

Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents or their associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any of the Respondents, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Trustee for the purpose of allowing the Trustee to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that the Trustee shall provide each of the relevant landlords with notice of the Trustee's intention to remove any fixtures from any leased premises at least

seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Trustee's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Trustee, or by further Order of this Court upon application by the Trustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE TRUSTEE

9. **THIS COURT ORDERS** that, with the exception of each of the NOP (as defined in the Supporting Affidavit), the Suspension Order (as defined in the Supporting Affidavit) and the Compliance Order (as defined in the Supporting Affidavit), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order: (i) no Proceeding against or in respect of the Respondents, or any of them, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of the Respondents, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order, all rights and remedies against each of the Respondents, the Trustee, or affecting the Property, are hereby stayed and suspended except with the written consent of the Trustee or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or

the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE TRUSTEE

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Respondents, without written consent of the Trustee or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondents, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Respondents are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Trustee, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Respondents, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario*

Water Resources Act, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE TRUSTEE'S LIABILITY

18. **THIS COURT ORDERS** that the Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE'S ACCOUNTS

19. **THIS COURT ORDERS** that the Trustee and counsel to the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges, and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the "**Trustee's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Trustee's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Trustee and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Trustee and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Trustee shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its

fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

22. **THIS COURT ORDERS** that the Trustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Trustee by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Trustee's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Trustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the Trustee is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Trustee's Certificates**") for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Trustee pursuant to this Order or any further order of this Court and any and all Trustee's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Trustee's Certificates.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, the service

of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.grantthornton.ca/tier1>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **THIS COURT ORDERS** that the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Trustee from acting as a trustee in bankruptcy of any of the Respondents.

30. **THIS COURT ORDERS** that Confidential Exhibit "A" and Confidential Exhibit "B" to the Supporting Affidavit be and are hereby sealed until further Order of this Court.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of

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


32. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice, or such shorter period of time as the Court may permit, to the Trustee and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

OCT 27 2016

PER / PAR: 

SCHEDULE "A"

TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Grant Thornton Limited., the Trustee (in such capacities, the "Trustee") of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), including all of the assets held in trust by the Respondents on behalf of syndicated mortgage investors (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 27th day of October, 2016 (the "**Order**") made in an action having Court file number CV-16-11567-00CL, has received as such Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Trustee is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Trustee to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Trustee does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2016.

GRANT THORNTON LIMITED, solely in its capacity as Trustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Jonathan Krieger

Title: Senior Vice President

THE SUPERINTENDENT OF FINANCIAL SERVICES

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET)
TRUSTEE CORPORATION, ET AL.

- and -

Applicant

Respondents

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPOINTMENT ORDER

THE SUPERINTENDENT OF FINANCIAL SERVICES

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Daniel Di Fonzo
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*Lawyers for the Applicant, The Superintendent of
Financial Services*

Applicant

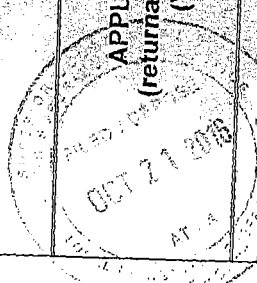
Respondents

Court File No. CV-16-11567-00CL

October 27, 2016

In my view, the appropriate relief is that
Pharmacia Trustee is the
appropriate relief to protect the
interests of the investors. Order \$ do.
Ex AOB Applicant of general & 2 sealed.
DRAFT

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto



APPLICATION RECORD
(returnable October 27, 2016)
(Volume 1 of 3)

THE SUPERINTENDENT OF FINANCIAL SERVICES
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Lawyers for the Applicant, The Superintendent of
Financial Services



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION**

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
THE HONOURABLE JUSTICE NEWBOULD
DATED OCTOBER 27, 2016**

October 27, 2016

In my view, the appointment of Grant Thornton as Trustee is the appropriate relief to protect the interests of the investors. Order to go. Ex A & B to affidavit of applicant to be sealed.

Newbould, J.

TAB 2

Div. Ct. File No. 535/16
Court File No. CV-16-11567-00CL

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

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947 ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O.
2006, c. 29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT, R.S.O. 1990 c.*
C.43**

FIRST REPORT OF THE TRUSTEE

NOVEMBER 10, 2016

Grant Thornton Limited
200 King Street, 11th Floor
Toronto, Ontario
M5H 3T4

TABLE OF CONTENTS

INTRODUCTION..... 3
PURPOSE AND DISCLAIMER..... 6
CONCERNS RAISED BY THE MOVING PARTIES 7
TRUSTEE’S REQUESTS FOR INFORMATION 8
INVESTOR CORRESPONDENCE..... 14
STATUS OF THE MORTGAGES..... 15

INDEX OF APPENDICES

- Appendix A Appointment Order dated October 27, 2016
- Appendix B Blackline to Order originally enclosed with Superintendent's materials
- Appendix C *Correspondence between the Trustee and Harris + Harris LLP*
- Appendix D Correspondence between Aird & Berlis LLP and Harris + Harris LLP
- Appendix E Trustee's Letter dated November 1, 2016 to Mr. Singh
- Appendix F Correspondence between the Trustee and Mr. Davies to schedule a meeting
- Appendix G Trustee's correspondence with Mr. Davies related to the information request and a list of Mr. Davies' Initial Information
- Appendix H Trustee's Letter to the Investors dated November 3, 2016

Div. Ct. File No. 535/16
Court File No. CV-16-11567-00CL

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

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947 ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION, TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O.
2006, c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c.
C.43**

FIRST REPORT OF THE TRUSTEE

NOVEMBER 10, 2016

INTRODUCTION

1. This report (the "**First Report**") is filed by Grant Thornton Limited ("**GTL**") in its capacity as the court-appointed trustee (in such capacity, the "**Trustee**") of each of the 11 above-named Respondents (collectively, the "**Tier 1 Trustee Corporations**", and individually, a "**Tier 1 Trustee Corporation**"). GTL was appointed as the Trustee pursuant to the Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made on October 27, 2016 (the "**Appointment**")

Order"), a copy of which is attached hereto as **Appendix "A"** (together with His Honour's endorsement).

2. The purpose of the Trustee's appointment (the "**Appointment**") is to protect the interests of the investing public, who, through the Trustee, are mortgagees with secured lending positions registered on title to real property owned by 16 borrowers/developers (the "**Developers**"). The Developers are distinct entities from the Tier 1 Trustee Corporations.
3. This First Report is filed in the context of a motion (the "**Stay Motion**") returnable on November 14, 2016 before the Ontario Superior Court of Justice (Divisional Court) (the "**Divisional Court**"), which has been brought by 11 of the Developers (the "**Moving Parties**").¹ In substance, the Stay Motion seeks a stay of paragraphs 5 and 19 of the Appointment Order pending the hearing of the Moving Parties further motion to the Divisional Court for leave to appeal the Appointment Order (the "**Leave to Appeal Motion**").
4. Detailed background information pertaining to the circumstances leading to the Trustee's Appointment is contained in the affidavit of Mohammed Ali Marfatia sworn October 20, 2016 (the "**Marfatia Affidavit**"), which was filed by the Superintendent of Financial Services (the "**Superintendent**") in support of the Appointment.
5. In summary, the Marfatia Affidavit describes a series of 16 syndicated mortgage investments ("**SMIs**") sold to the investing public (the "**Investors**"), in respect of which, amongst other things:
 - (i) the Moving Parties (for 11 of the 16 SMIs) and other Developers (for the remaining 5 SMIs) are the owners of the real property, borrowers in the mortgage transactions and developers of the underlying real estate projects;

¹ The Moving Parties are Textbook (525 Princess Street) Inc., Textbook (555 Princess Street) Inc., Textbook (Ross Park) Inc., 1703858 Ontario Inc., Memory Care Investments (Oakville) Ltd., Memory Care Investments (Kitchener) Ltd., Textbook (774 Bronson Ave) Inc., Legacy Lane Investments Ltd., Scollard Development Corporation, McMurray Street Investments Inc. and Textbook (445 Princess Street) Inc.

- (ii) the 11 Tier 1 Trustee Corporations (prior to the Appointment of the Trustee) were special purpose entities required under their relevant constating agreements to hold the mortgages in trust for the Investors and to act in a fiduciary capacity to administer and enforce the mortgages (some of the Tier 1 Trustee Corporations held more than one mortgage); and
 - (iii) other entities, being First Commonwealth Mortgage Corporation ("**First Commonwealth**") and Tier 1 Mortgage Corporation ("**Tier 1 Mortgage**"), were amongst those licensed mortgage brokers that promoted and sold the SMIs, and a third entity, being Tier 1 Transaction Advisory Services Inc. ("**Tier 1 Transaction**"), was also heavily involved in the SMIs and had applied for a mortgage brokerage license.
6. The Marfatia Affidavit further describes how Mr. Raj Singh, who is simultaneously the President, the CEO and a shareholder of Tier 1 Transaction, a mortgage agent of First Commonwealth, a director, officer, shareholder (either directly or indirectly) and/or profit participation interest holder in at least 11 of the Developers (including many of the Moving Parties) and the sole director, officer and shareholder of all but two of the Trustee Corporations, was in a clear conflict of interest position not properly disclosed to the Investors, in that, amongst other things, he was required to administer and enforce the SMIs on behalf of the Investors as against borrowers in which he had a financial interest in the majority of cases.
7. As discussed in the Marfatia Affidavit, the Superintendent also discovered systematic and recurrent failures by First Commonwealth and Tier 1 Mortgage to abide by the basic consumer protection measures put in place by the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (Ontario), which resulted in the Superintendent issuing: (i) a Notice of Proposal to revoke the licenses of First Commonwealth, Tier 1 Mortgage and Mr. Singh (amongst others) and to refuse the license surrender application of First Commonwealth; (ii) an Interim Suspension Order against these same entities/persons, preventing them from

dealing or trading in mortgages in Ontario; and (iii) an Interim Compliance Order against Tier 1 Transaction, requiring that it cease and desist unlicensed activity.

