



**Seventh Report to Court of
KSV Kofman Inc. as Information Officer
of Urbancorp Inc.**

October 26, 2017

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COURT FILE NO.: CV-16-11392-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC., UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

OCTOBER 26, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. ("St. Clair"), Urbancorp (Patricia) Inc. ("Patricia"), Urbancorp (Mallow) Inc. ("Mallow"), Urbancorp Downsview Park Development Inc. ("Downsview"), Urbancorp (Lawrence) Inc. ("Lawrence") and Urbancorp Toronto Management Inc. each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "NOI Proceedings"). (Collectively, St. Clair, Patricia, Mallow, Downsview and Lawrence are referred to as the "NOI Entities".) KSV Kofman Inc. ("KSV") was appointed as the Proposal Trustee in the NOI Proceedings.
2. On April 25, 2016, the District Court in Tel Aviv-Yafo (the "Israeli Court") issued a decision appointing Guy Gissin as the functionary officer and foreign representative (the "Foreign Representative") of Urbancorp Inc. ("UCI") and granted him certain powers, authorities and responsibilities over UCI, the ultimate parent of the NOI Entities (the "Israeli Proceedings").
3. On May 11, 2016, the Israeli Court made an order authorizing the Foreign Representative to enter into a protocol between the Foreign Representative and KSV (the "Protocol"). The Protocol contemplated that the NOI Entities and other related entities would file for protection under the *Companies' Creditors Arrangement Act* ("CCAA"). The Protocol addresses, *inter alia*, cooperation with respect to the restructuring process of the NOI Entities, including that the Foreign Representative shall not interfere or terminate the CCAA proceedings without the consent of KSV or by order of the Canadian Court, and the sharing of information between the Foreign Representative and the monitor. A copy of the Protocol is attached as Appendix "A".

4. Pursuant to an order made by the Ontario Superior Court of Justice – Commercial List (the “Canadian Court”) dated May 18, 2016 (the “Initial Order”), the NOI Entities and the entities listed on Schedule “A” attached to this Report (collectively, the “Cumberland CCAA Entities”) were granted protection under the CCAA (the “Cumberland CCAA Proceedings”) and KSV was appointed monitor (the “Monitor”). The Initial Order also approved the Protocol.
5. On May 18, 2016, the Canadian Court also issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. This report (the “Report”) is filed in KSV’s capacity as Information Officer.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information on the Israeli Proceedings;
 - b) discuss an order issued by the Israeli Court approving the plan of arrangement (the “Plan”) for UCI (the “Plan Approval Order”);
 - c) provide an update on:
 - the disputed claims against UCI that are to be addressed by the Canadian Court;
 - a lawsuit filed in Israel by the Foreign Representative against Alan Saskin and entities and individuals related to Mr. Saskin;
 - the status of the Foreign Representative’s appointment;
 - d) recommend that the Canadian Court grant an order recognizing the Plan Approval Order; and
 - e) respond to the Foreign Representative’s motion for an order directing the Monitor to pay the professional fees of the Foreign Representative from reserves in the Cumberland CCAA Proceedings, which motion is opposed for the reasons set out herein.

1.2 Restrictions

1. In preparing this Report, the Information Officer has relied upon unaudited financial information of UCI, discussions with the Foreign Representative and its legal counsel and the reports issued by the Foreign Representative in the Israeli Proceedings and in the Cumberland CCAA Proceedings. The Information Officer has not performed an audit or other verification of such information. The financial information discussed herein is preliminary and remains subject to further review. The Information Officer expresses no opinion or other form of assurance with respect to the financial information presented in this Report.

1.3 Currency

1. Unless otherwise stated, all currency references in this Report are to Canadian dollars.

2.0 Background

1. UCI was incorporated in Ontario on June 19, 2015 to raise debt in the public markets in Israel. Pursuant to a deed of trust dated December 7, 2015, UCI made a public offering (the "IPO") of debentures (the "Debentures") in Israel for NIS 180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO). The Debentures traded on the Tel Aviv Stock Exchange (the "TASE"). UCI is alleged to have defaulted on the Debentures and trading in the Debentures has been suspended by the TASE.
2. From the monies raised under the Debentures, UCI made five separate loans (the "Shareholder Loans") totalling approximately \$46 million to each of the NOI Entities so that the NOI Entities could repay their loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that these advances are unsecured and functionally subordinate to certain other obligations of the NOI Entities.

2.1 Distribution to UCI

1. On June 27, 2017, the Canadian Court made an order authorizing and directing the Monitor to make an interim distribution to creditors with admitted claims against certain of the Cumberland CCAA Entities. On June 30, 2017, the Monitor made an interim distribution to UCI in the amount of approximately \$29.6 million.
2. The timing and amount of future distributions to UCI will depend on the resolution of several disputed claims and the realizations from the Cumberland CCAA Entities' remaining assets, including condominium units, geothermal assets, the Kingsclub development and a joint-venture development between Downsview and Mattamy Homes. The status of these matters is discussed in the Monitor's Nineteenth Report to Court dated October 24, 2017, which is attached as Appendix "B", without appendices.

2.2 Claims Process

1. On May 24, 2016, the Israeli Court issued an order (the “May 24 Order”) establishing July 1, 2016 as the claims bar date to file claims against UCI with the Foreign Representative and requiring publication of a claims notice in Israel and Canada. On June 14, 2016, the Israeli Court issued a further order (together with the May 24 Order, the “Claims Bar Date Orders”) extending the claims bar date to August 5, 2016. On June 15, 2016, the Canadian Court issued an order recognizing the Claims Bar Date Orders.
2. Twenty claims totalling approximately NIS 264.3 million¹ were filed against UCI in the claims process conducted by the Foreign Representative. Of this amount, the Foreign Representative has admitted claims totalling approximately NIS 188 million.²
3. UCI’s principal obligation is the Debentures. The Foreign Representative has admitted a claim of approximately NIS 185.9 million³ filed by Reznik Paz Nevo Trusts Ltd., the Trustee under the Debentures (the “Trustee”). This claim has been admitted by the Foreign Representative as a secured claim over the amounts owing to UCI pursuant to the Shareholder Loans (the “Secured Debt”).

3.0 The Plan

1. On April 30, 2017, the Foreign Representative filed the Plan. The Plan proposes to, among other things:
 - a) approve current and future distributions to UCI’s creditors;
 - b) maintain a reserve for the disputed claims and future expenses, including professional fees; and
 - c) assign to the Foreign Representative all of UCI’s creditors’ rights of action against third parties. Subject to Israeli Court approval, the Foreign Representative is authorized to institute legal proceedings against those third parties.
2. A detailed summary of the Plan is provided in the Information Officer’s Fifth Report to Court dated May 4, 2017 (the “Fifth Report”). A copy of the Fifth Report is attached as Appendix “C”, without appendices. A copy of the Plan is attached as Appendix “D”, without appendices.

¹ Approximately \$89 million. Claims made in NIS and US dollars were converted into Canadian dollars using an exchange rate of NIS2.97/C\$1 and US\$0.79/C\$1, respectively, being the exchange rates on April 25, 2016.

² Approximately \$63.3 million based on exchange rates as of April 25, 2016.

³ Approximately \$62.6 million based on exchange rates as of April 25, 2016.

3. The Information Officer notes that paragraph 15 of the Foreign Representative's Fourth Report dated October 24, 2017 (the "FR Fourth Report") states that "The Plan also provides for continuing realization of UCI's group assets ...". The Plan itself does not authorize the Foreign Representative to realize on any of the UCI's group assets. Such a realization process for all companies subject to the CCAA proceedings are within the exclusive purview of the Canadian Court. What paragraph 56 of the Plan in fact says is: "The Functionary will continue examining the possibility of realizing on the Group's remaining assets in Canada ...". Information regarding realization efforts is regularly communicated to the Foreign Representative by the Monitor or its counsel, for example.

3.1 Notice

1. Canadian legal counsel to the Foreign Representative delivered copies of the Plan to all creditors in Canada that filed claims, including creditors whose claims were disallowed. A copy of the Plan was also served on the service lists of the various Urbancorp CCAA proceedings and on the service list in the proposal proceedings of Alan Saskin, the principal of the Urbancorp group of companies.

3.2 Creditor and Shareholder Meetings

1. On January 9, 2017, the Israeli Court granted an order (the "Creditors' Meeting Order"), among other things, authorizing the Foreign Representative to convene a meeting of secured and unsecured UCI creditors to consider and to vote on the Plan. The Canadian Court recognized the Creditors' Meeting Order on January 27, 2017.
2. On May 24, 2017, the Foreign Representative convened a secured creditors' meeting, an unsecured creditors' meeting and a shareholders' meeting to consider and vote on the Plan.
3. At the secured and unsecured creditors' meetings, the requisite number of creditors voted to accept the Plan. At the shareholders' meeting, representatives of the Company's sole shareholder, Urbancorp Holdco Inc., voted against the Plan.

3.3 Israeli Court Approval of the Plan

1. On May 30, 2017, the Foreign Representative filed a motion in the Israeli Proceedings seeking approval of the Plan. The Foreign Representative advised that shareholder approval is not required to approve the Plan due to UCI's insolvency proceedings and Israeli case law.
2. On May 30, 2017, the Israeli Court issued an order requiring that any objections to the Plan be filed within ten days. Objections were received from: (i) former Canadian directors of UCI; (ii) an individual that has filed a class action lawsuit in Israel against UCI in connection with UCI's insolvency; and (iii) The Fuller Landau Group Inc., in its capacity as Proposal Trustee of Alan Saskin and certain related entities (collectively, the "Objections").

3. On September 14, 2017, the Israeli Court heard the Objections. On September 26, 2017, the Israeli Court dismissed the Objections and issued the Plan Approval Order. Further details regarding the Objections and the reasons they were dismissed are provided in the FR Fourth Report filed with the Canadian Court. A commissioned translated copy of the Plan Approval Order is attached as Appendix “E”.
4. In accordance with the terms of the Plan, the Foreign Representative has made distributions to the Trustee of: (i) NIS 70 million⁴ as repayment of the Secured Debt; and (ii) NIS 500,000⁵ as repayment to the Trustee for financing certain expenses in the Israeli Proceedings.
5. The Foreign Representative is now seeking an order to have the Plan Approval Order recognized in Canada.

3.4 Recognition of Plan Order

1. The Canadian Court has recognized the Israeli Proceedings as a “foreign main proceeding” pursuant to Part IV of the CCAA, thereby providing ultimate oversight of the UCI proceedings to the Israeli Court. The Canadian Court has subsequently made orders recognizing, among other things, the Claims Bar Date Orders and the Creditors’ Meeting Order.
2. All Canadian creditors have received a copy of the Plan. The Israeli Court approved the Plan following its acceptance by creditors that voted on the Plan and after a hearing to consider the Objections. The Plan is applicable to all creditors, including UCI’s Canadian creditors.
3. Based on the foregoing, it is the Information Officer’s view that granting an order recognizing the Plan Approval Order is appropriate.

4.0 Disputed Claims

1. As detailed in the Information Officer’s Fourth Report to Court dated March 9, 2017, there are four Canadian creditors that had disputed claims against UCI. On March 14, 2017, the Canadian Court made an order that these claims will be dealt with by the Canadian Court, other than the claim of Alan Saskin⁶.
2. On September 12, 2017, Homelife Realty Inc., one of the Canadian creditors with a disputed claim, advised that it was withdrawing its claim in the amount of \$618,000.

⁴ Approximately \$25.2 million based on the current NIS/CAD exchange rate of NIS0.36/\$1.

⁵ Approximately \$180,000 based on current exchange rates.

⁶ Alan Saskin’s claim will be dealt with by the Israeli Court.

3. A summary of the remaining disputed claims is as follows:

(\$000s; unaudited)	
Claimant	Amount
Harris Sheaffer LLP ("Harris")	139
Janterra Real Estate Advisors Inc. ("Janterra")	53
	<hr/> 192 <hr/>

4. The following is an update on the disputed claims:
- a) **Harris** - The Foreign Representative has advised Harris that it may have a potential negligence claim against Harris. Harris has referred the matter to the Lawyers' Professional Indemnity Company. Dentons LLP ("Dentons"), legal counsel to the Foreign Representative, has advised that the disputed claim will likely be resolved in conjunction with the negligence claim;
 - b) **Janterra** - Dentons has advised that it is presently discussing the disputed claim with legal counsel for Janterra.

5.0 Lawsuit

1. On June 20, 2017, the Foreign Representative filed a lawsuit (the "Lawsuit") in Israel against Alan Saskin, TCC/Urbancorp Bay Stadium LP, The Webster Trust, Urbancorp Management Inc., Urbancorp Holdco Inc., and Ms. Doreen Saskin (collectively, the "Defendants"). The Lawsuit alleges that the Defendants breached obligations to UCI in connection with the issuance of the Debentures. The Lawsuit seeks monetary relief of approximately NIS 95.6 million⁷.
2. All the defendants have been served with the Lawsuit, other than Alan Saskin. The Foreign Representative has requested that The Fuller Landau Group Inc. ("Fuller Landau"), Mr. Saskin's Proposal Trustee, consent to lift the stay of proceedings in Mr. Saskin's proposal proceedings so that the Lawsuit can be served on Mr. Saskin. The Information Officer understands that Fuller Landau is considering the request.
3. Ms. Saskin has advised the Foreign Representative that she will be challenging whether the Israeli Court has jurisdiction in connection with claims against her in the Lawsuit or whether litigation must be commenced against her in Canada.

⁷ The lawsuit seeks relief of approximately \$34.4 million, based on the current exchange rate.

6.0 Extension of Foreign Representative Mandate

1. Since the commencement of the Israeli Proceedings, the Israeli Court has issued several orders extending the Foreign Representative's appointment. Each of those orders has been recognized by the Canadian Court. Most recently, on July 11, 2017, the Israeli Court granted an order extending the appointment of the Foreign Representative to October 11, 2017, which order was recognized by the Canadian Court on August 2, 2017.
2. The Plan Approval Order appoints the Foreign Representative as trustee of UCI's estate in order to implement the terms of the Plan. As a result, the Information Officer understands that under Israeli Law, no further extension of the Foreign Representative's appointment is required. The Information Officer understands that when the Plan is fully implemented, the Foreign Representative will seek an order from the Israeli Court terminating its appointment.

7.0 Fee Payment Motion

1. The motion of the Foreign Representative seeking the Canadian Court's recognition of the Plan Approval Order also seeks a court order in these Part IV proceedings directing the Monitor to pay the professional fees of the Foreign Representative from reserves established in the Cumberland CCAA Proceedings.
2. The Foreign Representative has also brought the same motion in the Cumberland CCAA Proceedings relying purely on the FR Fourth Report.
3. The Information Officer and the Monitor are opposed to this requested relief for a number of reasons, including:
 - a) there is no jurisdiction in these Part IV proceedings to grant such relief;
 - b) evidence introduced by the Foreign Representative on contested matters ought to be provided by way of affidavit rather than "report" and, in fact, there is no proper basis for the Foreign Representative, an individual Israeli attorney, filing any evidence in these Part IV proceedings or any of the other Canadian proceedings by way of "report" rather than affidavit;
 - c) If the Foreign Representative's professional fees are to be paid out of the Cumberland CCAA Proceedings, then they should be paid out on the same basis as all other professionals are being paid from that estate – by way of motion on notice with proper fee affidavits for approval by this Court based on any filed responding material. Given the Information Officer's observations set out in Section 9 of its Sixth Report dated July 26, 2017 (attached, without appendices, as Appendix "F"), the Monitor and others may well wish to file responding material for this Court's benefit and consideration;

- d) no evidence has been provided as to the reasonableness of reducing the reserves in the Cumberland CCAA Proceedings by the amounts sought, which amounts are completely unspecified.
- e) Professional fees of the Foreign Representative ought to be paid out in the context of its proceedings being governed by the Israeli Court with any required approvals being sought from the Israeli Court. Indeed, paragraph 55.3 of the Plan specifically contemplates this:

"A reserve amount as shall be required, pursuant to the Functionary's estimate and subject to the court's approval (in the framework of application for distribution of dividend), for funding the Functionary's expenses, including funding the costs of his Canadian legal representative, his financial consultant, the accountant's costs, as necessary and additional expenses in kind including funding trips to Canada, including in connection with taking legal proceedings as detailed in section E6 below (hereinafter: "Funding the Expenses Reserves").

- f) In this regard, a more appropriate process would be for the Foreign Representative to seek additional distributions (by way of a proper motion on notice to the proper service list, if required) in the context of the Cumberland CCAA Proceedings and use those distributions into its own estate to pay the professional fees associated with matters pertaining to its own estate with the requisite oversight of the Israeli Court. The administrative burdens espoused by the Foreign Representative could be dealt with easily in this case by simply providing a direction to pay any distributions to UCI to some other party as so directed. While being able to provide such directions may require the approval of the Israeli Court, that is as it should be with the relevant court providing the relevant oversight.
4. The Information Officer was first made aware of the Foreign Representative's desire to seek such relief in these proceedings when its Canadian counsel provided the Information Officer with a copy of its draft "report" by e-mail at 5:17 p.m. on Friday, October 20, 2017. Subsequent e-mails and telephone conversation ensued between the Information Officer's Canadian counsel and the Foreign Representative's Canadian counsel in which all of the issues outlined above were raised. Notwithstanding this, the Foreign Representative determined to pursue its desired relief in the manner it has which the Information Officer and the Monitor believes is inappropriate in the circumstances for the reasons outlined.

8.0 Conclusion and Recommendation

1. Based on the foregoing, the Information Officer respectfully recommends that this Honourable Court make an order only granting the relief detailed in Section 1.1 (1)(d) of this Report and dismissing the other relief requested.

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc". The signature is written in a cursive, flowing style.

**KSV KOFMAN INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
URBANCORP INC.
AND NOT IN ITS PERSONAL CAPACITY**

Schedule "A"

Urbancorp Toronto Management Inc.

Urbancorp (952 Queen West) Inc.

King Residential Inc.

Urbancorp 60 St. Clair Inc.

High Res. Inc.

Bridge on King Inc.

Urbancorp Power Holdings Inc.

Vestaco Homes Inc.

Vestaco Investments Inc.

228 Queen's Quay West Limited

Urbancorp Cumberland 1 LP

Urbancorp Cumberland 1 GP Inc.

Urbancorp Partner (King South) Inc.

Urbancorp (North Side) Inc.

Urbancorp Residential Inc.

Urbancorp Realtyco Inc.

Appendix “A”

PROTOCOL
For Co-operation Among Canadian Court Officer and Israeli Functionary

BETWEEN:

GUY GISSIN , in his capacity
as Functionary Officer appointed by
the Israeli Court for Urbancorp Inc.

- and -

KSV KOFMAN INC., in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.

WHEREAS KSV Kofman Inc. ("**KSV**") was appointed the proposal trustee in respect of each of Urbancorp (Lawrence) Inc., Urbancorp (Mallow) Inc., Urbancorp (Patricia) Inc., Urbancorp (St. Clair Village) Inc., Urbancorp Downsview Park Development Inc. and Urbancorp Toronto Management Inc. (the "**Initial Subsidiaries**"), in notice of intention filings made by each of the Initial Subsidiaries under the *Bankruptcy and Insolvency Act* ("**BIA**") on April 21, 2016 (the "**Proposal Proceedings**");

AND WHEREAS Guy Gissin was appointed as Functionary Officer on a preliminary basis (the "**Israeli Parentco Officer**") of Urbancorp Inc. ("**Parentco**"), the parent of the Initial Subsidiaries, by order of the District Court in Tel Aviv-Yafo (the "**Israeli Court**") dated April 25, 2016 (the "**Israeli Functionary Order**") in case number 44348-04-16 *Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.* (the "**Israeli Proceedings**");

AND WHEREAS it is anticipated that, with the exception of Bosvest Inc., Edge Residential Inc. and Edge on Triangle Park Inc., which are in separate BIA proposal proceedings with the Fuller Landau Group Inc. as proposal trustee, and Urbancorp Cumberland GP 2 Inc., Urbancorp Cumberland 2 LP and Westside Gallery Lofts Inc. (the "**Excluded Subsidiaries**"), all of the direct and indirect subsidiaries of Urbancorp Inc. (collectively, excluding the Excluded Subsidiaries, the "**Applicants**") will bring an application in the Ontario Superior Court of Justice – Commercial List (the "**Canadian Court**") for relief pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**") wherein the Proposal Proceedings will be taken up and continued within the CCAA Proceedings;

AND WHEREAS it is anticipated that the Israeli Parentco Officer will seek to have the Israeli Functionary Order and its role as the Israeli Parentco Officer recognized by the Canadian Court for the purpose of representing the interests of Parentco and participating as a stakeholder representative in the Applicants' CCAA Proceedings in connection with protecting the interests of Parentco's creditors, including the holders of the bonds issued on the Tel Aviv Stock Exchange (the "**Parentco Bonds**") pursuant to a deed of trust dated December 7, 2015 (the "**Parentco Bond Indenture**");

AND WHEREAS KSV and the Israeli Parentco Officer have agreed to work cooperatively on the terms set out herein to attempt to maximize recoveries through an orderly process for the stakeholders of Parentco and the Applicants (collectively, the "**Urbancorp Group**");

NOW THEREFORE, the Israeli Parentco Officer and KSV agree to implement the following protocol to cooperate with each other to maximize recoveries for the stakeholders of the Urbancorp Group:

1. The Israeli Parentco Officer will file an application under Part IV of the *Companies' Creditors Arrangement Act* ("CCAA"), seeking recognition of the Israeli Proceedings and of his appointment as foreign representative of Parentco thereunder, such application to seek recognition of the Israeli Proceedings as the "foreign main proceeding" with respect to Parentco. That application will include a request to appoint KSV as the Information Officer with respect to the Part IV CCAA proceedings of Parentco (the "**Part IV Proceedings**").
2. The Applicants will commence the CCAA Proceedings, proposing KSV to be appointed as Monitor with augmented powers so as to control ordinary course management and receipts and disbursements of funds for the Applicants. KSV acknowledges that the Israeli Parentco Officer shall have standing to appear before the Canadian Court as the representative of Parentco in the CCAA Proceedings.
3. The Israeli Parentco Officer and KSV agree that, with respect to the CCAA Proceedings:
 - (a) KSV shall provide the Israeli Parentco Officer with regular and timely information updates regarding the ongoing status of the CCAA Proceedings as they unfold. KSV will also provide information and updates to the Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (b) The Israeli Parentco Officer shall provide KSV with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Israeli Court that will negatively impact the Applicants or the CCAA Proceedings. The Israeli Parentco Officer will also provide information and updates to KSV prior to the commencement of the CCAA Proceedings;
 - (c) KSV shall provide the Israeli Parentco Officer with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Canadian Court that will negatively impact the Urbancorp Inc. or the Israeli Proceedings. KSV will also provide information and updates to Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (d) KSV shall provide to the Israeli Parentco Officer copies of all information pertaining to the Applicants:
 - (i) in KSV's possession that KSV considers material; or

- (ii) as reasonably requested by the Israeli Parentco Officer,

provided that KSV, in good faith, is not of the view that such information is subject to privilege or confidentiality restrictions. If KSV is of the view that such information is subject to privilege or confidentiality restrictions, then KSV shall so inform the Israeli Parentco Officer and shall seek directions from the Canadian Court on notice to the affected parties in the CCAA Proceedings as to whether there are any restrictions which would prevent the disclosure of such information to the Israeli Parentco Officer.

- (e) The Israeli Parentco Officer shall provide to KSV, in its capacity as the Information Officer of Parentco in the Part IV Proceedings, copies of all information pertaining to the Israeli Proceedings:

- (i) in the Israeli Parentco Officer's possession that it considers material to the Israeli Proceedings and is not subject to privilege or confidentiality restrictions; or

- (ii) as reasonably requested by KSV, provided that this shall not entitle KSV or any party requesting information through them to receive information on ongoing reviews or investigations being undertaken by the Israeli Parentco Officer or others in connection with the Israeli Proceedings; and

- (f) KSV will run an orderly dual track sale and restructuring process with respect to the Applicants, subject to approval by the Canadian Court in the CCAA Proceedings, which will consider both development opportunities and opportunities to sell the properties of the Applicants. KSV will design such process collaboratively, with the Israeli Parentco Officer, with the understanding that at any time during the pendency of the sales process, should an offer come forward with respect to any or all of the Applicants contemplating a restructuring or other option which is acceptable to both KSV and the Israeli Parentco Officer, the sale process may be truncated in order to pursue the other option with respect to the Applicant(s) in question. Alternatively, should the sale process continue to the point of submission of bids, subject to Section 4(b) below, copies of all bids will be provided to the Israeli Parentco Officer by KSV, and KSV shall discuss same with the Israeli Parentco Officer, with the objective, but not the obligation, of hopefully concurring on the course of action to be followed in terms of which bids to continue negotiating or which bid(s) to select as the successful bidder(s). KSV acknowledges that, throughout these processes, the Israeli Parentco Officer may from time to time require instructions and/or directions from the Israeli Court, and that the process shall be conducted in a fashion to permit the Israeli Parentco Officer the opportunity to do so on a timeframe consistent with the urgency of the circumstances then in question. The Israeli Parentco Officer and KSV agree that, in the event there is a disagreement between the Israeli Parentco Officer and KSV as to the working out of the sale and restructuring process, whether it be in terms of selecting an alternative option to a sale (including, without limitation, pursuing any development opportunities), determining which bids to proceed to negotiate further, or seeking approval of a particular sale from

the Canadian Court supervising the CCAA Proceedings, the ultimate decision and course of action shall be determined by the Canadian Court on application by KSV for directions and provided that the Israeli Parentco Officer shall have standing as representative of Parentco to make full representations to the Canadian Court as to his views and recommendations.

- (g) The initial order made in the CCAA Proceedings concerning all of the Applicants shall contain the following paragraph pertaining to material or non-ordinary course decisions or disbursements:

THIS COURT ORDERS that the Applicants shall not, without further order of this Court: (a) make any disbursement out of the ordinary course of its Business exceeding in the aggregate \$100,000 in any calendar month; or (b) engage in any material activity or transaction not otherwise in the ordinary course of its Business.

In the event that such paragraph is not included in the initial order for the Applicants or any of them, then any such disbursement or other material activity or transaction shall not be made without the order of the Canadian Court.

4. The Israeli Parentco Officer and KSV further agree to cooperate as follows:
- (a) to the extent practicable, each shall share with the other copies of materials to be filed with their respective courts (but not drafts of any such materials), prior to the public filing of same. This provision may not apply to materials submitted in the course of seeking directions from the Canadian Court in the event of a disagreement between the Israeli Parentco Officer and KSV over the working-out of the sale process; and
 - (b) The Israeli Parentco Officer agrees that any information provided to him by KSV in the course of the sale process or concerning any restructuring alternatives, shall remain confidential and not be disclosed to any party without KSV's consent, not to be unreasonably withheld, it being acknowledged that the Israeli Parentco Officer shall be entitled to provide information to its advisors (provided they agree to be bound by the confidentiality restrictions detailed herein) and to both the Israeli Court and the Official Receiver of the Israeli Ministry of Justice, in each case on a sealed and private basis to obtain directions as needed, or as may be set forth in the Non-Disclosure Agreement executed by the Israeli Parentco Officer on May 11, 2016.
5. The Israeli Parentco Officer and KSV acknowledge that, at present, KSV has the amount of CDN\$1.9 million in a trust account, which funds KSV received from Urbancorp Partner (King South) Inc. ("UPKSI"), and which funds KSV has proposed to utilize as a form of interim funding for certain costs of the CCAA Proceedings, to be secured by a priming charge in favour of UPKSI against the assets of the entities utilizing the funds. KSV acknowledges that it will seek to obtain, as soon as possible, a general purpose DIP loan from third party sources and sufficient to repay amounts borrowed from UPKSI, using what are otherwise unencumbered assets of the Applicants (the "**DIP Loan**").

