings in order to avoid a multiplicity of proceedings;
17. each of the Companies and the Proposal Trustee are of the view that given the closely-related proceedings and overlapping security and creditors, as described above, an administrative consolidation of the Proposal Proceedings will secure a just, expeditious and cost efficient process and no creditor of either of the Companies will be prejudiced if the Proposal Proceedings are administratively consolidated;
18. at all material times since the filing of the NOIs, each of the Companies has acted, and continues to act, in good faith and with due diligence;

19. each of the Companies would likely be able to make a viable proposal if the extension were granted;
20. none of the Companies' creditors will be materially prejudiced if the extension is granted;
21. such further and other grounds as set out in the First Report;
22. Rules 1.04, 1.05, 2.01, 2.03, 16.04 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended, and Sections 2, 50.4(9), 64.2(1) and 183(1) of the BIA.

**AND FURTHER TAKE NOTICE** that the following materials will be filed in support of this application, namely:

- (a) the First Report; and
- (b) such further and other material as counsel may advise and this Honourable Court may allow.

September 14, 2018

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2301132 Ontario Inc.**

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2301132 ONTARIO INC.  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2309840 ONTARIO INC.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

PROCEEDINGS COMMENCED AT TORONTO

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**NOTICE OF MOTION**  
(returnable September 20, 2018)

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**Lawyers for 2301132 Ontario Inc. and 2309840 Ontario Inc.**

# TAB 2



**First Report to Court of  
KSV Kofman Inc. as Proposal  
Trustee of 2301132 Ontario Inc. and  
2309840 Ontario Inc.**

September 13, 2018



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COURT FILE NOS.: 31-2413445, 31-2413442

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
2301132 ONTARIO INC.,  
OF THE CITY OF PORT PERRY,  
IN THE PROVINCE OF ONTARIO

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
2309840 ONTARIO INC.,  
OF THE CITY OF PORT PERRY,  
IN THE PROVINCE OF ONTARIO

FIRST REPORT OF KSV KOFMAN INC. AS PROPOSAL TRUSTEE OF  
2301132 ONTARIO INC. AND 2309840 ONTARIO INC.

SEPTEMBER 13, 2018

## 1.0 Introduction

1. This report ("Report") is filed by KSV Kofman Inc. ("KSV") in its capacity as proposal trustee ("Proposal Trustee") in connection with Notices of Intention to Make a Proposal ("NOI") filed by 2301132 Ontario Inc. ("2301") and 2309840 Ontario Inc. ("2309", and together with 2301, the "Companies") on August 24, 2018 ("Filing Date") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended ("BIA").
2. The principal asset owned by 2301 is real property municipally described as 13764 Highway 7, Georgetown ("13764 Hwy 7") and 8 Lindsay Court, Georgetown ("8 Lindsay", and together with 13764 Hwy 7, the "2301 Properties").
3. The principal asset owned by 2309 is real property municipally described as 13758 Highway 7, Georgetown ("13758 Hwy 7"), 10 Lindsay Court, Georgetown ("10 Lindsay") and 22 and 24 Dayfoot Drive, Georgetown ("Dayfoot").
4. 8/10 Lindsay and 13758/13764 Hwy 7 are four of five properties that comprise one development site (the "Owned Assembly Properties"). The fifth property (the "Purchase Option Property") is owned by a third party, Credit Temple Corporation ("Credit Temple"). (Together, the Owned Assembly Properties and the Purchase Option Property are collectively referred to herein as the "Assembly". The Owned Assembly Properties and Dayfoot are collectively referred to as the "Real Property".)

5. 2491324 Ontario Inc. ("2491"), a corporation that is an affiliate of the Companies but is not part of the Companies' NOI proceedings, has entered into an Agreement of Purchase and Sale with Credit Temple to acquire the Purchase Option Property for \$4.2 million (the "Purchase Option"), with a closing date to occur within 90 days of site plan approval for the Assembly. 2491 is controlled by the individual who controls the Companies, Brian Tilley ("Mr. Tilley"). The Purchase Option requires that the option holder own all of the Real Property.
6. The principal purpose of the Companies' restructuring proceedings is to create a stabilized environment to allow the Companies to enter into a transaction for the Real Property with the benefit of the concurrent assignment of the Purchase Option to the successful party, by implementing a transaction through a "stalking horse" sale and investor solicitation process ("SISP"). The SISP is to be conducted by the Proposal Trustee. SISP approval will be the subject of a future motion in these proceedings.
7. The Companies, with the assistance and oversight of the Proposal Trustee, are finalizing the terms of an Agreement of Purchase and Sale (the "Stalking Horse APS") with Rescom Capital ("Rescom")<sup>1</sup> pursuant to which Rescom will offer to acquire the Real Property and take an assignment of the Purchase Option from 2491 if it is the successful bidder in the SISP. Once the terms of the Stalking Horse APS, including the stalking horse bid procedures and auction procedures forming schedules thereto, are finalized, the Companies intend to return to Court to seek approval of the Stalking Horse APS and the stalking horse bid procedures. The implementation of any asset purchase or other agreement (including the Stalking Horse APS if it is the successful bid in the SISP) relating to the Real Property will be conditional on Court approval to be sought at a later date after the SISP has been completed.
8. Although approval of the SISP will be the subject of a future Proposal Trustee's report, the Proposal Trustee believes that it is important to set the stage for the purpose of the SISP. In this regard, the SISP is intended to solicit purchase offers and refinancing proposals for the Real Property. As detailed in Confidential Appendix "1", the net proceeds of the contemplated Stalking Horse APS are more than sufficient to repay all First Mortgages (as defined below) on the Real Property, with the opportunity to generate additional value for stakeholders.

