Estate No./Court File No. 31-2117602

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

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

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF ALAN SASKIN

SUPPLEMENT TO THE SEVENTH REPORT TO THE COURT OF GUY GISSIN, IN HIS CAPACITY AS COURT APPOINTED FUNCTIONARY AND FOREIGN REPRESENTATIVE OF URBANCORP INC.

January 17, 2018

A. INTRODUCTION

1. This report is being filed by Guy Gissin in his capacity as foreign representative and Israeli court-appointed functionary (the "**Foreign Representative**") of Urbancorp Inc. ("**UCI**").

2. The purpose of this supplemental report is to provide an update to the Seventh Report of the Foreign Representative dated November 27, 2017 (the "**Seventh Report**").

3. Capitalized terms not defined herein are as defined in the Seventh Report.

B. THE SASKIN UNDERTAKING

4. The Seventh Report states that Alan Saskin has attorned to the jurisdiction of the Israeli Court and that, pursuant to the Prospectus, he has irrevocably undertaken not to oppose the authority of the Israeli Court in connection with any proceeding commenced by the Indenture Trustee and has agreed not to oppose the application of Israeli law.

5. In addition to the representations in the Prospectus, Alan Saskin also executed an acknowledgment expressly attorning to the jurisdiction of the Israeli Court. A copy of this acknowledgment, dated November 30, 2015, in its original Hebrew, is attached as Appendix "**A**".

6. Translated, the acknowledgement states that Alan Saskin undertakes not to object to the request of the Trustee of the [Israeli Bondholders] and/or of the Bondholders for the application of Israeli law in the matter of compromise and settlement and insolvency, insofar as it is submitted… in any proceeding arising from the Deed of Trust, [and] not to object if a court in Israel seeks to apply the Israeli law to a matter of compromise and settlement and insolvency, as well as not to raise arguments against the Territorial Jurisdiction of the Israeli Court in connection with proceedings filed by the Trustee and/or the Bondholders….An unofficial English translation of the undertaking, prepared as part of the Prospectus filing with the Tel Aviv Stock Exchange, is attached as Appendix "**B**".

7. Under the Plan that was approved in Israel in respect of UCI, all the rights of the Bondholders now are assigned to the Foreign Representative.

C. THE UCI CLAIM

8. The Seventh Report attaches and summarizes the UCI Claim. Since the issuance of the Seventh Report, Alan Saskin has retained Israeli counsel, brought a motion to dismiss the UCI Claim, and filed a defence to it on the merits with the Israeli Court.

9. The motion to dismiss pleads that the Israeli Court lacks jurisdiction over Alan Saskin in connection with the UCI Claim on the basis of, *inter alia,* (i) *forum non conveniens*; (ii) the stay of proceedings in Alan Saskin's proposal proceedings in Ontario; (iii) the stay of proceedings imposed as a result of the proof of claim filed by the Foreign Representative in Alan Saskin's proposal proceedings and the Ontario CCAA proceedings for the same debt sought to be recovered by the UCI Claim, the class action commenced on account of the CAD 12 million which the UCI Claim alleges the respondents failed to contribute as equity to UCI, and the

proceedings commenced in the Ontario Court in relation to HST payments and the assignment of the promissory notes.

10. Alan Saskin's defence to the UCI Claim pleads, *inter alia*,

(a) as a preliminary matter, the same jurisdictional issues raised in the motion to dismiss and seeks to dismiss the UCI Claim on the basis that it is without merit and that UCI incurred no losses as a result of representations in the Prospectus and the Bond Issuance;

(b) that, in connection with the assignment of promissory notes, the Rights Holders (as defined in the Prospectus and including Alan Saskin) satisfied the undertaking in the Prospectus to transfer their right to the repayment of CAD 8 million in loans, as the undertaking was to transfer the right to repayment (regardless of the amount that would actually be repaid on account of those loans) and not an undertaking to assign CAD 8 million to UCI;

(c) that, in connection with the undertaking in the Prospectus to contribute CAD 12 million of equity UCI, the Prospectus describes an "intention" to provide UCI with an equity contribution rather than a cash commitment of same and that CAD 12 million was provided to UCI by way of a repayment of a tax liability;

(d) that full disclosure was made in connection with approximately CAD 10 million of UCI assets that the UCI Claim alleges were transferred to satisfy Alan Saskin's personal debts and those of companies which are unrelated to UCI; and,

(e) that, contrary to the allegation in the UCI Claim, there is no undertaking in the Prospectus to transfer approximately CAD 3 million in proceeds from real estate sales to UCI, as the Prospectus only describes an "expectation" that these proceeds will be generated.

D. THE MISREPRESENTATION CLAIM

11. In addition to the UCI Claim described in the Seventh Report, on December 6, 2017, the Foreign Representative commenced a claim, on behalf of UCI's creditors, against Alan

Saskin, Philip Gales, Deloitte Brightman Almagor Zohar, Apex Issuances Ltd., Midroog Ltd., Janterra Real Estate Advisors Inc., AIG Europe Limited, and AIG Europe (Services) Limited (collectively, the "**Respondents**") in the Israeli Court seeking damages for, *inter alia*, breaches of Israeli securities laws and negligent misrepresentation for material misrepresentations in the Prospectus issued in connection with the Bond Issuance (the "**Misrepresentation Claim**"). The Respondents include directors and officers of UCI and its auditors, underwriters, rating agency, appraisers and insurers, all of whom were involved in the Bond Issuance and the issuance of the Prospectus. A translated copy of the Misrepresentation Claim, without appendices, is attached as Appendix "**C**".

12. As with the UCI Claim, the Misrepresentation Claim as against Alan Saskin is subject to this Court lifting the stay of proceedings.

13. The Misrepresentation Claim alleges that the Prospectus contained material misrepresentations as to:

(a) the value of UCI's interest in the Kingsclub project, which was materially misrepresented to be CAD 43 million;

(b) the value and nature of UCI's financial and management interests in the Downsview project, as the Prospectus failed to disclose certain material amendments to the partnership agreements which could materially limit UCI's profit and management involvement in the Downsview project;

(c) the value of UCI's geothermal assets, as the valuations in the Prospectus were based on unreasonable assumptions and failed to disclose certain known defects and third party claims with respect to these assets;

(d) UCI's ownership interest in the Edge project, as the Prospectus indicates that UCI owned 53 residential units in the project when, in reality, UCI only owned 37 residential units and 5 trading units (because the balance of the units had been transferred to Alan Saskin's creditors in satisfaction of his personal debt and the debt of his other companies which are unrelated to UCI); and,

(e) the assignment of promissory notes to UCI (valued at CAD 8 million in the Prospectus), which the Ontario Court has held to be unenforceable on the basis that no money was actually owing at the time the promissory notes were issued.

14. If proven, these misrepresentations constitute a breach of Israeli securities laws and give rise to tort claims against the Respondents. Accordingly, the Misrepresentation Claim seeks damages of NIS 100,000,000 (approximately $36.8 million CAD), jointly and severally from each of the Respondents. The Misrepresentation Claim limits damages as against Alan Saskin to available proceeds of insurance.

E. MOTION TO LIFT STAY IN ALAN SASKIN'S PROPOSAL PROCEEDINGS

15. Alan Saskin expressly attorned to Israeli jurisdiction in relation to matters connected with UCI, which include the Misrepresentation Claim.

16. Alan Saskin is a necessary and integral party to the Misrepresentation Claim. The Misrepresentation Claim alleges that, under Israeli law, any party signing a prospectus, and any controlling stakeholder or managing director of the issuing entity, is liable to purchasers of the securities for damages caused by misleading information contained in the prospectus.

17. At all relevant times, Alan Saskin was the directing mind of UCI and a central figure in the preparation of the Prospectus and Bond Issuance. Ultimately, he executed the Prospectus and representation letters attesting to the accuracy of the contents of the Prospectus.

18. Alan Saskin is the beneficiary of D&O Insurance (as defined herein), which may respond to the Misrepresentation Claim if it is allowed to proceed.

19. AIG Europe Limited and AIG Europe (Services) Limited, both Respondents to the Misrepresentation Claim, issued two insurance policies in favour of UCI (collectively, the "**D&O Insurance**") – one covering general liability of directors and officers in the amount of USD 10 million, and the other providing additional insurance with respect to

claims arising in connection with the Prospectus and the Bond Issuance (the "**Prospectus Policy**") also in the amount of USD 10 million.