8. Finally (and without being exhaustive), the Marfatia Affidavit also discussed the Superintendent's concern that the appraisal values provided to the Investors did not reflect the value of the real property, such that the true values may be inadequate to cover the respective SMIs.
9. Apart from the Marfatia Affidavit, responding affidavits to the Application were also sworn by each of John Davies (one of the principals of the Moving Parties in the present Stay Motion, which was filed in opposition to the Appointment) and Gregory Harris (the lawyer at Harris + Harris LLP ("H+H") with custody of the trust accounts that essentially forms the subject matter of the Stay Motion).
10. The Trustee understands that the Superintendent has filed or will shortly file each of the Marfatia Affidavit and the responding affidavits thereto as part of the Superintendent's responding materials to the Stay Motion.
11. Copies of materials filed in these proceedings generally are available on the Trustee's website at www.grantthornton.ca/tier1.

PURPOSE AND DISCLAIMER

12. This First Report has been prepared for the use of the Commercial List Court, the Divisional Court and the Tier 1 Trustee Corporations' stakeholders as general information relating to the Tier 1 Trustee Corporations and to assist the Divisional Court in making a determination of whether to approve the relief sought by the Moving Parties in the Stay Motion. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose. The Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report for any other purpose.
13. In preparing this First Report, the Trustee has relied upon certain unaudited financial information provided by parties who had knowledge of the affairs of the Tier 1 Trustee Corporations, including Gregory Harris, Raj Singh and John Davies. The Trustee has not performed an audit or verification of such

information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to **GAAP** or **IFRS** with respect to such information.

14. All references to dollars in this First Report are in Canadian currency unless otherwise noted.

CONCERNS RAISED BY THE MOVING PARTIES

15. Prior to its appointment, GTL and its counsel met with John Davies (on behalf of the Moving Parties) and the Moving Parties' counsel, Raj Singh and his counsel and Gregory Harris on October 25, 2016 to discuss the affairs of the Tier 1 Trustee Corporations and the Developers, on a without prejudice basis (the "**October 25 Meeting**").
16. As a result of what was discussed at that meeting, both Gregory Harris and John Davies swore their responding affidavits to GTL's pending appointment (respectively, the "**Harris Affidavit**" and the "**First John Davies Affidavit**", and collectively, the "**Responding Affidavits**"), addressing concerns with respect to what they perceived to be the impact of the proposed appointment, including how the appointment would be funded, the scope of the mandate and the treatment of funds held in trust by H+H. The Responding Affidavits were served on the afternoon preceding the hearing, and resulted in certain changes being made to the proposed form of Appointment Order, which changes were served prior to the commencement of the hearing.
17. Attached as **Appendix "B"** is a cumulative blackline form of Order, reflecting the differences between the form of Order originally proposed in the Superintendent's materials and the Appointment Order obtained from the Commercial List Court. In response to what was discussed and requested at the October 25 Meeting, the terminology used to describe GTL's role was changed from receiver and manager to trustee. Also added to the Order as a result of the October 25 Meeting and the Responding Affidavits was certain "for greater certainty" and related language in the paragraphs of the Appointment Order that are now subject to the Stay Motion.

18. Prior to making the Appointment Order, each of the Superintendent's counsel, the Moving Parties' counsel, Raj Singh's counsel, H+H and the then-proposed Trustee's counsel made submissions in Chambers to the Honourable Justice Newbould in regards to the issues that are now the subject of the Stay Motion, which submissions resulted in the Appointment Order being granted. Amongst other things, His Honour recognized that the Trustee could not fulfill its mandate to protect the Investors' interests without access to the funds held in trust by H+H.

TRUSTEE'S REQUESTS FOR INFORMATION

19. The following section outlines the Trustee's requests for information related to the Tier 1 Trustee Corporations and the Trustee's interactions with each party.

H+H

20. Both the Marfatia Affidavit and the Harris Affidavit explain that the Syndication Mortgage Participation Agreements between the applicable Tier 1 Trustee Corporation and the Investors require the Tier 1 Trustee Corporation or its solicitor to hold interest holdback monies in trust for the Investors, and that H+H assumed responsibility of these monies from the Tier 1 Trustee Corporations' solicitor.
21. H+H provided the Trustee with copies of H+H's trust ledgers in respect of which monies were being held in trust for the Investors, which trust ledgers and associated accounts appear to be segregated on a project-by-project basis, and which trust ledgers were also attached as exhibits to the Harris Affidavit (collectively, the "**Trust Ledgers**").
22. The Trust Ledgers reflect that at least six of the 11 mortgages in respect of which the Moving Parties are developers/borrowers were in default of their interest obligations to the corresponding Tier 1 Trustee Corporations prior to the Appointment of the Trustee for failure to make a quarterly interest payment. Despite requests by the Trustee (as outlined below), neither Raj Singh nor John Davies has provided the Trustee with evidence of any steps taken by the Tier 1 Trustee Corporations to cure or otherwise address these defaults or take

enforcement action in respect of same, despite the obligations to do so (as outlined earlier in this First Report and discussed in more detail in the Marfatia Affidavit).

23. On October 28, 2016, the Trustee sent a letter to H+H requesting certain information related to, amongst other things, details of the Investors and the funds held on their behalf in H+H's trust accounts (the "**Trust Funds**").
24. H+H provided a preliminary response on October 31, 2016 addressing certain general questions, and the Trustee responded with an email on October 31, 2016 asking for additional information.
25. As of the date of this First Report, H+H has provided the majority of the requested information for two of the 16 projects, and has advised that additional material for the other projects will be provided.
26. Copies of the Trustee's letter dated October 28, 2016, H+H's response on October 31, 2016 and the Trustee's email on October 31, 2016 are collectively attached hereto as **Appendix "C"**.
27. On November 2, 2016, in accordance with paragraph 5 of the Appointment Order, Aird & Berlis LLP ("**A&B**"), counsel to the Trustee, sent a letter to H+H requesting that the Trust Funds (excluding RRSP or other register funds) be delivered to the Trustee by November 4, 2016.
28. On November 4, 2016, H+H responded with a letter to A&B explaining that before the Trust Funds could be delivered, H+H must cancel all post-dated cheques that are in the hands of Investors, which could take approximately 40 hours, and requested an extension to deliver the Trust Funds.
29. Later on November 4, 2016, A&B responded with a letter to H+H extending the time by which H+H may deliver the Trust Funds to the Trustee to no later than November 7, 2016, and requested that H+H focus its efforts to cancel cheques on a single account at a time and transfer the Trust Funds to the Trustee on an account by account basis upon the final cheque being cancelled on that account.

30. Despite advising in an email chain on November 8, 2016 that it hoped to begin wiring funds the next day, H+H did not do so.
31. Copies of the correspondence amongst A&B, H+H and the Trustee are attached hereto as **Appendix "D"**.
32. As of the date of this First Report, the Trustee has still not received any of the Trust Funds from H+H.

Raj Singh

33. On October 31, 2016, the Trustee met with Raj Singh, in his capacity as controlling mind of the Tier 1 Trustee Corporations, as principal stakeholder of three of the Developers (the "**Singh Developers**") and a further stakeholder in certain of the Moving Parties.
34. During the meeting, Mr. Singh confirmed that several of the Moving Parties' mortgages are in default, and also advised the Trustee of other mortgages being in default.
35. Mr. Singh also advised the Trustee that the Tier 1 Trustee Corporations do not have any books or records of their own and that all Investor and SMI information is held by the mortgage brokerages, which the Trustee understands share an office with Mr. Singh and Tier 1 Transaction and/or Tier 1 Mortgage.
36. Mr. Singh undertook to provide the Trustee with a number of documents, which the Trustee requested in a letter to Mr. Singh dated November 1, 2016, a copy of which is attached hereto as **Appendix "E"**.
37. The nature of the Trustee's requests for information from Mr. Singh included, amongst other things:
 - (i) information related to the Investors;
 - (ii) the status of the projects of the Singh Developers;

- (iii) a detailed accounting of the use of funds from the mortgages by the Singh Developers;
 - (iv) information related to mortgages ranking ahead or behind the mortgages held by the Tier 1 Trustee Corporations on the Singh Developers' projects;
 - (v) the status of the projects controlled by other Developers, including, without limitation, the Moving Parties, as reported by the Developers to the respective Tier 1 Trustee Corporation;
 - (vi) details of any actions taken by the Tier 1 Trustee Corporations in respect of mortgages that are in default; and
 - (vii) other details in respect of the mortgages.
38. As of the date of this First Report, and despite the Trustee having followed-up with Mr. Singh on November 7, 2016, Mr. Singh has only provided the Trustee with certain limited information in respect of the Investors. No information has been provided in respect of the other items enumerated in the above paragraph.

