

Court File No.: CV-21-00665375-00CL

**FIRST REPORT OF KPMG INC.,
IN ITS CAPACITY AS RECEIVER AND MANAGER OF
Victoria Avenue North Holdings Inc.**

SEPTEMBER 7, 2021

Court File No.: CV-21-00665375-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**AMERICAN GENERAL LIFE INSURANCE COMPANY and
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.**

Applicants

AND

**VICTORIA AVENUE NORTH HOLDINGS INC.
and THE PARTIES LISTED ON SCHEDULE "A"**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as
amended, and under Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

**FIRST REPORT OF KPMG INC.
In its capacity as Receiver and Manager**

DATED SEPTEMBER 7, 2021

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I. INTRODUCTION

1. On August 3, 2021 (the “**Receivership Date**”), upon application by American General Life Insurance Company (“**AIG**”), and National Union Fire Insurance Company of Pittsburgh, PA. (together, the “**Applicants**”), KPMG Inc. (“**KPMG**”) was appointed as receiver and manager (in such capacity and not in its personal or corporate capacity, the “**Receiver**”), pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. C. 43, as amended, of i) all of the assets, undertakings and properties, including the Real Properties (as defined in the Appointment Order) of Victoria Avenue North Holdings Inc. (the “**Legal Owner**”) acquired for, or used in relation to the Legal Owner’s business (collectively, the “**Legal Owner’s Property**”), and ii) all right, title and interest of any beneficial owners (the “**Beneficial Owners**”) in and to the Legal Owner’s Property, including the Real Properties and all proceeds thereof, whether held directly or indirectly by the Beneficial Owners for themselves or for others, including the Beneficial Owners.
2. Prior to its appointment as Receiver, KPMG filed a report (the “**Pre-Filing Report**”) to provide information to the Court in connection with the Applicants’ application for the Appointment Order (the “**Application**”). A copy of the Pre-Filing Report is attached hereto as **Appendix “A”**.

II. PURPOSE OF REPORT

3. The purpose of this report (the “**First Report**”) is to provide this Honourable Court with information pertaining to:
 - (i) the status of the receivership proceedings (the “**Proceedings**”) generally, as at the date of the First Report;
 - (ii) the activities of the Receiver since the Receivership Date;
 - (iii) the interim receipts and disbursements of the Receiver from the Receivership Date to and including August 24, 2021 (the “**Period**”); and
 - (iv) the Receiver’s understanding of the potential Beneficial Owners, and its request for an order approving:
 - (A) a procedure by which the Receiver will notify potential Beneficial Owners of these Proceedings;

- (B) email service requirements for the Receiver, and any other party serving materials in these Proceedings, with respect to known Beneficial Owners or potential Beneficial Owners; and
- (C) the dispensing of service on Beneficial Owners or potential Beneficial Owners in respect of whom the Receiver does not have an email address, and has not been provided with an email address in connection with the notification procedure.

(v) the Receiver's conclusion and recommendation.

III. QUALIFICATIONS & TERMS OF REFERENCE

4. In preparing this First Report and making the comments herein, the Receiver has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, the Legal Owner's records, financial information and projections prepared by the Legal Owner and information from other third party sources (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
5. Some of the information referred to in this First Report consists of financial forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
6. Certain information referred to in this First Report is based on management's estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant.
7. The Proposed Receiver has prepared this Report in connection with the motion to be heard on September 14, 2021. This Report should not be relied on for other purposes.

8. Capitalized terms not otherwise defined herein are as defined in the Affidavit of Jacob Baron sworn July 9, 2021 (the “**Baron Affidavit**”), filed in connection with the Application for the Appointment Order. This First Report should be read in conjunction with the Baron Affidavit and the Pre-Filing Report as certain information contained therein has not been included herein to avoid unnecessary duplication.
9. The information contained in this First Report is not intended to be relied upon by any prospective purchaser in any transaction with the Receiver.
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND AND EVENTS LEADING TO THE APPOINTMENT OF THE RECEIVER

11. While this First Report summarizes some of the information contained in the Pre-Filing Report and the Application materials, for context, readers are directed to the Pre-Filing Report and the Baron Affidavit. A copy of the Application materials, including the Baron Affidavit can be found on the Receiver’s website at <https://home.kpmg/ca/Victoriaholdings> (the “**Receiver’s Website**”).

Background

12. Prior to the appointment of the Receiver, the Legal Owner owned and operated two (2) medical office buildings located in Hamilton, Ontario as follows:

Address	Location	Square Feet
304 Victoria Ave N	Hamilton, Ontario	38,828
414 Victoria Ave N	Hamilton, Ontario	47,271

(collectively, the “**Properties**”).

13. The Properties are tenanted primarily by doctors, clinics, and other medical-related occupants. The Legal Owner relied on Prime Real Estate Group Inc. (“**Prime**”), a property management company, to manage the day-to-day operations of the Properties.
14. As noted in the Pre-Filing Report, on June 29, 2021, upon application by AIG and affiliated secured lenders, KPMG was appointed as receiver and manager of, among other things, the properties of Southmount Healthcare Centre Inc. and certain other entities (collectively, “**Southmount Et Al.**”), pursuant to an order of this Court (Court file no. CV-21-00664273-00CL). The respondents in the

Southmount Et Al. receivership proceedings – whose primary assets are seven (7) medical office buildings in the same asset class as the Properties – are affiliated with the Legal Owner as the majority of them are indirect subsidiaries of Gross Capital Inc. (“**Gross Capital**”), which, as further detailed in the Baron Affidavit, made an assignment into bankruptcy on June 25, 2021. The Receiver understands that the Legal Owner and Southmount Et Al. were each managed by representatives of Gross Capital.

Causes of Insolvency

15. As detailed in the Baron Affidavit, the Legal Owner had failed to make scheduled loan payments on its loan with the Applicants since March 2020. In February 2020, the Applicants issued notices of default to the Legal Owner in respect of defaults under the loan and security documents pertaining to unpermitted charges on the Properties. On May 7, 2020, the Applicants issued notices of default to the Legal Owner in respect of additional defaults, including for failure to make payments as scheduled.
16. The Applicants and the Legal Owner entered into a series of forbearance agreements in order to provide the Legal Owner with time to sell or refinance the business, which efforts were unsuccessful. On June 17, 2021 the Final Forbearance Agreement expired.
17. On June 18, 2021 and June 23, 2021, the Applicants provided the Legal Owner, the Original Beneficial Owners and Other Potential Parties of Interest with demand letters and notices of intention to enforce their security under section 244 of the BIA, and upon expiry of the notice period, proceeded with the Application. On July 12, 2021, this Court granted an order for substituted service (the “**Substituted Service Order**”) providing for the method of service of this Application on original Beneficial Owners and Other Potential Parties of Interest, each as defined in the affidavit of Nancy Thompson sworn July 9, 2021 (the “**Thompson Affidavit**”). A copy of the Thompson Affidavit is attached hereto as **Appendix “B”**.

V. STATUS OF THE RECEIVERSHIP PROCEEDINGS

Operations

18. Forthwith after its appointment and as authorized by the Appointment Order, the Receiver took possession and control of the Legal Owner’s Property. As at the date of this First Report, the day-to-day operations of the Properties have continued in the normal course.
19. The Receiver has engaged Prime on a month-to-month basis to continue to manage the Properties, liaise with tenants, and provide leasing services with a view to (i) leasing up vacant units, and (ii)

negotiating lease extensions for tenants who are currently on month-to-month lease agreements, or who have lease agreements expiring in the short-term, as appropriate, at the direction of the Receiver.

20. The Receiver, with the assistance of Prime, has identified a number of non-performing leases at the Properties, where tenants are not remitting the full amount of monthly rents due pursuant to the terms of their lease agreements, and where there are substantial rent arrears relating to the period prior to the Receivership Date. The Receiver is working with Prime to address this issue.
21. The Receiver understands that Prime is 50%-owned by Gross Capital, but that prior to the Receivership Date, the former representatives of Gross Capital were not involved in the day-to-day operations of the business. Prime's contractual arrangement with the Receiver includes a confidentiality clause that specifically prohibits Prime from disclosing the affairs of the Legal Owner or the Properties to certain parties including the Legal Owner's principals or Gross Capital.
22. On or about August 5 and August 10, 2021, the Receiver distributed a request for proposal to certain property management companies and brokerage firms (the "**Property Management RFP**"). The deadline for proposals in connection with the Property Management RFP was August 27, 2021. The Receiver is in the process of reviewing the proposals received and assessing whether engaging an alternative property manager for the Properties is appropriate in the circumstances.