## 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information about the Companies;
  - b) discuss the anticipated direction of these proceedings;
  - c) report on the status of the negotiation of the Stalking Horse APS;

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<sup>1</sup> Or an entity to be incorporated by it for the purpose of completing the transaction.

- d) report on the Companies' unconsolidated weekly cash flow projections for the period September 17, 2018 to November 11, 2018 (the "Cash Flow Forecasts");
- e) discuss the Companies' request for an extension of the stay of proceedings from September 23, 2018 to November 7, 2018;
- f) discuss the rationale for a charge in the amount of \$450,000 on the Real Property to secure the fees and disbursements of the Proposal Trustee, the Proposal Trustee's counsel, Bennett Jones LLP ("Bennett Jones"), and the Companies' counsel, DLA Piper LLP ("DLA") (the "Administration Charge");
- g) discuss the rationale for administratively consolidating the NOI proceedings of the Companies; and
- h) recommend that the Court make an order, *inter alia*:
  - sealing Confidential Appendix "1" to this Report until further order of this Court;
  - approving the Companies' request for an extension of the time to file a proposal with the Official Receiver from September 23, 2018 to November 7, 2018;
  - approving the Administration Charge; and
  - administratively consolidating the Companies' NOI proceedings.

## 1.2 Currency

1. All currency references in this Report are to Canadian dollars.

## 1.3 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by Mr. Tilley, the Companies' sole representative, the Companies' books and records and discussions with Mr. Tilley. The Proposal Trustee has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*.
2. The Proposal Trustee expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by the Proposal Trustee in preparing this Report. Any party wishing to place reliance on the Company's financial information should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.

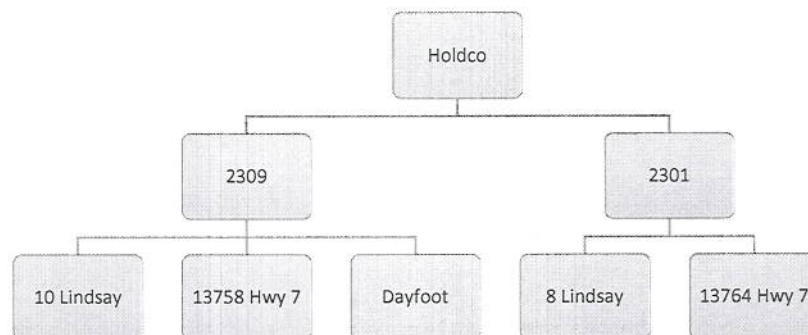
3. An examination of the Cash Flow Forecast as outlined in the *Chartered Professional Accountants Canada Handbook* has not been performed. Future oriented financial information relied upon in this Report is based upon the Company's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

## 2.0 Insolvency Proceedings

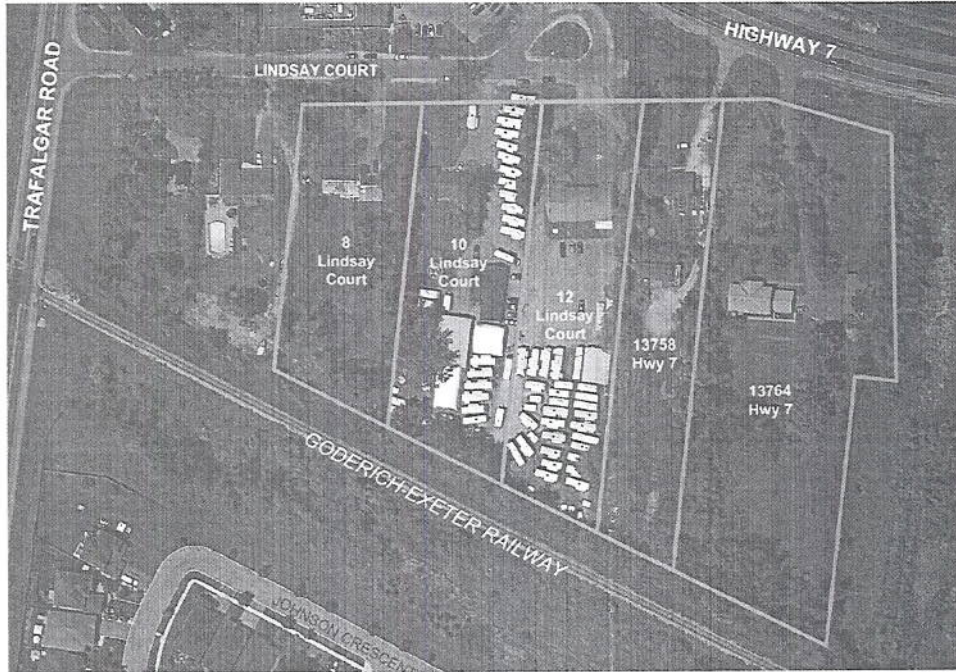
1. The Court materials filed in these proceedings are available on the Proposal Trustee's website at <http://ksvadvisory.com/insolvency-cases/2301132-ontario-inc-and-2309840-ontario-inc/>.