John Davies

39. Immediately after the Appointment Order was granted, the Trustee scheduled a meeting with John Davies for October 28, 2016, in his capacity as controlling mind of the Moving Parties, being a number of the Developers. The Trustee in part scheduled the meeting as an urgency, to respond to the urgencies raised by John Davies in the October 25 Meeting and the First John Davies Affidavit.
40. On October 27, 2016, Mr. Davies advised that he would have to postpone the meeting to the following week.
41. On October 31, 2016, after multiple follow-ups by the Trustee, Davies requested to postpone the meeting to November 3, 2016 or November 4, 2016. The Trustee responded by confirming the meeting for November 3, 2016.

42. Mr. Davies later requested, after a second confirmation by the Trustee for the November 3, 2016 meeting, that the meeting be postponed further to November 10, 2016 or November 11, 2016.
43. Copies of the correspondence related to the scheduling of the meeting, including the Trustee's request to expedite the meeting due to its importance to the administration of these proceedings, is attached hereto as **Appendix "F"**.
44. In light of John Davies' refusal to expedite the meeting, the Trustee sent a letter to Mr. Davies on November 2, 2016 requesting information related to the Moving Parties and the mortgages registered against them by the Tier 1 Trustee Corporations.
45. The nature of the Trustee's requests for information from Mr. Davies included, amongst other things:
 - (i) the status of the projects of the Moving Parties, including the Moving Parties' plans and intentions to repay the mortgages in favour of the Tier 1 Trustee Corporations;
 - (ii) an accounting of the use of funds from these mortgages by the Moving Parties;
 - (iii) information related to mortgages ranking ahead or behind the mortgages held by the Tier 1 Trustee Corporations on the Moving Parties' projects; and
 - (iv) information related to any correspondence with Investors (as one of John Davies' emails included in Appendix F explains that he is having 'town hall' meetings with Investors). The Trustee requested that Mr. Davies: (a) provide the Trustee with draft copies of any correspondence intended for the Investors so that the Trustee can review and approve such communications in advance; and (b) provide the Trustee with advance notice and details of any meetings scheduled with the Investors so that the Trustee may consider the necessity of any such meetings and have the ability to attend.

46. The Trustee believes that in accordance with the mortgage agreements with the Moving Parties (as with other Developers as well) and the terms of the Appointment Order, it is the Trustee's responsibility to ask these questions (as it was the responsibility of the Tier 1 Trustee Corporations prior to the Appointment Order). As the Trustee has been empowered by the Court to protect the Investors' interests as against the Moving Parties, the Trustee also has concerns about the Moving Parties communicating with the Investors without the Trustee's involvement.
47. The Trustee has received a substantial number of inquiries from Investors who have serious concerns with respect to the status of the projects, the lack of reporting from the Tier 1 Trustee Corporations, the lack of transparency with respect to their investments, the nature of Raj Singh's purported undisclosed interest in certain of the Developers' projects and the existence of defaults by the Moving Parties specifically and the Developers generally.
48. Further, the Trustee has concerns (which have also been expressed by certain Investors) that both the First John Davies Affidavit and the affidavit sworn by Mr. Davies in support of the Stay Motion state, without providing any accounting, that the mortgage funds received by the Moving Parties from the Tier 1 Corporations have been fully-expended. According to information received by the Trustee from H+H, the most recent SMI (for the property municipally known as 445 Princess Street) raised \$4,295,300, \$2,241,150 and \$1,860,300 from Investors in July 11, 2016, August 22, 2016 and September 28, 2016, respectively.
49. On November 7, 2016, John Davies provided very limited relevant information related to the projects controlled by the Moving Parties (the "**Davies' Initial Information**") and failed to address almost any of the key concerns and requests raised by the Trustee.
50. The Davies' Initial Information, while voluminous, mostly includes development materials about each project, and fails to provide any insight into the status of the projects with respect to the Moving Parties' plan or ability to repay the respective mortgages upon maturity or cure any defaults. The Davies' Initial Information also fails to address the Trustee's questions related to the Moving Parties' use of

funds of the mortgages. The Davies' Initial Information did include information related to pro-forma analyses and projected use of funds of certain of the projects of the Moving Parties, without reflecting whether these projections were achieved.

51. The Trustee advised Mr. Davies of the shortcomings with the Davies' Initial Information by way of a letter dated November 7, 2016, which listed the outstanding information.
52. Mr. Davies responded to the Trustee's November 7, 2016 letter by email on November 8, 2016, explaining that he has not had sufficient time to prepare the remaining information and does not provide a timeline to provide same.
53. Copies of the Trustee's November 2, 2016 letter, a summary of the Davies' Initial Information, the Trustee's November 7, 2016 letter and Mr. Davies' November 8, 2016 email are attached hereto as **Appendix "G"**.

INVESTOR CORRESPONDENCE

54. The Trustee has been provided by Raj Singh with contact information for over two thousand unique investors. Since its appointment, the Trustee set up a 1-800 hotline telephone number and dedicated email address for Investors to contact the Trustee with questions, both of which were posted to the Trustee's website and provided to Raj Singh to forward to Investors who contact him.
55. The Trustee also sent a letter to Investors advising them of the proceedings generally and providing an update on the administration to date. A copy of this letter was also posted to the Trustee's website and is attached hereto as **Appendix "H"**.
56. In addition to the general concerns raised by Investors, a number of Investors have raised the following specific concerns:

- (i) several Investors reported rumours that the Trustee has issued an invoice to certain of the Moving Parties for over \$300,000. The Trustee confirmed to these Investors that this is untrue;
 - (ii) several Investors reported rumours that the Trustee has refused to provide approval for construction financing to some of the Moving Parties which could jeopardize the development of their projects. The Trustee confirmed to these investors that neither the Moving Parties, nor any of the Developers, has contacted the Trustee to discuss construction financing; and
 - (iii) several Investors reported that John Davies is planning further Investor 'town halls' with a view to seeking support to replace the Trustee.
57. To date, the Trustee has been advising Investors that it has submitted requests for information to the Developers and once it has information related to the SMIs, it will proactively keep Investors apprised of the status of the Developers' projects (i.e., the Investors' security).

STATUS OF THE MORTGAGES

58. As described above, the Trustee has not yet been provided with relevant information with respect to the statuses of the mortgages from John Davies or Raj Singh.
59. Based on the Trustee's preliminary discussions with Raj Singh, its review of the Marfatia Affidavit and its review of the Trust Ledgers, the Trustee has prepared the following summary of the status of the various SMIs:

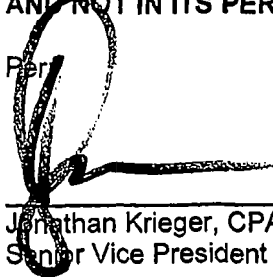
Project Name	Controlling Mind of Developer	Default on Oct 1/16 interest per H&H Trust Ledgers?	Note per Conversation with Singh	Note per Marfatia Affidavit
445 Princess Street	Davies	N		
525 Princess Street	Davies	N		
555 Princess Street	Davies	N		
774 Bronson Avenue	Davies	N		
Highlights Mississauga Condo-miniums and Towns	Singh	N		
Legacy Lane	Davies	Y	Mortgage Due	Due on Dec 31/15
Keele Medical	Singh	N		Due on Nov 1/16
Guildwood	Singh	N		
Memory Care Burlington	Davies	Y		
Memory Care Kitchener	Davies	Y		
Memory Care Oakville	Davies	Y	Mortgage Due	Due on Oct 29/16
Muskoka (McMurray St.)	Davies	Y	Mortgage Due	Due on Apr 30/16
Ross Park	Davies	N		
Silver Seven		N		Due on Jan 22/16
Vaughan Crossings	Private receiver appointed	Y		Due on Sep 30/15
Boathaus	Davies	Y	Oct 1/16 payment was missed	

60. As indicated in the above table and earlier in this First Report, the limited information currently available to the Trustee reflects that a number of the SMIs are in default, including at least six of the Moving Parties 11 projects, and the Trustee is working actively to determine the best course(s) of action in respect of the SMIs, including the calling of Investor meetings where appropriate.

All of which is respectfully submitted,

**GRANT THORNTON LIMITED,
IN ITS CAPACITY AS COURT-APPOINTED
TRUSTEE OF THE TIER 1 TRUSTEE CORPORATIONS
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**

Per

A handwritten signature in black ink, appearing to read 'Jonathan Krieger', is written over a horizontal line. The signature is stylized and includes a long horizontal stroke extending to the right.

