

TAB A

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

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

IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC.

Applicants

AFFIDAVIT OF MARCO MANCUSO
(Sworn on June 11, 2021)

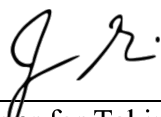
I, Marco Mancuso, of the City of Toronto, Ontario, MAKE OATH AND SAY:

1. I am the creditor, and as such have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe the information to be true.
2. I confirm that the information contained in the particulars of claim attached as **Exhibit "A"**, together with the supporting attachments, is accurate and I adopt it for the purposes of this affidavit.

3. I make this affidavit in support of a proof of claim in this proceeding, and for no other or improper purpose.


SWORN by videoconference technology by the deponent, located in the City of Toronto, Ontario, before the commissioner, located in the City of Toronto, Ontario in accordance with O. Reg. 431/20, Adminstrating Oath Remotely on June 11, 2021

}



Commissioner for Taking Affidavits
JAMES GIBSON

Marco Mancuso



Digitally signed by Marco Mancuso
DN: C=CA, E=mancuso@hotmail.com,
CN=Marco Mancuso
Date: 2021.06.11 13:51:04-04'00'

MARCO MANCUSO

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF MARCO MANCUSO
SWORN BEFORE ME, THIS 11TH DAY OF JUNE, 2021

A handwritten signature in black ink, appearing to read "J.G.", positioned above a horizontal line.

JAMES GIBSON

A Commissioner Etc.

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|--|
| EXHIBIT “A” – PARTICULARS OF PROOF OF CLAIM |
|--|

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are for:

- (a) \$280,000 in bonuses earned by Mancuso as employment remuneration in 2017, 2018 and 2019; and
- (b) \$62,500 in bonuses earned by Mancuso in 2020; and
- (c) the \$175,000 retention bonus earned for remaining with Cresford after January 2020.

2. Total value of the Claims described above is \$517,500.

A. OVERVIEW

3. Marco Mancuso (**Mancuso**) was the Director of Construction at Cresford, responsible for overseeing and carrying out the construction of its developments. He was employed in common by the various Cresford companies for which he worked, including YSL, until he left Cresford at the end of November 2020.

4. Mancuso earned significant bonuses for assisting in Cresford projects, which remained unpaid by Cresford. In September 2020, Mancuso and Cresford, including YSL, entered into a settlement agreement, in which Cresford acknowledged and agreed to pay Mancuso’s outstanding bonuses and certain other amounts owing to him. Cresford failed to perform the settlement and pay the amounts owing to Mancuso.

5. As Mancuso's common employer, YSL is jointly and severally liable for his outstanding employment entitlements. Cresford and YSL acknowledged these outstanding amounts in writing in the settlement agreement and they are beyond dispute.

B. MANCUSO'S EMPLOYMENT BY CRESFORD AND DUTIES WITH YSL

6. In March 2015, Cresford hired Mancuso as Project Manager for Construction. Mancuso was promoted to Senior Project Manager in March 2018 and to Director, Construction in July 2019. He served in that role until his departure in November 2020, described below.

7. In January 2015, Mancuso executed an employment agreement (included as **Attachment 1**). Under the employment agreement drafted by Cresford, Mancuso's employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

8. On January 6, 2020, Mancuso entered into a revised employment agreement with Cresford, which included increased compensation (included as **Attachment 2**). Under that agreement, Mancuso was entitled to:

- (a) a base salary of \$250,000;
- (b) an annual bonus of up to 10% of his base salary; and
- (c) a project bonus of up to 15% of his base salary.

9. During the course of his employment, Mancuso performed work for YSL and for other Cresford companies carrying on real estate business, including the Vox and 33 Yorkville projects

(together with YSL, Cresford (Rosedale) Developments Inc. and EDRP, the **Cresford Employers**). Mancuso provided support for the construction of the YSL project and was heavily involved in the due diligence processes carried out throughout 2020 with regard to YSL.

10. Because Mancuso worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Cresford held Mancuso out as a representative of YSL in the course of Mancuso's employment, including during Concord's due diligence process on the YSL project; and
- (d) Some of Mancuso's bonus entitlements involved credits on units purchased from project companies. As described below, Cresford agreed to pay Mancuso's bonuses from the funds of different Cresford Employers, including YSL.

11. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Mancuso.

12. An integral part of Mancuso's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects. By July 2020, Mancuso had earned significant unpaid bonuses as a result of his employment:

- (a) 2017 earned bonus of \$200,000, which was to be received as a \$200,000 credit against Mancuso's purchase of a unit in the 33 Yorkville project;
- (b) 2018 earned bonuses of \$30,000; and
- (c) 2019 earned bonuses of \$50,000.

13. Mancuso also earned bonuses under his employment agreement for the work performed for the Cresford Employers in the course of 2020. Mancuso had been paid the full 25% bonus in each of the years that he previously worked. He earned the same 25% bonus in 2020 by carrying out extraordinary responsibilities following the financial difficulties suffered by Cresford, contributions that were recognized by Cresford.

14. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Mancuso and granted each of them a retention bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through "tough times." By this time, Cresford had begun to experience financial distress. Casey provided Mancuso with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 at a later date.

C. THE SETTLEMENT AGREEMENT

15. As detailed below, Mancuso and Cresford entered into a settlement agreement for the payment of overdue amounts owing to him in September 2020.

16. In July 2020, Mancuso continued to work for Cresford, but his outstanding bonuses were unpaid and Cresford was in financial distress. Cresford's Clover, Yorkville and Halo projects were in insolvency proceedings. Cresford was in the process of negotiating the sale of Cresford's remaining real estate properties, including the sale of YSL to a third party buyer, Empire.

17. Mancuso and Cresford discussed arrangements to satisfy Mancuso's employment entitlements, but were unable to reach an agreement. Cresford asked an advisor, Joe Bolla (**Bolla**), to mediate the issue. The parties provided Bolla with information about Mancuso's outstanding entitlements.

18. On July 23, 2020, Bolla sent a without prejudice settlement proposal, for discussion purposes (included as **Attachment 3**). He described the proposal as his determination of "what was fair" in the circumstances, as a "friend of Cresford." The proposal acknowledged the extraordinary efforts made by Mancuso and other employees during this period. Bolla included as a schedule his proposal for how a portion of Mancuso's employment entitlements should be paid.

19. Bolla's settlement proposal acknowledged the outstanding 2017, 2018 and 2019 bonuses owed to Mancuso. The proposal also acknowledged Mancuso's claims for his 2020 bonus, but did not propose to pay these amounts due to financial difficulties.

20. Mancuso and Cresford exchanged without prejudice communications to resolve Mancuso's claims, including his additional claims for his 2020 bonus.

21. On September 8, 2020, Cresford and Mancuso reached a full and final settlement of Mancuso's claims (included as **Attachment 4**). Cresford agreed to pay \$280,000 to Mancuso, which would be paid from the closings of the YSL project, the Clover project, and the conveyance of 69 Hayden Street pursuant to an irrevocable direction provided to Cresford's counsel.

22. The settlement agreement was signed by Daniel Casey on behalf of "[the] Cresford Entities including Limited Partnerships", which included YSL. The settlement agreement specifically carved-out Mancuso's claims for his 2020 bonus, which were to be addressed in further negotiations after the settlement.

23. Mancuso appears never to have signed the agreement but had previously communicated his acceptance of its substantive terms by email (included as **Attachment 5**).¹ The parties acted in accordance with the agreement.

24. On September 14, 2020, pursuant to the settlement agreement, Daniel Casey signed an amended irrevocable direction to YSL's counsel to pay Mancuso the agreed amounts from the proceeds of sale of YSL or any other similar sale (included as **Attachment 6**).

25. As part of the settlement agreement, Cresford gave notice to Mancuso that he would be terminated effective in January 2021. Mancuso continued to work in his role with Cresford during

¹ Mancuso and a colleague, Louie Giannakopoulos, were similarly situated and were jointly negotiating similar settlements with Cresford at the same time. On August 21, 2020, Mr. Giannakopoulos confirmed acceptance of the terms set out in the settlement agreement and an equivalent agreement between Cresford and Mr. Giannakopoulos "on behalf of [Mancuso] and I", in an email to Cresford's representatives and copied to Mancuso.

the intervening period. Among other responsibilities, he provided extensive information to Concord on behalf of YSL during Concord's due diligence process. He was also heavily involved in the sale of the remaining assets of Cresford's Casa 3 project.

26. On November 14, 2020, Mancuso sent an email advising Cresford that he would cease working on November 29, 2020 and claiming payment of the outstanding \$280,000 in bonuses under the settlement agreement and the unpaid 2020 bonuses. Mancuso was ultimately paid his unpaid wages and vacation time up to the date of his departure.

D. FAILURE TO PERFORM THE SETTLEMENT AGREEMENT

27. Under the settlement agreement, YSL and Cresford were required to pay the settlement payments by October 15, 2020. However, YSL and Cresford failed to pay Mancuso's outstanding 2017, 2018 and 2019 bonuses totaling \$280,000.

28. Mancuso sent a series of emails waiving Cresford's delay and extending the deadline for payment, which are included as **Attachment 7**. Despite these extensions, Cresford has failed to pay the \$280,000 in bonuses due under the settlement agreement.

E. BREACH OF CONTRACT

29. Under his Employment Agreement, Mancuso was entitled to the outstanding bonuses that had accrued since 2017 but which remained unpaid. YSL and the other Cresford Employers were contractually required to pay these bonuses, but failed to do so. There is no dispute that the 2017, 2018 and 2019 bonuses were payable and owing, as was acknowledged in the settlement agreement.

30. YSL and the other Cresford Employers have also failed to pay Mancuso's 2020 bonus of \$62,500, equal to 25% of Mancuso's base salary of \$250,000.

31. Finally, YSL and the other Cresford Employers failed to pay the \$175,000 retention bonus that Casey had promised to Mancuso in January 2020, despite Mancuso's extraordinary service to Cresford.

32. Mancuso accordingly submits this claim for these outstanding amounts.

Attachment 1



Marco Mancuso

January 22, 2015

RE: Employment Agreement

Dear Marco,

It is with pleasure that Cresford Developments would like to extend a full-time offer of employment to you based on the following:

- Start Date:** February 23, 2015
- Title:** Project Manager
- Salary:** \$120,000 CAD per annum, less statutory deductions, paid semi-monthly via direct deposit.
- Car Allowance:** All inclusive of costs, \$800 monthly, paid monthly, in addition to your base salary. Parking is expensed separately.
- Bonus:** You will be eligible to receive a bonus of up to 10% of your base salary based upon personal performance. The bonus for any given year is paid out in August of the following year. You will be eligible to receive an additional bonus of up to 10% of your base salary based on project performance. The bonus is accrued annually and paid out upon successful registration of the project. All bonuses are prorated based on your start date.
- Benefits:** You will be eligible to participate in the company benefits program after successful completion of your three (3) month probationary period (see details below).
- Vacation:** Three (3) weeks of vacation will be provided per year. All vacation is prorated based on your start date.
- Additional Expenses:** A company cell phone will be provided. Additional normal and reasonable approved business expenses will be reimbursed on a monthly basis as per company policy.
- Probationary Period:** The first three (3) months of your employment is deemed to be probationary. It is understood and agreed that the Employer will be the sole judge of the Employee's suitability. Therefore, during this period, the Employer may terminate the employment without cause or any form of termination payment as per the Ontario Employment Standards Act, 2000.

Please review the terms of this offer carefully and obtain any advice you require. If you agree to the arrangement described herein, please sign this letter and return it by **Friday, January 23, 2015** to indicate your acceptance.

Marco, we are truly excited about your interest in joining the Cresford Developments team and we are confident you will find your role here rewarding.

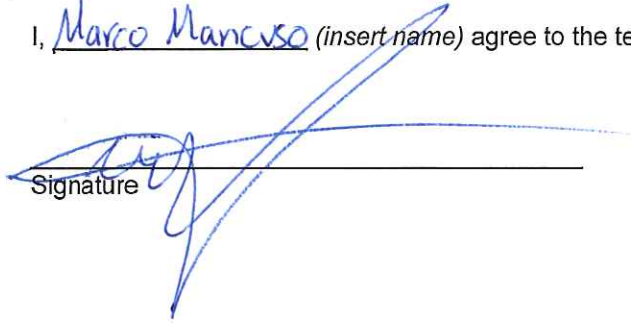
Sincerely,



Louie Giannakopoulos
Director, Construction

ACKNOWLEDGEMENT:

I, Marco Mancuso (insert name) agree to the terms and conditions of employment outlined herein.


Signature

January 29/15
Date

Attachment 2

Jan 6th, 2020

Marco Mancuso
381 Margueretta Street
Toronto ON M6H 3S6

RE: Revision to Employment Agreement

Dear Mr. Mancuso

Cresford (Rosedale) Developments Inc. (the "Employer" or "Cresford") would like to revise your existing employment agreement dated January 22, 2015 with the following amendments:

- Salary
 - Effective May 2, 2016, your salary was increased from \$120,000 CAD per annum to \$140,000 CAD per annum
 - Effective March 2, 2017, your salary was increased from \$140,000 CAD to \$150,000
 - Effective March 1 2018, your salary was increased from \$150,000 CAD to \$200,000
- Annual Bonus
 - You will be eligible to receive an annual bonus of 10% of your salary based upon your personal performance.
 - If it is determined that you are entitled to a bonus based on your performance, the bonus will be paid out in August of the following year. For example, if you are entitled to a bonus based on your performance for the year ended December 31, 2016, you will receive the bonus in August 2017.
 - The salary used in calculating your annual bonus will take into consideration of any salary changes during the year.
 - The annual bonus is prorated based on your employment period.
- Project Bonus
 - You will be eligible to receive a project bonus which is accrued annually and is paid out every 3 years based on your start date anniversary. For example, your project bonus for the period from March 2, 2018 to March 1, 2021 will be paid out in the March 15th, 2021 semi-monthly payroll.
 - The future project bonus will be accrued based on annual performance review in February of each year and annual accrued amount would be up to 15% of your salary based on the employee's performance review.
 - The project bonus is calculated as follows for the period from March 2 2015 to March 1 2018.
 - For the service period from March 2, 2015 to March 1, 2016, the project bonus accrual amount is \$12,000, which is calculated based on 10% of your salary of \$120,000.
 - For the service period effective March 2, 2016, the project bonus accrues at a rate of 15% of your annual salary.
 - For the service period from March 2, 2016 to March 1, 2017, the project bonus accrual amount is \$21,000, which is calculated based on 15% of your salary of \$140,000.
 - For the service period from March 2, 2017 to March 1, 2018, the project bonus accrual amount is \$22,500, which is calculated based on 15% of your salary of \$150,000.
 - The salary to be used in calculating your annual bonus will take into consideration of any salary changes during the year.

Effective January 1, 2020 my salary increase to \$250,000

[Handwritten signature]
Dec

This revision of your employment agreement forms a part of the employment agreement as an addendum to your existing employment agreement.

Please review the revised terms carefully and obtain any advice you require. If you agree to the arrangement described herein, please sign both copies of this letter and return it by Jan 9th, 2020 to indicate your acceptance. The other copy you may keep for your own records.

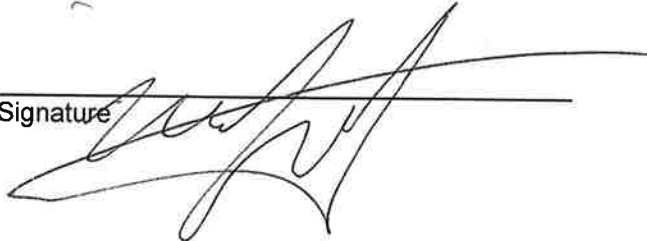
Sincerely,



Dan Casey
CEO

ACKNOWLEDGEMENT:

I, Marco Mancuso (insert name) agree to the revised terms and conditions of employment outlined herein.

Signature 

January 7, 2019
Date

Attachment 3

Fw: From Brother iPrint&Scan

From: Marco Mancuso <mancus0@hotmail.com>
To: Daniel Naymark <dnaymark@naymarklaw.com>

Sat, Nov 7, 2020 at 11:30 AM EST (GMT-05:00)

From: Marco Mancuso <marco@cresbuild.com>
Sent: November 7, 2020 11:29 AM
To: Marco Mancuso <mancus0@hotmail.com>
Subject: FW: From Brother iPrint&Scan

Marco Mancuso PMP, GSC, LEED AP

Director, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 281 | C: 416.452.0387 | E: marco@cresbuild.com

www.cresford.com/cresbuild

From: Joe Bolla <joebolla@gmail.com>
Sent: July 23, 2020 2:26 PM
To: Marco Mancuso <marco@cresbuild.com>
Subject: From Brother iPrint&Scan

Here is the document. I hope you can read it. I am available tomorrow to answer questions or discuss my proposal.

Regards, Joe

From Brother iPrint&Scan

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

Attachments

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- 32826.jpg

CONFIDENTIAL

Settlement Proposal (Without Prejudice)

My Role: Facilitate the settlement of certain employees' compensation. I offer this proposal as a friend of Cresford. It is intended to be for "discussion purposes" only.

Objective: Determine "what is fair" based on consideration of the circumstances and the facts, using my judgement and experience.

Circumstances:

- a) **Environment:** Covid-19 has impacted the viability of many small businesses. Millions of employees have been temporarily laid off and are receiving government subsidies. Many employees have been and will be terminated. Some companies are and will go out of business. These are very uncertain times. Unemployment has increased significantly.
- b) **Current Cresford Situation:** The banks stopped funding Cresford's projects in January, 2020. Since then, Cresford has received no corporate cash inflows to pay for its operations. In March 2020, three of Cresford's four projects were placed into receivership because they were not economically viable. Cresford obtained a loan secured by other assets (including 59 Hayden, 69 Hayden, CASA III townhomes, 357 ½ Yonge and 357A Yonge St) to provide some cash. The amount of debt secured by the other assets is \$56.5 million. In addition, the amount of debt secured by YSL is \$209 million. The monthly debt service of the total debt of \$265.5 million is \$1.1 million. The shareholder has personally contributed cash to fund this monthly interest, subsidize payroll and pay operating costs (including certain accounts payable). Neither Cresford nor the shareholder has cash.
- c) **Future Cresford Situation:** Cresford expects to receive some cash from the sale of other assets after repayment of the secured debt, from Clover after the project is registered and closed in a year and from the sale of YSL on closing and after the project is registered and closed in 5 years. Both Halo and 33 Yorkville are in the process of sale by the receiver. It is unknown whether Cresford will receive any cash from the sale proceeds of these projects.
- d) **Sale of YSL:** On July 17, 2020 an APS was executed for the sale of YSL. Due diligence began on July 21, 2020. The purchaser has 10 business days to complete its due diligence. During the due diligence period, the purchaser will decide whether it wants to hire some of Cresford's employees. Cresford will actively promote the hiring of its employees by the purchaser.

Purchase of Condominiums:

Certain employees arranged for their bonuses to be paid by credits towards the purchase of condominiums instead of cash. The projects in which the employees purchased the condominium units are now in receivership because they are not economically viable. This situation has created a complicated compensation issue. The employees converted their bonuses into investments which are subject to loss.

Two questions arise from bonuses being paid by credits towards the purchase of condominiums:

- 1) Has the bonus been paid? In my opinion, the bonus is not paid until the purchase of the condominium closes. So, the obligation to pay the bonus remains outstanding.
- 2) What is the status of the current fair market appreciation of the condominium? In my opinion, the fair market appreciation can only be determined when the condominium unit closes. Any apparent appreciation now is not relevant because the project is not economically viable and it is under construction. So, the purchase price of the condominiums must be increased in order for the project to be completed. After the condominium units close, the true fair market appreciation or loss can be determined. In any case, the employee converted payment of the bonus into an investment which is subject to loss.

Employee compensation does not include any loss in fair market appreciation.

Finally, bonuses are taxable transactions whether they are paid by credits to the purchase of condominium units or by cash.

Facts:

- a) The employees have made a major contribution to the development activities of Cresford. They demonstrated a results driven approach which made a difference to the outcome of many projects. In addition, during Cresford's struggle to survive and sell assets, the employees performed admirably in working with banks, receivers, construction managers, trades, suppliers and prospective purchasers. They are very good at what they do and their efforts are appreciated.
- b) Cresford is insolvent.
- c) Cresford's projects are not economically viable because of two factors:
 - i) Too many condominium units, more than the financing presale requirement, were sold at introductory prices. While selling prices increased significantly, there were not enough unsold units to absorb cost increases.
 - ii) Construction costs increased significantly primarily in response to US tariffs. The cost overruns were in excess of \$150 million.
- d) Employees are frustrated by Cresford's lack of communication. Cresford is "shell shocked" by the disintegration of its business.
- e) Payment for employee compensation must be funded by future cash proceeds from the sale of assets.

- f) Severance payments are intended to bridge employee compensation from termination of employment at Cresford to securing employment at a new company. The severance payments are "clawed back" by compensation received from the new employer during the severance period.
- g) The employees received a \$10,000 Christmas bonus in December 2019. They also received a \$65,000 bonus in early 2020. This bonus was a partial payment of an amount to be paid to the employees if Cresford remained a going concern in a year's time (i.e. at the end of 2020). In March 2020, when the projects were placed into receivership, Cresford was no longer a going concern. So, one quarter of the retention bonus was owed and paid.
- h) The employees have continued to receive their full salary to date. Other employees were temporarily laid off and some were terminated during this period. Their salaries were subsidized by contributions of cash by the shareholder in recognition of their work and importance to the organization.
- i) The employees are now represented by a lawyer. Two employees have served notice on Cresford claiming that they were constructively dismissed. This is a complicated legal issue.

Principles of Settlement:

- 1) Cresford is insolvent. Therefore, payment of the bonuses must be funded by future asset sales.
- 2) The impact of Covid-19 has been devastating for companies and employees. Many employees are unemployed and companies are struggling to survive. For those employees who have remained employed by companies still in business, many had to agree to reductions in their compensation because of the employers' ability to pay.
- 3) The employees' commitment to Cresford and their excellent performance deserve recognition.
- 4) Cresford must assist employees in securing new employment.
- 5) Given Cresford's limited access to cash, salary payments commencing August 1, 2020 should reduce the severance period. The impact of the shortened severance period to the employee should be minimal because it is expected that they will all have employment in a few months.

Conclusion:

Refer to Schedule A for my suggestion to resolve the outstanding compensation issues. I expect both the company and the employees will disagree with parts of my proposal. Hopefully, it will reopen the channel of communication and generate productive discussion.

Both Cresford and the employees have sacrificed much and there are limits to what can be done to resolve the issues. Compromise is necessary.

Schedule A: Marco Mancuso

Payment of Outstanding Bonuses:

- 1) 2017 bonus of \$200,000—this bonus was paid by a credit to the purchase price of a 33 Yorkville unit. The purchaser of the 33 Yorkville project will disclaim all 33 Yorkville condo purchase agreements. The bonus will be paid in 2 parts: \$100,000 from the closing of YSL by September 30, 2020 and \$100,000 from the proceeds of the completion and closing of the Clover project, expected to occur in August 2021.
- 2) 2018 bonus of \$30,000—this bonus will be paid from the closing of YSL by September 30, 2020.
- 3) 2019 bonus of \$50,000—this bonus will be paid from the proceeds of the conveyance of 69 Hayden which is expected to occur in September, 2020.
- 4) \$175,000 retention bonus and 2020 bonus of 25 % of base salary—\$75,000 (Christmas bonus of \$10,000 and \$65,000 to maintain Cresford as a going concern) has been paid. Cresford ceased to be a going concern in March, 2020. So, 25% of the gross retention bonus has been earned and paid. The base salary has been paid in 2020 because the shareholder personally contributed cash to fund your salary. Given the general economic environment and the insolvency of Cresford, no bonuses on the 2020 base salary can be paid.
- 5) Severance payments: Cresford to pay severance for 4 months commencing August 1, 2020, subject to clawback.

Additional source of income:

Potential short term consulting contract with purchaser of YSL.

Attachment 4

Settlement – Marco Mancuso

This is in full and final settlement of all salary, benefits and bonuses or other claims by Marco Mancuso against any of the Cresford Entities including Limited Partnerships and Dan Casey; with the exception of the items indicated in paragraph 6 below.

IN CONSIDERATION for this final settlement, Marco Mancuso shall receive \$280,000.00 plus continuance of his salary for five months commencing August 1, 2020, including benefits. Should Marco Mancuso obtain other employment or fees for consultation subsequent to August 1, 2020, the income received will reduce the monthly severance payments from the Cresford Entities (see footnote 1).

1. The \$280,000.00 shall be paid as follows:
 - a) \$180,000.00 to be paid from the proceeds on the earlier of (a) the closing of the YSL project or (b) the closing of the 69 Hayden street conveyance to the City of Toronto; which are both expected to occur by September 30, 2020.
 - b) \$100,000.00 to be paid from the proceeds of the closing of the Clover Project which is expected to occur in August 2021.
2. Cresford shall sign irrevocable directions to its lawyers to pay the above noted amounts in points 1(a) and 1(b) from the said proceeds, in the forms attached as Schedule "A". The undersigned shall provide Marco Mancuso with proof that the direction has been signed and delivered to council and confirmation of receipt by council. In the event that the undersigned changes council Marco Mancuso shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council.
3. Cresford shall obtain all approvals from the Court and its officers (including monitors and receivers) in any insolvency proceedings involving Cresford entities that are necessary to give effect to the commitments in paragraphs 1 (b).
4. In the event the payment in paragraph 1(a) is not paid in full by October 15, 2020 and the delay has not been waived in writing by Marco Mancuso, this agreement shall be null and void.
5. This agreement constitutes notice of the termination of Marco Mancuso's employment effective January 1, 2021 in which he shall receive continuance of his salary and benefits for five months commencing August 1, 2020.
6. Cresford agrees to continue discussions in resolving the outstanding items of: (a) pay in lieu of unused vacation, (b) severance commencement date and (c) 2020 accrued bonuses. These items are to be addressed after the execution of this settlement.

All of the above payments are subject to the statutory deductions.

Dated at Toronto, this 8th day of September, 2020.



Dan Casey on behalf of Cresford Entities
and Limited Partnerships

Marco Mancuso

¹ Including: Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover on Yonge Inc., The Clover on Yonge Limited Partnership, YSL Residences Inc., YG Limited Partnership, 9615334 Canada Inc., 50 Charles Street Limited, 69 Hayden Street Limited, 11 Gloucester Street Inc., and Cresford Holdings Ltd. (collectively, "Cresford")

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Dale & Lessmann LLP
Re: Sale of Clover Project to Concord Adex


You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Concord Adex in connection with the sale of the clover project in the sum of \$100,000 to Marco Mancuso (cell 416-452-0387, email: mancuso0@hotmail.com) and this shall be your good and sufficient authority for so doing.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Marco Mancuso. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

In the event that the undersigned changes council Marco Mancuso shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council. The undersigned shall provide proof that that the direction has been executed and delivered to Dale and Lessmann and confirmation of receipt by Dale and Lessmann.

Dated at Toronto, Ontario this 8th day of September, 2020.

Cresford (Rosedale) Developments Inc. NTD: Dale and Lessmann to confirm that this is the registered and beneficial owner. If it is not, then Dale and Lessman to insert the proper company.


Per: Dan Casey
President

Acknowledged by Dale & Lessmann LLP

Per:

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Nelligan O'Brien Payne LLP
Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Empire (Water Wave) Inc. or any successor or assign on the sale of the above noted Project the sum of \$180,000 to Marco Mancuso (cell 416-452-0387, email: mancuso0@hotmail.com) and this shall be your good and sufficient authority for so doing.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Marco Mancuso. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

In the event that the undersigned changes council Marco Mancuso shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council. The undersigned shall provide proof that the direction has been executed and delivered to Nelligan O'Brien and Payne LLP and confirmation of receipt by Nelligan O'Brien and Payne LLP.

Dated at Toronto, Ontario this 8th day of September, 2020.

Cresford (Rosedale) Developments Inc. NTD: Nelligan O'Brien and Payne to confirm that this is the registered and beneficial owner. If it is not, then Nelligan O'Brien and Payne to insert the proper company.



Per: Dan Casey
President

Acknowledged by Nelligan O'Brien Payne LLP

Per: _____

Attachment 5

Fw: Revised Agreements

From: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>
Sent: August 21, 2020 10:37 AM
To: Dave Mann <dmann@cresford.com>
Cc: Dan Casey <dcasey@cresford.com>; Marco Mancuso <marco@cresbuild.com>
Subject: RE: Revised Agreements

Morning Dave,

Without prejudice and as per our discussions with Dan, on behalf off Marco and I we agreed to proceed with the recent settlements issued to us. Again we are very appreciatively of what has been issued to date. We agree that we will leave the remaining couple of items to be discussed afterwards with Joe. As stated to Dan we want to continue maintaining our focus on the closing of YSL, Park Conveyance, Casa 3 Completion etc. Please proceed with the legal documents and directions through Nillegan.

Sincerely

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

Marco Mancuso PMP, GSC, LEED AP

Director, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 281 | C: 416.452.0387 | E: marco@cresbuild.com

www.cresford.com/cresbuild

From: Dave Mann <dmann@cresford.com>

Sent: August 20, 2020 12:08 PM

To: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>; Marco Mancuso <marco@cresbuild.com>

Cc: Dan Casey <dcasey@cresford.com>; 'Joe Bolla' <joebolla@gmail.com>

Subject: RE: Revised Agreements

WITHOUT PREJUDICE and CONFIDENTIAL

Hi Louie and Marco,

I just wanted to elaborate on Joe's email to you from yesterday. All projects were put on hold by the Banks in January meaning that all financing stopped. A key component of the financing draws are fees that are paid to Cresford Rosedale which are used to pay salaries and bonuses, along with other overhead costs. Monthly fee revenue was about \$1,000,000; it is now zero. Our payroll costs have declined significantly and a portion of salaries have been reimbursed by PWC which helps a little. Three projects have gone into receivership and YSL had its funding cut, forcing us to put it on the market.

To enable us to make payroll and keep Cresford alive, we have had to borrow money at high interest rates. We are being forced to sell all our Hayden Street assets.