## 3.0 Background

1. The Companies are owned by 2399806 Ontario Inc. ("HoldCo"). Mr. Tilley is Holdco's President and sole shareholder.
2. The Companies' corporate chart is provided below.

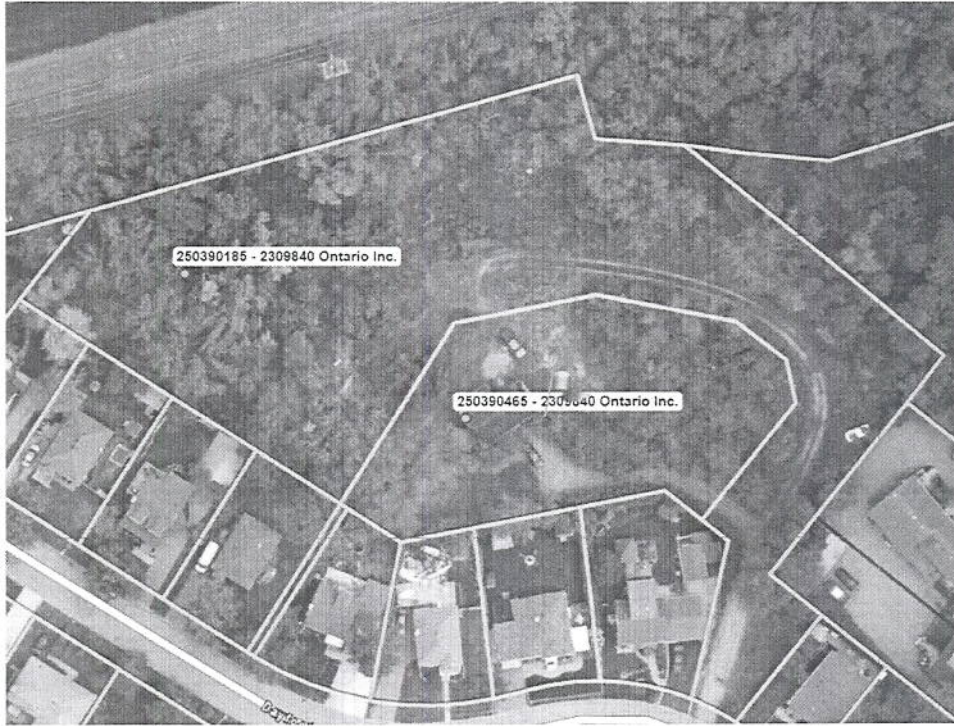


3. An aerial shot of the Assembly is provided below. As reflected in the Assembly aerial, 12 Lindsay, being the Purchase Option Property, is situated in the middle of the Owned Assembly Properties. There is a Masonic temple on this property.



4. The development plans for the Assembly contemplate construction of 109 townhomes. It can only be developed with all five Assembly properties in a single comprehensive plan. The development requires site plan approval, which the Proposal Trustee understands will not be achieved for some time. The Companies do not currently have the financial resources to take the Assembly through site plan approval. Further information concerning the development status of the Assembly is provided in Appendix "A".

- An aerial shot of Dayfoot is provided below. Dayfoot is not adjacent to the Assembly. It is a separate property with a home located on it.



- Dayfoot is currently zoned for low-density single-family homes. Mr. Tilley has advised the Proposal Trustee that it has secondary plan approval for medium density homes. The site has several development issues. An environmental study is required as the site neighbours a creek and there is a designated wood lot. The Companies do not currently have the financial resources to pursue these steps for Dayfoot.

### 3.1 Secured Creditors

- A summary of the first ranking mortgagees registered against each property is provided in the table below (the "First Mortgages").

First Mortgagee	Mortgage Collateral	Original Mortgage Amount (\$)
Harbouredge Mortgage Investment Corporation ("HMIC")	13764 Hwy 7 and Dayfoot	1,925,000
Home Trust Company ("Home Trust")	13758 Hwy 7	412,000
2413349 and Derek Martin ("Martin/2413")	8 Lindsay	350,000
Stasis Group Inc. and 2561388 ("Stasis")	10 Lindsay	2,697,655

<sup>2</sup> For the purpose of this Report, the Proposal Trustee has not distinguished between the two.

2. Certain of the lenders have taken initial steps to enforce their security. In this regard,
  - a. on April 25, 2018, HMIC issued a notice of intention to enforce its security under the *Bankruptcy and Insolvency Act* ("244 Notice") and a notice of sale under mortgage; and
  - b. on January 30, 2018, Home Trust issued a notice of sale under mortgage in respect of 8 Lindsay Court. Subsequently, as guarantor of the mortgage loan, Martin/2413, paid this mortgage out and took an assignment of it from Home Trust.
3. To the Proposal Trustee's knowledge, neither HMIC nor Martin/2413 has commenced a sale process for the properties subject to their mortgages. The Proposal Trustee is not aware of any sale efforts undertaken by Martin/2413 and the Proposal Trustee's counsel has been in communication with Martin/2413's counsel during these proceedings.
4. In addition to the First Mortgages<sup>3</sup>, the Real Property has the following subsequent ranking mortgages:
  - a. JYR Real Capital Mortgage Investment Corporation ("JYR") has a mortgage over all of the Real Property in the amount of approximately \$2,368,000. The Proposal Trustee believes that JYR's mortgage is subordinate to the First Mortgages, and may be subordinate to some or all of the Building & Development Mortgages Canada Inc. ("BDMC") mortgages in respect of 8 Lindsay;
  - b. BDMC has mortgages in the aggregate approximate amount of \$14,000,000 over all of the Real Property. The Proposal Trustee believes that BDMC's mortgages are subordinate to the JYR mortgage, subject to the potential issue identified in paragraph 4(a) above.
5. Writs in the amount of \$703,649 have been issued against the 2301 Properties (the "Writs"). The Proposal Trustee believes that the Writs are subordinate to all mortgages on the Real Property pursuant to the provisions of the BIA.
6. The Proposal Trustee's counsel, Bennett Jones, is considering the priority of each of the mortgagees' security. The priority discussion in the preceding paragraphs is summarized in the table below. The table is being provided **for information purposes only** and remains subject to change based on Bennett Jones' review.