**Jonathan Krieger, CPA, CA, CIRP, LIT
Senior Vice President**

27622550.2

Tab A

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 27TH DAY
JUSTICE NEWBOULD) OF OCTOBER, 2016

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION

Respondents

APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43

APPOINTMENT ORDER

THIS APPLICATION, made by The Superintendent of Financial Services (the "Superintendent"), for an Order, *inter alia*, pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the "MBLAA"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Grant Thornton Limited ("GTL") as trustee (in such capacity, the "Trustee"), without security, of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC

Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the affidavit of Mohammed Ali Marfatia sworn October 20, 2016 and the exhibits thereto (the "**Supporting Affidavit**") and on reading the Affidavit of Mr. John Davies sworn October 26, 2016 and the Affidavit of Mr. Gregory Harris sworn October 26, 2016 and the consent of GTL, and on hearing the submissions of counsel for the Superintendent, counsel for certain of the developers, counsel for Harris + Harris, LLP and counsel for Tier 1 Advisory Transaction Advisory Services Inc. and Mr. Singh, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Eunice Baltkois sworn October 20, 2016, filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 37 of the MBLAA, GTL is hereby appointed Trustee, without security, of all of the assets, undertakings and properties of the Respondents, including, without limitation, all of the assets held in trust or required to be held in trust by the Respondents, their counsel, agents and/or assignees on behalf of syndicated mortgage investors (collectively, the "**Property**"), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the "**Real Property Charges**"), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder.

TRUSTEE'S POWERS

3. **THIS COURT ORDERS** that the Trustee is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Trustee is hereby expressly empowered and authorized to do any of the following where the Trustee considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of syndicated mortgage investors, the administering of the mortgages, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the businesses of the Respondents, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of each of the Respondents;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Trustee's powers and duties, including, without limitation, those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of each of the Respondents or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to each of the Respondents and to exercise all remedies of each of the Respondents in collecting such monies, including, without limitation, to enforce any security held by each of the Respondents, including, without limitation, such security held on behalf of syndicated mortgage investors;
- (g) to settle, extend or compromise any indebtedness owing to each of the Respondents;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondents, or any of them, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to any of the Respondents, the Property or the Trustee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in such case the Ontario *Bulk Sales Act* shall not apply;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Trustee deems appropriate on all matters relating to the Property and the Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustee deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of

and, if thought desirable by the Trustee, in the name of the Respondents, or any of them;

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

and in each case where the Trustee takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE TRUSTEE

4. **THIS COURT ORDERS** that: (i) the Respondents; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Trustee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Trustee, and shall deliver all such Property to the Trustee upon the Trustee's request.

5. **THIS COURT ORDERS** that, pursuant to and without limiting the generality of paragraph 4 of this Order, all Persons, including, without limitation, Harris + Harris LLP ("**H&H**"), shall, unless otherwise instructed by the Trustee: (i) deliver to the Trustee (or in the case of RRSP or other registered funds administered by Olympia Trust Company ("**OTC**") not release to any Person without further Order of this Court) any and all monies held in trust that are related to any of the Respondents or their businesses (collectively, the "**Trust Funds**"), which Trust Funds, for greater certainty, include any and all monies in any H&H or OTC account that are purported to be held in trust for the investors in or beneficiaries under any of the Real Property

- 6 -

Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents or their associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any of the Respondents, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Trustee for the purpose of allowing the Trustee to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that the Trustee shall provide each of the relevant landlords with notice of the Trustee's intention to remove any fixtures from any leased premises at least

seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Trustee's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Trustee, or by further Order of this Court upon application by the Trustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE TRUSTEE

9. **THIS COURT ORDERS** that, with the exception of each of the NOP (as defined in the Supporting Affidavit), the Suspension Order (as defined in the Supporting Affidavit) and the Compliance Order (as defined in the Supporting Affidavit), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order: (i) no Proceeding against or in respect of the Respondents, or any of them, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of the Respondents, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order, all rights and remedies against each of the Respondents, the Trustee, or affecting the Property, are hereby stayed and suspended except with the written consent of the Trustee or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or

the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE TRUSTEE

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Respondents, without written consent of the Trustee or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondents, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Respondents are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Trustee, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Respondents, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario*

Water Resources Act, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE TRUSTEE'S LIABILITY

18. **THIS COURT ORDERS** that the Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE'S ACCOUNTS

19. **THIS COURT ORDERS** that the Trustee and counsel to the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges, and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the "**Trustee's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Trustee's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Trustee and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Trustee and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Trustee shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its

fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

22. **THIS COURT ORDERS** that the Trustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Trustee by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Trustee's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Trustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the Trustee is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Trustee's Certificates**") for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Trustee pursuant to this Order or any further order of this Court and any and all Trustee's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Trustee's Certificates.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, the service

- 12 -

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/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.grantthornton.ca/tier1>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **THIS COURT ORDERS** that the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Trustee from acting as a trustee in bankruptcy of any of the Respondents.

30. **THIS COURT ORDERS** that Confidential Exhibit "A" and Confidential Exhibit "B" to the Supporting Affidavit be and are hereby sealed until further Order of this Court.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of

- 13 -

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


32. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice, or such shorter period of time as the Court may permit, to the Trustee and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

OCT 27 2016

PER / PAR: 

SCHEDULE "A"
TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Grant Thornton Limited., the Trustee (in such capacities, the "Trustee") of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "Respondents"), including all of the assets held in trust by the Respondents on behalf of syndicated mortgage investors (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 27th day of October, 2016 (the "Order") made in an action having Court file number CV-16-11567-00CL, has received as such Trustee from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Trustee is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

- 2 -

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Trustee to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.
7. The Trustee does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2016.

GRANT THORNTON LIMITED, solely in its capacity as Trustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Jonathan Krieger

Title: Senior Vice President

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET)
TRUSTEE CORPORATION, ET AL.

Applicant

Respondents

Court File No. CV-16-11567-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceedings commenced at Toronto

APPOINTMENT ORDER

THE SUPERINTENDENT OF FINANCIAL SERVICES
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Toronto, ON M2N 6L9

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Mark Bailey
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Daniel Di Fonzo
Email: daniel.difonzo@fsco.gov.on.ca

*Lawyers for the Applicant, The Superintendent of
Financial Services*

Applicant

Respondents

Court File No. CV-16-11567-00CL

October 27, 2016

In my view, the appropriate relief is that
Thornhill and Trustee is the
appropriate relief to protect the
interests of the investors. Order to do.
Exhibits & affidavit of judicial officer
D. Davis.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto

APPLICATION RECORD
(returnable October 27, 2016)
(Volume 1 of 3)

THE SUPERINTENDENT OF FINANCIAL SERVICES

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Lawyers for the Applicant, The Superintendent of
Financial Services

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION**

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
THE HONOURABLE JUSTICE NEWBOULD
DATED OCTOBER 27, 2016**

October 27, 2016

In my view, the appointment of Grant Thornton as Trustee is the appropriate relief to protect the interests of the investors. Order to go. Ex A & B to affidavit of applicant to be sealed.

Newbould, J.

Tab B

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	THURSDAY, THE 27 TH DAY
)	
JUSTICE <u>NEWBOULD</u>)	OF OCTOBER, 2016

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION**

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

RECEIVERSHIP APPOINTMENT ORDER

THIS APPLICATION, made by The Superintendent of Financial Services (the "**Superintendent**"), for an Order, *inter alia*, pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the "**MBLAA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), appointing Grant Thornton Limited ("**GTL**") as ~~receiver and manager~~ trustee (in such ~~capacities~~ capacity, the "**Receiver Trustee**"), without security, of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross

Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "~~Debtors~~Respondents"), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the affidavit of Mohammed Ali Marfatia sworn October 20, 2016 and the exhibits thereto (the "**Supporting Affidavit**") and on reading the Affidavit of Mr. John Davies sworn October 26, 2016 and the Affidavit of Mr. Gregory Harris sworn October 26, 2016 and the consent of GTL to act as the ReceiverTrustee, and on hearing the submissions of counsel for the Superintendent, counsel for certain of the developers, counsel for Harris + Harris, LLP and counsel for Tier 1 Advisory Transaction Advisory Services Inc. and Mr. Singh, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Eunice Baltkois sworn October 20, 2016, filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 37 of the MBLAA ~~and section 101 of the CJA~~, GTL is hereby appointed ReceiverTrustee, without security, of all of the assets, undertakings and properties of the ~~Debtors~~Respondents, including, without limitation, all of the assets held in trust or required to be held in trust by the DebtorsRespondents, their counsel, agents and/or assignees on behalf of syndicated mortgage investors (collectively, the "**Property**"), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the "Real Property Charges"), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder.