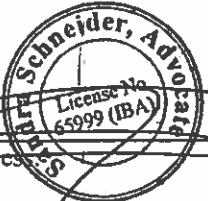
Upon being able to draw sufficient funds under the DIP Loan (which DIP Loan subject to the approval of the Canadian Court), KSV agrees that it will repay to UPKSI the interim loan made to that date in the preceding sentence from the DIP Loan and that it will, as the court-appointed monitor of UPKSI and subject to Court approval in the Part IV Proceedings, make available funds from that CDN\$1.9 million as an interim loan from UPKSI to Urbancorp Inc., to be secured by a priming DIP charge against the assets of Urbancorp Inc., to assist in the funding of the costs of the Part IV Proceedings including the reasonable costs incurred by the Israeli Parentco Officer in connection with the Part IV Proceedings, the reasonable fees and disbursements of the Israeli Parentco Officer's Canadian counsel and the Information Officer and its counsel.

6. The Israeli Parentco Officer shall support the commencement of the CCAA Proceedings. Provided that KSV is acting in good faith and has not engaged in willful misconduct or gross negligence, the Israeli Parentco Officer shall not take any steps to attempt to remove KSV as either the proposal trustee under the Proposal Proceedings or the monitor under the CCAA Proceedings or to in any way to interfere with or seek to limit KSV's powers in such capacities or to suggest that KSV must take instruction from it or the Israeli Court or terminate the CCAA Proceedings without the consent of KSV or by order of the Canadian Court. Nothing herein shall be deemed to grant any additional claims, rights, security or priority to, or in respect of, the Parentco Bonds or to the trustee under the Parentco Bond Indenture or to the Israeli Parentco Officer as against the Applicants or any affiliate or direct or indirect subsidiary of Parentco. In the event of any restriction or termination of the Israeli Parentco Officer's powers by the Israeli Court, this Protocol shall be deemed to be modified accordingly such that the Israeli Parentco Officer's powers and authority hereunder are no greater than those given to him by the Israeli Court.
7. This Protocol shall be governed by laws of Ontario and the laws of Canada as applicable and all disputes or requests for direction in connection with this Protocol shall be determined by the Canadian Court. Nothing herein is or shall be deemed to be an attachment by KSV to the Israeli Court or the laws of Israel.
8. The Israeli Court Officer and KSV agree to use reasonable efforts to seek to commence the proceedings noted above on or before May 18, 2016. KSV shall support, to the extent necessary, an application by the Israeli Parentco Officer to commence the Part IV Proceedings, on terms consistent with this Protocol, even if commenced before the CCAA Proceedings.

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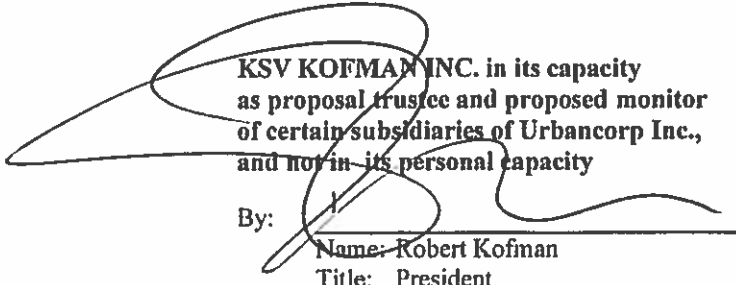
9. This Agreement is subject to the approval of the Israeli Court and the Canadian Court.

DATED this 13 day of May, 2016.

Name of Witness: _____




Name: **GUY GISSIN**, the Israeli Parentco
Officer



**KSV KOFMAN INC. in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.,
and not in its personal capacity**

By: _____
Name: **Robert Kofman**
Title: **President**

Appendix “B”



**Nineteenth Report to Court of
KSV Kofman Inc. as CCAA Monitor of
Urbancorp Toronto Management Inc.,
Urbancorp (St. Clair Village) Inc.,
Urbancorp (Patricia) Inc., Urbancorp
(Mallow) Inc., Urbancorp (Lawrence) Inc.,
Urbancorp Downsview Park Development
Inc., Urbancorp (952 Queen West) Inc.,
King Residential Inc., Urbancorp 60 St.
Clair Inc., High Res. Inc., Bridge On King
Inc. and the Affiliated Entities Listed in
Schedule “A” Hereto**

October 24, 2017

and

**Tenth Report to Court of KSV Kofman
Inc. as CCAA Monitor of Urbancorp
(Woodbine) Inc., Urbancorp (Bridlepath)
Inc., The Townhouses of Hogg’s Hollow
Inc., King Towns Inc., Newtowns at
Kingtowns Inc., Deaja Partner (Bay) Inc.,
and TCC/Urbancorp (Bay) Limited
Partnership**

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Schedules

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COURT FILE NO.: CV-16-11389-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
URBANCORP TORONTO MANAGEMENT INC., URBANCORP (ST. CLAIR
VILLAGE) INC., URBANCORP (PATRICIA) INC., URBANCORP (MALLOW) INC.,
URBANCORP (LAWRENCE) INC., URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., URBANCORP (952 QUEEN WEST) INC., KING
RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC., HIGH RES. INC., BRIDGE
ON KING INC. (COLLECTIVELY, THE "APPLICANTS") AND THE AFFILIATED
ENTITIES LISTED IN SCHEDULE "A" HERETO**

NINETEENTH REPORT OF KSV KOFMAN INC.

COURT FILE NO.: CV-16-11549-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE
TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT
KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE
"APPLICANTS")**

AND IN THE MATTER OF TCC/URBANCORP (BAY) LIMITED PARTNERSHIP

TENTH REPORT OF KSV KOFMAN INC.

OCTOBER 24, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. (“St. Clair”), Urbancorp (Patricia) Inc. (“Patricia”), Urbancorp (Mallow) Inc. (“Mallow”), Urbancorp Downsview Park Development Inc. (“Downsview”), Urbancorp (Lawrence) Inc. (“Lawrence”) and Urbancorp Toronto Management Inc. (“UTMI”) each filed a Notice of Intention to Make a Proposal (“NOI”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (collectively, St. Clair, Patricia, Mallow, Downsview, Lawrence and UTMI are referred to as the “NOI Entities”). KSV Kofman Inc. (“KSV”) was appointed as the Proposal Trustee of each of the Companies.
2. Pursuant to an Order made by the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated May 18, 2016 (the “Initial Order”), the NOI Entities, together with the entities listed on Schedule “A” attached (collectively, the “Cumberland CCAA Entities” and each a “Cumberland CCAA Entity”), were granted protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”) and KSV was appointed monitor of the Cumberland CCAA Entities (the “Monitor”).
3. Certain Cumberland CCAA Entities¹ are known direct or indirect wholly-owned subsidiaries of Urbancorp Cumberland 1 LP (“Cumberland”). Collectively, Cumberland and its direct and indirect subsidiaries are the “Cumberland Entities” and each individually is a “Cumberland Entity”. Each Cumberland Entity is a nominee for Cumberland and, as such, the assets and liabilities of the Cumberland Entities are assets and liabilities of Cumberland. The remaining Cumberland CCAA Entities², other than UTMI, are directly or indirectly wholly owned by Urbancorp Inc. (“UCI”) (collectively, the “Non-Cumberland Entities”). The corporate chart for the Cumberland CCAA Entities and the Non-Cumberland Entities is provided in Appendix “A”.
4. On April 25, 2016, the District Court in Tel Aviv-Yafo, Israel issued a decision appointing Guy Gissin as the functionary officer and foreign representative (the “Foreign Representative”) of UCI and granting him certain powers, authorities and responsibilities over UCI (the “Israeli Proceedings”).
5. On May 18, 2016, the Court issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. On April 25, 2016, Urbancorp (Woodbine) Inc. (“Woodbine”) and Urbancorp (Bridlepath) Inc. (“Bridlepath”) each filed a NOI. KSV was appointed as the Proposal Trustee of each of Bridlepath and Woodbine.

¹ St. Clair., Patricia, Mallow, Lawrence, Urbancorp (952 Queen West) Inc., King Residential Inc., Urbancorp 60 St. Clair Inc., High Res. Inc., Urbancorp Partner (King South) Inc., Urbancorp (North Side) Inc. and Bridge on King Inc.

² Vestaco Homes Inc., Vestaco Investments Inc., Urbancorp Power Holdings Inc., UTMI, Downsview, 228 Queens Quay West Limited, Urbancorp Residential Inc., Urbancorp Realtyco Inc., Urbancorp Cumberland 1 GP Inc.

7. Pursuant to an order made by the Court dated October 18, 2016, TCC/Urbancorp (Bay) Limited Partnership ("Bay LP"), Bridlepath and Woodbine and the entities listed on Schedule "B" (collectively, the "Bay CCAA Entities", and together with the Cumberland CCAA Entities, the "CCAA Entities") were granted protection in a separate CCAA proceeding and KSV was appointed Monitor of the Bay CCAA Entities.
8. Each Bay CCAA Entity is a wholly owned subsidiary of Bay LP, except Deaja Partner (Bay) Inc. Each of Bay LP's subsidiaries is a nominee for Bay LP and, as such, their assets and liabilities are assets and liabilities of Bay LP. The corporate chart for the Bay CCAA Entities is provided in Appendix "B".
9. On July 20, 2017, the Court issued orders extending the stay of proceedings for the Cumberland CCAA Entities and the Bay CCAA Entities to October 31, 2017.

1.1 Purposes of this Report

1. The purposes of this report ("Report") are to:
 - a) provide an update on the CCAA proceedings;
 - b) provide the Monitor's rationale for extending the deadline to August 29, 2017 for the Monitor to file a Notice of Revision and Disallowance (the "D&O Disallowance Notice") in respect of an \$8.6 million claim filed by Speedy Electrical Contractors Ltd. ("Speedy") against the directors and officers ("D&Os") of the Cumberland CCAA Entities (the "Speedy D&O Claim");
 - c) detail a recommended distribution to repay in full all admitted third party claims against the Bay CCAA Entities, including individuals who purchased homes ("Home Buyers") on the Woodbine and Bridlepath projects (the "Bay Distribution");
 - d) recommend a form of Additional Vesting Order (the "Additional Vesting Order") be issued ancillary to the initial Approval and Vesting Order as amended and restated on March 14, 2017 and September 13, 2017 (the "Amended and Restated Approval and Vesting Order"), in connection with Monitor's sale process for residential condominium units (the "Residential Units") held by Urbancorp Residential Inc. ("URI") and King Residential Inc. ("KRI"), each of which is a Cumberland CCAA Entity, in order to be able to sell and convey parking units, locker units and bike storage units (the "Additional Units") for which URI or KRI is the registered owner;
 - e) summarize the terms of a recommended loan facility (the "Loan Facility") in the amount of \$500,000 between Cumberland, as lender, and Urbancorp Renewal Power Inc. ("URPI"), as borrower;
 - f) summarize a disagreement between the Foreign Representative and the Monitor concerning the Downsview project;

- g) report on the consolidated cash flow projections of the Cumberland CCAA Entities and of the Bay CCAA Entities for the period November 1, 2017 to January 31, 2018 (“Cash-Flow Statements”);
- h) summarize and seek approval of the fees and expenses of KSV, as Monitor of the CCAA Entities, the Monitor’s counsel, Davies Ward Phillips & Vineberg LLP (“Davies”) and the CCAA Entities’ counsel, WeirFoulds LLP (“WeirFoulds”), for the periods referenced in the attached Fee Affidavits; and
- i) recommend that the Court issue orders:
 - i. validating the efficacy of the D&O Disallowance Notice and the Speedy Dispute (defined below) and deeming their delivery to comply with the Cumberland Claims Procedure Order (defined below);
 - ii. approving the Bay Distribution;
 - iii. granting the Additional Vesting Order in respect of the Additional Units;
 - iv. approving the Loan Facility;
 - v. granting an extension of the stay of proceedings for the CCAA Entities to January 31, 2018; and
 - vi. approving the fees and disbursements of the Monitor, Davies and WeirFoulds, as detailed in this Report.

1.2 Currency

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

1.3 Restrictions

1. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Entities, the books and records of the CCAA Entities and discussions with representatives of the CCAA Entities. The Monitor has not performed an audit or other verification of such information. The financial information discussed herein is subject to further review. The Monitor expresses no opinion or other form of assurance with respect to the financial information presented in this Report.
2. An examination of the CCAA Entities’ Cash Flow Statements as outlined in the Chartered Professional Accountant Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon the CCAA Entities’ assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

2.0 Background

1. The CCAA Entities, together with several affiliates, comprise the Urbancorp Group of Companies (collectively, the “Urbancorp Group”). The Urbancorp Group primarily engaged in the development, construction and sale of residential properties in the Greater Toronto Area. The Urbancorp Group also owns rental properties and geothermal assets.

2.1 Urbancorp Inc.

1. UCI was incorporated on June 19, 2015 for the purpose of raising debt in the public markets in Israel. Pursuant to a Deed of Trust dated December 7, 2015, UCI made a public offering of debentures (the “IPO”) in Israel of NIS180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO) (the “Debentures”).
2. From the monies raised under the IPO, UCI made unsecured loans (the “Shareholder Loans”) totalling approximately \$46 million to each of the NOI Entities (other than UTMI) so that these entities could repay loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that repayment of the Shareholder Loans is subordinate to certain other obligations of the NOI Entities (the “Permitted Obligations”).

3.0 Update on CCAA Proceedings

3.1 Interim Distribution

1. On June 27, 2017, the Court made orders authorizing and directing the Monitor to make the following distributions:
 - a) pay in full the amounts owing to creditors with admitted claims against the Cumberland Entities, other than UCI; and
 - b) pay a 33% dividend to creditors with admitted claims against the Bay CCAA Entities.

3.1.1 Cumberland Entities’ Distribution

1. A summary of the distribution to the Cumberland Entities’ creditors and the remaining unpaid claims is provided in the table below.

(\$000s; unaudited)	Total Admitted Claims	Distribution	Unpaid Admitted Claims	Percentage Recovery
UCI (Shareholder Loans)	36,968 ³	29,396	7,572	79.5%
Other creditors	13,510	13,510	-	100.0%
	50,478	42,906	7,572	85.0%

³ UCI also has a claim for Shareholder Loans against Downsview.

2. The table reflects that the Monitor made a distribution of approximately \$42.9 million to the Cumberland Entities' creditors. As the repayment of the Shareholder Loans is subordinated to the repayment of the Permitted Obligations, UCI was required to assign its distributions to those creditors that have claims for Permitted Obligations until those creditors' claims were repaid in full. Since the remaining admitted unsecured claims were relatively insignificant, the Foreign Representative agreed to subordinate repayment of the Shareholder Loans to all currently admitted claims against the Cumberland Entities (but not to any currently disputed claims) such that all currently admitted claims have been repaid in full. Approximately \$7.6 million of UCI's claim against the Cumberland Entities remains unpaid.

3.1.2 Cumberland Entities' Disputed Claims

1. The Monitor has issued Disallowance Notices to several claimants of the Cumberland Entities. The Monitor has reserved for the full amount of the disputed claims. Set out below is a summary of the claimants who have disputed the Disallowance Notices.

(\$000s; unaudited)	
Claimant	Amount
Travelers Insurance Company of Canada ("Travelers")	4,404
Tarion Warranty Corporation ("Tarion")	2,787
Employee Claims	2,456
Speedy	2,324
Other	23
	11,994

2. The following is an update on the Cumberland disputed claims:
 - a) Travelers - The majority of this claim relates to a guarantee made by Bridge on King Inc., a Cumberland CCAA Entity, for a bond provided by Travelers to Tarion in respect of a project being developed by Urbancorp (Leslieville) Inc. ("Leslieville"). Leslieville is subject to receivership proceedings in which Alvarez & Marsal Canada Inc. is the Court appointed receiver. The actual exposure under the guarantee, if any, will be determined once the Leslieville project is completed. The Leslieville project is expected to be completed in 2018.
 - b) Tarion - The Monitor is negotiating a resolution of these claims with Tarion. The Monitor expects to bring a motion shortly to approve a settlement.
 - c) Employee Claims - Approximately \$2.1 million of this claim relates to one former employee of UTMI. The claim asserts that the former employee is entitled to severance and termination against the Cumberland CCAA Entities, as well as profit participation on certain of the Urbancorp Group's projects. The Monitor has been in contact with legal counsel to the former employee. The former employee is ill and is presently unable to move forward with the claim.

- d) Speedy - Speedy filed a secured claim in the amount of \$2,323,638 against KRI (the "Speedy Secured Claim"). The Speedy Secured Claim is based on a guarantee provided by KRI for liabilities owing by Alan Saskin in the amount of \$1,284,727 and Edge on Triangle Parking Inc., an affiliated entity, in the amount of \$1,038,911. The Monitor has been unable to determine if KRI received any direct consideration for providing the secured guarantee. The claim was disallowed on the basis that the transaction could be voidable as a transfer at undervalue, and, in addition, voidable as a fraudulent conveyance or preference. The Monitor is considering next steps with respect to the Speedy Secured Claim.

3.1.3 Speedy D&O Claim

1. On September 15, 2016, the Court issued an order, as amended by a further order dated October 25, 2016, establishing a procedure to identify and quantify claims against the Cumberland CCAA Entities and against the D&Os of the Cumberland CCAA Entities (the "Cumberland Claims Procedure Order").
2. On October 19, 2016, Speedy filed the Speedy Secured Claim and the Speedy D&O Claim. A copy of the Speedy D&O Claim is attached as Appendix "C".
3. Pursuant to the Cumberland Claims Procedure Order, the Monitor was required to send all Notices of Revision or Disallowance by no later than November 11, 2016, unless otherwise ordered by the Court on application by the Monitor.
4. On November 11, 2016, the Monitor disallowed the Speedy Secured Claim. The Monitor also disallowed the Speedy D&O Claim at that time; however, it subsequently learned that it may not have been mailed within the time limits established in the Cumberland Claims Procedure Order due to an administrative error.
5. The Speedy D&O Claim was disallowed on the basis that it is not a claim for which an indemnity would be provided by a Cumberland CCAA Entity. The claim against Mr. Saskin was disallowed without prejudice to Speedy's rights to prove such claim in Mr. Saskin's proposal proceedings (which is ongoing), in which The Fuller Landau Group Inc. is the Proposal Trustee. In addition, a portion of the Speedy D&O Claim is duplicative of the Speedy Secured Claim. The remainder of the Speedy D&O Claim is directly related to services provided by Speedy to Edge on Triangle Park Inc., which is not a Cumberland CCAA Entity.
6. Upon learning on August 23, 2017 that the D&O Disallowance Notice may not have been sent to Speedy, Davies contacted Speedy's counsel the following day to request its consent to extend the time for the Monitor to deliver the D&O Disallowance Notice. Thereafter, Davies attempted to contact Speedy's counsel to confirm its client's positions. Copies of the emails sent by Davies to Speedy's counsel are provided in Appendix "D".

7. On August 29, 2017, the Monitor delivered the D&O Disallowance Notice to Speedy’s counsel. A copy of the letter sent by Davies to Speedy’s counsel, together with the D&O Disallowance Notice, is attached as Appendix “E”.
8. On September 8, 2017, Speedy’s counsel issued a Notice of Dispute in respect of the D&O Disallowance Notice, while reserving its rights under the Cumberland Claims Procedure Order (the “Speedy Dispute”). A copy of the Speedy Dispute is attached as Appendix “F”.
9. The Monitor recommends the Court issue an order validating the efficacy of the D&O Disallowance Notice and the Speedy Dispute and deeming their delivery to comply with the Cumberland Claims Procedure Order. The failure to file the D&O Disallowance Notice by the deadline was inadvertent. The Monitor believes that the disallowance is meritorious and that the requested relief is not prejudicial to Speedy given that a reserve has been established for Speedy’s Secured Claim.

3.1.4. Bay CCAA Entities’ Distribution

1. A summary of the distribution to the Bay CCAA Entities’ creditors and the remaining unpaid admitted claims in the Bay CCAA Entities’ proceedings is provided in the table below.

(\$000s; unaudited)	Total Admitted Claims	Distribution	Unpaid Admitted Claims	Percentage recovery
Home buyers	7,114	2,347	4,767	33%
Third party creditors	1,047	345	702	33%
	8,161	2,692	5,469	33%
Intercompany creditors	1,154	381	773	33%
	9,315	3,073	6,242	33%

2. The table reflects that the Monitor made a distribution of approximately \$3.1 million to the Bay CCAA Entities’ creditors with admitted claims (33% of the admitted claims). Approximately \$6.2 million of the admitted claims remain unpaid, including approximately \$5.5 million to Home Buyers and third party creditors (the “Home Buyer and Third Party Claims”).

3.1.5 Bay CCAA Entities' Disputed Claims

1. The Monitor has issued Disallowance Notices to several claimants of the Bay CCAA Entities. The Monitor has reserved funds for the disputed claims. Set out below is a summary of the claimants who have disputed the Disallowance Notices.

(unaudited; \$000)	
Claimant	Amount
Secured Claim	
Terra Firma Capital Corporation ("TFCC") (principal, interest and cost reserve)	10,014
Unsecured Claims	
Employee Claims	2,456
Tarion	716
	<hr/>
	3,172
	<hr/>
Total Disputed Claims	<hr/> <hr/> 13,186

2. In addition to the disputed claims set out above, the Foreign Representative, on behalf of UCI, has filed a motion to late file a claim of \$8 million on the basis of misrepresentation and negligent misrepresentation in connection with promissory notes totalling \$8 million that were issued by Bay LP; the Court previously issued a decision confirming the Monitor's disallowance of UCI's claim for the amounts owing under the promissory notes.
3. As reflected above, the most significant disputed claims relate to UCI and TFCC. Due to the amount of these claims, the Monitor has been unable to make any further distributions to creditors of the Bay CCAA Entities. TFCC and the Foreign Representative are attempting to negotiate a settlement of the claims against Bay LP. The Monitor is unaware of the terms of settlement. The Monitor has advised the Foreign Representative and TFCC that any settlement of their claims against the Bay CCAA Entities requires Court approval on notice to any affected stakeholders.
4. A motion to resolve TFCC's claim was originally scheduled to be heard on September 5, 2017. It was adjourned on consent to October 19, 2017. On October 12, 2017, legal counsel to TFCC advised the Monitor that it was seeking an adjournment of the motion *sine die* to provide additional time to finalize a settlement between TFCC and the Foreign Representative. As the settlement discussions have spanned several months and require additional time to be resolved, the Monitor advised that it was not prepared to consent to the adjournment unless TFCC and the Foreign Representative agreed to allow the Monitor to repay the balance of the Home Buyer and Third Party Claims.
5. TFCC has agreed, and the Foreign Representative is not opposed to, the immediate repayment of the Home Buyer and Third Party Claims. A letter signed by counsel to TFCC and an email from the Functionary confirming same is provided in Appendix "G".

3.1.6 Bay Distribution

1. The Monitor recommends a \$5.5 million distribution to repay, in full, the Home Buyer and Third Party Claims. A summary of the recommended distribution is reflected below.

(C\$000s; unaudited)	Amount
Cash available for Bay Distribution	
Current bank balance	17,061
Cash holdback for costs in administration	(3,000)
Net cash available	14,061
Distribution to Home Buyers and Third Party Claimants	(5,469)
Remaining funds available for distribution	8,592

2. The table reflects that following the distribution, there will be approximately \$8.6 million remaining in the Bay LP bank account. The remaining bank balance is sufficient to repay in full the employee claims, the Tarion claims and the intercompany claims should the Monitor be required to repay them. It will be a condition of the Monitor that any settlement provide, *inter alia*, that all admitted claims be paid in full.
3. The recommended distribution includes approximately \$480,000 to be paid to TFCC in connection with its admitted claims against the Bay CCAA Entities.

3.2 Geothermal Assets

1. Certain of the Cumberland CCAA Entities have an interest in geothermal assets located at four condominium projects developed by entities in the Urbancorp Group of Companies (collectively, the "Geothermal Assets"). The condominium projects are as follows:

Condominium Name	Address
Edge	36 Lisgar Street, Toronto
Curve	170 Sudbury Street, Toronto
Bridge	38 Joe Shuster Way, Toronto
Fuzion	20 Joe Shuster Way, Toronto

2. Pursuant to energy supply agreements, each condominium corporation (collectively, the "Condo Corporations") is required to pay URPI for the supply of the geothermal energy. URPI is neither a subsidiary of UCI nor is it subject to CCAA proceedings. The Monitor understands that URPI is owned by Alan Saskin. URPI is required to pay the revenue it receives from the Condo Corporations to the Urbancorp entity that holds the geothermal energy system, net of a management fee of approximately 3% payable to URPI and other costs (such as repairs and maintenance costs).

3. The registered owners of the geothermal energy systems appear to be Vestaco Homes Inc. (Bridge), Vestaco Investments Inc. (Curve) and 228 Queen's Quay West Ltd. (Edge), each of which is a Cumberland CCAA Entity. The registered owner of the Fuzion geothermal energy system appears to be Urbancorp New Kings Inc. ("UNKI") and Urbancorp Management Inc., each as to 50% and each of which is not subject to CCAA proceedings. The Fuller Landau Group Inc. ("Fuller Landau"), in its capacity as Monitor of certain of the other entities in the Urbancorp Group of Companies, including Edge Residential Inc., Edge on Triangle Park Inc. and Bosvest Inc. (collectively, the "Edge Companies"), has indicated that the Edge Companies may have an interest in the Edge geothermal system.
4. The Bridge and Fuzion Condo Corporations have failed to make payments to URPI under their supply agreements since March, 2016. The Edge Condo Corporation has failed to make payments to URPI under its supply agreement since April, 2016.⁴ As a result, URPI has engaged its own counsel to litigate against these Condo Corporations. The Condo Corporations have filed cross claims alleging, *inter alia*, that certain of the Geothermal Assets require repairs and that the Condo Corporations are paying more for heating and cooling than traditional energy sources.
5. The Monitor understands that the Condo Corporations for Edge, Bridge and Fuzion have paid into their lawyer's trust account at least some of the amounts owing to URPI pending resolution of the litigation proceedings. A trial date has not been scheduled.
6. The Monitor has reviewed the expert reports issued by consultants to URPI and the relevant Condo Corporations. The opinions in the reports vary considerably. In order to establish an independent opinion, the Monitor recently retained a consultant to review the issues in the litigation.
7. The Monitor understands that the Condo Corporation for Curve alleges that it exercised a right to purchase its geothermal system, and, accordingly, is no longer making any payments to URPI. No payment has been received in connection with the alleged purchase. A further Court hearing may be required to deal with URPI's claim against Curve.
8. If and when the geothermal litigation is resolved, the Monitor intends to work with Fuller Landau and other relevant parties with an interest in these assets to sell the Geothermal Assets.