We appreciate your continuing on with us in these difficult times. Joe has worked hard in coming up with the settlement proposals and I thought that there was agreement on those. Joe did mention that there were discussions with the two of you on severance start dates, vacation pay and 2020 bonuses but there was no agreement. As I mentioned to you, Joe is taking a break from Cresford to deal with his personal issues. We expect to be able to talk to him about this in a week or two and at that time, we can negotiate the three items. The settlements provide for a significant amount of income for both of you. Dan and I are also promoting your services with Empire.

You are also expecting Directions to be prepared to give you security on the payments. Those directions are being done by Nelligan and I hope to have them today or tomorrow.

Dan has instructed me to communicate this with you and go with the agreements as recommended by Joe. Let's get these signed up and then we can deal with the open items before the end of August.

Thanks

From: Louie Giannakopoulos

Sent: August 19, 2020 2:36 PM

To: Dave Mann <dmann@cresford.com>

Cc: Dan Casey <dcasey@cresford.com>; Marco Mancuso <marco@cresbuild.com>

Subject: RE: Revised Agreements

Dave,

Marco and I reached out to Dan to discuss our agreement and concerns. We agreed on the following items to be added to our Agreements. Dan will reach out to you to further discuss:

1. Severance Period: To commence after the YSL closing commencing on October 1, 2020 based on a period of:
 - a. Louie: 6 months
 - b. Marco: 5 months
2. Unused Vacation: Paid as a lump sum amount on October 1st, 2020
 - a. Louie: 20 days from 2020 = Total 20 days
 - b. Marco: 6 days carried over from 2019 + 20 days from 2020 = Total 26 days
3. Remaining Bonuses:
 - a. \$ 175,000 Tumultuous Times: Agreed to remove
 - b. 2020 Bonus, 25% of Base Salary:
 - i. Agreed to add based on the working period of January 1st, 2020 to September 30th, 2020 (9 months)
 - ii. To be paid on the closing of YSL
 1. Louie: \$ 56,250
 2. Marco: \$ 46,875
3. Securing Payments: How do you guarantee/secure payments based on closings of YSL and especially Clover

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

From: Marco Mancuso <marco@cresbuild.com>

Sent: August 19, 2020 12:49 PM

To: Dave Mann <dmann@cresford.com>; Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>

Cc: Joe Bolla <joebolla@gmail.com>; Dan Casey <dcasey@cresford.com>

Subject: RE: Agreement

Dave,

Below are the items that were discussed with Joe. Joe also spoke with Dan and Dan called us to confirm that he also agrees.

1. For Louie and Marco Severance period to commence after the YSL closing. To make it Easy, **Severance period to commence October 1, 2020.**
2. Marco and Louie to be paid for unused vacation time (please confirm when these unused vacation days will be paid).
 - a. **Marco** – 6 days carried over from 2019 + 20 days from 2020 = **total 26 days**
 - b. **Louie** – 20 days from 2020 = **total 20 days**
3. We agreed with Joe that our 2020 25% of base salary bonus and the \$175,000 “tough times” bonus would be added as a line item on the memo to be negotiated at a later date. We wanted to help speed up the process of getting something in writing and then negotiate/discuss the 2020 bonuses after the primary agreement was signed

4. We would need to confirm prior to signing anything that the method above constitutes a secured way of payment.
How is the YSL future payment and the Clover future payment guaranteed?

Please confirm with Joe if required as this was exactly what was discussed.

Thanks,

Marco Mancuso PMP, GSC, LEED AP

Director, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 281 | C: 416.452.0387 | E: marco@cresbuild.com

www.cresford.com/cresbuild

From: Dave Mann <dmann@cresford.com>

Sent: August 19, 2020 11:20 AM

To: Marco Mancuso <marco@cresbuild.com>; Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>

Subject: RE: Agreement

Hi guys,

We heard from Joe today and as you may know, he is tending to his wife. She had some major injuries from her car accident and has had a bit of a relapse. Joe is off the grid for a bit as he is looking after her.

Can you summarize the differences?

Thx

From: Marco Mancuso

Sent: August 19, 2020 11:08 AM

To: Dave Mann <dmann@cresford.com>

Cc: Dan Casey <dcasey@cresford.com>; Joe Bolla <joebolla@gmail.com>

Subject: Re: Agreement

Hi Dave can you please speak with Joe. It's almost there but it is not exactly what was discussed with Joe.

I'll give you a call later with Louie if required

Thanks

Marco Mancuso

Cresford Developments

416-452-0387

On Aug 19, 2020, at 10:49 AM, Dave Mann <dmann@cresford.com> wrote:

Hi Marco,

Attached is the agreement drafted by Nelligan as agreed between you and Joe. We will send the Directions when completed by the lawyers.

Thanks

From: Cathy Alderson [<mailto:Cathy.Alderson@nelliganlaw.ca>]

Sent: August 18, 2020 10:59 AM

To: Dave Mann <dmann@cresford.com>

Subject:

<Settlement - Marco Mancuso.docx>

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

Attachment 6

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Nelligan O'Brien Payne LLP

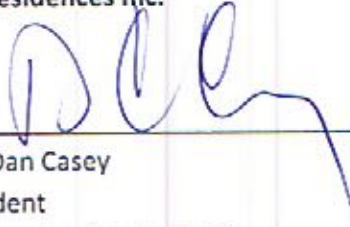
Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Empire (Water Wave) Inc. on the sale of the above noted Project the sum of \$180,000 to Marco Mancuso and this shall be your good and sufficient authority for so doing. Such payment shall be reduced on account of any monies paid to Marco Mancuso by or at the direction of Cresford (Rosedale) Developments Inc. pursuant to similar directions on transactions that may close at an earlier date.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Marco Mancuso. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

Dated at Toronto, Ontario this 14th day of September, 2020.

YSL Residences Inc.



Per: Dan Casey
President

I have authority to bind the corporation

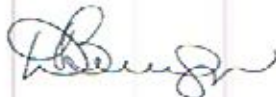
**YG Limited Partnership by its General Partner
9615334 Canada Inc.**



Per: Dan Casey
President

I have authority to bind the corporation

Acknowledged by Nelligan O'Brien Payne LLP



Per: Debbie Bellinger

IRREVOCABLE AUTHORIZATION AND DIRECTION

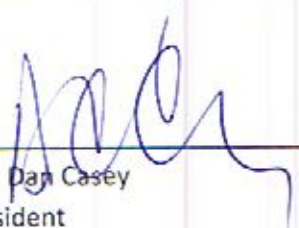
To: Dale & Lessmann LLP
AND
Any other counsel acting for any Cresford entity on the sale of the Clover Project

Re: Sale of Clover Project

You are hereby irrevocably authorized, instructed and directed to pay funds to Marco Mancuso in accordance with the enclosed irrevocable direction, regardless of whether:

1. A Cresford entity other than the one indicated is the recipient, payee or beneficial owner of funds payable as a result of the sale of the Clover project; or
2. A firm other than Dale & Lessman LLP acts for a Cresford entity in respect of the sale of the Clover project for any reason.

Dated at Toronto, Ontario this 1st day of September, 2020.



Per: Dan Casey
President

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Nelligan O'Brien Payne LLP
AND
Any other counsel acting for any Cresford entity on the sale of the YSL Project

Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay funds to Marco Mancuso in accordance with the enclosed irrevocable direction, regardless of whether:

1. A Cresford entity other than the one indicated is the recipient, payee or beneficial owner of funds payable as a result of the sale of the YSL project; or
2. A firm other than Nelligan O'Brien Payne LLP acts for a Cresford entity in respect of the sale of the YSL project for any reason.

Dated at Toronto, Ontario this 4 day of September, 2020.



Per: Dan Casey
President

Attachment 7

From: Marco Mancuso <mancus0@hotmail.com>
Sent: May 20, 2021 11:23 AM
To: Dcasey@cresford.com <Dcasey@cresford.com>; Dmann@cresford.com <Dmann@cresford.com>
Subject: Fw: Settlement agreement extension #6 - Marco Mancuso

Dan,

With respect to my settlement agreement:

Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$180,000 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date

again to December 15, 2020 and again extended the date to February 15, 2021. I then extended the date again to March 19, 2021. I then extended the date again until April 19, 2021. I then extended the date to May 26, 2021.

Please take this email as notice under that I further extend the deadline to June 30th, 2021.

Thank you,

From: Marco Mancuso <mancus0@hotmail.com>
Sent: April 13, 2021 10:59 AM
To: Dcasey@cresford.com <Dcasey@cresford.com>; Dmann@cresford.com <Dmann@cresford.com>
Subject: Re: Settlement agreement extension #6 - Marco Mancuso

Dan,

With respect to my settlement agreement:

Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$180,000 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date again to December 15, 2020 and again extended the date to February 15, 2021. I then extended the date again to March 19, 2021. I then extended the date again until April 19, 2021. Please take this email as notice under that I further extend the deadline to May 26th, 2021.

Thank you,

From: Marco Mancuso <mancus0@hotmail.com>
Sent: March 15, 2021 4:15 PM
To: Dcasey@cresford.com <Dcasey@cresford.com>; Dmann@cresford.com <Dmann@cresford.com>
Subject: Fw: Settlement agreement extension #5 - Marco Mancuso

Dan,

With respect to my settlement agreement:

Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$180,000 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date again to December 15, 2020 and again extended the date to February 15, 2021. I then extended the date again to March 19, 2021. Please take this email as notice under that I further extend the deadline to April 19, 2021.

Thank you,

From: Marco Mancuso <mancuso0@hotmail.com>
Sent: February 12, 2021 9:29 AM
To: Dcasey@cresford.com <Dcasey@cresford.com>; Dmann@cresford.com <Dmann@cresford.com>
Subject: Settlement agreement extension #4 - Marco Mancuso

Dan,

With respect to my settlement agreement:

Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$180,000 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date again to December 15, 2020 and again extended the date to February 15, 2021. Please take this email as notice under that I further extend the deadline to March 19, 2021.

Thank you,

Marco Mancuso PMP, GSC, LEED AP
Director, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: [416.971.7557](tel:416.971.7557) ext. 281 | C: [416.452.0387](tel:416.452.0387) | E: marco@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Marco Mancuso
Sent: November 13, 2020 12:01 PM
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>
Subject: Settlement agreement extension #2 - Marco Mancuso

Dan,

With respect to my settlement agreement:

Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$180,000 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. Please take this email as notice under that I further extend the deadline to December 15, 2020.

Thank you,

Marco Mancuso PMP, GSC, LEED AP
Director, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: [416.971.7557](tel:416.971.7557) ext. 281 | C: [416.452.0387](tel:416.452.0387) | E: marco@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Marco Mancuso
Sent: October 14, 2020 9:45 AM
To: Dan Casey <dcasey@cresford.com>; Dave Mann <dmann@cresford.com>; 'Joe Bolla' <joebolla@gmail.com>
Cc: Marco Mancuso <mancus0@hotmail.com>; Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>
Subject: Settlement agreement extension - Marco Mancuso

Dan,

As per paragraph number #4 of my signed settlement agreement; specifically in regards to paragraph 1(a). This email serves as my written notice that if payment is not received by the indicated date then the payment date shall be extended to November 15, 2020.

Thanks,

Marco Mancuso PMP, GSC, LEED AP
Director, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: [416.971.7557](tel:416.971.7557) ext. 281 | C: [416.452.0387](tel:416.452.0387) | E: marco@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Dave Mann <dmann@cresford.com>
Sent: September 8, 2020 2:21 PM
To: Marco Mancuso <marco@cresbuild.com>
Subject: FW: Marco

Hi Marco,

Attached are the documents signed by Dan. I have sent the directions to the lawyers for acknowledgement.

Dave

-----Original Message-----

From: Dave Mann [<mailto:dmann57@hotmail.com>]
Sent: September 8, 2020 2:11 PM
To: Dave Mann <dmann@cresford.com>
Subject: Marco

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

TAB B

SCHEDULE “B” – PRIORITY OF CLAIM

As a joint employer, YSL failed to pay Mancuso wages, salaries, commissions or compensation for services rendered during the period beginning on the day that is six months before the date of the initial bankruptcy event. This amount exceeded \$2,000.00. Mancuso accordingly has a priority claim for \$2,000.00 pursuant to sections 81.3 and 136(1)(d) of the BIA.

EXHIBIT "A" – AMENDED PARTICULARS OF CLAIMS

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$38,307 ~~\$153,228.00~~, being contractual pay in lieu of 6 ~~24~~ months' notice, inclusive of HST;
- (b) earned Bonus Commission (as defined below) on the YSL project, inclusive of HST: \$282,500.00;
- (c) earned Bonus Commission on the 33 Yorkville project, inclusive of HST: \$282,500;
- (d) earned Cooperating Commissions (as defined below), inclusive of HST: \$58,470; and
- (e) earned Broker Pool Commissions (as defined below), inclusive of HST: \$105,622.

2. The total value of the Claims is: \$767,399 ~~\$882,320~~.

I. OVERVIEW

3. Sarven (Steve) Cicekian (**Cicekian**) was employed in common by a number of Cresford companies, including YSL, until his constructive dismissal in late 2019.

4. Cicekian earned significant bonus commissions for assisting with the launch of the 33 Yorkville, Halo and YSL projects, amounts that were acknowledged in Cicekian's written employment agreement. As well, Cicekian earned cooperating commissions and broker pool commissions from marketing Cresford projects.

5. In December 2019, Cicekian requested payment of the bonuses and commissions that he had earned to date and that were then overdue for payment. Cresford failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him. Cicekian is accordingly owed damages in lieu of notice as a result of his dismissal.

6. YSL has acknowledged that it owes Cicekian at least a portion of these amounts. Cresford requested that Cicekian issue invoices to YSL for \$282,500 in bonus commissions, inclusive of HST, that were owing. YSL's chart of accounts payable acknowledged that it owed Cicekian \$565,000, equal to all of the bonus commissions then owed to Cicekian.

II. CICEKIAN'S EMPLOYMENT BY CRESFORD

7. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford. Cresford conducts its real estate development business through a series of project companies that hold title to and carry out individual development projects.

8. In March 2013, Cresford hired Cicekian as a sales representative. Cicekian's primary responsibility was to market and sell units in the Cresford projects. Cicekian was remunerated

through fixed monthly payments, commissions and bonuses. Cicekian was initially not asked to and did not sign any written agreements governing his engagement.

9. In 2015, Cresford promoted Cicekian to Director of Sales, with expanded responsibilities including the supervision of three sales staff and four administrative staff. Cicekian assisted in opening Cresford's real estate brokerage, Cresford Real Estate Corporation, and then acted as its broker of record.

10. In addition to YSL, Cicekian performed work for the following Cresford companies (the **Cresford Employers**): Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover On Yonge Inc., The Clover On Yonge Limited Partnership, and 9615334 Canada Inc.

11. Because Cicekian worked for all of these Cresford companies, he was employed in common by all of them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over Cicekian's activities relating to the associated real estate project;

- (c) Cicekian's bonus entitlements were specifically linked to his work on YSL and the other project companies; and
- (d) YSL specifically acknowledged that it was liable for paying amounts to Cicekian on behalf of other Cresford companies, as described in section VII below.

12. The Cresford Employers, including YSL, are accordingly jointly liable for all of the obligations owed to Cicekian.

13. On March 5, 2020, Cicekian, together with Mike Catsiliras, commenced an action against Cresford companies and certain directors and officers for breach of contract and oppression, later amended on September 22, 2020 (attached as **Attachment 1**). Cicekian adopts each of the allegations in the action for the purposes of these claims. This action was stayed against Clover, Halo and now YSL by the commencement of insolvency proceedings. As of the date of this claim, no statement of defence has been delivered in the action. The defendants have been noted in default but the parties are discussing terms of a potential consent order to set aside the default.

III. EARNED BONUS COMMISSIONS

14. Cresford's officers orally agreed to a bonus structure involving bonuses for sales of units in Cresford projects, which were paid by a project-specific Cresford corporation. Cresford and Cicekian agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Project | Earned Bonus Commission | Future Bonus Commission |
|----------------|------------------------------------|------------------------------------|
| 33 Yorkville | \$250,000 | \$250,000 |
| YSL | \$250,000 | \$250,000 |
| | \$500,000 | \$500,000 |

15. Cresford and Cicekian agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following the project's launch, and the remaining 50% upon registration of the project's condominium corporation.

16. Cicekian earned the first 50% of each Bonus Commission and claims these amounts. He does not claim the future Bonus Commissions payable upon the registration of the projects, as that milestone has not yet occurred.

17. In early December 2019, Cicekian executed a Contracting Services Agreement (attached as **Attachment 2**), with amending schedules that confirmed certain bonus commissions previously agreed to. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

18. YSL is liable for each of these earned Bonus Commissions as an employer in common of Cicekian.

IV. COOPERATING COMMISSIONS

19. In addition to selling new units in the Cresford projects, Cicekian also acted as a cooperating agent on behalf of some buyers of the units. Like other cooperating agents, Cicekian earned commissions on those sales, which were set out in the relevant agreements of purchase and sale and recorded in the trade sheets maintained by Cresford Real Estate, Cresford's wholly owned

brokerage company. These commissions were payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

20. Cicekian earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Project | Earned Cooperating Commission | Future Cooperating Commission |
|----------------|--------------------------------------|--------------------------------------|
| 33 Yorkville | \$51,744 | \$51,744 |

21. As of January 2020, the first 50% of these cooperating commissions were earned by Cicekian, for which YSL is jointly liable as an employer in common.

V. BROKER POOL COMMISSIONS

22. Cresford’s agents also facilitated the resale and lease of Cresford project units. For such transactions, Cresford Real Estate would credit the resulting commission to a “pool” of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford’s agents.

23. As of January 2020, Cresford Real Estate owed Cicekian \$93,471 for these shared broker pool commissions (the **Broker Pool Commissions**), for which YSL is jointly liable as an employer in common.

VI. CONSTRUCTIVE DISMISSAL

24. In December 2019, Cicekian requested payment of the bonuses and commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him.

25. On January 2, 2020, Cicekian advised that as a result of non-payment and the deteriorating situation at Cresford, they would “resign” their positions effective in two weeks. As a matter of law, however, Cicekian was constructively dismissed and did not resign.

26. Cresford has failed to pay Cicekian pay in lieu of notice of termination, who is entitled to 6 ~~24~~ months’ salary in lieu of notice. Cicekian’s monthly compensation was \$5,000, plus HST. YSL is jointly liable as an employer in common for 6 ~~24~~ months’ pay in lieu of notice of termination, being \$38,307 ~~\$153,228~~ inclusive of HST.

VII. YSL’S ACKNOWLEDGMENT OF ITS LIABILITY FOR THE EARNED BONUS COMMISSIONS OWING

27. Cresford acknowledged that YSL was required to pay the bonuses that were owing to Mike Cicekian. In December 2019, Cresford requested that Cicekian issue invoices to YSL and 33 Yorkville for the \$250,000 in earned Bonus Commissions owing in relation to each of those projects.

28. Cicekian accordingly issued the following invoices under the name of his professional services company, Rosa Trading Ltd.:

- (a) an invoice on December 19, 2019 to YSL totaling \$282,500, inclusive of HST (attached as **Attachment 3**); and
- (b) an invoice on December 13, 2019 to 33 Yorkville totaling \$282,500, inclusive of HST (attached as **Attachment 4**).

29. On March 31, 2020, Cresford created a list of accounts payable owed by YSL dated as of March 31, 2020 (attached as **Attachment 5**). On that list, YSL acknowledged that it owed Cicekian, through Rosa Trading Ltd., an amount of \$565,000, equal to the two invoices issued in December.

Bankruptcy and Insolvency Act ("Act")

Proof of Claim

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

| | | | |
|----------------|--------------------------------------|------------|-------------------------------|
| Creditor Name: | <u>Sarven Cicekian</u> | Telephone: | <u>(416) 768-9994</u> |
| Address: | <u>c/o James Gibson, Naymark Law</u> | Fax: | <u>(647) 660-5060</u> |
| | <u>171 John Street, Suite 101,</u> | Email: | <u>jgibson@naymarklaw.com</u> |
| | <u>Toronto, ON, M5T 1X3</u> | | |
| Account No.: | <u>Nil</u> | | |

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. and YG Limited Partnership (*name of debtor*) of the City of Toronto, Ontario (*city and province*) and the claim of Sarven Cicekian, creditor.

I, Sarven Cicekian (*name of creditor or representative of the creditor*), of City of Toronto, Ontario (*city and province*), do hereby certify:

1. That I am a creditor of the above-named debtor (~~or that I am _____ (*state position or title*) of _____ (*name of creditor*)~~).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of **\$882,320.00**, as specified in the statement of account (or affidavit) attached and marked **Schedule "A"**, after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$882,320.00 (other than as a customer contemplated by Section 262 of the Act)
That in respect of this debt, I do not hold any assets of the debtor as security and
(Check appropriate description.)

Regarding the amount of \$880,320.00, I do not claim a right to a priority.

Regarding the amount of \$2,000.00, I claim a right to a priority under Section 136 of the Act.
(Set out on an attached sheet details to support priority claim.)
See **Schedule "B"**.

B. SECURED CLAIM OF \$0.00
That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

C. CONSTRUCTION LIEN CLAIM OF \$0.00
That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

1. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non-arm's-length manner.
2. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at City of Toronto, Ontario, this 11th day of June, 2021.



Witness



Creditor Authorized Signatory
Sarven Cicekian

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE

CONDITIONAL CLAIM ADDENDUM

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

Creditor Authorized Signatory

TAB A

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

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

IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC.

Applicants

AFFIDAVIT OF SARVEN CICEKIAN
(Sworn on June 11, 2021)

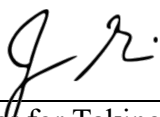
I, Sarven Cicekian, of the City of Toronto, Ontario, MAKE OATH AND SAY:

1. I am a creditor in this proceeding, and as such have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe the information to be true.
2. I confirm that the information contained in the particulars of claim attached as **Exhibit "A"**, together with the supporting attachments, is accurate and I adopt it for the purposes of this affidavit.

3. I make this affidavit in support of a proof of claim in this proceeding, and for no other or improper purpose.

SWORN by videoconference technology by the deponent, located in the City of Toronto, Ontario, before the commissioner, located in the City of Toronto, Ontario in accordance with O. Reg. 431/20, Adminstrating Oath Remotely on June 11, 2021

}



Commissioner for Taking Affidavits
JAMES GIBSON



SARVEN CICEKIAN

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF SARVEN CICEKIAN
SWORN BEFORE ME, THIS 11TH DAY OF JUNE, 2021



JAMES GIBSON

A Commissioner Etc.

| |
|--|
| EXHIBIT "A" – PARTICULARS OF CLAIMS |
|--|

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$153,228.00, being contractual pay in lieu of 24 months' notice, inclusive of HST;
- (b) earned Bonus Commission (as defined below) on the YSL project, inclusive of HST: \$282,500.00;
- (c) earned Bonus Commission on the 33 Yorkville project, inclusive of HST: \$282,500;
- (d) earned Cooperating Commissions (as defined below), inclusive of HST: \$58,470; and
- (e) earned Broker Pool Commissions (as defined below), inclusive of HST: \$105,622.

2. The total value of the Claims is: \$882,320.

I. OVERVIEW

3. Sarven (Steve) Cicekian (**Cicekian**) was employed in common by a number of Cresford companies, including YSL, until his constructive dismissal in late 2019.

4. Cicekian earned significant bonus commissions for assisting with the launch of the 33 Yorkville, Halo and YSL projects, amounts that were acknowledged in Cicekian's written employment agreement. As well, Cicekian earned cooperating commissions and broker pool commissions from marketing Cresford projects.

5. In December 2019, Cicekian requested payment of the bonuses and commissions that he had earned to date and that were then overdue for payment. Cresford failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him. Cicekian is accordingly owed damages in lieu of notice as a result of his dismissal.

6. YSL has acknowledged that it owes Cicekian at least a portion of these amounts. Cresford requested that Cicekian issue invoices to YSL for \$282,500 in bonus commissions, inclusive of HST, that were owing. YSL's chart of accounts payable acknowledged that it owed Cicekian \$565,000, equal to all of the bonus commissions then owed to Cicekian.

II. CICEKIAN'S EMPLOYMENT BY CRESFORD

7. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford. Cresford conducts its real estate development business through a series of project companies that hold title to and carry out individual development projects.

8. In March 2013, Cresford hired Cicekian as a sales representative. Cicekian's primary responsibility was to market and sell units in the Cresford projects. Cicekian was remunerated

through fixed monthly payments, commissions and bonuses. Cicekian was initially not asked to and did not sign any written agreements governing his engagement.

9. In 2015, Cresford promoted Cicekian to Director of Sales, with expanded responsibilities including the supervision of three sales staff and four administrative staff. Cicekian assisted in opening Cresford's real estate brokerage, Cresford Real Estate Corporation, and then acted as its broker of record.

10. In addition to YSL, Cicekian performed work for the following Cresford companies (the **Cresford Employers**): Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover On Yonge Inc., The Clover On Yonge Limited Partnership, and 9615334 Canada Inc.

11. Because Cicekian worked for all of these Cresford companies, he was employed in common by all of them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over Cicekian's activities relating to the associated real estate project;

- (c) Cicekian's bonus entitlements were specifically linked to his work on YSL and the other project companies; and
- (d) YSL specifically acknowledged that it was liable for paying amounts to Cicekian on behalf of other Cresford companies, as described in section VII below.

12. The Cresford Employers, including YSL, are accordingly jointly liable for all of the obligations owed to Cicekian.

13. On March 5, 2020, Cicekian, together with Mike Catsiliras, commenced an action against Cresford companies and certain directors and officers for breach of contract and oppression, later amended on September 22, 2020 (attached as **Attachment 1**). Cicekian adopts each of the allegations in the action for the purposes of these claims. This action was stayed against Clover, Halo and now YSL by the commencement of insolvency proceedings. As of the date of this claim, no statement of defence has been delivered in the action. The defendants have been noted in default but the parties are discussing terms of a potential consent order to set aside the default.

III. EARNED BONUS COMMISSIONS

14. Cresford's officers orally agreed to a bonus structure involving bonuses for sales of units in Cresford projects, which were paid by a project-specific Cresford corporation. Cresford and Cicekian agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Project | Earned Bonus Commission | Future Bonus Commission |
|----------------|------------------------------------|------------------------------------|
| 33 Yorkville | \$250,000 | \$250,000 |
| YSL | \$250,000 | \$250,000 |
| | \$500,000 | \$500,000 |

15. Cresford and Cicekian agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following the project's launch, and the remaining 50% upon registration of the project's condominium corporation.

16. Cicekian earned the first 50% of each Bonus Commission and claims these amounts. He does not claim the future Bonus Commissions payable upon the registration of the projects, as that milestone has not yet occurred.

17. In early December 2019, Cicekian executed a Contracting Services Agreement (attached as **Attachment 2**), with amending schedules that confirmed certain bonus commissions previously agreed to. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

18. YSL is liable for each of these earned Bonus Commissions as an employer in common of Cicekian.

IV. COOPERATING COMMISSIONS

19. In addition to selling new units in the Cresford projects, Cicekian also acted as a cooperating agent on behalf of some buyers of the units. Like other cooperating agents, Cicekian earned commissions on those sales, which were set out in the relevant agreements of purchase and sale and recorded in the trade sheets maintained by Cresford Real Estate, Cresford's wholly owned

brokerage company. These commissions were payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

20. Cicekian earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Project | Earned Cooperating Commission | Future Cooperating Commission |
|----------------|--------------------------------------|--------------------------------------|
| 33 Yorkville | \$51,744 | \$51,744 |

21. As of January 2020, the first 50% of these cooperating commissions were earned by Cicekian, for which YSL is jointly liable as an employer in common.

V. BROKER POOL COMMISSIONS

22. Cresford's agents also facilitated the resale and lease of Cresford project units. For such transactions, Cresford Real Estate would credit the resulting commission to a "pool" of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford's agents.

23. As of January 2020, Cresford Real Estate owed Cicekian \$93,471 for these shared broker pool commissions (the **Broker Pool Commissions**), for which YSL is jointly liable as an employer in common.

VI. CONSTRUCTIVE DISMISSAL

24. In December 2019, Cicekian requested payment of the bonuses and commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him.

25. On January 2, 2020, Cicekian advised that as a result of non-payment and the deteriorating situation at Cresford, they would “resign” their positions effective in two weeks. As a matter of law, however, Cicekian was constructively dismissed and did not resign.

26. Cresford has failed to pay Cicekian pay in lieu of notice of termination, who is entitled to 24 months’ salary in lieu of notice. Cicekian’s monthly compensation was \$5,000, plus HST. YSL is jointly liable as an employer in common for 24 months’ pay in lieu of notice of termination, being \$153,228 inclusive of HST.

VII. YSL’S ACKNOWLEDGMENT OF ITS LIABILITY FOR THE EARNED BONUS COMMISSIONS OWING

27. Cresford acknowledged that YSL was required to pay the bonuses that were owing to Mike Cicekian. In December 2019, Cresford requested that Cicekian issue invoices to YSL and 33 Yorkville for the \$250,000 in earned Bonus Commissions owing in relation to each of those projects.

28. Cicekian accordingly issued the following invoices under the name of his professional services company, Rosa Trading Ltd.:

- (a) an invoice on December 19, 2019 to YSL totaling \$282,500, inclusive of HST (attached as **Attachment 3**); and
- (b) an invoice on December 13, 2019 to 33 Yorkville totaling \$282,500, inclusive of HST (attached as **Attachment 4**).

29. On March 31, 2020, Cresford created a list of accounts payable owed by YSL dated as of March 31, 2020 (attached as **Attachment 5**). On that list, YSL acknowledged that it owed Cicekian, through Rosa Trading Ltd., an amount of \$565,000, equal to the two invoices issued in December.