Rank	13764 Hwy 7	8 Lindsay	13758 Hwy 7	10 Lindsay	Dayfoot
1	HMIC	2413	Home Trust	Stasis	HMIC
2	JYR	JYR	JYR	JYR	JYR
3	BDMC	BDMC	BDMC	BDMC	BDMC
4	Writs	Writs	-	-	-

<sup>3</sup> All of the mortgages continue to accrue interest and costs.



7. The Proposal Trustee, Bennett Jones and/or the Companies' counsel, DLA, have been in contact with representatives of each of the mortgagees and/or their legal counsel concerning these proceedings and the intended SISP.

#### 4.0 Assembly Development Issues

1. For the value of the Owned Assembly Properties to be maximized, they must be sold as one development site, meaning the Purchase Option has to be included in the SISP. The Purchase Option is the lynchpin to maximizing value.
2. 2491 has agreed to include the Purchase Option in the SISP to facilitate a sale of the Assembly. Mr. Tilley has personally guaranteed the Stasis mortgage on 10 Lindsay and has a business relationship with Stasis. Mr. Tilley has also personally guaranteed the Home Trust mortgage loan against 13759 Hwy 7. As a result of these financial exposures, Mr. Tilley, as the shareholder of 2491, is prepared to cause 2491 to assign the Purchase Option to the Successful Bidder for the Real Property in the SISP.
3. The Proposal Trustee retained Colliers International Valuation & Advisory Services ("Colliers") to prepare two appraisals, both of which have been prepared on an "as is" basis (the "Appraisals"). One appraisal assumes that each of the Owned Assembly Properties is sold separately, while the other assumes an *en bloc* sale of the Assembly (i.e. the four Owned Assembly Properties and the Purchase Option Property). As of the date of this Report, the final Appraisals have not been provided to the Proposal Trustee. They are expected imminently. Confidential Appendix "1" includes a discussion of the values of the Appraisals as communicated to the Proposal Trustee by Colliers. The Proposal Trustee intends to file the Appraisals with the Court on a sealed basis at the SISP approval motion.
4. The Proposal Trustee believes that it is appropriate that Confidential Appendix "1" be sealed until completion of the SISP or further order of this Court as it contains confidential information which, if made publicly available, could impair the conduct of the SISP.
5. The Appraisals reflect that the value of the Assembly, if sold *en bloc*, substantially exceeds the value of each of the individual Owned Assembly Properties if sold separately. To avoid sales of the individual properties, the Purchase Option will be included in the SISP.
6. Under the terms of the approved Assembly development, access to the Assembly is restricted to Lindsay Court. Access is not permitted from Highway 7. This further reinforces that for the development to proceed and for value to be maximized, the Assembly has to be sold *en bloc* as one development.

## 5.0 Cash Flow Forecast

1. Pursuant to the provisions of the BIA, the Companies are required to prepare a cash flow forecast. The main assets of the Companies are raw land. The only receipts projected by the Companies during the period September 17, 2018 to November 11, 2018 (the "Period") are rent. The only disbursements projected by the Companies during the Period are management fees. The Cash Flow Forecasts of each of the Companies, together with Management's Reports on the Cash-Flow Statements as required by Section 50.4(2)(c) of the BIA, are provided in Appendix "B".
2. Based on the Proposal Trustee's review of the Cash Flow Forecasts, there are no material assumptions which seem unreasonable in these circumstances. The Proposal Trustee's Reports on the Cash Flow Statements for each for the Companies as required by Section 50.4(2)(b) of the BIA are attached as Appendix "C".

## 6.0 Companies' Request for an Extension

1. The Companies are seeking an extension of the time to file a proposal with the Official Receiver from September 23, 2018 to November 7, 2018.
2. The Proposal Trustee supports the Companies' request for the following reasons:
  - a) the Companies are acting in good faith and with due diligence;
  - b) the Companies would likely be able to make a viable proposal if the extension is granted;
  - c) no creditor would be materially prejudiced if the extension is granted;
  - d) it is possible that in a bankruptcy, each mortgagee would sell the properties subject to its mortgage. A sale of any of less than the entire Assembly to a single buyer provides disproportionate leverage to that buyer vis-à-vis the remaining mortgagees;
  - e) it will allow the Proposal Trustee and the Companies to conduct the SISF, which is in the interest of maximizing value for stakeholders; and
  - f) as at the date of this Report, the Proposal Trustee is not aware of any party opposed to an extension.