20. In addition to providing general coverage for directors and officers, the Prospectus Policy also covers prospectus-related claims filed by investors, among others, in connection with the purchase and offering of securities to the public. Moreover, the Prospectus Policy purports to cover violations of securities laws.

21. If the stay of proceedings is lifted and the Misrepresentation Claim is allowed to proceed, UCI's estate may be able to recover proceeds from the D&O Insurance.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 17 DAY OF JANUARY, 2018.

Guy Gissin, in his capacity as Court-Appointed Functionary and Foreign Representative of Urbancorp Inc., and not in his personal or corporate capacity

TAB A

30 בנובמבר 2015

לכבוד:

אורבנקורפ אינק.

(להלן: "**החברה**")

הנדון: **<u>התחייבות בלתי חוזרת להחלת הדין הישראלי</u>**

אני, הח"מ, מתחייב בזאת באופן בלתי חוזר שלא להתנגד לבקשת חנאמן למחזיקי אגרות החוב (סדרה א') ("**הנאמן**") ו/או מחזיקי אגרות החוב (סדרה א') אשר תוגש לבית משפט בישראל להחלת הדין הישראלי לעניין פשרה והסדר וחדלות פירעון, ככל שתוגש, שלא לפנות ביוזמתי לבית משפט מחוץ לישראל בכדי לקבל הגנה מפני הליך הנקט על ידי הנאמן ו/או מחזיקי אגרות החוב (סדרה א') של החברה, שלא לפנות ביוזמתם לבית משפט מחוץ לישראל בכל הליך שהוא הנובע משטר הנאמנות, שלא להתנגד אם בית משפט בישראל יבקש להחיל את הדין הישראלי לעניין פשרה והסדר וחדלות פירעון וכן שלא להעלות טענות כנגד סמכותו המקומית של בית המשפט בישראל בקשר עם הליכים שיוגשו על ידי הנאמן ו/או מחזיקי אגרות החוב (סדרה א') של החברה.

כמו כן הנני מתחייב באופן בלתי חוזר שלא להניע ביוזמתי הליך של חדלות פירעון לפי דין זר ובמקום שיפוט שאינו ישראל.

בכבוד רב,

אלן סספקין

TAB B

November 30, 2015

To:
Urbancorp Inc.
(Hereinafter: "Company")

Re: **Irrevocable Undertaking in the matter of the Application of Israeli Law.**

I, the undersigned, hereby irrevocably undertake not to object to the request of the Trustee of the bondholders of Series A bonds and / or of the Bondholders of Series A bonds request that will be submitted to a Court in Israel for the application of Israeli law in the matter of compromise and settlement and insolvency, insofar as it is submitted, not to approach on my own initiative to a Court outside Israel in order to receive protection against proceedings initiated by the Trustee and / or the Bondholders of bonds Series A of the Company, not to approach on my own initiative to a Court outside of Israel in any proceeding arising from the Deed of Trust, not to object if a court in Israel seeks to apply the Israeli law to a matter of compromise and settlement and insolvency, as well as not to raise arguments against the Territorial Jurisdiction of the Israeli Court in connection with proceedings filed by the Trustee and / or the Bondholders of Series A bonds of the Company.

I also irrevocably undertake to refrain from initiating, on my own initiative, a process of insolvency under foreign law and in a place other than Israel.

Yours,

_____

Alan Saskin

TAB C

In the Tel Aviv - Jaffa District Court
Commercial Department

Civil Case:

In the matter of:

Advocate Guy Gissin - Trustee for the Urbancorp Inc. Creditors' Scheme of Arrangement (Canadian corporation number 2471774)
by counsel Advocate Yael Hershkovitz and/or Advocate Gilad Bergstein and/or Advocate Michael Misul
of the Gissin & Co., Law Office of 38B, Habarzel Street, Tel Aviv 69710
Tel.: 03-7467777 Fax: 03-7467700

Plaintiff or the Functionary

And in the matter of:

1. **Mr. Alan Saskin, QK215602**[1]
by counsel Advocate Gad Ticho and/or Advocate Ishai Shidlovski-Or of the Caspi & Co., Law Office of 33, Javetz Street, Tel Aviv 6525832
Tel.: 03-7961000 Fax: 03-7961001

2. **Mr. Philip Gales GBR707799577 (British Passport)**
by counsel Advocate Gad Ticho and/or Advocate Ishai Shidlovski-Or of the Caspi & Co., Law Office of 33, Javetz Street, Tel Aviv 652 5832
Tel.: 03-7961000 Fax: 03-7961001

3. **Deloitte Brightman Almagor Zohar**
of 132, Menachem Begin Road, Azreli Centre 1 - Round Tower, Tel Aviv
Tel.: 03-7109101 Fax: 03-5606555

4. **Apex Issuances Ltd.**
of 23 Yehuda Halevi (Discount House) Street,Tel Aviv Israel
Tel.: 03-7109191 Fax: 03-5606555

5. **Midroog Ltd.,**
of 17, Ha'arbaah Street, Millennium Tower, Tel Aviv
Tel.: 03-6811700 Fax: 03-6855002

6. **Janterra Real Estate Advisors Inc.**
1526 Danforth Avenue, #200
Toronto, ON M4J 1N4

7. **AIG Europe Limited**

[1] Concurrently with the service on the Defendant No. 1's counsel, notice will also be served on the trustee that is proposed by Defendant No. 1 in his personal insolvency proceedings that are currently being conducted in Canada – The Fuller Landau Group Inc. (as proposal trustee of Alan Saskin). As detailed in paragraph 16 hereof, pursuant to the Canadian insolvency laws, Mr. Saskin's personal insolvency proceedings impose a stay of proceedings against Mr. Saskin, and the conduct of the present claim against Mr. Saskin is subject to the approval of the Canadian Court for lifting the stay of proceedings order in this connection.

נוטריון * הדסה בן-יעקב HADDASA BEN-YAKOV * NOTAIRE *

8. **AIG Europe (Services) Limited**
Defendants 7 and 8 both of The AIG Building
58 Fenchurch Street, 5th Floor
London EC3M 4AB
Defendants 7 and 8 by counsel Alex Hartman and/or Noam Zamir *et al* of the S. Horowitz and Co., Law Office, 31, Ahad Ha'am Street, Tel Aviv 6520204
Tel.: 03-5670700 Fax: 03-5660974

Defendants

And in the matter of:

The Official Receiver,
of 2 Hashlosha Street, Tel Aviv
Tel.: 03-6899695 Fax: 02-6467558

The O R

Nature of the claim: pecuniary, misleading item in the prospectus, tortious
Amount of the claim: NIS 100,000,000 [2]

Plaintiff, the Functionary – the trustee for the Creditors' arrangement of Urbancorp Inc., (hereinafter respectively called – "**the Functionary,**" "**the Creditors' Scheme of Arrangement**" and "**the Company**"), respectfully file this statement of claim against Defendants by virtue of the rights of action that were assigned to the fund of the Creditors' Scheme of Arrangement by Creditors of the Company – the holders of the (Series A) Bonds

In December 2015, the Company issued to the public in Israel in excess of NIS 180 million (nominal value) bonds according to a prospectus that it published pursuant to the Securities Law, 5728-1968 (hereinafter – "**the Prospectus**" and "**the Securities Law**"), as set out below, the Prospectus contained a gamut of misleading items.

This claim is being filed against Defendants – the managers of the Company, the auditors who audited and reviewed its financial statements, the underwriter of the offering; the rating company that granted an A3 rating to the bonds; the appraiser of the Company's principal assets and against the insurance company which insured the liability of the Company, and its officers according to the Prospectus.

This is a long line of "gatekeepers", who, in their negligence, failed to perform their duties.