Attachment 1

AMENDED THIS
MODIFIÉ CE

September 22nd, 2020

PURSUANT TO
CONFORMÉMENT À

RULE/LA RÈGLE 26 02 (A)

THE ORDER OF
L'ORDONNANCE DU

DATED / FAIT LE

REGISTRAR
SUPERIOR COURT OF JUSTICE

GREFIER
COUR SUPÉRIEURE DE JUSTICE

ONTARIO

SUPERIOR COURT OF JUSTICE

Court File No. CV-20-00637543-0000

BETWEEN:

SARVEN CICEKIAN and MIKE CATSILIRAS

Plaintiffs

- and -

CRESFORD REAL ESTATE CORPORATION, CRESFORD (ROSEDALE)
DEVELOPMENTS INC., EAST DOWNTOWN REDEVELOPMENT
PARTNERSHIP, 33 YORKVILLE RESIDENCES INC., 33 YORKVILLE
RESIDENCES LIMITED PARTNERSHIP, 480 YONGE STREET INC., 480
YONGE STREET LIMITED PARTNERSHIP, THE CLOVER ON YONGE INC.,
THE CLOVER ON YONGE LIMITED PARTNERSHIP, YSL RESIDENCES INC.,
YG LIMITED PARTNERSHIP, 9615334 CANADA INC., DANIEL C. CASEY and
DAVID MANN

Defendants

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for
you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure,
serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the
plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this
statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of
America, the period for serving and filing your statement of defence is forty days. If you are served
outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of
intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to
ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date: March 5, 2020

Issued by: "@V-E Filing"
Local Registrar
Ontario Superior Court of Justice
330 University Avenue, Toronto ON

TO: NELLIGAN O'BRIEN PAYNE LLP
50 O'Connor Street, Suite 300
Ottawa, ON K1P 6L2

Allan R. O'Brien (LSO No. 15326T)
allan.obrien@nelliganlaw.ca
Tel 613.231.8224
Fax 613.788.3654

Counsel for the Defendants

CLAIM

1. The plaintiffs, Sarven Cicekian and Mike Catsiliras, claim as against the defendants:
 - (a) damages for breach of contract and oppression in the amount of \$1,600,000 \$1,400,000 plus harmonized sales tax, including in relation to the outstanding Bonus Commissions, Cooperating Commissions, Broker Pool Commissions and Other Commissions (as defined below) and constructive dismissal;
 - (b) damages for breach of contract and oppression in the further amounts set out below, plus harmonized sales tax:
 - (i) \$900,000, which was payable upon the completion of the projects that are the subject of the Bonus Commissions (as defined below) prior to the defendants' breach;
 - (ii) \$199,818, which was payable upon the final closing of the units that are the subject of the Cooperating Commissions (as defined below) prior to the defendants' breach;
 - (c) a declaration pursuant to section 248 of the *Business Corporations Act*, RSO 1990, c B.16 (*OBCA*) that the business of the corporate defendants and their affiliates was conducted, and the powers of their directors were exercised, in a manner that was oppressive, unfairly prejudicial and unfairly disregarded the interests of the plaintiffs;

- (d) an order pursuant to section 248 of the *OBCA* that this Honourable Court finds appropriate, including compensating the plaintiffs for the defendants' oppressive conduct;
- (e) a declaration that Casey is liable to each of the plaintiffs for an amount equal to six months' wages under section 131 of the *Business Corporations Act*, RSO 1990, c B.16;
- (f) pre- and post-judgment interest in accordance with the *Courts of Justice Act*, RSO 1990, c C.43, as amended (*CJA*);
- (g) costs of this action on a full indemnity basis; and
- (h) such further and other relief as the nature of this case may require and this Honourable Court deems just.

A. Parties

2. The plaintiffs Sarven Cicekian (**Cicekian**) and Mike Catsiliras (**Catsiliras**) are registered real estate salespersons and residents of Toronto. As described below, the plaintiffs were engaged to sell units in a number of condominium projects.

3. The corporate defendants (together, **Cresford**) are each Ontario corporations and partnerships. They are each part of a group of companies and partnerships engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford, including the following condominium projects:

- (a) The Clover on Yonge (**Clover**), a 44-storey condominium located near Yonge and Bloor owned by Clover on Yonge Inc. in its capacity as general partner of Clover on Yonge Limited Partnership;
- (b) Halo Residences on Yonge (**Halo**), a 38-storey condominium tower located on Yonge Street between Wellesley and Carlton in Toronto owned by 480 Yonge Street Inc., the general partner of 480 Yonge Street Limited Partnership;
- (c) The Residences of 33 Yorkville (**33 Yorkville**), a condominium with one 64- storey tower and one 41-storey tower owned by 33 Yorkville Residences Inc., in its capacity as general partner of 33 Yorkville Residences Limited Partnership; and
- (d) Yonge Street Living Residences (**YSL**), an 85-storey condominium tower located at the corner of Yonge and Gerrard in Toronto, which is owned by YSL Residences Inc. and 9615334 Canada Inc. in its capacity as the general partner of YG Limited Partnership.

4. The defendant Cresford Real Estate Corporation (**Cresford Real Estate**) is a corporation in the Cresford Group and a registered real estate brokerage.

5. The defendant Cresford (Rosedale) Developments Inc. is a company in the Cresford Group that was involved in producing a written agreement related to the Bonus Commissions, as described below.

6. The defendant East Downtown Redevelopment Partnership acts as a management company for the Cresford Group.

7. The defendant, Daniel Casey (**Casey**), is an individual resident in Ontario. At all material times, Casey was the principal of Cresford and is the beneficial owner of and controls the corporate defendants.

8. The defendant, David Mann (**Mann**), is an individual resident in Ontario. At all material times, Mann was the Chief Financial Officer of Cresford.

9. The following defendants are now subject to stays of proceedings imposed as a result of insolvency proceedings:

(a) 33 Yorkville Residences Inc. and 33 Yorkville Residences Limited Partnership are subject to a court-appointed receivership (CV-20-00637297-00CL) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (**BIA**);

(b) 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership are subject to a court-appointed receivership (CV-20-00637301-00CL) under the BIA; and

(c) The Clover On Yonge Inc. and The Clover On Yonge Limited Partnership were subject to a court-appointed receivership (CV-20-00637301-00CL) under the BIA, which was converted into a proceeding under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (CV-20-00642928-00CL).

B. Plaintiffs' Employment by Cresford

10. In March 2013, Cresford hired Cicekian as a sales representative. In that role, Cicekian was responsible for selling new condominium units in Cresford developments, and for reselling and leasing previously sold units.

11. In 2015, Cresford promoted Cicekian to Director of Sales, with expanded responsibilities including the supervision of three sales staff and four administrative staff. At around the same time, Cresford hired Catsiliras as a sales representative.

12. Prior to 2017, Cicekian and Catsiliras each maintained their realtor registration with an independent brokerage, through which each performed their sales and leasing activities for Cresford. In 2017, Cresford opened its own brokerage, Cresford Real Estate, through which Cicekian and Catsiliras then undertook these activities. Cicekian became broker of record for Cresford Real Estate.

13. At around this time, Cresford further promoted Cicekian to the position of Vice President of Sales, with expanded responsibilities that included exercising signing authority on behalf of Cresford for sales matters. Catsiliras was promoted to the position of Director of Sales.

14. At the material times, Cicekian reported directly to Maria Athanasoulis (**Athanasoulis**), the President and Chief Operating Officer of Cresford. Catsiliras reported to Cicekian.

15. The plaintiffs' primary responsibility was to market and sell units in the Cresford projects, including at the "launch" or initial offering of the condominium units made over a period of two or three days. Cresford's typical goal was to sell up to 75 percent of the new units in a project during the launch. The launch and the preceding month were accordingly periods of intense activity for Cresford's salespeople. As described below, the plaintiffs also acted as agents for the lease and resale of Cresford project units.

C. Commissions for Sales of New Project Units

16. The plaintiffs were remunerated through fixed monthly payments, commissions and bonuses, which are described below. This remuneration was set in agreement with Casey and Athanasoulis, acting on behalf of Cresford. Aside from the written bonus agreements described below, the plaintiffs were not asked to and did not sign any written agreements governing their engagement, other than one written agreement signed by Cicekian in 2013 relating to a discrete Cresford project not in issue.

17. Prior to the launch of each Cresford development project, Athanasoulis, on behalf of Cresford, orally agreed to a commission structure with each of Cicekian and Catsiliras. For these new unit sales, a project-specific Cresford corporation paid the plaintiffs, not Cresford Real Estate. These Cresford projects were employers or contractors of the plaintiffs in common with the brokerage and exercised common control over their activities.

18. Cresford generally offered discounted prices and lower deposit amounts for project units to the plaintiffs, as an incentive to purchase units. In some cases, the plaintiffs agreed with Cresford that their commissions would be credited towards the deposit and purchase price of a unit that they were purchasing in the project, rather than being paid to the plaintiffs in cash.

19. For earlier projects, Cresford agreed to pay a flat commission per unit sold, payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. For example, Cicekian was awarded bonus commissions on prior projects in the following approximate amounts: Casa 3 (\$124,000), VOX (\$119,000) and Clover (\$256,000). Catsiliras received approximately \$125,000 in bonus commissions on the Clover project.

20. In or around the summer of 2016, the plaintiffs’ commission structure changed. Given a shorter selling period and the success of the prior launches, Athanasoulis and the plaintiffs agreed to move to a lump sum, per-project bonus commission payable for each project. The amounts of these commissions were discussed and agreed upon prior to each project’s launch. Approximately \$150,000 in bonus commissions on the Halo project were awarded to Cicekian in this fashion.

21. In accordance with this arrangement, Cresford and the plaintiffs agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Agent | Project | Bonus Commission |
|-----------------|----------------|-------------------------|
| Mike Catsiliras | Halo | \$200,000 |
| | 33 Yorkville | \$300,000 |
| | YSL | \$300,000 |
| Total | | <hr/> \$800,000 |
| Sarven Cicekian | 33 Yorkville | \$500,000 |
| | YSL | \$500,000 |
| Total | | <hr/> \$1,000,000 |

22. Cresford and the plaintiffs agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following project launch, and the remaining 50% upon registration of the project’s condominium corporation. The plaintiffs had a trusting relationship with Athanasoulis and were invested in Cresford’s success, and so did not insist on a firm deadline for payment of the first 50% of each Bonus Commission.

23. In early December 2019, the plaintiffs and Athanasoulis took steps to memorialize the unpaid Bonus Commissions that the plaintiffs had earned. The plaintiffs each executed a Contracting Services Agreement, with amending schedules that confirmed the Bonus

Commissions payable for those projects. Athanasoulis signed each contract on behalf of Cresford (Rosedale) Developments Inc., acting as agent for the relevant Cresford project companies. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

24. The plaintiffs and Athanasoulis used template agreements without the assistance of counsel. The primary purpose of these written agreements was to memorialize the Bonus Commission amounts previously agreed to orally. They did not intend to alter any terms of those prior agreements. To the extent that the written agreements are interpreted to do so, the plaintiffs seek an order that those agreements be rectified.

25. By that point, Cresford's business was in financial distress and had failed to pay commissions owing to cooperating agents from other brokerages. Casey failed to provide a clear plan to address these issues. As Cresford's face in the broker community, the plaintiffs' professional reputations began to suffer. Athanasoulis' management authority was removed after she raised concerns about the deteriorating situation at Cresford.

D. Cooperating Commissions

26. In addition to selling new units in the Cresford projects, the plaintiffs also acted as cooperating agents on behalf of some buyers of the units. Like other cooperating agents, the plaintiffs earned commissions on those sales, which were set out in the relevant agreements of purchase and sale and recorded in the trade sheets maintained by Cresford Real Estate. These commissions were payable 50% when the agreement of purchase and sale became firm and 50%

when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

27. The plaintiffs earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Agent | Project | Cooperating Commission |
|-----------------|----------------|-------------------------------|
| Mike Catsiliras | Clover | \$20,753 |
| | 33 Yorkville | \$168,394 |
| | YSL | \$107,001 |
| Total | | <hr/> \$296,147 |
| Sarven Cicekian | 33 Yorkville | \$103,488 |
| Total | | <hr/> \$103,488 |

28. As of January 2020, 50% of these cooperating commissions (\$199,818) were due and payable to the plaintiffs, with the balance payable on the closing of the relevant units.

E. Broker Pool Commissions

29. Cresford’s agents also facilitated the resale and lease of Cresford Project units. For such transactions, Cresford Real Estate would credit the resulting commission to a “pool” of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford’s agents. As of January 2020, Cresford Real Estate owed Cicekian and Catsiliras \$93,471 and \$88,471 respectively in these shared broker pool commissions (the **Broker Pool Commissions**).

F. Other Commissions

30. The plaintiffs also earned commissions, payable by Cresford Real Estate on a resale/assignment transaction carried out by Cicekian (in an amount of \$24,500) and a lease transaction carried out by Catsiliras (in an amount of \$1,000) (the **Other Commissions**).

G. The Plaintiffs' Departure from Cresford

31. The plaintiffs dedicated themselves to Cresford's business and were an instrumental part of the marketing and sale of Cresford's projects. When Cresford had issues with its cash flow, the plaintiffs did not insist on immediate payment of their bonuses and commissions. They were invested in the success of Cresford's enterprises.

32. Over time, the plaintiffs became disenchanted with the way in which Cresford was carrying on business, including its failure to pay third party agent commissions from sales of Cresford project units. The plaintiffs began to be bombarded with agents' demands for payment and found themselves having to defend Cresford, when they themselves were owed over \$1 million in commissions. The plaintiffs repeatedly insisted that Cresford meet its financial obligations to these other agents and their professional reputations deteriorated when Cresford refused to do so.

33. In December 2019, Cicekian requested payment of the commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the plaintiffs, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed the plaintiffs.

34. On January 2, 2020, the plaintiffs advised that as a result of non-payment and the deteriorating situation at Cresford, they would "resign" their positions effective in two weeks. As a matter of law, however, the plaintiffs were constructively dismissed and did not resign. Shortly

afterwards, Casey advised each of them that they were not to return to work. Cicekian therefore ceased acting as broker of record for Cresford Real Estate effective January 6, 2020, as he could no longer carry out those responsibilities.

35. After their departure, the plaintiffs detailed the amount of the overdue Broker Pool and Other Commissions and demanded that they be paid. The plaintiffs had previously issued invoices for the Cooperating Commissions. The plaintiffs also demanded a firm timeline for when the Bonus Commissions would be paid to them.

36. Mann confirmed that the amounts of Broker Pool and Other Commissions claimed were correct. However, he advised that Cresford would withhold payment until Cicekian signed the necessary documents to transfer Cresford Real Estate to another broker of record. Cicekian did so, but Mann nevertheless failed to authorize payment of the outstanding commissions despite his representation that he would do so.

37. As of the date of this statement of claim, Cresford has failed to make any payments of the outstanding amounts owing to them.

H. Breach of Contract

38. The plaintiffs performed in good faith the services asked of them by Cresford. Despite the plaintiffs' repeated demands, Cresford has breached its obligation to pay the commissions owing, including the Cooperating Commissions, the Broker Pool Commissions, and the Other Commissions.

39. In addition, each of the relevant Cresford companies undertook to pay the Bonus Commissions owed to the plaintiffs for their efforts in marketing their units, as memorialized in the written bonus agreement. These defendants have breached their obligation to pay the first installments of the Bonus Commissions that are immediately owing and have repudiated their obligation to pay the second installment of those commissions.

I. Constructive Dismissal

40. By persistently refusing to honour the plaintiffs' employment entitlements, Cresford implemented significant changes to the plaintiffs' employment. The essential terms and conditions of the plaintiffs' employment substantially changed as a consequence of Cresford's actions.

41. Cresford did not consult the plaintiffs before implementing these changes. Rather, Cresford continually delayed and renege on its promises to induce the plaintiffs to continue working for Cresford.

42. As pleaded at paragraph 32 to 34 above, these changes to the plaintiffs' employment, imposed by Cresford, amount to constructive dismissal. The changes were substantial and detrimental, and entitled the plaintiffs to terminate their contracts of employment and claim damages in lieu of reasonable notice.

43. Cresford has failed to pay the plaintiffs pay in lieu of notice of termination, who are entitled to 24 months' salary, vacation entitlements, and other employment benefits, in an amount to be particularized prior to trial.

J. Oppression

44. The plaintiffs reasonably expected that the corporate defendants would manage their affairs in accordance with their legal obligations, including their obligation to act with a view to the best interests of the corporation. The plaintiffs reasonably expected that the corporate defendants would use the funds that it had earmarked to pay broker commissions for that purpose.

45. Instead, the corporate defendants withheld funds from Cresford Real Estate in order to address the deteriorating financial condition of Cresford's business. In carrying out the conduct described above, the defendants conducted the corporations' affairs in a manner that was oppressive, unfairly prejudicial and unfairly disregarded the interests of the plaintiffs.

46. By causing, permitting or acquiescing to this conduct and by misrepresenting and concealing it, Casey and Mann acted oppressively towards the plaintiffs in bad faith. It is appropriate to order a personal remedy against them because they personally benefited from withholding those funds to benefit other corporations under their control, they breached their duties to the corporation, and a remedy ordered against only Cresford Real Estate may prejudice the corporation's other creditors.

K. Liability under the OBCA

47. At the material times, Casey was a director of each of the Cresford companies. Under section 131 of the OBCA, he is liable to the plaintiffs for all debts not exceeding six months' wages that became payable while he was a director for the services performed by the plaintiffs for Cresford, including all amounts claimed in this action.

L. Place of Trial

48. The plaintiffs propose that this action be tried in Toronto.

NAYMARK LAW

171 John Street, Suite 101
Toronto, Ontario M5T 1X3

Daniel Z. Naymark LSO#: 56889G
Tel: (416) 640-6078
Fax: (647) 660-5060
dnaymark@naymarklaw.com

James Gibson LSO#: 62858O
Tel: (416) 640-1592
Fax: (647) 660-5060
jgibson@naymarklaw.com

Lawyers for the Plaintiffs,
Sarven Cicekian and Mike Catsiliras

CICEKIAN et. al.
Plaintiffs

- and -

CRESFORD REAL ESTATE CORPORATION et. al.
Defendants

Court File No. Court File No. CV-20-00637543-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**
PROCEEDING COMMENCED AT TORONTO

AMENDED STATEMENT OF CLAIM

NAYMARK LAW

171 John Street, Suite 101
Toronto, Ontario M5T 1X3

Daniel Z. Naymark LSO#: 56889G

Tel: (416) 640-6078

Fax: (647) 660-5060

dnaymark@naymarklaw.com

James Gibson LSO#: 628580

Tel: (416) 640-1592

Fax: (647) 660-5060

jgibson@naymarklaw.com

Lawyer for the Plaintiffs, Sarven Cicekian and Mike
Catsiliras

Attachment 2

CONTRACTING SERVICES AGREEMENT

BETWEEN:

Cresford (Rosedale) Developments Inc, a company having its office at 170 Merton Street, Toronto, ON M4S 1A1

(hereinafter referred to as "Cresford")

-And-

Sarven Cicekian

(hereinafter referred to as the "Contractor")

WHEREAS the Company agrees to contract for the services of the Contractor, and the Contractor agrees to enter a contract for provision of such services;

NOW THEREFORE, in the consideration of the mutual covenants and agreements herein contained, the parties agree, each with the other, as follows:

1. Commencement

Service under this Agreement shall commence on September 1, 2017 and shall continue until terminated as provided in paragraph 7.

Terms are as follows:

- a. The Contractor will receive a monthly service fee in the amount of FIVE THOUSAND DOLLARS, plus HST, (\$5000 + HST) to be paid semi-monthly on the 15th and 30th of each month (or the closest business day). Invoices will require a minimum of 5 business days for processing. Invoices submitted late may result in delayed payment.
- b. The Contractor will receive a commission, as outlined in the attached Schedule A, on the firm sale of the units for projects by Cresford as outlined in Schedule A.
- c. Commission is payable per the attached Schedule A.
- d. No commission is payable on any corporate head office or insider sales, unless otherwise stated and agreed to.
- e. Service fees and commissions are project defined and are subject to change. Any change shall be reflected in writing, requiring both the Contractor and an authorized Cresford signing officer to sign and acknowledge said changes.
- f. The Contractor is entitled to enroll in the company's health benefit program for contractors. The Contractor shall not be entitled to any other benefits or any other compensation other than said health benefits, the monthly service fee noted in paragraph 1a and the commission noted in Schedule A.
- g. The Contractor shall be entitled to remit for certain pre-approved expenses, if applicable.
- h. This Agreement supersedes any other agreement, whether oral, written or otherwise, previously made between you and Cresford.

2. Status

The Contractor is, for all intents and purposes, considered to be an independent real estate contractor. As such, you are not required to work exclusively for Cresford. It is understood and agreed that there is no employer-employee relationship between Cresford and the Contractor, and nothing shall be construed to create such a relationship.

While the Contractor agrees to exercise his/her attention and efforts in performing the services listed in paragraph 1 herein, the Company agrees that during the term of the Contract the Contractor is free to provide services to other organizations on the condition that the provision of such services is not provided to businesses or clients who offer related services in Ontario or who are competitors of the Company in Ontario without prior notification and that such services does not interfere with the performance of services hereunder and does not bring the Contractor into a conflict of interest or perception of a conflict of interest with the Company or his/her contract with the Company.

The Contractor shall be responsible and assumes full liability for all monies owing by him on account of any and all statutory obligations, including monies owed as income tax and H.S.T.

The Contractor represents and warrants that he/she is an independent Contractor. This is not a contract of employment and the Contractor shall not be treated as if he/she had an employment relationship with the Company. The Contractor covenants and agrees to save harmless and indemnify the Company from and against all claims, including charges, taxes, penalties or demands which may be made by the Minister of National Revenue requiring the Company to pay income tax under the *Income Tax Act (Canada)* in respect of income tax payable by the Contractor, and in respect of any and all claims, including charges, taxes, penalties or demands which may be made on behalf of or related to the Employment Insurance Commission, the Ministry of Labour, the Canada Pension Commission or any other statutory body under the applicable Statutes and Regulation, with respect to any amount which has been paid or may, in the future, be found to be payable by the Company to the Contractor.

3. Commissions

The Contractor shall receive commissions in accordance with Section 1 or as otherwise provided for in this Agreement. All payments due the Contractor shall be paid within 45 days of the receipt by Cresford of the corresponding commission, such payments are subject to any set-offs or deduction as otherwise provided for in this Agreement or in any schedule attached hereto.

4. Indemnity

The Contractor shall indemnify and save Cresford harmless from any and all expenses, costs, causes of action and damages, including legal expenses, incurred by Cresford resulting from: (i) any and all unauthorized acts or transactions by the Contractor or your employees, if any; (ii) negligent acts committed by the Contractor or your employees, if any, and (iii) any breach of this Agreement by the Contractor.

5. Confidentiality

The Contractor agrees that both during and after termination of this Agreement: (i) the Contractor will keep the business affairs of Cresford secret and confidential, including the Contractor's commission structure, (ii) the Contractor will not use any marketing and/or administrative reports, programs, purchase lists, copies, or other intellectual property of Cresford save and except for purposes of performing the Contractor's duties to Cresford pursuant to this Agreement, and (iii) during the term of this Agreement the Contractor agrees names of all prospects for the purpose of condominium sales obtained by the Contractor during the term of this Agreement are and shall remain property of Cresford and their clients and the Contractor shall not contact such prospects or in any way deal with them for the listing of sales or rental of condominium units or other real property without prior written approval from Cresford.

6. Errors and Omissions

The Contractor will secure and maintain proper Errors and Omissions Insurance in such amounts as required by Cresford at the Contractor’s sole expense and will provide proof of such coverage upon request by Cresford. If the Contractor fails to pay for such insurance coverage, the Contractor hereby authorizes Cresford to pay for it on your behalf and set-off said amounts against any amounts owed to the Contractor.

7. Termination

Cresford may terminate this Agreement for any reason whatsoever upon providing fifteen (15) days written notice to the Contractor. In addition to the forgoing, Cresford shall have the right to terminate this Agreement immediately upon written notice to the Contractor for any one or more of the following reasons (“Termination Event”):

- a. A material breach of any representation, warranty or covenant on part of the Contractor contained in this Agreement or any schedule attached hereto;

The Contractor may terminate this Agreement for any reason whatsoever upon providing Cresford with at least fifteen (15) days written notice, or in the event the contractor does not want to be reassigned as required by Cresford, the Contractor will be given fifteen(15) written notice.

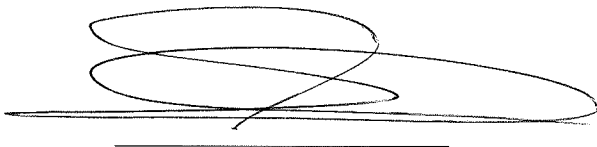
8. Severability

Every provision of this agreement is intended to be severable. If any term of provision is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this Agreement.

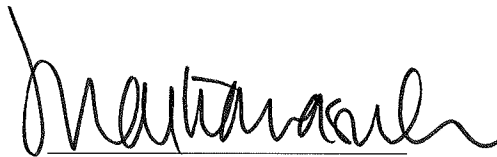
- 9. This Agreement shall be governed by and construed to be in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of us agrees to submit to the non-exclusive jurisdiction of the Courts of the Province of Ontario.

Paragraphs 1 through 9 and Schedule A are an integral part hereto. Both undersigned parties acknowledge that they have read all paragraphs and schedules of this agreement and they accept and agree to the terms thereof.

DATED at Toronto, this 2 day of September, 2017



Sarven Cicekian



Maria Athanasoulis
President, Marketing & Sales

Schedule A

Commission Structure for 33 YORKVILLE

1. A bonus commission of Five Hundred Thousand Dollars (\$500,000) will be payable to the Contractor for the 33 Yorkville Condominiums. The first 50% (\$250,000) will be payable after the Agreement of Purchase and Sale ("APS") becomes firm. The second 50% (\$250,000) will be payable upon successful final closing of the units. ("Deferred Commission").

If the Agreement is terminated due to a Termination Event or at the option of the Contractor, The Contractor shall forfeit any Deferred Commissions and/or bonuses due.

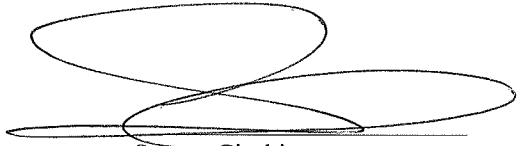
Schedule A – First Amendment

Commission Structure for YSL Condominiums


2. A bonus commission of Five Hundred Thousand dollars (\$500,000) will be payable to the Contractor for the YSL Condominiums. The first 50% (\$250,000) will be payable after the Agreement of Purchase and Sale (“APS”) becomes firm. The second 50% (\$250,000) will be payable upon successful final closing of the units. (“Deferred Commission”).

If the Agreement is terminated due to a Termination Event or at the option of the Contractor, The Contractor shall forfeit any Deferred Commissions and/or bonuses due.

DATED at Toronto, this 10 day of November, 2018



Sarven Cicekian



Maria Athanasoulis
President, Marketing & Sales

Attachment 3

Rosa Trading Ltd.