Condition of the Properties

23. The Receiver performed walkthroughs of each of the Properties and held discussions with Prime and with the various property superintendents in respect of the general condition of the Properties and any major repairs and maintenance required. Certain of the Properties may require repairs involving significant capital expenditures in the medium-term (e.g. roof repairs, HVAC overhaul, etc.). The Receiver is in the process of evaluating quotes for, and procuring, building condition reports for each of the Properties and is evaluating which repair items it may need to address prior to marketing and selling same.

Funding of the Receivership Proceedings

24. Pursuant to the terms of the Appointment Order, the Receiver was authorized to borrow up to \$500,000 from the Applicants pursuant to the Receiver Term Sheet, and was granted a Receiver's Borrowings Charge as security for such borrowings, which charge is in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subordinate in priority

to the Receiver's Charge (each as defined in the Appointment Order) and the charges set out in S 14.06(7), S 81.4(4), and S 81.6(2) of the BIA. As discussed in a later section to this First Report, to date the Receiver has borrowed \$300,000 pursuant the Receiver Term Sheet.

Sale Process

25. As noted in the Pre-Filing Report, the Receiver intends to thoroughly market the Properties for sale by way of a formal sale process (the "**Sale Process**") and seek this Court's approval of same.
26. KPMG in its capacity as receiver and manager of Southmount Et Al. is also planning to market and sell the real properties in connection with the Southmount Et Al. proceedings (the "**Southmount Properties**"), and as such, there are expected to be efficiencies to be realized in terms of the Receiver's efforts to market and sell the Properties alongside the Southmount Properties.
27. To that end, the Receiver has distributed a request for proposal (the "**Broker RFP**") to seven (7) real estate brokers (the "**Interested Brokers**"), requesting that the Interested Brokers submit to the Receiver a proposal to market and sell the Properties. The Broker RFP specifically requested that the Interested Brokers include in their proposals, *inter alia*, information pertaining to:
 - (a) estimated valuations of the Properties (not formal appraisals);
 - (b) proposed marketing strategy, including commentary on marketing the Properties as an entire portfolio sale as compared to on an individual basis, including any potential benefit to sale value if the Properties were to be sold in a portfolio with some or all of the Southmount Properties;
 - (c) proposed use of minimum listing period, bid deadlines, and any other relevant milestones and timelines;
 - (d) anticipated time period required to obtain offers in respect of the Properties and close on any acceptable transactions;
 - (e) detailed broker fee structure; and
 - (f) relevant credentials and experience.
28. The Broker RFP requested that all proposals be delivered to the Receiver by no later than August 27, 2021 (the "**Proposal Deadline**"). A request for proposal in substantially the same form with

the same Proposal Deadline was distributed in the Southmount Et Al. proceedings as well. Five (5) proposals were received on the date of the Proposal Deadline (collectively the “**Proposals**”), and the Receiver is in the process of evaluating and seeking clarifications on the Proposals. Should a Proposal be acceptable to the Receiver, the Receiver plans to seek approval to engage the relevant Interested Broker (the “**Broker**”) to market and sell the Properties, which Broker may also be selected in respect of the Southmount Et Al. proceedings.

29. Pursuant to the terms of Mr. Justice Koehnen’s endorsement dated August 3, 2021, the Receiver was directed to return to Court within 90 days of the Receivership Date (or such later date as the Court may Order) to seek approval of a Sale Process. At this time and subject to Court availability, the Receiver anticipates seeking this Court’s approval of the engagement of a Broker and a Sale Process by the end of October, 2021, within such 90 day period.
30. The Receiver has received unsolicited inquiries from prospective purchasers in respect of certain of the Properties, however has determined not to progress discussions with any interested parties outside of the Sale Process and has indicated to such parties that once a Sale Process is approved, they will have an opportunity to participate alongside any other interested parties.

Bankruptcy of Gross Capital Inc.

31. As noted earlier in this First Report, on June 25, 2021, Gross Capital filed an assignment in bankruptcy under the BIA. KSV Restructuring Inc., a Licensed Insolvency Trustee, was appointed as bankruptcy trustee of Gross Capital (the “**Gross Capital Bankruptcy Trustee**”) by the Office of the Superintendent of Bankruptcy (Canada).
32. The Receiver is in the process of reviewing the books and records of the Legal Owner to determine the extent of any claim(s) that it may have against Gross Capital. As such claim(s) are not yet known or quantified, the Receiver filed a Proof of Claim against Gross Capital in respect of the Legal Owner in the amount of \$1, subject to further revision both in terms of quantity and priority.
33. Also as noted earlier in this First Report, Gross Capital is an indirect parent company of the Legal Owner and historically provided the Legal Owner with back office and management support as the Legal Owner did not have employees of its own.

Books and Records

34. Shortly following its appointment, the Receiver met with representatives of the Legal Owner and the Gross Capital Bankruptcy Trustee to take inventory of the Legal Owner's books and records and understands that (i) the digital books and records of the Legal Owner associated with the management and operations of the Properties are maintained by Prime (the "**Prime Records**") and form the significant majority of the Records, and (ii) certain financial documents and other books and records related to the Legal Owner were in possession of Gross Capital prior to its bankruptcy (the "**Gross Capital Records**", and together with the Prime Records, the "**Records**").
35. The Receiver has taken a full backup of the Prime Records, which primarily consist of financial statements, rent rolls, lease agreements, and other documents associated with the ongoing management of the Properties. The Receiver understands that Prime's protocol is to take digital copies of all physical documents, and as such, unique physical documents and records are limited. All physical documents and records remain secured at Prime's offices until further instruction from the Receiver.
36. The Receiver understands that the Gross Capital Records are comingled with books and records related to other Gross Capital-affiliated entities that are not part of these Proceedings and are not easily segregated, but that the Gross Capital Bankruptcy Trustee has taken a full backup of the Gross Capital Records as part of securing the Gross Capital books and records. The Receiver has taken copies of those records whose filenames were associated with the Legal Owner. It has not attempted to identify, or take copies of, information that could relate to the Legal Owner but is comingled in files with filenames other than those associated with the Legal Owner. It has also not attempted to identify, or take copies of, any emails associated with the Legal Owner given the technical complexities associated with separating these records from the emails related to other legal entities.
37. As at the date of this First Report, the Receiver has in its possession the Records it requires to administer the next steps in these Proceedings. Given that the Gross Capital Records are in the Gross Capital Bankruptcy Trustee's possession, the Receiver has not taken possession of the Gross Capital Records associated with the Legal Owner but either stored in comingled data files (if such data exists) or as emails at this time, and will determine the appropriate time to do so. The Receiver has, however, requested in writing that the Gross Capital Bankruptcy Trustee notify the Receiver in advance of any transfer or destruction of the Gross Capital Records.

Other

38. Pursuant to the terms of the Appointment Order, the Receiver was authorized to engage Applicants' counsel, Blake, Cassels & Graydon LLP ("**Blakes**") as its counsel in these Proceedings, and to engage independent counsel where it determines it requires independent legal advice. The Receiver has engaged Blakes and has also engaged Norton Rose Fulbright Canada LLP ("**Norton Rose**") as its independent counsel on certain legal matters requiring independent advice.
39. As noted in the Pre-Filing Report, the Receiver is in the process of obtaining a legal opinion on the validity and enforceability of the Applicants' security. To the extent necessary in the future, the Receiver will also engage counsel for opinions on other security interests.
40. The activities of the Receiver since the Receivership Date are detailed in a later section to this First Report.

VI. NOTIFICATION OF BENEFICIAL OWNERS

Background

41. The Receiver's knowledge of the identities and contact information of Beneficial Owners is based primarily on a nominee agreement dated March 30, 2015 to which the Legal Owner is a party (the "**Nominee Agreement**"), a nominee acknowledgement dated March 30, 2015 signed by each of the Beneficial Owners listed in the Nominee Agreement (the "**Nominee Acknowledgement**") and an unsigned amended and restated nominee agreement dated March 16, 2018 (the "**A&R Nominee Agreement**"). The Nominee Agreement, Nominee Acknowledgement and the A&R Nominee Agreement are attached to the Baron Affidavit as Exhibits D, F and G, respectively.
42. Based on the books and records of the Legal Owner, including in particular the Nominee Agreement, the Nominee Acknowledgement, and the A&R Nominee Agreement, the Receiver believes that there are 49 original Beneficial Owners and 35 other possible Beneficial Owners.
43. As detailed in the Thompson Affidavit, contact information for certain Beneficial Owners and other parties with a potential interest in the Legal Owner's Property was provided by the Legal Owner to the Applicants, which included last-known mailing addresses and, where available, email addresses, which was used to synthesize a master contact list, a redacted copy of which is attached as Exhibit "A" to the Thompson Affidavit (the "**Master Contact List**").