Based on all of the arguments set forth in this statement of claim, the Honourable Court is petitioned to allow the action, adjudicate in favor of the Bondholders, the amount of

[2] As detailed in paragraph 80 below, the amount of the damage incurred by the bondholders stands at NIS 180,583,000 with the addition of agreed annual interest of 8.15% per annum (commencing 10 December, 2015 until the actual payment date), with the further addition of default interest at the rate of 3% per annum (commencing from the acceleration of the payment of the bonds until the date of actual payment), with the addition of the bondholders' trustee's costs and a portion of the bondholders' general costs incurred in the Company's insolvency proceedings, net of monies that were effectively received by them until now in the framework of the Company's insolvency proceedings. For Court fee considerations and having regard to the fact that further monies are expected to be received from the insolvency proceedings, this claim has been set at the sum of 100 million new shekels only. As to the possibility of the reduction of the claim amount in the event of additional monies being distributed to the bondholders out of the treasury of the creditors arrangement – *vide* paragraph 14 hereof.

the claim and render them liable to bear the costs of the claim with the addition of legal fees and VAT.

The arguments pleaded in this statement of claim are pleaded in the alternative and/or cumulatively, pursuant to the context and the content.

Statement of Claim

A. *INTRODUCTION*

1. **This claim is being filed by the Functionary by virtue of the rights of action of the holders of the Company's bonds that were assigned to the Functionary in the framework of the Creditors' Scheme of Arrangement.**

2. **In December 2015, the Company raised the sum of approximately NIS 180 million by way of a bond issue to the public according to a prospectus pursuant to the Securities Law. This claim concerns a series of misleading items and representations by which the Prospectus is tainted. These misleading items and representations resulted from the severe failure of the Defendants – the management of the Company; the auditors who audited and reviewed its financial statements; the underwriter of the offering; the rating company which granted an A3 rating to the bonds; and the appraiser of the Company's principal assets - to fulfill their obligation and duty as the gatekeepers of the Company and from performing their legal duties.**

"1" "Supplementary Amendment to the Prospectus" published by the Company on 7 December 2015 is attached as **Appendix 1**.

"2" "Supplementary Notice to the Supplementary Prospectus" published by the Company on 9 December, 2015, is attached as **Appendix 2**.

"3" The notice of the Company of the results of the offering of 10 December, 2015 is attached as **Appendix 3**.

3. **Defendants, who were entrusted with the authenticity and accuracy of the information that was published for the purpose of raising the bonds, as "the gatekeepers" of the public, failed in the performance of their duties since the Prospectus effectively included a long line of misleading items relating to the material assets and rights of the Company.**

4. The importance of the action is thus to exhaust the full power of the law against the gatekeepers on the basis of whose declarations, signatures and opinions that were given and were cited in the Prospectus, the public accepted the offering of the bonds according to the Prospectus.

5. The Company was incorporated on 19 June, 2015 according to the laws of the District of Ontario, Canada, specifically for the purpose of raising debt in the capital market in Israel, for investing in real estate in Canada, by means of a bond offering that would be listed for trading on the Tel Aviv Stock Exchange.

6. The Company issued some 180,000,000 (n.v.) (Series A) Bonds ("**the Bonds**") that were listed for trading on the Tel Aviv Stock Exchange on 10 December,

2015, pursuant to the Prospectus dated 30th of November 2015, and the amendment thereof dated 7th December, 2015 (herein referred to as "**the Offering**" and "**the Prospectus**"). In the framework of the Offering, the Company entered into a deed of trust that was signed on 7th December, 2015 (hereinafter: "**the Trust Deed**") with Reznik Paz Nevo Trustees Ltd., as trustee.

7. Within some 4 months of the date of the publication of the Prospectus, and the raising of the Bonds, the Company collapsed, trading in its bonds was suspended according to a decision of the stock exchange in respect of "***the uncertainty surrounding the affairs of the Company, as indicated by its statements ...***", and insolvency proceedings in Israel and in Canada were launched in relation thereto and its subsidiaries.

8. On 24 April, 2016, the trustee for the Bonds turned to the Honourable Court petitioning for the appointment of a Functionary for the Company and pursuant to the Court decision, a temporary order was granted prohibiting dispositions. On 25 April, 2016, the Court instructed for the appointment of Advocate Guy Gissin as Functionary for the Company,[3] and further, in consequence of the approval of the Creditors' Scheme of Arrangement of the Company, on 26 September, 2017, as trustee also for implementing the Creditors' Scheme of Arrangement.

9. In the framework of the Creditors' Scheme of Arrangement, the rights of action of the Company's creditors including the holders of the Bonds were assigned to the Functionary in respect of all and any claims or demands or causes of action and/or any relief available to them including – any relief available to them by virtue of the Securities Law and/or the Trust Deeds, against all and any third parties in order to instigate actions and legal proceedings against third parties which, pursuant to the investigations that were carried out by the Functionary, were involved in the collapse of the Company, in Canada and in Israel, including officeholders and third parties, professional consultants, underwriters etc. and directions required to finance those operations ("**the Assignment of the Rights of Action**").[4]

"4" The proposed arrangement as amended and approved by the Honourable Court is attached hereto as **Appendix 4**.

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[3] On 18 May, 2016, the Court in Canada recognized the instant Court decision and approved the proceeding in Israel as a Foreign Main Proceeding in relation to the Company, and the appointment and powers of the Functionary as Foreign Representative of the Company.

[4] Thus, in section 57 of the Creditors Scheme of Arrangement that was approved as stated by the Honourable Court it is provided that: "***the creditors of the Company hereby assign by absolute an irrevocable assignment in favour of the Functionary, all of their rights of action against any third party and entity related thereto, accountants, the auditors, consultants, underwriters, various institutional bodies in Israel or Canada ..., including in relation to the circumstances that led to the collapse of the Company (hereinafter collectively called: "Assignment of the Rights of Action" and "the Third Parties" respectively); including in respect of any claim or demand and/or cause of action and/or remedy available to them ... for the purpose of instigating actions and legal proceedings that are required pursuant to the investigations carried out by the Functionary in relation to the involvement of those parties or any of them in the collapse of the Company ...***".

10. The Functionary and his office team, assisted by lawyers and a financial consultant in Canada, took various actions in both Israel and in Canada in order to investigate the reasons for the collapse of the Company including the holding of meetings, investigations and interrogations of parties who were involved in the Company's activity including the Offering of the Bonds according to the Prospectus, in particular.

11. As we will detail below at length, the investigations of the Functionary indicate (*inter alia*) that the Prospectus was tainted with an abundance of misleading items in relation to the main assets of the Company that were in the main defined in the Prospectus as ***extremely material projects***. The Functionary continues to investigate the circumstances of the collapse of the Company and reserves his rights to amend and/or make additions to this statement of claim pursuant to new facts as they emerge, from time to time.

12. Defendants are the parties who signed and/or gave opinions, reports or certifications that were included in the Prospectus, and bear responsibility for the inclusion of misleading items therein, as will be detailed below, on the basis of which an enormous sum in excess of 180 million new shekels was raised from the public.

13. The damages that were incurred by the holders of the Bonds amount to NIS 180,583,000 with the addition of agreed annual interest of 8.15% per annum (commencing from 10 December, 2015 until the actual payment date),[5] and with the addition of default interest at the rate of 3% per annum (commencing from the date of the acceleration of the Bonds until the date of actual payment thereof) with the addition of costs of the trustee of the Bonds and the Bondholders' share of all of the costs of the Company's insolvency proceedings, net of monies that have been effectively received by them until now in the framework of the Company's insolvency proceedings. For fee considerations and having regard to the fact that further monies are expected to be received from the insolvency proceedings, this action has been set at the sum of NIS 100 million only.

14. Necessarily to the extent further monies will be effectively distributed to the Bondholders (by virtue of whose rights of action that were assigned to the Functionary, this claim is being filed) as dividend from the fund of the Creditors' Scheme of Arrangement, that will result from other sources (e.g. – realization proceedings of assets, claims and/or other proceedings which are being conducted by the Functionary in Israel and Canada), so that the damage that has effectively been caused to the Bondholders will be reduced by the amount of the action that is specified above (for fee purposes), the Functionary will turn by way of separate application to reduce the amount of the action accordingly.

B. THE DEFENDANTS

[5] With the addition of an increase of the interest between 12 April, 2016 until the acceleration date of the debt in respect of a downrating of the Company, at an annual rate of 0.5% as detailed in the report of the Company dated 13 April, 2016, (ref. No. 2016-01-047758).

Defendants are as will be described below, the directors of the Company and the parties whose opinions, certifications or reviews were included or mentioned in the Prospectus of the Offering.

15. Defendants 1 and 2, served as directors of the Company on the date of the Offering, and signed the Prospectus of the Offering.