Invoice No. 228
Invoice Date: 19-Dec-20
Bill To: YSL Residences Inc.
Address: 59 Hayden Street #200
Toronto, ON M4Y 0E7
Phone: (416)971-0557
E-mail:
Fax: (416)971-9504

| Description | Units | Cost Per Unit | Amount |
|---|-------|---------------|-----------|
| First half/portion of bonus- sales at YSL | | | \$250,000 |
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|-------------------------|------------------|-----------|-------------------|
| | Invoice Subtotal | \$ | 250,000.00 |
| | HST | | 13.00% |
| HST # 74790 2724 RT0002 | Sales Tax | | 32,500.00 |
| | Other | | |
| | Deposit Received | | |
| TOTAL | | \$ | 282,500.00 |

Attachment 4

Rosa Trading Ltd.

| | |
|---------------|--|
| Invoice No. | 227 |
| Invoice Date: | 13-Dec-20 |
| Bill To: | 33 Yorkville Residences Inc. |
| Address: | 59 Hayden Street #200 Toronto, ON M4Y 0E7 |
| Phone: | (416)971-0557 |
| E-mail: | |
| Fax: | (416)971-9504 |

| Description | Units | Cost Per Unit | Amount |
|--|-------|---------------|-----------|
| First half/portion of bonus- sales at 33 Yorkville | | | \$250,000 |
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| | Invoice Subtotal | \$ | 250,000.00 |
| | HST | | 13.00% |
| HST # 74790 2724 RT0002 | Sales Tax | | 32,500.00 |
| | Other | | |
| | Deposit Received | | |
| | TOTAL | \$ | 282,500.00 |

Attachment 5

20 - YG Limited Partnership
AP - Accounts Payable / Claims
Summary Aged Payables List
As of Mar31/20

Aged by Invoiced Date

| Code | Supplier Name | Net A/P | Current | 31-60Days | 61-90Days | Over90Days | Holdback |
|--------------------|---|----------------------|----------------------|----------------------|---------------------|----------------------|--------------|
| 2460242 | 2460242 Ontario Inc. | 40,466.02 | 24,536.65 | 23,929.37 | 0 | 0 | 0 |
| 2600024 | 2600024 Ontario Inc. | 67,000.00 | 0 | 67,000.00 | 0 | 0 | 0 |
| 1STCHO | 1st Choice Disposal | 8,916.81 | 426.3 | 832.05 | 1,749.94 | 5,908.52 | 0 |
| AECPAR | AEC Paralegal Corporation | 593.25 | 0 | 0 | 0 | 593.25 | 0 |
| AIMHOM | Aim Home Realty Inc | 15,018.01 | 0 | 0 | 0 | 15,018.01 | 0 |
| AIRBER | Aird & Berlis LLP | 15,781.60 | 8,651.07 | 7,130.53 | 0 | 0 | 0 |
| ALTGRO | Altus Group Limited | 20,959.70 | 542.12 | 2,422.98 | 0 | 17,994.60 | 0 |
| ALUINC | AlumaSafway, Inc | 46,505.15 | 0 | 28,210.45 | 0 | 18,294.70 | 0 |
| ARCALL | Architects Alliance | 1,008,914.62 | 46,505.90 | 146,076.70 | 146,168.69 | 670,163.33 | 0 |
| BAAGRO | Baaron Group Inc. | 20,397.91 | 0 | 1,582.00 | 0 | 18,815.91 | 0 |
| BACONS | BA Consulting Group Ltd. | 6,844.99 | 2,178.08 | 2,895.63 | 0 | 1,771.28 | 0 |
| BAYSTR | Bay Street Group Inc | 45,737.98 | 0 | 0 | 0 | 45,737.98 | 0 |
| BENSTR | BENP Mortgage Investment Corp | 39,267.12 | 0 | 0 | 0 | 39,267.12 | 0 |
| BENTON | Bank Tom | 2,007.72 | 0 | 492.79 | 0 | 1,514.93 | 0 |
| BENJON | Bennett Jones LLP | 44,825.62 | 0 | 243.3 | 4,439.49 | 40,142.83 | 0 |
| BLAMCM | Blaney McMurtry LLP | 100,056.60 | 0 | 8,142.96 | 0 | 91,913.64 | 0 |
| BLICOU | Blizzard Courier Service Ltd. | 335.5 | 0 | 0 | 0 | 335.5 | 0 |
| BVDGRO | BVDA Group Ltd. | 1,130.00 | 0 | 0 | 0 | 1,130.00 | 0 |
| CANCAN | Canon Canada Inc. | 37.9 | 0 | 37.9 | 0 | 0 | 0 |
| CBSCAP | CBSC Capital Inc. | 1,574.50 | 0 | 838.87 | 0 | 735.63 | 0 |
| CITDOO | Citywide Door & Hardware Inc. | 1,130.00 | 0 | 0 | 0 | 1,130.00 | 0 |
| CITPER | The Treasurer, City of Toronto | 500 | 0 | 500 | 0 | 0 | 0 |
| CITREA | Cityscape Real Estate Ltd. | 246,999.63 | 0 | 0 | 0 | 246,998.63 | 0 |
| CLAREA | Homelife Classic Realty Inc | 12,478.00 | 0 | 0 | 0 | 12,478.00 | 0 |
| CONPLU | Re/Max Condo Plus Corp | 16,358.00 | 0 | 0 | 0 | 16,358.00 | 0 |
| CREBEL | Cresford Real Estate Corporation | 6,759.00 | 0 | 0 | 6,759.00 | 0 | 0 |
| DALLES | Dale & Lessmann LLP | 982.33 | 982.33 | 0 | 0 | 0 | 0 |
| DEKCORP | Dekla Corporation | 0 | 0 | 0 | 0 | 0 | 25,000.00 |
| ENBGAS | Enbridge Gas Inc. | 0.01 | 0 | 0 | 0 | 0.01 | 0 |
| ENTCOR | Entuitive Corporation | 5,508.75 | 0 | 0 | 0 | 5,508.75 | 0 |
| ERAARC | E.R.A. Architects Inc. | 43,455.57 | 0 | 0 | 0 | 43,455.57 | 0 |
| FEDWIR | Federal Wireless Communicatio | 4,291.74 | 0 | 0 | 0 | 4,291.74 | 0 |
| FORHIL | Forest Hill Real Estate Inc | 30,876.00 | 0 | 0 | 0 | 30,876.00 | 0 |
| FOSINT | Foster Interactive Inc. | 1,627.20 | 0 | 0 | 813.6 | 813.6 | 0 |
| FOUSEL | Four Seasons Hotel Toronto | 97,930.35 | 0 | 0 | 0 | 97,930.35 | 0 |
| GFLINF | GFL Infrastructure Goup Inc. | 3,663,177.53 | 296,561.83 | 0 | 513,400.92 | 2,853,214.78 | 445,803.10 |
| HERRES | Heritage Restoration Inc | 393,005.53 | 0 | 0 | 0 | 393,005.53 | 0 |
| HOMFRO | HomeLife Frontier Realty Inc. | 25,376.00 | 0 | 0 | 0 | 25,376.00 | 0 |
| HOMLAN | HomeLife Landmark Realty Inc. | 1,669,032.01 | 0 | 0 | 0 | 1,669,032.01 | 0 |
| HOMSTA | Home Standards Brickstone Rea | 90,068.00 | 0 | 0 | 0 | 90,068.00 | 0 |
| HOWGAS | Howe Gastmeier Chapnik Limite | 668.11 | 0 | 0 | 0 | 668.11 | 0 |
| HUNASS | Hunter & Associates Ltd. | 2,923.88 | 0 | 0 | 0 | 2,923.88 | 0 |
| HYDMIS | Toronto Hydro-Electric System | 44,097.88 | 0 | 0 | 0 | 44,097.88 | 0 |
| INNPAT | Innocon Partnership | 50,239.12 | 0 | 0 | 1,296.34 | 48,942.78 | 0 |
| INVHAR | Investments Hardware Limited | 14,471.85 | 0 | 257.3 | 4,161.60 | 10,052.95 | 0 |
| ISHERW | Isherwood | 107,416.33 | 18,659.01 | 24,789.71 | 0 | 63,967.61 | 0 |
| JABAST | Jablonsky, Ast and Partners | 349,631.55 | 0 | 3,851.55 | 11,300.00 | 334,480.00 | 0 |
| JANROS | JanetRosenberg&Studio Inc. | 13,152.35 | 0 | 3,030.94 | 0 | 10,121.41 | 0 |
| JDLREA | JDL Realty Inc. | 20,478.00 | 0 | 0 | 0 | 20,478.00 | 0 |
| JENHUG | Jensen Hughes Consulting Cana | 34,317.01 | 18,002.14 | 0 | 0 | 16,314.87 | 0 |
| KELWIL | Keller Williams Referred | 23,036.00 | 0 | 0 | 0 | 23,036.00 | 0 |
| KENREA | Century 21 Kennect Realty | 53,036.00 | 0 | 0 | 0 | 53,036.00 | 0 |
| KINQUA | Century 21 King's Quay Real E | 37,594.00 | 0 | 0 | 0 | 37,594.00 | 0 |
| KOHPED | Kohn Pedersen Fox Associates | 1,836,000.00 | 0 | 0 | 0 | 1,836,000.00 | 0 |
| KRMDES | Kramer Design Associates Limi | 74,184.50 | 0 | 0 | 0 | 74,184.50 | 0 |
| LAMASS | Lam & Associates Ltd. | 129,925.39 | 0 | 31,194.40 | 39,103.39 | 59,627.60 | 0 |
| LANREA | LandpowerReal Estate Ltd. | 2,256,548.80 | 17,018.00 | 0 | 37,578.00 | 2,201,952.80 | 0 |
| LEAEDG | Century 21 Leading Edge Realt | 10,878.00 | 0 | 0 | 0 | 10,878.00 | 0 |
| LERBAT | Lerch Bates | 11,900.00 | 0 | 0 | 0 | 11,900.00 | 0 |
| LIVPAT | Live Patrol Inc. | 11,187.00 | 1,864.50 | 1,864.50 | 1,864.50 | 5,593.50 | 0 |
| LIVREA | Living Realty Inc. | 88,588.00 | 0 | 88,588.00 | 0 | 0 | 0 |
| MASCHO | Master's Choice Realty, Inc. | 379,298.00 | 0 | 0 | 0 | 379,298.00 | 0 |

20 - YG Limited Partnership
 AP - Accounts Payable / Claims
 Summary Aged Payables List
 As of Mar31/20

Aged by Invoiced Date

| Code | Supplier Name | Net A/P | Current | 31-60Days | 61-90Days | Over90Days | Holdback |
|-------------------|---------------------------------------|----------------------|--------------|--------------|--------------|----------------------|--------------|
| MCIPER | McIntosh Perry | 218.09 | 0 | 0 | 0 | 218.09 | 0 |
| MICBRO | Michael Bros. Excavating | 1,582,858.80 | 38,442.60 | 307,540.80 | 653,524.20 | 583,351.20 | 155,640.00 |
| | Mike Catsiliras | 282,500.00 | | | | 282,500.00 | |
| MONSTE | Montana Steele | 73,927.81 | 477.81 | 14,690.00 | 14,690.00 | 44,070.00 | 0 |
| MULBAN | Mulvey & Banani Lighting Inc. | 29,978.91 | 0 | 1,582.00 | 5,311.00 | 23,085.91 | 0 |
| MUNMEC | Municipal Mechanical Contract | 11,303.14 | 11,303.14 | 0 | 0 | 0 | 0 |
| MYLBUR | Myles Burke | 35,798.40 | 0 | 17,899.20 | 0 | 17,899.20 | 0 |
| NAFCON | Naf-Muk Contracting Inc | 2,439.67 | 0 | 0 | 0 | 2,439.67 | 0 |
| NEWCON | Royal LePage - New Concept | 85,770.01 | 15,018.01 | 0 | 0 | 70,752.00 | 0 |
| NEWWOR | HomeLife New World Realty Inc | 544,355.99 | 0 | 0 | 283,570.00 | 260,785.99 | 0 |
| NORAME | North American Sign Company I | 2,825.00 | 0 | 0 | 0 | 2,825.00 | 0 |
| ODADET | The Odan/Detech Group Inc. | 5,831.20 | 2,214.80 | 1,237.35 | 830.55 | 1,548.50 | 0 |
| OTICAN | Otis Canada Inc. | 4,912,110.00 | 0 | 0 | 0 | 4,912,110.00 | 483,000.00 |
| PETCON | PETRA Consultants Ltd. | 178,856.40 | 0 | 83,168.00 | 0 | 95,688.40 | 0 |
| PMSVEN | PM Sheetmetal & Ventilation | 26,442.00 | 0 | 0 | 0 | 26,442.00 | 2,600.00 |
| POWREA | Powerland Realty, Brokerage | 10,678.00 | 0 | 0 | 0 | 10,678.00 | 0 |
| PRIDEM | Priestly Demolition Inc. | 374,609.80 | 0 | 0 | 0 | 374,609.80 | 0 |
| PRIVAT | PricewaterhouseCoopers LLP | 19,266.50 | 0 | 0 | 0 | 19,266.50 | 0 |
| RAVSUR | R. Avis Surveying Inc. | 53,757.52 | 0 | 8,311.15 | 18,758.58 | 26,687.79 | 0 |
| REAENT | RE/MAX Realty Enterprises Inc | 72,090.00 | 0 | 0 | 0 | 72,090.00 | 0 |
| REAONE | Real One Realty Inc. | 181,936.00 | 0 | 0 | 91,768.00 | 90,168.00 | 0 |
| REAREA | RE/MAX Realtron Realty Inc. | 28,117.97 | 0 | 0 | 0 | 28,117.97 | 0 |
| RECCLE | Reco Cleaning Services | 62,376.57 | 0 | 10,664.94 | 0 | 51,711.63 | 0 |
| REPLIM | Reprodex Limited | 578.23 | 24.23 | 227.59 | 326.57 | 0 | 0 |
| RIGATH | Right At Home Realty Inc. | 10,678.00 | 0 | 0 | 0 | 10,678.00 | 0 |
| | Rosa Trading Ltd. | 565,000.00 | | | | 565,000.00 | |
| ROYELI | Royal Elite Realty Inc.,Broke | 16,198.00 | 0 | 0 | 0 | 16,198.00 | 0 |
| SAFMAN | Safeline Management Systems I | 8,723.60 | 0 | 2,576.40 | 813.6 | 5,333.60 | 0 |
| SEBSTE | Sebba Steel Construction Ltd. | 86,075.49 | 0 | 12,147.50 | 0 | 73,927.99 | 0 |
| SIGREA | Royal LePage - Signature Real | 14,578.00 | 0 | 0 | 0 | 14,578.00 | 0 |
| SPLCON | WSP Canada Inc. | 24,025.14 | 6,630.28 | 14,127.26 | 2,055.47 | 51,216.13 | 0 |
| STACON | Stantec Consulting Ltd. | 1,463.26 | 0 | 0 | 0 | 1,463.26 | 0 |
| STEREN | Stephenson's Rental Services | 4,678.43 | 4,678.43 | 0 | 0 | 0 | 0 |
| STRAGG | Strada Aggregates | 27,075.99 | 11,780.66 | 0 | 0 | 15,295.33 | 0 |
| THODOR | Thompson Dorfman Sweatman LLP | 6,475.77 | 0 | 0 | 0 | 6,475.77 | 0 |
| TRAFIR | Trace Fire Protection Inc. | -30 | 0 | 0 | 0 | -30 | 0 |
| TRAREA | Tradeworld RealtyInc. | 67,770.00 | 0 | 0 | 0 | 67,770.00 | 0 |
| ULTREA | ReMax Ultimate Realty Inc. | 16,718.00 | 0 | 0 | 0 | 16,718.00 | 0 |
| VASDES | V.A. Siu Design Consultants | 96,050.00 | 0 | 0 | 0 | 96,050.00 | 0 |
| VERSTR | Verdi Structures Inc | 718,680.00 | 718,680.00 | 0 | 0 | 0 | 50,000.00 |
| WESGUA | Westmount Guarantee Services | 444,155.00 | 0 | 0 | 222,955.00 | 221,200.00 | 0 |
| YOUREN | You-Go Rental & Sales | 2,808.71 | 411.32 | 476.39 | 548.05 | 1,372.95 | 0 |

Total Report 24,093,159.03 1,245,589.26 919,340.51 2,062,786.49 19,865,442.77 1,162,043.10

Less: Payments
 Westmount -444,155.00

Add: Accruals
 Taron enrolment 1,510,000.00
 Tie-back commitment 1,875,000.00

Holdbacks 1,162,043.00

28,196,047.03

TAB B

| |
|---|
| SCHEDULE "B" – PRIORITY OF CLAIM |
|---|

As a joint employer, YSL failed to pay Cicekian wages, salaries, commissions or compensation for services rendered during the period beginning on the day that is six months before the date of the initial bankruptcy event. This amount exceeded \$2,000.00. Cicekian accordingly has a priority claim for \$2,000.00 pursuant to sections 81.3 and 136(1)(d) of the BIA.

EXHIBIT "A" – AMENDED PARTICULARS OF PROOF OF CLAIM

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are for:

- (a) \$262,500 in bonuses earned by Giannakopoulos as employment remuneration in 2017 and 2019; and
- (b) \$75,000 in bonuses earned by Giannakopoulos in 2020;
- (c) \$19,615 for 17 used vacation days; and
- (d) \$87,500, being 50% of the \$175,000 retention bonus earned for remaining with Cresford after January 2020, reduced to reflect contingencies associated with this claim.

2. Total value of the Claims described above is \$444,615 ~~\$532,115~~.

A. OVERVIEW

3. Louie Giannakopoulos (**Giannakopoulos**) was the Vice President, Construction at Cresford, responsible for overseeing and carrying out the construction of its developments. He was employed in common by the various Cresford companies for which he worked, including YSL, until he left Cresford in January 2021.

4. Giannakopoulos earned significant bonuses for assisting in Cresford projects, which remained unpaid by Cresford. In September 2020, Giannakopoulos and Cresford, including YSL,

entered into a settlement agreement, in which Cresford acknowledged and agreed to pay Giannakopoulos's outstanding bonuses and certain other amounts owing to him. Cresford failed to perform the settlement and pay the amounts owing to Giannakopoulos.

5. As Giannakopoulos's common employer, YSL is jointly and severally liable for his outstanding employment entitlements. Cresford and YSL acknowledged these outstanding amounts in writing in the settlement agreement and they are beyond dispute.

B. GIANNAKOPOULOS'S EMPLOYMENT BY CRESFORD AND DUTIES WITH YSL

6. In February 2014, Cresford hired Giannakopoulos as Senior Project Manager for Construction. Giannakopoulos was promoted to Director, Construction in January 2015 and to Vice President, Construction in February 2018. He served in that role until his departure in January 2021, described below.

7. In January 2014, Giannakopoulos executed an employment agreement (included as **Attachment 1**). Under the employment agreement drafted by Cresford, Giannakopoulos' employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

8. Under the 2014 employment agreement, Giannakopoulos was entitled to:

- (a) a base annual salary of \$170,000;
- (b) an annual bonus payment of up to 25% of his base salary, 50% of which was guaranteed and 50% of which was discretionary based on overall performance.

9. Cresford and Giannakopoulos never amended the original employment agreement. By 2020, however, Giannakopoulos' base annual salary had increased to \$300,000, commensurate with his role as Vice President, Construction. He remained entitled to the annual 25% bonus and received the full 25% bonus in each year that he worked for Cresford.

10. During the course of his employment, Giannakopoulos performed work for YSL and for other Cresford companies carrying on real estate business, including the Clover, Halo, and 33 Yorkville projects (together with YSL, Cresford (Rosedale) Developments Inc. and EDRP, the **Cresford Employers**). Giannakopoulos had primarily responsibility for the construction of the YSL project and for the due diligence processes carried out throughout 2020 with regard to YSL.

11. Because Giannakopoulos worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Giannakopoulos signed contracts with consultants, trades and others on behalf of YSL;

- (d) Cresford held Giannakopoulos out as a representative of YSL in the course of Giannakopoulos's employment, including during Concord's due diligence process on the YSL project; and
- (e) Some of Giannakopoulos's bonus entitlements involved credits on units purchased from project companies. As described below, Cresford agreed to pay Giannakopoulos's bonuses from the funds of different Cresford Employers, including YSL.

12. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Giannakopoulos.

13. An integral part of Giannakopoulos's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects. By July 2020, Giannakopoulos had earned significant unpaid bonuses as a result of his employment:

- (a) 2017 earned bonus of \$200,000, which was to be received as a \$200,000 credit against Giannakopoulos's purchase of a unit in the 33 Yorkville project; and
- (b) 2019 earned bonuses of \$62,500.

14. Giannakopoulos also earned bonuses under his employment agreement for the work performed for the Cresford Employers in the course of 2020. Giannakopoulos had been paid the full 25% bonus in each of the years that he previously worked. He earned the same 25% bonus in

2020 by carrying out extraordinary responsibilities following the financial difficulties suffered by Cresford, contributions that were recognized by Cresford.

15. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Giannakopoulos and granted each of them a retention bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, Cresford had begun to experience financial distress. Casey provided Giannakopoulos with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 at a later date.

C. THE SETTLEMENT AGREEMENT

16. As detailed below, Giannakopoulos and Cresford entered into a settlement agreement for the payment of overdue amounts owing to him in September 2020.

17. In July 2020, Giannakopoulos continued to work for Cresford, but his outstanding bonuses were unpaid and Cresford was in financial distress. Cresford’s Clover, Yorkville and Halo projects were in insolvency proceedings. Cresford was in the process of negotiating the sale of Cresford’s remaining real estate properties, including the sale of YSL to a third party buyer, Empire.

18. Giannakopoulos and Cresford discussed arrangements to satisfy Giannakopoulos’s employment entitlements, but were unable to reach an agreement. Cresford asked an advisor, Joe Bolla (**Bolla**), to mediate the issue. The parties provided Bolla with information about Giannakopoulos’s outstanding entitlements.

19. On July 23, 2020, Bolla sent a without prejudice settlement proposal, for discussion purposes (included as **Attachment 2**). He described the proposal as his determination of “what was fair” in the circumstances, as a “friend of Cresford.” The proposal acknowledged the extraordinary efforts made by Giannakopoulos and other employees during this period. Bolla included as a schedule his proposal for how a portion of Giannakopoulos’s employment entitlements should be paid.

20. Bolla’s settlement proposal acknowledged the outstanding 2017 and 2019 bonuses owed to Giannakopoulos. The proposal also acknowledged Giannakopoulos’s claims for his 2020 bonus, but did not propose to pay these amounts due to financial difficulties.

21. Giannakopoulos and Cresford exchanged without prejudice communications to resolve Giannakopoulos’s claims, including his additional claims for his 2020 bonus.

22. On September 8, 2020, Cresford and Giannakopoulos reached a full and final settlement of Giannakopoulos’s claims (included as **Attachment 3**). Cresford agreed to pay \$262,500 to Giannakopoulos, which would be paid from the closings of the YSL project, the Clover project, and the conveyance of 69 Hayden Street pursuant to an irrevocable direction provided to Cresford’s counsel.

23. The settlement agreement was signed by Daniel Casey on behalf of “[the] Cresford Entities including Limited Partnerships”, which included YSL. The settlement agreement specifically carved-out Giannakopoulos’s claims for his 2020 bonus and for unpaid vacation, which were to be addressed in further negotiations after the settlement.

24. Giannakopoulos appears never to have signed the agreement but had previously communicated his acceptance of its substantive terms by email (included as **Attachment 4**). The parties acted in accordance with the agreement.

25. On September 14, 2020, pursuant to the settlement agreement, Daniel Casey signed an amended irrevocable direction to YSL's counsel to pay Giannakopoulos the agreed amounts from the proceeds of sale of YSL or any other similar sale (included as **Attachment 5**).

26. As part of the settlement agreement, Cresford gave notice to Giannakopoulos that he would be terminated effective February 1, 2021. Giannakopoulos continued to work in his role with Cresford during the intervening period. Among other responsibilities, he provided extensive information to Concord on behalf of YSL during Concord's due diligence process. He was also heavily involved in the sale of the remaining assets of Cresford's Casa 3 project.

27. On January 18, 2021, Giannakopoulos sent an email advising Cresford that he would cease working on January 31, 2021 and claiming payment of the outstanding \$262,500 in bonuses under the settlement agreement, the unpaid 2020 bonuses and 17 days of unused vacation (included as **Attachment 6**).

28. Giannakopoulos had previously confirmed that he was owed outstanding vacation time in an email to Cresford on December 21, 2020 (included as **Attachment 7**). Cresford never paid compensation for these 17 unused vacation days, whose value of \$19,615 remains outstanding.

D. FAILURE TO PERFORM THE SETTLEMENT AGREEMENT

29. Under the settlement agreement, YSL and Cresford were required to pay the settlement payments by October 15, 2020. However, YSL and Cresford failed to pay Giannakopoulos's outstanding 2017 and 2019 bonuses totaling \$262,500.

30. Giannakopoulos sent a series of emails waiving Cresford's delay and extending the deadline for payment, which are included as **Attachment 8**. Despite these extensions, Cresford has failed to pay the \$262,500 in bonuses due under the settlement agreement.

E. BREACH OF CONTRACT

31. Under his Employment Agreement, Giannakopoulos was entitled to the outstanding bonuses that had accrued since 2017 but which remained unpaid. YSL and the other Cresford Employers were contractually required to pay these bonuses, but failed to do so. There is no dispute that the 2017 and 2019 bonuses were payable and owing, as was acknowledged in the settlement agreement.

32. YSL and the other Cresford Employers have also failed to pay Giannakopoulos's 2020 bonus of \$75,000, equal to 25% of Giannakopoulos's base salary of \$300,000.

33. YSL and the other Cresford Employer failed to pay compensation for Giannakopoulos' 17 unused vacation days, whose value of \$19,615 remains outstanding.

34. Finally, YSL and the other Cresford Employers failed to pay the \$175,000 retention bonus that Casey had promised to Giannakopoulos in January 2020, despite Giannakopoulos's extraordinary service to Cresford. PwC reduced by 50% a claim by another employee (Ryan

Millar) also promised this bonus in the Clover and Halo proceedings, to account for contingencies associated with the claim. Giannakopoulos' corresponding reduction of this claim by 50% to account for contingencies is without prejudice to his right to claim the full amount of the bonus in other proceedings.

35. Giannakopoulos accordingly submits this claim for these outstanding amounts.

Bankruptcy and Insolvency Act ("Act")

Proof of Claim

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

| | | | |
|----------------|--------------------------------------|------------|-------------------------------|
| Creditor Name: | <u>Louie Giannakopoulos</u> | Telephone: | <u>(416) 768-9994</u> |
| Address: | <u>c/o James Gibson, Naymark Law</u> | Fax: | <u>(647) 660-5060</u> |
| | <u>171 John Street, Suite 101,</u> | Email: | <u>jgibson@naymarklaw.com</u> |
| | <u>Toronto, ON, M5T 1X3</u> | | |
| Account No.: | <u>Nil</u> | | |

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. and YG Limited Partnership (*name of debtor*) of the City of Toronto, Ontario (*city and province*) and the claim of Louie Giannakopoulos, creditor.

I, Louie Giannakopoulos (*name of creditor or representative of the creditor*), of City of Vaughan, Ontario (*city and province*), do hereby certify:

1. That I am a creditor of the above-named debtor (~~or that I am _____ (*state position or title*) of _____ (*name of creditor*)~~).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of **\$532,115.00**, as specified in the statement of account (or affidavit) attached and marked **Schedule "A"**, after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$532,115.00 (other than as a customer contemplated by Section 262 of the Act)
That in respect of this debt, I do not hold any assets of the debtor as security and
(Check appropriate description.)

Regarding the amount of \$530,115.00, I do not claim a right to a priority.

Regarding the amount of \$2,000.00, I claim a right to a priority under Section 136 of the Act.
(Set out on an attached sheet details to support priority claim.)
See **Schedule "B"**.

B. SECURED CLAIM OF \$0.00
That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

C. CONSTRUCTION LIEN CLAIM OF \$0.00
That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).


1. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non- arm's-length manner.
2. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at City of Toronto, Ontario, this 11th day of June, 2021.

Marco Mancuso

Digitally signed by Marco Mancuso
DN: C=CA, E=mancuso@hotmail.com,
CN=Marco Mancuso
Date: 2021.06.11 13:45:48-04'00'

Witness


Creditor Authorized Signatory
Louie Giannakopoulos

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE

CONDITIONAL CLAIM ADDENDUM

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

Creditor Authorized Signatory

TAB A

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

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

IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC.

Applicants

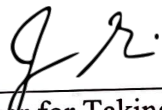
AFFIDAVIT OF LOUIE GIANNAKOPOULOS
(Sworn on June 11, 2021)

I, LOUIE GIANNAKOPOULOS, of the City of Vaughan, Ontario, MAKE OATH AND SAY:

1. I am a creditor in this proceeding, and as such have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe the information to be true.
2. I confirm that the information contained in the particulars of claim attached as **Exhibit "A"**, together with the supporting attachments, is accurate and I adopt it for the purposes of this affidavit.

3. I make this affidavit in support of a proof of claim in this proceeding, and for no other or improper purpose.

SWORN by videoconference technology by the deponent, located in the City of Vaughan, Ontario, before the commissioner, located in the City of Toronto, Ontario in accordance with O. Reg. 431/20, Adminstrating Oath Remotely on June 11, 2021



Commissioner for Taking Affidavits
JAMES GIBSON



LOUIE GIANNAKOPOULOS

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF LOUIE GIANNAKOPOULOS
SWORN BEFORE ME, THIS 11TH DAY OF JUNE, 2021



JAMES GIBSON

A Commissioner Etc.

| |
|--|
| EXHIBIT “A” – PARTICULARS OF PROOF OF CLAIM |
|--|

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are for:

- (a) \$262,500 in bonuses earned by Giannakopoulos as employment remuneration in 2017 and 2019; and
- (b) \$75,000 in bonuses earned by Giannakopoulos in 2020;
- (c) \$19,615 for 17 used vacation days; and
- (d) the \$175,000 retention bonus earned for remaining with Cresford after January 2020.

2. Total value of the Claims described above is \$532,115.

A. OVERVIEW

3. Louie Giannakopoulos (**Giannakopoulos**) was the Vice President, Construction at Cresford, responsible for overseeing and carrying out the construction of its developments. He was employed in common by the various Cresford companies for which he worked, including YSL, until he left Cresford in January 2021.

4. Giannakopoulos earned significant bonuses for assisting in Cresford projects, which remained unpaid by Cresford. In September 2020, Giannakopoulos and Cresford, including YSL, entered into a settlement agreement, in which Cresford acknowledged and agreed to pay

Giannakopoulos's outstanding bonuses and certain other amounts owing to him. Cresford failed to perform the settlement and pay the amounts owing to Giannakopoulos.

5. As Giannakopoulos's common employer, YSL is jointly and severally liable for his outstanding employment entitlements. Cresford and YSL acknowledged these outstanding amounts in writing in the settlement agreement and they are beyond dispute.

B. GIANNAKOPOULOS'S EMPLOYMENT BY CRESFORD AND DUTIES WITH YSL

6. In February 2014, Cresford hired Giannakopoulos as Senior Project Manager for Construction. Giannakopoulos was promoted to Director, Construction in January 2015 and to Vice President, Construction in February 2018. He served in that role until his departure in January 2021, described below.

7. In January 2014, Giannakopoulos executed an employment agreement (included as **Attachment 1**). Under the employment agreement drafted by Cresford, Giannakopoulos' employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

8. Under the 2014 employment agreement, Giannakopoulos was entitled to:

- (a) a base annual salary of \$170,000;
- (b) an annual bonus payment of up to 25% of his base salary, 50% of which was guaranteed and 50% of which was discretionary based on overall performance.

9. Cresford and Giannakopoulos never amended the original employment agreement. By 2020, however, Giannakopoulos' base annual salary had increased to \$300,000, commensurate with his role as Vice President, Construction. He remained entitled to the annual 25% bonus and received the full 25% bonus in each year that he worked for Cresford.

10. During the course of his employment, Giannakopoulos performed work for YSL and for other Cresford companies carrying on real estate business, including the Clover, Halo, and 33 Yorkville projects (together with YSL, Cresford (Rosedale) Developments Inc. and EDRP, the **Cresford Employers**). Giannakopoulos had primarily responsibility for the construction of the YSL project and for the due diligence processes carried out throughout 2020 with regard to YSL.

11. Because Giannakopoulos worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Giannakopoulos signed contracts with consultants, trades and others on behalf of YSL;

- (d) Cresford held Giannakopoulos out as a representative of YSL in the course of Giannakopoulos's employment, including during Concord's due diligence process on the YSL project; and
- (e) Some of Giannakopoulos's bonus entitlements involved credits on units purchased from project companies. As described below, Cresford agreed to pay Giannakopoulos's bonuses from the funds of different Cresford Employers, including YSL.

12. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Giannakopoulos.

13. An integral part of Giannakopoulos's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects. By July 2020, Giannakopoulos had earned significant unpaid bonuses as a result of his employment:

- (a) 2017 earned bonus of \$200,000, which was to be received as a \$200,000 credit against Giannakopoulos's purchase of a unit in the 33 Yorkville project; and
- (b) 2019 earned bonuses of \$62,500.

14. Giannakopoulos also earned bonuses under his employment agreement for the work performed for the Cresford Employers in the course of 2020. Giannakopoulos had been paid the full 25% bonus in each of the years that he previously worked. He earned the same 25% bonus in

2020 by carrying out extraordinary responsibilities following the financial difficulties suffered by Cresford, contributions that were recognized by Cresford.

15. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Giannakopoulos and granted each of them a retention bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, Cresford had begun to experience financial distress. Casey provided Giannakopoulos with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 at a later date.

C. THE SETTLEMENT AGREEMENT

16. As detailed below, Giannakopoulos and Cresford entered into a settlement agreement for the payment of overdue amounts owing to him in September 2020.

17. In July 2020, Giannakopoulos continued to work for Cresford, but his outstanding bonuses were unpaid and Cresford was in financial distress. Cresford’s Clover, Yorkville and Halo projects were in insolvency proceedings. Cresford was in the process of negotiating the sale of Cresford’s remaining real estate properties, including the sale of YSL to a third party buyer, Empire.