3.3 URPI Loan Facility

1. URPI has no revenue because it has not been receiving payments from the Condo Corporations.
2. URPI filed two claims against the Cumberland Entities totaling \$580,000. The claims were admitted. Rather than making a distribution to URPI, the Monitor reached an agreement with URPI that it would fund maintenance costs associated with the Geothermal Assets and the costs of the geothermal litigation from URPI's distribution. To date, approximately \$312,000 has been paid from URPI's distribution in respect of these costs (\$268,000 remains).

⁴ On August 30, 2016, the Edge Condo Corporation made a \$260,000 partial payment to URPI in respect of amounts owing.

3. URPI has been advised that it likely needs to make a repair to the Bridge Geothermal Assets which could cost as much as \$400,000. URPI is also continuing to incur legal costs.
4. In order to protect the value of the Geothermal Assets, the Monitor is prepared to make a loan to URPI, if approved by the Court. The terms of the Loan Facility are set out in a term sheet (the "Term Sheet"). A copy of the Term Sheet is attached as Appendix "H".
5. The significant terms of the Loan Facility are below.
 - a) Lender: Cumberland;
 - b) Borrower: URPI;
 - c) Amount: \$500,000;
 - d) Repayment Date: the earliest of (i) the first anniversary of the date of the first advance; and (ii) conversion of the CCAA proceedings into a proceeding under the *Bankruptcy and Insolvency Act* or such earlier date upon which repayment is required due to the occurrence of an Event of Default;
 - e) Security: first ranking security interest in and lien on all now-owned and hereafter-acquired assets and property of the URPI, real and personal, tangible or intangible and all proceeds therefrom;
 - f) Interest rate: 12% per annum, compounded monthly and payable on the Repayment Date;
 - g) Advance Conditions:
 - i. The Term Sheet is approved by order of the Court;
 - ii. Cumberland is satisfied that URPI has complied with and is continuing to comply in all material respects with all applicable laws, regulations, policies in relation to its property and business;
 - iii. all amounts due and owing to Cumberland at such time shall have been paid or shall be paid from the requested advance;
 - iv. no event of default shall have occurred or will occur as a result of the requested advance;
 - v. any necessary third-party approvals to preserve or perfect Cumberland's security will have been obtained;
 - vi. there are no liens ranking in priority to the security other than as permitted; and
 - vii. URPI shall be in compliance with all covenants and obligations contained in the Term Sheet;

- h) Litigation:
- i. The Monitor can require URPI to instruct its counsel in respect of the litigation to take instructions directly from the Monitor. Such instructions may include, in the Monitor's sole discretion but after consultation with URPI, settling the litigation provided that, in the event of a disagreement between Monitor and URPI, the Monitor will bring a motion to have the matter determined by the Court; and
 - ii. UTPI has also agreed, if so requested by the Monitor in its sole discretion, but after consultation with URPI, to replace UPRI's litigation counsel in respect of the litigation provided that, in the event of a disagreement between Monitor and URPI, the Monitor will bring a motion to have the matter determined by the Court.
6. The Monitor recommends the Court approve the Loan Facility so that it can attempt to resolve the litigation and, in due course, commence a realization process for the Geothermal Assets. Absent the Loan Facility, URPI will neither have funding to defend itself in the litigation nor to continue to maintain the Geothermal Assets. This would put at risk the ability to realize on the Geothermal Assets, which were stated in the prospectus issued in connection with the Debentures to have a value in the tens of millions of dollars.

3.4 Condominium Sale Process

1. On December 14, 2016, the Court issued an order (the "Sale Process Order") approving a sale process for 28 Residential Units held by URI and KRI⁵. Pursuant to the Sale Process Order, Brad J. Lamb Realty Inc. ("Brad Lamb Realty") is marketing the Residential Units for sale.
2. On January 27, 2017, the Court issued an order, as amended and restated on March 14, 2017 (the "Approval and Vesting Order"), which authorized the Monitor to enter into a form of sale agreement for each of the respective Residential Units as each is sold and, upon the delivery of a Monitor's certificate concerning any sale, vested the Residential Unit pertaining to the relevant sale agreement in and to the purchaser free and clear of related scheduled encumbrances. The relevant schedule to the Approval and Vesting Order only lists the Residential Units registered on title as being owned by KRI and URI.
3. The Additional Units are comprised of the following: 52 parking units, seven locker units and 66 bike storage units for which URI and KRI are the registered owner.
4. The Additional Units have separate Property Identification Numbers and, therefore, cannot be vested by registration of the Approval and Vesting Order on title without the schedule to the Approval and Vesting Order being amended to specifically reference these Property Identification Numbers and related encumbrances.

⁵ URI and KRI are nominee companies for Urbancorp Realty Co. and Urbancorp Cumberland 1 LP, respectively.

5. On September 11, 2017, the Monitor brought a motion to add a single parking unit and locker unit so it could complete a sale of a Residential Unit which was scheduled to close immediately. The Monitor advised in its motion materials that it intended to add the remaining Additional Units to the Approval and Vesting Order, but it still required certain information. On September 13, 2017, the Court issued the Amended and Restated Approval and Vesting Order to allow for the sale of the parking unit and locker unit.
6. The Monitor is now recommending the Court enter the Additional Vesting Order so that it can sell and vest title to the Additional Units. The parties that will have their encumbrances vested off title are:
 - Travelers;
 - The Bridge Condo Corporation;
 - Speedy;
 - TD Bank;
 - CIBC Mortgages Inc.; and
 - Kareg Leasing Inc.
7. Each of these parties have been served with this Report and the accompanying motion materials; however, the proposed order does not prejudice any of the parties as their claims will attach to the net proceeds from the sale of the Additional Units. A copy of the proposed Additional Vesting Order is attached as Appendix "I".

3.5 Update on Condominium Sale Process

1. Since the commencement of the sale process, the Monitor has closed thirteen transactions for the Residential Units. A summary of the net proceeds from the transactions is provided in the table below. The net proceeds from the remaining Residential Units is expected to be approximately \$2.5 million.

(\$000's; unaudited)	No. of units sold	Gross Proceeds	Mortgages	Costs ⁶	Net Proceeds
KRI	6	2,298	1,195	166	937
URI	7	2,747	2,089	196	462
	13	5,045	3,284	362	1,399

2. As of July 1, 2017, all of the Residential Units are vacant. Brad Lamb Realty is presently marketing two Residential Units at a time.
3. The Additional Units represent unsold inventory from the Cumberland CCAA Entities' various condominium developments. In order to sell the Additional Units, the Monitor intends to:
 - a) list the Additional Units on Toronto Real Estate Board Multiple Listing Services;

⁶ Includes professional fees of \$10,000 per unit and broker fees

- b) advertise the Additional Units in the various condominiums; and
- c) instruct Brad Lamb Realty to solicit interest from prospective purchasers of the Residential Units.

3.6 Urbancorp New Kings Inc.

1. Cumberland is the shareholder of UNKI. UNKI appears to be a nominee for Cumberland. UNKI is not subject to the CCAA proceedings. UNKI owns a 50% interest in a development located at 1100 King Street West, Toronto (the “Kingsclub Development”). The remaining 50% interest of the Kingsclub Development is owned by King Liberty North Corporation (“KLNC”), an affiliate of First Capital (S.C.) Corporation (“FCSCC”).⁷
2. The Kingsclub Development is a significant project located on King Street West in Toronto. It is presently under construction and is to consist of retail space, residential space and related parking spaces. The retail development is projected to be completed by the beginning of 2018 and the residential development is projected to be completed by the end of 2018.
3. Pursuant to the Initial Order, Robert Kofman, the President of KSV and the person with primary oversight of these proceedings on behalf of the Monitor, or such representative of KSV as Mr. Kofman may designate in writing from time-to-time, was appointed to the management committee of the Kingsclub Development in place of Alan Saskin, the sole officer and director of UNKI.
4. As of August 31, 2017, UNKI and KLNC had borrowed approximately \$117.6 million from Bank of Nova Scotia (the “BNS Loan”) and \$69.3 million from FCSCC (“FCSCC Loan”) in connection with the financing of the Kingsclub Development.
5. The Monitor, KLNC and FSSCC have entered into a Court-approved standstill agreement in respect of the Kingsclub Development (the “Standstill Agreement”). The Standstill Agreement is intended to facilitate an orderly completion of the Kingsclub Development. The Monitor is continuing to oversee the Kingsclub Development with a view to generating recoveries from this asset. The proceeds, if any, from this project cannot be quantified at this time.

3.7 Downsview

1. Downsview Homes Inc. (“DHI”) owns land located at 2995 Keele Street in Toronto, which is being developed into condominiums and other residences (the “Downsview Project”). The shares of DHI are owned by Downsview (51%) and Mattamy (Downsview) Limited, an affiliate of Mattamy Homes (“Mattamy”) (49%).
2. Downsview’s only known asset is its interest in DHI.

⁷ Kings Club Development Inc., a nominee entity, is the registered owner of the Kingsclub Development on behalf of its beneficial owners, UNKI (50%) and KLNC (50%).

3. Prior to the commencement of the CCAA proceedings, Mattamy made advances to DHI on behalf of Downsview. Downsview also has obligations to Mattamy under a co-ownership agreement with Mattamy (“Ownership Agreement”). Pursuant to the Ownership Agreement and other agreements, Downsview’s shares of DHI are subject to transfer restrictions in favour of Mattamy and are pledged as security to Mattamy.
4. At the commencement of the Cumberland CCAA Proceedings, Downsview was required to make an equity injection into the Downsview Project of approximately \$8 million in order to secure construction financing. Downsview did not have the cash to fund its portion of the required equity; however, Mattamy agreed to loan Downsview the funds it required. On June 15, 2017, the Court approved a debtor-in-possession financing facility (the “DHI Facility”) in the amount of \$8 million between Mattamy, as lender, and Downsview, as borrower, as well as a charge in favour of Mattamy over Downsview’s assets, properties and undertakings to secure repayment of the amounts borrowed by Downsview under the DHI Facility. To date, approximately \$7.59 million has been borrowed by Downsview under the DHI Facility. Interest and costs continue to accrue.
5. The Downsview Project consists of two phases. The first phase is scheduled to be completed in the first half of 2018, while the second phase is not expected to be completed for several years.
6. The Monitor is continuing to oversee this project, including reviewing pro-formas and corresponding routinely with Mattamy. Due various issues on each phase of the project, there is significant uncertainty at this time as to the value of Downsview’s interest in the Downsview Project.
7. The Foreign Representative has advised the Monitor repeatedly that: a) the Monitor has not kept it apprised of the status of the Downsview Project; and b) it would like to commence a sale process in the near term for Downsview’s interest in the Downsview Project.
8. The Monitor disagrees with the Foreign Representative on both counts.
 - a) Status updates: Since the outset of these proceedings, the Monitor has kept the Foreign Representative apprised of the status of the Downsview Project during in-person meetings, telephonically and via email correspondence. As Mattamy controls the Downsview project, it is reliant on Mattamy for information. Mattamy and the Monitor have regularly scheduled update calls, after which Monitor has provided updates to the Foreign Representative or its counsel as to all material developments which have been communicated to it by Mattamy.

- b) Sale Process. The Monitor has advised the Foreign Representative that it does not believe a sale process would generate significant proceeds at this time given: a) uncertainty regarding construction issues on the first phase; b) uncertainty regarding the phase two development plan; c) the development timeframe for the second phase will likely see that phase completed in 2021 or 2022; d) Mattamy, as the joint venture partner, is likely to impose restrictions on the sale of Downsview's interest in the project in accordance with its contractual rights noted above; and e) any purchaser of the Downsview interest will want to ensure that it has a suitable arrangement with Mattamy.
9. Notwithstanding the Monitor's views as to the timing to commence a sale process, the Monitor has advised the Foreign Representative that it is prepared to meet with Mattamy to consider the attributes of a sale process so that, *inter alia*, it understands how Mattamy would wish to participate in such process, including information it would make available to interested parties.
10. The Foreign Representative noted in its most recent report filed in the Israeli Proceedings dated October 2, 2017 that it has been in contact with several entities interested in making offers for several of the Urbancorp Group's assets. The Foreign Representative has also advised the Monitor previously that expressions of interest have been communicated to it regarding Downsview. The Monitor and its counsel have repeatedly requested that the Foreign Representative direct interested parties to the Monitor, as the sale of Downsview is exclusively within the jurisdiction of the CCAA proceedings. The Foreign Representative has never done so.

3.8 Urbancorp Downtown Developments Inc.

1. In or around June, 2014, UTMI advanced \$750,000 to Urbancorp Downtown Developments Inc. ("UDDI"), an affiliated entity not subject to insolvency proceedings, to fund a deposit in connection with the purchase of land by UDDI. In December 2014, approximately \$250,000 was returned to UTMI by UDDI.
2. In addition, the books and records of UTMI reflect an intercompany balance of \$200,000 owing by UDDI to UTMI.
3. The property that was to be purchased by UDDI was expropriated by the Toronto Catholic District School Board ("TCDSB") prior to closing.
4. UDDI is negotiating a settlement with TCDSB. UDDI has acknowledged by email that the proceeds from TCDSB, after costs, will first be used to satisfy the amounts owing to UTMI.

4.0 Cash Flow Forecasts

1. Consolidated cash flow projections have been prepared for the CCAA Entities for the period November 1, 2017 to January 31, 2018 (the "Period"). The Cash-Flow Statements and the CCAA Entities' statutory reports on the cash flow pursuant to Section 10(2)(b) of the CCAA are attached as Appendices "J" and "K", respectively.
2. The expenses in the Cash-Flow Statements are primarily comprised of payroll, general and administrative expenses, professional fees and advances to URPI in connection with the Loan Facility. The CCAA Entities have sufficient cash to pay all disbursements during the Period.
3. Based on the Monitor's review of the Cash-Flow Statements, there are no material assumptions which seem unreasonable in the circumstances. The Monitor's statutory reports on the cash flows are attached as Appendix "L".

5.0 Request for an Extension

1. The CCAA Entities are seeking an extension of the stay of proceedings from October 31, 2017 to January 31, 2018. The Monitor supports their request for extensions of the stay of proceedings for the following reasons:
 - a) the CCAA Entities are acting in good faith and with due diligence;
 - b) no creditor will be prejudiced if the extensions are granted;
 - c) it will allow the Cumberland CCAA Entities and the Monitor further time to deal with the remaining assets owned by the Cumberland CCAA Entities, including the Residential Units, the Geothermal Assets, the Downsview Project and the Kingsclub Development;
 - d) it will allow the Monitor the opportunity to resolve the disputed claims; and
 - e) as of the date of this Report, neither the CCAA Entities nor the Monitor is aware of any party opposed to an extension.

6.0 Professional Fees

- The fees and disbursements of the Monitor, Davies and WeirFoulds for the period are summarized below.

Firm	Period	(\$)		
		Fees	Disbursements	Total
<u>Cumberland CCAA Entities</u>				
KSV	Jul 1/17 – Sept 30/17	205,908.00	2,661.23	208,569.23
Davies	Jul 1/17 – Sept 30/17	191,884.00	7,610.61	199,494.61
WeirFoulds	Jun 1/17 – Sept 30/17	5,854.50	308.43	6,162.93
Total		403,646.50	10,580.27	414,226.77
<u>Bay CCAA Entities</u>				
KSV	Jun 1/17 – Sept 30/17	153,820.25	-	153,820.25
Davies	Jul 1/17 – Sept 30/17	58,376.50	306.19	58,682.69
WeirFoulds	Jun 1/17 – Jul 31/17	4,084.50	509.29	4,593.79
Total		216,281.25	815.48	217,096.73

- Detailed invoices are provided in appendices to the fee affidavits filed by representatives of KSV, Davies and WeirFoulds which are provided in Appendices “M”, “N” and “O”, respectively.
- The average hourly rates for the Monitor, Davies and WeirFoulds are as follows:

Firm	Average Hourly Rate (\$)
<u>Cumberland CCAA Entities</u>	
KSV	478.41
Davies	669.28
WeirFoulds	527.43
<u>Bay CCAA Entities</u>	
KSV	462.48
Davies	883.15
WeirFoulds	474.94

- Since the last fee approval motion, the main matters addressed by Davies include: resolving issues related to disputed claims, dealing with counsel to TFCC and UCI in respect of their claims against Bay LP, dealing with the sale of the Residential Units and dealing with matters related to the Geothermal Assets and the Downsview Project. As reflected in the table above, WeirFoulds has incurred limited professional fees since the last fee approval motion.
- The Monitor is of the view that the hourly rates charged by Davies and WeirFoulds are consistent with rates charged by law firms practicing in the area of restructuring and insolvency in the downtown Toronto market, and that the fees charged are reasonable and appropriate in the circumstances.

7.0 Conclusion and Recommendation

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

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc".

**KSV KOFMAN INC.
IN ITS CAPACITY AS CCAA MONITOR OF
THE CCAA ENTITIES
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “C”



**Fifth Report to Court of
KSV Kofman Inc. as Information Officer
of Urbancorp Inc.**

May 4, 2017

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COURT FILE NO.: CV-16-11392-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC., UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

MAY 4, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. ("St. Clair"), Urbancorp (Patricia) Inc. ("Patricia"), Urbancorp (Mallow) Inc. ("Mallow"), Urbancorp Downsview Park Development Inc. ("Downsview"), Urbancorp (Lawrence) Inc. ("Lawrence") and Urbancorp Toronto Management Inc. ("UTMI") each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "NOI Proceedings"). (Collectively, St. Clair, Patricia, Mallow, Downsview and Lawrence are referred to as the "NOI Entities".) KSV Kofman Inc. ("KSV") was appointed as the Proposal Trustee in the NOI Proceedings.
2. On April 25, 2016, the District Court in Tel Aviv-Yafo (the "Israeli Court") issued a decision (the "April 25th Decision") appointing Guy Gissin as the functionary officer and foreign representative (the "Foreign Representative") of Urbancorp Inc. ("UCI") and granted him certain powers, authorities and responsibilities over UCI, the ultimate parent of the NOI Entities (the "Israeli Proceedings").
3. On May 11, 2016, the Israeli Court made an order authorizing the Foreign Representative to enter into a protocol between the Foreign Representative and KSV (the "Protocol"). The Protocol contemplated that the NOI Entities and other related entities would file for protection under the *Companies' Creditors Arrangement Act* ("CCAA"). The Protocol addresses, *inter alia*, cooperation with respect to the restructuring process of the NOI Entities and sharing of information between the Foreign Representative and the Monitor.

4. Pursuant to an order made by the Ontario Superior Court of Justice – Commercial List (the “Canadian Court”) dated May 18, 2016 (the “Initial Order”), the NOI Entities and the entities listed on Schedule “A” attached to this Report (collectively, the “Cumberland CCAA Entities”) were granted protection under the CCAA and KSV was appointed monitor (the “Cumberland Monitor”). The Initial Order also approved the Protocol.
5. On May 18, 2016, the Canadian Court also issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. This report (the “Report”) is filed in KSV’s capacity as Information Officer.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information on the Israeli Proceedings;
 - b) summarize the terms of a plan of arrangement (the “Plan”) for UCI filed by the Foreign Representative;
 - c) discuss an order issued by the Israeli Court extending the appointment of the Foreign Representative to July 21, 2017 (the “Extension Order”); and
 - d) recommend the Canadian Court grant an order recognizing the Extension Order.

1.2 Restrictions

1. In preparing this Report, the Information Officer has relied upon unaudited financial information of UCI, discussions with the Foreign Representative and its legal counsel and the reports issued by the Foreign Representative in the Israeli Proceedings. The Information Officer has not performed an audit or other verification of such information. The information discussed herein is preliminary and remains subject to further review. The Information Officer expresses no opinion or other form of assurance with respect to the information presented in this Report.

1.3 Currency

1. Unless otherwise stated, all currency references in this Report are to Canadian dollars.

2.0 Background

1. UCI was incorporated in Ontario on June 19, 2015 for the purpose of raising capital in the public markets in Israel. Pursuant to a deed of trust dated December 7, 2015 (“Deed of Trust”), UCI made a public offering (the “IPO”) of debentures (the “Debentures”) in Israel for NIS 180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO). The Debentures traded on the Tel Aviv Stock Exchange (the “TASE”). UCI is alleged to have defaulted on the Debentures and trading in the Debentures has been suspended by the TASE.
2. From the monies raised under the Debentures, UCI made separate loans (the “Shareholder Loans”) totalling approximately \$46 million to each of the NOI Entities so that the NOI Entities could repay their loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that these advances are unsecured and functionally subordinated to certain other obligations of the NOI Entities.

3.0 Claims Against UCI

1. The Foreign Representative has conducted a claims process for UCI. Twenty claims totalling approximately \$89 million¹ were filed against UCI. Of this amount, the Foreign Representative has admitted claims totalling approximately \$63.3 million.
2. UCI’s principal obligation is the Debentures. The Foreign Representative has admitted a claim of approximately \$62.6 million filed by Reznik Paz Nevo Trusts Ltd., the Trustee in respect of the Debentures (the “Trustee”). Of this amount, the Foreign Representative has admitted the Shareholder Loan component as a secured claim (the “Secured Debt”).
3. A summary of the claims admitted in UCI’s claims process is provided in the Information Officer’s Fourth Report to Court dated March 9, 2017 (the “Fourth Report”). A copy of the Fourth Report is attached as Appendix “A”, without appendices.

4.0 The Plan

1. **The following section provides an overview of the Plan. A copy of the Plan is attached as Appendix “B”. Review of this section is not a substitute for reading the Plan. Creditors are strongly encouraged to read the Plan in its entirety.**

¹ Claims made in New Israeli Shekels and US dollars were converted into Canadian dollars using an exchange rate of NIS2.97/C\$1 and U\$0.79/C\$1, respectively, being the exchange rates on April 25, 2016.

2. The Foreign Representative is not seeking approval of the Plan in Canada at this time. The Plan was filed in Israel and is subject to the requisite level of acceptance by the creditors and approval of the Israeli Court. The Foreign Representative will seek an order recognizing the Plan in Canada if it receives the approvals required by the Israeli process.

4.1 Assets of UCI

1. The following sections provide an overview of the assets that may be available for distribution to creditors of UCI under the Plan.

4.2 Realizations from the Cumberland CCAA Entities

1. UCI's principal assets are its claims against the Urbancorp group of companies. The Cumberland Monitor has admitted a claim of approximately \$47 million filed by the Foreign Representative, on behalf of UCI, against the Cumberland CCAA Entities.²
2. The Cumberland Monitor has realized approximately \$80 million from the sale of assets owned by the Cumberland CCAA Entities. The Cumberland Monitor expects to make an interim distribution to creditors. As at the date of this Report, the estimated interim distribution to UCI is \$20 million. The interim distribution is subject to resolving a claim filed by Tarion Warranty Corporation and to the approval of the Canadian Court.
3. The Cumberland Monitor is likely to make additional distributions to UCI. The distributions are subject to resolving disputed claims. Additionally, the Monitor expects that there will be further additional recoveries, including from the 51% interest held by Downsvie in a real estate project with Mattamy Homes and from geothermal assets owned by certain of the Cumberland CCAA Entities.

4.3 Realizations from the Edge Group

1. The Fuller Landau Group Inc. (the "Edge Monitor") is the CCAA Monitor of, *inter alia*, Edge Residential Inc., Edge on Triangle Park Inc. and Bosvest Inc. (collectively, the "Edge Entities"), each affiliates of the Cumberland CCAA Entities. The Edge Monitor has admitted a claim of approximately \$16.6 million filed by the Foreign Representative, on behalf of UCI, against the Edge Entities.

² The total claim filed by the Foreign Representative was approximately \$57.7 million. The Cumberland Monitor admitted approximately \$47 million of the claim and disallowed the balance. The Cumberland Monitor and the Foreign Representative have agreed to reserve UCI's rights to dispute the disallowed portion of the claim.

2. The Edge Monitor estimates that distributions from the Edge Entities to UCI will be between \$3.7 million and \$11.6 million. The range reflects the uncertainty related to recovering on several alleged preference transactions involving the Edge Entities, including a claim against Canada Revenue Agency for Harmonized Sales Tax paid prior to the commencement of the Edge Entities' NOI proceedings.³

4.4 Other Potential Realizations

1. Other assets that may be available for distribution to UCI's creditors, include:
 - a) any amounts that may be recovered as a result of legal proceedings that may be taken against third parties and/or Alan Saskin, his family members and companies controlled by them and other parties with respect to, among other things, a breach of undertakings in the Deed of Trust (as discussed in greater detail in Section 4.5 below); and
 - b) potential realizations from an \$8 million claim filed by the Foreign Representative against TCC/Urbancorp (Bay) Limited Partnership ("Bay LP"), an affiliate of the Cumberland CCAA Entities.⁴ KSV is the Monitor of Bay LP ("Bay Monitor"), which is subject to separate CCAA proceedings. The Bay Monitor has disallowed the Foreign Representative's claim in full. A motion was heard by the Canadian Court on May 2, 2017 in order to determine UCI's claim against Bay LP. Further information regarding this claim is available in the Bay Monitor's Sixth Report to Court dated March 21, 2017 (the "Sixth Report"). A copy of the Sixth Report and various supplements to the Sixth Report can be found on the Bay Monitor's website at: <http://www.ksvadvisory.com/insolvency-cases/urbancorp-group/>.

4.5 Meetings to Consider the Plan

1. The Plan contemplates that there will be three separate meetings to consider the Plan:
 - a) a secured creditors' meeting will be held in Tel Aviv on May 24, 2017 at 9:00 a.m. (Toronto time). In accordance with the Plan, and as is customary in Israel, a preliminary meeting of the Debentureholders will be convened with the Trustee in advance of the secured creditors' meeting in order to instruct the Trustee on how to vote at the creditors' meetings;
 - b) an unsecured creditors' meeting will be held contemporaneously in Toronto and Tel Aviv on May 24, 2017 at 10:00 a.m. (Toronto time). A video link will connect the meetings, which will be held at the offices of the Foreign Representative in Tel Aviv and at the office of the Foreign Representative's Canadian counsel, Dentons Canada LLP ("Dentons")⁵, in Toronto;

³ The Edge Entities filed NOIs on April 29, 2016.

⁴ The Foreign Representative filed a claim for \$6 million against Bay LP and is seeking an order confirming the validity of a \$2 million claim by Urbancorp Realtyco Inc., a Cumberland CCAA Entity, against Bay LP.

⁵ Dentons' office is located at 77 King Street West, Suite 400, Toronto.

- c) a shareholders' meeting will be held in Toronto on May 24, 2017 at 11:00 a.m. (Toronto time). The Information Officer understands that a shareholders' meeting is being convened in order to satisfy Israeli Securities Law and regulations. If the requisite majority of creditors at their meetings vote in favour of the Plan, but the requisite majority of shareholders do not, the Foreign Representative still intends to seek the Israeli Court's approval of the Plan.