16. Defendant No. 1 – Mr. Alan Saskin also served, on the date of the Offering, as chairman of the BOD, President and CEO of the Company, and is the founder of the Company and has been the driving force behind the activity of the Canadian Urbancorp Group for decades preceding the Offering of the Company. Mr. Saskin held himself out as the controlling stakeholder and sole shareholder (by way of corporate concatenation) of the Company. To complete the picture, it should be noted that Mr. Saskin (together with his wife and corporations in their control), is also being sued in another claim that was filed by the Functionary on 20 June, 2017 (proceeding No. 46263-06-17), in relation to breach of obligations that they assumed **towards the Company, in the framework of the Prospectus and for the purpose of raising the capital.** These deal with transfers or the misappropriation of assets and/or the transfer of assets and amounts which Mr. Saskin, his family members and corporations owned by them undertook to transfer to the Company in the framework of the Prospectus.

    Since Mr. Alan Saskin is currently the subject of personal insolvency proceedings that consist of a stay of legal proceedings against him, the conduct of the claim against Mr. Saskin (by means of his Trustee in Bankruptcy in Canada (Proposal Trustee)), is subject to the approval of the Canadian Court to lift the order of the stay of proceedings in this context, and will be limited solely to the insurance monies to the extent they will be received, by virtue of the causes that are set out in this action.

17. Defendant No. 2 – Mr. Philip Gales, Mr. Saskin's son-in-law, served on the date of the Offering as director and VIP Finance of the Company and signed the Prospectus of the Offering. Mr. Gales is, according to reports of the Company, a graduate of the Harvard Business School.

18. Defendant No. 3 – Deloitte Brightman Almagor Zohar ("**Deloitte**"), acted as the auditors of the Company, audited the statements in relation to the specific financial information of the Company as of 30 June 2015 and 30 September, 2015, reviewed the proforma consolidated financial statements of the Company as of 30 June, 2015 and audited the proforma consolidated financial statements of the Company for 2012-2014.

19. Pursuant to the financial report that Deloitte reviewed, the Company's equity capital as of 30 June, 2015 amounted to some 72 million Canadian Dollars. Based on that information it was determined in the Prospectus of the Offering that the total capital imputed to the shareholders of the Company as of 30 June, 2015 was the sum of 72 million Canadian Dollars (prior to the advance of a contribution by the owners in the sum of 12 million Canadian Dollars, which the controlling stakeholder had undertaken to advance to the Company).

20. Defendant 4 – Apex Issuances Ltd., ("**Apex**") acted as the pricing underwriter to the Prospectus (as defined in section 1 of the Securities Law), was involved in structuring the Offering and signed on the drafts and the Prospectus that were published to the public investors.

21. Defendant No. 5 – Midroog Ltd., ("**Midroog**") is the rating company that granted the Bonds a rating of A3, and whose rating report is attached to the Prospectus (*vide* from page B-33 onwards of the Prospectus until the end of Chapter B ("**the Rating Report**"). On the basis of that rating it was determined in the Prospectus of the Offering, *inter alia*, that the Company is not required to comply with the equity-capital requirements of the TASE. The participation of some of the institutional investors in the Offering was similarly enabled in light of the existence of the investment rating of the Bonds on offer.

22. Defendant No. 6 – Janterra Real Estate Advisors Inc., (hereinafter: "**Janterra**"), are the appraisers of the Company who, as will be described below, supplied appraisals in relation to the Company's main real estate assets of and those of its controlled companies, and of the geothermal assets. Janterra's appraisals were included or cited in the Prospectus. It was provided in section 7.20.9 of the Prospectus that:

> *"The principal appraiser of the Company's assets is: Janterra Real Estate Advisors. The assets that were appraised by Janterra Real Estate Advisors constitute the total value of the income-producing real estate assets in the Company's balance sheet, to the extent of some 120,918,000 Canadian Dollars. Janterra Real Estate Advisors is not a dependant party on the Company.*
>
> *For details relating to the main thrust of the particulars of the engagement with the appraiser, pursuant to section 2 of Third Schedule of the Securities Regulations (Periodic and Immediate Reports), 5730-1970, vide the tables contained in sections 7.7.6.1(h) and 7.7.6.2(f) above, as appropriate, as well as the Company's very material appraisals in Chapter 10, following the financial statements.*
>
> *For details concerning the principal assumptions in the appraisals that were made by Janterra Real Estate Advisors vide Notes 8(d) and 9(d) of the Company's financial statements as of 31 December, 2014."*

In addition, Janterra's appraisals were also attached to the Prospectus in relation to the Kingsclub project, as will be de at scribed below. Janterra's appraisals relating to additional assets were received by the Company (and to the best of the Functionary's knowledge, also by other Defendants), were mentioned and served as a basis for the description and value of the Company's assets in the framework of the Prospectus of the Offering, and in the financial report that was therein contained.

23. Defendants 7 and 8 – AIG Europe Limited (formerly Landmark Insurance Company) and AIG Europe (Services) Limited (formerly AIG Europe (UK Limited) (hereinafter collectively: "**the Insurer**") issued to the Company, to the best of the Functionary's knowledge, two insurance policies:

    a. Corporate Guard – Public Offering of Securities Insurance policy (AIGMLCCGPOSI 12/14/16) – which was designated to cover liability

claims by virtue of the Prospectus, that were first brought against an insured during the term of the policy (7 years) and reported to the insurer pursuant to the requirements of the policy. The cover provided by the policy amounts to 10 million US Dollars. The policy is in standard form and accompanied by a supplement that was received in the Company on behalf of Leaderim Insurance Agency (1995) Ltd., (hereinafter: "**Leaderim**"), contains a specific reference to the terms and extensions that had been agreed on with the Company (hereinafter – "**the Prospectus Policy**").

According to its terms, the Prospectus Policy also covers exposure to potential and actual liability of the officeholders, as well as in respect of the responsibility of the controlling stakeholders and similarly, the liability of the underwriters for the Offering (Defendant No. 4). The Policy also contains a special extension, *inter alia*, for prospectus-related claims that are filed by the holders of securities and/or by other entities, based on grounds resulting from the purchase or offering of the securities to the public; (hereinafter defined as a: "Prospectus Claim") in the extension document of the Policy:

3.22 Prospectus Claim – shall be amended by adding the following:

(i) The following sub paragraph shall be added:

c. any written demand and/or civil, criminal, regulatory, administrative proceeding and/or investigation, alleging a violation of any laws (statutory or common), rules or regulations regulating securities:

I. in respect of the purchase or sale or offer or solicitation of an offer to purchase or sell securities, or any registration or listing relating to such *securities*;

II. brought by any person or entity or official body alleging, arising out of, based upon or attributable to the purchase or sale, or offer or solicitation of an offer to purchase or sell any *securities* of a the *issuer*; or

III. brought by a *security* holder with respect to such *security* holder's interest in *securities* of the *Policyholder* or any of its *subsidiaries*; or

IV. brought derivatively on behalf of an *issuer* by a *security* holder of that *issuer*.

(ii) The term "*insured person*" shall be replaced by the term "*insured*".

b. Corporate Guard Israel 09/97 – Directors and Officers Liability Insurance – which is designed to cover insurance liability of the directors and officeholders of the Company. The policy is in standard form and is accompanied by a supplement of Leaderim, which contains a specific reference to the extensions and agreements that had been agreed on with the Company; (hereinafter – "Officers' Liability Insurance"); the insurance cover under the Officers' Liability Policy stands at 10 million US Dollars.

"5" Copies of the Prospectus Insurance Policy and the Officers' Insurance Policy are attached hereto as **Appendix 5A** and **5B** respectively.

C. The first misleading item – value of the Kingsclub project

24. The Kingsclub project is described in the Prospectus as significant, consisting of residential and trading buildings held in partnership equally with the First Capital Reality Co. Group. **In the Prospectus, a value of some 137 Million Canadian Dollars was imputed to the project (100%), and the value of the share of the Company's charged holdings in the project was estimated at some 43 million Canadian Dollars;** as more particularly described in the Prospectus (vide pp. [illegible]

38 to G-46 of the Prospectus – Appendix 1 to the statement of claim), the appraisal being based on the Janterra appraisal.