44. However, the Records are not current, clear or complete, and the Master Contact List does not include email addresses for all Beneficial Owners and potential Beneficial Owners. Generally speaking, the Beneficial Owners that the Receiver is aware of are geographically concentrated in Ontario and Hawaii, however there are suspected Beneficial Owners outside of those jurisdictions. One individual that the Receiver understood to be a Beneficial Owner has contacted the Receiver to advise that she has no interest in the Legal Owner's Property.
45. Moreover, a number Beneficial Owners appear in the Records as trusts, and the Receiver does not have confirmatory statements from a trustee, confirming the identity of the trustee or trustees and email contact information for same.
46. The Substituted Service Order provided for the Application record to be served by sending the Service Letter (as defined in the Baron Affidavit) by the following means to the following parties (capitalized terms have the meanings given to them in the Thompson Affidavit):
- (i) email to the respective email addresses of the Email Service Parties noted with an asterisk on the Master Contact List, (ii) mail to the respective mailing addresses of the parties who are not Email Service Parties on the Master Contact List, (iii) by mail c/o the Legal Owner at the Legal Owner's address to the Care of Legal Owner Service Parties, (iv) mail to the mailing addresses obtained for the Fleishman Service Parties, and given the uncertainty of those addresses, c/o the Legal Owner at the Legal Owner's address, and (v) mail to the registered office addresses of any corporation on the Master Contact List where its respective registered office address differs from the Master Contact List
47. Given the physical mailings required by the Substituted Service Order, the Receiver believes that it is not efficient or cost effective to follow this process for all notices and motions in these Proceedings going forward. The service prescribed by the Substituted Service Order was appropriate for the initial application, in order to ensure that parties with a potential equity interest had as much notice as possible, but going forward it is more appropriate to use the powers afforded to the Receiver pursuant to the Appointment Order to attempt to acquire more complete contact information for the Beneficial Owners and potential Beneficial Owners.
48. Accordingly, in the Receiver's view, it is prudent and necessary to attempt to notify Beneficial Owners of these Proceedings, and regularize service on them. In creating the proposed notification and service strategy that follows, the Receiver sought a process that would (a) maximize the likelihood of these

Proceedings coming to the attention of Beneficial Owners and potential Beneficial Owners, (b) streamline the means by which notice and service is made on Beneficial Owners by limiting it to email, and (c) ensure that in the case of Beneficial Owners that are trusts, the party making service was serving a confirmed trustee.

Proposed Notification Procedure and Service Protocol

49. In order to bring these Proceedings to the attention of parties who may have an interest, the Receiver is seeking the approval of the following procedure by which it will notify Beneficial Owners of these Proceedings and solicit email contacts from them (the “**Notification Procedure**”):

- (a) on or about September 14, 2021, the Receiver will send a letter requesting that Beneficial Owners or parties claiming a beneficial ownership interest in or to the Legal Owner’s Property provide the Receiver with a valid email address to which notifications and service can be made, substantially in the form attached as **Appendix “C”** hereof (a “**Notification Letter**”), to:
 - (i) all corporations, partnerships and natural persons listed in the Master Contact List with an email address, by email to the email address listed in the Master Contact List;
 - (ii) all corporations, partnerships and natural persons listed in the Master Contact List with a physical address but not an email address, by overnight courier to the physical address listed in such books and records;
 - (iii) all corporations listed in the Master Contact List with neither an email address nor a physical address, by overnight courier to the registered head office of such corporation;
 - (iv) all trusts listed in the Master Contact List with an email or physical address, by email or overnight courier to the last known address of any trustee of the trust listed as such in the Master Contact List; and
 - (v) with respect to (i) through (iv), no email or physical letter will be sent to any Beneficial Owner or potential Beneficial Owner if the applicable address in the Master Contact List is an address in care of the Legal Owner.

- (b) on or about September 15, 2021 and September 19, 2021, the Receiver will cause a notice to be posted in the Globe and Mail (National Edition) and the Hawaii Tribune-Herald (the “**Newspaper Advertisement**”), in substantially the following form;

**CALL FOR INTERESTED PARTIES IN 304 &
414 VICTORIA AVENUE NORTH, HAMILTON, ONTARIO, [CANADA]**

On August 3, 2021 KPMG Inc. was appointed as receiver and manager (the “**Receiver**”) of all of the assets of **Victoria Avenue North Holdings Inc.**, including 304 and 414 Victoria Avenue North, Hamilton, Ontario (the “**Properties**”) and the interests of any beneficial owners in such Properties. The Receiver is calling for all parties who claim a beneficial ownership interest in the Properties to identify themselves, and to provide contact information so that they may receive future notices and Court documents in the proceedings. **If you claim an interest in 304 or 414 Victoria Avenue North, Hamilton, Ontario, or any of the assets of Victoria Avenue North Holdings Inc., please contact the Receiver at gbourikas@kpmg.ca before September 24, 2021 for further information.**

50. Any parties contacting the Receiver in response to the Newspaper Advertisement will be provided with a request for contact information substantially along the lines of the Notification Letter, including but not limited to an email address to which notices and service can be provided.
51. In the Receiver’s view, the steps in the proposed Notification Procedure are sufficiently comprehensive that they are reasonably likely to bring these Proceedings to the attention of any Beneficial Owner or potential Beneficial Owner who is not already aware of them, and likely to solicit an email address from such party to the extent that the Master Contact List does not already include an email address. The Receiver has no reason to believe that a more comprehensive notification procedure would be likely to bring the Proceedings to the attention of materially more potential Beneficial Owners.

Service on Beneficial Owners

52. Following the completion of the Notification Procedure, the Receiver proposes to provide notice to and service on Beneficial Owners or potential Beneficial Owners by email only, and only to those Beneficial Owners or potential Beneficial Owners in respect of whom the Receiver (a) already has an email address in the Master Contact List (an “**Email of Record**”) or (b) receives an email address in response to the solicitations in the Notification Procedure (a “**Disclosed Email**”). Additional procedures will apply to Beneficial Owners and potential Beneficial Owners that are trusts, as described in paragraph 56 below.

53. Accordingly, the Receiver is seeking an order, with effect on September 24, 2021 (the “**Service Order**”):
- (a) approving service of materials in these Proceedings by the Receiver, or any other party, on Beneficial Owners or potential Beneficial Owners by email, to the Email of Record or Disclosed Email;
 - (b) dispensing with service on Beneficial Owners in respect of whom the Receiver does not have an Email of Record, or who has not provided a Disclosed Email;
 - (c) authorizing the Receiver to disclose Beneficial Owner or potential Beneficial Owner names and contact information (in the form of their Email of Record or Disclosed Email) to any party who reasonably requests such information for the purposes of serving materials in these Proceedings;
 - (d) permitting any Beneficial Owner to opt-out of the service protocol by filing a Notice of Appearance in these Proceedings;
 - (e) declaring that nothing in the Notification Procedure, nor the giving of notice or making of service by the Receiver or any other party, shall constitute or be deemed to constitute an acceptance by the Receiver that the recipient party has an actual interest in the Legal Owner’s Property; and
 - (f) granting certain other ancillary relief.
54. By the terms of the proposed Service Order, any Beneficial Owner in respect of whom the Receiver has an Email of Record need not take any steps in order to receive service and notice (other than trusts, discussed below in paragraph 56, which must respond to provide a Disclosed Email). No positive action or confirmation is necessary by non-trust Beneficial Owners or potential Beneficial Owners, and future service and notice will be sent to the Email of Record. If a Beneficial Owner or potential Beneficial Owner is uncertain whether the Receiver has an Email of Record, such party should determine whether a Notification Letter was received by them by email on or about September 14, 2021.
55. Beneficial Owners or potential Beneficial Owners in respect of whom the Receiver does not have an Email of Record (which will be evident to such parties based on whether or not they received a

Notification Letter by Email) must contact the Receiver and provide an email address (defined above as a Disclosed Email) in order to receive service or notice in these Proceedings after September 24, 2021.