4.6 Notices

1. Pursuant to orders issued by the Israeli Court and the Canadian Court approving the claims process, a notice was published on May 29 and 30, 2016 in the Calcalist newspaper and the Globes newspaper, both of which are in Israel, and on June 24, 2016 in *The Globe and Mail* (National Edition). The notice advises of the claims process and of the claims bar date (August 5, 2016).
2. There are ten creditors located in Canada who filed claims against UCI. The Information Officer understands that the Foreign Representative will deliver by courier in advance of the meetings copies of the Plan to all creditors that filed claims, including creditors whose claims were disallowed. The Foreign Representative has also served a copy of the Plan on the service list in CCAA proceedings involving the Edge Entities, UCI, Cumberland and Bay LP CCAA Entities, as well as on the service list in Mr. Saskin's proposal proceedings. A copy of the Plan has also been posted on the Information Officer's website maintained for this proceeding.

4.7 Distributions

1. The Foreign Representative has borrowed NIS 500,000 (approximately \$170,000 based on the exchange rate at the time of the loan) from the Trustee to fund legal expenses in connection with these proceedings. The loan was made on the condition that it be returned to the Trustee prior to any distribution to UCI's creditors or the payment of the Foreign Representative's professional fees. Accordingly, the first \$170,000 available for distribution under the Plan will be paid to the Trustee.
2. As discussed above, the Debentures have a secured claim against UCI. Any amounts received by the Foreign Representative on account of the Shareholder Loans will be distributed to Debentures until full repayment of the Secured Debt. Other realizations will be distributed to UCI's unsecured creditors on a pro rata basis.
3. The Foreign Representative intends to maintain reserves for disputed claims, the class actions (if so instructed by the court) and future expenses, including legal and financial advisor costs.

4.8 Assignment of Claims

1. The Foreign Representative is seeking under the Plan to take an assignment of the claims of UCI's creditors in respect of any cause of action that they may have against third parties (the "Third Parties").
2. Subject to the approval of the Israeli Court, the Foreign Representative may take actions against any of the Third Parties which the Foreign Representative believes have responsibility for the insolvency of UCI and/or a breach of any law and/or which caused damage to UCI or its creditors.
3. In the event the Foreign Representative is successful in any actions against Third Parties, it will be entitled to a fee of 20% (at least) of the litigation proceeds. In response to questions concerning this fee, the Foreign Representative advised the Cumberland Monitor that a fee of this magnitude is customary on such recoveries.

4.9 Conditions to the Plan

1. In order for the Plan to be accepted, at least 75% in dollar value of claims of both classes of creditors and over 50% in number of both classes of creditors must vote in favour of the Plan or the Plan must be approved pursuant to Section 350 of the Israeli *Companies Law 5759-1999* (the "Companies Law")⁶. Voting letters were provided in English to all Canadian creditors.
2. If accepted by the requisite majority of creditors, the Plan must also be approved by the Israeli Court and be recognized by the Canadian Court.
3. The Information Officer will file a further report with the Canadian Court regarding the results of the vote on the Plan.

5.0 Extension Order

1. On April 20, 2017, the Israeli Court granted an order extending the appointment of the Foreign Representative to July 21, 2017.
2. The Foreign Representative is seeking an order from the Canadian Court recognizing the Extension Order so that it can, *inter alia*, implement the proposed Plan. The Information Officer supports the relief requested by the Foreign Representative. A translation of the Extension Order is provided in Appendix "C".

⁶ The Information Officer understands that the Companies Law provides the Functionary with a cram-down right to seek Israeli Court approval of the Plan should the secured creditors vote in favour of the Plan, but the unsecured creditors vote against the Plan.

6.0 Conclusion and Recommendation

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

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc". The signature is written in a cursive, flowing style.

**KSV KOFMAN INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
URBANCORP INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “D”

THE DISTRICT COURT
IN TEL-AVIV

LIQUIDATION CASE 44348-04-16

IN THE MATTER OF:	THE COMPANIES LAW, 5759-1999 THE COMPANIES ORDINANCE [NEW VERSION] 5743- 1983	<u>THE COMPANIES LAW</u>
AND:	URBANCORP, INC. CANADIAN COMPANY NO. 2471774	<u>THE COMPANY</u>
AND:	ADV. GUY GISSIN – THE COMPANY'S FUNCTIONARY BY ATTORNEY ADV. Yael HERSHKOVITZ AND/OR GILAD BERGSTIN AND/OR MICHAEL MISUL OF THE LAW FIRM OF GISSIN & CO., ADVOCATES OF 38B HA'BARZEL ST, TEL AVIV 69710 TEL: 03-7467777, FAX: 03-7467700	<u>THE FUNCTIONARY</u>
AND:	THE OFFICIAL RECEIVER 2 HA'SHLOSHA STREET, TEL AVIV TEL: 03-6899695, FAX: 02-6467558	<u>THE OFFICIAL RECEIVER</u>

UPDATE REPORT NUMBER 9

**INVITATION TO CREDITORS' MEETINGS AND PUBLICATION OF AN ARRANGEMENT
PLAN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 350 OF THE
COMPANIES LAW, 5759 – 1999**

In accordance with the details that were contained in the framework of the Motion to extend the appointment of the Functionary and to issue an order to convene creditors' meetings (motion No. 29) dated 8.1.2017 (hereinafter: "**Motion No. 29**"), and update report No. 8 that was filed on the 30.3.2017 (Motion No.36) (hereinafter: "**Report No. 8**"), the Functionary of Urbancorp Inc. (hereinafter: "**the Company**"), is hereby honored to bring before the Honorable Court the terms of the Creditors' Arrangement Plan which, in principle, distributes the proceeds from the realization of the assets of the Company's subsidiaries, as detailed below (hereinafter: "**the Arrangement Plan**"). The Arrangement Plan will be brought for approval at the

Company's creditors' meetings, according to the principles that have been detailed in Motion 29.

The Arrangement Plan will be published in Hebrew and in English and will be brought for approval at a meeting of the Company's creditors' that will be held simultaneously in Israel and in Canada, as detailed in the Functionary's Report No. 7 dated 8.2.2017 and below. In the event of inconsistency between the Hebrew and the English version of the Arrangement Plan or any document related to this Arrangement Plan, the Hebrew version shall prevail to the extent of any such inconsistency.

This Report should be read together with Report No.8 detailing the sources and the expected proceeds for payment of the Company's debts, and the expected date of receiving such proceeds.

"1" A copy of Report No.8. is attached to this Report as **Appendix No.1.**

A. THE INFORMATION CONTAINED IN THIS REPORT

1. This report details the Arrangement Plan, which as long as it is duly authorized by the creditors and by the court in Israel and recognized by the court in Canada, will enable the organized management of the Company's debts, the organized realization of the Company's assets and its rights, and distribution of dividends to the Company's creditors out of the funds that will be received from the realization of rights and assets.
2. The information contained in this report and its Appendices, is based on un-reviewed and unaudited financial information that is currently in the Functionary's possession. Most of the information was obtained from the Company's and its subsidiaries' books and records. This information was provided to the Functionary, further to his investigation and requirement and pursuant to the cooperation protocols signed by and between him and

the officers appointed by the court in Toronto¹, which manage the subsidiaries also undergoing insolvency proceedings under the Companies' Creditors Arrangement Act (hereinafter: "**the CCAA**"). The Functionary and his Canadian representatives have been receiving on-going information from the Canadian officers and their representatives. No audit or verification of all the information provided has been undertaken. Accordingly, no representations are made as to the accuracy or completeness of the information and all information is subject to further review.

3. Some of the information contained in this Report and its Appendices, are forward looking statements, particularly regarding assets and rights' realization procedures on one hand, and the review and determination of the rights of various companies' creditors in the Urbancorp group of companies (hereinafter: "**the Group**"), on the other hand. As detailed below, such proceedings have not been completed yet. The information in this report is based on the reasonable estimates of the Canadian officers regarding the quantum of disputed claims that could be allowed /dismissed against the Group's subsidiaries. Accordingly, estimates of such realizations are uncertain due to their dependence, *inter alia*, upon external factors and foreign law, over which the Functionary has limited influence.
4. The inclusion of the information provided by the Canadian officers contained in this Report and its Appendices, does not constitute the consent and/or confirmation on the Functionary's part of the amounts, working estimates, and/or evaluations, that are included therein and the Functionary reserves all rights and claims regarding any such information.

¹ See Appendix 1 of Report No.3 dated May 20th, 2016 and Appendix 1 of the Application for Instructions dated June 13, 2016.

B. INVITATION TO CREDITOR'S MEETINGS AND SHAREHOLDER MEETING

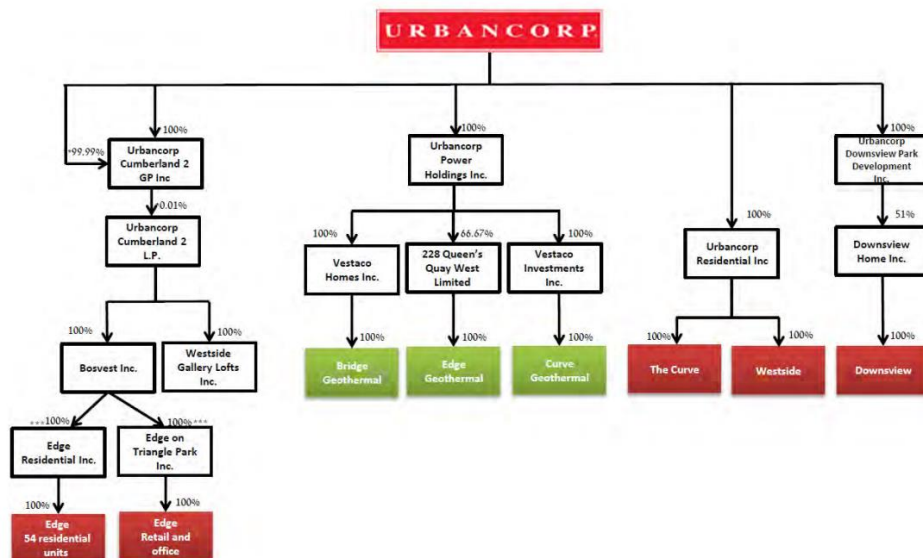
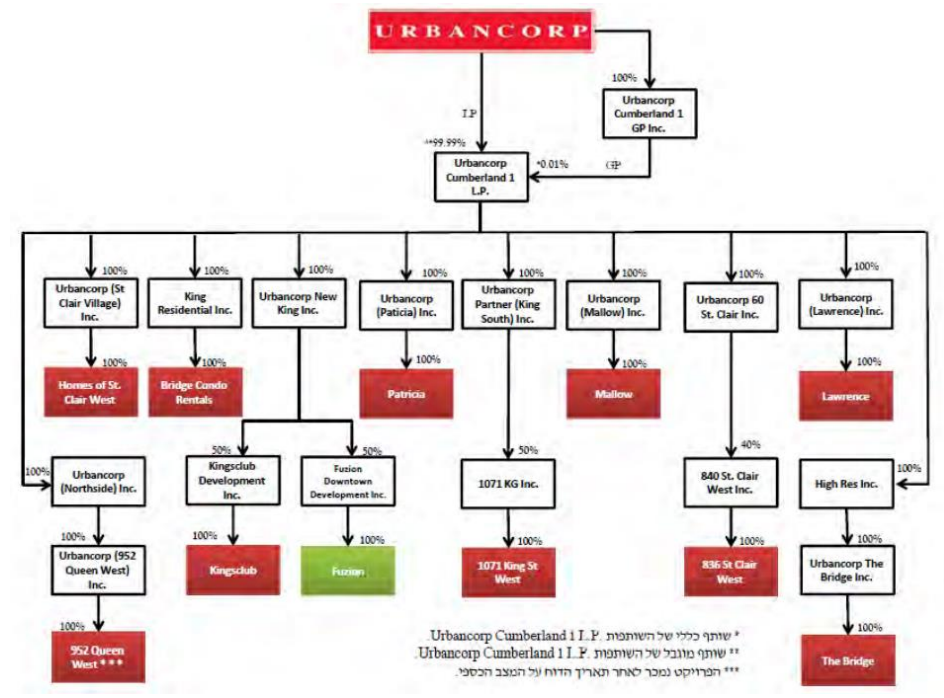
5. Further to the Court's decision dated 9.1.2017, in Motion 29, an unsecured creditors' meeting is summoned on the 24th of May, 2017 at 17:00 local Tel Aviv time, and local 10:00 Toronto time, and a secured creditors' meeting on the 24th of May, 2017 at 16:00 local Tel Aviv time. As is customary, in the preparation for convening creditors' meetings, a preliminary meeting of the bondholders (hereinafter: "**the Bondholders**") will be held in coordination with Reznik Paz Nevo Trusts Ltd, the Bondholders Trustee (hereinafter: "**the Bondholders Trustee**" or "**the Trustee**"), in order to request and instruct the Trustee on how to vote at the creditors' meetings.
6. The unsecured creditors' meeting will be held simultaneously, at the office of Adv. Guy Gissin & Co. 38B HaBarzel St., Tel Aviv, Israel and at the office of the Functionary's lawyer in Canada, Dentons Canada LLP, 77 King Street West, Suite 400, Toronto, by using the means of communication that enables the Canadian creditors to participate in the meeting and vote at the meeting without the need to come to Israel. Creditors will be provided the option to vote through voting letters in the Hebrew and English languages.
7. Suitable notices of convening creditors' meetings will be published in accordance with the law in Israel and in Canada.
8. The creditors' meetings, and also the preliminary Bondholders' meeting, will be conducted as detailed in Motion 29.
9. Likewise, a shareholders' meeting will be summoned for the 24th day of May at 11:00 local Toronto time at the office of the Functionary's lawyer in Canada, Dentons Canada LLP, 77 King Street West, Suite 400, Toronto. In light of the Company's insolvency, it is questionable if the approval of the Company's shareholders' is required in order to confirm the Arrangement Plan, since the shareholders are subordinated to creditors until full payment of the Company's debts, including arrangement expenses. A shareholders' meeting is being convened in order to satisfy the provisions of the Securities Law and its Regulations. However, even if the Shareholders' approval is not granted, but approval from the creditors' meetings is obtained, the

Arrangement Plan in its entirety will be brought to the Honorable Court for its approval.

C. DESCRIPTION OF THE COMPANY'S BUSINESS

10. The Company was incorporated in Canada in June 2015 for the sole purpose of raising debt in Israel from the issuance of public bonds. In December 2015, the Company published a prospectus (hereinafter: "**the Issuance Prospectus**") and issued about NIS 180,000,000 nominal value Bonds (Series A) (hereinafter: "**the Bonds**"), which were registered for trading on the Tel-Aviv Stock Exchange.
11. According to the Issuance Prospectus, Alan Saskin, through a company wholly owned by him (Urbancorp Holdco Inc. (hereinafter: "**Holdco**")), holds the Company's entire issued and paid up share capital and the voting rights therein. Mr. Saskin served as the Company's chairman of the board of directors, chief executive officer and president, until the Functionary's appointment.
12. At the date of filing this Motion, the Company's securities are as follows:
 - (a) The Company's Bonds (Series A), in the total amount of NIS 180,583,000 par value (security number in the stock exchange 1137041).
 - (b) 100 common shares of the Company, without par value, held by Holdco. In light of the controlling shareholder's personal insolvency proceedings, Holdco is managed by Fuller Landau, the proposal trustee in such proceedings.
13. The Company is a Canadian company, which is regarded as a "reporting entity" in light of the issuance of Bonds on the Tel-Aviv stock exchange. Beginning shortly after the issuance of the Bonds (December 2015), the Company, through subsidiary corporations, carried on business developing, purchasing, leasing and selling commercial and residential land and buildings and geothermal assets, in Toronto, Canada.

The Chart of the Company's Principal Holding Structure According to the Issuance Prospectus



14. As detailed in the framework of Chapters B' and C' of Report No.8, most of the Group's assets are in various stages of realization in CCAA proceedings in Canada. The realization of the remaining Group assets is being undertaken:

(i) in cooperation with KSV Kofman Inc., which was appointed as officer

(hereinafter "**the Monitor**") in the framework of the CCAA proceedings with respect to most of the subsidiaries in the Group (hereinafter: "**the General Insolvency Proceedings**"); and (ii). in cooperation with Fuller Landau Group Inc. (hereinafter "**Fuller Landau**"), which was appointed as officer with respect to another group of subsidiary companies (hereinafter "**the Edge Monitor**"), all as detailed in Chapter D of Report No.8.

D. THE COMPANY'S DEBTS AND ADDITIONAL DATA

15. The Company and its subsidiaries are undergoing insolvency proceedings in Israel and in Canada. The Functionary, appointed by the court in Israel and recognized in Canada, currently manages the Company, in place of the Company's directors and officers. Accordingly, there is difficulty in obtaining all the information required in accordance with Regulation 7 of the Companies Regulations (Request for Compromise or Arrangement), 5762 - 2002 (hereinafter: "**the Arrangement Regulations**").

16. Therefore, the Honorable Court was requested and approved on April 27, 2017, pursuant to Regulation 8 of the Arrangement Regulations, an exemption from submitting full details in the form required in Regulation 7 of the Arrangement Regulations, with respect to the Company's assets, its obligations, financial data, etc.

17. Therefore, and in accordance with the Court's approval as above mentioned, the information in this Chapter C, together with financial information detailed in Report No. 8, that has been neither reviewed nor audited will constitute the disclosure required for approving the Arrangement Plan, subject to the reservations included in the beginning of this Report (hereinafter: "**the Disclosure Report**").

"2" A copy of the Company's Financial Statements for 2015, which are the neither-reviewed nor audited, is attached hereto as **Appendix No. 2.**

18. Below are details regarding the Company's debts and details regarding the security that was provided to secure such indebtedness.

19. The main creditors of the Company are the Bondholders. On 7.12.2015 the Company and the Trustee signed a deed of trust (hereinafter: "**the Deed of Trust**"), in the framework of the Issuance Prospectus, in which NIS 180,000,000 par value Bonds, was raised, as stated previously.
20. Out of the amount of NIS 180,583,000 that was raised under the Issuance Prospectus, an amount of approximately 8.5 million New Israeli Shekels remains with the Trustee in accordance with the provisions of the Deed of Trust as a reserve for interest and expenses. From this amount NIS 500 thousand was transferred to the Functionary, in order to finance the legal proceedings in Israel and Canada. As of the date of this Motion, the reserve balance in the Trustee's account amounts to approximately 8 million NIS.
21. In addition, the principal amount of the Bonds, as stated above, in accordance with the terms of the Deed of Trust, bears annual interest at 8.15% until 12.4.2016, and annual interest of 8.65% commencing from 12.4.2016, as a result of a reduction in the rating of the Bonds. The Deed of Trust provides additional interest for delay at an annual rate of 3% on the unpaid balance of the debt.²
22. As of the date of filing this Motion, the Functionary approved the Trustee collecting the contractual interest up to the date of the Functionary's appointment (25.4.2016) being the date of the stay of proceedings order.³
23. The Bonds are secured by the following charges:
- (a) A fixed exclusive first charge, unlimited in amount, on the dedicated account, which is the account to which the issuance funds has been transmitted and the account to which it has been committed to transfer the full surplus⁴ which is received from the Backup Projects (as defined in footnote 5 below).⁵

² The Bonds were called for immediate payment according to the decision of the debenture holders dated 5.5.2016.

³ See in this matter, also the Official Receiver's position, with respect to the motion to extend the Functionary's appointment dated 19.9.2016, according to which the order of appointment is the relevant date regarding the counting of days in accordance with the provisions of Section 350b of the Companies Law.

⁴ "**Surpluses**" as defined in the Deed of Trust include "All the funds which will be due to the Company and/or the subsidiaries in the event of sale of the back-up project, partly or wholly, except for

(b) A fixed, exclusive first charge, unlimited in amount, of the full rights of the Company, under the owners' loans granted from the Issuance funds for the Back-Up Projects (as defined in the Issuance Prospectus), for as long as the owners' loans have not been repaid by the Company's subsidiaries.

24. As part of the decision in the debt claim of the Bondholders' Trustee, the Functionary acknowledged the components of the debt claim of the Trustee which were allowed as a secured debt only up to the amounts which would be actually received from the repayment of any of the owners' loans which the Company provided for the Back-up Assets (as defined in the Issuance Prospectus).
25. Other than the Bondholders, the Functionary is not aware of any other creditors of the Company having a secured claim.
26. In addition to the Bonds, debt claims were filed in the aggregate amount of NIS 8.5 million (contingent claims excluded), by service providers to the Company and by officers and the subsidiaries of the Company. Out of the debt claims that were filed, the Functionary, as of the date of filing this Motion, has allowed debt claims in the aggregate amount of approximately NIS 1.6 million.⁶
27. Full details of the debt claims decisions are set out in Report No.7, dated 8.2.2017 ("**Report No.7**"). This Report was approved by both this Court and the Canadian court. In relation to the decisions on the debt, one appeal was filed in Israel (as detailed in paragraph 31 below), and four appeals were filed in Canada, which as described in Report No.7, are being handled, in accordance with Canadian law, before the court in Canada (except with

amounts required for the payment of all debts to the lenders financing the relevant project, with respect to that project, plus the Permitted Amounts. In this regard, it should be clarified, that the Company and/or the subsidiaries will be permitted, at any time, at their sole discretion, without obtaining the approval of the Trustee and/or the holders of the Bonds, to sell one or more of the backup projects provided that the proceeds due to the Company will be transferred to the dedicated account."

⁵ The Backup Projects are the Back-up Assets together with the Downsview project.

⁶ The amounts are based on the exchange rate as of 25.4.2016, date of of the Functionary's appointment (2.9731 NIS for 1 Canadian Dollar) and may change accordingly.

respect to Mr. Saskin's appeal who in the Issuance Prospectus undertook to acknowledge Israeli law and jurisdiction). All the Canadian claims under dispute (contingent claims excluded), are in the aggregate amount of 810,303 Canadian dollars ("**Disputed Debt Claims**").

28. The following is a summary of the debt claims which the Functionary received, along with the amount approved with respect to each claim:

Creditor	Amount Filed	Claim Summary	Approved Amount
Shimonov & Co., Attorneys at Law	USD 10,838	Fees due for ongoing legal services provided to the Company	USD 10,838
	USD 20,000	Special Fee for preparing annual reports for 2015.	*****
Matri, Meiri & Co., Attorneys at Law	Up to USD 125,000	Fees for representation of the Israeli Directors in the Class Action of Tuvia Fachold Vs. Urbancorp, Inc. and Others (Class Action no. 1746-04-16) (Hereinafter: " The Class Action ")	Up to USD 125,000, subject to presenting adequate invoices
PWC Canada	CAD 34,590	Fees for providing services of valuation reports audit	CAD 34,590
Mr. David Mandel (Officer / Director)	CAD 6,899	Out of pocket expenses borne by the Creditor on behalf of the Company	CAD 6,899
	CAD 7,440,020	Indemnification claim contingent upon the outcome of claims filed against Mr. Mandel in his capacity as a Director of the Company	*****
Janterra Real Estate Advisors, Inc.	CAD 53,223	Fees for preparing appraisal opinion for commercial real estate	*****

Creditor	Amount Filed	Claim Summary	Approved Amount
WestSide Gallery Lofts, Inc.	CAD 256,791	Payments borne for the Company	CAD 160,000
Urbancorp Toronto Management Inc. (UTMI)	CAD 374,676	Payments for management fees and services provided as well as reimbursement for expenses borne for the Company	*****
Barry Rotenberg, Harris Sheaffer LLP	CAD 139,080	Fees for legal services provided	*****
Homelife Landmark Realty, Inc.	CAD 618,000	Commission payments for brokerage services provided	*****
148614 Ontario Inc. (formerly carrying on business as Coldwell Banker Case Realty)	CAD 171,592	Commission payments for brokerage services provided. This creditor and the Functionary agreed to a court order setting aside the judgment against the Company.	*****
Midnorthern Appliance	CAD 715,191 plus interest	Payments due for supply and installing of equipment	*****
Israeli Directors Dr. Eyal Geva, Mr. Ronen Nekar, Mrs. Daphna Aviram	NIS 221,018	Directors compensation - payroll	NIS 221,018
	NIS 42.2 million	NIS 42.2 million. Indemnification Claim – Class Action	*****
Mr. Ma'aravi Yitzhak Former Notes holder	NIS 24,484	Damages for selling Company Bonds in loss during the month of April 2016	*****
Apex Issuances Ltd.	Undisclosed	Claim contingent on the outcome of the class action suit no. 16552-04-16 based on	*****

Creditor	Amount Filed	Claim Summary	Approved Amount
		the Company's Indemnification Undertaking	
Registration Co. of Mizrahi Tfahot Ltd.	NIS 32,296	Fees for registration company services provided	NIS 32,296
Raznik, Paz, Nevo - Series A Notes trustees	NIS 191,553,788	Payments of principal, interest and interest on arrears on the Bonds	NIS 186,053,675
	NIS 608,930	Trustee compensation and expense reimbursement including fees to their attorney	NIS 608,930 Subject to presenting adequate invoices
Mr. Alan Saskin	Undisclosed	Contingent claim for indemnification	*****
KSV, Monitor for the Company's subsidiaries under the CCAA	Undisclosed	A claim without a specified amount, which may be based on transactions and/or undertakings by and among the companies in the group, pre-insolvency	*****

29. The Functionary received a number of contingent debt claims from the controlling shareholder, service providers to and officers of the Company. These debt claims are based on the Company's alleged undertaking to indemnify these parties for any damages incurred a result of class actions filed against them in connection with the collapse of the Company. The Functionary's position is that this indemnity obligation, with respect to each particular case, to the extent that one exists, is in any event limited, on the one hand based on the relevant agreement and also by virtue of the Company's decision dated 15.3.2016, **to an amount not exceeding 25% of the Company's equity. Given the Company's insolvency, no equity value**

whatsoever can be attributable to the Company until all the debts are fully repaid, including all the expenses of the Company's insolvency proceedings.

30. For the above mentioned reasons, amongst others, the Functionary disallowed all the contingent debt claims.
31. One of the disallowed contingent debt claims, was filed by three of the Company's Israeli directors (Mr. Ronen Nekar, Mrs. Daphna Aviram and Dr. Eyal Geva). These directors filed an appeal of the Functionary's decision dismissing their contingent debt claims (Civil Appeal 33007-01-17). The Functionary reached an arrangement with the directors, in this proceeding, that was confirmed by the Court on the 1.3.2017 (and in the amended decision dated 2.3.2017). This arrangement dismissed their appeal but also amended their contingent debt claim so that the appellants' rights by virtue of the letters of indemnification provided to them by the Company will have the status of subordinated debt, after full repayment of all other creditors and including the full expenses of the insolvency proceedings – but prior to the repayment to the Company's shareholders', directly or indirectly. The indemnification shall not exceed an amount equal to 25% of the Company's equity on the date of actual payment.
32. The Functionary received a debt claim from a former Company bondholder, for (alleged) damages resulting from a loss in selling the Company's Bonds in April 2016. In addition, the former holder filed Application No. 23 for Instructions, in this proceeding, within which he requested this Honorable Court to instruct the Functionary to acknowledge the debt claims of the former bondholders in accordance with the difference between the purchase price of the bonds and the loss actually incurred. On 24.1.2017 the Court dismissed the application. Whilst determining that the debt claim has been disallowed, the applicant reserved his full claim with respect to Class Action 1746-04-16 Fachold vs. Urbancorp et al (see below).
33. Moreover, Mr. Tuvia Fachold filed a request for approval of a class action in the amount of approximately NIS 42 million (Tel Aviv District) against the Company, its controlling shareholders and additional officers. In the Honorable Court's decision dated 14.11.2016, approval was granted to

continue managing the request for approval of the class action against the Company, subject to Mr. Fachold depositing the amount of NIS 75,000 in the court fund, for ensuring the Functionary's expenses with respect to the claim. The amount mentioned was deposited by Mr. Fachold in the court fund on 29.11.2016 (the decision dated 6.11.2016 Request 10).

