



ESTATE FILE NO.: 31-2749576

**IN THE MATTER OF THE BANKRUPTCY OF
CLAIREVILLE PROPERTY HOLDINGS INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**TRUSTEE'S REPORT TO CREDITORS ON
PRELIMINARY ADMINISTRATION**

1.0 Introduction

1. On July 2, 2021 (the "Filing Date"), Claireville Property Holdings Inc. (the "Company") filed a Notice of Intention to Make a Proposal pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3*, as amended (the "BIA") (the "NOI Proceedings"). KSV Restructuring Inc. ("KSV") was appointed as the proposal trustee (in such capacity, the "Proposal Trustee") in the NOI Proceedings. Pursuant to orders of the Ontario Superior Court of Justice (Commercial List) (the "Court"), including most recently a Court order issued on October 27, 2021, the deadline to file a proposal under the BIA was extended to December 14, 2021.
2. As a result of a proposal not having been filed on or prior to December 14, 2021, on December 15, 2021, the Company was deemed to have filed an assignment in bankruptcy. KSV is the Licensed Insolvency Trustee (in such capacity, the "Trustee") of the Company's bankrupt estate, subject to affirmation at the First Meeting of Creditors to be convened on January 5, 2022.
3. Pursuant to a Court order made on December 14, 2021 (the "Receivership Order"), KSV was also appointed Receiver and Manager (in such capacity, the "Receiver") of the Company's property, assets and undertaking (the "Property"). The receivership application was brought by Cannect Mortgage Investment Corporation ("Cannect"), in its capacity as the Company's debtor-in-possession ("DIP") lender (the "DIP Lender") in the NOI Proceedings.

1.1 Currency

1. All currency references in this report ("Report") are to Canadian dollars unless otherwise noted.

1.2 Restrictions

1. The Trustee has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied upon in this Report in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information presented in this Report should perform its own diligence.
2. The Trustee accepts no responsibility for any reliance placed by any third party on the Company’s financial information presented herein, nor for any information concerning potential recoveries.

2.0 Background

2.1 Corporate Overview

1. The Company is privately owned and was incorporated under the Business Corporations Act (Ontario) in 2015. To the best of the Trustee’s knowledge, the sole registered director and officer of the Company at the time of its bankruptcy was Mark Gross.
2. Mark Gross and Sheldon Gross were also the sole registered directors and officers of Gross Capital Inc. (“GCI”), which is the Company’s parent. On June 25, 2021, GCI filed an assignment in bankruptcy and KSV was appointed Licensed Insolvency Trustee (in such capacity, the “GCI Trustee”) of GCI’s bankrupt estate, which appointment was affirmed at GCI’s first meeting of creditors on July 15, 2021. GCI also owns several other real estate holding companies, certain of which are subject to separate Court supervised receivership proceedings.

2.2 Assets

1. The Company’s principal asset is its leasehold interest (the “Leasehold Interest”) in 13 dual tenant industrial buildings municipally addressed as 18/20/22/24/26 Huddersfield Road, 350/354/358 Humberline Drive and 93/101/123/130/160 Claireville Drive (collectively, the “Real Property”).
2. The Company is the registered owner of the Leasehold Interest on behalf of 21 co-tenants (collectively, the “Co-Tenants”). GCI is one of the Co-Tenants pursuant to its 7.3% beneficial interest in Claireville Properties Co-Tenancy (the “Co-Tenancy”).
3. The Leasehold Interest is subject to a 99-year ground lease with Kornwood Investments Ltd. dated September 1, 1973 (the “Ground Lease”), which expires on August 31, 2072. Rent under the Ground Lease is based on 9% of the fair market value of the Real Property. The fair market value and the corresponding lease payments reset periodically in accordance with the terms of the Ground Lease. The next reset date for rent under the Ground Lease is September 1, 2023.

4. As at the date of this Report, the Company's material assets comprising the Property are: (i) cash in the Receiver's account of approximately \$844,000 as at January 4, 2022; and (ii) the Leasehold Interest, which is subject to several super-priority Court-ordered charges in favour of the Receiver and Connect (as discussed below).

2.3 Investigation

1. KSV, in its capacity as GCI Trustee, is currently conducting an investigation into the assets and pre-bankruptcy operations of GCI and several of its subsidiaries and related parties (collectively, the "Gross Group") (the "Investigation"). The Investigation was commenced due to, *inter alia*, accusations made by investors of misappropriation of investor funds by Mark and Sheldon Gross and/or entities controlled by Mark and Sheldon Gross. In respect of these allegations, on or around June 29, 2021, certain stakeholders of the Gross Group (the "Applicants") commenced a Court application (the "Application") naming Mark Gross and other parties as respondents. The Application was originally returnable in Court on July 5, 2021 and sought various branches of relief against the respondents and in respect of the respondents' properties and businesses, including the appointment of an investigative receiver. The Application was opposed by Mark Gross and several other respondents. In accordance with the Endorsement dated October 12, 2021 of the Honourable Mr. Justice Pattillo, the Application, as amended, was adjourned to a date to be set, and an interim motion was heard on October 12, 2021 by the Honourable Mr. Justice Cavanagh.
2. The substance of the hearing on October 12, 2021 was for leave for the Applicants to issue and register a Certificate of Pending Litigation ("CPL") on title to two properties in which GCI formerly had an interest, being 511 and 515 John Street, in Burlington, Ontario (jointly, the "John Street Properties"). The GCI Trustee supported the Applicants' interim motion. On December 22, 2021, the interim motion was granted by the Court and the Trustee understands that the Applicants have registered, or are in the process of registering, the CPLs on title to the John Street Properties.
3. A portion of the Investigation is focused on the Company. The Company had historically been profitable - it most recently generated annual income of over \$1 million in 2018 and 2019; however, notwithstanding the recurring income stream, the Company was insolvent on the Filing Date.
4. Historically, funds generated by the Leasehold Interest were advanced by the Company to other entities in the Gross Group which contributed to the Company's insolvency. In this regard, the Co-Tenancy's financial statements as at December 31, 2020 reflect an intercompany receivable owing from GCI of approximately \$3.3 million.
5. The Investigation is ongoing. The GCI Trustee has been, and intends to continue, reporting periodically to the inspectors of GCI's estate in connection with the Investigation.