56. Parties responding on behalf of Beneficial Owners or potential Beneficial Owners that are trusts must also provide a statement identifying the trustee(s) of the trust, together with a Disclosed Email for such trustee(s). The Receiver has no independent way of confirming the identity of trustees of trusts, and views this additional disclosure requirement as prudent and reasonable. Following the sending of the Notification Letter to trusts in accordance with the Notification Procedure, the Receiver will not send any further correspondence, notice or service to Beneficial Owners or potential Beneficial Owners that are trusts, *even if the Master Contact List includes an email for such party*. Trusts will only be contacted after September 24, 2021 via Disclosed Emails, not Emails of Record, and so it is incumbent on trustees to respond.
57. The proposed September 24, 2021 effective date of the Service Order is not intended to act as a deadline or bar to service on any party. If as of September 25, 2021 the Receiver does not have an Email of Record or Disclosed Email for a Beneficial Owner or potential Beneficial Owner, that party will not be entitled to service of materials in these Proceedings, however such party may provide a Disclosed Email at any time after September 24, 2021 and thereby become entitled to future service and notice.
58. The Service Order is furthermore a procedural order only, dealing with service and notice, but not substantive rights. Service to an Email of Record or Disclosed Email is not confirmation that the recipient has an actual direct or indirect interest in the Legal Owner's Property, and any party providing a Disclosed Email will not be requested or required to substantiate a claim for an interest in the Legal Owner's Property. The determination of such interests will be made by the Receiver, if necessary, at a later date in accordance with a claims procedure order to be approved by the Court.
59. In the Receiver's view, the proposed terms of the Service Order strike an appropriate balance between ensuring that potentially interested parties are provided with service and notice in these Proceedings, and at the same time managing the administrative and economic burdens of the Receiver and other parties who may otherwise be required or inclined to comply with onerous service requirements all over the world. Moreover, by dispensing with service on parties in respect of whom the Receiver does not have an email address, the proposed terms of the Service Order balance the rights of parties to be given notice with the obligation on such parties to make themselves known in the process.

VII. ACTIVITIES OF THE RECEIVER

60. Since the Receivership Date, the Receiver's activities have included:

- (a) attending at each of the Properties to take possession, including performing site walkthroughs, inquiring with site superintendents in respect major repair and maintenance items and any known potential environmental issues, and taking inventory of the condition of the premises and the physical occupancy of the suites;
- (b) comparing observed occupancy to the Legal Owner's rent rolls, noting any discrepancies;
- (c) entering into contractual arrangements with Prime, on a month-to-month basis, in respect of property management and leasing services for the Properties;
- (d) engaging with Prime to analyze and consider the operation of the Properties and notifying applicable service providers of the appointment of the Receiver;
- (e) arranging for continuation of essential services at the Properties, and making payments to suppliers in respect of same;
- (f) freezing the Legal Owner's bank accounts, and opening new accounts in the name of the Receiver for each of the Properties;
- (g) reviewing the Legal Owner's existing insurance coverage, and arranging, with the assistance of the Legal Owner's insurance broker, for the Receiver to be added as a named insured and loss payee on the Legal Owner's policy;
- (h) securing a short-term extension of the Legal Owner's insurance policies (the "**Policies**") – which were set to expire on August 31, 2021 – through to September 30, 2021, as evidenced by a binder letter from the Legal Owner's insurance broker dated August 25, 2021. The Receiver understands that the insurance underwriter, Allianz Global Risks US Insurance Company, intends to continue to extend the Policies on a month-to-month basis while the Legal Owner is within these Proceedings, and the Receiver is working to secure a more reasonable extension period on the Policies based on the amount of time it anticipates requiring insurance coverage in these Proceedings;
- (i) collecting rents;

- (j) notifying the Legal Owner's tenants of, among other things, the appointment of the Receiver and the continued operation of the Properties, and liaising with tenants as necessary;
- (k) responding to calls and inquiries from the Legal Owner's creditors, including suppliers, tenants, potential Beneficial Owners and other stakeholders regarding the Proceedings;
- (l) establishing an email address for the Receiver at victoriaholdings@kpmg.ca for correspondence with creditors and other stakeholders of the Legal Owner as they pertain to these Proceedings;
- (m) establishing the Receiver's Website (at <https://home.kpmg/ca/Victoriaholdings>) where copies of all Court and other statutory materials are available in electronic format;
- (n) mailing, on August 16, 2021 the Notice and Statement of the Receiver pursuant to subsections 245(1) and 246(1) of the BIA;
- (o) contacting Canada Revenue Agency to open new Harmonized Sales Tax (HST) accounts in the name of the Receiver;
- (p) reviewing, with the assistance of Prime, the Legal Owner's accounts receivable primarily related to (i) unbilled common area maintenance costs, (ii) deferred rents, and (iii) rents in arrears, in each case for the purpose of assessing the nature and basis for such outstanding amounts and collecting same;
- (q) compiling, with the assistance of Prime, the details of non-performing leases for the purposes of pursuing rental arrears and bringing leases into good standing or taking other corrective action, including preparing and sending notices of arrears and terminations to certain tenants with substantial arrears;
- (r) preparing a virtual data room for the purposes of the Broker RFP and providing access to Interested Brokers upon execution of non-disclosure agreements, and responding to inquiries from Interested Brokers;
- (s) communicating with the Gross Capital Bankruptcy Trustee, in respect of the Gross Capital Records, the Gross Capital bankruptcy proceedings, and these Proceedings;

- (t) communicating with Receiver's counsels, Blakes and Norton Rose, in respect of various aspects of these Proceedings; and
- (u) communicating with AIG and its counsel in respect of various aspects of these Proceedings.

VIII. RECEIVER'S RECEIPTS AND DISBURSEMENTS

61. As detailed in the Pre-Filing Report, KPMG in its capacity as proposed receiver and based on its knowledge of the Legal Owner's business, had prepared a cash flow forecast (the "**Cash Flow Forecast**") for the purpose of projecting the Legal Owner's estimated liquidity needs for a period of approximately 6 months from the Receivership Date to provide the Receiver with time to devise, seek approval of and implement a robust and thorough Sale Process for the Real Properties.
62. Based on the Cash Flow Forecast, the Receiver was anticipated to require borrowings in the amount of approximately \$300,000 and the Receiver Term Sheet contemplated an "Initial Advance" of \$300,000 as soon as reasonably practicable following the granting of the Appointment Order. Following its appointment, the Receiver requested, and the Applicants advanced, such amount to the Receiver on August 11, 2021.
63. During the Period, the Receiver had cash receipts (excluding borrowings of \$300,000) of approximately \$113,000, and cash disbursements of approximately \$8,000. As at August 24, 2021, the Receiver's cash on hand, including the Receiver's borrowings to date, was approximately \$545,000, as a number of anticipated obligations have not yet been paid by the Receiver. At this early stage in these Proceedings, the Receiver has not prepared an interim statement of receipts of disbursements but, as at the date of this First Report, expects to have sufficient liquidity to continue operating the Legal Owner's business while a Sale Process is devised, sought to be approved and implemented. The Receiver intends to provide a further update on its cash position in a subsequent report to this Court.

IX. CONCLUSION AND RECOMMENDATION

64. The Receiver is of the view that the Notification Procedure and the Service Order are reasonable and necessary procedural protocols, which taken together balance the interests of parties with a potential interest in these Proceedings and the need for procedural and administrative efficiencies.
65. Based on the foregoing, the Receiver respectfully requests that the Court issue an order substantially in the form attached to the Receiver's motion record:

- (a) approving the Notification Procedure; and
- (b) implementing the Service Order.

All of which is respectfully submitted this 7th day of September, 2021.

KPMG Inc.
In its capacity as Receiver and Manager of
Victoria Avenue North Holdings Inc.

And not in its personal or corporate capacity

Per:

Katherine Forbes

Katherine Forbes
CPA, CA, CIRP, LIT
Senior Vice President

G Bourikas

George Bourikas
CPA, CA, CIRP, LIT
Vice President

APPENDIX “A”

Court File No.: CV-21-00665375-00CL

**PRE-FILING REPORT OF KPMG INC.,
IN ITS CAPACITY AS PROPOSED RECEIVER OF**

Victoria Avenue North Holdings Inc.

JULY 26, 2021

Court File No.: CV-21-00665375-00CL

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

**AMERICAN GENERAL LIFE INSURANCE COMPANY and
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.**

Applicants

AND

**VICTORIA AVENUE NORTH HOLDINGS INC.
and THE PARTIES LISTED ON SCHEDULE "A"**

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and under Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**PRE-FILING REPORT OF KPMG INC.
In its capacity as Proposed Receiver**

DATED JULY 26, 2021

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I. INTRODUCTION

1. KPMG Inc. (“**KPMG**” or the “**Proposed Receiver**”) understands that an application will be made before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) by American General Life Insurance Company (“**AIG**”), and National Union Fire Insurance Company of Pittsburgh, PA. (collectively, the “**Applicants**”) for an order (the “**Appointment Order**”), *inter alia*, appointing KPMG as receiver and manager (in such capacity, the “**Receiver**”) to exercise the powers and duties set out in the Appointment Order, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. C. 43, as amended, of i) all of the assets, undertakings and properties, including the Real Properties (as defined in the Appointment Order) of Victoria Avenue North Holdings Inc. (the “**Legal Owner**”) acquired for, or used in relation to the Legal Owner’s business (collectively, the “**Legal Owner’s Property**”), and ii) all right, title and interest of any beneficial owners (the “**Beneficial Owners**”) in and to the Legal Owner’s Property, including the Real Properties and all proceeds thereof, whether held directly or indirectly by the Beneficial Owners for themselves or for others, including the Beneficial Owners.
2. This pre-filing report (the “**Report**”) has been prepared by the Proposed Receiver prior to its appointment as Receiver, should this Court grant the Appointment Order, to provide information to the Court for its consideration in respect of the Applicants’ receivership application (the “**Application**”).