34. On 14.3.2017, Mr. Fuchold filed an application to instruct the Functionary to set aside monies in the creditors' fund in respect of the class action (Request No.34). On 26.4.2017, the Functionary submitted his objection to the application to set aside monies, inter alia, as the application is theoretical as there is no motion to the honorable court to approve any distribution, as Mr. Fuchold is not currently a creditor of the Company, and since he has not clarified the amount claimed on behalf of former bondholders. The court ordered Mr. Fuchold to respond to the Functionary's response by 21.5.2017.

35. Likewise, Apex Issuances Ltd. (which was the main underwriter of the Company's Bonds issuance in December 2015), filed a request for permission to file a third party notice against the Company, within a request for approval of a class action suit filed by another class action plaintiff – Mrs. Naomi Monrov vs. Apex, (Request No.24). In Apex's reply to the Functionary's response, Apex noted that as far as the application may be approved, it would waive the debt claim filed with the Functionary, as specified in paragraph 36 below. In the hearing that took place on 24.4.2017, the court instructed that Apex's claim shall be dealt with in the framework of its appeal from the Functionary's disallowance of Apex's claim. Therefore the court instructed Apex to file a notice of appeal as aforesaid by 28.5.2017, and the Functionary is to respond to such appeal by 28.6.2017.

36. The Class Plaintiff, Mr. Fuchold, did not file a debt claim. Apex did file a debt claim, "whose existence and its amount are contingent on the results of the Class Action suit" that was filed by Mrs. Monrov. The Functionary disallowed Apex's debt claim. On 9.1 2017 the court approved Apex's motion to extend the date for filing an appeal of the Functionary's decision on the debt claim until the decision in Request No. 24 (Motion No.30).

"3" a list of the Substantive Legal Proceedings to which the Company is a party edited in accordance with Form 6 of the Addendum to the Arrangement Regulations is attached hereto as **Appendix No. 3**

37. In order to avoid, as far as possible, using reserve funds that have been left by the Bondholders in order to finance legal proceedings,⁷ the Functionary reached an agreement with the Monitor with respect to financing the costs of the legal proceedings in Canada, out of existing funds and/or funds that may be received by the Company's Canadian subsidiaries up to the amount of 1.9 million Canadian dollars, or any increased amount, that will be agreed upon with the Monitor in the future and approved by the Canadian Court. As of the date of this Report, the costs of administration of legal proceedings in Canada amount to approximately 1.35 million Canadian dollars, including the costs of employing the Functionary's financial and legal Canadian consultants (approved by the court) totaling approximately 1.32 million Canadian dollars, and various expenses including accounting (preparation of financial statements) and trips to Canada, in the amount of approximately 30 thousand Canadian dollars.

E. THE PROPOSED DEBT ARRANGEMENT

E1. General

38. In the framework of this chapter, we will place before the Honorable Court the principles of the Arrangement Plan, which, as stated in the introduction are as follows:

- (a) **Distributing the Proceeds Realized from the Group**, as detailed and in accordance with the anticipated time schedule that is included in Report No.8, including **an interim distribution expected to be as of the date of the report in the sum of approximately 20 million**

⁷ See the decision of the Bondholders from 8.5.2016 with respect to the non distribution of monies from out of the interest cushion that has been deposited to secure the debenture interest, for funding administration expenses, subject to the law and court approval (reference no. 2016-10-061312).

Canadian dollars out of the Assets' Realization Proceeds (as defined in Report No.8) anticipated during the months of May or June 2017.

- (b) Distribution of amounts that may be received from Assets' Realization Proceeds from the Group in accordance with future asset realizations and/or the process of resolving disputed debt claims, all as detailed in Report No.8.
- (c) **Distribution of amounts that may be received as a result of legal proceedings** that might be taken against third parties and/or the controlling shareholder, his family members and companies controlled by them, with respect to a breach of undertakings in the Issuance Prospectus and/or transactions that have been unlawfully undertaken,, all as detailed in the framework of Report No. 8.
- (d) Taking actions in order to **continue the realization on assets that have already been approved** by the Canadian court, as detailed in Report No. 8.
- (e) **Examining the possibility of realizing additional Group assets**, and, in particular, the rights in the Downsview project and geothermal assets, as detailed in Report No.8.
- (f) **The continued investigation of the circumstances for the collapse of the Company may lead to taking action against various parties who were involved in the Company's collapse.** With regard to the potential proceedings against the controlling shareholder, because of his personal insolvency proceedings, it is unclear what the rate of return (if at all) that the Company may be able to collect in the framework of any such proceedings.
- (g) Assignment of claim rights of Bondholders to the Arrangement , in order to institute actions and legal proceedings against third parties who in accordance with the investigations performed by the Functionary were involved in the collapse of the Company in Israel and in Canada, including the controlling shareholder and third parties,

professional consultants, underwriters etc., and instructions required to finance activities as stated.

(h) **Maintaining Reserves** out of the funds that may be received as a result of the Group's assets realization and/or rights to claim for repaying (as necessary) the proportional part of **Disputed Claims** and/or in accordance with the Honorable Court's decision the proportional part of the required amounts in connection with the class action law suits, as detailed below.

(i) **Maintaining Reserves** out of the funds that may be received as a result of the Group's assets realization and/or rights to **fund legal proceedings** by the Functionary in Canada.

E2. DEFINITIONS

"Bonds"	The Company's Bonds (Series A) in the total amount NIS 180,583,000 par value (security number in the stock exchange 1137041);
"Court"	The District Court in Tel Aviv –Yafo.
"The Arrangement" or "Arrangement Plan"	The creditors' arrangement pursuant to Section 350 of the Companies Law, 5759-1999, as detailed in this Motion and its Appendices.
"Conditions Precedent"	The conditions precedent to perform the arrangement and the activities as detailed in this arrangement Plan, as detailed in Chapter E8 below.
"The Arrangement Plan Effective Date"	The date of fulfillment of the Conditions Precedent.
"Business Day"	Any day, other than Saturday or Sunday, when most of the banks in Israel and in Ontario, Canada are open for business.
"The Realization Proceeds"	The proceeds of realization of the subsidiaries assets, as detailed below and in Report No. 8.
The Company's	The Company's net proceeds, that may actually be

"Proceeds"	received from the Realization Proceeds and/or the legal proceedings proceeds, after the deduction of realization expenses, taxes, the return of mortgages, debt priority rights and those alike.
"Legal Proceedings Proceeds"	Legal proceeding proceeds that have been taken (instituted) by the Edge group of companies, as detailed below and in Report No.8., and additional legal proceedings as far as they may be taken by the subsidiaries and the Company.
"The Arrangement Regulations"	Companies Regulations (Request for Compromise or Arrangement), 5762 -2002

E3. DISTRIBUTION OF THE GROUPS ASSETS' REALIZATION PROCEEDS

39. Commencing on the Arrangement Plan Effective Date, the Functionary will act in order to distribute the Company's Proceeds to the Company's creditors, in proportion to their share and priority out of the Company's total debts, subject to the order of priority and subject to maintaining adequate reserves all as set forth in this Chapter below (hereinafter: "**the Distributions**"). As detailed in depth in Report No.8, the Functionary sets out below the information with respect to the anticipated distributions.
40. In the Monitor's fund, there are Realization Proceeds from four out of five Back-Up Projects, which are the main assets of the Group, and whose cash flow surpluses were supposed to repay the debt to the Company's Bondholders (hereinafter: the "**Backup Assets**")⁸ and also the proceeds realized from the Company's ownership rights in its subsidiary, Urbancorp 60 St. Clair Inc. (hereinafter: "**St. Clair**").
41. As detailed in Report No.8, the Realization Proceeds from the Back-up Assets and St. Clair total approximately 76.5 million Canadian dollars. According to the information provided to the Functionary, following the

⁸ The Backup Assets are project Lawrence, project Mallow, project Patricia, and project Caledonia. Project Downsview is defined in the Issuance Prospectus as Backup Asset as well. Notwithstanding, the realization of such project has not been carried out yet as detailed in Report No. 8 and it is not part of the general insolvency proceedings.

repayment of mortgages, legal expenses as at the relevant date and repayment of the loan provided for the administration of the General Insolvency Proceedings, the net proceeds from the Back-up Assets' and St. Clair realization will amount to approximately 64.7 million Canadian dollars (hereinafter: the "**Assets' Realization Proceeds**").

42. As stated in Report No.8, out of the Assets' Realization Proceeds, the Monitor has already recognized third party (other than the Company) home purchasers' (deposit refunds) and suppliers' debt claims in a cumulative amount of approximately 15.5 million Canadian dollars. As of this date, the Functionary's (debt) claim, on the Company's behalf, was partially allowed, at approximately 47 million Canadian dollars⁹ for loans granted by the Company (out of the Bonds issuance proceeds) to the subsidiaries, including those holding the Back-Up Assets. The parties have agreed to reserve the Functionary's rights to dispute the disallowance of the remaining amounts that were claimed (including with respect to the respective part of each subsidiary of the Bonds raising costs). It is possible that there may be sufficient proceeds available to pay the disputed portion as equity, after repayment of the subsidiaries' other creditors, which would negate the need to challenge the disallowed part of claim.

43. Distribution to creditors of the Assets' Realization Proceeds will occur gradually according to the progress of resolving appeals from the debt claims that the Monitor disallowed. According to the information provided to the Functionary and included in Report No.8, the expected distributions are as follows:

43.1 An initial interim distribution in the amount of approximately 20 million Canadian dollars. This distribution requires settlement or court determination of the appeal from the disallowance of Tarion

⁹ Out of those sums, an amount of approximately 10 million Canadian dollars was approved regarding an owners' loan provided by the Company to the Downsview project which, as detailed below, was not yet sold and is not subject to the General Insolvency Proceedings.

Warranty Corporation, the Ontario, Canada home builders insurance organization, in the sum of approximately 2.6 billion Canadian dollars, which is expected in May/June 2017.

43.2 An additional distribution of the balance of reserves funds that has been maintained by the Monitor pending the decision in the home purchasers claims (who claimed for damages beyond their rights to repayment of their deposits recognized by the Monitor) in the amount of 10 million Canadian dollars. The Canadian court disallowed the home purchasers' damages claim in a decision released 18.4.2017. However, there is a 21 day period appeal period under Canadian law. Hearings with respect to the remaining disputed claims, as defined in Report No.8, in the amount of approximately 9.2 million Canadian dollars have not yet been scheduled. However, the estimation is that these will take place over the next few months. Following the decisions on the disputed claims, the remaining funds shall be released for distribution to the extent that the disallowances are sustained and not subject to further appeal.

43.3 An additional sum of 10 million Canadian dollars from the Realization Proceeds is being held by the Monitor for the continued funding of the General Insolvency Proceedings (hereinafter: the "**Proceedings Funding Expenses**"), including the realization of the Group assets', primarily the Company's holdings in the Downsview project and the geothermal assets. As detailed in Report No.8 it is impossible to estimate at this date the ability and/or the potential realization value of the Group's holdings in these assets.

"4" A copy of the Monitor's forecast regarding the proceeds and distribution expected for the Company out of the proceeds realized from the Back-up Assets and St. Clair is attached herewith as **Appendix 4**.

44. In addition, as detailed in Report No.8, the Company's subsidiaries, Urbancorp Residential Inc. and King Residential Inc. currently are selling 28 residential units that they own. In order to maximize their realization only a limited

number of units are being offered for sale at a time. According to information provided to the Functionary, the residential units' sale is progressing in a satisfactory manner and the proceeds received exceed expectations. The net consideration expected from the realization of those assets, following mortgage and expenses repayment, is not expected, according to information provided to the Functionary, to exceed 3.2 million Canadian Dollars.

45. The realization of residential units in the Edge Group (as defined in Report No.8), is expected to yield proceeds in the amount of approximately 12.6-13.4 million Canadian dollars. The Edge Group has no additional significant assets to realize, except a potential right in public areas in the Edge project, regarding which negotiations are ongoing with the City of Toronto, the details of which are currently privileged, and certain other claim rights as detailed below.
46. As detailed in Report No.8, the separate monitor for the Edge group CCAA proceedings, Fuller Landau (hereinafter: "**the Edge Monitor**"), acknowledged an amount of approximately 16.6 million Canadian dollars out of the debt claim filed by the Functionary in the amount of approximately 17 million Canadian dollars.
47. According to information provided to the Functionary, no distribution of proceeds from the sale of residential units by the Edge Monitor is expected before completing the proceedings for the sale of all units and resolving the Edge Group debt claims, the forecast for the completion of is not yet known.
48. Likewise, as detailed in Chapter 3C of Report No.8, the Edge Monitor will in the upcoming weeks start proceedings to recover from the Canada Revenue Agency 12 million Canadian dollars that the Company's controlling shareholder, shortly before commencing insolvency proceedings, caused to be paid on account of the value added tax that one of the Edge companies owed. In addition, the Edge Monitor intends to initiate legal proceedings against the unlawful transfer of residential units in the Edge project, to creditors of the controlling shareholder and/or other Group companies, in the

months prior to the Company's collapse. The potential results of these proceedings are expected to become clearer during the next 6-9 months. These proceedings, if successful, may be a significant additional source of return.

"5" A copy of the Edge Monitor's forecast with respect to the proceeds expected from the Edge assets compared with the creditors' claim amounts filed and/or acknowledged is attached herewith as **Appendix 5**.

49. The distribution will be made in accordance with this court's instructions and in accordance with the principles of this Arrangement Plan, in light of the Realization Proceeds actually received and the need to maintain reserves as detailed in the Arrangement Plan.

E4. PROCEEDINGS EXPENSES AND SECURED CREDITORS

50. In accordance with the Bondholders' resolution dated 8.5.2017, an amount of NIS 500 thousand was transferred to the Functionary for financing the expenses of legal proceedings (hereinafter: "the **Proceedings Expenses**"), as necessary, provided that the Proceedings Expenses shall have the status of liquidation expenses and will be returned by the Functionary to the Trustee out of proceeds that may be received from the realization of the Company's assets or rights, prior to any other distribution to creditors or the payment of the Functionary's fee. Therefore, the Proceedings Expenses shall be repaid to the Bondholders Trustee prior to any other distribution.

51. As detailed in Motion No.29, as part of the debt decision in the debt claim of the Trustee, the Functionary acknowledged the components of the debt claim of the Trustee which were allowed as a secured debt, up to the amounts which are actually received from the repayment of any of the owners' loans which the Company granted for the Back-up Projects. Therefore, proceeds received from realization of the Back-Up Projects shall constitute an amount owed to the Bondholders up to the owners' loans granted with respect to same project (hereinafter: "**the Secured Debt**").

52. As detailed above (and in detail in Report No.8), as of the date of this Motion the Monitor, which manages most of the Group's assets, received proceeds in the amount of about 64.7 million Canadian dollars from realization of the Back-up Assets, and the interest in St. Clair.
53. In light of the above mentioned, and to the date that the full amount of the Secured Debt is repaid to the Trustee, any amount that may be received from the realization of the Back-up Projects will be used to repay solely the Secured Debt, until full repayment thereof. Proceeds of realization from assets which are not Back-Up Projects and/or from the remaining proceeds of the Back-Up Projects realization, to the extent any exists, after repayment of the Secured Debt, will be applied to the Company's ordinary (unsecured) debts in proportion to each creditor's percentage share of the Company's total debt. Accordingly, the total proceeds that will be paid to the Company's unsecured creditors, until repayment of the Secured Debt in full, will be equal to the proportional part of the proceeds of the realization from assets other than the Back-up Assets, according to the share of each ordinary creditor's claim in the total unsecured claim (including the portion of the Bondholders' debt claim that is unsecured).
54. A refund of approximately 125 thousand American dollars, was received in the Functionary's account that was paid by the Company's subsidiary, Westside Gallery Lofts Inc. (hereinafter: "**Westside Gallery**") for legal services that the service provider undertook to grant the Company and the controlling shareholder together, and that was not actually provided. The funds were returned to the Functionary on 15.10.2016, and are exclusively destined to pay Westside Gallery directly or through set-offs according to the law, and for no other purpose.

E5. MAINTAINING RESERVES

55. From each amount that will be distributed, the following reserves will be maintained (left) in the Functionary's fund (hereinafter: "**the Reserves**"): 55.1 An amount equal to the proportional rate of the distribution to the Company's unsecured creditors, with respect to each claim under dispute

that has not been finally resolved at the date of the relevant distribution (hereinafter: "**the Disputed Claims Reserves**"). For greater certainty, the Disputed Claims Reserves will be maintained from the funds that will otherwise be available for the benefit of the Company's unsecured creditors, as none of the disputed claims are secured claims.

55.2 If, contrary to the Functionary's position, the Honorable court will so instruct the Functionary to hold reserves with respect to the class actions, as detailed in paragraphs 34 and 35 above, a reserve in an amount equal to the proportional rate of the funds designated for distribution towards the Company's unsecured creditors, will be kept by the Functionary (hereinafter: "**the Class Action Reserves**"). For greater certainty, the Class Action Reserves will be maintained from the funds that will otherwise be available for the benefit of the Company's unsecured creditors, as none of the class action claims are secured claims.

55.3 A reserve amount as shall be required, pursuant to the Functionary's estimate and subject to the court's approval (in the framework of application for distribution of dividend), for funding the Functionary's expenses, including funding the costs of his Canadian legal representative, his financial consultant, the accountant's costs, as necessary and additional expenses in kind including funding trips to Canada, including in connection with taking legal proceedings as detailed in section E6 below (hereinafter: "**Funding the Expenses Reserves**").

It is clarified that the amount of Funding the Expenses Reserves has been determined, *inter alia*, on the basis of the funding arrangements with the Monitor, and the Bondholders' decision dated 8.5.2016, with respect to the non-distribution of interest reserve monies in order finance the costs of proceedings, as required. As far as the costs of proceedings are not funded by the Monitor as stated in paragraph 37 above and/or the Bondholders' will decide to distribute the interest and expenses reserve funds, the Functionary will be required to maintain significant reserves for the administration costs of proceedings in Canada.

E5. ACTIVITIES FOR REALIZATION OF THE REMAINING ASSETS OF THE GROUP

56. The Functionary will continue examining the possibility of realizing on the Group's remaining assets in Canada and, in particular, the Downsview project and geothermal assets, with limitations as detailed in Chapter D of Report No.8, including limitations involved in the realization of the holding in the Downsview project, whose building and development have not yet been completed, and difficulties arising from the ownership and holdings structure and the existence of legal proceedings with respect to the geothermal assets.

E6. ASSIGNMENT OF CLAIMS RIGHT AND TAKING LEGAL PROCEEDINGS

57. The Company's creditors hereby assign, with an absolute and irrevocable assignment to the Functionary's benefit, all their claim rights against any third party whatsoever, including against debtors, governmental authorities, former officers in the Company, the controlling shareholder of the Company, his family, and entities related to him, accountants, auditors, consultants, underwriters, various institutional entities in Israel or Canada, as well as insurance companies that granted to any one of the above mentioned, professional indemnity insurance and/or insurance in the undertakings in the Issuance Prospectus, including in connection with the reasons that lead to the collapse of the Company (collectively, hereinafter: "**the Third Parties**"). This includes any claim and/or demand and/or cause of action and/or any remedy available to them, including any relief available to them by virtue of the Securities Law and/or Deed of Trust, against any third party whatsoever, including without derogating from the generality of the above mentioned, in order to take actions and legal proceedings that are required in accordance with the investigations that have been performed by the Functionary, with respect to the involvement these entities or individuals, or any one of them, had in the collapse of the Company.

58. Without derogating from the generality of the above mentioned, and subject to the approval of the Israeli court, the Functionary is hereby authorized to

take actions in suitable proceedings against any Third Party which, in accordance with his investigations, the Functionary believes bears some responsibility for the collapse of the Company and/or a breach of any law and/or causing damage to the Company or its creditors.

E7. CONDITIONS PRECEDENT

59. The Arrangement Plan is conditional on the approval of the arrangement at the creditors' meetings by the majority as determined in Section 350 (i) of the law, that is the majority of those participating in the vote (other than abstentions), who jointly have three fourths of the value represented at the vote, or the circumstances as described in section 350m of the Companies Law in the Company's creditors' meetings.
60. The Arrangement Plan is not conditional on the approval of the shareholders' but whose meeting will be convened on the date as set out in section 9 above in order to report to the court on their position with respect to the Arrangement Plan for the record.
61. The approval of the Court of the Arrangement Plan according to the provisions of section 350 of the Companies Law and receipt of recognition from the Canadian court.¹⁰

E8. THE FUNCTIONARY'S AUTHORITIES AND HIS FEES

62. The Functionary has been granted with authority to complete the Arrangement and execute all the authorities as detailed in the appointment order dated 25.4.2016, which has already been recognized by the Canadian courts, as follows:

"I hereby appoint Adv. Guy Gissen as functionary in Urbancorp Inc. and grant him the authority to exercise the Company's authority, for all the following actions:

¹⁰ As the Company is a Canadian Company, shortly after the approval of the Arrangement Plan by this court, a motion for recognition of the Arrangement Plan and such resolution shall be filed with the Canadian court.

- to locate, track and seize all Company's assets, of any sort or type whatsoever, including its funds and rights in the subsidiaries.
- to exercise the Company's power of control in the subsidiaries.
- to obtain all information, of any sort or type whatsoever, pertaining to the Company's activities, its property and its rights; the same applies to the subsidiaries.
- to negotiate with the subsidiaries' trustee, and for this purpose to also approach the Canadian court as an authorized representative of the Company.
- to track the Company's activities prior to the prospectus and thereafter.

For the purpose of exercising these authorities, the Functionary is hereby authorized to appear in the Company's name before any body, authority or person in Israel or abroad; to obtain any information whatsoever from any of the Company's factors, from the controlling shareholders, from the authorities and from any person who has provided or is providing services to the Company; and to obtain from them all the documents he believes shall be required for fulfilling his position."

63. Subject to the Court specific approval, legal fees shall be approved for the Functionary in accordance with the Companies Regulations (Rules on the Appointment of Receivers and Liquidators and their Compensation) 5741 – 1981.

64. In addition, should the Court approve the Functionary himself, or through the lawyers in his office, initiating legal proceedings on behalf of the Company against Third Parties,¹¹ the Functionary and his legal advisors shall be entitled to separate, contingent legal fees for managing such legal proceedings at a

¹¹ Including as detailed in paragraphs 57 and 58 above (on the one hand in the framework of this file and also as a separate claim).

rate of 20% (at least) plus Value Added Tax plus disbursements, from amounts that may be collected for the Company's and/or creditors' benefit (whether obtained by virtue of a judgment against or settlement with any such Third Party).

E9. THE COURT'S AUTHORITY

65. In accordance and subject to the Canadian court's decision dated 15.6.2016, recognizing this proceeding as the Foreign Main Proceeding, the District Court in Tel Aviv in the framework of liquidation case 44348-04-16, is the only competent court regarding this Arrangement Plan and will be given the sole, exclusive authority in all matters related to performing this Arrangement Plan and in any matter that may arise as a result of thereof, unless specifically stated otherwise in the Arrangement Plan.


E10. GENERAL PROVISIONS

66. The confirmation of this Arrangement Plan constitutes a confirmation of all its Appendices, even if not given explicit expression in the instructions of this Motion.

67. This Arrangement Plan is meant to direct the handling of the Company and its creditors' rights, and performing distributions of funds received by the Company. In light of the complexity and uncertainty prevailing at the date of this Report with respect to the date and/or the amount of the proceeds that may be received, the outcome of the proceedings that may be taken against the Third Parties, and also the expected rate of return of the debts according to the Arrangement Plan, this Arrangement Plan is subject to changes and updates, subject to the court's approval. Should the court deem any change to be material to the provisions of the Arrangement Plan, such change shall be subject to the approval of creditors' meetings as determined by this Report and in Motion No. 29.

68. The conduct of the creditors' meetings shall be governed by applicable Israeli law.

"6" a form of proxy and voting letter is attached hereto as **Appendix 6**.



Yael Hershkovitz, Adv.
The Functionary's attorneys



Gilad Bergstin, Adv.



Michael Misul, Adv.

Today, April 30, 2017

Appendix “E”

Serial 42/2017
Form No. 1

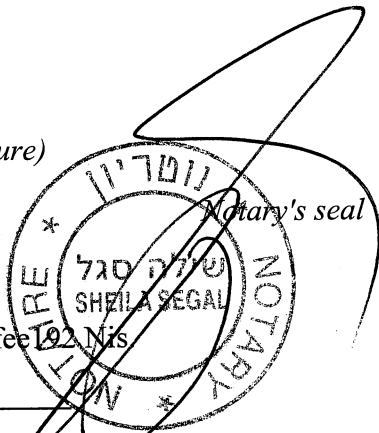
אימות חתימה

AUTHENTICATION OF SIGNATURE

I the undersigned,..... **I Segal Sheila**. Notary at Nahariya., hereby certify that on 19th of September 2017. there appeared before me at my office Mrs., Nadine Amiel., who is known to me personally (whose identity was proved to me by Identity Booklet No 306058058. issued by Ministry of Internal affairs ..at Nazeret*, and signed of her own free will the above document (the attached document marked A' B.) (the document overleaf).

In witness whereof I hereby authenticate the signature(s) of Mrs. Nadine Amiel, by my own signature and seal this 18th of October 2017.

(Signature)



Notary fee 192 Nis

* Where more than one person appeared, each should be named separately, specifying the manner in which his or her identity was proved.

Note: Delete whatever is inapplicable.

אני הח"מ שילה סגל, נוטריון בנהריה ישראל מאשרת בזאת כי ביום 19.09.2016 ניצב(ה) לפני במשרדי מר(ת) נאדין עמיאל הידוע(ה) לי ידיעה אישית, (שזהות(ה) הוכחה לי על פי תעודת זהות(ה)), מספר 306058058 שהוצא(ה) על ידי משרד הפנים בנצרת ביום 01.10.1990' וחתם(מה)(ו) מרצונו(נה)(נס) החופשי על המסמך שלעיל (המצורף והמסומן באות/מספר A+B)(שמעבר לדף).