25. In light of the materiality of the asset from the Company's view point, the appraisal prepared by Janterra was also attached in support of that value, in full, to the Prospectus (*vide* the end of Chapter 10 of the financial statements – as from page number 515 of the Prospectus – Appendix 1 to this statement of claim), including a side letter confirming the attachment thereof to the Prospectus.

26. Likewise, the rating report that was published by Defendant No. 5, and contained in the framework of the Prospectus (vide from page B-33 of the Prospectus until the end of Chapter B), attributes significant weight to this project and *inter alia*, determines that the "***Kingsclub project is expected to be responsible for some 25% of the NOI volume of the income-producing assets on the stabilization of that activity***"[6] and that the project has " ***an approximate surplus value of some 8 million dollars, that is not embodied in the financial statements by reason of an accounting classification of one of the buildings in-progress (2 out of the 3 residential buildings in that project being presented at fair value while one building is presented according to the standard cost method)***".[7]

27. However, it became clear to the Functionary in the framework of his investigations and examinations, that that the value that had been imputed to the Kingsclub project in the financial statements was completely without any basis. At the present, pursuant to information that is held by KSV Kofman Inc., that was appointed as the officer of the Canadian Court for most of the subsidiaries' of the Company ("**the Monitor**"), **it is not entirely clear what recoupment, if any , may enure to the Company in respect of that project.**

"6" A copy of the Monitor's report number 10, dated 24 October, 2017 is attached as **Appendix 6**.[8]

28. It appears that a project that was described as material in the Prospectus as having a value in excess of 40 million Canadian Dollars may have a nil value for the Company.

29. Investigations carried out by the Functionary indicate that the project cost budget as of 30 June, 2015 (the date on which the financial statements contained in the Project were prepared, which fell more than five months before the publication of the Prospectus!), as conveyed to the management of the Company, specified **an aggregate amount of some 300 million Canadian Dollars**, while the construction budget of the project that was included in Janterra's appraisal and similarly in the body of the Prospectus itself, **is some 268 million Canadian Dollars only.**

30. Hence, in the project report dated 30th June, 2015, that was prepared by the Finnegan Marshall Inc., consulting company, for The Bank of Nova Scotia that is

[6] *Ibid* at p. 13 of the rating report.
[7] *Ibid* at p. 14 of the rating report.

[8] *Vide* p. 15 of the Monitor report.

financing the Kingsclub project, it was expressly emphasized in the introduction of the report that **based on the assumptions and information set out in the report, the construction budget of the project amounts to 300 million Canadian Dollars**. It is unnecessary to add that the report was based on data of the project itself, and that copies of that information were sent to directors and managers of the Company, Defendants 1 and 2, in real time.

31. In consequence, the material difference in the evaluation of the project costs budget, between the data that was presented in the Prospectus and that supplied to the lending bank during the same period – June 2015, and which is at least one of the central factors causing the impairment of the value of the holdings in this project (of more than 30 million Canadian Dollars), was not reported in the Prospectus nor did it have any impact on the value that was imputed to the project in the Prospectus, that was, as will be remembered, published in December 2015. That project budget similarly earned no mention in the evaluation prepared and published by Janterra (*vide* p. 41 of Janterra's opinion at the end of Chapter 10 of the Prospectus of the Offering – Appendix 1); in the body of the Prospectus of the Offering (*vide* p. G-42 of the Prospectus of the Offering – Appendix 1) or in the financial statements that were attached to the Prospectus.

"7" A copy of the project report dated 30 June, 2015, is attached as **Appendix 7**.

D. THE SECOND MISLEADING ITEM – THE DOWNSVIEW PROJECT

32. The Downsview project is a mixed real estate project consisting partly of income-producing property and partly development, in which a wholly-owned subsidiary of the Company, Urbancorp Downsview Park Development Inc., ("**Downsview Company**"), holds 51%, by means of a joint company with Mattamy (Downsview) Limited and Downsview Park Management Inc., ("**Mattamy**"), which is also the development manager of the project (hereinafter referred to in this chapter as "**Downsview Project**" or "**the Project**").

33. The Downsview Project comprises in excess of 1,000 residential units in various stages, and is one of the "backup assets" whose revenues were intended to service repayment of the Bonds. In addition thereto, some 10 million Canadian Dollars out of the proceeds of the Offering were remitted as an owners' loan to the Downsview Company.

"8" A copy of the owners' loan agreement with the Downsview Company is attached as **Appendix 8**.

34. **The Downsview Project was always presented as a very central and material asset of the Urbancorp Group and in the framework of the Prospectus,[9] the gross profit that estimated as being receivable therefrom as of 30th June, 2015 (i.e., in respect of the first phase of the Project only, according to 100% of the Project) was some 36.8 million Canadian Dollars. The gross profit in respect of (100%) of the subsequent phases of the Project was estimated in the**

[9] Under the chapter *Very Material Projects – vide* section 7.8.6.2 of the Prospectus – Appendix 1

framework of the designated disclosure to the Bondholders that was included in the Prospectus was some 40 million Canadian Dollars.[10]

35. Likewise, pursuant to the rating report "***the volume of the cashflow from the Downsview Project compared with the total expected cashflow from the residential enterprise for sale stands at some 40% (having regard to all the phases of the Project) most of which is expected to be received during 2017-2018.***".[11]

36. A description of the Downsview Project in the Prospectus included a description of the profit distribution (payments waterfall) amongst the partners, which in general provides that after payment of the Project expenses (including to Mattamy in respect of developing the Project), a further sum will be paid to Mattamy of 21 million Canadian Dollars, followed by the profits to be divided between the Downsview Company (50%), Mattamy (49%) and the development manager (Mattamy – 1% (*vide* p. G-65 of the Prospectus – Appendix 1).

    A decision-making process was also described in the Project by means of a joint committee including a representative of the Company, by which no material decision would be made without the consent of the Company's representative (*vide* p. G-4 of the Prospectus – Appendix 1).

37. The materiality of the payments waterfall of the Downsview Project was clear to all, and it was not without reason that the Company also declared in the framework of section 6.9.10 of the Trust Deed of the Bonds (vide p. 27 of the Trust Deed – from p. B-31 onwards of the Prospectus – Appendix 1), that "***the payments waterfall in the Downsview Project is as detailed in section 7.6.8.2A of the Prospectus***".

38. However, investigations pursued by the Functionary indicate that amendments that had been made in the partners' agreement in the Project ("**the Partnership Agreement**") which materially impact both the payments waterfall in the Project as well as the decision-making process in the Project, "had been omitted" from the description included in the Prospectus in relation to the Downsview Project. These amendments effectively negate from the Urbancorp Downsview Company (the subsidiary that holds the rights in the Project), the management rights and decision making in the Project and leave it with limited supervision rights only.

39. Thus, according to an amending agreement to the Partners Agreement dated 30 July, 2013 (about a year and a half before the publication of the Prospectus!), the payments waterfall was amended and adjusted in the agreement to cases in which the profits in the Project would fall below 40 or 30 million Canadian Dollars, amid the making of adjustments which **could significantly reduce the value of the Company's holdings in the Project.**

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[10] According to the data contained in the Prospectus – 16.5% gross profit of 150,921,000 Canadian Dollars with the addition of 29.2% gross profit of 49,085,00 Canadian Dollars – *vide* p. 102 to G-105 of the Prospectus – Appendix 1.

[11] *Vide* p. 13 of the rating report at the end of Chapter B of the Prospectus – Appendix 1.

HADDASA BEN-YAKOV NOTAIRE * NOTARY

"9" The amendment dated 30 July, 2013 to the Partners Agreement in relation to the payments waterfall is attached hereto as **Appendix 9**.

40. Furthermore, pursuant to the amendment to the Partnership Agreement of 22 July, 2015 (four and a half months before the publication of the Prospectus), the participation rights of the Downsview company on the Project committee and its right to take part in material decisions were abrogated to the extent that in the event of payment of a certain sum payable by 15 November, 2015 to the Project company becoming past due, then this would purportedly confer the management rights and decision-making exclusively on Mattamy. Accordingly, as of the present date, the Monitor who was appointed for Urbancorp Downsview by the Canadian Court is not a member of the Project committee on behalf of the Downsview company and is not a party to material decisions that are adopted in connection with the project.[12]

"10" The amendment to the Partnership Agreement of 22 July, 2015 in relation to the management rights of the Project is attached hereto as **Appendix 10**.