II. PURPOSE OF REPORT

3. The purpose of this Report is to provide this Honourable Court with information pertaining to:
 - (i) background on the Legal Owner, KPMG’s involvement as financial advisor to the Applicants, and selected findings in connection with same;
 - (ii) KPMG’s qualifications to act as Receiver pursuant to the proposed Appointment Order;
 - (iii) the Legal Owner’s forecasted cash flows for the next 6 months; and
 - (iv) the Legal Owner’s estimated funding requirements for the next 6 months, the commercial terms associated with a proposed loan by the Applicants to the Receiver pursuant to the Receiver Term Sheet (as hereinafter defined), and comparison to terms of other loans of similar nature.

III. TERMS OF REFERENCE

4. In preparing this Report and making the comments herein, KPMG has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, the Legal Owner's records, financial information and projections prepared by the Legal Owner, discussions with the Legal Owner's management (the "**Management**") and information from other third party sources (collectively, the "**Information**"). It should be noted that all of the Information was obtained in our role as financial advisor to the Applicants, which role is discussed below.
5. The Proposed Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Proposed Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly the Proposed Receiver expresses no opinion or other form of assurance in respect of the Information.
6. Some of the information referred to in this Report consists of financial forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
7. Certain information referred to in this Report is based on Management's estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant.
8. The Proposed Receiver has prepared this Report in connection with the Application to be heard on August 3, 2021. This Report should not be relied on for other purposes.
9. Capitalized terms not otherwise defined herein are as defined in the Applicants' application materials, including the Affidavit of Jacob Baron sworn July 9, 2021 (the "**Baron Affidavit**"). This Report should be read in conjunction with the Baron Affidavit as certain information contained therein has not been included herein to avoid unnecessary duplication.
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND, PRIOR KPMG INVOLVEMENT WITH THE LEGAL OWNER AND SELECTED FINDINGS

Background

11. The Legal Owner owns and operates two (2) medical office buildings located in Hamilton, Ontario as follows:

Address	Location	Square Feet
304 Victoria Ave N	Hamilton, Ontario	38,828
414 Victoria Ave N	Hamilton, Ontario	47,271

(collectively, the “**Buildings**”).

12. The Buildings are tenanted primarily by doctors, clinics, and other medical-related occupants. The Legal Owner relies on Prime Real Estate Group Inc. (“**Prime**”), a property management company, to manage the day-to-day operations of the Buildings.
13. Detailed information with respect to the Legal Owner’s business and operations are detailed extensively in the Baron Affidavit. The information contained in this Report represents only a high-level summary of such details to avoid duplication.

KPMG’s Prior Involvement with the Legal Owner

14. On February 26, 2020, KPMG was retained by the Applicants, through their counsel Blake, Cassels & Graydon LLP (“**Blakes**”), as financial advisor (the “**Financial Advisor**”) to the Applicants regarding the Applicants’ loan to the Legal Owner. Since that time, KPMG’s activities have included, *inter alia*:
- (a) reviewing the Legal Owner’s rent rolls, lease agreements, and financial statements;
 - (b) analyzing the Legal Owner’s financial situation;
 - (c) performing physical site visits of the Buildings with a view to confirming occupancy rates and revenues of same;
 - (d) evaluating refinancing efforts of Management in respect of the Legal Owner;

- (e) assisting the Legal Owner in developing a request for proposal in respect of a leasing agent to market and lease-up vacant units within the Buildings;
 - (f) understanding and monitoring the ongoing cash flows of the Legal Owner, including deferred rents receivable as a result of the impact of COVID-19; and
 - (g) planning and preparing for potential formal receivership proceedings.
15. KPMG has worked closely and co-operatively with Management and Prime since the commencement of our engagement as Financial Advisor.

Selected Findings

16. In March, 2020, KPMG requested from Prime and the Legal Owner, harmonized sales tax (“HST”) records evidencing that the Legal Owner had been filing HST returns and remitting HST owing, as required, on a regular basis.
17. Based on the information provided, the Legal Owner appeared to have been filing HST returns on a regular basis, but had significant outstanding HST obligations for the period prior to May 2020. The Proposed Receiver understands that the Legal Owner continues to have significant outstanding HST obligations at this time.

V. KPMG’S QUALIFICATIONS TO ACT AS RECEIVER

18. KPMG can provide the following information to the Court regarding its qualifications to act as Receiver in these proceedings:
- (a) KPMG has extensive knowledge of the Legal Owner’s business and assets including the Real Properties, which should result in significant time and cost efficiencies in these proceedings;
 - (b) KPMG has worked co-operatively with Management and Prime throughout its engagement as Financial Advisor;
 - (c) the KPMG personnel that will be involved with the receivership include those that were involved in its engagement as Financial Advisor, and have extensive experience in Court-appointed mandates (including acting as Court-appointed receiver and manager), dealing with real estate assets, and designing and implementing Court-supervised sale processes.

The Proposed Receiver and its representatives understand the nature of a Court-appointed role and the importance of being independent while acting in such capacity;

- (d) KPMG’s fee rates are comparable to other firms with similar capabilities that perform similar work; and
 - (e) KPMG is a trustee within the meaning of section 2(1) of the BIA and has provided its consent to act as receiver (attached hereto as **Appendix “A”**) in these proceedings should the Court grant the Appointment Order.
19. On June 29, 2021, upon application by AIG and affiliated secured lenders, KPMG was appointed as receiver and manager of, among other things, the properties of Southmount Healthcare Centre Inc. and certain other entities (collectively, “**Southmount Et Al.**”), pursuant to an order of this Court (Court file no. CV-21-00664273-00CL). The respondents in the Southmount Et Al. receivership proceedings – whose primary assets are seven (7) medical office buildings in the same asset class as the Buildings – are affiliated with the Legal Owner as the majority of them are indirect subsidiaries of Gross Capital Inc. (“**Gross Capital**”), which, as further detailed in the Baron Affidavit, was assigned into bankruptcy on June 25, 2021. The Proposed Receiver understands that the Legal Owner and Southmount Et Al. were each managed by representatives of Gross Capital. KPMG in its capacity as receiver is also planning to market and sell the Southmount Et Al. real properties, and as such, there are expected to be efficiencies to be realized in terms of i) the Receiver’s efforts to market and sell the Real Properties, and ii) the Receiver’s ongoing communications with key stakeholders in common with these proceedings.
20. Should the Court grant the Applicants’ request to make the Appointment Order, the Receiver intends to engage Applicants’ counsel, Blakes, as its counsel in these proceedings, as well as Norton Rose Fulbright Canada LLP (“**Norton Rose**”) as its independent counsel on legal matters which the Receiver, in its judgment, determines it requires independent advice. The Receiver will obtain a legal opinion on the validity and enforceability of the Applicants’ security, and any other security interests as necessary, from Norton Rose.

VI. CASH FLOW FORECAST

21. The Proposed Receiver, based on its knowledge of the Legal Owner’s business, has prepared a cash flow forecast (the “**Cash Flow Forecast**”) for the purpose of projecting the Legal Owner’s estimated liquidity needs for a period of approximately 6 months from the date of the proposed Appointment

Order (the “Forecast Period”). A copy of the Cash Flow Forecast is attached hereto as **Appendix “B”**.

22. A 6-month Forecast Period was chosen to provide the Receiver (if appointed) with time to devise, seek approval of and implement a robust and thorough sale process for the Real Properties.
23. A condensed version of the Cash Flow Forecast, presented monthly, is shown below.