## 7.0 Administration Charge

1. The Companies are seeking an Administration Charge in the amount of \$450,000 in respect of the fees and disbursements of the Proposal Trustee, the Proposal Trustee's legal counsel and the Companies' legal counsel. An Administration Charge is a common feature in restructuring proceedings. The Proposal Trustee is of the view that the Administration Charge is appropriate in this case because the Companies' main asset, raw land, has no liquidity. The professionals have agreed to be paid out of the sale proceeds, subject to the granting of the Administration Charge. The professionals covered by the Administration Charge require the benefit of the Administration Charge to secure payment of their fees and expenses.
2. Absent further order from the Court, the Administration Charge is to rank ahead of the mortgage held by Stasis but behind the other First Mortgages. Stasis has consented to the priority of the Administration Charge on its property.
3. Absent approval of the Administration Charge, the professionals involved in these proceedings have no guarantee of payment and are unlikely to continue to act, which would likely cause these proceedings to come to an end.

## 8.0 Administrative Consolidation

1. The Companies are seeking an order to consolidate the administration of Companies' NOI proceedings into one estate.
2. Each of the Companies would remain separate for the purpose of a claims process, filing a proposal or making distributions to creditors.
3. The Companies and the Proposal Trustee believe that administratively consolidating the proceedings is appropriate as:
  - a) HMIC, JYR and Fortress are secured creditors of both Companies;
  - b) the Stalking Horse APS (which is still being finalized) contemplates a transaction for the Real Property, which is owned by both Companies;
  - c) it will facilitate the orderly administration of these proceedings;
  - d) the Companies have common management; and
  - e) it will reduce costs, including by filing materials in one proceeding only.

## 9.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (1)(h) of this Report.

\* \* \*

All of which is respectfully submitted,



**KSV KOFMAN INC.  
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE  
NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
2301132 ONTARIO INC. AND 2309840 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

## Appendix “A”



August 10<sup>th</sup>, 2018

2301132 Ontario Inc. &  
2309840 Ontario Inc.  
11025 Lake Ridge Rd.  
Port Perry, ON  
L9L 1V7

Attention: Brian Tilley

**SUBJECT: 8, 10 & 12 Lindsay Court and 13758 & 13764 Highway 7 -  
Development Concept Plan**

---

We are pleased to provide you with this planning opinion letter in regards to the lands located on Highway 7 & Lindsay Court in Georgetown, Ontario. Our review is based upon the Development Concept Plan prepared by Glen Schnarr & Associates Inc. in the context of the current in force Official Plan and Zoning By-laws for the Town of Halton Hills. Further we have reviewed the OMB Decision dated April 8<sup>th</sup>, 2016 which now guides the development of the subject properties. Our review is summarized as follows:

- The subject property is comprised of 5 individual properties known as 8, 10 & 12 Lindsay Court and 13758 & 13764 Highway 7.
- As per an OMB Decision dated April 8<sup>th</sup>, 2016 the subject property can be developed for 109 residential units comprised of 65 street townhouses, 26 rear lane townhouses and 18 back to back townhouses.
- The OMB Decision specifically stipulates that the development is supported by the Town of Halton Hills and the Region of Halton and that their support is contingent on all 5 properties being developed as a single comprehensive development.
- The OMB approval includes a site-specific Official Plan Amendment (OPA) and a site-specific Zoning By-law Amendment (ZBA) that would facilitate development of the 109 units.

- The OPA and ZBA contain holding provisions that requires the approval of a Comprehensive Development Plan (CDP) that will illustrate various elements across the entire subject property including:
  - The appropriate phasing of the entire development;
  - Proposed built form of the townhouse blocks and their location;
  - Proposed location of vehicular accesses, parking and driveways;
  - Location of parks/parkettes; and
  - Proposed streetscape and potential pedestrian accesses.
  
- A holding provision in the ZBA specifies that Site Plan Approval requires the implementation of a single comprehensive Site Plan and Site Plan Agreement consistent with that singular plan.
  
- As constructed the now approved planning instruments preclude any development on the subject property unless a single Comprehensive Development Plan and a Single Site Plan are approved by the Town and Region for all 5 properties within the subject property inclusively.

In conclusion, the OMB approval puts in place amendments to the Town of Halton Hills Official Plan and Zoning By-law that require all 5 properties be developed as a single unit. Holding provisions are in place to preclude any properties being developed independent of each other. Should you have any questions or require clarification please do not hesitate to contact myself at 416-484-0043 extension 1 or [dave@somervillecc.ca](mailto:dave@somervillecc.ca).

Sincerely,

**SOMERVILLE**  
**Consulting & Project Management**



**David MacLeod**  
Partner

## Appendix “B”



2301132 Ontario Inc  
**Projected Statement of Cash Flow**  
 For the period September 17 2018 to November 11, 2018  
 (CS, unaudited)