41. Investigations pursued by the Functionary indicate that such amendments to the Partnership Agreements, which did not earn any disclosure in the Prospectus, were transferred to at least some of the Defendants in the framework of due diligence material that was received for the purpose of the Offering and/or the preparation of the financial statements.

42. It thus appears that the description contained in the Prospectus relating to both the payments waterfall as well as in relation to the management rights of the Company in the Project is misleading, despite the fact that the amendments to the Partnership Agreements were signed a number of years or months before the Offering.

43. The Functionary is currently involved in investigative proceedings with Mattamy in relation to the data and value of the Downsview Company's holdings in the Project and it is difficult at this stage to estimate the full damage that has been caused to the Company itself as a result of the changes resulted from the amendments to the Partnership Agreement, but for purposes of this action – there is nor can there be any doubt that the absence of a description of the amendments and the significance thereof in the Prospectus constitutes the inclusion of misleading items and/or the material absence from the description in the Prospectus since these operate to significantly reduce the value of the Company's holdings in the Project and the Group involvement in the development thereof.

E. THE THIRD MISLEADING ITEM – THE VALUE OF THE GEOTHERMAL ASSETS

44. The geothermal assets are heating and cooling systems that are installed within residential buildings that were constructed and sold by the Urbancorp Group. The revenues from these assets consist of fixed income in respect of the use coupled

[12] It should be clarified that the Functionary is currently reviewing the right of the Downsview company to regain its rights in connection with the management and decision-making in the Project, by virtue of the payment that was made by means of the owners' loan that the Company transferred to Urbancorp Downsview in the framework of the Offering as described in paragraph 33 above.

with the income in respect of 50% of the saving that is created[generated] as a result of the use of these systems.

45. **The value of these assets was estimated in the Prospectus at tens of millions of Canadian Dollars, as will be detailed below.**

46. Pursuant to the information that was included in the Prospectus on the basis of the Company's proforma consolidated statements, the value of the geothermal assets as of 30 June, 2015 was some 58 million Canadian Dollars and the undertakings in respect thereof amount to some 4.6 million Canadian Dollars (vide p. G-23 of the Prospectus – Appendix 1). In section 7.9.19 of the Prospectus, **the value of the Company's holdings in all of the geothermal assets (pursuant to the rate of its holdings in each asset) is estimated at some 44 million Canadian Dollars.**

47. Specific information was also contained in the Prospectus in relation to the distribution of the aggregate value of the geothermal assets across each of the assets pursuant to Janterra's appraisal (vide p. G-74 to G-76 of the Prospectus). One of the underlying assumptions of the appraisals is that the operating period of the assets is 60 (sixty!) years from the date of the installation thereof (with the exception of the Fuzion asset where the assumption related to an operating period of 50 (fifty!) years only from the installation date).

This assumption (the reasonableness of which we will address below) similarly does not accord with an engineering study that was supplied to the Company in the framework of the due diligence investigations and was found amongst the materials that the auditors transferred to the Functionary. According to the engineering study the heating system in the geothermal systems "could have" a 50-year period of use, but only if certain factual assumptions which the engineering study does not acknowledge the existence of, are fulfilled.

"11" A copy of the engineering study dated 25 June, 2015 is attached as **Appendix 11**.

48. As distinct from the appraisals, pursuant to the rating report[13] the reference was only to the term of the existing lease contracts – 20 years. And thus it is written: ***"the Company has 4 signed Triple Net Lease Contracts for 20 years and which are expected to generate some 1.4 million Canadian Dollars a year (exclusive of various linkages)."***

49. **In practice, following the Functionary's appointment it became clear that litigation proceedings are being conducted in relation to the four geothermal assets *inter alia* on the ground that the contracts are to be rescinded; that the user fees were overcharged; and that there are defects in the systems (which, it is claimed, were known to the management company of these assets for many years). As a consequence of these claims and legal proceedings, it became clear, to the Functionary that no revenues whatsoever are being received in the relevant subsidiaries from these assets (at least since the commencement of the Company's insolvency proceedings).**

[13] *Vide* at p. 10 of the rating report – at the end of Chapter B of the Prospectus.

50. *Thus it is argued by the condominium corporations in which the systems are* installed, *inter alia* in light of the fall of alternative energy prices, that the prices for the use of the systems do not lead to a saving in costs and are also **higher than the cost of the use of ordinary systems**.

51. The condominium corporations did point to the existence of defects and malfunctions in the systems the existence of which or the possibility of such occurring had already been known to the engineers of the management company of the Urbancorp Group since 2010 or 2011 (depending on the relevant assets).

52. Ultimately, the condominium corporations alleged that material defects occurred both in the method of charging the user fees; as well as the absence of due disclosure in relation thereto in a deliberate and misleading fashion; and also in the contracts of engagements themselves which, the condominium corporations allege, do not comply with Canadian law. Thus, for example, it is alleged that the raising of the user prices of the systems (as may be seen in Janterra's appraisals, as stated below) is carried out peremptorily.

"12" Samples of the pleadings that were filed in this connection by the condominium corporations are attached hereto as **Appendices 12A and 12B**.

53. The reference to the value of the geothermal assets in the Prospectus in no way mention any of these claims and the above risk factors particularly in relation to the claims concerning the defects that exist in the systems, which, according to the condominium corporations, had been known since 2010.

54. Moreover, the appraisals assume the existence of an expected cashflow over the period of 60 (sixty!) years, which was capitalized for the purpose of the appraisal, on the assumption which is optimistic even set against those of the Company's management according to which ***"the life span of the geothermal installations is some 50-60 years"***.[14]

Vide, for example, at p. G-74 of the Prospectus - appraisal of the Edge Project:

(Data according to 100%; corporation's share in the asset - 66.67%)	30. 06 2015	2014	2013	2012
Value fixed (in the trading currency)	19,430	19,180	12,080	10, 390
Appraiser's identity	Janterra Real Estate Advisers			
Is the appraiser independent?	Yes	Yes	Yes	Yes
Is there an indemnity agreement?	No	No	No	No
Validity date of the appraisal (the date to which the appraisal alludes)	30. 06. 2015	31. 12.014	31. 12.013	31. 12.012
Appraisal model (comparison/income/other cost)	Discounted Cash flow method (DCF)			
Main assumptions applied for purposes of the appraisal - Discounted Cash flow method (DCF)				
Use	189	378	378	378
Energy saved	42	84	84	84
Cost for completing the system installation	706	4,928	9,275	11,39[illegible]

[14] *Vide* at p. 15 of the proforma audited statements for 2013 and 2014.

Operating period (in years)	59	60	60	60
Annual expected long-term projection growth	4%	4%	4%	4%
WACC	4.85%	4.85%	6.51%	6.86%
Other central variables	-	-	Estimated completion date in October 2014	Estimated completion date in October 2014

55. In addition, in the body of the Prospectus itself, no disclosure is provided of the risks arising from the condominium corporations' claims (some of which had already been known since 2010/2011), including disclosure not having been provided of the claims concerning defects in the systems; claims as to the illegality of the service-supply contracts and the possibility of their rescission (or breach); defects that occurred in the disclosure towards purchasers of the apartments; and concerning the method of determining the user fees; in addition to the risk that a reduction of the energy prices used as an alternative for the geothermal systems would render the systems economically inefficient in a manner which could justify the replacement thereof, that was not taken into account in the Prospectus or in Janterra's appraisals. And note, a reduction in the prices of alternative energy prices significantly raises the possibility that the owners of the apartments might wish to replace the systems to ensure economic efficacy, and that being so – this casts an extremely large shadow over the working assumption of the existence of a fixed expected cash flow increasing from year to year over a period of 60 (sixty!) years.

56. Furthermore, no disclosure was given in the Prospectus in relation to the fact that there are significant restrictions on the sale of the rights in the geothermal assets. Such sale may be limited to specific parties only, due to the fact that these are assets built into the condominium they serve.

57. No disclosure was given either in the Prospectus in relation to the fact that as stated, the appraisals are based on particularly optimal assumptions such as – the realization of the options to extend the engagement contract for two further periods of 20 years each, by the condominium corporations, and the maximum lifespan of the systems, even according to the view of the Company's management itself. The geothermal assets were effectively described as almost risk-free financial assets the expected revenues from which were capitalized for a period of six decades.