18. Giannakopoulos and Cresford discussed arrangements to satisfy Giannakopoulos’s employment entitlements, but were unable to reach an agreement. Cresford asked an advisor, Joe Bolla (**Bolla**), to mediate the issue. The parties provided Bolla with information about Giannakopoulos’s outstanding entitlements.

19. On July 23, 2020, Bolla sent a without prejudice settlement proposal, for discussion purposes (included as **Attachment 2**). He described the proposal as his determination of “what was fair” in the circumstances, as a “friend of Cresford.” The proposal acknowledged the extraordinary efforts made by Giannakopoulos and other employees during this period. Bolla included as a schedule his proposal for how a portion of Giannakopoulos’s employment entitlements should be paid.

20. Bolla’s settlement proposal acknowledged the outstanding 2017 and 2019 bonuses owed to Giannakopoulos. The proposal also acknowledged Giannakopoulos’s claims for his 2020 bonus, but did not propose to pay these amounts due to financial difficulties.

21. Giannakopoulos and Cresford exchanged without prejudice communications to resolve Giannakopoulos’s claims, including his additional claims for his 2020 bonus.

22. On September 8, 2020, Cresford and Giannakopoulos reached a full and final settlement of Giannakopoulos’s claims (included as **Attachment 3**). Cresford agreed to pay \$262,500 to Giannakopoulos, which would be paid from the closings of the YSL project, the Clover project, and the conveyance of 69 Hayden Street pursuant to an irrevocable direction provided to Cresford’s counsel.

23. The settlement agreement was signed by Daniel Casey on behalf of “[the] Cresford Entities including Limited Partnerships”, which included YSL. The settlement agreement specifically carved-out Giannakopoulos’s claims for his 2020 bonus and for unpaid vacation, which were to be addressed in further negotiations after the settlement.

24. Giannakopoulos appears never to have signed the agreement but had previously communicated his acceptance of its substantive terms by email (included as **Attachment 4**). The parties acted in accordance with the agreement.

25. On September 14, 2020, pursuant to the settlement agreement, Daniel Casey signed an amended irrevocable direction to YSL's counsel to pay Giannakopoulos the agreed amounts from the proceeds of sale of YSL or any other similar sale (included as **Attachment 5**).

26. As part of the settlement agreement, Cresford gave notice to Giannakopoulos that he would be terminated effective February 1, 2021. Giannakopoulos continued to work in his role with Cresford during the intervening period. Among other responsibilities, he provided extensive information to Concord on behalf of YSL during Concord's due diligence process. He was also heavily involved in the sale of the remaining assets of Cresford's Casa 3 project.

27. On January 18, 2021, Giannakopoulos sent an email advising Cresford that he would cease working on January 31, 2021 and claiming payment of the outstanding \$262,500 in bonuses under the settlement agreement, the unpaid 2020 bonuses and 17 days of unused vacation (included as **Attachment 6**).

28. Giannakopoulos had previously confirmed that he was owed outstanding vacation time in an email to Cresford on December 21, 2020 (included as **Attachment 7**). Cresford never paid compensation for these 17 unused vacation days, whose value of \$19,615 remains outstanding.

D. FAILURE TO PERFORM THE SETTLEMENT AGREEMENT

29. Under the settlement agreement, YSL and Cresford were required to pay the settlement payments by October 15, 2020. However, YSL and Cresford failed to pay Giannakopoulos's outstanding 2017 and 2019 bonuses totaling \$262,500.

30. Giannakopoulos sent a series of emails waiving Cresford's delay and extending the deadline for payment, which are included as **Attachment 8**. Despite these extensions, Cresford has failed to pay the \$262,500 in bonuses due under the settlement agreement.

E. BREACH OF CONTRACT

31. Under his Employment Agreement, Giannakopoulos was entitled to the outstanding bonuses that had accrued since 2017 but which remained unpaid. YSL and the other Cresford Employers were contractually required to pay these bonuses, but failed to do so. There is no dispute that the 2017 and 2019 bonuses were payable and owing, as was acknowledged in the settlement agreement.

32. YSL and the other Cresford Employers have also failed to pay Giannakopoulos's 2020 bonus of \$75,000, equal to 25% of Giannakopoulos's base salary of \$300,000.

33. YSL and the other Cresford Employer failed to pay compensation for Giannakopoulos' 17 unused vacation days, whose value of \$19,615 remains outstanding.

34. Finally, YSL and the other Cresford Employers failed to pay the \$175,000 retention bonus that Casey had promised to Giannakopoulos in January 2020, despite Giannakopoulos's extraordinary service to Cresford.

35. Giannakopoulos accordingly submits this claim for these outstanding amounts.

Attachment 1



Louie Giannakopoulos

January 28, 2014

RE: Employment Agreement

Dear Louie,

It is with pleasure that Cresford Developments would like to extend a full-time offer of employment to you with the Construction Department based on the following:

- Title: Senior Project Manager, Hi-Rise Construction
- Start Date: Tuesday, February 18, 2014 or an alternative date mutually agreed upon by both parties.
- Reporting to: Vice President, Hi-Rise Construction
- Salary: \$170,000.00 CAD per annum, less statutory deductions, paid semi-monthly via direct deposit.
- Bonus: You will be eligible to receive an annual bonus payment of up to 25% of your base salary. 50% of which is guaranteed and the remaining 50% will be discretionary based on overall performance.
- Benefits: You will be eligible to participate in the company benefits program immediately upon starting employment.
- Car Allowance: A monthly vehicle allowance of \$800.00 will be paid to cover costs associated with operating a personal vehicle for company use.
- Additional Expenses: Additional normal and reasonable approved business expenses will be reimbursed on a monthly basis as per company policy. A company laptop and cell phone will be provided to assist in the completion of your outlined duties and responsibilities.
- Vacation: Four (4) weeks of vacation will be provided per year.
- Duties: As outlined in Schedule 'A' attached. Note that duties are regularly reviewed to ensure on-going alignment with the organization's priorities. Key responsibilities and performance targets will be reviewed at a minimum annually and more frequently as required.
- Probationary Period: The first three (3) months of your employment is deemed to be probationary. It is understood and agreed that the Employer will be the sole judge of the Employee's suitability. Therefore during this period, the Employer may terminate the employment without cause or any form of termination payment as per the Ontario Employment Standards Act, 2000.

Please review the terms of this offer carefully and obtain any advice you require. If you agree to the arrangement described herein, please sign this letter and return it by **Wednesday, January 29, 2014** to indicate your acceptance.



Louie, we are truly excited with your interest in joining the Cresford Developments team and we are confident you will find your role here rewarding.

Sincerely,

Enrico Leva
Cresford Developments

ACKNOWLEDGEMENT:

Louie
I, Giannakopoulos (insert name) agree to the terms and conditions of employment outlined herein.

Louie Giannakopoulos
Signature

Jan. 28th, 2014
Date

SCHEDULE 'A'

| | |
|--|---|
| | |
| REPORTS TO: | Enrico Leva, Vice President, Hi Rise Construction |
| DATE: | January 2014 |
| KEY RESPONSIBILITIES End to end project management from pre construction to close out documents, due diligence, planning , project cost estimating, construction budgets, support as required for banks and financial approvals, manage the construction and site management | |

Attachment 2

From Brother iPrint&Scan

From: Joe Bolla <joebolla@gmail.com>

Thu, Jul 23, 2020 at 2:20 PM EDT (GMT-04:00)

To: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>

Here is the document. I hope you can read it. I am available to answer questions or discuss my suggestion tomorrow.

Regards, Joe

From Brother iPrint&Scan

Attachments

- 27939.jpg
- 35247.jpg
- 40578.jpg
- 46302.jpg

CONFIDENTIAL

Settlement Proposal (Without Prejudice)

My Role: Facilitate the settlement of certain employees' compensation. I offer this proposal as a friend of Cresford. It is intended to be for "discussion purposes" only.

Objective: Determine "what is fair" based on consideration of the circumstances and the facts, using my judgement and experience.

Circumstances:

- a) **Environment:** Covid-19 has impacted the viability of many small businesses. Millions of employees have been temporarily laid off and are receiving government subsidies. Many employees have been and will be terminated. Some companies are and will go out of business. These are very uncertain times. Unemployment has increased significantly.
- b) **Current Cresford Situation:** The banks stopped funding Cresford's projects in January, 2020. Since then, Cresford has received no corporate cash inflows to pay for its operations. In March 2020, three of Cresford's four projects were placed into receivership because they were not economically viable. Cresford obtained a loan secured by other assets (including 59 Hayden, 69 Hayden, CASA III townhomes, 357 ½ Yonge and 357A Yonge St) to provide some cash. The amount of debt secured by the other assets is \$56.5 million. In addition, the amount of debt secured by YSL is \$209 million. The monthly debt service of the total debt of \$265.5 million is \$1.1 million. The shareholder has personally contributed cash to fund this monthly interest, subsidize payroll and pay operating costs (including certain accounts payable). Neither Cresford nor the shareholder has cash.
- c) **Future Cresford Situation:** Cresford expects to receive some cash from the sale of other assets after repayment of the secured debt, from Clover after the project is registered and closed in a year and from the sale of YSL on closing and after the project is registered and closed in 5 years. Both Halo and 33 Yorkville are in the process of sale by the receiver. It is unknown whether Cresford will receive any cash from the sale proceeds of these projects.
- d) **Sale of YSL:** On July 17, 2020 an APS was executed for the sale of YSL. Due diligence began on July 21, 2020. The purchaser has 10 business days to complete its due diligence. During the due diligence period, the purchaser will decide whether it wants to hire some of Cresford's employees. Cresford will actively promote the hiring of its employees by the purchaser.

Purchase of Condominiums:

Certain employees arranged for their bonuses to be paid by credits towards the purchase of condominiums instead of cash. The projects in which the employees purchased the condominium units are now in receivership because they are not economically viable. This situation has created a complicated compensation issue. The employees converted their bonuses into investments which are subject to loss.

Two questions arise from bonuses being paid by credits towards the purchase of condominiums:

- 1) Has the bonus been paid? In my opinion, the bonus is not paid until the purchase of the condominium closes. So, the obligation to pay the bonus remains outstanding.
- 2) What is the status of the current fair market appreciation of the condominium? In my opinion, the fair market appreciation can only be determined when the condominium unit closes. Any apparent appreciation now is not relevant because the project is not economically viable and it is under construction. So, the purchase price of the condominiums must be increased in order for the project to be completed. After the condominium units close, the true fair market appreciation or loss can be determined. In any case, the employee converted payment of the bonus into an investment which is subject to loss.

Employee compensation does not include any loss in fair market appreciation.

Finally, bonuses are taxable transactions whether they are paid by credits to the purchase of condominium units or by cash.

Facts:

- a) The employees have made a major contribution to the development activities of Cresford. They demonstrated a results driven approach which made a difference to the outcome of many projects. In addition, during Cresford's struggle to survive and sell assets, the employees performed admirably in working with banks, receivers, construction managers, trades, suppliers and prospective purchasers. They are very good at what they do and their efforts are appreciated.
- b) Cresford is insolvent.
- c) Cresford's projects are not economically viable because of two factors:
 - i) Too many condominium units, more than the financing presale requirement, were sold at introductory prices. While selling prices increased significantly, there were not enough unsold units to absorb cost increases.
 - ii) Construction costs increased significantly primarily in response to US tariffs. The cost overruns were in excess of \$150 million.
- d) Employees are frustrated by Cresford's lack of communication. Cresford is "shell shocked" by the disintegration of its business.
- e) Payment for employee compensation must be funded by future cash proceeds from the sale of assets.

- f) Severance payments are intended to bridge employee compensation from termination of employment at Cresford to securing employment at a new company. The severance payments are "clawed back" by compensation received from the new employer during the severance period.
- g) The employees received a \$10,000 Christmas bonus in December 2019. They also received a \$65,000 bonus in early 2020. This bonus was a partial payment of an amount to be paid to the employees if Cresford remained a going concern in a year's time (i.e. at the end of 2020). In March 2020, when the projects were placed into receivership, Cresford was no longer a going concern. So, one quarter of the retention bonus was owed and paid.
- h) The employees have continued to receive their full salary to date. Other employees were temporarily laid off and some were terminated during this period. Their salaries were subsidized by contributions of cash by the shareholder in recognition of their work and importance to the organization.
- i) The employees are now represented by a lawyer. Two employees have served notice on Cresford claiming that they were constructively dismissed. This is a complicated legal issue.

Principles of Settlement:

- 1) Cresford is insolvent. Therefore, payment of the bonuses must be funded by future asset sales.
- 2) The impact of Covid-19 has been devastating for companies and employees. Many employees are unemployed and companies are struggling to survive. For those employees who have remained employed by companies still in business, many had to agree to reductions in their compensation because of the employers' ability to pay.
- 3) The employees' commitment to Cresford and their excellent performance deserve recognition.
- 4) Cresford must assist employees in securing new employment.
- 5) Given Cresford's limited access to cash, salary payments commencing August 1, 2020 should reduce the severance period. The impact of the shortened severance period to the employee should be minimal because it is expected that they will all have employment in a few months.

Conclusion:

Refer to Schedule A for my suggestion to resolve the outstanding compensation issues. I expect both the company and the employees will disagree with parts of my proposal. Hopefully, it will reopen the channel of communication and generate productive discussion.

Both Cresford and the employees have sacrificed much and there are limits to what can be done to resolve the issues. Compromise is necessary.

Schedule A: Louie Giannakopoulos:

Payment of Outstanding Bonuses:

- 1) 2017 bonus of \$200,000—this bonus was paid by a credit to the purchase price of a 33 Yorkville unit. The purchaser of the 33 Yorkville project will disclaim all 33 Yorkville condo purchase agreements. This bonus will be paid in 2 parts: \$100,000 from the closing of YSL by September 30, 2020 and \$100,000 from the proceeds of completion and closing of the Clover project, expected to occur in August 2021.
- 2) 2019 bonus of \$62,500—this bonus will be paid from the proceeds of the conveyance of 69 Hayden which is expected to occur in September, 2020.
- 3) \$175,000 retention bonus and 2020 bonus of 25% of base salary—approximately \$75,000 (Christmas bonus of \$10,000 and \$65,000 for maintaining Cresford as a going concern) has been paid. Cresford ceased to be a going concern in March, 2020. So, 25% of the gross retention bonus has been earned and paid. The base salary has been paid in 2020 because the shareholder personally contributed cash to fund your salary. Given the general economic environment and the insolvency of Cresford, no bonuses on the 2020 base salary can be paid.
- 4) Severance payments: Cresford to pay severance for 6 months commencing August 1, 2020, subject to clawback.

Additional source of income:

- 1) Potential consulting contract or employment with purchaser of YSL.
- 2) Short term consulting contract with Cresford to oversee completion of CASA.

Attachment 3

Settlement – Louie Giannakopoulos

This is in full and final settlement of all salary, benefits and bonuses or other claims by Louie Giannakopoulos against any of the Cresford Entities including Limited Partnerships and Dan Casey, with the exception of the items indicated in paragraph 6 below.

IN CONSIDERATION for this final settlement, Louie Giannakopoulos shall receive \$ 262,500 plus continuance of his salary for six months commencing on August 1, 2020 including benefits. Should Louie Giannakopoulos obtain other employment or fees for consultation subsequent to August 1, 2020, the income received will reduce the monthly severance payments from the Cresford Entities (see footnote 1)

1. The \$ 262,500 shall be paid as follows:
 - a) \$162,500.00 to be paid from the proceeds on the earlier of (a) the closing of the YSL Project or (b) the closing of 69 Hayden Street conveyance to the City of Toronto, which are both expected to occur by September 30, 2020.
 - b) \$100,000.00 to be paid from the proceeds of the closing of the Clover Project which is expected to occur in August 2021.
2. Cresford shall sign irrevocable directions to its lawyers to pay the above noted amounts in points 1(a) and 1(b) from the said proceeds, in the forms attached as Schedule "A". The undersigned shall provide Louie Giannakopoulos with proof that the direction has been signed and delivered to council and confirmation of receipt by council. In the event that the undersigned changes council Louie Giannakopoulos shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council.
3. Cresford shall obtain all approvals from the Court and its officers (including monitors and receivers) in any insolvency proceedings involving Cresford entities that are necessary to give effect to commitments in paragraphs 1(b).
4. In the event that payment in paragraph 1(a) is not paid in full by October 15, 2020 and the delay has not been waived in writing by Louie Giannakopoulos, this agreement shall be null and void.
5. This agreement constitutes notice of termination of Louie Giannakopoulos' employment effective February 1, 2021 in which he shall receive continuance of his salary and benefits for six months commencing August 1, 2020.
6. Cresford agrees to continue discussions in resolving the outstanding items of: (a) pay in lieu of unused vacation, (b) severance commencement date and (c) 2020 accrued bonuses. These items are to be addressed after the execution of this settlement.

Dated at Toronto, this 8th day of September, 2020.



Dan Casey on behalf of Cresford Entities
and Limited Partnerships

Louie Giannakopoulos

¹ Including: Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover on Yonge Inc., The Clover on Yonge Limited Partnership, YSL Residences Inc., YG Limited Partnership, 9615334 Canada Inc., 50 Charles Street Limited, 69 Hayden Street Limited, 11 Gloucester Street Inc., and Cresford Holdings Ltd. (collectively, "Cresford")

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Dale & Lessmann LLP
Re: Sale of Clover Project to Concord Adex

You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Concord Adex in connection with the sale of the Clover project in the sum of \$100,000 to Louie Giannakopoulos (cell: (416) 786-1906, email: louiegiannakopoulos@yahoo.com) and this shall be your good and sufficient authority for so doing.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Louie Giannakopoulos. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

In the event that the undersigned changes council Louie Giannakopoulos shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council. The undersigned shall provide proof that the direction has been executed and delivered to Dale & Lessmann LLP and confirmation of receipt by Dale & Lessmann LLP.

Dated at Toronto, Ontario this 8th day of September, 2020.

Cresford (Rosedale) Developments Inc. NTD: Dale & Lessmann LLP to confirm that this is the registered and beneficial owner. If it is not, then Dale & Lessman LLP to insert the proper company.


Dan Casey
President

Acknowledged by Dale & Lessmann LLP

Per: _____

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Nelligan O'Brien Payne LLP

Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Empire (Water Wave) Inc., or any successor or assign on the sale of the above noted Project the sum of \$162,500 to Louie Giannakopoulos (cell: (416) 786-1906, email: louiegiannakopoulos@yahoo.com) and this shall be your good and sufficient authority for so doing.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Louie Giannakopoulos. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

In the event that the undersigned changes council Louie Giannakopoulos shall be notified by the undersigned and the undersigned will provide a replacement irrevocable authorization and direction to the replacement council. The undersigned shall provide proof that the direction has been executed and delivered to Nelligan O'Brien Payne LLP and confirmation of receipt by Nelligan O'Brien Payne LLP.

Dated at Toronto, Ontario this  day of September, 2020.

Cresford (Rosedale) Developments Inc. NTD: Nelligan O'Brien Payne LLP to confirm that this is the registered and beneficial owner. If it is not, then Nelligan O'Brien Payne LLP to insert the proper company.



Per: Dan Casey
President

Acknowledged by Nelligan O'Brien Payne LLP

Per:

Attachment 4

Fw: Revised Agreements

From: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>
Sent: August 21, 2020 10:37 AM
To: Dave Mann <dmann@cresford.com>
Cc: Dan Casey <dcasey@cresford.com>; Marco Mancuso <marco@cresbuild.com>
Subject: RE: Revised Agreements

Morning Dave,

Without prejudice and as per our discussions with Dan, on behalf off Marco and I we agreed to proceed with the recent settlements issued to us. Again we are very appreciatively of what has been issued to date. We agree that we will leave the remaining couple of items to be discussed afterwards with Joe. As stated to Dan we want to continue maintaining our focus on the closing of YSL, Park Conveyance, Casa 3 Completion etc. Please proceed with the legal documents and directions through Nillegan.

Sincerely

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

Marco Mancuso PMP, GSC, LEED AP

Director, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 281 | C: 416.452.0387 | E: marco@cresbuild.com

www.cresford.com/cresbuild

From: Dave Mann <dmann@cresford.com>

Sent: August 20, 2020 12:08 PM

To: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>; Marco Mancuso <marco@cresbuild.com>

Cc: Dan Casey <dcasey@cresford.com>; 'Joe Bolla' <joebolla@gmail.com>

Subject: RE: Revised Agreements

WITHOUT PREJUDICE and CONFIDENTIAL

Hi Louie and Marco,

I just wanted to elaborate on Joe's email to you from yesterday. All projects were put on hold by the Banks in January meaning that all financing stopped. A key component of the financing draws are fees that are paid to Cresford Rosedale which are used to pay salaries and bonuses, along with other overhead costs. Monthly fee revenue was about \$1,000,000; it is now zero. Our payroll costs have declined significantly and a portion of salaries have been reimbursed by PWC which helps a little. Three projects have gone into receivership and YSL had its funding cut, forcing us to put it on the market.

To enable us to make payroll and keep Cresford alive, we have had to borrow money at high interest rates. We are being forced to sell all our Hayden Street assets.

We appreciate your continuing on with us in these difficult times. Joe has worked hard in coming up with the settlement proposals and I thought that there was agreement on those. Joe did mention that there were discussions with the two of you on severance start dates, vacation pay and 2020 bonuses but there was no agreement. As I mentioned to you, Joe is taking a break from Cresford to deal with his personal issues. We expect to be able to talk to him about this in a week or two and at that time, we can negotiate the three items. The settlements provide for a significant amount of income for both of you. Dan and I are also promoting your services with Empire.

You are also expecting Directions to be prepared to give you security on the payments. Those directions are being done by Nelligan and I hope to have them today or tomorrow.

Dan has instructed me to communicate this with you and go with the agreements as recommended by Joe. Let's get these signed up and then we can deal with the open items before the end of August.

Thanks

From: Louie Giannakopoulos

Sent: August 19, 2020 2:36 PM

To: Dave Mann <dmann@cresford.com>

Cc: Dan Casey <dcasey@cresford.com>; Marco Mancuso <marco@cresbuild.com>

Subject: RE: Revised Agreements

Dave,

Marco and I reached out to Dan to discuss our agreement and concerns. We agreed on the following items to be added to our Agreements. Dan will reach out to you to further discuss:

1. Severance Period: To commence after the YSL closing commencing on October 1, 2020 based on a period of:
 - a. Louie: 6 months
 - b. Marco: 5 months
2. Unused Vacation: Paid as a lump sum amount on October 1st, 2020
 - a. Louie: 20 days from 2020 = Total 20 days
 - b. Marco: 6 days carried over from 2019 + 20 days from 2020 = Total 26 days
3. Remaining Bonuses:
 - a. \$ 175,000 Tumultuous Times: Agreed to remove
 - b. 2020 Bonus, 25% of Base Salary:
 - i. Agreed to add based on the working period of January 1st, 2020 to September 30th, 2020 (9 months)
 - ii. To be paid on the closing of YSL
 1. Louie: \$ 56,250
 2. Marco: \$ 46,875
3. Securing Payments: How do you guarantee/secure payments based on closings of YSL and especially Clover

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

From: Marco Mancuso <marco@cresbuild.com>

Sent: August 19, 2020 12:49 PM

To: Dave Mann <dmann@cresford.com>; Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>

Cc: Joe Bolla <joebolla@gmail.com>; Dan Casey <dcasey@cresford.com>

Subject: RE: Agreement

Dave,

Below are the items that were discussed with Joe. Joe also spoke with Dan and Dan called us to confirm that he also agrees.

1. For Louie and Marco Severance period to commence after the YSL closing. To make it Easy, **Severance period to commence October 1, 2020.**
2. Marco and Louie to be paid for unused vacation time (please confirm when these unused vacation days will be paid).
 - a. **Marco** – 6 days carried over from 2019 + 20 days from 2020 = **total 26 days**
 - b. **Louie** – 20 days from 2020 = **total 20 days**
3. We agreed with Joe that our 2020 25% of base salary bonus and the \$175,000 “tough times” bonus would be added as a line item on the memo to be negotiated at a later date. We wanted to help speed up the process of getting something in writing and then negotiate/discuss the 2020 bonuses after the primary agreement was signed

4. We would need to confirm prior to signing anything that the method above constitutes a secured way of payment.
How is the YSL future payment and the Clover future payment guaranteed?

Please confirm with Joe if required as this was exactly what was discussed.

Thanks,

Marco Mancuso PMP, GSC, LEED AP

Director, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 281 | C: 416.452.0387 | E: marco@cresbuild.com

www.cresford.com/cresbuild

From: Dave Mann <dmann@cresford.com>

Sent: August 19, 2020 11:20 AM

To: Marco Mancuso <marco@cresbuild.com>; Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>

Subject: RE: Agreement

Hi guys,

We heard from Joe today and as you may know, he is tending to his wife. She had some major injuries from her car accident and has had a bit of a relapse. Joe is off the grid for a bit as he is looking after her.

Can you summarize the differences?

Thx

From: Marco Mancuso

Sent: August 19, 2020 11:08 AM

To: Dave Mann <dmann@cresford.com>

Cc: Dan Casey <dcasey@cresford.com>; Joe Bolla <joebolla@gmail.com>

Subject: Re: Agreement

Hi Dave can you please speak with Joe. It's almost there but it is not exactly what was discussed with Joe.

I'll give you a call later with Louie if required

Thanks

Marco Mancuso

Cresford Developments

416-452-0387

On Aug 19, 2020, at 10:49 AM, Dave Mann <dmann@cresford.com> wrote:

Hi Marco,

Attached is the agreement drafted by Nelligan as agreed between you and Joe. We will send the Directions when completed by the lawyers.

Thanks

From: Cathy Alderson [<mailto:Cathy.Alderson@nelliganlaw.ca>]

Sent: August 18, 2020 10:59 AM

To: Dave Mann <dmann@cresford.com>

Subject:

<Settlement - Marco Mancuso.docx>

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

Attachment 5

IRREVOCABLE AUTHORIZATION AND DIRECTION

To: Nelligan O'Brien Payne LLP

Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay out of funds received from Empire (Water Wave) Inc. on the sale of the above noted Project the sum of \$162,500 to Louie Giannakopoulos and this shall be your good and sufficient authority for so doing. Such payment shall be reduced on account of any monies paid to Louie Giannakopoulos by or at the direction of Cresford (Rosedale) Developments Inc. pursuant to similar directions on transactions that may close at an earlier date.

This direction shall not be revoked without the consent of the beneficiary of this Direction, Louie Giannakopoulos. A fax, photocopy or scanned copy delivered by such other electronic means of this signed Direction shall be effective as an original.

Dated at Toronto, Ontario this 14 day of September, 2020.

YSL Residences Inc.



Per: Dan Casey
President

I have authority to bind the corporation

**YG Limited Partnership by its General Partner
9615334 Canada Inc.**



Per: Dan Casey
President

I have authority to bind the corporation

Acknowledged by Nelligan O'Brien Payne LLP



Per: Debbie Bellinger

IRREVOCABLE AUTHORIZATION AND DIRECTION

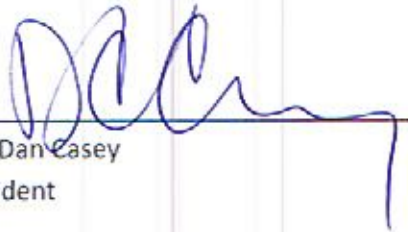
To: Dale & Lessmann LLP
AND
Any other counsel acting for any Cresford entity on the sale of the Clover Project

Re: Sale of Clover Project

You are hereby irrevocably authorized, instructed and directed to pay funds to Louie Giannakopoulos in accordance with the enclosed irrevocable direction, regardless of whether:

1. A Cresford entity other than the one indicated is the recipient, payee or beneficial owner of funds payable as a result of the sale of the Clover project; or
2. A firm other than Dale & Lessman LLP acts for a Cresford entity in respect of the sale of the Clover project for any reason.

Dated at Toronto, Ontario this 1st day of September, 2020.


Per: Dan Casey
President

IRREVOCABLE AUTHORIZATION AND DIRECTION


To: Nelligan O'Brien Payne LLP
AND
Any other counsel acting for any Cresford entity on the sale of the YSL Project

Re: Sale of YSL Project to Empire (Waterwave) Ltd.

You are hereby irrevocably authorized, instructed and directed to pay funds to Louie Giannakopoulos in accordance with the enclosed irrevocable direction, regardless of whether:

1. A Cresford entity other than the one indicated is the recipient, payee or beneficial owner of funds payable as a result of the sale of the YSL project; or
2. A firm other than Nelligan O'Brien Payne LLP acts for a Cresford entity in respect of the sale of the YSL project for any reason.

Dated at Toronto, Ontario this 14 day of September, 2020.



Per: Dan Casey
President

Attachment 6

Departure from Cresford and Outstanding Amounts Owning

From: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com> Mon, Jan 18, 2021 at 7:39 AM EST (GMT-05:00)
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>

Morning Dan,

I am writing to advise you that I have secured other employment. I am issuing you notice that my last day with Cresford shall be January 31, 2021. I am ok with Cresford ceasing my salary and benefits effective February 1, 2021 provided that it pays all other amounts owing to me.

These include:

1. Accrued salary up to and including January 31, 2021
2. 17 days of unused and accrued vacation days up to and including January 31, 2021 (15 unused from 2020 and 2 accrued from 2021 for a total of 17 days)
3. The \$262,500 payable to me under my settlement agreement with the Cresford Entities including Limited Partnerships and Dan Casey.
4. My accrued 2020 and 2021 bonuses up to and including January 31, 2021 based on 25% of my base salary
5. Continuation of benefits through January 31, 2021

Please confirm the above.

Sincerely,

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E:lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

Attachment 7

Remaining Vacation

From: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com> Mon, Dec 21, 2020 at 12:25 PM EST (GMT-05:00)
To: Dave Mann <dmann@cresford.com>

Dave,

Please see my last email regarding vacation request. I actually have 15 remaining days and not 20. Please speak to him to have this paid by end of this year (**next pay period**) since I have not used my remaining time. Every past employee has been reimbursed their vacation days and I know that you are speaking to Marco also.