RECEIVERTRUSTEE'S POWERS

3. **THIS COURT ORDERS** that the ReceiverTrustee is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the

generality of the foregoing, the ReceiverTrustee is hereby expressly empowered and authorized to do any of the following where the ReceiverTrustee considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of syndicated mortgage investors, the administering of the mortgages, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the businesses of the DebtorsRespondents, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of each of the DebtorsRespondents;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the ReceiverTrustee's powers and duties, including, without limitation, those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of each of the DebtorsRespondents or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to each of the DebtorsRespondents and to exercise all remedies of each of the DebtorsRespondents in collecting such monies, including, without limitation, to enforce any security held by each of the DebtorsRespondents, including, without limitation, such security held on behalf of syndicated mortgage investors;
- (g) to settle, extend or compromise any indebtedness owing to each of the DebtorsRespondents;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the ~~Receiver~~Trustee's name or in the name and on behalf of the ~~Debtors~~Respondents, or any of them, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to any of the ~~Debtors~~Respondents, the Property or the ~~Receiver~~Trustee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the ~~Receiver~~Trustee in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in such case the Ontario *Bulk Sales Act* shall not apply;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the ~~Receiver~~Trustee deems appropriate on all matters relating to the Property and the ~~receivership~~Trustee's mandate, and to share information, subject to such terms as to confidentiality as the ~~Receiver~~Trustee deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the ReceiverTrustee, in the name of the DebtorsRespondents, or any of them;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the DebtorsRespondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the DebtorsRespondents;
- (q) to exercise any shareholder, partnership, joint venture or other rights which each of the DebtorsRespondents may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the ReceiverTrustee takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the DebtorsRespondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVERTRUSTEE

4. **THIS COURT ORDERS** that: (i) the DebtorsRespondents; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the ReceiverTrustee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the ReceiverTrustee, and shall deliver all such Property to the ReceiverTrustee upon the ReceiverTrustee's request.

5. **THIS COURT ORDERS** that, pursuant to and without limiting the generality of paragraph 4 of this Order, all Persons, including, without limitation, Harris + Harris LLP ("**H&H**"), shall: (i) deliver to the Receiver, unless otherwise instructed by the Trustee: (i) deliver to the Trustee (or in the case of RRSP or other registered funds administered by Olympic Trust

Company ("OTC") not release to any Person without further Order of this Court) any and all monies held in trust that are related to any of the Respondents or their businesses (collectively, the "Trust Funds"), which Trust Funds, for greater certainty, include any and all monies in any H&H or OTC account that are purported to be held in trust for the investors in or beneficiaries under any of the Real Property Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries, which Trust Funds are to be held or used by the ReceiverTrustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the ReceiverTrustee's request, provide an accounting of all funds received from or on behalf of the Respondents or their associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the ReceiverTrustee of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any of the DebtorsRespondents, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the ReceiverTrustee or permit the ReceiverTrustee to make, retain and take away copies thereof and grant to the ReceiverTrustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the ReceiverTrustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the ReceiverTrustee for the purpose of allowing the ReceiverTrustee to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the ReceiverTrustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the ReceiverTrustee. Further, for the purposes of this paragraph, all Persons shall provide the ReceiverTrustee with all such assistance in gaining immediate access to the information in the Records as the

ReceiverTrustee may in its discretion require including providing the ReceiverTrustee with instructions on the use of any computer or other system and providing the ReceiverTrustee with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that the ReceiverTrustee shall provide each of the relevant landlords with notice of the ReceiverTrustee's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the ReceiverTrustee's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the ReceiverTrustee, or by further Order of this Court upon application by the ReceiverTrustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVERTRUSTEE

9. **THIS COURT ORDERS** that, with the exception of each of the NOP (as defined in the Supporting Affidavit), the Suspension Order (as defined in the Supporting Affidavit) and the Compliance Order (as defined in the Supporting Affidavit), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the ReceiverTrustee except with the written consent of the ReceiverTrustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORSRESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order: (i) no Proceeding against or in respect of the DebtorsRespondents, or any of them, or the Property shall be commenced or continued except with the written consent of the ReceiverTrustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of the DebtorsRespondents, or any of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order, all rights and remedies against each of the

DebtorsRespondents, the ReceiverTrustee, or affecting the Property, are hereby stayed and suspended except with the written consent of the ReceiverTrustee or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and further provided that nothing in this paragraph shall: (i) empower the ReceiverTrustee or the DebtorsRespondents to carry on any business which the DebtorsRespondents are not lawfully entitled to carry on; (ii) exempt the ReceiverTrustee or the DebtorsRespondents from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVERTRUSTEE

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the DebtorsRespondents, without written consent of the ReceiverTrustee or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the DebtorsRespondents, or any of them, or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the DebtorsRespondents are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the ReceiverTrustee, and that the ReceiverTrustee shall be entitled to the continued use of the DebtorsRespondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the ReceiverTrustee in accordance with normal payment practices of the DebtorsRespondents or such other practices as may be agreed upon by the supplier or service provider and the ReceiverTrustee, or as may be ordered by this Court.

RECEIVER TRUSTEE TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Receiver Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver Trustee, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided

to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtors~~Respondents, and shall return all other personal information to the ~~Receiver~~Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE ~~RECEIVER~~TRUSTEE'S LIABILITY

18. **THIS COURT ORDERS** that the ~~Receiver~~Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the ~~Receiver~~Trustee by section 14.06 of the BIA or by any other applicable legislation.

~~RECEIVER~~TRUSTEE'S ACCOUNTS

19. **THIS COURT ORDERS** that the ~~Receiver~~Trustee and counsel to the ~~Receiver~~Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and

charges unless otherwise ordered by the Court on the passing of accounts, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges and that the ReceiverTrustee and counsel to the ReceiverTrustee shall be entitled to and are hereby granted a charge (the "**ReceiverTrustee's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the ReceiverTrustee's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the ReceiverTrustee and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the ReceiverTrustee and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the ReceiverTrustee shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the ReceiverTrustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP APPOINTMENT

22. **THIS COURT ORDERS** that the ReceiverTrustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the ReceiverTrustee by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**ReceiverTrustee's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but

subordinate in priority to the ReceiverTrustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the ReceiverTrustee is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "ReceiverTrustee's **Certificates**") for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the ReceiverTrustee pursuant to this Order or any further order of this Court and any and all ReceiverTrustee's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued ReceiverTrustee's Certificates.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.grantthornton.ca/tier1>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the ReceiverTrustee is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the DebtorsRespondents' creditors or other interested

parties at their respective addresses as last shown on the records of the ~~Debtors~~Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **THIS COURT ORDERS** that the ~~Receiver~~Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the ~~Receiver~~Trustee from acting as a trustee in bankruptcy of any of the ~~Debtors~~Respondents.

30. **THIS COURT ORDERS** that Confidential Exhibit "A" and Confidential Exhibit "B" to the Supporting Affidavit be and are hereby sealed until further Order of this Court.

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

32. **THIS COURT ORDERS** that the ~~Receiver~~Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the ~~Receiver~~Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice, or such shorter period of time as the Court may permit, to the ~~Receiver~~Trustee and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Grant Thornton Limited., the ~~receiver and manager~~ Trustee (in such capacities, the "~~Receiver~~ Trustee") of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "~~Debtors~~ Respondents"), including all of the assets held in trust by the ~~Debtors~~ Respondents on behalf of syndicated mortgage investors (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 27th day of October, 2016 (the "**Order**") made in an action having Court file number CV-16-11567-00CL, has received as such ~~Receiver~~ Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the ~~Receiver~~ Trustee is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the ~~Receiver~~ Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the ~~Receiver~~ Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the ReceiverTrustee to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the ReceiverTrustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The ReceiverTrustee does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2016.

GRANT THORNTON LIMITED, solely in its capacity as Receiver and ManagerTrustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Jonathan Krieger

Title: Senior Vice President

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET)
TRUSTEE CORPORATION, ET AL.**

Applicant

Respondents

Court File No. CV-16-11567-00CL

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**THE SUPERINTENDENT OF FINANCIAL SERVICES 5160 Yonge Street
P.O. Box 85
Toronto, ON M2N 6L9**

**Tel: (416) 590-7143
Fax: (416) 590-7556**

**Mark Bailey
Email: mark.bailey@fisco.gov.on.ca**

**Daniel Di Fonzo
Email: daniel.difonzo@fisco.gov.on.ca**

Lawyers for the Applicant, The Superintendent of Financial Services

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~~27/875459.7~~

Document comparison by Workshare Compare on November-09-16 10:58:29 PM

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Document 2 ID	interwovensite://AB-WS1/CM/27375459/7
Description	#27375459v7<CM> - Order re Appointment of Receiver (Tier 1)
Rendering set	Standard

Legend:	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	173
Deletions	165

Tab C



Grant Thornton

VIA Email - gregharris@harrisandharris.com

October 28, 2016

Harris + Harris LLP
Barristers & Solicitors
2355 Skymark Avenue, Suite 300
Mississauga, ON L4W 4Y6

Attention: Mr. Harris

Grant Thornton Limited
11 Floor, 200 King Street West
Box 11
Toronto, ON
M5H 3T4
T (416) 366-0100
F (416) 360-4949
www.GrantThornton.ca

Re: Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc.; Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "Tier 1 Trustee Corporations", and individually, a "Tier 1 Trustee Corporation")

As you know, Grant Thornton Limited was appointed as trustee over all of the assets, undertakings and properties of the Tier 1 Trustee Corporations (in such capacity, the "Trustee") pursuant to an order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on October 27, 2016 (the "Appointment Order"). A copy of the Appointment Order is available at www.grantthornton.ca/tier1.