58. In practice, the disclosure in the Prospectus relating to the risks of the geothermal assets was confined to the following laconic phrase which in no way relates to the overall risks that are relevant and which had effectively materialized, and which were expressly defined as having a "minor impact" risk on the corporation's activity:[15] ***"Risks in the geothermal sector– in the Company's estimation, the field of activity has two principal risk factors: (a) trading risks: during the first year of transferring the control in the condominium corporation, the elected board of directors of the condominium corporation may elect to terminate the***

[15] *Vide* at page G-84 – G-85.

supply contracts by 60 days' prior notice; and (b) operating risks: breakdowns or malfunction in the equipment and could lead to disruptions in the cash flow."

59. And ultimately, the value of the geothermal assets as noted in the Prospectus was also revealed to be fabricated in light of the enquiries to purchase these assets received by the Functionary from third parties, which spoke of much lower figures, and this, also on the assumption of the successful completion of the litigation relating to these assets.

60. It follows that likewise, the information that was included in the Prospectus in relation to the geothermal assets contained materially misleading items. The Prospectus failed to specify concrete and real risks most of which were already known and/or had materialized on the relevant date, all in a manner which deceived the general body of investors who participated in the Offering of the Bonds.

F. THE FOURTH MISLEADING ITEM – EDGE GROUP DEBT ARRANGEMENT

61. Project Edge is an enterprise that was jointly owned by a subsidiary of the Company (66.67%) with a local partner from Toronto, and which consists of two 21- and 22-storey buildings and dozens of residential units, as well as a trading and office area for rent, the construction of which had been completed ("**Project Edge**").

62. **Project Edge is described in the Prospectus** (vide section 7.7.6 p. G-34 of the Prospectus), as ***"a very material project"*** **consisting of 87 residential units valued (according to 100%) at some 10.3 million Canadian Dollars, pursuant to Janterra's appraisal**. Pursuant to the Prospectus, during June 2015, the Company contracted with the partner in the Project by agreement to conclude the partnership agreement in the Project following which the Company retained rights in 53 residential units of the Project, and the partner, with 24 apartments. As an aside it was noted that the remaining residential units in the Project served toward making the payment due to third-party suppliers.

63. Moreover, the disengagement transaction from the partner mentioned is described in the proforma financial statements of the Company as of 30 June, 2015 as part of the disengagement transaction from the partner also <u>in an additional project that was held in joint ownership</u>, whereby pursuant to Note 8D of the proforma financial statement (vide page 18 of the proforma financial statements – that were attached to the Prospectus), ***"the difference between the fair value of the assets and the liabilities that were respectively given and received from these projects was posted to capital as an owners' contribution."***

The following is the wording of the Note:

D. On 22 June, 2015, the Company contracted with a third party, (other than a party related to the Company), that holds 33.33% of a mixed project, consisting partly of income-producing property as well as a development and a geothermal system, known as *Edge* (hereinafter: "**Edge**"). In the framework of the agreement, the remaining assets in Edge were divided so that the Company would hold 100% of the geothermal asset, 53 residential units, the trading area and the office areas. In parallel to that transaction, the controlling stakeholders contracted by agreement with the same third party to divide an additional project between the parties. The difference between the fair value of the assets and liabilities that were given and respectively received, from the projects, was posted to capital as an owners' loan. On 6 July, 2015, the transaction was completed.

4. However, investigations pursued by the Functionary and his team indicate that **from July 2015 onwards, (about half a year before the publication of the Prospectus), concurrently with the Company's intensive activity and the "roadshow" ahead of the Bond offering and raising of capital from the public in Israel, Mr. Saskin led** an informal **"debt arrangement"**, including the transfer of dozens of units in the Edge Project (which is owned by a subsidiary of the Company) to his personal creditors and creditors of a number of other corporations owned by him and which are not part of the Company Group, against the wiping out of debts to those creditors. According to the information supplied to the Functionary, the value of the units transferred amounted to **some 10 million Canadian Dollars. In the framework of the Prospectus, no disclosure whatsoever was included regarding the fact that Mr. Saskin or corporations owned by the Company were in financial distress or regarding their inability to repay their debts in the ordinary course of business.**

5. According to information supplied to the Functionary, the personal creditors of Alan Saskin and/or of the corporations that he owns were offered apartments in the Project in exchange for repayment of debts towards those parties. It goes without saying that this "debt arrangement" and the use of residential units for the benefit of repaying Defendants' personal debts was not described in any way whatsoever in the Prospectus. In contrast, the Company was represented in the Prospectus as the full owner of the Edge Project, and as such, contemplated receiving revenues from its units.

6. According to information that was supplied to the Functionary, by the officer who was appointed to manage the assets of the Edge Group in the framework of the insolvency proceedings in Canada (**"Monitor Edge"**), the most significant transaction regarding such transfer of residential units from Edge in favour of Mr. Saskin's creditors, is the transaction to disengage from the partner described in paragraph 63 above, in the Edge Project and in a further joint project – the Epic Project. To the best of the Functionary's knowledge and according to the information that was supplied to him, the Epic Project is unprofitable, and in the framework thereof corporations owned by Mr. Saskin (not being part of the Company Group) had substantial debts towards the partner. To the best of the Functionary's knowledge, the disengagement agreement between Mr. Saskin and the partner included a transfer of residential units, stores and warehouses from Edge, to the partner in exchange for the release of Saskin and his company, from the Epic Project.

7. According to the information that was supplied to the Functionary, the transaction with the partner resulted in the transfer of assets valued at some 5 million dollars.

of the Company's subsidiary, to the personal creditors of Mr. Alan Saskin and/or of the corporations in his control; **all contrary to that presented in the financial statements that were attached to the Prospectus of the Offering, in the framework of which the disparity between the value of the proceeds in the two projects was presented as an owners contribution of Mr. Saskin, to the Company.**

68. In addition to the disengagement transaction from the partner, the Monitor Edge report indicates that from August 2015 onwards, additional residential units in the Edge Project were transferred to the personal creditors of Saskin and/or corporations in his ownership, **having a value aggregating at least 4,608,770 Canadian Dollars, in exchange for services and/or the wiping out of private debts of Mr. Saskin and/or corporations in his ownership, the latter not being part of the Company Group.**

"13" The Edge Monitor report relating to the transfer of the units in the Edge Project is attached hereto as **Appendix 13.**

69. None of these matters were mentioned in the Prospectus and, contrary to that stated in the Prospectus in relation to the fact **that 53 residential units are owned by the Company,** pursuant to the information that was supplied to the Functionary by Edge Monitor as of the date of the commencement of the insolvency proceedings of the Edge Group (7 June, 2016), **only 37 residential units** and 5 units of the trading areas were held by the Edge Group.

70. It thus emerges that the description of the Project Edge contained in the Prospectus has not even the slightest resemblance to the situation on the ground as it then existed in June-August 2015 (about half a year before the publication of the Prospectus), during which the informal creditors' arrangement proceeding began which used the assets of the subsidiary in order to repay personal debts of the controlling stakeholder and keep corporations in his ownership, and transfers were made of assets of the subsidiary in cumulative amounts of some 10 million Canadian Dollars, all amid leading the entire Edge group of companies to a state of insolvency.

G. THE FIFTH MISLEADING ITEM – ASSIGNMENT OF RIGHTS TO THE VALUE OF 8 MILLION CANADIAN DOLLARS

71. In the framework of the Prospectus, Mr. Saskin, the members of his family and companies in their ownership undertook that **against the allotment of shares of the Company to a company in their ownership,** prior to the listing for trading and subject to the success of the Offering, **rights to revenues out of loans of corporations in their ownership amounting to some 8 million Canadian Dollars would be assigned to the Company (hereinafter: "the Assignment of Rights").** (*Vide* section 7.1.6 on p. G-5 and G-6 of the Prospectus).

72. In practice, the Assignment of Rights was executed by means of the assignment of two promissory notes (hereinafter: "**the Promissory Notes**") that were issued by TCC/Urbancorp (Bay) Limited Partnership (hereinafter: "**TCC Bay**") in the amount to 6 million Canadian Dollars, and the sum of 2 million Canadian Dollars, respectively, to the Company and to Urbancorp Realtyco. Inc. (a wholly-owned

subsidiary of the Company) by the management company owned by the controlling stakeholder – Defendant 1 ("***UTMI***").