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

From: Louie Giannakopoulos

Sent: March 11, 2020 7:46 AM

To: Dan Casey <dcasey@cresford.com>

Cc: Robin Simpson <rsimpson@cresford.com>; Rosemary Nocella <rnocella@cresford.com>; Kyla Copat <kcopat@cresford.com>

Subject: Vacation Alert

Morning Dan,

Please be advised that I am requesting the following two days off. All necessary staffing will be present during this period.

Louie Giannakopoulos

Vice President, Construction

Cresbuild

59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7

T: 416.971.7557 ext. 256 | C: 416.786.1906 | E: lgiannakopoulos@cresbuild.com

www.cresford.com/cresbuild

Attachments

- Mar.11th, 2020.xls

Vacation Request Form

Date: Wednesday Mar.11th, 2020

Employee: Louie Giannakopoulos

Department: Construction

Supervisor: Dan Casey

2020 Entitlement: 20.00

Total number of days taken to date in 2020: 3.00

Date(s) requested off: Friday March 13th

Monday March 16th

Total number of days requested: 2.00

Total number of days remaining for 2020 15.00

Employee's
Signature: _____

Supervisor's
Signature: _____

Attachment 8

----- Forwarded Message -----

From: Louie Giannakopoulos <louiegiannakopoulos@yahoo.com>
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>
Sent: Sunday, May 23, 2021, 10:07:47 p.m. EDT
Subject: Re: Settlement Agreement Extension #7 - Louie Giannakopoulos

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020, January 15, 2021, February 15, 2021, March 15, 2021, April 19, 2021 and once again May 26, 2021. Please take this email as notice under that I further extend the deadline to June 30, 2021.

Louie Giannakopoulos
(416) 786-1906

On Wednesday, April 14, 2021, 11:16:48 a.m. EDT, Louie Giannakopoulos <louiegiannakopoulos@yahoo.com> wrote:

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020, January 15, 2021, February 15, 2021, March 15, 2021 and once again April 19, 2021. Please take this email as notice under that I further extend the deadline to May 26, 2021.

Louie Giannakopoulos

(416) 786-1906

On Monday, March 15, 2021, 05:20:43 p.m. EDT, Louie Giannakopoulos <louiegiannakopoulos@yahoo.com> wrote:

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020, January 15, 2021, February 15, 2021 and once again March 15, 2021. Please take this email as notice under that I further extend the deadline to April 19, 2021.

Louie Giannakopoulos
(416) 786-1906

On Monday, February 15, 2021, 09:01:56 a.m. EST, Louie Giannakopoulos <louiegiannakopoulos@yahoo.com> wrote:

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020, January 15, 2021 and once again February 15, 2021. Please take this email as notice under that I further extend the deadline to March 15, 2021.

Louie Giannakopoulos
(416) 786-1906

-----Original Message-----

From: Louie Giannakopoulos
Sent: January 15, 2021 6:31 PM
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>
Subject: RE: ettlement Agreement Extension - Louie Giannakopoulos

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to

address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020 and once again to January 15, 2021 . Please take this email as notice under that I further extend the deadline to February 15, 2021.

Louie Giannakopoulos
Vice President, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: 416.971.7557 ext. 256 | C: 416.786.1906 | E:lgianakopoulos@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Louie Giannakopoulos
Sent: December 14, 2020 1:53 PM
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>
Subject: ettlement Agreement Extension - Louie Giannakopoulos

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. I then extended the date to December 15, 2020. Please take this email as notice under that I further extend the deadline to January 15, 2021.

Louie Giannakopoulos
Vice President, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: 416.971.7557 ext. 256 | C: 416.786.1906 | E:lgianakopoulos@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Louie Giannakopoulos
Sent: November 13, 2020 6:12 PM
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>
Subject: RE: Settlement Agreement Extension - Louie Giannakopoulos

Dan,

With respect to my settlement agreement, Cresford is in breach of paragraph 1(a) because it has said it cannot or will not direct funds to me from the closing of 69 Hayden Street. I don't waive that breach but it will be moot assuming I am paid from the closing of the YSL project so I will forbear for the moment on taking any steps to address the breach in the expectation that will occur. Please provide any updated irrevocable directions necessary given that the project is no longer being sold to Empire as it was when the original directions were signed.

The first payment of \$ 162,500 under paragraph 1(a) of my agreement was due by October 15, 2020 pursuant to paragraph 4 of the agreement. I previously extended that deadline to November 15, 2020. Please take this email as notice under that I further extend the deadline to December 15, 2020.

Louie Giannakopoulos
Vice President, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: 416.971.7557 ext. 256 | C: 416.786.1906 | E:lgiannakopoulos@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Louie Giannakopoulos
Sent: October 14, 2020 9:45 AM
To: Dan Casey <dcasey@cresford.com>
Cc: Dave Mann <dmann@cresford.com>; Joe Bolla <joebolla@gmail.com>; Marco Mancuso <marco@cresbuild.com>
Subject: RE: Settlement Agreement Extension - Louie Giannakopoulos

Dan,

As per paragraph no. 4 of my signed Settlement Agreement specifically with regards to paragraph 1(a), this email serves as my written notice that if payment is not received by the indicated date then the payment date shall be extended to November 15th, 2020.

Louie Giannakopoulos
Vice President, Construction
Cresbuild
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7
T: 416.971.7557 ext. 256 | C: 416.786.1906 | E:lgiannakopoulos@cresbuild.com www.cresford.com/cresbuild

-----Original Message-----

From: Dave Mann <dmann@cresford.com>
Sent: September 8, 2020 2:20 PM
To: Louie Giannakopoulos <lgiannakopoulos@cresbuild.com>
Subject: FW: Louie

Louie,

Attached are documents signed by Dan. I have sent the directions to the lawyers for acknowledgement.

Dave

-----Original Message-----

From: Dave Mann [mailto:dmann57@hotmail.com]
Sent: September 8, 2020 2:05 PM
To: Dave Mann <dmann@cresford.com>
Subject: Louie

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender

immediately by return electronic mail and destroy the message.

TAB B

| |
|---|
| SCHEDULE “B” – PRIORITY OF CLAIM |
|---|

As a joint employer, YSL failed to pay Giannakopoulos wages, salaries, commissions or compensation for services rendered during the period beginning on the day that is six months before the date of the initial bankruptcy event. This amount exceeded \$2,000.00. Giannakopoulos accordingly has a priority claim for \$2,000.00 pursuant to sections 81.3 and 136(1)(d) of the BIA.

EXHIBIT "A" – AMENDED PARTICULARS OF CLAIMS

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$30,646.50 ~~\$122,582~~, being contractual pay in lieu of 6 ~~24~~ months' notice, inclusive of HST;
- (b) earned Bonus Commission (as defined below) on the Halo project, inclusive of HST: \$113,000.00;
- (c) earned Bonus Commission on the 33 Yorkville project, inclusive of HST: \$169,500.00;
- (d) earned Bonus Commission on the YSL project, inclusive of HST: \$169,500.00;
- (e) earned Cooperating Commissions (as defined below), inclusive of HST: \$167,322;
~~and~~
- (f) earned Broker Pool Commissions (as defined below), inclusive of HST: \$99,972.00~~;~~

less

- (g) amounts expected to be received in respect of the above claims from the insolvencies of 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership

(Halo), equal to 55% of the \$125,000 unsecured claim approved PricewaterhouseCoopers in its capacity as court-appointed receiver: \$68,750.00.

2. The total value of the Claims is: \$681,190.50 ~~\$841,877~~.

I. OVERVIEW

3. Mike Catsiliras (**Catsiliras**) was employed in common by a number of Cresford companies, including YSL, until his constructive dismissal in late 2019.

4. Catsiliras earned significant bonus commissions for assisting with the launch of the 33 Yorkville, Halo and YSL projects, amounts that were acknowledged in Catsiliras' written employment agreement. As well, Catsiliras earned cooperating commissions and broker pool commissions from marketing Cresford projects.

5. In December 2019, Catsiliras requested payment of the bonuses and commissions that he had earned to date and that were then overdue for payment. Cresford failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him. Catsiliras is accordingly owed damages in lieu of notice as a result of his dismissal.

6. YSL has acknowledged that it owes Catsiliras at least a portion of these amounts. Cresford requested that Catsiliras issue invoices to YSL for \$300,000 in bonus commissions that were owing. YSL's chart of accounts payable acknowledged that it owed Catsiliras \$282,500.

7. PricewaterhouseCoopers (**PwC**) has already approved claims by Catsiliras in insolvency proceedings of related Cresford entities, in which PwC is court-appointed Receiver. Catsiliras will receive some limited recovery of the amounts owed to him via the Halo proceeding. He now submits a claim for the balance.

II. CATSILIRAS' EMPLOYMENT BY CRESFORD

8. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford. Cresford conducts its real estate development business through a series of project companies that hold title to and carry out individual development projects.

9. In around 2015, Cresford hired Catsiliras as a sales representative. Catsiliras' primary responsibility was to market and sell units in the Cresford projects. Catsiliras was remunerated through fixed monthly payments, commissions and bonuses. Catsiliras was initially not asked to and did not sign any written agreements governing his engagement.

10. In addition to YSL, Catsiliras performed work for the following Cresford companies (the **Cresford Employers**): Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover On Yonge Inc., The Clover On Yonge Limited Partnership, and 9615334 Canada Inc.

11. Because Catsiliras worked for all of these Cresford companies, he was employed in common by all of them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over Catsiliras' activities relating to the associated real estate project;
- (c) Catsiliras' bonus entitlements were specifically linked to his work on YSL and the other project companies; and
- (d) YSL specifically acknowledged that it was liable for paying amounts to Catsiliras on behalf of other Cresford companies, as described in section VII below.

12. The Cresford Employers, including YSL, are accordingly jointly liable for all of the obligations owed to Catsiliras.

13. On March 5, 2020, Catsiliras, together with Sarven Cicekian, commenced an action against Cresford companies and certain directors and officers for breach of contract and oppression, later amended on September 22, 2020 (attached as **Attachment 1**). Catsiliras adopts each of the allegations in the action for the purposes of these claims. This action was stayed against Clover,

Halo and now YSL by the commencement of insolvency proceedings. As of the date of this claim, no statement of defence has been delivered in the action. The defendants have been noted in default but the parties are discussing terms of a potential consent order to set aside the default.

III. EARNED BONUS COMMISSIONS

14. Cresford's officers orally agreed to a bonus structure involving bonuses for sales of units in Cresford projects, which were paid by a project-specific Cresford corporation. Cresford and Catsiliras agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Project | Earned Bonus Commission | Future Bonus Commission |
|----------------|--------------------------------|--------------------------------|
| Halo | \$100,000 | \$100,000 |
| 33 Yorkville | \$150,000 | \$150,000 |
| YSL | \$150,000 | \$150,000 |
| | <hr/> \$400,000 | <hr/> \$400,000 |

15. Cresford and Catsiliras agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following the project's launch, and the remaining 50% upon registration of the project's condominium corporation.

16. Catsiliras earned the first 50% of each Bonus Commission and claims these amounts. He does not claim the future Bonus Commissions payable upon the registration of the projects, as that milestone has not yet occurred.

17. In early December 2019, Catsiliras executed a Contracting Services Agreement (attached as **Attachment 2**), with amending schedules that confirmed certain bonus commissions previously

agreed to. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

18. YSL is liable for each of these earned Bonus Commissions as an employer in common of Catsiliras.

IV. COOPERATING COMMISSIONS

19. In addition to selling new units in the Cresford projects, Catsiliras also acted as a cooperating agent on behalf of some buyers of the units. Like other cooperating agents, Catsiliras earned commissions on those sales, which were set out in the relevant agreements of purchase and sale and recorded in the trade sheets maintained by Cresford Real Estate, Cresford's wholly owned brokerage company. These commissions were payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

20. Catsiliras earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Project | Earned Cooperating Commission | Future Cooperating Commission |
|----------------|--------------------------------------|--------------------------------------|
| Clover | \$10,376.50 | \$10,376.50 |
| 33 Yorkville | \$84,197.00 | \$84,197.00 |
| YSL | \$53,500.50 | \$53,500.50 |
| | <hr/> | <hr/> |
| | \$148,073.50 | \$148,073.50 |

21. As of January 2020, the first 50% of these cooperating commissions were earned by Catsiliras, for which YSL is jointly liable as an employer in common, together with HST.

V. BROKER POOL COMMISSIONS

22. Cresford's agents also facilitated the resale and lease of Cresford project units. For such transactions, Cresford Real Estate would credit the resulting commission to a "pool" of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford's agents.

23. As of January 2020, Cresford Real Estate owed Catsiliras \$88,471 for these shared broker pool commissions (the **Broker Pool Commissions**), for which YSL is jointly liable as an employer in common, together with HST.

VI. CONSTRUCTIVE DISMISSAL

24. In December 2019, Catsiliras requested payment of the bonuses and commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him.

25. On January 2, 2020, Catsiliras advised that as a result of non-payment and the deteriorating situation at Cresford, they would "resign" their positions effective in two weeks. As a matter of law, however, Catsiliras was constructively dismissed and did not resign.

26. Cresford has failed to pay Catsiliras pay in lieu of notice of termination, who is entitled to 6 24 months' salary in lieu of notice. Catsiliras' monthly compensation was \$4,000, plus HST. YSL is jointly liable as an employer in common for 6 24 months' pay in lieu of notice of termination, being \$30,646 ~~\$122,582~~ inclusive of HST.

VII. YSL'S ACKNOWLEDGMENT OF ITS LIABILITY FOR THE EARNED BONUS COMMISSIONS OWING

27. Cresford acknowledged that YSL was required to pay the bonuses that were owing to Mike Catsiliras. In December 2019, Cresford requested that Catsiliras invoice YSL for the \$150,000 in earned Bonus Commissions owing for each of 33 Yorkville and Halo. Catsiliras accordingly issued two invoices dated December 19, 2019 to YSL totaling \$339,000, inclusive of HST (attached as **Attachment 3**).

28. On March 31, 2020, Cresford created a list of accounts payable owed by YSL dated as of March 31, 2020 (attached as **Attachment 4**). On that list, YSL acknowledged that it owed Catsiliras an amount of \$282,500. Catsiliras is not aware of why this amount is less than the \$339,000 in earned Bonus Commissions that he was requested to invoice.

VIII. CLAIMS IN OTHER INSOLVENCY PROCEEDINGS

29. Catsiliras filed claims in the Clover and Halo proceedings that were substantially similar to the claims filed in this proceeding. Catsiliras has since resolved those claims with PwC, the monitor and receiver in those proceedings.

30. On June 2, 2021, PwC issued a revised notice of revision allowing \$125,000 in unsecured claims in the Halo proceeding (attached as **Attachment 5**). This acknowledged amount is equal to Catsiliras' \$100,000 earned Bonus Commission on the Halo project, plus an acknowledged credit of nearly \$25,000 on his purchase of a unit in the Halo project. Catsiliras withdrew his claims in the Clover CCAA proceeding.

31. Catsiliras has not yet received any distributions in respect of his \$125,000 in acknowledged claims in the Halo proceeding and does not presently know the amount of a future distribution, but will advise the proposal trustee of any distributions received and accepts that any such amounts are properly credited against the same claims herein. Because of the possibility that Catsiliras' Halo distribution amount will not be known before his within claim is valued for distribution purposes, Catsiliras has included an interim credit of \$68,750 in respect of this claim, being 55% of the claim amount. He understands that present estimates are that the distribution will be at this level or slightly above it.

Bankruptcy and Insolvency Act ("Act")

Proof of Claim

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

| | | | |
|----------------|--------------------------------------|------------|-------------------------------|
| Creditor Name: | <u>Mike Catsiliras</u> | Telephone: | <u>(416) 768-9994</u> |
| Address: | <u>c/o James Gibson, Naymark Law</u> | Fax: | <u>(647) 660-5060</u> |
| | <u>171 John Street, Suite 101,</u> | Email: | <u>jgibson@naymarklaw.com</u> |
| | <u>Toronto, ON, M5T 1X3</u> | | |
| Account No.: | <u>Nil</u> | | |

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. and YG Limited Partnership (*name of debtor*) of the City of Toronto, Ontario (*city and province*) and the claim of Mike Catsiliras, creditor.

I, Mike Catsiliras (*name of creditor or representative of the creditor*), of City of Toronto, Ontario (*city and province*), do hereby certify:

1. That I am a creditor of the above-named debtor (~~or that I am _____ (*state position or title*) of _____ (*name of creditor*)).~~
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of **\$841,877.00**, as specified in the statement of account (or affidavit) attached and marked **Schedule "A"**, after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$841,877.00 (other than as a customer contemplated by Section 262 of the Act)
That in respect of this debt, I do not hold any assets of the debtor as security and
(Check appropriate description.)

Regarding the amount of \$839,877.00, I do not claim a right to a priority.

Regarding the amount of \$2,000.00, I claim a right to a priority under Section 136 of the Act.
(Set out on an attached sheet details to support priority claim.)
See **Schedule "B"**.

B. SECURED CLAIM OF \$0.00

That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

C. CONSTRUCTION LIEN CLAIM OF \$0.00

That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

1. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non- arm's-length manner.
2. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at City of Toronto, Ontario, this 11th day of June, 2021.



Witness



Creditor Authorized Signatory
Mike Catsiliras

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE

CONDITIONAL CLAIM ADDENDUM

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

Creditor Authorized Signatory

TAB A

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

B E T W E E N:

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

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

Applicants

AFFIDAVIT OF MIKE CATSILIRAS
(Sworn on June 13, 2021)

I, MIKE CATSILIRAS, of the City of Toronto, Ontario, MAKE OATH AND SAY:

1. I am a creditor in this proceeding, and as such have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe the information to be true.
2. I confirm that the information contained in the particulars of claim attached as **Exhibit "A"**, together with the supporting attachments, is accurate and I adopt it for the purposes of this affidavit.

3. I make this affidavit in support of a proof of claim in this proceeding, and for no other or improper purpose.

SWORN by videoconference technology by the deponent, located in the City of Toronto, Ontario, before the commissioner, located in the City of Toronto, Ontario in accordance with O. Reg. 431/20, Administrating Oath Remotely on June 13, 2021

}



Commissioner for Taking Affidavits
JAMES GIBSON



MIKE CATSILIRAS

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF MIKE CATSILIRAS
SWORN BEFORE ME, THIS 13TH DAY OF JUNE, 2021



JAMES GIBSON

A Commissioner Etc.

| |
|--|
| EXHIBIT "A" – PARTICULARS OF CLAIMS |
|--|

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$122,582, being contractual pay in lieu of 24 months' notice, inclusive of HST;
- (b) earned Bonus Commission (as defined below) on the Halo project, inclusive of HST: \$113,000;
- (c) earned Bonus Commission on the 33 Yorkville project, inclusive of HST: \$169,500;
- (d) earned Bonus Commission on the YSL project, inclusive of HST: \$169,500;
- (e) earned Cooperating Commissions (as defined below), inclusive of HST: \$167,322;
and
- (f) earned Broker Pool Commissions (as defined below), inclusive of HST: \$99,972.

2. The total value of the Claims is: \$841,877.

I. OVERVIEW

3. Mike Catsiliras (**Catsiliras**) was employed in common by a number of Cresford companies, including YSL, until his constructive dismissal in late 2019.

4. Catsiliras earned significant bonus commissions for assisting with the launch of the 33 Yorkville, Halo and YSL projects, amounts that were acknowledged in Catsiliras' written employment agreement. As well, Catsiliras earned cooperating commissions and broker pool commissions from marketing Cresford projects.

5. In December 2019, Catsiliras requested payment of the bonuses and commissions that he had earned to date and that were then overdue for payment. Cresford failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him. Catsiliras is accordingly owed damages in lieu of notice as a result of his dismissal.

6. YSL has acknowledged that it owes Catsiliras at least a portion of these amounts. Cresford requested that Catsiliras issue invoices to YSL for \$300,000 in bonus commissions that were owing. YSL's chart of accounts payable acknowledged that it owed Catsiliras \$282,500.

7. PricewaterhouseCoopers (**PwC**) has already approved claims by Catsiliras in insolvency proceedings of related Cresford entities, in which PwC is court-appointed Receiver. Catsiliras will receive some limited recovery of the amounts owed to him via the Halo proceeding. He now submits a claim for the balance.

II. CATSILIRAS' EMPLOYMENT BY CRESFORD

8. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford. Cresford conducts its real estate development

business through a series of project companies that hold title to and carry out individual development projects.

9. In around 2015, Cresford hired Catsiliras as a sales representative. Catsiliras' primary responsibility was to market and sell units in the Cresford projects. Catsiliras was remunerated through fixed monthly payments, commissions and bonuses. Catsiliras was initially not asked to and did not sign any written agreements governing his engagement.

10. In addition to YSL, Catsiliras performed work for the following Cresford companies (the **Cresford Employers**): Cresford Real Estate Corporation, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, 33 Yorkville Residences Inc., 33 Yorkville Residences Limited Partnership, 480 Yonge Street Inc., 480 Yonge Street Limited Partnership, The Clover On Yonge Inc., The Clover On Yonge Limited Partnership, and 9615334 Canada Inc.

11. Because Catsiliras worked for all of these Cresford companies, he was employed in common by all of them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over Catsiliras' activities relating to the associated real estate project;

- (c) Catsiliras' bonus entitlements were specifically linked to his work on YSL and the other project companies; and
- (d) YSL specifically acknowledged that it was liable for paying amounts to Catsiliras on behalf of other Cresford companies, as described in section VII below.

12. The Cresford Employers, including YSL, are accordingly jointly liable for all of the obligations owed to Catsiliras.

13. On March 5, 2020, Catsiliras, together with Sarven Cicekian, commenced an action against Cresford companies and certain directors and officers for breach of contract and oppression, later amended on September 22, 2020 (attached as **Attachment 1**). Catsiliras adopts each of the allegations in the action for the purposes of these claims. This action was stayed against Clover, Halo and now YSL by the commencement of insolvency proceedings. As of the date of this claim, no statement of defence has been delivered in the action. The defendants have been noted in default but the parties are discussing terms of a potential consent order to set aside the default.

III. EARNED BONUS COMMISSIONS

14. Cresford's officers orally agreed to a bonus structure involving bonuses for sales of units in Cresford projects, which were paid by a project-specific Cresford corporation. Cresford and Catsiliras agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Project | Earned Bonus Commission | Future Bonus Commission |
|----------------|------------------------------------|------------------------------------|
| Halo | \$100,000 | \$100,000 |
| 33 Yorkville | \$150,000 | \$150,000 |
| YSL | \$150,000 | \$150,000 |
| | \$400,000 | \$400,000 |

15. Cresford and Catsiliras agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following the project's launch, and the remaining 50% upon registration of the project's condominium corporation.

16. Catsiliras earned the first 50% of each Bonus Commission and claims these amounts. He does not claim the future Bonus Commissions payable upon the registration of the projects, as that milestone has not yet occurred.

17. In early December 2019, Catsiliras executed a Contracting Services Agreement (attached as **Attachment 2**), with amending schedules that confirmed certain bonus commissions previously agreed to. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

18. YSL is liable for each of these earned Bonus Commissions as an employer in common of Catsiliras.

IV. COOPERATING COMMISSIONS

19. In addition to selling new units in the Cresford projects, Catsiliras also acted as a cooperating agent on behalf of some buyers of the units. Like other cooperating agents, Catsiliras earned commissions on those sales, which were set out in the relevant agreements of purchase and

sale and recorded in the trade sheets maintained by Cresford Real Estate, Cresford’s wholly owned brokerage company. These commissions were payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

20. Catsiliras earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Project | Earned Cooperating Commission | Future Cooperating Commission |
|----------------|--------------------------------------|--------------------------------------|
| Clover | \$10,376.50 | \$10,376.50 |
| 33 Yorkville | \$84,197.00 | \$84,197.00 |
| YSL | \$53,500.50 | \$53,500.50 |
| | <hr/> | <hr/> |
| | \$148,073.50 | \$148,073.50 |

21. As of January 2020, the first 50% of these cooperating commissions were earned by Catsiliras, for which YSL is jointly liable as an employer in common, together with HST.

V. BROKER POOL COMMISSIONS

22. Cresford’s agents also facilitated the resale and lease of Cresford project units. For such transactions, Cresford Real Estate would credit the resulting commission to a “pool” of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford’s agents.

23. As of January 2020, Cresford Real Estate owed Catsiliras \$88,471 for these shared broker pool commissions (the **Broker Pool Commissions**), for which YSL is jointly liable as an employer in common, together with HST.

VI. CONSTRUCTIVE DISMISSAL

24. In December 2019, Catsiliras requested payment of the bonuses and commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the commissions, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed him.

25. On January 2, 2020, Catsiliras advised that as a result of non-payment and the deteriorating situation at Cresford, they would “resign” their positions effective in two weeks. As a matter of law, however, Catsiliras was constructively dismissed and did not resign.

26. Cresford has failed to pay Catsiliras pay in lieu of notice of termination, who is entitled to 24 months’ salary in lieu of notice. Catsiliras’ monthly compensation was \$4,000, plus HST. YSL is jointly liable as an employer in common for 24 months’ pay in lieu of notice of termination, being \$122,582 inclusive of HST.

VII. YSL’S ACKNOWLEDGMENT OF ITS LIABILITY FOR THE EARNED BONUS COMMISSIONS OWING

27. Cresford acknowledged that YSL was required to pay the bonuses that were owing to Mike Catsiliras. In December 2019, Cresford requested that Catsiliras invoice YSL for the \$150,000 in earned Bonus Commissions owing for each of 33 Yorkville and Halo. Catsiliras accordingly issued

two invoices dated December 19, 2019 to YSL totaling \$339,000, inclusive of HST (attached as **Attachment 3**).

28. On March 31, 2020, Cresford created a list of accounts payable owed by YSL dated as of March 31, 2020 (attached as **Attachment 4**). On that list, YSL acknowledged that it owed Catsiliras an amount of \$282,500. Catsiliras is not aware of why this amount is less than the \$339,000 in earned Bonus Commissions that he was requested to invoice.

VIII. CLAIMS IN OTHER INSOLVENCY PROCEEDINGS

29. Catsiliras filed claims in the Clover and Halo proceedings that were substantially similar to the claims filed in this proceeding. Catsiliras has since resolved those claims with PwC, the monitor and receiver in those proceedings.

30. On June 2, 2021, PwC issued a revised notice of revision allowing \$125,000 in unsecured claims in the Halo proceeding (attached as **Attachment 5**). This acknowledged amount is equal to Catsiliras' \$100,000 earned Bonus Commission on the Halo project, plus an acknowledged credit of nearly \$25,000 on his purchase of a unit in the Halo project. Catsiliras withdrew his claims in the Clover CCAA proceeding.

31. Catsiliras has not yet received any distributions in respect of his \$125,000 in acknowledged claims in the Halo proceeding and does not presently know the amount of a future distribution, but will advise the proposal trustee of any distributions received and accepts that any such amounts are properly credited against the same claims herein.

Attachment 1

AMENDED THIS September 22nd, 2020 PURSUANT TO
MODIFIÉ CE 2209, 2020 CONFORMÉMENT À
 RULE/LA RÈGLE 26 02 (A)
 THE ORDER OF _____
L'ORDONNANCE DU _____
DATED / FAIT LE _____

Court File No. CV-20-00637543-0000

REGISTRAR / GREFFIER
SUPERIOR COURT OF JUSTICE / COUR SUPÉRIEURE DE JUSTICE
ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SARVEN CICEKIAN and MIKE CATSILIRAS

Plaintiffs

- and -

CRESFORD REAL ESTATE CORPORATION, CRESFORD (ROSEDALE)
DEVELOPMENTS INC., EAST DOWNTOWN REDEVELOPMENT
PARTNERSHIP, 33 YORKVILLE RESIDENCES INC., 33 YORKVILLE
RESIDENCES LIMITED PARTNERSHIP, 480 YONGE STREET INC., 480
YONGE STREET LIMITED PARTNERSHIP, THE CLOVER ON YONGE INC.,
THE CLOVER ON YONGE LIMITED PARTNERSHIP, YSL RESIDENCES INC.,
YG LIMITED PARTNERSHIP, 9615334 CANADA INC., DANIEL C. CASEY and
DAVID MANN

Defendants

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for
you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure,
serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the
plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this
statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of
America, the period for serving and filing your statement of defence is forty days. If you are served
outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of
intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to
ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date: March 5, 2020

Issued by: "@V-E Filing"
Local Registrar
Ontario Superior Court of Justice
330 University Avenue, Toronto ON

TO: NELLIGAN O'BRIEN PAYNE LLP
50 O'Connor Street, Suite 300
Ottawa, ON K1P 6L2

Allan R. O'Brien (LSO No. 15326T)
allan.obrien@nelliganlaw.ca
Tel 613.231.8224
Fax 613.788.3654

Counsel for the Defendants

CLAIM

1. The plaintiffs, Sarven Cicekian and Mike Catsiliras, claim as against the defendants:
 - (a) damages for breach of contract and oppression in the amount of \$1,600,000 \$1,400,000 plus harmonized sales tax, including in relation to the outstanding Bonus Commissions, Cooperating Commissions, Broker Pool Commissions and Other Commissions (as defined below) and constructive dismissal;
 - (b) damages for breach of contract and oppression in the further amounts set out below, plus harmonized sales tax:
 - (i) \$900,000, which was payable upon the completion of the projects that are the subject of the Bonus Commissions (as defined below) prior to the defendants' breach;
 - (ii) \$199,818, which was payable upon the final closing of the units that are the subject of the Cooperating Commissions (as defined below) prior to the defendants' breach;
 - (c) a declaration pursuant to section 248 of the *Business Corporations Act*, RSO 1990, c B.16 (*OBCA*) that the business of the corporate defendants and their affiliates was conducted, and the powers of their directors were exercised, in a manner that was oppressive, unfairly prejudicial and unfairly disregarded the interests of the plaintiffs;

- (d) an order pursuant to section 248 of the *OBCA* that this Honourable Court finds appropriate, including compensating the plaintiffs for the defendants' oppressive conduct;
- (e) a declaration that Casey is liable to each of the plaintiffs for an amount equal to six months' wages under section 131 of the *Business Corporations Act*, RSO 1990, c B.16;
- (f) pre- and post-judgment interest in accordance with the *Courts of Justice Act*, RSO 1990, c C.43, as amended (*CJA*);
- (g) costs of this action on a full indemnity basis; and
- (h) such further and other relief as the nature of this case may require and this Honourable Court deems just.

