

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

THE HONOURABLE) THURSDAY, THE 30TH
)
JUSTICE NEWBOULD) DAY OF JUNE, 2016

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC.**



ORDER

THIS MOTION, made by Urbancorp (Woodbine) Inc. (“**UC Woodbine**”) and Urbancorp (Bridlepath) Inc. (“**UC Bridlepath**” and together with UC Woodbine, the “**Urbancorp Entities**”), pursuant to Sections 50.4(9) and 64.2(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Urbancorp Entities, the Third Report of the KSV Kofman Inc., in its capacity as Proposal Trustee (the “**Proposal Trustee**”) of each of the Urbancorp Entities, dated June 23, 2016 (the “**Third Report**”), the Supplement to the Third Report of the Proposal Trustee dated June 29, 2016 (the “**Supplemental Report**”) and the affidavit of service of Kyle B. Plunkett sworn June 27, 2016, filed, and on hearing the submissions of counsel for the Urbancorp Entities, counsel for the Proposal Trustee, counsel for Laurentian Bank of Canada, counsel for Terra Firma Capital Corporation and counsel for Atrium Mortgage Investment Corporation, and those other parties listed on the counsel slip.

SERVICE

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

EXTENSION OF TIME

2. **THIS COURT ORDERS** that, pursuant to subsection 50.4(9) of the BIA, the time for filing a proposal with the Official Receiver in respect of each of the proceedings of the Urbancorp Entities be and is hereby extended to August 22, 2016.

ACTIVITIES OF THE PROPOSAL TRUSTEE

3. **THIS COURT ORDERS** that the Third Report, the Supplemental Report and the actions and activities of the Proposal Trustee described therein be and are hereby approved.

ENGAGEMENT OF REAL ESTATE BROKER

4. **THIS COURT ORDERS** that the Urbancorp Entities, the Proposal Trustee and TD Cornerstone Commercial Realty Inc. ("**TD Realty**") are each authorized to execute and to carry out and perform their respective obligations under the listing agreement with TD Realty, as real estate broker for the Urbancorp Entities, dated June 23, 2016 (the "**RE Broker**"), attached as Appendix "D" to the Third Report (the "**Listing Agreement**") (including payment of the amounts due to be paid to the RE Broker pursuant to the terms of the Listing Agreement).

5. **THIS COURT ORDERS** that all claims of the RE Broker pursuant to the Listing Agreement are not claims that may be compromised pursuant to any proposal ("**Proposal**") under the BIA, any plan of arrangement or compromise ("**Plan**") filed by the Urbancorp Entities under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, or any other restructuring or proceeding and no such Plan, Proposal or restructuring shall be approved

that does not provide for the payment of all amounts due to the RE Broker pursuant to the terms of the Listing Agreement.

APPROVAL OF SALE PROCESS

6. **THIS COURT ORDERS AND DECLARES** that the sale process (the “**Sale Process**”) as described in Section 3 of the Third Report, be and is hereby approved.

7. **THIS COURT ORDERS** that the Urbancorp Entities, RE Broker and the Proposal Trustee be and are hereby authorized and directed to perform their obligations under and in accordance with the Sale Process, including under the terms of the Listing Agreement, and take such further steps as they consider necessary or desirable in carrying out the Sale Process and any steps taken by the Urbancorp Entities, RE Broker and/or the Proposal Trustee in connection with the Sale Process prior to the date hereof, as described in the Third Report, be and are hereby approved and ratified.

8. **THIS COURT ORDERS** that the Urbancorp Entities, RE Broker and the Proposal Trustee, to the extent the Proposal Trustee assists with the Sale Process, shall have no personal or corporate liability in connection with the Sale Process.

SALE PROCESS ADMINISTRATIVE CHARGE

9. **THIS COURT ORDERS** that, in addition to the Administration Charge (as defined at paragraph 8 of the Order of The Honourable Justice Newbould dated May 24, 2016 (the “**May 24 Administration Charge**”)) granted in these proceedings, the Proposal Trustee, counsel to the Proposal Trustee, and the Urbancorp Entities’ counsel shall be entitled to the benefit of and are hereby granted a charge (the “**Sale Process Administration Charge**”) on the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof of each of the Urbancorp Entities (the “**Property**”), which charge shall not exceed an aggregate amount of \$85,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Proposal Trustee, its counsel and counsel to the Urbancorp Entities in connection with the Sale Process, both before and after the

making of this Order. For clarification, the Sale Process Administration Charge shall be limited to \$42,500.00 as against the Property of each of the Urbancorp Entities as set out in paragraph 13 herein.

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

11. **THIS COURT ORDERS** that the Sale Process Administration Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, granted by each respective Urbancorp Entity or to which each respective Urbancorp Entity is subject (collectively, "**Encumbrances**"), save and except for (i) the charge in favour of Laurentian Bank of Canada and Terra Firma Capital Corporation granted by UC Woodbine, registered as Instrument Number YR2090261 (the "**LBC Charge**"); and (ii) the charge in favour of Terra Firma Capital Corporation and Atrium Mortgage Investment Corporation granted by UC Bridlepath, registered as Instrument Number AT3541941 (the "**Atrium Charge**" and together with the LBC Charge, the "**First Ranking Charges**"). For greater certainty, the Sale Process Administration Charge shall have the priority set out in paragraph 13 herein.

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

agreement (collectively, an “**Agreement**”) which binds the Urbancorp Entities, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Sale Process Administration Charge shall not create or be deemed to constitute a breach by the Urbancorp Entities of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Sale Process Administration Charge; and
- (c) the payments made by the Urbancorp Entities pursuant to this Order, and the granting of the Sale Process Administrative Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

13. **THIS COURTS ORDERS** that, notwithstanding the provisions of the May 24 Order, the priorities of the Sale Process Administration Charge, the Administration Charge (as defined in the May 24 Order), the First Ranking Charges and the existing Encumbrances, as among them, shall be as follows:

First – the First Ranking Charges;

Second – the Sale Process Administration Charge in the maximum amount of \$42,500.00 as against each Property of the Urbancorp Entities;

Third – Encumbrances other than the First Ranking Charges, including without limitation the charges in favour of Terra Firma Capital Corporation, registered as Instrument Number YR2411107 as against the Property of UC Woodbine and Instrument Number AT4107508 as against the Property of UC Bridlepath; and

Fourth – the May 24 Administration Charge.

SEALING CONFIDENTIAL APPENDIX TO THE THIRD REPORT

14. **THIS COURT ORDERS** that the Realtor Summary, which is attached as Confidential Appendix "1" to the Third Report, shall be sealed, kept confidential and not form part of the public record pending further Order of this Court.

GENERAL

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

16. **THIS COURT ORDERS** that each of the Urbancorp Entities and the Proposal Trustee shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



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

JUN 30 2016

PER / PAR:



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**IN BANKRUPTCY AND INSOLVENCY
PROCEEDINGS COMMENCED AT TORONTO**

**ORDER
(June 30, 2016)**

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