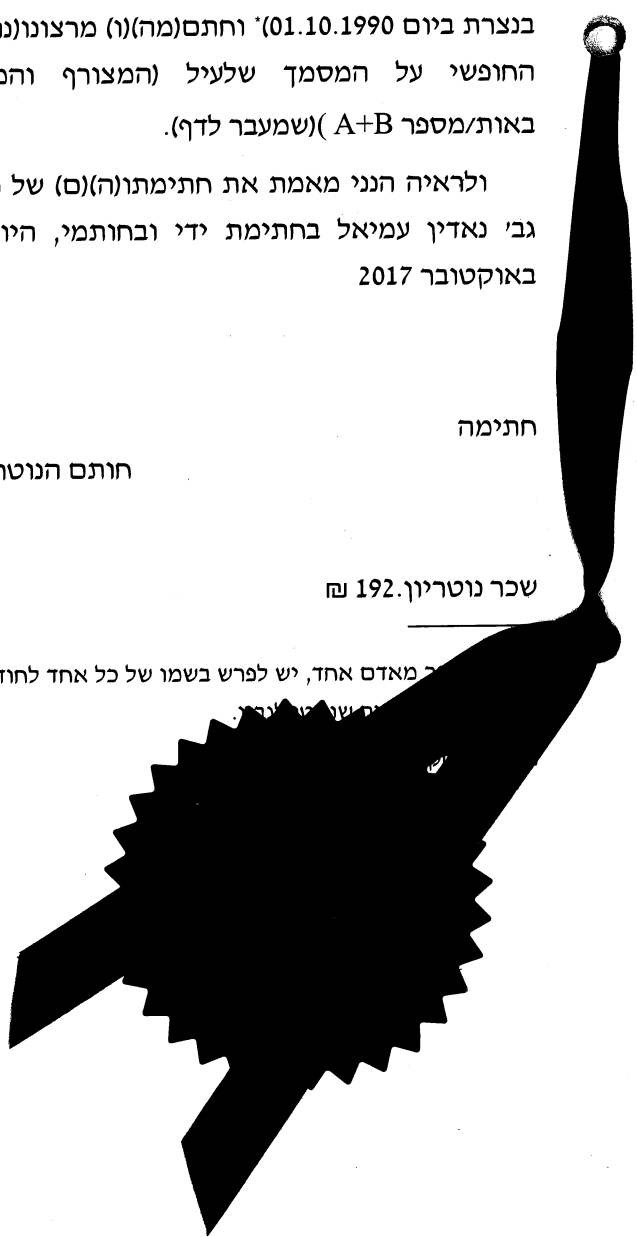
ולראיה הנני מאמת את חתימת(ה)(ם) של מר(ת) גב' נאדין עמיאל בחתימת ידי ובחותמי, היום 18 באוקטובר 2017

חתימה

חותם הנוטריון

שכר נוטריון 192 ₪

מאדם אחד, יש לפרש בשמו של כל אחד לחוד בציון



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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. c-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN REPRESENTATIVE OF
URBANCORP INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Affidavit of Nadine Amiel

(affirmed October _18th, 2017)

I, **Nadine Amiel**, of the of Moshav Shavei Tzion in the State of Israel, SOLEMNLY AFFIRM AND SAY:

1. I am a licensed Israeli advocate, bearing license no. 16088
2. I hereby declare that I am well acquainted with the Hebrew and the English languages and that the documents as listed below, are to the best of my knowledge and professional ability a correct translation into English of the original Hebrew versions as submitted and/or received to/from the Tel Aviv District Court ("Hebrew Versions"), Company Liquidation File 44348-04-16. For clarification, in a few places some words have been added in square brackets to the English language version to make the meaning more clear.
- 3.
4. According to legal advice I received from Adv. Guy Gissin, the Court appointed Functionary and foreign representative of Urbancorp Inc. Canadian company no. 2471774, the Hebrew Versions are the only documents binding on the parties for proceedings conducted in Israel. Accordingly, the Hebrew Versions are the only documents that have been used to conduct legal proceedings in Israel and are therefore the only ones known to date to the courts in Israel. Should there be any inconsistency between the Hebrew and the English versions, the Hebrew versions shall prevail.
5. I do note as an additional comment that, due to transliteration from Hebrew into English (and vice versa), spellings, especially of names, may vary.
6. The list of translated documents are as follows:

(1) Honorable President Judge Eitan Orenstein Judgment and Rulings dated September 26, 2017 a copy of which is attached as Exhibit "A";

(hereinafter: the "Exhibits")

AFFIRMED before me at the City of Nahariya, in the State of Israel this 18th day of October, 2017.

A Notary Public or a Person Authorized to Take Oaths in the State of Israel



Nadine Amiel

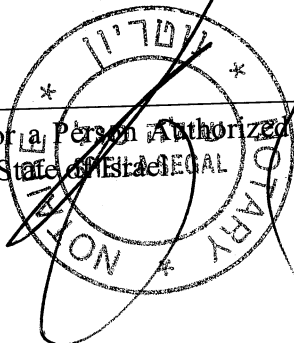
NADINE AMIEL

(1) Honorable President Judge Eitan Orenstein Judgment and Rulings dated September 26, 2017 a copy of which is attached as Exhibit "A";

(hereinafter: the "Exhibits")

AFFIRMED before me at the City of Nahariya, in the State of Israel this 18th day of October, 2017.

A Notary Public of a Person Authorized to Take Oaths in the State of Israel



NADINE AMIEL

Exhibit "A" to the Affidavit of Nadine Amiel

N.A.

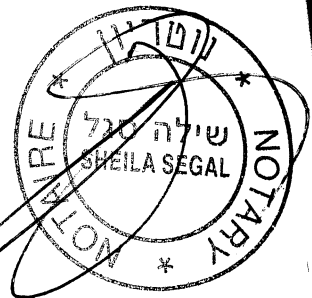
September 26, 2017



The District Court in Tel Aviv – Jaffa

Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, et al.
Motions 42, 47, 48, 50

Before Honorable President Eitan Orenstein



1

2

Liquidation case 44348-04-16 , Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc. a company in Canada
2471774 et al
Motions 42,47,48, 50

Before the Honourable President Eitan Orenstein

In the matter
of:

The Companies Law, 5759-1999

The Companies Ordinance [New Version] 5743- 1983

The Law and the
Ordinance

And in the
matter:

Urbancorp, Inc.

the Company

And in the
matter:

Adv. Guy Gissin – the Company's Functionary

By attorneys' Adv. Yael Hershkovitz and/or Gilad Bergstein

The Functionary

And in the
matter:

1. Alan Saskin

2. Philip Giles

3. Mendel David

4. John Biran

5. James Cameroon

By attorneys' Adv. Gad Ticho and/or Ishai Shidlowky-Or

The Canadian
Directors

September 26, 2017



The District Court in Tel Aviv – Jaffa

Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, *et al.*
Motions 42, 47, 48, 50

Before Honorable President Eitan Orenstein

6. Tuvia Fatchold
By the lawyers Weksler, Bregman & Co., Law Offices
7. The Fuller Landau Group Inc.
(as proposal trustee of Alan Saskin)
8. The Webster Trust
9. TCC/Urbancorp Bay Stadium L.P
10. Urbancorp Management Inc.
By Attorney Adv. Ofer Zur et al

The Shareholders

And in the
matter:

Reznik Paz Nevo Trusts Ltd.

By attorneys Amir Flamer and Evyatar Kramer et al.

The Trustee to the
Bondholders

And in the
matter:

The Official Receiver

The Official Receiver

1

2 **Judgment and Rulings**

3 1. **General**

4 Placed before me is the motion of Adv. Guy Gissin, who has been appointed as the Functionary
5 of the company "Urbancorp Inc.", in the matter of the approval of the Creditors' Arrangement
6 (hereinafter respectively: "**the Functionary**"; "**the Company**"; "**the Creditors' Arrangement**")
7 (Motion 42). Also placed before me are the Functionary's motions: to disburse an intermediate
8 dividend in the amount of NIS 70 million to secured creditor (Motion 47); to approve an
9 intermediate legal fees (Motion 48); to continue to present the Company in the Class Action
10 and to approve the legal fees for dealing with the [Class] Action (Motion 50).

11 For the sake of efficiency, I have chosen to give a combined ruling.

12 2. **Background**



The District Court in Tel Aviv – Jaffa

**Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, et al.
Motions 42, 47, 48, 50**

Before Honorable President Eitan Orenstein

1 The Company was incorporated in Canada and dealt mainly with the leasing and development of
2 real estate for commercial and residence in Canada. In the month of December 2015 the
3 Company raised capital in the amount of NIS 180 million by means of issuing debentures in the
4 Security Exchange in Tel Aviv. The subscriber in the issuance was the Company Apex Issuances
5 Ltd. ("**Apex**").

6 A few months after the issuance there was a deterioration in the Company's financial state,
7 which *inter alia*, resulted in the resignation of the Company's directors, and the trading halt in
8 the Company's debentures. The subsidiaries, whose income was destined to serve the debt of
9 holders of the debentures, have taken insolvency proceedings in Canada and a trustee was
10 appointed on behalf of the Canadian court. In light of the above mentioned, the trustee of the
11 bondholders, "Reznick, Paz Nevo Trusts Ltd." (hereinafter: "**the Trustee**") submitted a motion to
12 appoint a functionary. In the decision dated April 25, 2016 Adv. Guy Gissin was appointed as
13 the Functionary in the Company.

14 At the same time, the controlling shareholder of the Company, Mr. Alan Saskin found himself in
15 insolvency proceedings and the Canadian monitor, the Company, The Fuller Landau Group Inc.
16 (as proposal trustee of Alan Saskin), was proposed as trustee of his assets (hereinafter
17 respectively: "**the Debtor**"; "**the Canadian Trustee**").

18 To complete the picture to point out that against the Company a class action was also filed and a
19 motion to approve it as such, at the Economic Department of the District Court in Tel Aviv Yafo,
20 by Mr. Tuvia Facthold (hereinafter: "**Facthold**") (Class Action file 1746-04-16). In this proceeding
21 claims of breaches and omissions that were carried out by the Company, the Debtor and other
22 Functionaries contrary to the provisions of the Securities Law, 5728 - 1968, (hereinafter: "**the**
23 **Securities Law**") were alleged. The amount of the claim stands in the amount of NIS 42 million
24 and is found in the first stages of clarifying the motion to approve the action as a class [action].
25 An additional class action was filed against Apex by Mrs. Naomi Monrov ("**Monrov**") (Class
26 Action file 16652-04-16), and in this matter the lack of disclosure that was tantamount to a
27 misleading detail in the Prospectus contrary to the Securities Law (both of the above mentioned
28 class actions are collectively referred to as "**the Class Actions**"). Apex filed a motion in the
29 Insolvency court to permit it to file a third-party notice against the Company (Motion 24), and to
30 appeal the Functionary's decision which rejected the debt claim that was submitted to him, as
31 will be detailed in due course.

32



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1 3. **The Company's Creditors**

2 The main creditors of the Company are the bondholders that operate through the Trustee and
3 in accordance with the Trustee's documents between the Trustee and the bondholders that are
4 not part of the composition (entanglement) of the file before us. The Trustee filed a debt claim
5 to the Functionary in the amount of NIS 180 million and this was approved in full by the
6 Functionary and recognized as a secured debt up to the limit of the amount that will actually be
7 received.

8 Additional creditors of the Company are suppliers and service providers, officers and
9 subsidiaries of the Company whose cumulative crediting stands at about NIS 8.5 million. Out of
10 the amount, as stated, the Functionary approved an amount of about NIS 1.6 million. The
11 Functionary, *inter alia*, recognized the debt claims for the Directors fees and expenses and the
12 debt claim of various service providers. The Functionary rejected part of the debt claims: debt
13 claims from law offices, contingent indemnification claims that were filed by officers and
14 directors of the company and Apex, payments for mediation services and etc.

15 On the Functionary's ruling of the debt six appeals were filed: four appeals were filed with the
16 attorneys of the functionary in Canada. Two appeals were filed in this court: one, by the
17 Company's Israeli Directors, Messrs, Eyal Geva, Ronen Nekar, Daphna Aviram (hereinafter: "**the
18 Israeli Directors**") (Different civil appeal 33007-01-17) for which they requested to be
19 compensated from the Company for the claims submitted against them was rejected by the
20 Functionary. From decisions dated March 1, 2017 and March 2, 2017 the consent of the parties
21 was approved according to which the rights of the Israeli directors by virtue of the letter of
22 indemnification have the status of a deferred debt as determined therein. The second was filed
23 by Apex, (Different civil appeal 5249-06-17) and it will focus on the Functionaries rejection of
24 Apex's debt claim for compensation from the Company contrary to the subscription agreement,
25 as far as it may be adjudicated to its liability expenses in the class action proceedings that has
26 been filed against it.

27 On the abovementioned background, the Motions placed on my doorstep will be examined.

28 4. **The Motion to Confirm the Creditors' Arrangement**

29 4.1 **The Principles of the Creditors' Arrangement**

30 The Creditors' Arrangement is condensed and includes a number of provisions in the matter:



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1
2 **The Disbursement of a Dividend;** the approval of the disbursement of dividends to creditors
3 from proceeds of existing realization and the approval of the disbursement of future monies, as
4 far as these will be received from different sources amongst them the realization of assets and
5 different legal proceedings. According to the Creditors' Arrangement, an intermediate dividend
6 will be disbursed to secured creditor, in other words, the Trustee in the amount of Canadian
7 dollars 20 million, whose value is approximately NIS 70 million. The motion for this
8 disbursement was requested by the Functionary as an independent Motion also (Motion 47) as
9 detailed later.

10
11 **The Reimbursement Expenses in the Proceeding and Secured Creditors;** the approval of the
12 reimbursement of the financing of legal proceedings that have been transferred to the
13 Functionary by the Trustee at the commencement of the proceedings in the amount of NIS
14 500,000. With respect to secured creditors, it is to be clarified that that any amount that may be
15 received from the realization of "back up projects" as defined in the Prospectus, will be used to
16 repay the secured debt until full repayment. It should be noted further that that proceeds in the
17 amount of Canadian dollars 64.7 million has been received by the monitor, managing the
18 Group's assets.

19
20 **Maintaining Reserves;** an amount will be preserved to finance claims under dispute and
21 reserves to finance class actions out of monies that are destined for disbursement to unsecured
22 creditors. It is furthermore requested to preserve reserves to finance the expenses of the
23 Creditors' Arrangement.

24
25 **Realization of the Remaining Assets of the Group;** The Functionary shall continue to operate to
26 examine the possibility of realizing the Group's remaining assets in Canada, including the rights
27 in the Downsview project and the geothermal assets of the Company and the Company's
28 subsidiaries.

29 **Assignment of claims right and taking legal proceedings;** The Company's creditors assign to the
30 Functionary with an absolute and irrevocable assignment their entire claim rights towards third
31 parties including: the State authorities, Company's officers and others, whether in Israel or in
32 Canada, with respect to the reasons leading up to the collapse of the Company. The Functionary
33 will, subject to the confirmation of the court, be authorized to take legal steps (proceedings)



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1 against said third parties and all as detailed in the Letter of Assignment attached to the Motion
2 to confirm the Creditors' Arrangement.

4.2 The Essence of the Creditors' Arrangement

3 The Creditors' Arrangement before me is not a classical arrangement, because the majority of
4 Creditors' Arrangements include provisions according to which the creditors waive a part of
5 their debt; arrange the continuation of the Company's activities, whether by the controlling
6 shareholder who contributes from his sources to the arrangement fund, or otherwise; the
7 possibility of recovery, etc.

8 Different, from the regular Creditors' Arrangement, the essence of the Creditors' Arrangement
9 on the agenda is the disbursement of monies to creditors and the assignment of a claim right of
10 the Company's creditors to the Functionary. The Functionary, details the reasons regarding the
11 need of Creditors' Arrangement for the Company, which is in fact the only alternative, given that
12 the other option is liquidation. After examination of the issues, I did not see any reason in the
13 abovementioned difference for not approving the Creditors' Arrangement and the Functionary's
14 position is acceptable to me. In connection with this, it should be clarified that we are dealing
15 with a Canadian company and in this manner difficulty exists to instruct on the liquidation
16 thereof, all the more so this matter is likely to cause complex, legal complications, with respect
17 to the influence of the liquidation on the insolvency proceedings in Canada. Thus for example,
18 the process of liquidation, is likely to give rise to questions of the Functionary's authority as well
19 as the authority of the court, and this is especially true when in Canada different possibilities
20 were raised concerning the continued operations of the Company and in order to realize the
21 different alternatives, and in this way it appears that the way of Creditors' Arrangement is
22 preferable compared to that of liquidation.
23

24 I emphasize that the Creditors' Arrangement is also possible in the sense of the fact that it is a
25 default option whilst there is no other mechanism that allows for the granting of suitable
26 remedies. In this context, it has occurred to me to express my position in the liquidation of the
27 Company (Tel Aviv District) 35560-80 Sella Capital Real Estate Ltd. v. the shareholders in the
28 Company (published in Nevo, November 7, 2010), paragraph 23 and is apt/appropriate in our
29 matter also:

30 "In general, Section 350 of the Companies Law grants the court the authority to approve a
31 different compromise or arrangement in companies in a general statutory framework, whose
32 aim is to assist the application of implementing various arrangements in companies, whilst
33



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1 adapting to the changing economic needs in accordance with the spirit of the times. We are
2 dealing with a framework section which is used to implement a wide variety of arrangements
3 and it is impossible to refute that in the appropriate case this provision also constitutes the
4 possible legal framework to purchase shares.

5 My approach is in line with the court ruling with respect to the implementation of Section 350
6 of the Companies Law. In this matter we turn to Miscellaneous Civil Applications (TA) 4139/01
7 Carmel Investments Group Ltd. v. the Phoenix Israeli Insurance Company Ltd. 33 (1)772".
8

9 In light of the abovementioned conclusion, I will detail the continuation of the development of
10 the events in connection with the Creditors' Arrangement.
11

12 5. **The Creditors' and Shareholder's Meetings**

13 On May 24, 2017, secured and unsecured creditors meeting were held in Israel and Canada. The
14 meetings were preceded by a Company's bondholders meeting dated May 16, 2017, where the
15 bond holders instructed the Trustee how to vote at the creditors' meetings.

16 **The secured creditors:** The secured creditors' meeting confirmed the arrangement with a claim
17 majority of 99.9%. The Trustee voted on behalf of all the debenture voters with secured claims
18 in the amount of NIS 135,411,391. The bondholders that requested to exclude themselves are:
19 Facthold, who voted against the Creditors' Arrangement on the basis of a claim in the amount of
20 NIS 2,662 and Mr. Zuckerman, with a claim in the amount of NIS 7,475 who abstained from
21 voting.

22 **The unsecured creditors:** The unsecured creditors meeting confirmed the arrangement with a
23 claim majority of 98.7%. The Trustee voted claims of the bondholders in the amount of NIS
24 51,237,242 of the unsecured bondholders; that is all the bondholders, except for the
25 bondholders that requested to exclude themselves: Mr. David Mandel, a Company director,
26 through a power of attorney Mr. Ted Saskin, who voted against the Creditors' Arrangement, his
27 claim in the amount of NIS 18,545; the company West Side Gallery Lofts Inc. through the Debtor
28 and the Canadian Trustee, who objected to the Creditors' Arrangement and its claim in the
29 amount of NIS 430,096. The Israeli directors abstained from voting on the Creditors'
30 Arrangement, their claims are in the amount of NIS 221,018 which is the amount that was
31 approved as directors' remuneration. Additional bondholders who excused themselves,



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1 objected to the Creditors' Arrangement by virtue of claims in the amount of NIS 1,007 and
2 abstaining by virtue of claims in the amount of NIS 2,828.

3 Given that the Trustee represents the absolute majority of the bondholders, that is, beyond the
4 claims' value majority, there is a majority of voters in two of the creditors votes, as well.

5 **The shareholders:** At the shareholder's meeting the company Urbancorp Holdco Inc.
6 participated through the Debtor and the Canadian Trustee, which according to its declaration
7 holds (possesses) the full voting rights on behalf of the Company. The shareholder voted against
8 the Creditors' Arrangement.

9 6. After the voting the Functionary petitioned to confirm the Arrangement and which made it
10 possible for the creditors to file objections. Three organized objections were submitted: the
11 first, by Facthold, the second by the Canadian creditors: the Debtor and Messrs Philip Giles,
12 David Mandel, John Biran, James Cameroon Somerweil (hereinafter collectively: "**the Canadian**
13 **Directors**"); the third by the Canadian Trustee, and indirectly, the Companies: The Webster Trust;
14 TCC/Urbancorp Bay Stadium LP; Urbancorp Management Inc. (hereinafter collectively: "**the**
15 **Shareholders**").
16

17 7. **A hearing in the presence of the parties**

18 In the light of filing objections whose principles will be detailed in due course (later), a hearing
19 was held on September 17, 2017, [a hearing] in the presence of the parties, during the course of
20 which the lawyers for the parties emphasized their objections and the Functionary, the Trustee
21 and the Official Receiver, related to these. For the sake of efficiency, I shall deal with each
22 objection, in its own right.
23

24 8. **The Will of the Majority of the Creditors**

25 Before discussing the merits of the objections, I should preface by noting that under the provisions
26 of Section 350(l) of the Companies Law, 5759-1999 (the "**Companies Law**"), it is required that the
27 meetings of each series (type) approve the Settlement with a majority of three-fourths of the debt
28 and a majority of participants, meaning:

29 "If, in each series (type) meeting gathered under Subsection (A), most of the participants in
30 the vote (less the abstainers), jointly holding three-fourths of the debt represented in the



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1 **vote, agreed to the settlement or arrangement, and the court certified the settlement or**
2 **arrangement, these shall bind the Company and all of the creditors or shareholders or any**
3 **series thereof, as applicable, and if it is in the process of winding up – the liquidator and any**
4 **participant (contributory).”**

5 To apply this to our case, none dispute that in our case, each series meeting, apart from the
6 meeting of shareholders, approved the Creditors’ Arrangement by a landslide – well beyond the
7 requirements of Section 350(l) of the Companies Law. Thus, in absence of special circumstances,
8 the Court must certify the Creditors’ Arrangement by accepting the required majority of the series
9 meetings, and subject to ruling on any objections and weighing the decision of the shareholders’
10 meeting. It is a fundamental principle that the will of the creditors must be respected, and the
11 Settlement that merited the support of required majority of creditors participating in the vote and
12 holding 75% of the debt must be certified. The rationale for this is that the creditors are in the best
13 position to evaluate whether or not the Creditors’ Arrangement is to their advantage. On this note,
14 I refer to Civil Appeal 3782/09 Legin Food Packaging Ltd. v. Bank Leumi Israel Ltd. (published on
15 Nevo, February 25, 2014), para. 15:

16 **“As stated, even in cases where the creditor meetings have voted in favor of the settlement,**
17 **the court must certify the settlement (see Section 350(l) of the Companies Law). The court will**
18 **generally tend towards certifying a settlement that the creditor meetings have voted in favor**
19 **of. The reason for this is that the vote of the creditor meetings reflects the preferences of the**
20 **majority of creditors with respect to the proposed settlement. It can be assumed that the**
21 **creditors themselves are in the best position to evaluate whether or not the settlement is to**
22 **their advantage. Thus, as a rule, the court will not substitute the judgment of the creditors**
23 **with its own. Only in exceptional cases of lack of reasonableness or unfairness will the court**
24 **decide not to certify the settlement (Alshich and Orbach, pp. 617).”**

25 Notwithstanding the foregoing, the Court has the authority to refuse to certify the Creditors’
26 Arrangement, even if it received the support of the majority of the creditors; however, this will only
27 be done in exceptional circumstances, such as when it is proven that a defect occurred in the voting
28 process of the creditor meetings, or where there were ulterior economic motives that are sufficient
29 to disqualify the Creditors’ Arrangement. I refer to Liquidation (Nazareth District) 21285-02-13 Amir



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1 Shahada Construction and Development Ltd. v. Electises Ltd. (published on Nevo, October 31,
2 2013), pp. 6; Liquidation (Tel Aviv) 49085-11-11 Israel Credit Lines Supplementary Financial
3 Services Ltd. (in liquidation) v. the Official Receiver (published on Nevo, September 23, 2012), pp.
4 18; Alshich and Orbach, Suspension of Proceedings (Second Edition, 2010) ("Alshich and Orbach"),
5 pp. 622; I have established additional considerations in the ruling on Liquidation (Tel Aviv District)
6 11478-06-13 I.D.B. Holdings Ltd. v. the Official Receiver (published on Nevo, December 17, 2013),
7 pp. 17.

8 9. As stated, the creditor meetings approved the Creditors' Arrangement with an absolute majority of
9 99.9% of the debt from the secured creditors and an absolute majority of 98.7% of the debt from
10 the unsecured creditors, i.e., well beyond the majority required by law. A majority of participants
11 was also achieved in each of the meetings. Thus, I will consider the reasons for the objections, the
12 significance of the opposition of the shareholder meeting and whether these pose a reason not to
13 certify the Creditors' Arrangement.

14 10. Fachtold's Opposition

15 Fachtold, who holds NIS 2,662 in the Company's bonds, opposes the full disbursement of the
16 interim dividend to the secured creditor – i.e., the Trustee – unless the Functionary retains NIS 13
17 million in his treasury until the ruling on the class action.

18 The Functionary and the Trustee oppose the position of Fachtold, and believe that there is no
19 reason to suspend payments, considering that the ruling on the class action will not be for a long
20 time, during which period serious damages will be incurred by the creditors who do not receive
21 their payments, and given the enormous sum of interest that will accrue on the sum of the balance
22 that is suspended and not disbursed at Fachtold's request. It was further argued that Fachtold did
23 not explain how he arrived at the sum of NIS 13 million.

24 The Official Receiver indicated that we are dealing with a conditional debt, starting with the
25 recognition of the class action and continuing with the acceptance of the claim itself, as well as the
26 damages that will be incurred as a result of the delay.

27 10.1 I don't believe that Fachtold's opposition is sufficient to prevent the certification of the
28 Creditors' Arrangement; to be clear.



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1 Fachtold represents a marginal share of the debt, since, as noted, he holds a negligible sum
2 of bonds that is not sufficient to negate the adoption of the Settlement, as far as the scope of
3 the debt is concerned. It is also clear that Fachtold's objection alone is not sufficient to
4 negate the required majority for the approval of the Settlement, as far as the number of
5 voters supporting the Creditors' Arrangement is concerned.

6 *Ex gratia*, even if the entire debt alleged by Fachtold in the name of the class of plaintiffs he
7 purports to represent is recognized, and even if he is recognized as a secured creditor of the
8 Company, this would still be clearly insufficient to negate the required majority for approving
9 the Settlement. As stated, Fachtold has filed claim in the name of all of the plaintiffs in the
10 class action, for a sum of NIS 42 million – a sum comprising some 23.5% of the scope of the
11 secured debt. Since the rest of the secured creditors have supported the Settlement, there is,
12 in any event, a required majority of the debt for approval of the Creditors' Arrangement –
13 even if the class action in its entirety is accepted. Therefore, the conclusion is that Fachtold's
14 opposition is not sufficient to prevent the result of the meeting of secured creditors
15 approving the Creditors' Arrangement with the required majority, whether with respect to
16 the value or the quorum.