In accordance with the terms of the Appointment Order, the Trustee requests at this time the following information from Harris + Harris LLP ("HH") related to the Tier 1 Trustee Corporations.

- 1) For each of the syndicated mortgages held by a Tier 1 Trustee Corporation (collectively, the "Mortgages", and individually, a "Mortgage"), a list of all investors who participate in that Mortgage (in excel, if possible), including:
 - a. each investor's name, address, telephone number and email address;
 - b. whether such investor holds its investment with Olympia Trust Company;
 - c. whether such investor's investment is by way of an RRSP or is otherwise registered and
 - d. the date and quantum of each investor's advances.
- 2) For each Mortgage, a chronological summary of each capital raise/tranche outlining all relevant particulars.

- 3) For each Mortgage, an accounting in respect of the flow of funds from the end investors to the developer. If the funds did not flow through HH, please advise who received and disbursed such funds.
- 4) For each Mortgage, details of interest arrears outstanding to each investor (in excel, if possible).
- 5) For each Mortgage, a schedule of future interest payments owing to the respective Tier 1 Trustee Corporation by the respective developer (in excel, if possible). Further, for each Mortgage, details of any arrears owing to the respective Tier 1 Trustee Corporation by the respective developer (in excel, if possible). As several of the trust ledgers provided thus far currently appear to have a nil balance, please advise as to HH's protocol to obtain additional funds to satisfy the interest payments in the normal course.
- 6) For each Mortgage, details of amounts and dates of future interest obligations owing to each investor (in excel, if possible).
- 7) As several of the trust ledgers provided thus far appear to reflect payments to investors in 2017, confirmation as to whether these entries relate entirely to post-dated cheques that have been issued to investors, or if these entries (in full or in part) reflect other arrangements. Similarly, please provide confirmation that all existing post-dated cheques in circulation have been reflected in the trust ledgers provided thus far.
- 8) Confirmation that the balance after the last recorded October 1/16 payment in each trust ledger (or, for trust ledgers where no October 1/16 payment is recorded, the balance after the last recorded entry) is equal to the present cash balance in that corresponding account.
- 9) An explanation for the difference between accounts 1 and accounts 4 within each trust ledger, why/when each account would have been used and why, in certain instances, some or all of the funds in account 1 were transferred to account 4 during 2016.
- 10) Based on the trust ledgers provided thus far, the Trustee has identified a number of additional accounts (the "Source Accounts") from which funds appear to have been sourced. Please provide the trust ledgers related to the Source Accounts as well as details of certain deposits listed in the final column of the chart below.

Mortgage Borrower	Trust Account	Requested Source Account(s)	Requested Details of Additional Deposits
Textbook (445 Princess Street) Inc.	14271	14193	
Textbook (525 Princess Street) Inc.	14009	13786	
Textbook (555 Princess Street) Inc.	13883	13847	
Textbook (774 Bronson Avenue) Inc.	14024	14018	
Hazelton Development Corporation	14216	14154	

Mortgage Borrower	Trust Account	Requested Source Account(s)	Requested Details of Additional Deposits
Legacy Lane Investments Ltd.	12637	12378	Copy of cheque June 11, 2014 for \$53,168.71
Keele Medical Properties Ltd.	13386	13253	
1416598 Ontario Inc.	12499	12380; 13908	
1703858 Ontario Ltd.	12642	12515	
Memory Care Investments (Kitchener) Inc.	13001	12848	
Memory Care Investments (Oakville) Ltd.	12405	12205	Source of money order on Dec 30, 2013 for \$42,231.72; and direct deposit on March 17, 2014 for \$51,800
McMurray Street Investments Inc.	12183	12140; 12670; 12670; 12775; 12882; 12937; 10992	
Textbook Ross Park Inc.	13804	13649	
Silver Seven Corporate Centre Inc.	13442	13235	
Scollard Development Corporation	13148	12968	
Vaughan Crossings Inc. (or otherwise)	12885	12473	


11) Any additional information which HH believes should be brought to the Trustee's attention in connection with any of the foregoing.

Yours truly,

GRANT THORNTON LIMITED

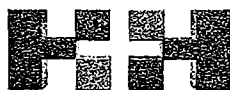
solely in its capacity as Trustee of
the Tier 1 Trustee Corporations

Per:



David Goldband, CPA, CA, CIRP, LIT
Senior Manager

cc: Aird & Berlis LLP



HARRIS & HARRIS LLP
BARRISTERS AND SOLICITORS

October 31, 2016

VIA EMAIL
david.goldband@ca.gt.com

Grant Thornton Limited
11 Floor, 200 King Street West
Box 11
Toronto, ON M5H 3T4

Attention: David Goldband

Dear Mr. Goldband:

Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "Tier 1 Trustee Corporations", and individual, a "Tier 1 Trustee Corporation")

We are in receipt of your letter of Friday, October 28, 2016 and will begin compiling the information requested therein.

For simplicity and ease of use, we will endeavor to provide you with all of the information on a project by project basis, such that there will be less likelihood of confusion in relation to any of the information/documents provided.

A few of the points raised in your correspondence can be answered by some general comments and, consequently, will not have to be answered with each delivery of information with respect to a specific project.

With respect to the second half of point 5, we can advise that once the applicable interest holdback reserve had been depleted, our firm would send out regular email reminders to each of the borrower companies advising of the quantum of the next quarterly interest payment, as well as the applicable due date, and the date on which funds were to be delivered to our firm for further processing and delivery to investors.

With respect to point #7, any payments reflected in trust ledgers for 2017 relate entirely to the post-dated cheques that have been issued to investors and do not (in full or in part) reflect other arrangements. All post-dated cheques in circulation have been reflected in the trust ledgers that have been provided to you thus far.

With respect to point #8, we confirm that after the last recorded October 1, 2016 quarterly payments reflected in each trust ledger, the amount reflected in such trust ledgers would equal the present cash balance in the corresponding account. The only file where that

may not be reflective is the Silver Seven Corporate Centre Inc. (File #13042) wherein interest distribution proceeds were received from the borrower corporation sometime after October 1, 2016. As the funds were not in certified format, they were held by Harris + Harris LLP until cleared (five business days) and, consequently, the funds held in trust for investors of the Silver Seven Corporate Centre Inc. (File #13442) project are in addition to what would have shown effective October 1, 2016, but would be reflected in any trust ledger printed after the date of receipt of such funds. In the package for Silver Seven, we will include an up-to-date trust ledger.

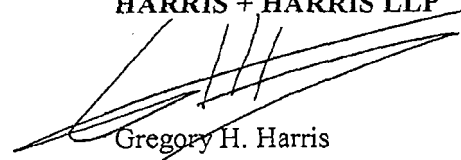
Given the court order, the funds which should have been remitted to the Silver Seven investors on October 1, 2016 (after their arrival sometime later than October 1st), per the contractual loan arrangements, continue to remain in the Harris + Harris LLP trust account pending further instruction from you. I believe Peter Matukas of our firm has, under separate correspondence, raised this issue.

With respect to point #9, Harris + Harris LLP had been the subject of certain attempted fraudulent activities with respect to our firm's trust account (individuals trying to present forged cheques or wire transfer instructions, which were either caught/discovered by our accounting department or by our bankers, Bank of Montreal). Bank of Montreal recommended that Harris + Harris LLP switch to a new trust account rather than continuing to use the old trust account and, consequently, during 2016, all funds in the old Harris + Harris LLP trust account were transferred over to the new trust account, as per Bank of Montreal's recommendations. This is why you see the transfers between account 1 and account 4.

With respect to point #10, we will provide you with the additional information for the "source accounts" on each project; however, I think a brief explanation of the procedure in which funds were sourced and retained would be appropriate. Firstly, a syndicated mortgage file would be established for each mortgage borrower on each transaction. The funds raised would be remitted into the trust account for such syndicated mortgage borrower and held in escrow pending the closing of the applicable financing. On the closing of a financing, the borrowed funds became property of the borrower and, pursuant to a direction, an amount was then held as an interest reserve, in trust for the benefit of the individual investors. To ensure that post-closing there would not be any issue with respect to funds of the investors being confused with funds of the borrowers, a segregated file for each project was established from which, as per the direction provided by the borrower, the appropriate interest reserve holdback would be transferred, with the result that the funds remaining in the "source account" would then be property of the borrower and available for use as thereafter, as directed by the applicable borrower entity. We will provide specific details with the project information provided to you, including details of requested additional deposits and where there are multiple "source accounts".

Yours very truly,

HARRIS + HARRIS LLP



Gregory H. Harris

GHH/nc

Goldband, David

From: Goldband, David
Sent: Tuesday, November 01, 2016 11:34 AM
To: 'Nicole Cristiano'
Cc: Gregory Harris; Peter Matukas; Heather Miller; Ian Aversa (iaversa@airdberlis.com); Jeremy Nemers (jnemers@airdberlis.com); Steve Graff (sgraff@airdberlis.com); Freed, Franny; Krieger, Jonathan (Jonathan.Krieger@ca.gt.com)
Subject: RE: Textbook Student Suites (525 Princess Street) Trustee Corporation, et al - File # 14478

Hi Nicole,

Thank you for the response. I would like to add the following two requests as a follow up to the initial answers you provided yesterday.