A. Parties

2. The plaintiffs Sarven Cicekian (**Cicekian**) and Mike Catsiliras (**Catsiliras**) are registered real estate salespersons and residents of Toronto. As described below, the plaintiffs were engaged to sell units in a number of condominium projects.

3. The corporate defendants (together, **Cresford**) are each Ontario corporations and partnerships. They are each part of a group of companies and partnerships engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford, including the following condominium projects:

- (a) The Clover on Yonge (**Clover**), a 44-storey condominium located near Yonge and Bloor owned by Clover on Yonge Inc. in its capacity as general partner of Clover on Yonge Limited Partnership;
- (b) Halo Residences on Yonge (**Halo**), a 38-storey condominium tower located on Yonge Street between Wellesley and Carlton in Toronto owned by 480 Yonge Street Inc., the general partner of 480 Yonge Street Limited Partnership;
- (c) The Residences of 33 Yorkville (**33 Yorkville**), a condominium with one 64- storey tower and one 41-storey tower owned by 33 Yorkville Residences Inc., in its capacity as general partner of 33 Yorkville Residences Limited Partnership; and
- (d) Yonge Street Living Residences (**YSL**), an 85-storey condominium tower located at the corner of Yonge and Gerrard in Toronto, which is owned by YSL Residences Inc. and 9615334 Canada Inc. in its capacity as the general partner of YG Limited Partnership.

4. The defendant Cresford Real Estate Corporation (**Cresford Real Estate**) is a corporation in the Cresford Group and a registered real estate brokerage.

5. The defendant Cresford (Rosedale) Developments Inc. is a company in the Cresford Group that was involved in producing a written agreement related to the Bonus Commissions, as described below.

6. The defendant East Downtown Redevelopment Partnership acts as a management company for the Cresford Group.

7. The defendant, Daniel Casey (**Casey**), is an individual resident in Ontario. At all material times, Casey was the principal of Cresford and is the beneficial owner of and controls the corporate defendants.

8. The defendant, David Mann (**Mann**), is an individual resident in Ontario. At all material times, Mann was the Chief Financial Officer of Cresford.

9. The following defendants are now subject to stays of proceedings imposed as a result of insolvency proceedings:

(a) 33 Yorkville Residences Inc. and 33 Yorkville Residences Limited Partnership are subject to a court-appointed receivership (CV-20-00637297-00CL) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (**BIA**);

(b) 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership are subject to a court-appointed receivership (CV-20-00637301-00CL) under the BIA; and

(c) The Clover On Yonge Inc. and The Clover On Yonge Limited Partnership were subject to a court-appointed receivership (CV-20-00637301-00CL) under the BIA, which was converted into a proceeding under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (CV-20-00642928-00CL).

B. Plaintiffs' Employment by Cresford

10. In March 2013, Cresford hired Cicekian as a sales representative. In that role, Cicekian was responsible for selling new condominium units in Cresford developments, and for reselling and leasing previously sold units.

11. In 2015, Cresford promoted Cicekian to Director of Sales, with expanded responsibilities including the supervision of three sales staff and four administrative staff. At around the same time, Cresford hired Catsiliras as a sales representative.

12. Prior to 2017, Cicekian and Catsiliras each maintained their realtor registration with an independent brokerage, through which each performed their sales and leasing activities for Cresford. In 2017, Cresford opened its own brokerage, Cresford Real Estate, through which Cicekian and Catsiliras then undertook these activities. Cicekian became broker of record for Cresford Real Estate.

13. At around this time, Cresford further promoted Cicekian to the position of Vice President of Sales, with expanded responsibilities that included exercising signing authority on behalf of Cresford for sales matters. Catsiliras was promoted to the position of Director of Sales.

14. At the material times, Cicekian reported directly to Maria Athanasoulis (**Athanasoulis**), the President and Chief Operating Officer of Cresford. Catsiliras reported to Cicekian.

15. The plaintiffs' primary responsibility was to market and sell units in the Cresford projects, including at the "launch" or initial offering of the condominium units made over a period of two or three days. Cresford's typical goal was to sell up to 75 percent of the new units in a project during the launch. The launch and the preceding month were accordingly periods of intense activity for Cresford's salespeople. As described below, the plaintiffs also acted as agents for the lease and resale of Cresford project units.

C. Commissions for Sales of New Project Units

16. The plaintiffs were remunerated through fixed monthly payments, commissions and bonuses, which are described below. This remuneration was set in agreement with Casey and Athanasoulis, acting on behalf of Cresford. Aside from the written bonus agreements described below, the plaintiffs were not asked to and did not sign any written agreements governing their engagement, other than one written agreement signed by Cicekian in 2013 relating to a discrete Cresford project not in issue.

17. Prior to the launch of each Cresford development project, Athanasoulis, on behalf of Cresford, orally agreed to a commission structure with each of Cicekian and Catsiliras. For these new unit sales, a project-specific Cresford corporation paid the plaintiffs, not Cresford Real Estate. These Cresford projects were employers or contractors of the plaintiffs in common with the brokerage and exercised common control over their activities.

18. Cresford generally offered discounted prices and lower deposit amounts for project units to the plaintiffs, as an incentive to purchase units. In some cases, the plaintiffs agreed with Cresford that their commissions would be credited towards the deposit and purchase price of a unit that they were purchasing in the project, rather than being paid to the plaintiffs in cash.

19. For earlier projects, Cresford agreed to pay a flat commission per unit sold, payable 50% when the agreement of purchase and sale became firm and 50% when the sale of the unit successfully closed. For example, Cicekian was awarded bonus commissions on prior projects in the following approximate amounts: Casa 3 (\$124,000), VOX (\$119,000) and Clover (\$256,000). Catsiliras received approximately \$125,000 in bonus commissions on the Clover project.

20. In or around the summer of 2016, the plaintiffs’ commission structure changed. Given a shorter selling period and the success of the prior launches, Athanasoulis and the plaintiffs agreed to move to a lump sum, per-project bonus commission payable for each project. The amounts of these commissions were discussed and agreed upon prior to each project’s launch. Approximately \$150,000 in bonus commissions on the Halo project were awarded to Cicekian in this fashion.

21. In accordance with this arrangement, Cresford and the plaintiffs agreed to the following project-by-project commissions (together, the **Bonus Commissions**):

| Agent | Project | Bonus Commission |
|-----------------|----------------|-------------------------|
| Mike Catsiliras | Halo | \$200,000 |
| | 33 Yorkville | \$300,000 |
| | YSL | \$300,000 |
| Total | | <hr/> \$800,000 |
| Sarven Cicekian | 33 Yorkville | \$500,000 |
| | YSL | \$500,000 |
| Total | | <hr/> \$1,000,000 |

22. Cresford and the plaintiffs agreed that for each project, 50% of the Bonus Commission would be payable within a reasonable period following project launch, and the remaining 50% upon registration of the project’s condominium corporation. The plaintiffs had a trusting relationship with Athanasoulis and were invested in Cresford’s success, and so did not insist on a firm deadline for payment of the first 50% of each Bonus Commission.

23. In early December 2019, the plaintiffs and Athanasoulis took steps to memorialize the unpaid Bonus Commissions that the plaintiffs had earned. The plaintiffs each executed a Contracting Services Agreement, with amending schedules that confirmed the Bonus

Commissions payable for those projects. Athanasoulis signed each contract on behalf of Cresford (Rosedale) Developments Inc., acting as agent for the relevant Cresford project companies. The parties dated the schedules to reflect the approximate date on which the Bonus Commissions had been awarded, although the agreements were executed in December 2019.

24. The plaintiffs and Athanasoulis used template agreements without the assistance of counsel. The primary purpose of these written agreements was to memorialize the Bonus Commission amounts previously agreed to orally. They did not intend to alter any terms of those prior agreements. To the extent that the written agreements are interpreted to do so, the plaintiffs seek an order that those agreements be rectified.

25. By that point, Cresford's business was in financial distress and had failed to pay commissions owing to cooperating agents from other brokerages. Casey failed to provide a clear plan to address these issues. As Cresford's face in the broker community, the plaintiffs' professional reputations began to suffer. Athanasoulis' management authority was removed after she raised concerns about the deteriorating situation at Cresford.

D. Cooperating Commissions

26. In addition to selling new units in the Cresford projects, the plaintiffs also acted as cooperating agents on behalf of some buyers of the units. Like other cooperating agents, the plaintiffs earned commissions on those sales, which were set out in the relevant agreements of purchase and sale and recorded in the trade sheets maintained by Cresford Real Estate. These commissions were payable 50% when the agreement of purchase and sale became firm and 50%

when the sale of the unit successfully closed. Cresford Real Estate invoiced the relevant Cresford project company seller for the cooperating commission, which was payable to the agent.

27. The plaintiffs earned the following cooperating commissions on purchases of units in Cresford projects (the **Cooperating Commissions**):

| Agent | Project | Cooperating Commission |
|-----------------|----------------|-------------------------------|
| Mike Catsiliras | Clover | \$20,753 |
| | 33 Yorkville | \$168,394 |
| | YSL | \$107,001 |
| Total | | <hr/> \$296,147 |
| Sarven Cicekian | 33 Yorkville | \$103,488 |
| Total | | <hr/> \$103,488 |

28. As of January 2020, 50% of these cooperating commissions (\$199,818) were due and payable to the plaintiffs, with the balance payable on the closing of the relevant units.

E. Broker Pool Commissions

29. Cresford’s agents also facilitated the resale and lease of Cresford Project units. For such transactions, Cresford Real Estate would credit the resulting commission to a “pool” of commissions. Half of the pooled commissions was payable to Cresford, and the remaining half was divided equally between Cresford’s agents. As of January 2020, Cresford Real Estate owed Cicekian and Catsiliras \$93,471 and \$88,471 respectively in these shared broker pool commissions (the **Broker Pool Commissions**).

F. Other Commissions

30. The plaintiffs also earned commissions, payable by Cresford Real Estate on a resale/assignment transaction carried out by Cicekian (in an amount of \$24,500) and a lease transaction carried out by Catsiliras (in an amount of \$1,000) (the **Other Commissions**).

G. The Plaintiffs' Departure from Cresford

31. The plaintiffs dedicated themselves to Cresford's business and were an instrumental part of the marketing and sale of Cresford's projects. When Cresford had issues with its cash flow, the plaintiffs did not insist on immediate payment of their bonuses and commissions. They were invested in the success of Cresford's enterprises.

32. Over time, the plaintiffs became disenchanted with the way in which Cresford was carrying on business, including its failure to pay third party agent commissions from sales of Cresford project units. The plaintiffs began to be bombarded with agents' demands for payment and found themselves having to defend Cresford, when they themselves were owed over \$1 million in commissions. The plaintiffs repeatedly insisted that Cresford meet its financial obligations to these other agents and their professional reputations deteriorated when Cresford refused to do so.

33. In December 2019, Cicekian requested payment of the commissions that he had earned to date. By the end of the year, Cresford had still failed to pay the plaintiffs, and refused to provide a date by which it would do so. By so doing, Cresford constructively dismissed the plaintiffs.

34. On January 2, 2020, the plaintiffs advised that as a result of non-payment and the deteriorating situation at Cresford, they would "resign" their positions effective in two weeks. As a matter of law, however, the plaintiffs were constructively dismissed and did not resign. Shortly

afterwards, Casey advised each of them that they were not to return to work. Cicekian therefore ceased acting as broker of record for Cresford Real Estate effective January 6, 2020, as he could no longer carry out those responsibilities.

35. After their departure, the plaintiffs detailed the amount of the overdue Broker Pool and Other Commissions and demanded that they be paid. The plaintiffs had previously issued invoices for the Cooperating Commissions. The plaintiffs also demanded a firm timeline for when the Bonus Commissions would be paid to them.

36. Mann confirmed that the amounts of Broker Pool and Other Commissions claimed were correct. However, he advised that Cresford would withhold payment until Cicekian signed the necessary documents to transfer Cresford Real Estate to another broker of record. Cicekian did so, but Mann nevertheless failed to authorize payment of the outstanding commissions despite his representation that he would do so.

37. As of the date of this statement of claim, Cresford has failed to make any payments of the outstanding amounts owing to them.

H. Breach of Contract

38. The plaintiffs performed in good faith the services asked of them by Cresford. Despite the plaintiffs' repeated demands, Cresford has breached its obligation to pay the commissions owing, including the Cooperating Commissions, the Broker Pool Commissions, and the Other Commissions.

39. In addition, each of the relevant Cresford companies undertook to pay the Bonus Commissions owed to the plaintiffs for their efforts in marketing their units, as memorialized in the written bonus agreement. These defendants have breached their obligation to pay the first installments of the Bonus Commissions that are immediately owing and have repudiated their obligation to pay the second installment of those commissions.

I. Constructive Dismissal

40. By persistently refusing to honour the plaintiffs' employment entitlements, Cresford implemented significant changes to the plaintiffs' employment. The essential terms and conditions of the plaintiffs' employment substantially changed as a consequence of Cresford's actions.

41. Cresford did not consult the plaintiffs before implementing these changes. Rather, Cresford continually delayed and reneged on its promises to induce the plaintiffs to continue working for Cresford.

42. As pleaded at paragraph 32 to 34 above, these changes to the plaintiffs' employment, imposed by Cresford, amount to constructive dismissal. The changes were substantial and detrimental, and entitled the plaintiffs to terminate their contracts of employment and claim damages in lieu of reasonable notice.

43. Cresford has failed to pay the plaintiffs pay in lieu of notice of termination, who are entitled to 24 months' salary, vacation entitlements, and other employment benefits, in an amount to be particularized prior to trial.

J. Oppression

44. The plaintiffs reasonably expected that the corporate defendants would manage their affairs in accordance with their legal obligations, including their obligation to act with a view to the best interests of the corporation. The plaintiffs reasonably expected that the corporate defendants would use the funds that it had earmarked to pay broker commissions for that purpose.

45. Instead, the corporate defendants withheld funds from Cresford Real Estate in order to address the deteriorating financial condition of Cresford's business. In carrying out the conduct described above, the defendants conducted the corporations' affairs in a manner that was oppressive, unfairly prejudicial and unfairly disregarded the interests of the plaintiffs.

46. By causing, permitting or acquiescing to this conduct and by misrepresenting and concealing it, Casey and Mann acted oppressively towards the plaintiffs in bad faith. It is appropriate to order a personal remedy against them because they personally benefited from withholding those funds to benefit other corporations under their control, they breached their duties to the corporation, and a remedy ordered against only Cresford Real Estate may prejudice the corporation's other creditors.

K. Liability under the *OBCA*

47. At the material times, Casey was a director of each of the Cresford companies. Under section 131 of the *OBCA*, he is liable to the plaintiffs for all debts not exceeding six months' wages that became payable while he was a director for the services performed by the plaintiffs for Cresford, including all amounts claimed in this action.

L. Place of Trial

48. The plaintiffs propose that this action be tried in Toronto.

NAYMARK LAW

171 John Street, Suite 101
Toronto, Ontario M5T 1X3

Daniel Z. Naymark LSO#: 56889G
Tel: (416) 640-6078
Fax: (647) 660-5060
dnaymark@naymarklaw.com

James Gibson LSO#: 62858O
Tel: (416) 640-1592
Fax: (647) 660-5060
jgibson@naymarklaw.com

Lawyers for the Plaintiffs,
Sarven Cicekian and Mike Catsiliras

CICEKIAN et. al.
Plaintiffs

- and -

CRESFORD REAL ESTATE CORPORATION et. al.
Defendants

Court File No. Court File No. CV-20-00637543-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**
PROCEEDING COMMENCED AT TORONTO

AMENDED STATEMENT OF CLAIM

NAYMARK LAW

171 John Street, Suite 101
Toronto, Ontario M5T 1X3

Daniel Z. Naymark LSO#: 56889G

Tel: (416) 640-6078

Fax: (647) 660-5060

dnaymark@naymarklaw.com

James Gibson LSO#: 628580

Tel: (416) 640-1592

Fax: (647) 660-5060

jgibson@naymarklaw.com

Lawyer for the Plaintiffs, Sarven Cicekian and Mike
Catsiliras

Attachment 2

CONTRACTING SERVICES AGREEMENT

BETWEEN:

Cresford (Rosedale) Developments Inc, a company having its office at 170 Merton Street, Toronto, ON M4S 1A1

(hereinafter referred to as "Cresford")

-And-

Mike Catsiliras

(hereinafter referred to as the "Contractor")

WHEREAS the Company agrees to contract for the services of the Contractor, and the Contractor agrees to enter a contract for provision of such services;

NOW THEREFORE, in the consideration of the mutual covenants and agreements herein contained, the parties agree, each with the other, as follows:

1. Commencement

Service under this Agreement shall commence on September 1, 2016 and shall continue until terminated as provided in paragraph 7.

Terms are as follows:

- a. The Contractor will receive a monthly service fee in the amount of FOUR THOUSAND DOLLARS, plus HST, (\$4000 + HST) to be paid semi-monthly on the 15th and 30th of each month (or the closest business day). Invoices will require a minimum of 5 business days for processing. Invoices submitted late may result in delayed payment.
- b. The Contractor will receive a commission, as outlined in the attached Schedule A, on the firm sale of the units for projects by Cresford as outlined in Schedule A.
- c. Commission is payable per the attached Schedule A.
- d. No commission is payable on any corporate head office or insider sales, unless otherwise stated and agreed to.
- e. Service fees and commissions are project defined and are subject to change. Any change shall be reflected in writing, requiring both the Contractor and an authorized Cresford signing officer to sign and acknowledge said changes.
- f. The Contractor is entitled to enroll in the company's health benefit program for contractors. The Contractor shall not be entitled to any other benefits or any other compensation other than said health benefits, the monthly service fee noted in paragraph 1a and the commission noted in Schedule A.
- g. The Contractor shall be entitled to remit for certain pre-approved expenses, if applicable.
- h. This Agreement supersedes any other agreement, whether oral, written or otherwise, previously made between you and Cresford.

2. Status

The Contractor is, for all intents and purposes, considered to be an independent real estate contractor. As such, you are not required to work exclusively for Cresford. It is understood and agreed that there is no employer-employee relationship between Cresford and the Contractor, and nothing shall be construed to create such a relationship.

While the Contractor agrees to exercise his/her attention and efforts in performing the services listed in paragraph 1 herein, the Company agrees that during the term of the Contract the Contractor is free to provide services to other organizations on the condition that the provision of such services is not provided to businesses or clients who offer related services in Ontario or who are competitors of the Company in Ontario without prior notification and that such services does not interfere with the performance of services hereunder and does not bring the Contractor into a conflict of interest or perception of a conflict of interest with the Company or his/her contract with the Company.

The Contractor shall be responsible and assumes full liability for all monies owing by him on account of any and all statutory obligations, including monies owed as income tax and H.S.T.

The Contractor represents and warrants that he/she is an independent Contractor. This is not a contract of employment and the Contractor shall not be treated as if he/she had an employment relationship with the Company. The Contractor covenants and agrees to save harmless and indemnify the Company from and against all claims, including charges, taxes, penalties or demands which may be made by the Minister of National Revenue requiring the Company to pay income tax under the *Income Tax Act (Canada)* in respect of income tax payable by the Contractor, and in respect of any and all claims, including charges, taxes, penalties or demands which may be made on behalf of or related to the Employment Insurance Commission, the Ministry of Labour, the Canada Pension Commission or any other statutory body under the applicable Statutes and Regulation, with respect to any amount which has been paid or may, in the future, be found to be payable by the Company to the Contractor.

3. Commissions

The Contractor shall receive commissions in accordance with Section 1 or as otherwise provided for in this Agreement. All payments due the Contractor shall be paid within 45 days of the receipt by Cresford of the corresponding commission, such payments are subject to any set-offs or deduction as otherwise provided for in this Agreement or in any schedule attached hereto.

4. Indemnity

The Contractor shall indemnify and save Cresford harmless from any and all expenses, costs, causes of action and damages, including legal expenses, incurred by Cresford resulting from: (i) any and all unauthorized acts or transactions by the Contractor or your employees, if any; (ii) negligent acts committed by the Contractor or your employees, if any, and (iii) any breach of this Agreement by the Contractor.

5. Confidentiality

The Contractor agrees that both during and after termination of this Agreement: (i) the Contractor will keep the business affairs of Cresford secret and confidential, including the Contractor's commission structure, (ii) the Contractor will not use any marketing and/or administrative reports, programs, purchase lists, copies, or other intellectual property of Cresford save and except for purposes of performing the Contractor's duties to Cresford pursuant to this Agreement, and (iii) during the term of this Agreement the Contractor agrees names of all prospects for the purpose of condominium sales obtained by the Contractor during the term of this Agreement are and shall remain property of Cresford and their clients and the Contractor shall not contact such prospects or in any way deal with them for the listing of sales or rental of condominium units or other real property without prior written approval from Cresford.

6. Errors and Omissions

The Contractor will secure and maintain proper Errors and Omissions Insurance in such amounts as required by Cresford at the Contractor’s sole expense and will provide proof of such coverage upon request by Cresford. If the Contractor fails to pay for such insurance coverage, the Contractor hereby authorizes Cresford to pay for it on your behalf and set-off said amounts against any amounts owed to the Contractor.

7. Termination

Cresford may terminate this Agreement for any reason whatsoever upon providing fifteen (15) days written notice to the Contractor. In addition to the forgoing, Cresford shall have the right to terminate this Agreement immediately upon written notice to the Contractor for any one or more of the following reasons (“Termination Event”):

- a. A material breach of any representation, warranty or covenant on part of the Contractor contained in this Agreement or any schedule attached hereto;

The Contractor may terminate this Agreement for any reason whatsoever upon providing Cresford with at least fifteen (15) days written notice, or in the event the contractor does not want to be reassigned as required by Cresford, the Contractor will be given fifteen(15) written notice.

8. Severability

Every provision of this agreement is intended to be severable. If any term of provision is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this Agreement.

- 9. This Agreement shall be governed by and construed to be in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of us agrees to submit to the non-exclusive jurisdiction of the Courts of the Province of Ontario.

Paragraphs 1 through 9 and Schedule A are an integral part hereto. Both undersigned parties acknowledge that they have read all paragraphs and schedules of this agreement and they accept and agree to the terms thereof.

DATED at Toronto, this 9th day of AUG, 2016



Mike Catsiliras



Maria Athanasoulis

President, Marketing & Sales

Schedule A

Commission Structure for Halo

- I. A bonus commission of Two Hundred Thousand Dollars (\$200,000) will be payable to the Contractor for the Halo Condominiums. The first 50% (\$100,000) will be payable after the Agreement of Purchase and Sale ("APS") becomes firm. The second 50% (\$100,000) will be payable upon successful final closing of the units. ("Deferred Commission").

If the Agreement is terminated due to a Termination Event or at the option of the Contractor, The Contractor shall forfeit any Deferred Commissions and/or bonuses due.

Schedule A – First Amendment

Commission Structure for 33 YORKVILLE

2. A bonus commission of Three Hundred Thousand dollars (\$300,000) will be payable to the Contractor for the 33 Yorkville Condominiums. The first 50% (\$150,000) will be payable after the Agreement of Purchase and Sale (“APS”) becomes firm. The second 50% (\$150,000) will be payable upon successful final closing of the units. (“Deferred Commission”).

If the Agreement is terminated due to a Termination Event or at the option of the Contractor, The Contractor shall forfeit any Deferred Commissions and/or bonuses due.

DATED at Toronto, this 10th day of Sept., 2017


Mike Catsiliras


Maria Athanasoulis
President, Marketing & Sales

Schedule A – Second Amendment

Commission Structure for YSL Condominiums

1. A bonus commission of Three Hundred Thousand dollars (\$300,000) will be payable to the Contractor for the YSL condominiums. The first 50% (\$150,000) will be payable after the Agreement of Purchase and Sale (“APS”) becomes firm. The second 50% (\$150,000) will be payable upon successful final closing of the units (“Deferred Commission”).

If the Agreement is terminated due to a Termination Event or at the option of the Contractor, The Contractor shall forfeit any Deferred Commissions and/or bonuses due.

DATED at Toronto, this 11 day of Nov, 2018


Mike Catsiliras


Maria Athanasoulis
President, Marketing & Sales

Attachment 3

Attachment 4

20 - YG Limited Partnership
 AP - Accounts Payable / Claims
 Summary Aged Payables List
 As of Mar31/20

Aged by Invoiced Date

| Code | Supplier Name | Net A/P | Current | 31-60Days | 61-90Days | Over90Days | Holdback |
|--------------------|---|----------------------|----------------------|----------------------|---------------------|----------------------|--------------|
| 2460242 | 2460242 Ontario Inc. | 40,466.02 | 24,536.65 | 23,929.37 | 0 | 0 | 0 |
| 2600024 | 2600024 Ontario Inc. | 67,000.00 | 0 | 67,000.00 | 0 | 0 | 0 |
| 1STCHO | 1st Choice Disposal | 8,916.81 | 426.3 | 832.05 | 1,749.94 | 5,908.52 | 0 |
| AECPAR | AEC Paralegal Corporation | 593.25 | 0 | 0 | 0 | 593.25 | 0 |
| AIMHOM | Aim Home Realty Inc | 15,018.01 | 0 | 0 | 0 | 15,018.01 | 0 |
| AIRBER | Aird & Berlis LLP | 15,781.60 | 8,651.07 | 7,130.53 | 0 | 0 | 0 |
| ALTGRO | Altus Group Limited | 20,959.70 | 542.12 | 2,422.98 | 0 | 17,994.60 | 0 |
| ALUINC | AlumaSafway, Inc | 46,505.15 | 0 | 28,210.45 | 0 | 18,294.70 | 0 |
| ARCALL | Architects Alliance | 1,008,914.62 | 46,505.90 | 146,076.70 | 146,168.69 | 670,163.33 | 0 |
| BAAGRO | Baaron Group Inc. | 20,397.91 | 0 | 1,582.00 | 0 | 18,815.91 | 0 |
| BACONS | BA Consulting Group Ltd. | 6,844.99 | 2,178.08 | 2,895.63 | 0 | 1,771.28 | 0 |
| BAYSTR | Bay Street Group Inc | 45,737.98 | 0 | 0 | 0 | 45,737.98 | 0 |
| BENCON | BENP Mortgage Investment Corp | 39,267.12 | 0 | 0 | 0 | 39,267.12 | 0 |
| BENCON | Bank Tom | 2,007.72 | 0 | 492.79 | 0 | 1,514.93 | 0 |
| BENJON | Bennett Jones LLP | 44,825.62 | 0 | 243.3 | 4,439.49 | 40,142.83 | 0 |
| BLAMCM | Blaney McMurtry LLP | 100,056.60 | 0 | 8,142.96 | 0 | 91,913.64 | 0 |
| BLICOU | Blizzard Courier Service Ltd. | 335.5 | 0 | 0 | 0 | 335.5 | 0 |
| BVDGRO | BVDA Group Ltd. | 1,130.00 | 0 | 0 | 0 | 1,130.00 | 0 |
| CANCAN | Canon Canada Inc. | 37.9 | 0 | 37.9 | 0 | 0 | 0 |
| CBSCAP | CBSC Capital Inc. | 1,574.50 | 0 | 838.87 | 0 | 735.63 | 0 |
| CITDOO | Citywide Door & Hardware Inc. | 1,130.00 | 0 | 0 | 0 | 1,130.00 | 0 |
| CITPER | The Treasurer, City of Toronto | 500 | 0 | 500 | 0 | 0 | 0 |
| CITREA | Cityscape Real Estate Ltd. | 246,998.63 | 0 | 0 | 0 | 246,998.63 | 0 |
| CLAREA | Homelife Classic Realty Inc | 12,478.00 | 0 | 0 | 0 | 12,478.00 | 0 |
| CONPLU | Re/Max Condo Plus Corp | 16,358.00 | 0 | 0 | 0 | 16,358.00 | 0 |
| CREBEL | Cresford Real Estate Corporation | 6,759.00 | 0 | 0 | 6,759.00 | 0 | 0 |
| DALLES | Dale & Lessmann LLP | 982.38 | 982.38 | 0 | 0 | 0 | 0 |
| DEKCORP | Dekla Corporation | 0 | 0 | 0 | 0 | 0 | 25,000.00 |
| ENBGAS | Enbridge Gas Inc. | 0.01 | 0 | 0 | 0 | 0.01 | 0 |
| ENTCOR | Entuitive Corporation | 5,508.75 | 0 | 0 | 0 | 5,508.75 | 0 |
| ERAARC | E.R.A. Architects Inc. | 43,455.57 | 0 | 0 | 0 | 43,455.57 | 0 |
| FEDWIR | Federal Wireless Communicatio | 4,291.74 | 0 | 0 | 0 | 4,291.74 | 0 |
| FORHIL | Forest Hill Real Estate Inc | 30,876.00 | 0 | 0 | 0 | 30,876.00 | 0 |
| FOSINT | Foster Interactive Inc. | 1,627.20 | 0 | 0 | 813.6 | 813.6 | 0 |
| FOUSEL | Four Seasons Hotel Toronto | 97,930.35 | 0 | 0 | 0 | 97,930.35 | 0 |
| GFLINF | GFL Infrastructure Goup Inc. | 3,663,177.53 | 296,561.83 | 0 | 513,400.92 | 2,853,214.78 | 445,803.10 |
| HERRES | Heritage Restoration Inc | 393,005.53 | 0 | 0 | 0 | 393,005.53 | 0 |
| HOMFRO | HomeLife Frontier Realty Inc. | 25,376.00 | 0 | 0 | 0 | 25,376.00 | 0 |
| HOMLAN | HomeLife Landmark Realty Inc. | 1,669,032.01 | 0 | 0 | 0 | 1,669,032.01 | 0 |
| HOMSTA | Home Standards Brickstone Rea | 90,068.00 | 0 | 0 | 0 | 90,068.00 | 0 |
| HOWGAS | Howe Gastmeier Chapnik Limite | 668.11 | 0 | 0 | 0 | 668.11 | 0 |
| HUNASS | Hunter & Associates Ltd. | 2,923.88 | 0 | 0 | 0 | 2,923.88 | 0 |
| HYDMIS | Toronto Hydro-Electric System | 44,097.88 | 0 | 0 | 0 | 44,097.88 | 0 |
| INNPAT | Innocon Partnership | 50,239.12 | 0 | 0 | 1,296.34 | 48,942.78 | 0 |
| INVHAR | Investments Hardware Limited | 14,471.85 | 0 | 257.3 | 4,161.60 | 10,052.95 | 0 |
| ISHERW | Isherwood | 107,416.33 | 18,659.01 | 24,789.71 | 0 | 63,967.61 | 0 |
| JABAST | Jablonsky, Ast and Partners | 349,631.55 | 0 | 3,851.55 | 11,300.00 | 334,480.00 | 0 |
| JANROS | JanetRosenberg&Studio Inc. | 13,152.35 | 0 | 3,030.94 | 0 | 10,121.41 | 0 |
| JDLREA | JDL Realty Inc. | 20,478.00 | 0 | 0 | 0 | 20,478.00 | 0 |
| JENHUG | Jensen Hughes Consulting Cana | 34,317.01 | 18,002.14 | 0 | 0 | 16,314.87 | 0 |
| KELWIL | Keller Williams Referred | 23,036.00 | 0 | 0 | 0 | 23,036.00 | 0 |
| KENREA | Century 21 Kennect Realty | 53,036.00 | 0 | 0 | 0 | 53,036.00 | 0 |
| KINQUA | Century 21 King's Quay Real E | 37,594.00 | 0 | 0 | 0 | 37,594.00 | 0 |
| KOHPED | Kohn Pedersen Fox Associates | 1,836,000.00 | 0 | 0 | 0 | 1,836,000.00 | 0 |
| KRMDES | Kramer Design Associates Limi | 74,184.50 | 0 | 0 | 0 | 74,184.50 | 0 |
| LAMASS | Lam & Associates Ltd. | 129,925.39 | 0 | 31,194.40 | 39,103.39 | 59,627.60 | 0 |
| LANREA | LandpowerReal Estate Ltd. | 2,256,548.80 | 17,018.00 | 0 | 37,578.00 | 2,201,952.80 | 0 |
| LEAEDG | Century 21 Leading Edge Realt | 10,878.00 | 0 | 0 | 0 | 10,878.00 | 0 |
| LERBAT | Lerch Bates | 11,900.00 | 0 | 0 | 0 | 11,900.00 | 0 |
| LIVPAT | Live Patrol Inc. | 11,187.00 | 1,864.50 | 1,864.50 | 1,864.50 | 5,593.50 | 0 |
| LIVREA | Living Realty Inc. | 88,588.00 | 0 | 88,588.00 | 0 | 0 | 0 |
| MASCHO | Master's Choice Realty, Inc. | 379,298.00 | 0 | 0 | 0 | 379,298.00 | 0 |