17 I should note that Fachtold's motion to consolidate NIS 13 million for the class members he
18 purports to represent in the framework of the class action proceeding was adjudicated
19 before me in Motion 34. I reasoned that the motion to consolidate funds to secure Fachtold's
20 claim essentially amounted to a temporary injunction; therefore, it was appropriate that the
21 motion be adjudicated in the framework of the class action, given that the class action court
22 has the tools to evaluate the chances of the claim, and, in this framework, the motion to
23 consolidate funds to secure it. Thus, in my ruling of July 3, 2017, I instructed Fachtold to refer
24 his motion to the court adjudicating the class action. A leave of appeal to the Supreme Court
25 was filed on that ruling (Leave of Civil Appeal 5846/17), and the Supreme Court's ruling of
26 September 13, 2017 determined that, given the lack of clarity with respect to the type of
27 debt represented by Fachtold – i.e., secured or unsecured – the insolvency court should
28 establish whether we are dealing with a secured or unsecured debt, for the purpose of
29 Fachtold's motion to consolidate funds. It was further determined that the insolvency court
30 will determine the manner of adjudication with which to investigate the type of debt



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1 represented by Fachtold. The difficulty is that, even if I were to determine the type of debt
2 represented, this would not be sufficient to quantify the scope of Fachtold's debt, nor
3 whether or not it is a certain debt.

4 Fachtold is a conditional creditor, since he must first convince the court adjudicating the class
5 action to accept his motion to certify the class action. If and to the extent that he succeeds in
6 this task, he will need to convince the court to accept the class action itself. There is no doubt
7 that this is a process that will take a long time, not least considering the possibility of an
8 appeal, should one be filed. One must consider that, during this entire period, a sum of NIS
9 13 million – out of the total sum of NIS 70 million, i.e. nearly 20% of the sum intended to be
10 disbursed – should be retained at Fachtold's request, without this Court so much as having
11 the tools to investigate whether there is any justification for retaining said sum.

12 10.2 Reflection on the significance of the class action hovering over the Creditors' Arrangement:

13 When the certification of a Creditors' Arrangement is sought for a company that is also the
14 subject of a class action, the prospect of the claim clouds the Creditors' Arrangement, since
15 there is no way to truly know how the class action will affect the Creditors' Arrangement,
16 considering it is a conditional claim. Class actions, which are subject to recognition or
17 certification as class action, are usually complex and complicated, involve large sums, and
18 don't require the movant to pay a fee, which increases the uncertainty and significantly
19 reduces the rate of the dividend that can be disbursed to the creditors – even if these
20 deserve higher dividends. This difficult issue was expressed by the scholars Alshich and
21 Orbach, pp. 702-707:

22 **"It's not difficult to see that the class action contains all of the elements that could**
23 **prove destructive to the Creditors' Arrangement: Legal-factual complexity making it**
24 **unsuited to determination by the trustee, and often causing it to continue for several**
25 **long years; a tendency to reach enormous sums, especially when filed in the name of a**
26 **large class of alleged injured parties; and the fear of abuse by "professional"**
27 **blackmailers and plaintiffs."**



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1 I concur with the opinion of these scholars as to the difficulty generated by pending claims
2 that frustrate the progression of the Creditors' Arrangement proceedings and raise the
3 specter of undermining the Creditors' Arrangement, all the while being unable to negate the
4 possibility of same being entirely unjustified – such as in the event that the motion to certify
5 the class action, or the class action itself, are dismissed. This difficulty also exists with respect
6 to regular claims that are filed, such as tort claims; however, its potency is less than when
7 dealing with class actions, for the reasons I have listed above.

8 I should note that the secondary legislator was aware of the problems stated above, and, for
9 this reason, created a legislative mechanism in the form of Regulation 24(B) of the
10 Companies Regulations (Motion for Settlement or Arrangement), 5762-2002 (the
11 "Settlement Regulations"), which determines that:

12 **"If a debt claim is filed for a conditional or unfixed debt, the functionary shall**
13 **determine the chances, by its estimation, of the condition's fulfillment, or the value of**
14 **the debt, as applicable; should the functionary determine that an unfixed debt cannot**
15 **be fairly estimated, said debt claim shall not be allowed to vote; should the**
16 **functionary believe that the chances of the realization of a conditional debt cannot be**
17 **determined, it shall refer the matter to the court, and the court shall determine the**
18 **entitlement of the conditional debt's creditor to vote in the meetings."**

19 It would appear to be fitting that I order the activation of the mechanism set out in
20 Regulation 24 of the Settlement Regulations, such that the Functionary would examine
21 Fachtold's debt claim in accordance with the mechanism stated in the regulation, and only
22 following and subject to such examination, advance the Creditors' Arrangement and consider
23 how the meetings should vote. This being said, I don't believe Regulation 24 of the
24 Settlement Regulations applies in our case. On this note, I should clarify that Fachtold claims
25 to be a secured creditor, along with the class he claims to represent. This being the case, he
26 is not required to file a debt claim. Therefore, the mechanism set out in Regulation 24 of the
27 Settlement Regulations is inapplicable in our case. Moreover, Fachtold did not appeal to
28 prevent the convening of the creditor meetings until after the decision regarding his debt, its



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1 scope and its type. For this reason, as will, there is no reason to reopen the convening of the
2 meetings, nor the manner of their voting.

3 Above and beyond – As stated, in our matter, even if the class action is granted in full, and
4 Fachtold's debt claim, as well as the class he purports to represent as a secured creditor are
5 recognized, this alone shall not be sufficient to deny the Creditors' Arrangement at this point.
6 This is the case given that the full amount of the debt according to the class action falls
7 below the scope of debt that may have prevented the confirmation of the Creditors'
8 Arrangement with regard to the majority of the debt stipulated in Section 350(l) of the
9 Companies Law, since, in any event, over three quarters of the scope of the required credit
10 to confirm the Creditors' Arrangement was attained.

11 The problematic nature of Fachtold's motion to consolidate the funds in the case before me
12 is intensified given that Fachtold is motioning to withhold the payment to the secured
13 creditors, and in light of the considerable amount that he is motioning to withhold NIS 13
14 million. This is further intensified given that he is still a conditional creditor since the action
15 has yet to be recognized as a class action, and in any event, the action has yet to be ruled on
16 its merits. As stated, the insolvency court does not have the tools to assess the odds of the
17 class action's certification, nor the odds of the action itself. These are determined by the
18 court hearing the class action. However, the Supreme Court's decision instructing the stay for
19 disbursing dividends until September 27, 2017 must be implemented in order to enable
20 Fachtold to file an appropriate motion. Although, as detailed above, the ruling shall not
21 determine the scope of the debt, nor the certainty of the creditor, but rather only the type of
22 creditor. I deliberated/considered whether there is room to delay the clarification of the
23 decision regarding the type of creditor until after the clarification of whether the
24 prerequisites were fulfilled. However, in light of the Supreme Court's ruling, I found that the
25 deliberation of the dispute regarding the creditor's classification should advance.

26 10.3 For the sake of caution and in light of the Supreme Court's order, according to which the
27 disbursement of funds shall be delayed in the rate petitioned by Fachtold, the order shall
28 remain in place until another decision is reached. However, I believe that if it later becomes
29 apparent that there was no basis for the stay that harmed the creditors, they must be



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1 allowed to file an action against Fachtold for the damage it caused, if any. In this regard, one
2 must draw an analogy from the temporary injunctions chapter in the Civil Procedure
3 Regulations, 5744-1984 (the "Civil Procedure Regulations"), and from the case-law that laid
4 the legal foundation required to charge a plaintiff at whose request a temporary injunction
5 was filed, for damages caused as a result of granting the injunction, after his action was
6 rejected. Similarly, one may draw the analogy from Regulations 364-365 of the Civil
7 Procedure Regulations. Therefore, as a condition for the stay, Fachtold must sign on a
8 personal undertaking to pay for any damages caused, if any, as a result of granting the
9 temporary stay for disbursing dividends to the creditors.

10 10.4 Therefore, I instruct that the sum of NIS 13 million from the total funds that the Functionary
11 motions to disburse shall be retained at Fachtold's request until another ruling is reached,
12 subject to Fachtold signing a personal undertaking by October 15, 2017, as required
13 according to Article 365(B) of the Civil Procedure Regulations, *mutatis mutandis*.

14 Fachtold shall file a motion to be recognized as a secured creditor by November 1, 2017. The
15 Functionary shall respond to the motion by December 1, 2017. The motion shall be brought
16 for my review on that date. For the avoidance of doubt, the parties shall file a copy of the
17 pleadings to the clerk by the stipulated date, in addition to filing a copy on Net HaMishpat.

18 10.5 As an aside, reference to the other reasons of Fachtold's opposition, including the
19 assignment of the plaintiff's rights, will be discussed in the continuation of the judgment,
20 since these reasons were also raised by additional opponents.

21 **11. Opposition of the Canadian Directors**

22 The Canadian Directors oppose the Creditors' Arrangement, primarily since it does not include the
23 indemnification to which they are entitled to the extent that they will be charged with actions filed
24 against them due to them being officers in this Company. This is as opposed to the Israeli Directors
25 who received the status of the Company's deferred creditors.

26 The Functionary disputes the Canadian Directors' objections, and claims that their objections are
27 intended to prevent their investigation and the filing of legal proceedings against them. The
28 Functionary further claims that the Canadian Directors' objections should be rejected once the debt



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1 claim that they filed was dismissed and they did not file an appeal, thereby implying that we are
2 dealing with a final dismissal, and they shall not be considered creditors of the Company. The
3 Official Receiver believes that Canadian Directors do not have standing since they did not appeal the
4 ruling regarding the Functionary's debt.

5 In the hearing, the Canadian Directors' representative claimed that his client still has the right to file
6 an appeal regarding the Functionary's ruling rejecting the Director's debt action. The representative
7 even petitioned to present a document in this regard. In contrast, the Functionary claimed that the
8 date had already passed, as stated in his response. I did not see fit to receive the document given
9 that we are dealing with a factual matter that must be supported by an affidavit, that the Canadian
10 Director's representative did not have, as well as the fact that they did not appear at the hearing. I
11 believe that there is no place for this Court to make determinations regarding the factual dispute
12 between the Canadian Directors and the Functionary with regard to the former's [sic] rights to
13 appeal the Functionary's ruling. This dispute shall be heard before the competent authority in the
14 context of the appropriate proceeding, if filed, and there is no place to require it in the framework
15 of the motion to confirm the Creditors' Arrangement.

16 To the crux of the matter – since the regular/unsecured creditors' meeting confirmed the Creditors'
17 Arrangement by a majority above and beyond the required, as detailed above, the Canadian
18 Directors' opposition cannot prevent the confirmation. Not to mention that their only opposition
19 was based on differences in the settlement between them and the Israeli Directors that will be
20 compromised if it becomes apparent that the Canadian Directors' have the right to appeal the
21 rejection of the debt claim, and insofar as they file an appeal and it is accepted. In order to assure
22 the Canadian Directors, it was clarified that dividends would not be disbursed to the deferred
23 creditors until the fate of the Canadian Directors' creditors is clarified.

24 **12. Opposition of the Shareholders**

25 The Canadian Trustee and the Shareholders believe that there is a good chance that the Company's
26 whole debt shall be paid, and therefore, in their opinion, weight should be given to their position in
27 confirming the Creditors' Arrangement. The Canadian Trustee and the Shareholders do not oppose
28 to the interim disbursement/ of dividends, but believe that the Creditors' Arrangement should not
29 be confirmed for a number of reasons: the motion to confirm the Creditors' Arrangement is not



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1 supported by the Functionary's affidavit; the Creditors' Arrangement is worded in a general manner
2 and does not stipulate an outline that will end the procedure; the Functionary does not have the
3 authority to liquidate the assets since it is delegated to the Canadian Functionaries; the assignment
4 of the creditors' rights to an action is general; clarifications were requested from them on specific
5 topics; the Canadian Trustee and the Shareholders oppose the fees petitioned by the Functionary.

6 In the framework of the motion to disburse an interim dividend (Motion 47), I will refer to the
7 opposition of the Canadian Trustee and Shareholders to keep the sum of NIS 7 million in the
8 Functionary's fund for financing his expenses, since, in their opinion, this amount must also be
9 disbursed to the creditors.

10 12.1 This is the place to note that Fachtold joined some of the Canadian Trustee's and
11 Shareholders' objections that were mentioned above. Among these: Fachtold opposes the
12 Functionary's assignment of rights in light of his petitioned general assignment, and it is
13 likely to overlap the grounds for the class action that he filed, as well as due to the conflict
14 of interests between the Functionary and the Company's creditors. Fachtold further claims
15 that the Creditors' Arrangement should not be confirmed since it is not supported by an
16 affidavit. The Functionary did not specify, in his opinion, the financial scope requested by
17 him to execute the Settlement, and he did not specify the amount of the financial reserves
18 that he wishes to maintain.

19 12.2 The Functionary disagrees with the stance of both the Canadian Trustee and the
20 Shareholders, as well as with Fachtold's stance.

21 As for the essence of the Canadian Trustee's and the Shareholders' opposition, the
22 Functionary claims that these parties do not have standing with regard to the Creditors'
23 Arrangement confirmation.

24 The Functionary's claim to the objections' merits:

25 It is claimed that the motive at the basis of the opposition of the Canadian Trustee and the
26 shareholders is to prevent their investigation and the filing of legal proceedings against them.
27 As for the petition for details of the rights assigned to the Functionary by the Trustee, the
28 Functionary claims that this, along with the findings of his investigation, were intended to



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1 expose the legal grounds for which he would make a future claim against the Canadian Trustee
2 and the Shareholders. As for Fachtold's claim with regard to the assignment of the actionable
3 rights, the Functionary proposed that insofar that there is overlap between the grounds for the
4 future action that he would take and the grounds for the class action, then he would file a
5 preliminary motion with the court prior to filing the action.

6 With regard to the claims regarding the lack of a supporting affidavit in the motion to confirm
7 the Creditors' Arrangement, the Functionary responded that the motion is based on
8 information that was obtained in the framework of his position, and therefore, he is not
9 required to support it with an affidavit on his behalf.

10 As for the matter of the objection to the proceeding's expenses; the Functionary clarified that
11 the proceeding's expenses up until now in Israel stand at a sum of NIS 192,000. The future
12 expenses are unknown at this stage, and money should be kept in the insolvency fund
13 according to the general estimate in a sum of NIS 7 million, which appears reasonable.

14 As for the Canadian Trustee's and the Shareholders' objection to the fees, the Functionary
15 believes that there is no room to allow them to object to the fees because they are being
16 investigated by him.

17 12.3 The Official Receiver believes that the Creditors' Arrangement should be confirmed. As for
18 the assignment of rights, at first the Official Receiver thought it was appropriate for the
19 Functionary to detail which grounds for the action he wishes to assign. Subsequently, and in
20 light of the sweeping consent of the creditors to the proposed Creditors' Arrangement, the
21 Official Receiver did not insist with the detail requirement, and he even reasoned that it
22 provided a clear and coherent refuge/lodging for the management of the creditors' action.
23 As for the proceedings' expenses, at first the Official Receiver reasoned that there was room
24 for the Functionary to elaborate on the expenses that he spent until now, and the future
25 expenses would be examined in the framework of the reports and in the Functionary's
26 motions. However, after the explanations that were given in the framework of the
27 Functionary's responses, as well as during the hearing, the Official Receiver reasoned that
28 there is no need to continue to elaborate.



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1 12.4 The shareholders' stance on certifying the Creditors' Arrangement – the normative
2 framework

3 The case-law states that in the laws of insolvency, the shareholders' interest is deferred to the
4 creditors' interest, such that an action performed on behalf of the creditors has priority even if
5 it may harm the shareholders. The Creditors' Arrangement was made on behalf of the
6 creditors with the aim of increasing their rate of repayment. In light of the aforesaid, the
7 shareholders' stance with regard to the confirmation of the Creditors' Arrangement is minor,
8 and it is doubtful whether there is room to consider their own preferences in the confirmation
9 of the Creditors' Arrangement. In this context, the remarks of the Supreme Court (his Hon.
10 President Grunis) in Leave of Civil Appeal 8417/11 Nemi Trustees Ltd. v. Adv. Shaul Bergerson,
11 Receiver for N.I.L.I Real Estate Ltd. (In Receivership) (published on Nevo, May 7, 2013), p. 11,
12 are appropriate:

13 “However, in the case that that there is no concrete possibility of adopting a
14 settlement that will leave the company's current controlling shareholders ‘in the
15 picture’ even after the attempt to rehabilitate it, the creditors are those who remain
16 at center stage, while the primary goal of the settlement is to benefit them, i.e. to
17 increase the debt repayment rate towards them.”

18 (Emphasis added – E.O.)

19 I shall also reference Liquidation (Tel Aviv District Court) 3706/09 Shtang Construction and
20 Engineering Ltd. (published on Nevo, November 11, 2009), p. 3:

21 “The very concept of the shareholders' deference to the creditors in a state of
22 insolvency shows that when the interest of the former collides with the interest of the
23 latter, the creditor's interest shall prevail. In a situation in which the desire of
24 shareholders to stay in their place conflicts with the creditors' interest in reaching a
25 settlement, preference is given to the shareholders' interest (inter alia, by
26 disqualifying a dilution attempt). In practice, this means their preference over the
27 creditors, and therefore is tantamount to contradicting the insolvency laws.”

28 (Emphases added – E.O.)



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1 I had occasion in the past to express my views on the matter as stated in Liquidation 38222-
2 01-10 Development Company Founded by the Israel Contractors and Builders Center v.
3 Official Receiver (published on Nevo, April 7, 2011), on p. 7:

4 "I agree with the case-law since, also in my opinion, the court should prefer the
5 interest of the creditors over those of the shareholders in a situation of insolvency and
6 on the principle of rejection of the latter; all the more so in the circumstances of the
7 case before us. The creditors who participated in the creditors' meeting unanimously
8 supported this creditors' arrangement from an informed perspective that it would
9 only improve their debtor's solvency if a settlement is not reached. This stance must
10 be preferred to that of those shareholders who objected in the shareholders' meeting.
11 In practice, this is sufficient in order to reject Sasson's opposition."

12 Only in the case where there is a reasonable possibility that a balance will remain for the
13 shareholders after the creditors' debts have been repaid will it be also appropriate to take
14 into consideration the interests of the shareholders. However, insofar as there is no such
15 possibility, then the creditors "remain at center stage" and the primary goal of the Creditors'
16 Arrangement is to benefit them (also see Liquidation (Tel Aviv District Court) 32984-07-10
17 Peleg – N.I.A. Ltd. v. Trustee Bonds Holder (Series A) (published on Nevo, November 30,
18 2010), on p. 9; and Liquidation (Tel Aviv District Court) 35221-07-16 Africa Israel
19 Investments Ltd. v. Official Receiver of the Tel Aviv and Central District (published on
20 Nevo, July 28, 2016), paragraph 12)).

21 12.5 Implementation in our case:

22 I should first clarify that, as far as I am concerned, the Canadian Trustee's position should be
23 seen as the position of the shareholders. This is the person holding the ownership of the
24 Company's shares, whether directly or indirectly, not least considering that the Canadian
25 Trustee is an officer in the bankruptcy of the Debtor, who is the indirect controlling
26 shareholder of the Company. Thus, these will hereinafter be jointly referred to as "**the**
27 **Shareholders.**"



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1 I see no reason to accept the Shareholders claim that their position should be considered
2 because they believe there is a good chance that all of the Company's debts will be repaid,
3 and a balance will remain. The claim is made vaguely and without explanation, without
4 references or, at least, an affidavit to support the claim that a balance will remain following
5 the full repayment of the debt to the creditors. The current picture says otherwise, and I will
6 refer to the well-grounded reports of the Functionary, which unequivocally show that the
7 creditors will not be repaid their full debt. It is unclear on what basis the Shareholders stake
8 their general claim that a monetary balance will remain in the Functionary's fund following
9 the full repayment of the debt to the creditors. It is also worth noting that the Shareholder
10 presented no repayment plan, cash injection, or financial opinion, nor so much as any other
11 reliable reference to support this unsubstantiated narrative. Certainly, as things appear on
12 the surface, based on the Creditors' Arrangement, the list of assets and their liquidation, it
13 can be expected that the creditors will not receive full repayment of their debt. We must
14 conclude that the Shareholders' position should be seen as weak and deferred, as detailed
15 in the rulings granted above.

16 *Ex gratia*, I have also given thought to the Shareholders' other arguments, and did not find
17 that these were sufficient to bring me to a different conclusion.

18 **12.6 The Settlement is general and not sufficiently detailed:** I found no substance in this
19 argument, and did not understand what provoked the Shareholders' ire. The Functionary
20 spelled out the principles of the Settlement in a clear and orderly manner, including with
21 respect to the monetary disbursements until now, and the forecast of future disbursements
22 given the anticipated receivables and their chances of being realized, as well as their
23 estimated sums. The Functionary further clarified the expenses associated with the
24 proceeding and the essence of the rights assignment, as detailed later on. I didn't find that
25 more details should have been provided than were provided. As stated, we are dealing with
26 orderly and sufficiently explained principles. To the extent that clarifications are required
27 the time of their implementation, there is nothing preventing these from being sought in
28 order to avoid any doubt; however, presently, I do not see anything lacking.



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- 1 12.7 **Lack of clarity with regards to the costs of the proceeding;** The Functionary noted that the
2 total expenses from the proceeding in Israel amounted to NIS 192,000, and even attached a
3 table detailing the expenses until now. As for future expenses, obviously, they cannot be
4 quantified at this stage of the proceeding. The Functionary sought to leave a sum of NIS 7
5 million in the Company's treasury as an estimate of future anticipated expenses. The line of
6 logic, common sense, and life experience teach us that it is better to leave a sum that will be
7 a sufficient source to cover whatever is needed, than to empty the funds and leave no
8 source to serve the monetary needs of the proceeding. I don't believe the Functionary's
9 estimate was unreasonable, given his discretion, his past experience, and the needs of the
10 proceeding, which are often associated with significant costs. It should also be stressed that,
11 in any event, there are control and supervision with regards to the payment of expenses,
12 including through motions filed with the Court, which are also examined by the Official
13 Receiver. Therefore, there is also no concern that the creditors or the Shareholders will be
14 harmful in this respect.
- 15 12.8 **The Functionary's lack of authority to liquidate the assets;** the *prima facie* authority to
16 liquidate the assets of the subsidiaries rests with the Canadian Functionaries. However, the
17 Functionary is vested the Company's authorities to act in the subsidiaries, and, in this
18 framework, to receive information about the subsidiaries' operations, properties, and rights
19 (see ruling of April 25, 2016). Moreover, the Functionary, by virtue of his station, represents
20 the interests of the Company and the Company's creditors; therefore, even if he himself
21 does not liquidate the assets of the subsidiaries, he acts in coordination with the Canadian
22 Functionaries, without deviating from his vested authorities. The foregoing does not negate
23 or derogate from the authorities of the Canadian Functionaries.
- 24 12.9 **Lack of an affidavit supporting the confirmation of the Creditors' Arrangement;** I was
25 bewildered by this argument raised by the Shareholders and Fachtold. That these, who have
26 sown their opposition in a series of factual claims – such as the Shareholders' claim that a
27 balance will remain for the Shareholders in the Company's treasury; Fachtold's claim that
28 the Functionary said that he is considering filing claims under the Securities Law; and more –
29 would also attack the Functionary for lacking an affidavit to support the motion to confirm



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1 the Creditors' Arrangement! This brings to mind the saying: "It is good to practice what one
2 preaches."

3 As for the merits of the claim – case-law teaches us that the Functionary is not generally
4 required to support his motions with an affidavit, given that the information is not known to
5 him first-hand (see: Civil Appeal 5709/99 Levin v. Schiller, P.D. 55(4) 925, 937 (2001); Leave
6 of Civil Appeal 3032/08 Efriam Reich v. Adv. Avner Cohen, in his position as Provisional
7 Liquidator, (published on Nevo, September 2, 2009). While some of the information the
8 motion concerns is known to the Functionary, it came into his hands by virtue of his
9 position; therefore, I see no reason to deviate from the precedent case-law by requiring him
10 to file an affidavit. I will add to this that there was no allegation, in the objection in this
11 regard, of a material defect in the motion that would have required the support of an
12 affidavit on the part of the Functionary.

13 **12.10 The Functionary's attorneys' fees in the actions he files**; I believe that the Shareholders
14 have no standing to ground their allegations concerning the attorneys' fees to be paid to the
15 Functionary for conducting a claim against them, considering they are tainted by a conflict
16 of interest. Moreover, preference must be given to the weight of the creditors and the
17 Official Receiver, who confirmed the framework of fees to be paid to the Functionary.

18 As for its merits; the eligibility for these attorneys' fees are on the basis of success, which
19 may alleviate from the financing burden that would have existed if the fees were paid on an
20 hourly basis. This also incentivizes the Functionary to avoid accruing unnecessary expenses

21 **12.11 Assignment of the claims rights by the Functionary**; As stated, I believe that the
22 Shareholders have no standing with respect to the filing of claims against them, and this
23 includes the assignment of the creditors' claims rights against them. The Supreme Court
24 (Her Hon. Justice Baron) was recently required to address this matter in Civil Appeal
25 7102/12 JKV BETEILIGUNEGES GmbH v. Moonlight Wireless Ltd. (in liquidation) (published
26 on Nevo, September 11, 2017) (the "Moonlight Case"), and her words there are equally
27 relevant to our case:



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1 “The motion to issue instructions, as well as the Liquidator’s response to the minority
2 group’s offer, concern an authority that is distinct from the investigative authority
3 granted to the Liquidator in the framework of the liquidation proceeding. This is the
4 authority to file claims in the name of the Company, under Section 307(a)(1) of the
5 Companies Ordinance (see *Cohen, Vol. A*, p. 287-291). In this regard, as well, the law is
6 that the appellates are given no right to respond. This has already been determined in
7 the primary circuits, and in rulings by single justices in this Court...”

8 See, as well, Civil Appeal 8481/14 Afridar Housing and Development in Israel Ltd. v. Fritsky
9 (published on Nevo, June 26, 2017), p. 2.

10 So as not to miss anything, I will add that the objection, on its merits, is also insubstantial. As
11 stated in the **Moonlight** case, the Functionary has the authority to file claims in the name of
12 the Company, by virtue of his position, against those who, he reasons, were responsible for
13 its collapse. See: Section 307(a)(1) of the Companies Law, 5743-1983; the **Moonlight** case, p.
14 22; Civil Appeal 1938/11 The Zohar Construction Tower Ltd. v. Gov Guy Ltd. (published on
15 Nevo, December 1, 2011), p. 10-11. Therefore, it is doubtful whether the Functionary even
16 needs an order in this regard, in the framework of the Creditors’ Arrangement.