2.4 Receivership Proceedings

1. The principal purpose of the receivership proceedings is to realize upon the Leasehold Interest, which realization efforts were commenced by the Proposal Trustee with the assistance of CB Richard Ellis Limited (“CBRE”) pursuant to the terms of the Court approved sale and investment solicitation process (“SISP”). The SISP was approved pursuant to a Court order issued on July 28, 2021 in the NOI Proceedings.
2. Immediately prior to the date of bankruptcy, the Proposal Trustee was pursuing a potential transaction for the Leasehold Interest with an arm’s length party identified under the SISP (the “Potential Purchaser”) pursuant to a conditional Agreement of Purchase and Sale dated December 2, 2021 between the Proposal Trustee and the Potential Purchaser (the “APS”). The APS is conditional on the Potential Purchaser’s due diligence and Court approval, and provides for an ability to assign the APS to the Receiver. This preserves the ability to seek Court approval for the APS in the receivership should the Prospective Purchaser satisfy or waive its due diligence condition (which has not yet occurred).

3.0 Creditors

1. Cannect is the Company’s principal secured creditor and applicant in the Company’s receivership proceedings. Cannect was the DIP Lender under a Court-approved DIP loan facility (the “DIP Facility”) in the principal amount of \$4.5 million and was granted a charge on the Property for advances under the DIP Facility. As at the date of the Receivership Order, Cannect’s advances remain approximately \$4.5 million (plus interest and costs which continue to accrue).
2. As is customary, the Court also granted: (a) an administration charge in favour of the Proposal Trustee, the Proposal Trustee’s counsel and the Debtor’s counsel in the NOI Proceedings (which administration charge remains in force and effect pursuant to the terms of the Receivership Order), in an amount of up to \$250,000; and (b) charges in favour of the Receiver, the Receiver’s counsel and the Receiver’s borrowings (if any) in the receivership proceedings.
3. The Company’s other secured creditors include companies with registered security interests in certain of the Company’s leased equipment.
4. According to the Company’s books and records, creditor obligations total approximately \$5.2 million, including amounts owing to Cannect under the DIP Facility.

3.1 Property of the Bankrupt Not Divisible Amongst Creditors

1. At this time, the Trustee is not aware of any Property that would not be divisible among the Company's creditors by virtue of Section 67(1) of the BIA or otherwise.

4.0 Books and Records

1. The Trustee has worked with the Company's property manager to access the Company's books and records to administer these bankruptcy proceedings.

5.0 Preferences and Transfers at Undervalue

1. As part of the Investigation, the GCI Trustee is already conducting a review for potential preferences and transfers at undervalue, both at the "parent" GCI level and at certain subsidiary levels. The Trustee intends to report the relevant findings to the estate inspectors of the Company (once appointed at the first meeting of creditors) (the "Inspectors"), and to consult with and seek instruction from the Inspectors in regards to other related matters, including, without limitation, the Investigation and its implications on the Company and these bankruptcy proceedings.
2. As KSV acted as Proposal Trustee in the NOI Proceedings, it has been reviewing the Company's disbursements/transactions since the Filing Date of July 2, 2021. Moreover, on July 28, 2021, the Court expanded the powers of the Proposal Trustee to oversee the Company's operations, including controlling receipts and disbursements. Based on the foregoing, the Trustee is not aware of any preferences or transfers at undervalue between the date of the initial bankruptcy event (July 2, 2021) and the date of bankruptcy (December 15, 2021). The disbursements made during this period that were disclosed to the Proposal Trustee (and, as of July 28, 2021, approved by the Proposal Trustee) were necessary to continue the Company's operations in the normal course.
3. The Trustee will advise the Inspectors should it become aware of any transaction(s) requiring further investigation.

6.0 Anticipated Realization and Projected Distribution

1. The outcome of the Leasehold Interest's realization will determine creditor recoveries. Creditors can monitor the status of these realization efforts by following the Court materials which are made available as filed on the Trustee's website at <https://www.ksvadvisory.com/experience/case/claireville-property-holdings-inc>. It is not presently known whether there will be any distributions available to unsecured creditors from the realization of the Property.

7.0 Other Matters

1. Pursuant to a Third-Party Guarantee Agreement dated January 3, 2022 between the Receiver and the Trustee, the Receiver has provided a guarantee of the fees and disbursements of the Trustee related to the administration of these bankruptcy proceedings, including those of its legal counsel.
2. There are no other matters to discuss at this time.

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DATED at Toronto, Ontario, this 4th day of January, 2022.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS LICENSED INSOLVENCY TRUSTEE OF
CLAIREVILLE PROPERTY HOLDINGS INC.
AND NOT IN ITS PERSONAL CAPACITY**