- 1) The contact information of each of the borrowers.
- 2) The closing documents in respect of the Mortgages, including a ledger showing the use of funds of the Mortgages

We await the additional information specific to the projects.

We are also in receipt of Peter's email from Friday with certain issues that require our attention and will provide a response in short order.

Regards,

David Goldband
 Grant Thornton Limited
 416.369.6446

From: Nicole Cristiano [<mailto:NicoleCristiano@harrisandharris.com>]
Sent: Monday, October 31, 2016 2:48 PM
To: Goldband, David
Cc: Gregory Harris; Peter Matukas; Heather Miller
Subject: Textbook Student Suites (525 Princess Street) Trustee Corporation, et al - File #14478

Good afternoon Mr. Goldband,

Attached is a pdf copy of correspondence dated today's date.

Regards,

Nicole Cristiano
Legal Assistant to Gregory H. Harris
 Harris + Harris LLP
 2355 Skymark Avenue
 Suite 300
 Mississauga, Ontario
 L4W 4Y6
 Phone 905.629.7800 x 237

Fax 905.629.4350

Email NicoleCristiano@harrisandharris.com

Web www.harrisandharris.com



HARRIS + HARRIS
BARRISTERS AND SOLICITORS

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Tab D

AIRD & BERLIS LLP

Barristers and Solicitors

Steven L. Graff
Direct: 416.865.7726
Email: sgraiff@airdberlis.com

159

November 2, 2016

VIA EMAIL: gregharris@harrisandharris.com

Harris + Harris LLP
2355 Skymark Avenue
Suite 300
Mississauga, ON L4W 4Y6

Attention: **Gregory H. Harris**

Dear Mr. Harris:

**Re: The Superintendent of Financial Services v. Textbook Student Suites (525
Princess Street) Trustee Corporation, et al. /
Court File No. CV-16-11567-00CL**

As you know, we are the lawyers for Grant Thornton Limited (“GTL”), in its capacity as the Court-appointed trustee (in such capacity, the “Trustee”) of the Property, as such term is defined in the Appointment Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on October 27, 2016 (the “Appointment Order”). A copy of the Appointment Order is available on the Trustee’s website at www.grantthornton.ca/tier1.

Unless otherwise indicated herein, all capitalized terms in this letter are defined as they are in the Appointment Order.

In accordance with paragraph 5 of the Appointment Order, and with the exception of RRSP or other registered funds (which, in accordance with the Appointment Order, are not to be released to any Person without further Order of the Court), we require H&H to deliver to the Trustee, by no later than the close of business on November 4, 2016, any and all Trust Funds in H&H’s possession or control. For greater certainty, and as expressly provided in the Appointment Order, the Trust Funds include, without limitation, any and all monies in any H&H account that are purported to be held in trust for the investors in or beneficiaries under any of the Real Property Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries.

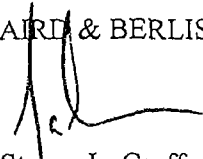
Kindly contact David Goldband of the Trustee’s office at 416-369-6446 or David.Goldband@ca.gt.com to coordinate the administrative aspects of the transfer of the Trust Funds, which Trust Funds the Trustee will continue to segregate on a project-by-project basis.

Page 2

We thank you in advance for your prompt attention to this matter.

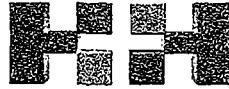
Yours very truly,

AIRD & BERLIS LLP

per: 
Steven L. Graff
SLG/iea/jn

cc: Client

27557150.1



HARRIS ✦ HARRIS LLP
BARRISTERS AND SOLICITORS

November 4, 2016

VIA EMAIL
sgraff@airdberlis.com

Aird & Berlis LLP
Brookfield Place
181 Brookfield Place, Suite 1800, Box 754
Toronto, ON M5J 2T9

Attention: **Steven Graff**

Dear Mr. Graff:

The Superintendent of Financial Services v. Textbook Student Suites (525 Princess Street)
Trustee Corporation, et al./Court File No. CV-16-11567-00CL

We are in receipt of your letter from Wednesday evening with respect to the transfer of the interest reserve trust funds held in our firm's trust account with respect to the above-mentioned matter.

While we certainly intend to comply with the Appointment Order of the Court issued on the Application heard October 27, 2016 and the transfer of trust funds to Grant Thornton as directed, we cannot do so within the less than 48 hour time period that you have stipulated.

As you aware, with respect to the interest reserve funds in our firm's trust account, we have written post-dated cheques against these funds to various investors for payments of future interest owed.

Now that you have requested the funds on behalf of Grant Thornton, we will have to cancel each of the interest cheques written against our firm's trust account, such that there would be no obligation written against the firm's trust account and for which funds would not be available. Transferring funds with uncanceled outstanding cheques written against the firm's trust account would be contrary to Law Society policies and guidelines and we would be compelled to refer this matter to the Law Society before undertaking any such action.

We have spoken with our accounting department and asked as to the timing required to cancel the cheques and transmit the trust funds as directed.

We have been advised that it takes approximately 60 minutes to cancel a batch of 10 trust cheques. This allows for the cancellation of the cheques with our bankers, Bank of Montreal, as well as in our law firm's accounting software for the purposes of the various files and trust accounts related to the projects in which interest holdback funds are maintained.

We have been advised by our accounting department that there are approximately 400-450 cheques issued at this time and that they estimate the time required to complete the cancellation of the cheques will be approximately 40 hours.

We have instructed our accounting staff to immediately begin the cancellation process and same is underway.

We would be pleased to provide you with updates as to our progress; however, we do not anticipate that we will be in a position to transfer the funds to you in any period of time under the 40 hours allotted (and that assumes the accounting person designated with this task did not have other responsibilities).

If the cancellation process is proceeding more or less expeditiously than anticipated, we will advise and update you.

As we have also advised you previously, there are no funds to be drawn against the firm's trust account with respect to the interest holdback proceeds until the next series of post-dated cheques come due and payable on January 1, 2017.

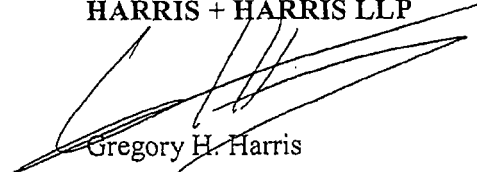
Consequently, while we do appreciate your desire to deal with this portion of the Court Order, we see no prejudice in the funds being delivered to you after the completion of the cheque cancellation process which will be well in advance of any funds being capable of being drawn against our trust account pursuant to any of the post-dated cheques in circulation.

As indicated, we intend to comply with the Court Order and have previously provided an undertaking that none of the interest holdback reserve monies held in trust by our firm would be paid out to any party without Grant Thornton's direction. Moreover, we have corresponded to Grant Thornton with respect to various immediate instances in which payments might have been contemplated; however, I understand that Grant Thornton advised our firm not pay any funds out to any party at this time and we have so complied.

Hopefully you understand this situation and we will work as expeditiously as possible to process the cheque cancellations and thereafter forward the trust funds to you. We are also compiling spreadsheets (and utilizing an Excel spreadsheet format as requested by Grant Thornton) such that Grant Thornton will be able to ascertain which investors are entitled to the next distributions from the interest hold-back accounts on January 1, 2016.

Yours very truly,

HARRIS + HARRIS LLP



Gregory H. Harris

GHH/nc

G:\WP5\14001-15000\14623\Correspondence\Letter to Aird & Berlis LLP (Steven L. Graff).HH.November 3, 2016.doc

November 4, 2016

VIA EMAIL: gregharris@harrisandharris.com

Harris + Harris LLP
2355 Skymark Avenue
Suite 300
Mississauga, ON L4W 4Y6

Attention: Gregory H. Harris

Dear Mr. Harris:

Re: **The Superintendent of Financial Services v. Textbook Student Suites (525
Princess Street) Trustee Corporation, et al. /
Court File No. CV-16-11567-00CL**

Thank you for your letter dated today, which was in response to our letter dated November 2, 2016. Unless otherwise indicated herein, all capitalized terms in this letter are defined as they are in our previous letter.

While we understand and appreciate the material administrative efforts that are required in order to cancel each of the interest cheques, and while the Trustee is therefore prepared to grant H&H additional time to complete the transfer of the totality of the Trust Funds, we see no reason why the transfer of Trust Funds for one segregated account should be delayed pending cancellation of interest cheques relating to a different segregated account.

Accordingly, and in accordance with the terms of the Appointment Order, we request that H&H:

- a) by no later than noon on November 7, 2016, transfer to the Trustee all Trust Funds in each segregated account for which all interest cheques were cancelled by the close of business today (which cancellation process we understand from your letter was already underway); and
- b) moving forward, ensure that the interest cheque cancellation process is focused on one segregated account at a time (starting with the segregated account with the highest balance) until completion of same, at which point all Trust Funds in such segregated account be transferred to the Trustee by no later than the next business day (and the process then repeat itself in respect of the segregated account with the next highest balance until all Trust Funds have been transferred within the time period set out in your letter).