Cash Flow Forecast								
Period Ending	31-Aug-21	30-Sep-21	31-Oct-21	30-Nov-21	31-Dec-21	31-Jan-22	14-Feb-22	Total
Receipts	132,181	132,181	132,181	132,181	132,181	131,535	102,861	895,302
Operating disbursements	(117,968)	(78,418)	(46,211)	(72,857)	(74,186)	(80,425)	(74,843)	(544,909)
Operating cash flow	14,213	53,763	85,971	59,324	57,995	51,110	28,018	350,393
Professional fees	(265,224)	(108,169)	(93,637)	(93,637)	(93,637)	(93,637)	(46,818)	(794,758)
Net cash flow	(251,010)	(54,405)	(7,666)	(34,313)	(35,642)	(42,527)	(18,801)	(444,365)
Opening Cash Balance	50,000	98,990	44,584	36,918	2,605	66,963	24,436	50,000
Net Cash Flow	(251,010)	(54,405)	(7,666)	(34,313)	(35,642)	(42,527)	(18,801)	(444,365)
Receiver's Borrowings	300,000	-	-	-	100,000	-	-	400,000
Closing Cash Balance	98,990	44,584	36,918	2,605	66,963	24,436	5,635	5,635

24. The Cash Flow Forecast, which is premised on the Legal Owner continuing to perform financially in a manner consistent with that of the last three (3) months, forecasts the following:
 - (a) total receipts of approximately \$0.9 million, related to collections of monthly rent; and
 - (b) total operating disbursements and professional fees of approximately \$1.3 million, related to payments to suppliers and property management in order to manage and maintain the Properties and the fees and disbursements of the Receiver, Blakes (in its capacity as counsel to the Receiver) and Norton Rose.
25. The Cash Flow Forecast assumes that no sales of the Real Properties occur during the Forecast Period. In the event that one or both of the Real Properties are sold, the operating cash flows will be revised accordingly and reported to the Court.
26. The Cash Flow Forecast indicates that the Legal Owner will not generate sufficient liquidity to fund operations and these proceedings going forward.
27. The Proposed Receiver understands that certain of the Real Properties may require material capital expenditures. For the purposes of the Cash Flow Forecast, such expenditures have been excluded. If

appointed, the Receiver will obtain further information and determine what, if any such capital expenditures are required.

VII. FUNDING REQUIREMENTS

28. The Proposed Receiver understands that the Applicants are prepared to fund the Legal Owner's cash requirements throughout the Forecast Period in order to allow the Receiver to thoroughly market the Real Properties for sale, should the Court see fit to grant the Appointment Order.
29. As shown in the Cash Flow Forecast, it is estimated that commencing immediately after the granting of the Appointment Order, the Legal Owner will require additional liquidity, with required borrowings increasing in each successive month such that total required borrowings reach approximately \$400k by December 31, 2021. Accordingly, it is vital that the Receiver (if appointed) have the ability to borrow additional funds to continue operating the Legal Owner's business – maintaining the Real Properties and preserving their value – while a sale process is devised and implemented. The Proposed Receiver understands that the Applicants are prepared to provide such funding pursuant to the Receiver Term Sheet.
30. As further outlined in the Cash Flow Forecast, it is anticipated that the Receiver will require approximately \$300k as an initial advance immediately following the granting of the Appointment Order.
31. A copy of the proposed Receiver Term Sheet is attached hereto as **Appendix "C"**. Key terms are as follows:
 - (i) purpose: fund the costs of the receivership proceedings, in accordance with the Cash Flow Forecast and as otherwise agreed to between the Applicants and the Receiver;
 - (ii) availability: up to \$500k;
 - (iii) interest rate: 8.95% (compounded annually);
 - (iv) expenses: the Applicants are entitled to reimbursement of all of their reasonable costs and expenses in connection with the Receiver Term Sheet;
 - (v) repayment: upon the realization of net proceeds from the sale of the Real Properties, in accordance with the Appointment Order and the Receiver's Borrowings Charge (as defined in the Appointment Order) or any subsequent orders of the Court;

- (vi) term: initial 6-month period ending February 3, 2022. Prior to expiry, the Applicants shall determine, at their sole discretion (in consultation with the Receiver), whether they are prepared to provide any additional borrowing availability that may be required for the purposes of continuing to pursue a sale process if necessary at that time;
- (vii) events of default: the occurrence of any one or more of the following constitutes an “Event of Default”:
 - a. any termination of the stay of proceedings contained in the Appointment Order;
 - b. any termination of the appointment of the Receiver; or
 - c. any order issued by the Court:
 - 1. granting any other claim or lien in respect of the Real Properties that is *pari passu* with or in priority to the Receiver’s Borrowings Charge;
 - 2. modifying the Receiver Term Sheet, without the prior written consent of the Applicants;
 - 3. approving any sale of the Real Properties (or any portion thereof) without the prior written consent of the Applicants which does not provide for sufficient proceeds to fully repay all of the Obligations (as defined in the Receiver Term Sheet); and
 - 4. reversing, modifying, staying or amending the Appointment Order without the written consent of the Applicants; and
- (viii) security: the Receiver’s Borrowings Charge, being a charge over all of the Real Properties, which charge is in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Appointment Order) but subordinate in priority to the Receiver’s Charge (as defined in the Appointment Order) and the charges set out in S 14.06(7), S 81.4(4), and S 81.6(2) of the BIA.

32. The Proposed Receiver is of the view that the proposed quantum of borrowings pursuant to the Receiver Term Sheet is reasonable based on the Cash Flow Forecast, providing some excess availability for dealing with any unanticipated matters. Further, the Proposed Receiver is of the view that the economic terms of the Receiver Term Sheet are reasonable in the circumstances. The Proposed

Receiver notes that an Event of Default gives the Applicants the ability to terminate the facility – even if there is remaining undrawn availability at that date – which could create an inability on the part of the Receiver to fund certain post-filing obligations, unless and until the Real Properties are monetized (the Receiver has a first ranking priority charge over the Real Properties to secure the Receiver’s fees and disbursements, the value of which are expected to significantly exceed the borrowing limit).

33. The Proposed Receiver is of the view that – based on the key economic terms of other super priority (i.e. DIP) loans approved by various Canadian Courts during 2021 to date (a list of which is attached hereto as **Appendix “D”**) – the annual interest rate of 8.95% contemplated in the Receiver Term Sheet is reasonable in the circumstances and on the lower range of DIP loans reviewed.
34. The Proposed Receiver notes that a substantially similar funding term sheet was approved by this Honourable Court in the Southmount Et Al. receivership proceedings.

All of which is respectfully submitted this 26th day of July, 2021.

KPMG Inc.
In its capacity as Proposed Receiver of
Victoria Avenue North Holdings Inc.

And not in its personal or corporate capacity

Per:



Nick Brearton
CPA, CA, CIRP, LIT
President



George Bourikas
CPA, CA, CIRP, LIT
Vice President

APPENDIX “B”

Court File No.

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

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY and
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

Applicants

- and -

VICTORIA AVENUE NORTH HOLDINGS INC.
and THE PARTIES LISTED ON SCHEDULE "A"

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

AFFIDAVIT OF SERVICE

I, NANCY THOMPSON, of the City of Brampton, in the Regional Municipality of Peel, MAKE OATH AND SAY:

1. I am a law clerk at Blake, Cassels & Graydon LLP ("**Blakes**"), lawyers for American General Life Insurance Company and National Union Fire Insurance Company of Pittsburgh, PA. (the "**Applicants**"), and as such have knowledge of the matters deposed to in this affidavit.

2. This affidavit should be read in conjunction with the affidavit of Jacob Baron sworn on July 9, 2021 (the "**Baron Affidavit**"). Initially capitalized terms not otherwise defined herein have the meanings given to them in the Baron Affidavit.

3. This affidavit is sworn in connection with an application for an order (the “**Substituted Service Order**”) approving a substituted method of service of the Applicants’ Notice of Application and Application Record upon: (i) the Respondents in these proceedings which are listed on Schedule “A” hereto (collectively, the “**Original Beneficial Owners**”), and (ii) the Other Potential Parties of Interest (as such term is defined in paragraph 26 of the Baron Affidavit). Where this affidavit is not based on my direct personal knowledge, it is based on information or belief and I verily believe it to be true and I have indicated the source of such information and belief.

4. As set out in paragraphs 23 and 24 of the Baron Affidavit, the list of forty-nine Original Beneficial Owners is comprised of the parties to the Nominee Agreement.

5. As set out in paragraph 27 of the Baron Affidavit, I understand that the Legal Owner provided the Applicants with a Contact List which includes the last-known mailing addresses and (where available) email addresses of certain of the Original Beneficial Owners and the Other Potential Parties of Interest. Based on that Contact List, I created a master contact list for both the Original Beneficial Owners and the Other Potential Parties of Interest (the “**Master Contact List**”), with certain corrections and updates based on public searches and inquiries, as noted in the Master Contact List. Attached hereto as **Exhibit “A”** is a copy of the Master Contact List, with certain address and email information removed to protect the privacy of certain individuals as described in the Baron Affidavit.

6. Based on the Master Contact List, of the 49 Original Beneficial Owners, there are 17 located in Ontario, 3 in other Canadian Provinces, and 29 located in the United States, with all but one located in Hawaii. The Master Contact List includes e-mail addresses for 33 of the Original Beneficial Owners as provided by the Legal Owner, subject to the exceptions noted in paragraph 8 below.

7. With respect to the Other Potential Parties of Interest, based on the Master Contact List, 31 are located in Canada (all of which are in Ontario) and 4 are located in the United States (3 in Hawaii and 1 in Florida). The Master Contact List includes e-mail addresses for all of the Other Potential Parties of Interest as provided by the Legal Owner, subject to the exceptions noted in paragraph 12 below.