"14" A copy of the Promissory Notes and the Assignment Deeds are attached hereto as **Appendix 14**.

73. The rights that were assigned by virtue of the Assignment of Rights, in their full value, 8 million Canadian Dollars, are described as "current assets" in the framework of the balance sheet that was included in the proforma audited financial statements of the Company as of 31 December, 2014, as having been received on the date of the relevant statement or anticipated to be received and serve the Company in its medium-range trading activity (vide in the balance sheets that were included in the proforma consolidated audited financial statements and the reviewed consolidated statements that were included in the Prospectus).

	As of 30th June		As of December 31
	2015	2014	2014
	(Unaudited)		(Audited)
	'000 Canadian Dollars		
Current assets			
Cash and cash equivalents	315	2,693	592
Designated and restricted deposits	2,048	3,939	3,901
Trade receivables and debt balances	11,477	9,138	9,307
Customers - apartment purchasers	4,785	802	43,523
Customer deposits held in escrow	8,199	5,694	7,160
Inventory – saleable buildings	109,438 (*)	25,352	107,133
Related parties	8,000	-	- (**)
	144,462	147,618	171,616

		As of 31st December,	
		2014	2013
	Note	'000 Canadian Dollars	
Current assets			
Cash and cash equivalents		592	449
Designated and restricted deposits	3	3,901	5,978
Trade receivables and debt balances	4	9,307	20,899
Customers - apartment purchasers		43,523	45,063
Customer deposits held in escrow		7,160	7551
Inventory - saleable buildings	7	107,133	108,108
Related parties	20	8,000	-
		179,616	188,046

74. TCC Bay is similarly in CCAA proceedings that are being conducted by KSV Kofman Inc. (hereinafter: "**KSV**") as officer (KSV to be hereinafter defined in that position as "**TCC Bay Monitor**"). TCC Bay Monitor acted in realising TCC Bay assets, and according to information that was supplied to the Functionary, the revenues from the assets that were owned by subsidiaries of TCC Bay were

expected to enable the repayment of most of TCC Bay's debts, including partial repayment at the least of the rights that the controlling stakeholder purportedly assigned to the Company.

75. The Functionary filed proof of debt with the TCC Bay Monitor in the sum of 6 million Canadian Dollars, on the basis of the Promissory Notes that had been assigned by UTMI to the Company. TCC Bay Monitor rejected the proof of debt *inter alia*, claiming that ***on 11 December, 2015 (the date on which the Promissory Note was assigned), there was no debt of TCC Bay towards the management company and, therefore, no consideration existed whatsoever that was receivable in respect of the issue of the Promissory Notes***.

"15" A copy of the proof of debt, the assignment documentation of the Promissory Notes and the notice regarding the rejection of the proof of debt by TCC Bay Monitor, are attached as **Appendix 15**.

76. Following an appeal by the Functionary filed with the Canadian Court to determine the debt, the Canadian Court, by decision of 11 May, 2017, affirmed the rejection of the proof of debt by TCC. **In its judgement, the Court expressly noted that Mr. Saskin certainly ought to have known that no debt existed of TCC Bay towards the management company, when he signed the Promissory Notes**.

"16" A copy of the Canadian Court's decision is attached as **Appendix 16**.

77. It thus follows that the description contained in the Prospectus regarding the rights that were to be assigned to the Company as having a value of 8 million Canadian Dollars is misleading since it was not possible to prove the genuine existence of the underlying debt, on the assignment date. The Prospectus does not mention any reservation regarding the enforceability of that undertaking and, as stated above, this right was described as a current asset in the pro forma audited statements that were attached to the Prospectus.

H. THE CAUSES OF ACTION AND THE DAMAGES CLAIMED

78. Liability for a misleading item in a prospectus - in section 1 of the Securities Law, the term "*misleading item*" is defined in the following manner: "***including something that is likely to mislead a reasonable investor and any matter the omission of which is likely to mislead a reasonable investor***".

78.1 The abundance of misleading items with which the Prospectus is tainted are set out above at length in this statement of claim. These misleading items are material matters that to go to the very root of the Prospectus, the representations therein and the reliance of any person who acquired the Bonds or traded therein, and who would necessarily have relied on these items in the Prospectus.

78.2 Section 31(a)(1) of the Securities Law, entitled "***Liability of signatories of prospectus***" directs that: ***"Any party signing a prospectus pursuant to section 22 is liable to anyone who bought securities from the offeror and to anyone who sold or acquired securities in the course of trading on a***

stock exchange or over the counter, for damage caused to them by the inclusion of a misleading item in the prospectus." Section 31(a)(2) of the Securities Law similarly imposes liability on the controlling stakeholder and the managing director.

78.3 Section 32 of the Securities Law, entitled "***Liability of experts***" directs that: "***Any person who has provided an opinion, report, review or certificate that was included or mentioned in the prospectus with such person's prior consent, shall be liable as provided in section 31(a) for any damage caused by the inclusion of a misleading item in such opinion, report, review or certificate, including damage caused by the inclusion of such an item in any opinion, report, review or certificate included in the prospectus by reference.***"

78.3 Section 34 of the Securities Law provides that the liability of the various parties shall be joint and several.

79. Negligent misrepresentation - as noted above, the Prospectus includes false representations and misleading information in relation to the principal assets of the Company, that were described as material assets of the Company, and on the basis of which the Company raised in excess of 180 million shekels from the public in Israel. In practice it became clear, that, as stated above in the statement of claim, that these were misleading representations and, therefore, it is clear that the Defendants or any of them committed the tort of negligent misrepresentation.

80. The damages that were caused to the holders of the Bonds amounts to NIS 180,583,000 plus annual agreed interest of 8.15% per annum (commencing from 10th December, 2015 until the actual payment date),[16] with the addition of default interest at the rate of 3% per annum (commencing from the date of the acceleration of the Bonds until the date of actual payment), with the addition of the costs of the trustee of the Bonds and the share of the Bondholders in the total expenses of the Company's insolvency proceedings, net of monies actually received by them until now in the framework of the Company's insolvency proceedings. For purposes of the Court fee and having regard to the fact that additional monies are expected to be received in the future from the insolvency proceedings, this action has been set at the sum of NIS 100 million only.

81. Any person who acquired Bonds that were offered in the Prospectus, regardless of whether the purchase was effected in the Offering or in trading on the stock exchange or thereafter, and who currently holds the Bonds, is entitled to the relief claimed in the framework of this action from the Defendants jointly and severally, which relief, as mentioned, was assigned in favour of the Functionary.

[16] With the addition of increased interest between 12th April, 2016 until the acceleration date of the claim in respect of the down rating of the Company, at the annual rate of 0.5%, as detailed in the Company's report dated 13th April, 2016 (ref.no. 2016 – 01- 047758).

נוטריון * הדסה בן-יעקב HADDASA BEN-YAKOV * NOTARY

CONCLUSION

1. That being the case, the Court is hereby petitioned to order the Defendants, jointly and severally, to pay to the fund of the Company the aggregate sum of NIS 100,000,000, together with interest and lawful linkage differentials until the date of actual payment.

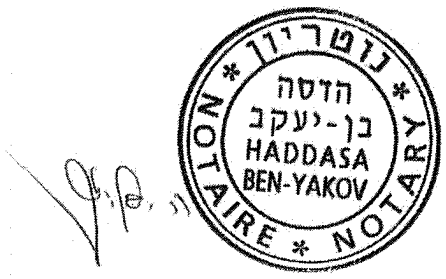
   The Court will further be petitioned to order the Defendants to bear **the professional fees of the Functionary with the addition of VAT and expenses of the fund of the Creditors' Scheme of Arrangement in connection with the action**.

3. The Honourable Court has the domestic and subject-matter jurisdiction to dispose of the instant claim.

(Signed)	*(Signed)*	*(Signed)*
Advocate Yael Hershkovitz	**Advocate Gilad Bergstein**	**Advocate Michael Misul**

Counsel for the Functionary – Trustee for the Urbancorp Inc. Creditors' Scheme of Arrangement

Dated this day: 6th December 2017



Estate No./Court File No. 31-117602

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

SUPPLEMENT TO THE SEVENTH REPORT TO THE COURT OF GUY GISSIN, IN HIS CAPACITY AS COURT APPOINTED FUNCTIONARY AND FOREIGN REPRESENTATIVE OF URBANCORP INC.

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