17 For these reasons, I cannot accept the motion for an explanation of the assignment of rights
18 sought by the Shareholders. The Canadian Trustee is the Trustee of the Debtor in
19 bankruptcy proceedings he is currently undergoing. Therefore, to the extent that the Debtor
20 is a potential defendant, the Canadian Trustee is the one to substitute him, and the latter
21 should also be treated as a potential defendant – whereby, naturally, the Trustee would
22 have a conflict of interest with the assignment of actionable rights. The Shareholders and
23 the Canadian Directors are also potential defendants, in light of the conclusions of the
24 Functionary’s investigations; therefore, they also should not be allowed to object to the
25 assignment of rights. Moreover, the requested explanation would likely frustrate the filing
26 of a claim against these, or, at least, would serve as an attempt to “fish” for information
27 about the Functionary’s investigations, conclusions and causes of action he intends to use in
28 his claim. This must not be allowed. It is further noted that an assignment of rights is a
29 matter between the assignor of the rights – i.e., the Company’s creditors – and the recipient



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1 of the rights, i.e., the Functionary; therefore, it is unclear what standing the shareholders
2 have to intervene in this assignment of rights.

3 As for Fachtold's opposition to the assignment of rights:

4 I cannot accept the argument that the Functionary has a conflict of interest, since the
5 Functionary is acting to increase the Company's creditors' fund, and there is no conflict
6 between his being the Functionary appointed to the Company and his filing of a claim
7 against those responsible for its collapse – in addition to the precedent rulings I have cited
8 above.

9 As for the claim concerning an overlap between the causes of action in the class action and
10 the Functionary's causes of action, this concerns an internal disagreement between the
11 creditors, i.e., between the bondholders represented by the Trustee and between Fachtold,
12 who purports to represent a group of bondholders. The relations between these are
13 regulated in a series of documents, such as deeds of trust, and are not currently an issue for
14 the insolvency court. All that is required of the insolvency court is to approve the
15 assignment of actionable rights held by the secured creditors. To the extent that there is a
16 dispute amongst the creditors, they are welcome to deliberate it before the appropriate
17 forum.

18 13. I will now discuss the additional motions filed.

19 14. **Motion to disburse an interim dividend (Motion 47)**

20 As stated, the Functionary filed a separate motion to disburse an interim dividend to the secured
21 creditor amounting to NIS 70 million, and to reimburse the Trustee for NIS 500,000 that he made
22 available to finance the expenses of the proceeding at its inception. The Court was further
23 petitioned to approve leaving the Functionary with a sum of NIS 7 million, to serve as a resource to
24 finance the payment of fees and expenses associated with the claims that will be filed.

25 The confirmation of the Creditors' Arrangement, one of whose matters pertained to the interim
26 disbursement to the secured creditors, has obviated the need to rule on Motion 47.

27 15. **Motion to order interim attorneys' fees for the Functionary (Motion 48)**



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1 The Functionary petitions to approve interim attorneys' fees for him, amounting to NIS 2.5 million
2 with the addition of VAT, and office expenses amounting to NIS 16,395, plus VAT. The Official
3 Receiver believes interim attorneys' fees ought to be ordered for the Functionary in a sum of NIS 2
4 million, with added VAT, and that a proper reckoning can be conducted when ordering the final fees.
5 In the ruling of July 18, 2017, the attorneys' fees were approved in accordance with the Official
6 Receiver's position, as detailed therein.

7 The Shareholders objected to the sum of the attorneys' fees approved for the Functionary, *inter*
8 *alia*, for the following reasons: The Functionary stipulated the interim attorneys' fees on a
9 disbursement to the secured creditors that has yet to occur; the Functionary took credit for actions
10 he has not executed; he does not supervise the Canadian Functionaries, and requested attorneys'
11 fees for matters regarding which he has requested attorneys' fees separately, such as Fachtold's
12 class action; most of the Functionary's actions are immaterial, and consist of tracking and reporting
13 to the Court; the Functionary's actions did not exceed regular functionary activity; the Functionary
14 did not detail the estimated final attorneys' fees, in contravention of Regulation 14 of the
15 Companies Regulations (Rules concerning Appointment of Receivers and Liquidators and their Fees),
16 5741-1981 (the "Fees Regulations"); the Functionary did not perform disbursements to all of the
17 types of creditors, as required in Regulation 8A of the Fees Regulations; the fees should be limited
18 owing to the fact that the Functionary performed unnecessary actions and repeated actions taken
19 by other functionaries, in accordance with Regulation 13 of the Fees Regulations; the Functionary is
20 not entitled to payment for asset liquidations, since he is not authorized to liquidate the Company's
21 assets, as stated in Regulation 8(A) of the Fees Regulations, and he is not entitled to payment for
22 managing them, since he did not perform any management actions, as stated in Regulation 7(A) of
23 the Fees Regulations; the Functionary did not attach an affidavit; financial statement or references
24 for hours of work, in contravention of Regulation 6 of the Fees Regulations.

25 The Functionary disputes the position of the Shareholders. He argues that the interim attorneys'
26 fees have already been approved by the Court. The Shareholders have not displayed a change in
27 circumstances that justifies reopening the Court's decision. As for the merits of the arguments, the
28 Functionary claims his request for attorneys' fees meets the requirements of the Fees Regulations,
29 since it was approved by the Official Receiver. The Functionary further emphasizes that the interim



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1 attorneys' fees he requested are not calculated according to Regulation 8A of the Fees Regulations,
2 but rather, on account of the final fees that will be ordered.

3 The Shareholders argue that the Functionary, in his motion to approve interim attorneys' fees,
4 sought interim attorneys' fees in the wake of a disbursement to the secured creditor under
5 Regulation 8A of the Fees Regulations, while in his response to the Shareholders, he claims that the
6 attorneys' fees are on account of the final fees that will be ordered.

7 15.1 The attorneys' fees ordered for the Functionary are only attorneys' fees on account of the
8 final fees, and do not represent the final fees. In cases involving the vast scope of work
9 required of the Functionary as in the framework of this proceeding, it is customary to pay an
10 advance on account of the final fees, and not to wait for the conclusion of the proceeding to
11 order the fees in their entirety. The rationale for this approach is so that the Functionary is
12 not required to finance the expenses of the proceeding from his own pocket. In
13 consideration of the foregoing, I saw no need to consider the arguments on their merits, and
14 these will be examined, if necessary, at the conclusion of the proceeding, when determining
15 the final fees of the Functionary.

16 Moreover, the facts that have accumulated until now, and the scope of the present
17 disbursement amounting to NIS 70 million, on top of which further disbursements will be
18 added, indicate that the final fees that will be paid to the Functionary in accordance with the
19 Fees Regulations exceed the sum of the interim fees; therefore, I see no reason to grant the
20 motion.

21 15.2 Another reason to dismiss the arguments of the Shareholders is that the secured creditors
22 did not oppose the Functionary's motion for interim attorneys' fees. To be clear, the secured
23 creditors are the ones directly impacted by the granting of interim attorneys' fees to the
24 Functionary, since this derogates from the sum of their debt that they will receive; whereas
25 the Shareholders are deferred creditors in any event.

26 16. Motion to certify continued representation of the Company in the class action by the Functionary,
27 and his attorneys' fees (Motion 50)



The District Court in Tel Aviv – Jaffa

**Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, et al.
Motions 42, 47, 48, 50**

Before Honorable President Eitan Orenstein

1 The Functionary requests to be granted, with the consent of the Official Receiver, 150 additional
2 hours to conduct the Company's defense in the class action filed by Fachtold.

3 The Shareholders opposed the Functionary's motion, with their main arguments being as follows: no
4 affidavit was filed with the motion; the scope of hours requested is expected to exceed the term of
5 the Functionary's appointment, which is set to expire on October 11, 2017 – therefore, it is
6 requested to limit the attorneys' fees up until the date the appointment expires, and stipulate them
7 on the extension of the appointment, along with setting a ceiling for the attorneys' fees; actions
8 taken in this proceeding by the Functionary may become mixed with actions taken by the
9 Functionary in the framework of the class action – therefore, a detailed affidavit is sought regarding
10 all of the actions taken by the Functionary; the hours detailed in the motion do not include the work
11 hours of Adv. Gissin – therefore, an accounting of these hours is requested, as well as whether or
12 not attorneys' fees will be sought for them.

13 The Functionary disputes the position of the Shareholders. The Functionary noted that the Court has
14 approved his representation of the Company in the class action irrespective of the extension of the
15 appointment, and that each hour of work is examined by the Official Receiver; the Functionary
16 further stressed that the motion was approved by the Official Receiver after the latter approved the
17 table of hours attached to the motion. The Functionary argues that, to the extent that the Creditors'
18 Arrangement is approved, his appointment will be extended regardless.

19 16.1 I did not see fit to accept the arguments of the Shareholders;

20 Since the Creditors' Arrangement was confirmed, the appointment of the Functionary is
21 extended, and he will continue to represent the Company in the class action proceeding filed
22 by Fachtold as well.

23 I found no substance in the allegations made by the Shareholders concerning the actions of
24 the Functionary, since the Functionary's actions are regulated, examined, and approved by
25 the Official Receiver, and, as stated, the motion was filed with the consent of the Official
26 Receiver. The Shareholders did not indicate any reason to doubt the findings of such
27 examinations.



The District Court in Tel Aviv – Jaffa

**Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, et al.
Motions 42, 47, 48, 50**

Before Honorable President Eitan Orenstein

1 It seems like the Shareholders' main rationale is an unfounded concern that the
2 Functionary's actions in the insolvency proceeding will become mixed with his actions in the
3 class action proceeding. However, as stated, this concern is unfounded, and I have found no
4 reason to doubt the Official Receiver's examinations. Certainly, considering we are dealing
5 with two entirely distinct legal fields, beyond involving the same Company, it is unclear what
6 sort of overlap could occur between the actions undertaken in the two proceedings.

7 **17. In conclusion**

8 A verdict is hereby granted dismissing the oppositions to the motion to confirm the Creditors'
9 Arrangement, and I certify it, as detailed above. I hereby appoint Adv. Guy Gissin as Trustee in the
10 execution of the Creditors' Arrangement, who will act to implement the provisions of the Creditors'
11 Arrangement, as detailed therein, including through the disbursement of the dividend to the
12 creditors, and as stated in the ruling.

13 The Trustee for the execution of the Creditors' Arrangement shall postpone, at this stage, the
14 disbursement of a dividend amounting to NIS 13 million, at the request of the creditor Fachtold,
15 subject to Fachtold signing a personal undertaking to secure the damage that may be caused as a
16 result of such postponement, should any such be caused, and as detailed in the ruling. This should
17 be done no later than October 15, 2017.

18 The Canadian Directors reserve the right to undertake appeals proceedings with respect to the
19 dismissal of their debt claim, to the extent that the deadline for its filing has not passed, and subject
20 to any other law.

21 The Canadian Trustee and the Shareholders, jointly and severally, shall bear the expenses of the
22 proceeding, amounting to NIS 23,400 to the Functionary, NIS 8,190 to the Bondholders' Trustee and
23 NIS 7,000 to the Official Receiver.

24 **The clerk shall scan the verdict and the rulings in Motions 42, 47, 48 and 50.**

25 **The clerk shall send the verdict and rulings to the parties.**

26 Granted today, Tishrei 6, 5778, September 26, 2017, *in absentia* of the parties.

27 [Signature]

September 26, 2017



The District Court in Tel Aviv – Jaffa

**Company Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. v. Urbancorp Inc.,
Canadian Company 2471774, *et al.*
Motions 42, 47, 48, 50**

Before Honorable President Eitan Orenstein

1 Eitan Orenstein, President

Appendix “F”



**Sixth Report to Court of
KSV Kofman Inc. as Information Officer
of Urbancorp Inc.**

July 26, 2017

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COURT FILE NO.: CV-16-11392-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC., UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

JULY 26, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. ("St. Clair"), Urbancorp (Patricia) Inc. ("Patricia"), Urbancorp (Mallow) Inc. ("Mallow"), Urbancorp Downsview Park Development Inc. ("Downsview"), Urbancorp (Lawrence) Inc. ("Lawrence") and Urbancorp Toronto Management Inc. ("UTMI") each filed a Notice of Intention to Make a Proposal pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "NOI Proceedings"). (Collectively, St. Clair, Patricia, Mallow, Downsview and Lawrence are referred to as the "NOI Entities".) KSV Kofman Inc. ("KSV") was appointed as the Proposal Trustee in the NOI Proceedings.
2. On April 25, 2016, the District Court in Tel Aviv-Yafo (the "Israeli Court") issued a decision appointing Guy Gissin as the functionary officer and foreign representative (the "Foreign Representative") of Urbancorp Inc. ("UCI") and granted him certain powers, authorities and responsibilities over UCI, the ultimate parent of the NOI Entities (the "Israeli Proceedings").
3. On May 11, 2016, the Israeli Court made an order authorizing the Foreign Representative to enter into a protocol between the Foreign Representative and KSV (the "Protocol"). The Protocol contemplated that the NOI Entities and other related entities would file for protection under the *Companies' Creditors Arrangement Act* ("CCAA"). The Protocol addresses, *inter alia*, cooperation with respect to the restructuring process of the NOI Entities, including that the Foreign Representative shall not interfere or terminate the CCAA proceedings without the consent of KSV or by order of the Canadian Court, and the sharing of information between the Foreign Representative and the monitor. A copy of the Protocol is attached as Appendix "A".

4. Pursuant to an order made by the Ontario Superior Court of Justice – Commercial List (the “Canadian Court”) dated May 18, 2016 (the “Initial Order”), the NOI Entities and the entities listed on Schedule “A” attached to this Report (collectively, the “Cumberland CCAA Entities”) were granted protection under the CCAA (the “Cumberland CCAA Proceedings”) and KSV was appointed monitor (the “Cumberland Monitor”). The Initial Order also approved the Protocol.
5. On May 18, 2016, the Canadian Court also issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. This report (the “Report”) is filed in KSV’s capacity as Information Officer.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information on the Israeli Proceedings;
 - b) provide details regarding a distribution made by the Cumberland Monitor to UCI;
 - c) provide an update on the plan of arrangement (the “Plan”) for UCI filed in the Israeli Proceedings by the Foreign Representative;
 - d) provide an update on the disputed claims against UCI that are to be addressed by the Canadian Court;
 - e) discuss a lawsuit filed in Israel by the Foreign Representative against Alan Saskin and entities and individuals related to Mr. Saskin;
 - f) discuss a motion filed by UCI in the Bay CCAA Proceedings to file a late claim in the Bay CCAA Proceedings (as defined below);
 - g) discuss an order issued by the Israeli Court extending the appointment of the Foreign Representative to July 21, 2017 (the “Extension Order”);
 - h) discuss a motion filed by the Foreign Representative in Israeli Court to seek approval of its interim professional fees; and
 - i) recommend that the Canadian Court grant an order recognizing the Extension Order.

1.2 Restrictions

1. In preparing this Report, the Information Officer has relied upon unaudited financial information of UCI, discussions with the Foreign Representative and its legal counsel and the reports issued by the Foreign Representative in the Israeli Proceedings. The Information Officer has not performed an audit or other verification of such information. The financial information discussed herein is preliminary and remains subject to further review. The Information Officer expresses no opinion or other form of assurance with respect to the financial information presented in this Report.

1.3 Currency

1. Unless otherwise stated, all currency references in this Report are to Canadian dollars.

2.0 Background

1. UCI was incorporated in Ontario on June 19, 2015 to raise capital in the public markets in Israel. Pursuant to a deed of trust dated December 7, 2015 (“Deed of Trust”), UCI made a public offering (the “IPO”) of debentures (the “Debentures”) in Israel for NIS 180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO). The Debentures traded on the Tel Aviv Stock Exchange (the “TASE”). The Debentures are secured against certain assets of UCI, being primarily the receivables owing to UCI pursuant to the Shareholder Loans (as defined below). UCI is alleged to have defaulted on the Debentures and trading in the Debentures has been suspended by the TASE.
2. From the monies raised under the Debentures, UCI made separate loans (the “Shareholder Loans”) totalling approximately \$46 million to each of the NOI Entities so that the NOI Entities could repay their loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that these advances are unsecured and functionally subordinated to certain other obligations of the NOI Entities.
3. The Foreign Representative has conducted a claims process for UCI. Twenty claims totalling approximately \$89 million¹ were filed against UCI. Of this amount, the Foreign Representative has admitted claims totalling approximately \$63.3 million.
4. UCI’s principal obligation is the Debentures. The Foreign Representative has admitted a claim of approximately \$62.6 million filed by Reznik Paz Nevo Trusts Ltd., the Trustee in respect of the Debentures (the “Trustee”). Of this amount, the Foreign Representative admitted the Shareholder Loan component as a secured claim (the “Secured Debt”).

¹ Claims made in NIS and US dollars were converted into Canadian dollars using an exchange rate of NIS2.97/C\$1 and U\$0.79/C\$1, respectively, being the exchange rates on April 25, 2016.

3.0 The Plan

1. A summary of the Plan is provided in the Information Officer's Fifth Report to Court dated May 4, 2017 (the "Fifth Report"). A copy of the Fifth Report is attached as Appendix "B", without appendices.
2. On May 24, 2017, the Foreign Representative convened a secured creditors' meeting, an unsecured creditors' meeting and a shareholders' meeting to consider and vote on the Plan. At the secured and unsecured creditors' meetings, the requisite number of creditors voted to accept the Plan. At the shareholders' meeting, representatives of the Company's sole shareholder, Urbancorp Holdco Inc., voted against the Plan.
3. On May 30, 2017, the Foreign Representative filed a motion in the Israeli Proceedings to seek approval of the Plan. In its motion materials, the Foreign Representative advised that shareholder approval is not required to approve the Plan due to UCI's insolvency proceedings and Israeli case law.
4. On May 30, 2017, the Israeli Court issued an order requiring that any objections to the Plan be filed within ten days. Objections were received from: (i) former directors of UCI, including Mr. Saskin; (ii) an individual that has filed a class action lawsuit in Israel against UCI in connection with UCI's insolvency; and (iii) The Fuller Landau Group Inc. ("Fuller Landau"), in its capacity as Proposal Trustee of Alan Saskin and certain related entities.
5. On July 4, 2017, the Israeli Court issued an order requiring the Israeli Official Receiver to provide its position on the Plan by September 1, 2017. The Israeli Court also advised that it will hear the objections to the Plan on September 17, 2017.
6. If the Plan is approved by the Israeli Court, the Foreign Representative will seek an order recognizing the Plan in Canada.

4.0 Distribution

1. On June 27, 2017, the Canadian Court made an order authorizing and directing the Cumberland Monitor to make an interim distribution to creditors with admitted claims against certain of the Cumberland CCAA Entities. On June 30, 2017, the Cumberland Monitor made an interim distribution to UCI in the amount of approximately \$29.6 million, representing a partial repayment of UCI's claims. Originally, the Cumberland Monitor intended to distribute \$20 million to UCI, but it was increased to \$29.6 million as the Monitor was able to resolve certain claims for which it had previously intended to maintain a reserve.

2. The timing and amount of future distributions to UCI will depend on the resolution of several disputed claims and realizations from the Cumberland CCAA Entities' remaining assets, including condominium units, geothermal assets, the Kingsclub development and a joint-venture development between Downsview and Mattamy Homes. The status of these matters is discussed in the Cumberland Monitor's Seventeenth Report to Court dated July 14, 2017, which is attached as Appendix "C", without appendices.
3. On July 6, 2017, the Foreign Representative filed a motion in the Israeli Proceedings seeking authority to make a distribution in the amount of approximately \$24.5 million² to the Trustee in respect of the Secured Debt prior to the Plan being approved.

5.0 Disputed Claims

1. As detailed in the Information Officer's Fourth Report to Court dated March 9, 2017, there are four Canadian creditors that have disputed claims against UCI. On March 14, 2017, the Canadian Court made an order that these claims (other than the claim of Alan Saskin³) will be dealt with by the Canadian Court. A summary of the disputed claims is as follows.

(\$000s; unaudited)	
Claimant	Amount
Homelife Realty Inc.	618
Harris Sheaffer LLP	139
Janterra Real Estate Advisors Inc.	53
	<u>810</u>

2. Dentons has advised that it is presently attempting to resolve the disputed claims.

6.0 Lawsuit

1. On June 20, 2017, the Foreign Representative filed a lawsuit (the "Lawsuit") in Israel against Alan Saskin, TCC/Urbancorp Bay Stadium LP, The Webster Trust, Urbancorp Management Inc., Urbancorp Holdco Inc., and Ms. Doreen Saskin (collectively, the "Defendants"). The Lawsuit alleges that the Defendants breached obligations to UCI in connection with the issuance of the Debentures. The Lawsuit seeks monetary relief of approximately \$33.46 million based on current exchange rates.⁴ A commissioned English translation of the Statement of Claim filed by the Foreign Representative is attached as Appendix "D".

² The Foreign Representative is seeking to distribute NIS 70 million to the Trustee. The current NIS/CAD exchange rate is NIS0.35/\$1, which converts to \$24.5 million.

³ Alan Saskin's claim will be dealt with by the Israeli Court.

⁴ The lawsuit seeks relief of NIS95.6 million, which has been converted at the current exchange rate.

7.0 TCC/Urbancorp (Bay) Limited Partnership

1. KSV is also the Court appointed Monitor (the “Bay Monitor” and together with the Cumberland Monitor, the “Monitor”) of TCC/Urbancorp (Bay) Limited Partnership (“Bay LP”) and several related entities (the “Bay CCAA Entities”), which are subject to separate CCAA proceedings (the “Bay CCAA Proceedings”).
2. On October 18, 2016, the Court issued an order establishing a procedure to identify and quantify claims against the Bay CCAA Entities. As part of the claims process, the Foreign Representative, on behalf of UCI, submitted a claim against Bay LP of approximately \$6 million in respect of a promissory note issued by Bay LP to UTMI, which UTMI assigned to UCI. On December 9, 2016, the Monitor disallowed the claim in full.
3. On February 22, 2017, the Foreign Representative, on behalf of UCI, filed a motion to set aside the Monitor’s disallowance and to confirm a related \$2 million promissory note, originally issued by Bay LP to UTMI, and subsequently assigned by UTMI to Urbancorp Realtyco Inc., a Cumberland CCAA Entity.
4. Pursuant to an endorsement issued by the Honourable Mr. Justice Newbould on May 2, 2017 (the “May 2nd Decision”), the motion of the Foreign Representative was dismissed.
5. As a result of the May 2nd Decision, on June 23, 2017, the Foreign Representative filed a motion in the Bay CCAA Proceedings seeking leave to file a late claim against Bay LP for \$8 million based primarily on the tort of negligent misrepresentation. This motion has been adjourned *sine die* so that UCI and the Cumberland Monitor can address delivery of evidence and a litigation schedule in connection with UCI’s claim. In addition, the Foreign Representative does not intend to proceed with this motion until the Plan is approved as a term of the Plan is an assignment to UCI of all remaining claims of the Trustee.

8.0 Extension Order

1. On July 11, 2017, the Israeli Court granted an order extending the appointment of the Foreign Representative to October 11, 2017.
2. The Foreign Representative is seeking an order from the Canadian Court recognizing the Extension Order so that it can, *inter alia*, continue to advance the Plan and the Lawsuit. The Information Officer supports the relief requested by the Foreign Representative. A commissioned English translation of the Extension Order is provided in Appendix “E”.

9.0 Foreign Representative's Interim Fee Approval Motion in Israel

1. The Information Officer has reviewed a commissioned English translation of the "Application for the Grant of Instructions for Approval of the Functionary's Interim Fee" dated July 3, 2017 (the "Foreign Representative's Report"). A copy of the Foreign Representative's Report is attached as Appendix "F". Primarily for the benefit of the Israeli Court, but also in anticipation of concerns and questions of the Canadian Court in light of the Foreign Representative's Report, the Information Officer considered a response to the Foreign Representative's Report was warranted.
2. As a preliminary matter, the Information Officer notes that the Foreign Representative has only been appointed for, and the Israeli Proceedings only pertain to, UCI. Accordingly, the Israeli Proceedings are the foreign main proceeding for UCI but for no other Urbancorp entity. It must be kept in mind that the CCAA proceedings relating to many of the direct and indirect subsidiaries of UCI, be they the Cumberland CCAA Proceedings or Bay CCAA Proceedings, all of which are in Ontario, Canada, and all before the Canadian Court, are independent, main proceedings. They are not "secondary proceedings" as referenced in the Foreign Representative's Report. As main proceedings in their own right, they are under the full and exclusive jurisdiction and supervision of the Canadian Court.
3. It is the Canadian Court which appointed the Information Officer as the Monitor in the Cumberland CCAA Proceedings and Bay CCAA Proceedings. The Monitor is an officer of the Canadian Court and it is only the Canadian Court which exercises authority and direction over the Monitor. Accordingly, all of the assets of the Cumberland CCAA Entities and Bay CCAA Entities are subject to the exclusive control and oversight of the Monitor and the Canadian Court, which issued orders granting the Monitor enhanced powers in the CCAA Proceedings. Furthermore, the claims against any of the Cumberland CCAA Entities and Bay CCAA Entities are exclusively subject to claims procedures ordered by the Canadian Court and overseen and implemented by the Monitor. UCI's standing and, by extension, the Foreign Representative's standing, in the Cumberland CCAA Proceedings and Bay CCAA Proceedings is only as one of the creditors and the ultimate shareholder of the Cumberland CCAA Entities and Bay CCAA Entities.
4. With the foregoing understanding, it should be clear that the Foreign Representative does not "supervise" the Monitor (in the sense of exercising any control or direction over the Monitor) and the Foreign Representative cannot and does not direct the Monitor. In addition, the Monitor does not need the Foreign Representative's authorization for undertaking any of its activities. Administration of the assets, liabilities and claims of the Cumberland CCAA Entities and Bay CCAA Entities is the exclusive purview of the Monitor under the supervision of the Canadian Court.
5. Given that UCI is a significant stakeholder in the Cumberland CCAA Proceedings and Bay CCAA Proceedings, the Monitor endeavours to cooperate with the Foreign Representative so that it has its input and views on matters as a Monitor would do with any key stakeholder in a CCAA proceeding. In this manner, opposition to actions for which the Monitor must seek the Canadian Court's approval are kept to a minimum, which lends to more efficient, effective and less costly proceedings.

6. In light of the foregoing, while the Information Officer understands that the Foreign Representative may be required to ensure that it is and remains informed and knowledgeable about what is transpiring in the Cumberland CCAA Proceedings and Bay CCAA Proceedings, it notes that many, if not all, of the Foreign Representative's activities pertaining to any of the assets, liabilities or claims of the Cumberland CCAA Entities and Bay CCAA Entities are largely duplicative of the activities of the Monitor. The Monitor does not support the view that such activities of the Foreign Representative have resulted in additional recoveries for UCI or any other stakeholder.

7. In addition, Fuller Landau, in its capacities as the CCAA Monitor of Edge Residential Inc., Edge on Triangle Park Inc. and related entities and the Proposal Trustee of Alan Saskin, has prepared a report summarizing its views of the Foreign Representative's Report ("Fuller Landau Report"). A copy of the Fuller Landau Report is attached as Appendix "G".

10.0 Conclusion and Recommendation

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

* * *

All of which is respectfully submitted,



**KSV KOFMAN INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
URBANCORP INC.
AND NOT IN ITS PERSONAL CAPACITY**