Delivery of Demand Letters & Section 244 Notices

Beneficial Owners

8. On June 18, 2021, Jules Monteyne, an associate lawyer at Blakes, and I sent copies of the Demand Letter and the respective Section 244 Notice to each Original Beneficial Owner with an email address in the Master Contact List (each Original Beneficial Owner with an email address in the Master Contact List other than those noted in the subparagraphs below, the “**E-mail Service Beneficial Owners**”). A sample Section 244 Notice to a corporate Original Beneficial Owner is attached hereto as **Exhibit “B”**. The exceptions to delivery by e-mail are noted below:

- (a) No email address was provided for 1236068 Ontario Inc., Stanley Salcedo, Diane Curtis, Ellen Fleishman, Fleishman Family Trust, Guy Pace and Caroline Berdusco, Jian Zhang, John Dattamo and Daniela Dattamo, Ruth Hisaye Honda Trust, 1649750 Ontario Inc., Citydrill Inc. or Hybrid Activities Inc.; and
- (b) An undeliverable notification was received for the e-mail addresses for Kelly Hiraki/Jonathan Wah Hee Hee, Seymour Kazimirski and Dwight Otani/Theresa Otani, and could not be resolved.

9. Also on June 18, 2021, I sent a copy of the Demand Letter and Section 244 Notice to all but 11 of the Original Beneficial Owners, by sending copies by UPS, a courier, to the address in the Master Contact List for each Original Beneficial Owner. On June 23, 2021, I sent a copy of the Demand Letter and Section 244 Notice to the remaining 11 Original Beneficial Owners, also by UPS, a courier, to the address in the Master Contact List for such Original Beneficial Owner.

10. UPS has provided delivery confirmation details, including the delivery date of each Demand Letter and Section 244 Notice. Attached hereto as **Exhibit “C”** is a list of the delivery dates of the Section 244 Notices by courier on all of the Respondents.

11. The exceptions to the above deliveries by UPS are as follows:

- (a) The Contact List did not include a mailing address for Ellen Fleishman or the Fleishman Family Trust (the “**Fleishman Parties**”). Through PPSA searches we

located references to a similarly named Fleishman Family Trust, which had two possible addresses listed under the searches. These addresses were added to the Master Contact List, and copies of the Demand Letter and Section 244 Notices were sent to both these addresses on June 23, 2021, by UPS, one of which was refused and returned by UPS;

- (b) The Contact List did not include addresses for Guy Pace and Caroline Berdusco, who own their interest jointly, or Ruth Hisaye Honda Trust. Through PPSA searches, probable addresses were found for Caroline Berdusco and Ruth Hisaye Honda Trust and added to the Master Contact List. Copies of the Demand Letter and Section 244 Notices were sent to these addresses on June 23, 2021 by UPS. UPS has provided confirmation of delivery for Caroline Berdusco, but the delivery for Ruth Hisaye Honda Trust has been returned; and
- (c) The Contact List did not include mailing addresses for Diane Curtis, Jian Zhang, and John Dattamo and Daniela Dattamo, and inquiries failed to disclose any probable addresses (the “**Care of Legal Owner Service Parties**”). Copies of the Demand Letter and Section 244 Notices were sent by courier c/o of the Legal Owner to its Registered Office Address on June 23, 2021.

Other Potential Parties of Interest

12. Also on June 18, 2021, Jules Monteyne and I sent copies of the Demand Letter and the respective Section 244 Notice to each Other Potential Parties of Interest with an email address in the Master Contact List (the “**Email Service Potential Parties of Interest**”, and together with the Email Service Beneficial Owners, the “**Email Service Parties**”). The Master Contact List did not include e-mail addresses for certain individuals whose names have been redacted, but service, as detailed below, was given by courier at their physical address on the Master Contact List.

13. Also on June 18, 2021, I sent a copy of the Demand Letter and Section 244 Notice to all of the Other Potential Parties of Interest, by sending copies by UPS, a courier, to the address in the Master Contact List.

14. UPS has provided delivery confirmation details, including the delivery date of each Demand Letter and Section 244 Notice. Attached hereto as **Exhibit "D"** is a list of the delivery dates of the Section 244 Notices on the Other Potential Parties of Interest, redacted to protect the privacy of individuals.

15. As described above and based on the delivery of the Demand Letter and Section 244 Notices, I verily believe that the Notice of Application and Application Record are likely to come to the attention of Original Beneficial Owners and the Other Potential Parties of Interest if a Service Letter (as defined in paragraph 76 of the Baron Affidavit) is sent to them by (i) email to the respective email addresses of the Email Service Parties noted with an asterisk on the Master Contact List, (ii) mail to the respective mailing addresses of the parties who are not Email Service Parties on the Master Contact List, (iii) by mail c/o the Legal Owner at the Legal Owner's address to the Care of Legal Owner Service Parties, (iv) mail to the mailing addresses obtained for the Fleishman Service Parties, and given the uncertainty of those addresses, c/o the Legal Owner at the Legal Owner's address, and (v) mail to the registered office addresses of any corporation on the Master Contact List where its respective registered office address differs from the Master Contact List.

16. This affidavit is sworn in support of the application for an order for the appointment of a receiver and for an order providing for substituted service of the Notice of Application and Application Record on the Schedule "A" Respondents and Other Potential Parties of Interest.

Sworn before me by video conference by)
Nancy Thompson of the City of Brampton, in)
the Regional Municipality of Peel, before me at)
the City of Toronto, in the Province of Ontario,)
on July 9, 2021, in accordance with)
O.Reg.431/20, Administering Oath or)
Declaration Remotely)


A Commissioner for Taking Affidavits, etc.



NANCY THOMPSON

SCHEDULE "A"

Individuals
Allan Gross
Errol Yim and Andrea Yim, jointly
Ava Gross
Karen Nakagawa and Calvin Nakagawa, jointly
Carol Jaxon
Carole Kai Onouye
Diane Curtis
Dwight Otani and Theresa Otani, jointly
Edward Bugarin
Ellen Fleishman
Gemie Arakawa
George Tamashiro
Guy Pace and Caroline Berdusco, jointly
Heidi Berger
Henry Ko
Hongwei Su
James Brand
Janis L. Lai Trustee
Jean Morel
Jian Zhang
Johann Strasser
John Dattomo and Daniela Dattomo
Kelly Ann Hiraki and Jonathan Wah Hee Hee, jointly
Randall Y.C. Ho
Robert Atkinson
Roberta Sunahara and Paul Sunahara, jointly
Seymour Kazimirski
Stanley Salcedo

Trusts
Charlyn Shizue Honda Masini Trust, by and through its trustee(s)
Fleishman Family Trust, by and through its trustee(s)
J. Zachery Jones Trust, by and through its trustee(s)
Jane Shigeta Revocable Living Trust, by and through its trustee(s)
Jasen Takei Revocable Living Trust, by and through its trustee(s)
Melvin Shigeta Revocable Living Trust, by and through its trustee(s)
Ruth Hisaye Honda Trust, by and through its trustee(s)
S. Bucky Revocable Living Trust & Bruce E. Bucky Revocable Living Trust, by and through its trustee(s)
Wallace K. Tsuha Trust, by and through its trustee(s)
Corporations / Partnerships
1236068 Ontario Limited
1649750 Ontario Inc.
1818019 Ontario Limited
Citydrill Inc.
Gross Capital Inc.
Dirk and Dale IRA LLC
Gross Medical Opportunities Fund LP
Hybrid Activities Inc.
Mark Craig Gross Holdings Inc.
Randy 88, LLC
Rastogi Medicine Professional Corporation
RMK IRA LLC

This is **Exhibit "A"** referred to in the

Affidavit of Nancy Thompson

sworn before me by video conference
this 9th day of July, 2021

A handwritten signature in blue ink, appearing to read "Jules M.", written over a horizontal line.

A Commissioner, etc.