	Note	Week Ending							Total	
		23-Sep-18	30-Sep-18	07-Oct-18	14-Oct-18	21-Oct-18	28-Oct-18	04-Nov-18		11-Nov-18
	1									
<b>Total Receipts</b>	2	-		3,200	-	-	-	3,200	-	6,400
<b>Disbursements</b>										
Management fees	3	-	-	3,200	-	-	-	3,200	-	6,400
Mortgage payments	4	-	-	-	-	-	-	-	-	-
Property taxes	5	-	-	-	-	-	-	-	-	-
Insurance	6	-	-	-	-	-	-	-	-	-
Contingency		-	-	-	-	-	-	-	-	-
<b>Total Operating Disbursements</b>		-	-	3,200	-	-	-	3,200	-	6,400
<b>Net Cash Flow before the Undemoted</b>		-	-	-	-	-	-	-	-	-
Professional fees	7	-	-	-	-	-	-	-	-	-
<b>Net Cash Flow</b>		-	-	-	-	-	-	-	-	-
Opening Cash Balance	8	1,163	1,163	1,163	1,163	1,163	1,163	1,163	1,163	1,163
Closing Cash Balance		1,163	1,163	1,163	1,163	1,163	1,163	1,163	1,163	1,163

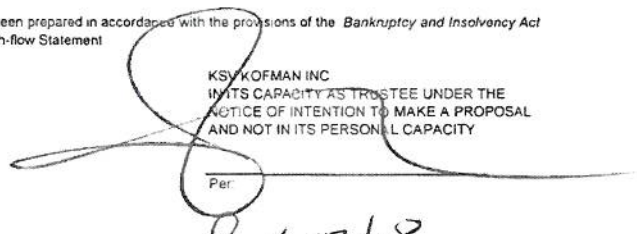
The above financial projections are based on management's assumptions detailed in Appendix "1-1"  
 The note references correspond to the assumption numbers shown in Appendix "1-1"

The statement of projected cash-flow of 2301132 Ontario Inc. has been prepared in accordance with the provisions of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report on Cash-flow Statement

2301132 ONTARIO INC

  
 Per: \_\_\_\_\_

Sept 13, 18  
 Date \_\_\_\_\_

  
 KSV KOFMAN INC  
 IN ITS CAPACITY AS TRUSTEE UNDER THE  
 NOTICE OF INTENTION TO MAKE A PROPOSAL  
 AND NOT IN ITS PERSONAL CAPACITY  
 Per: \_\_\_\_\_  
 Sept. 13/18  
 Date \_\_\_\_\_

2301132 Ontario Inc.

**Notes to Projected Statement of Cash Flow**

For the period September 17, 2018 to November 11, 2018  
(C\$; unaudited)

---

**Purpose and General Assumptions**

1. The purpose of the projection is to present a forecast of the cash-flow of 2301132 Ontario Inc. (the "Company") for the period September 17, 2018 to November 11, 2018 ("Period") in respect of its proposal proceedings under the Bankruptcy and Insolvency Act.

The projected cash flow statement has been prepared based on hypothetical and most probable assumptions developed and prepared by the Company.

**Hypothetical Assumptions**

2. Represents monthly rent collections from three tenants of the Company's real properties (the "Properties").
3. Represents monthly management fee payments payable to 2491324 Ontario Inc.

**Most Probable Assumptions**

4. The cash-flow assumes that principal and interest on all secured obligations will accrue and not be paid by the Company during the NOI proceedings. To the extent not paid, these amounts will be added to the respective indebtedness of the secured creditors and will be addressed upon the sale of the Properties or in accordance with a proposal to creditors to be filed by the Company (the "Proposal").
5. Property taxes will be settled as an adjustment when the Properties are sold or as part of the Proposal.
6. Insurance is paid to Intact Insurance in three installments per year and was most recently remitted on August 10, 2018. No insurance payments are due during the Period.
7. Professional fees will accrue through the Period and are to be paid from proceeds of the sale of the Properties or as part of the Proposal.
8. Represents the estimated opening cash balance in the Company's bank account as at September 17, 2018.

**Report on Cash Flow Statement by the Person Making the Proposal  
(Paragraphs 50(6)(c) and 50.4(2)(c) of the BIA)**

The management of 2301132 Ontario Inc. (the "Company") has developed the assumptions and prepared the attached statement of projected cash flow of the Company for the period ending November 11, 2018.


The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in Note 1, and the probable assumptions are suitably supported and consistent with the plans of the Company and provide a reasonable basis for the projection. All such assumptions are disclosed in Notes 1 to 8.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note 1, using a set of hypothetical and probable assumptions set out in Notes 2 to 8. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, Ontario, this 13<sup>th</sup> day of September, 2018.

2301132 Ontario Inc.

  
A handwritten signature in black ink, appearing to be 'R. G. W.', is written over a horizontal line.

Per:

2309840 Ontario Inc  
**Projected Statement of Cash Flow**  
 For the period September 17, 2018 to November 11, 2018  
 (CS, unaudited)

Note	Week Ending							Total		
	23-Sep-18	30-Sep-18	07-Oct-18	14-Oct-18	21-Oct-18	28-Oct-18	04-Nov-18		11-Nov-18	
1										
<b>Total Receipts</b>	2	-	-	3,300	-	-	-	3,300	-	6,600
<b>Disbursements</b>										
Management fees	3	-	-	3,300	-	-	-	3,300	-	6,600
Mortgage payments	4	-	-	-	-	-	-	-	-	-
Property taxes	5	-	-	-	-	-	-	-	-	-
Insurance	6	-	-	-	-	-	-	-	-	-
Contingency										
<b>Total Operating Disbursements</b>		-	-	3,300	-	-	-	3,300	-	6,600
<b>Net Cash Flow before the Undenoted</b>		-	-	-	-	-	-	-	-	-
Professional fees	7	-	-	-	-	-	-	-	-	-
<b>Net Cash Flow</b>		-	-	-	-	-	-	-	-	-
Opening Cash Balance	8	-	-	-	-	-	-	-	-	-
Closing Cash Balance		-	-	-	-	-	-	-	-	-