Again, we appreciate the material administrative efforts that are required, and trust that the above indulgence in respect of paragraph 5 of the Appointment Order is satisfactory, and we encourage you to contact David Goldband of the Trustee's office at 416-369-6446 or David.Goldband@ca.gt.com to coordinate the administrative aspects of the transfer of the Trust Funds, which Trust Funds the Trustee will continue to segregate on a project-by-project basis.

We thank you in advance for your prompt attention to this matter.

Yours very truly,

AIRD & BERLIS LLP



Steven L. Craff
SLG/iea/jh

cc: Client

27577876.1

Goldband, David

From: Goldband, David
Sent: Tuesday, November 08, 2016 3:26 PM
To: 'Gregory Harris'; Ian Aversa
Cc: Krieger, Jonathan; Peter Matukas; Jeremy Nemers; Steve Graff; Douglas Christie; Nicole Cristiano
Subject: RE: Court File No. CV-16-11567-00CL / The Superintendent of Financial Services v. Textbook Student Suites (525 Princess Street) Trustee Corporation, et al.
Attachments: Wire Instructions Grant Thornton Limited as Trustee of Textbook Student Suites re 774 Bronson Avenue.pdf

Hi Greg,

Attached are our wire instructions for the estate of Textbook Student Suites (774 Bronson Avenue) Trustee Corporation.

Please provide the wire confirmation once it's completed.

Regards,

David Goldband
 Grant Thornton Limited
 416.369.6446

From: Gregory Harris [mailto:GregHarris@harrisandharris.com]
Sent: Tuesday, November 08, 2016 3:21 PM
To: Ian Aversa
Cc: Krieger, Jonathan; Goldband, David; Peter Matukas; Jeremy Nemers; Steve Graff; Douglas Christie; Nicole Cristiano
Subject: RE: Court File No. CV-16-11567-00CL / The Superintendent of Financial Services v. Textbook Student Suites (525 Princess Street) Trustee Corporation, et al.

Ian:

Because of the request from Steven that we proceed to transfer funds as soon as possible on a project by project basis, we had our accounting department switch over to a smaller project with less cheques to void and double-check, so as to get one project completed.

Attached is the trust ledger for the Bronson project, and we are double-checking the accounting entries and hope to be in a position to send these funds to GT tomorrow, once the double-checking has been completed.

We can wire the trust proceeds, if we are provided with GT's wire transfer details; failing which we can prepare a cheque and have it delivered to GT (please advise of the delivery address). Let us know if there is a preference.

Please do not rely on the balance shown in the trust ledger until our accounting department confirms that all the voided entries have been correctly input.

Before we transfer the funds we will include an updated trust ledger if there are any changes.

Greg

Gregory H. Harris
 Harris + Harris LLP
 2355 Skymark Avenue
 Suite 300
 Mississauga, Ontario
 L4W 4Y6
 Phone 905.629.7800 x 240
 Fax 905.629.4350
 Cell 416.460.2507
 Email gregharris@harrisandharris.com
 Web www.harrisandharris.com



HARRIS + HARRIS LLP
 BARRISTERS AND SOLICITORS

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From: Ian Aversa [<mailto:iaversa@airdberlis.com>]
Sent: November-08-16 2:14 PM
To: Gregory Harris
Cc: Krieger, Jonathan (Jonathan.Krieger@ca.gt.com) (Jonathan.Krieger@ca.gt.com); Goldband, David (David.Goldband@ca.gt.com) (David.Goldband@ca.gt.com); Peter Matukas; Jeremy Nemers; Steve Graff
Subject: RE: Court File No. CV-16-11567-00CL / The Superintendent of Financial Services v. Textbook Student Suites (525 Princess Street) Trustee Corporation, et al.
Importance: High

Greg;

Further to the attached letter that was sent to you on Friday, we are advised by the Trustee that it has still yet to receive any of the trust funds.

In accordance with the terms of the Appointment Order and the two subsequent formal written requests for the delivery of such funds, please advise when we can expect the trust funds to begin flowing into the Trustee's accounts.

Thank you.

Ian Aversa

T 416.865.3082
 F 416.863.1515
 E iaversa@airdberlis.com

Brookfield Place • 181 Bay Street
 Suite 1800 • Box 754
 Toronto ON • M5J 2T9 • Canada

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Barristers and Solicitors

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Please consider the environment before printing this email.

From: Jeremy Nemers
Sent: November-04-16 6:21 PM
To: 'gregharris@harrisandharris.com' <gregharris@harrisandharris.com>
Cc: Krieger, Jonathan (Jonathan.Krieger@ca.gt.com) (Jonathan.Krieger@ca.gt.com) <Jonathan.Krieger@ca.gt.com>; Goldband, David (David.Goldband@ca.gt.com) (David.Goldband@ca.gt.com) <David.Goldband@ca.gt.com>; Steve Graff <sgraff@airdberlis.com>; Ian Aversa <iaversa@airdberlis.com>; 'Peter Matukas' <PeterMatukas@harrisandharris.com>
Subject: Court File No. CV-16-11567-00CL / The Superintendent of Financial Services v. Textbook Student Suites (525 Princess Street) Trustee Corporation, et al.

Counsel,

Please see the attached correspondence of today's date from my colleague, Steven Graff.

Thank you,

Jeremy Nemers

T 416.865.7724
F 416.863.1515
E jnemers@airdberlis.com


Brookfield Place - 181 Bay Street
Suite 1800 - Box 754
Toronto ON - M5J 2T9 - Canada
www.airdberlis.com

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Barristers and Solicitors

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171

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Tab E



VIA Email - raj.singh@tier1advisory.com

November 1, 2016

Grant Thornton Limited
11 Floor, 200 King Street West
Box 11
Toronto, ON
M5H 3T4
T (416) 366-0100
F (416) 360-4949
www.GrantThornton.ca

Attention: Mr. Singh

Re: Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc.; Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "Tier 1 Trustee Corporations", and individually, a "Tier 1 Trustee Corporation")

Thank you for meeting with us on October 31, 2016. As you know, Grant Thornton Limited was appointed as trustee over all of the assets, undertakings and properties of the Tier 1 Trustee Corporations (in such capacity, the "Trustee") pursuant to an order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on October 27, 2016 (the "Appointment Order"). A copy of the Appointment Order is available at www.grantthornton.ca/tier1.

In accordance with the terms of the Appointment Order, the Trustee requests at this time certain information related to the Tier 1 Trustee Corporations.

- 1) For each of the syndicated mortgages held by a Tier 1 Trustee Corporation (collectively, the "Mortgages", and individually, a "Mortgage"), a list of all investors who participate in that Mortgage (in excel, if possible), including:
 - a. each investor's name, address, telephone number and email address;
 - b. whether such investor holds its investment with Olympia Trust Company;
 - c. whether such investor's investment is by way of an RRSP or is otherwise registered; and
 - d. the date and quantum of each investor's advances.

As advised during the October 31 meeting, the Trustee has also made this request of Harris & Harris LLP ("HH"), so please coordinate with HH in order to provide the Trustee with this information.

- 2) For each developer that received funds from a Mortgage (collectively, the "Developers", and individually, a "Developer"):

- a. quarterly updates provided by the Developer to the Tier 1 Trustee Corporation;
 - b. pro-forma analysis modelling-out the profitability of each project;
 - c. pro-forma statements detailing the costs, cash flow projections and use of Mortgage funds; and
 - d. a statement of any and all subsequent capital raises either in priority or subordinated to the Mortgage.
- 3) For each Mortgage, the quarterly updates provided by the corresponding Tier 1 Trustee Corporation to the investors under that Mortgage.
- 4) Any notices sent by any of the Tier 1 Trustee Corporations to any of the Developers in respect of defaults under any of the Mortgages, including but not limited to notices of default, demand letters and notices of intention to enforce security.
- 5) Copies of the closing documents in respect to each of the Mortgages.
- 6) Any additional books and records of the Tier 1 Trustee Corporations.
- 7) For each Developer under your control, which you advised at our October 31, 2016 meeting to be 1416598 Ontario Inc. (in respect of the "Guildwood" project), Keele Medical Properties Ltd. (in respect of the "Keele Medical" project) and Hazelton Development Corporation (in respect of the "Highlights Mississauga Condominiums and Towns" project):
- a. the Developer's most-recently prepared financial statements;
 - b. a detailed accounting of the use of funds advanced from the respective Mortgage;
 - c. a detailed accounting of the use of funds advanced from any subsequent capital raises by the Developer; and
 - d. a summary of the status of the project.
- 8) Any additional information which you believe should be brought to the Trustee's attention in connection with any of the foregoing.

Yours truly,

GRANT THORNTON LIMITED

solely in its capacity as Trustee of
the Tier 1 Trustee Corporations

Per:



Franny Freed, CPA, CA
Manager

cc: Aird & Berlis LLP

27535710.3