20 - YG Limited Partnership
 AP - Accounts Payable / Claims
 Summary Aged Payables List
 As of Mar31/20

Aged by Invoiced Date

| Code | Supplier Name | Net A/P | Current | 31-60Days | 61-90Days | Over90Days | Holdback |
|-------------------|---------------------------------------|----------------------|--------------|--------------|--------------|----------------------|--------------|
| MCIPER | McIntosh Perry | 218.09 | 0 | 0 | 0 | 218.09 | 0 |
| MICBRO | Michael Bros. Excavating | 1,582,858.80 | 38,442.60 | 307,540.80 | 653,524.20 | 583,351.20 | 155,640.00 |
| | Mike Catsiliras | 282,500.00 | | | | 282,500.00 | |
| MONSTE | Montana Steele | 73,927.81 | 477.81 | 14,690.00 | 14,690.00 | 44,070.00 | 0 |
| MULBAN | Mulvey & Banani Lighting Inc. | 29,978.91 | 0 | 1,582.00 | 5,311.00 | 23,085.91 | 0 |
| MUNMEC | Municipal Mechanical Contract | 11,303.14 | 11,303.14 | 0 | 0 | 0 | 0 |
| MYLBUR | Myles Burke | 35,798.40 | 0 | 17,899.20 | 0 | 17,899.20 | 0 |
| NAFCON | Naf-Muk Contracting Inc | 2,439.67 | 0 | 0 | 0 | 2,439.67 | 0 |
| NEWCON | Royal LePage - New Concept | 85,770.01 | 15,018.01 | 0 | 0 | 70,752.00 | 0 |
| NEWWOR | HomeLife New World Realty Inc | 544,355.99 | 0 | 0 | 283,570.00 | 260,785.99 | 0 |
| NORAME | North American Sign Company I | 2,825.00 | 0 | 0 | 0 | 2,825.00 | 0 |
| ODADET | The Odan/Detech Group Inc. | 5,831.20 | 2,214.80 | 1,237.35 | 830.55 | 1,548.50 | 0 |
| OTICAN | Otis Canada Inc. | 4,912,110.00 | 0 | 0 | 0 | 4,912,110.00 | 483,000.00 |
| PETCON | PETRA Consultants Ltd. | 178,856.40 | 0 | 83,168.00 | 0 | 95,688.40 | 0 |
| PMSVEN | PM Sheetmetal & Ventilation | 26,442.00 | 0 | 0 | 0 | 26,442.00 | 2,600.00 |
| POWREA | Powerland Realty, Brokerage | 10,678.00 | 0 | 0 | 0 | 10,678.00 | 0 |
| PRIDEM | Priestly Demolition Inc. | 374,609.80 | 0 | 0 | 0 | 374,609.80 | 0 |
| PRIVAT | PricewaterhouseCoopers LLP | 19,266.50 | 0 | 0 | 0 | 19,266.50 | 0 |
| RAVSUR | R. Avis Surveying Inc. | 53,757.52 | 0 | 8,311.15 | 18,758.58 | 26,687.79 | 0 |
| REAENT | RE/MAX Realty Enterprises Inc | 72,090.00 | 0 | 0 | 0 | 72,090.00 | 0 |
| REAONE | Real One Realty Inc. | 181,936.00 | 0 | 0 | 91,768.00 | 90,168.00 | 0 |
| REAREA | RE/MAX Realtron Realty Inc. | 28,117.97 | 0 | 0 | 0 | 28,117.97 | 0 |
| RECCLE | Reco Cleaning Services | 62,376.57 | 0 | 10,664.94 | 0 | 51,711.63 | 0 |
| REPLIM | Reprodex Limited | 578.23 | 24.23 | 227.59 | 326.57 | 0 | 0 |
| RIGATH | Right At Home Realty Inc. | 10,678.00 | 0 | 0 | 0 | 10,678.00 | 0 |
| | Rosa Trading Ltd. | 565,000.00 | | | | 565,000.00 | |
| ROYELI | Royal Elite Realty Inc.,Broke | 16,198.00 | 0 | 0 | 0 | 16,198.00 | 0 |
| SAFMAN | Safeline Management Systems I | 8,723.60 | 0 | 2,576.40 | 813.6 | 5,333.60 | 0 |
| SEBSTE | Sebba Steel Construction Ltd. | 86,075.49 | 0 | 12,147.50 | 0 | 73,927.99 | 0 |
| SIGREA | Royal LePage - Signature Real | 14,578.00 | 0 | 0 | 0 | 14,578.00 | 0 |
| SPLCON | WSP Canada Inc. | 24,025.14 | 6,630.28 | 14,127.26 | 2,055.47 | 51,216.13 | 0 |
| STACON | Stantec Consulting Ltd. | 1,463.26 | 0 | 0 | 0 | 1,463.26 | 0 |
| STEREN | Stephenson's Rental Services | 4,678.43 | 4,678.43 | 0 | 0 | 0 | 0 |
| STRAGG | Strada Aggregates | 27,075.99 | 11,780.66 | 0 | 0 | 15,295.33 | 0 |
| THODOR | Thompson Dorfman Sweatman LLP | 6,475.77 | 0 | 0 | 0 | 6,475.77 | 0 |
| TRAFIR | Trace Fire Protection Inc. | -30 | 0 | 0 | 0 | -30 | 0 |
| TRAREA | Tradeworld RealtyInc. | 67,770.00 | 0 | 0 | 0 | 67,770.00 | 0 |
| ULTREA | ReMax Ultimate Realty Inc. | 16,718.00 | 0 | 0 | 0 | 16,718.00 | 0 |
| VASDES | V.A. Siu Design Consultants | 96,050.00 | 0 | 0 | 0 | 96,050.00 | 0 |
| VERSTR | Verdi Structures Inc | 718,680.00 | 718,680.00 | 0 | 0 | 0 | 50,000.00 |
| WESGUA | Westmount Guarantee Services | 444,155.00 | 0 | 0 | 222,955.00 | 221,200.00 | 0 |
| YOUREN | You-Go Rental & Sales | 2,808.71 | 411.32 | 476.39 | 548.05 | 1,372.95 | 0 |

Total Report 24,093,159.03 1,245,589.26 919,340.51 2,062,786.49 19,865,442.77 1,162,043.10

Less: Payments
 Westmount -444,155.00

Add: Accruals
 Taron enrolment 1,510,000.00
 Tie-back commitment 1,875,000.00

Holdbacks 1,162,043.00

28,196,047.03

Attachment 5

NOTICE OF REVISION OR DISALLOWANCE OF CLAIM
REFERENCE NUMBER 483

TO: Mike Catsiliras

Email Address: jgibson@naymarklaw.com, mcatsiliras@hotmail.com

PricewaterhouseCoopers Inc., in its capacity as the court-appointed receiver (in such capacity, the “**Receiver**”) of 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership (together “**Halo**”) as appointed in the Receivership Order of The Honourable Mr. Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) made March 27, 2020, hereby gives you notice that the Receiver has reviewed your Request for Amendment or your Proof of Claim, as the case may be, and has revised or rejected your Claim or any part thereof or any information relating thereto, as follows:

| Request for Amendment as Submitted (if applicable) | The Proof of Claim as Submitted (if applicable) | The Claim/Information as Accepted |
|--|---|-----------------------------------|
| \$1,377,696.96 | \$0.00 | \$ 125,000.00, unsecured |

Reasons for Revision or Disallowance:

Based on the Receiver's review of your proof of claim and our discussions regarding your claim, the Receiver has revised the basis of the assessment of your claim, and has valued your claim at \$125,000, on an unsecured basis. For clarity, this amount is inclusive of the \$24,796 amount previously acknowledged by the Receiver in its Acknowledgement of Claim, Acknowledgement Number: 112. This Notice of Revision or Disallowance (NORD) is based on the agreement reached among the parties, including your agreement not to dispute the NORD. If a dispute is filed, the Receiver reserves all rights to revise this NORD.

If you do not agree with this Notice of Revision or Disallowance, please take notice of the following:

- 1. If you dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on June 16, 2021, being the Business Day which is fourteen days after the Notice of Revision or Disallowance is sent by the Receiver (see paragraph 13 of the Halo Claims Procedure Order), notify the Receiver by delivery of a Notice of Dispute in accordance with the Claims Procedure Order. The form of Notice of Dispute is enclosed.**
- 2. IF YOU DO NOT DELIVER A NOTICE OF DISPUTE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU AND YOUR CLAIM SHALL BE DEEMED TO BE AS SET OUT IN THIS NOTICE OF REVISION OR DISALLOWANCE.**

DATED at Toronto, this 2nd day of June, 2021.

PRICEWATERHOUSECOOPERS INC., LIT,
SOLELY IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF HALO
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY



Mica Arlette, LIT
Senior Vice President

NOTICE OF DISPUTE

We hereby give you notice of our intention to dispute the Notice of Revision or Disallowance bearing Reference Number 483 and dated _____ issued in respect of our claim.

Reasons for Dispute (attach extra sheets and copies of all supporting documentation if necessary):

Name of Creditor: _____

(Signature of individual completing this Dispute)

Date

(Please print name)

Telephone Number: _____

Email address: _____

Facsimile Number: _____

Full Mailing Address: _____

THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON JUNE 16, 2021, BEING THE BUSINESS DAY WHICH IS FOURTEEN DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS SENT BY THE RECEIVER (PURSUANT TO PARAGRAPH 13 OF THE HALO CLAIMS PROCEDURE ORDER) TO:

PricewaterhouseCoopers Inc.
in its capacity as the receiver of Halo
PwC Tower
18 York Street, Suite 2600
Toronto, ON M5J 0B2

Attention: Tammy Muradova
E-mail: halo.clover@pwc.com

TAB B

| |
|---|
| SCHEDULE "B" – PRIORITY OF CLAIM |
|---|

As a joint employer, YSL failed to pay Catsiliras wages, salaries, commissions or compensation for services rendered during the period beginning on the day that is six months before the date of the initial bankruptcy event. This amount exceeded \$2,000.00. Catsiliras accordingly has a priority claim for \$2,000.00 pursuant to sections 81.3 and 136(1)(d) of the BIA.

Appendix “E”

MINUTES OF SETTLEMENT
(DAVID RYAN MILLAR)

WHEREAS YG Limited Partnership and YSL Residences Inc. (collectively, “YSL”) filed Notices of Intention to Make a Proposal on April 30, 2021 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**Proposal Proceedings**”);

AND WHEREAS KSV Restructuring Inc. (“KSV”) is the proposal trustee (the “**Proposal Trustee**”) in connection with the Proposal Proceedings;

AND WHEREAS YSL made a proposal which was approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on July 16, 2021 (the “**Proposal**”);

AND WHEREAS David Ryan Millar (the “**Creditor**”) filed an amended proof of claim in the Proposal Proceedings claiming to be a creditor of YSL in the amount of \$734,996.71;

AND WHEREAS the Proposal Trustee and Creditor have been negotiating a resolution of the Creditor’s claim in good faith;

AND WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Proposal Trustee and Creditor have agreed to settle the Creditor’s claim on the following terms:

1. Subject to Court approval, the Creditor’s claim shall be admitted as an unsecured Proven Claim (as defined in the Proposal) in the amount of \$450,000.00.
2. The Proposal Trustee shall bring a motion in the Proposal Proceedings as soon as practicable to seek an order approving these Minutes of Settlement (the “**Approval Order**”) and the efficacy of these Minutes of Settlement shall be conditional upon the granting of the Approval Order.
3. Entering into these Minutes of Settlement is entirely without prejudice to the Creditor’s rights to argue any position regarding the validity and quantum of its claim on the motion seeking the Approval Order (or on any appeal thereof) if any party objects to the approval of these Minutes of Settlement. If the Approval Order is not granted, then the Creditor shall be entitled to argue any position regarding the validity and quantum of its claim as if these Minutes of Settlement had not been entered into and nothing herein shall be used in any way in adjudicating or negotiating a resolution of the Creditor’s claim.
4. The parties hereto represent that they have either obtained legal advice concerning these Minutes of Settlement or had an adequate opportunity to do so, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.
5. The provisions of these Minutes of Settlement shall enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.

7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.

8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.

9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of April, 2022.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC., AND NOT IN ITS
PERSONAL CAPACITY**

by 

Name: Mitch Vininsky

Title: Managing Director

SIGNED, SEALED & DELIVERED

in the presence of:



Witness

Print Name: Denise Wilkins



DAVID RYAN MILLAR

(seal)

MINUTES OF SETTLEMENT
(MIKE CATSILIRAS)

WHEREAS YG Limited Partnership and YSL Residences Inc. (collectively, “YSL”) filed Notices of Intention to Make a Proposal on April 30, 2021 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**Proposal Proceedings**”);

AND WHEREAS KSV Restructuring Inc. (“KSV”) is the proposal trustee (the “**Proposal Trustee**”) in connection with the Proposal Proceedings;

AND WHEREAS YSL made a proposal which was approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on July 16, 2021 (the “**Proposal**”);

AND WHEREAS Mike Catsiliras (the “**Creditor**”) filed an amended proof of claim in the Proposal Proceedings claiming to be a creditor of YSL in the amount of \$681,190.00;

AND WHEREAS the Proposal Trustee and Creditor have been negotiating a resolution of the Creditor’s claim in good faith;

AND WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Proposal Trustee and Creditor have agreed to settle the Creditor’s claim on the following terms:

1. Subject to Court approval, the Creditor’s claim shall be admitted as an unsecured Proven Claim (as defined in the Proposal) in the amount of \$268,641.00.
2. The Proposal Trustee shall bring a motion in the Proposal Proceedings as soon as practicable to seek an order approving these Minutes of Settlement (the “**Approval Order**”) and the efficacy of these Minutes of Settlement shall be conditional upon the granting of the Approval Order.
3. Entering into these Minutes of Settlement is entirely without prejudice to the Creditor’s rights to argue any position regarding the validity and quantum of its claim on the motion seeking the Approval Order (or on any appeal thereof) if any party objects to the approval of these Minutes of Settlement. If the Approval Order is not granted, then the Creditor shall be entitled to argue any position regarding the validity and quantum of its claim as if these Minutes of Settlement had not been entered into and nothing herein shall be used in any way in adjudicating or negotiating a resolution of the Creditor’s claim.
4. The parties hereto represent that they have either obtained legal advice concerning these Minutes of Settlement or had an adequate opportunity to do so, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.
5. The provisions of these Minutes of Settlement shall enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.

7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.

8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.

9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of March, 2022.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED
PARTNERSHIP AND YSL RESIDENCES
INC., AND NOT IN ITS PERSONAL
CAPACITY**

by

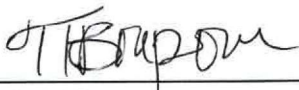


Name: Bobby Kofman

Title: Managing Director

SIGNED, SEALED & DELIVERED

in the presence of:



Witness

Print Name: *Eva Viaros*


Mike Catsiliras

(seal)

MINUTES OF SETTLEMENT
(SARVEN CICEKIAN)

WHEREAS YG Limited Partnership and YSL Residences Inc. (collectively, "YSL") filed Notices of Intention to Make a Proposal on April 30, 2021 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**Proposal Proceedings**");

AND WHEREAS KSV Restructuring Inc. ("**KSV**") is the proposal trustee (the "**Proposal Trustee**") in connection with the Proposal Proceedings;

AND WHEREAS YSL made a proposal which was approved by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on July 16, 2021 (the "**Proposal**");

AND WHEREAS Sarven Cicekian (the "**Creditor**") filed an amended proof of claim in the Proposal Proceedings claiming to be a creditor of YSL in the amount of \$767,399.00;

AND WHEREAS the Proposal Trustee and Creditor have been negotiating a resolution of the Creditor's claim in good faith;

AND WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Proposal Trustee and Creditor have agreed to settle the Creditor's claim on the following terms:

1. Subject to Court approval, the Creditor's claim shall be admitted as an unsecured Proven Claim (as defined in the Proposal) in the amount of \$383,118.00.
2. The Proposal Trustee shall bring a motion in the Proposal Proceedings as soon as practicable to seek an order approving these Minutes of Settlement (the "**Approval Order**") and the efficacy of these Minutes of Settlement shall be conditional upon the granting of the Approval Order.
3. Entering into these Minutes of Settlement is entirely without prejudice to the Creditor's rights to argue any position regarding the validity and quantum of its claim on the motion seeking the Approval Order (or on any appeal thereof) if any party objects to the approval of these Minutes of Settlement. If the Approval Order is not granted, then the Creditor shall be entitled to argue any position regarding the validity and quantum of its claim as if these Minutes of Settlement had not been entered into and nothing herein shall be used in any way in adjudicating or negotiating a resolution of the Creditor's claim.
4. The parties hereto represent that they have either obtained legal advice concerning these Minutes of Settlement or had an adequate opportunity to do so, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.
5. The provisions of these Minutes of Settlement shall enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.
7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.
8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.
9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of March, 2022.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED
PARTNERSHIP AND YSL
RESIDENCES INC., AND NOT IN ITS
PERSONAL CAPACITY**

by 

Name: Bobby Kofman

Title: Managing Director

SIGNED, SEALED & DELIVERED

in the presence of:



Witness

Print Name:

Romina Mosik



(seal)

Sarven Cicekian

MINUTES OF SETTLEMENT
(MARCO MANCUSO)

WHEREAS YG Limited Partnership and YSL Residences Inc. (collectively, “YSL”) filed Notices of Intention to Make a Proposal on April 30, 2021 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**Proposal Proceedings**”);

AND WHEREAS KSV Restructuring Inc. (“KSV”) is the proposal trustee (the “**Proposal Trustee**”) in connection with the Proposal Proceedings;

AND WHEREAS YSL made a proposal which was approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on July 16, 2021 (the “**Proposal**”);

AND WHEREAS Marco Mancuso (the “**Creditor**”) filed an amended proof of claim in the Proposal Proceedings claiming to be a creditor of YSL in the amount of \$430,000.00;

AND WHEREAS the Proposal Trustee and Creditor have been negotiating a resolution of the Creditor’s claim in good faith;

AND WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Proposal Trustee and Creditor have agreed to settle the Creditor’s claim on the following terms:

1. Subject to Court approval, the Creditor’s claim shall be admitted as an unsecured Proven Claim (as defined in the Proposal) in the amount of \$300,281.00.
2. The Proposal Trustee shall bring a motion in the Proposal Proceedings as soon as practicable to seek an order approving these Minutes of Settlement (the “**Approval Order**”) and the efficacy of these Minutes of Settlement shall be conditional upon the granting of the Approval Order.
3. Entering into these Minutes of Settlement is entirely without prejudice to the Creditor’s rights to argue any position regarding the validity and quantum of its claim on the motion seeking the Approval Order (or on any appeal thereof) if any party objects to the approval of these Minutes of Settlement. If the Approval Order is not granted, then the Creditor shall be entitled to argue any position regarding the validity and quantum of its claim as if these Minutes of Settlement had not been entered into and nothing herein shall be used in any way in adjudicating or negotiating a resolution of the Creditor’s claim.
4. The parties hereto represent that they have either obtained legal advice concerning these Minutes of Settlement or had an adequate opportunity to do so, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.
5. The provisions of these Minutes of Settlement shall enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.

7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.

8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.

9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of March, 2022.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED
PARTNERSHIP AND YSL RESIDENCES
INC., AND NOT IN ITS PERSONAL
CAPACITY**

by

Name:

Title:

SIGNED, SEALED & DELIVERED

in the presence of:



(seal)

Witness

Marco Mancuso

Print Name:

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.

7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.

8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.

9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of March, 2022.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED
PARTNERSHIP AND YSL RESIDENCES
INC., AND NOT IN ITS PERSONAL
CAPACITY**

by



Name: Bobby Kofman

Title: Managing Director

SIGNED, SEALED & DELIVERED

in the presence of:



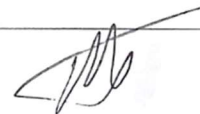
Witness

Print Name: Louie Giannakopoulos

Marco Mancuso

(seal)

Marco Mancuso



MINUTES OF SETTLEMENT
(LOUIS GIANNAKOPOULOS)

WHEREAS YG Limited Partnership and YSL Residences Inc. (collectively, “YSL”) filed Notices of Intention to Make a Proposal on April 30, 2021 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**Proposal Proceedings**”);

AND WHEREAS KSV Restructuring Inc. (“KSV”) is the proposal trustee (the “**Proposal Trustee**”) in connection with the Proposal Proceedings;

AND WHEREAS YSL made a proposal which was approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on July 16, 2021 (the “**Proposal**”);

AND WHEREAS Louis Giannakopoulos (the “**Creditor**”) filed an amended proof of claim in the Proposal Proceedings claiming to be a creditor of YSL in the amount of \$444,615.00;

AND WHEREAS the Proposal Trustee and Creditor have been negotiating a resolution of the Creditor’s claim in good faith;

AND WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Proposal Trustee and Creditor have agreed to settle the Creditor’s claim on the following terms:

1. Subject to Court approval, the Creditor’s claim shall be admitted as an unsecured Proven Claim (as defined in the Proposal) in the amount of \$308,067.00.
2. The Proposal Trustee shall bring a motion in the Proposal Proceedings as soon as practicable to seek an order approving these Minutes of Settlement (the “**Approval Order**”) and the efficacy of these Minutes of Settlement shall be conditional upon the granting of the Approval Order.
3. Entering into these Minutes of Settlement is entirely without prejudice to the Creditor’s rights to argue any position regarding the validity and quantum of its claim on the motion seeking the Approval Order (or on any appeal thereof) if any party objects to the approval of these Minutes of Settlement. If the Approval Order is not granted, then the Creditor shall be entitled to argue any position regarding the validity and quantum of its claim as if these Minutes of Settlement had not been entered into and nothing herein shall be used in any way in adjudicating or negotiating a resolution of the Creditor’s claim.
4. The parties hereto represent that they have either obtained legal advice concerning these Minutes of Settlement or had an adequate opportunity to do so, that they have reviewed and understand these Minutes of Settlement, that they are voluntarily entering into these Minutes of Settlement, and that they will not engage in any action which would conflict with the provisions of the Minutes of Settlement either in word or in spirit.
5. The provisions of these Minutes of Settlement shall enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. The parties agree that the recitals to these Minutes of Settlement are true and correct statements and form an integral part of these Minutes of Settlement.
7. These Minutes of Settlement constitute the entire agreement between the parties and supersede all prior agreements, representations, warranties, statements, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter herein.
8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties irrevocably attorn to the jurisdiction of the Court for the purpose of any proceedings that may be brought to construe or enforce these Minutes of Settlement.
9. These Minutes of Settlement may be executed by the parties in one or more separate counterparts, each of which when so executed shall constitute and be deemed to be an original and shall be binding upon and enure to the benefit of each of the parties having executed these Minutes of Settlement or any counterpart hereof from the time of the execution and delivery thereof and all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed these Minutes of Settlement personally or by their proper signing officers who have been duly authorized to do so.

DATED as of this 28th day of March, 2022.

KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS THE PROPOSAL
TRUSTEE OF YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC., AND NOT IN ITS
PERSONAL CAPACITY

by



Name: Bobby Kofman

Title: President and Managing Director

SIGNED, SEALED & DELIVERED

in the presence of:

Witness

Print Name: *Marco Marcuso*


Louis Giannakopoulos

(seal)

Appendix “F”



Mitch Vininsky
ksv advisory inc.

150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9
T +1 416 932 6013
F +1 416 932 6266
mvininsky@ksvadvisory.com
ksvadvisory.com

February 10, 2022

DELIVERED BY EMAIL AND REGISTERED MAIL

Elie Laskin
Gowling WLG (Canada) LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Ms. Laskin:

Re: The Proposal of YSL Residences Inc. and YG Limited Partnership (together, the “Company”)

KSV Restructuring Inc., in its capacity as proposal trustee of the Company, acknowledges receipt of the proof of claim filed in your capacity as counsel to CBRE Limited in the amount of \$1,239,377.40.

We have disallowed the claim for the reasons outlined in the attached notice.

Should you have any questions regarding this matter, do not hesitate to contact the undersigned.

Yours very truly,

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YSL RESIDENCES INC. AND YG LIMITED PARTNERSHIP
AND NOT IN ITS PERSONAL CAPACITY

Per: Mitch Vininsky

MV:rk
Encl.



ksv advisory inc.

150 King Street West, Suite 2308

Toronto, Ontario, M5H 1J9

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

Estate File No.: 31-2734090

**IN THE MATTER OF THE PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF DISALLOWANCE OF CLAIM
(Subsection 135(3) of the *Bankruptcy and Insolvency Act* (“Act”))**

TAKE NOTICE THAT, as Proposal Trustee acting in the matter of the Proposal of YSL Residences Inc. (“Residences”) and YG Limited Partnership Inc. (the “Partnership” and together with Residences, the “Companies”), we have this day disallowed your claim. The reason for the disallowance is as follows:

- The claim is in respect of an invoice submitted by CBRE Limited (“CBRE”) to “Cresford” dated October 13, 2021 in the amount of \$1,096,794.16 plus HST (the “Invoice”). The Invoice refers to services rendered by CBRE in connection with serving as the exclusive listing brokerage for the land located at 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, (the “Property”). The Property was to be developed by the Companies into a significant condominium project.
- A demand letter dated November 26, 2021 from CBRE to the Companies (the “CBRE Letter”) references that the Invoice was issued in respect of an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement”) between CBRE and the Companies, pursuant to which the Companies “agreed to pay commission equivalent to 0.65% of the Gross Sale Price of the Property” (the “Commission”). The CBRE Letter further states that “CBRE has complied with and performed its obligations under the Agreement.” The term of the Agreement is six months from February 20, 2020 to August 20, 2020 (the “Term”). The Agreement is appended to the CBRE Letter and it is unsigned.
- The Property was conveyed on or about July 22, 2021 (the “Conveyance”) to Concord Adex Inc., an entity related to Concord Properties Developments Corp., the eventual sponsor (“Sponsor”) of the Companies’ Proposal proceedings which were commenced on April 30, 2021.

- Dave Mann, CFO of the Cresford Group of Companies (“Cresford”) advised the Proposal Trustee that CBRE introduced Cresford to the Sponsor. The Sponsor advised the Proposal Trustee that “Cresford, through its representative Ted Dowbiggin, first approached Concord in early 2020 to discuss four of Cresford's distressed projects, however Concord did not have any interest in the YSL project at this time.” and that “In September/October 2020, Cresford re-engaged Concord to discuss the YSL project, after it had canvassed a number of other developers. After this outreach in fall 2020 until the time of the proposal proceedings, Cresford and Concord were consistently engaged to explore potential alternatives for the YSL project”.
- The Agreement states the following with regards to the Commission:
 - *“The Commission shall be earned by the Brokerage in the event that **during the Term:** (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation, partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.”*
- Furthermore, the Agreement has a holdover clause which states that:
 - *“The Owner further agrees to pay the Brokerage the Commission **if, within 90 calendar days after the expiration of the Term,** the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage.”*
- The Proposal Trustee has disallowed the claim in full as:
 - The Agreement is not signed and therefore is not binding;
 - The Sponsor advised that at all times it dealt directly with the Companies and that it did not have any dealings with CBRE;
 - The Conveyance does not meet the definition of an event giving rise to a Commission; and
 - To the extent any Commission could apply, which is denied, the Commission was not earned during the Term, or within the 90 calendar days following the expiration of the Term.

AND FURTHER TAKE NOTICE, that if you are dissatisfied with our decision in disallowing your claim as set out above, you may appeal to the Ontario Superior Court of Justice ("Court") within the 30-day period after the day on which this notice is served, or within such other period as the Court may, on application made within the same 30-day period, allow.

DATED at Toronto, Ontario, this 10th day of February, 2022.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
AND NOT IN ITS PERSONAL CAPACITY**