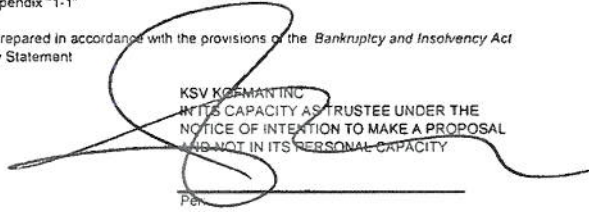
The above financial projections are based on management's assumptions detailed in Appendix "1-1"  
 The note references correspond to the assumption numbers shown in Appendix "1-1"

The statement of projected cash-flow of 2309840 Ontario Inc has been prepared in accordance with the provisions of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report on Cash-flow Statement

2309840 ONTARIO INC

  
 Per: \_\_\_\_\_

Sept 13, 2018  
 Date \_\_\_\_\_

  
 KSV KOEPMAN INC  
 IN ITS CAPACITY AS TRUSTEE UNDER THE  
 NOTICE OF INTENTION TO MAKE A PROPOSAL  
 DID NOT IN ITS PERSONAL CAPACITY  
 Per: \_\_\_\_\_

Sept. 13/18  
 Date \_\_\_\_\_

2309840 Ontario Inc.

**Notes to Projected Statement of Cash Flow**

For the period September 17, 2018 to November 11, 2018

(C\$; unaudited)

---

**Purpose and General Assumptions**

1. The purpose of the projection is to present a forecast of the cash-flow of 2309840 Ontario Inc. (the "Company") for the period September 17, 2018 to November 11, 2018 ("Period") in respect of its proposal proceedings under the Bankruptcy and Insolvency Act.

The projected cash flow statement has been prepared based on hypothetical and most probable assumptions developed and prepared by the Company.

**Hypothetical Assumptions**

2. Represents monthly rent collections from three tenants of the Company's real properties (the "Properties).
3. Represents monthly management fee payments payable to 2491324 Ontario Inc.

**Most Probable Assumptions**

4. The cash-flow assumes that principal and interest on all secured obligations will accrue and not be paid by the Company during the NOI proceedings. To the extent not paid, these amounts will be added to the respective indebtedness of the secured creditors and will be addressed upon the sale of the Properties or in accordance with a proposal to creditors to be filed by the Company (the "Proposal").
5. Property taxes will be settled as an adjustment when the Properties are sold or as part of the Proposal.
6. Insurance is paid to Intact Insurance in three installments per year and was most recently remitted on August 10, 2018. No insurance payments are due during the Period.
7. Professional fees will accrue through the Period and are to be paid from proceeds of the sale of the Properties or as part of the Proposal.
8. Represents the estimated opening cash balance in the Company's bank account as at September 17, 2018.

**Report on Cash Flow Statement by the Person Making the Proposal  
(Paragraphs 50(6)(c) and 50.4(2)(c) of the BIA)**

The management of 2309840 Ontario Inc. (the "Company") has developed the assumptions and prepared the attached statement of projected cash flow of the Company for the period ending November 11, 2018.

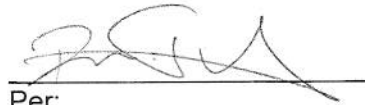
The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in Note 1, and the probable assumptions are suitably supported and consistent with the plans of the Company and provide a reasonable basis for the projection. All such assumptions are disclosed in Notes 1 to 8.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note 1, using a set of hypothetical and probable assumptions set out in Notes 2 to 8. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, Ontario, this 13<sup>th</sup> day of September, 2018.

2309840 Ontario Inc.

  
Per: \_\_\_\_\_

## Appendix “C”

**Trustee's Report on Cash-flow Statement  
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)**

The attached statement of projected cash-flow of 2301132 Ontario Inc., as of the 13<sup>th</sup> day of September, 2018, consisting of a weekly cash flow statement for the period September 17<sup>th</sup>, 2018 to November 11<sup>th</sup>, 2018, has been prepared by the management of the insolvent person for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Notes 2-8.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated this 13<sup>th</sup> day of September, 2018.

KSV KOFMAN INC.  
TRUSTEE

Per: Robert Kofman



**Trustee's Report on Cash-flow Statement  
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)**

The attached statement of projected cash-flow of 2309840 Ontario Inc., as of the 13<sup>th</sup> day of September, 2018, consisting of a weekly cash flow statement for the period September 17<sup>th</sup>, 2018 to November 11<sup>th</sup>, 2018, has been prepared by the management of the insolvent person for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Notes 2-8.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated this 13<sup>th</sup> day of September, 2018.

KSV KOFMAN INC.  
TRUSTEE

Per: Robert Kofman

**CONFIDENTIAL**  
**APPENDIX “1”**

**(FILED UNDER SEAL)**

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2301132 ONTARIO INC.  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2309840 ONTARIO INC.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

PROCEEDINGS COMMENCED AT TORONTO

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**FIRST REPORT OF KSV KOFMAN INC. AS PROPOSAL**  
**TRUSTEE OF 2301132 ONTARIO INC. and 2309840**  
**ONTARIO INC.**

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**BENNETT JONES LLP**  
1 First Canadian Place, Suite 3400  
100 King Street West  
Toronto, ON M5X 1A4

**Sean Zweig (LSUC No. 573071D)**  
Tel.: 416.777.6254  
Fax: 416.863.1716  
Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

**Lawyers for the Proposal Trustee**

# TAB 3

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

THE HONOURABLE ) THURSDAY, THE 20<sup>th</sup> DAY OF  
JUSTICE ) SEPTEMBER, 2018

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF 2301132 ONTARIO INC., OF THE CITY OF PORT  
PERRY, IN THE PROVINCE OF ONTARIO

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF 2309840 ONTARIO INC., OF THE CITY OF PORT  
PERRY, IN THE PROVINCE OF ONTARIO

**ORDER**

**THIS MOTION**, made by 2301132 Ontario Inc. (“**2301132**”) and 2309840 Ontario Inc. (“**2309840**”, and together with 2301132, the “**Companies**”), pursuant to Sections 50.4(9) and 64.2(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), for an order, *inter alia*, extending the time for filing a proposal with the Official Receiver until November 8, 2018, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Companies, the first report of KSV Kofman Inc., in its capacity as proposal trustee of each of the Companies (the “**Proposal Trustee**”), dated September 13, 2018 (the “**First Report**”) and the appendices thereto, and on hearing the submissions of counsel for the Companies, counsel for the Proposal Trustee, and those other parties listed on the counsel slip, no one else appearing for any other person although duly served as appears from the Affidavit of Service of ♦ sworn September ♦, 2018, filed.

## **SERVICE**

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

## **ADMINISTRATIVE CONSOLIDATION**

2. **THIS COURT ORDERS** that the proposal proceedings of each of 2309840 (Estate File No. 31-2313442) and 2301132 (Estate File No. 31-2313445) (together, the “**Proposal Proceedings**”) are hereby administratively consolidated and the Proposal Proceedings are hereby authorized and directed to continue under the following joint title of proceedings:

**Court File No. 31-2413442  
Estate File No. 31-2413442**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT, R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF 2301132 ONTARIO INC. AND 2309840  
ONTARIO INC., OF THE CITY OF PORT PERRY, IN THE  
PROVINCE OF ONTARIO**

3. **THIS COURT ORDERS** that all further materials in the Proposal Proceedings shall be filed with the Commercial List Office only in the 2309840 court and estate file, under Court File No. 31-2413442 and Estate File No. 31-2413442.

## **SERVICE AND NOTICE**

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

documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <◆>.

#### **EXTENSION OF TIME TO FILE PROPOSAL**

5. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the time for the Companies to file a proposal with the Official Receiver be and is hereby extended to November 7, 2018.

#### **ACTIVITIES OF THE PROPOSAL TRUSTEE**

6. **THIS COURT ORDERS** that the actions and activities of the Proposal Trustee, as described in the First Report, be and are hereby approved.

#### **ADMINISTRATIVE CHARGE**

7. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Companies shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the current and future assets, undertakings and properties of each of the Companies of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), which charge shall not exceed the amount of \$450,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Proposal Trustee and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 8 and 9 hereof.

8. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

9. **THIS COURT ORDERS** that the Administrative Charge shall rank subordinate to the real property mortgages granted by the Companies to and registered in favour of Home Trust

Company (Instrument No. HR923507), 2413349 Ontario Inc. and Derek Martin (Instrument No. HR985367) and Harbouredge Mortgage Investment Corporation (Instrument No. HR1071229) (the “**Priority Charges**”). With the exception of the Priority Charges, the Administrative Charge shall rank in priority as against all other valid perfected security interests, trusts, liens, charges and encumbrances, including the real property mortgage granted by 2301132 in favour of Stasis Group Inc. and 2561388 Ontario Inc. (Instrument No. HR1384990), claims of secured creditors, statutory or otherwise, granted by each of the Companies or to which each of the Companies is subject (together, the “**Encumbrances**”) as of the date of this Order.

10. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by further order of this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge.

11. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (together, the “**Agreements**”) which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Companies of any Agreement to which either of them is a party;



- (b) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and
- (c) the payments made by the Companies pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

12. **THIS COURT ORDERS** that the Administration Charge created by this Order over leases of real property in Canada shall only be an Administration Charge in the Companies' interest in such real property leases.

#### **SEALING**

13. **THIS COURT ORDERS** that the correspondence between Colliers International Valuation & Advisory Services and the Proposal Trustee, attached as Confidential Appendix "1" to the First Report, is hereby sealed and shall not form part of the public record pending further Order of this Court.

#### **GENERAL**

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, to give effect to this Order and to assist the Companies, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Companies and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Companies and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

15. **THIS COURT ORDERS** that each of the Companies and the Proposal Trustee shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or

administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that nothing in this Order shall prevent the Proposal Trustee from acting as *Companies' Creditors Arrangement Act* monitor, interim receiver, receiver, receiver and manager or trustee in bankruptcy of the Companies or any corporations related thereto.

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IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2301132 ONTARIO INC.  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2309840 ONTARIO INC.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

PROCEEDINGS COMMENCED AT TORONTO

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**ORDER**

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IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED  
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2301132 ONTARIO INC.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

PROCEEDINGS COMMENCED AT TORONTO

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**MOTION RECORD**  
(returnable September 20, 2018)

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