Jules Monteyne, LSO #729880C

Master Contact List

	Beneficial Owner	Other Potential Party	Source of Address	Account Name	City	Province	Postal	Country	Email Service Party	Additional Registered Office Addresses
Individuals:		Y	Forbearance Agreement	[REDACTED]	Thornhill	Ontario	L3T3J2	Canada		
Individuals:	Y		Forbearance Agreement	Allan Gross	Toronto	Ontario	M5G1X5	Canada	*	
Individuals:	Y		Forbearance Agreement	Andrea Yim/Errol Yim	Honolulu	Hawaii	96814	United States	*	
Individuals:	Y		Forbearance Agreement	Ava Gross	Toronto	Ontario	M4N3P7	Canada	*	
Individuals:		Y	Per UPS	[REDACTED]	Honolulu	Hawaii	96813	United States	*	
Individuals:	Y		Forbearance Agreement	Calvin Nakagawa/Karen Nakagawa	Honolulu	Hawaii	96825	United States	*	
Individuals:	Y		Forbearance Agreement	Carol Jaxon	Honolulu	Hawaii	96825	United States	*	
Individuals:	Y		Forbearance Agreement	Carole Onouye	Honolulu	Hawaii	96814	United States	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Innisfil	Ontario	L9S4G1	Canada	*	
Individuals:	Y		N/A - c/o Legal Owner	Diane Curtis	Toronto	Ontario	M9W 5Z9	Canada		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Honolulu	Hi	96821	United States	*	
Individuals:	Y		Forbearance Agreement	Dwight Otani/Theresa Otani	Honolulu	Hawaii	96817	United States		
Individuals:	Y		Forbearance Agreement	Edward Bugarin	Honolulu	Hawaii	96825	United States	*	
Individuals:	Y		Inquiries / PPSA search results	Ellen Fleishman / Fleishman Family Trust	Winnipeg	Manitoba	R3P 0J8	Canada		
Individuals:	Y		Inquiries / PPSA search results	Ellen Fleishman / Fleishman Family Trust	Winnipeg	Manitoba	R3C 0C9	Canada		
Individuals:	Y		Forbearance Agreement	Gemie Arakawa/Ken Arakawa	Honolulu	Hawaii	96816	United States	*	
Individuals:	Y		Forbearance Agreement	George Tamashiro	Mililani	Hawaii	96789	United States	*	
Individuals:	Y		Inquiries / PPSA search results	Guy Pace and Caroline Berdusco, jointly	Niagara Falls	Ontario	L2E 6S6	Canada		

Master Contact List

	Beneficial Owner	Other Potential Party	Source of Address	Account Name	City	Province	Postal	Country	Email Service Party	Additional Registered Office Addresses
Individuals:		Y	Forbearance Agreement	[REDACTED]	Thornhill	Ontario	L3T4K5	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Barrie	Ontario	L4M5Z1	Canada	*	
Individuals:	Y		Forbearance Agreement	Heidi Berger	Westmount	Quebec	H3Z3L5	Canada	*	
Individuals:	Y		Forbearance Agreement	Henry Ko	Honolulu	Hawaii	96817	United States	*	
Individuals:	Y		Forbearance Agreement	Hongwei Su	Mississauga	Ontario	L5K1S7	Canada	*	
Individuals:	Y		Forbearance Agreement	James Brand	Scarborough	Ontario	M1R1W9	Canada	*	
Individuals:	Y		Forbearance Agreement	Janis Lai	Honolulu	Hawaii	96816	United States	*	
Individuals:	Y		Forbearance Agreement	Jean Morel	Honolulu	Hawaii	96816	United States	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	King City	Ontario	L7B1C3	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Toronto	Ontario	M1V2Y1	Canada	*	
Individuals:	Y		N/A - c/o Legal Owner	Jian Zhang	Toronto	Ontario	M9W 5Z9	Canada		
Individuals:	Y		Forbearance Agreement	Johann Strasser	Honolulu	Hawaii	96814	United States	*	
Individuals:	Y		N/A - c/o Legal Owner	John Dattamo and Daniela Dattamo	Toronto	Ontario	M9W 5Z9	Canada		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Aventura	Florida	33160	United States	*	
Individuals:	Y		Forbearance Agreement	Kelly Hiraki/Jonathan Wah Hee	Honolulu	Hawaii	96813	United States		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Scarborough	Ontario	M1M0B9	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Toronto	Ontario	M1C2H8	Canada	*	
Individuals:	Y		Forbearance Agreement	Randall Ho	Honolulu	Hawaii	96815	United States	*	
Individuals:	Y		Forbearance Agreement	Robert Atkinson	Honolulu	Hawaii	96816	United States	*	

Master Contact List

	Beneficial Owner	Other Potential Party	Source of Address	Account Name	City	Province	Postal	Country	Email Service Party	Additional Registered Office Addresses
Individuals:	Y		Forbearance Agreement	Roberta Sunahara/Paul Sunahara	Honolulu	Hawaii	96814	United States	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Maple	Ontario	L6A0T8	Canada	*	
Individuals:	Y		Forbearance Agreement	Seymour Kazimirski	Honolulu	Hawaii	96821	United States		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Honolulu	Hawaii	96814	United States	*	
Individuals:	Y		Forbearance Agreement	Stanley Salcedo	Honolulu	Hawaii	96822	United States		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Thornhill	Ontario	L4J3L5	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Hamilton	Ontario	L8N 2Z7	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Toronto	Ontario	M4Y2J4	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Oakville	Ontario	L6L0A3	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	Mississauga	Ontario	L5M7G6	Canada	*	
Individuals:		Y	Forbearance Agreement	[REDACTED]	North York	Ontario	M2N3N1	Canada		
Individuals:		Y	Forbearance Agreement	[REDACTED]	Markham	Ontario	L3R4R5	Canada		
Trusts:	Y		Forbearance Agreement	Charlyn Shizue Honda Masini Trust	Honolulu	Hawaii	96821	United States	*	
Trusts:	Y		Forbearance Agreement	J. Zachery Jones Trust	Oakland	California	94611	United States	*	
Trusts:	Y		Forbearance Agreement	Jane Shigeta Revocable Living Trust	Kailua	Hawaii	96734	United States	*	
Trusts:	Y		Forbearance Agreement	Jasen Takei Revocable Living Trust	Honolulu	Hawaii	96814	United States	*	
Trusts:	Y		Forbearance Agreement	Melvin Shigeta Revocable Living Trust	Kailua	Hawaii	96734	United States	*	
Trusts:	Y		Inquiries / PPSA search results	Ruth Hisaye Honda Trust	Honolulu	Hawaii	96817	United States		

Master Contact List

	Beneficial Owner	Other Potential Party	Source of Address	Account Name	City	Province	Postal	Country	Email Service Party	Additional Registered Office Addresses
Trusts:	Y		per UPS	S Bucky Revocable Living Trust and Bruce E. Bucky Revocable Living Trust, jointly	Honolulu	Hawaii	96813	United States		
Trusts:		Y	Forbearance Agreement	[REDACTED]	Oakville	Ontario	L6L0A3	Canada	*	
Trusts:	Y		Forbearance Agreement	Wallace K. Tsuha Trust	Kailua	Hawaii	96734	United States	*	
Corporations:		Y	Forbearance Agreement	10096822 Canada Inc.	Oakville	Ontario	L6H7P8	Canada	*	461 Kerr Street, Oakville, Ontario, L6K 3E2 (per ON corp. profile) AND 250 Consumers Road, Suite 717, Toronto, Ontario M2J 4V6 (per FED corp. profile)
Corporations:	Y		Forbearance Agreement	1236068 Ontario Limited	Etobicoke	Ontario	M9B3B5	Canada		
Corporations:	Y		Corp. Profile	1649750 Ontario Inc.	Hamilton	Ontario	L8M1L8	Canada		
Corporations:	Y		Forbearance Agreement	1818019 Ontario Limited	Toronto	Ontario	M6B2E3	Canada	*	18 Napa Hill Crt., Thornhill, Ontario, L4J 8S1
Corporations:		Y	Forbearance Agreement	1884340 Ontario Inc.	Hamilton	Ontario	L8M1L8	Canada	*	
Corporations:		Y	Forbearance Agreement	2532370 Ontario Inc.	Thornhill	Ontario	L4J9C1	Canada	*	Davidson Law Professional Corporation, 1120 Finch Avenue West, Suite 503, Toronto, Ontario M3J 3H7
Corporations:		Y	Forbearance Agreement	[REDACTED]	Innisfil	Ontario	L9S2S3	Canada	*	
Corporations:	Y		Corp. Profile	Citydrill Inc.	Richmond Hill	Ontario	L4C 8C4	Canada		
Corporations:	Y		Forbearance Agreement	Dirk and Dale IRA LLC	Honolulu	Hawaii	96816	United States	*	
Corporations:		Y	Forbearance Agreement	Earl Levy Holdings Ltd.	Toronto	Ontario	M4V2V7	Canada	*	
Corporations:		Y	Forbearance Agreement	Fibex Window Coverings Ltd.	Thornhill	Ontario	L4J6S1	Canada	*	
Corporations:		Y	Forbearance Agreement	Global Shutter Investments Ltd.	Toronto	Ontario	M6R0A4	Canada	*	255 Duncan Mill Road, Suite 408, North York, Ontario, M3B 3H9, Attention: Harry Chang
Corporations:	Y		Corp. Profile	Gross Capital Inc.	Toronto	Ontario	M9W 5Z9	Canada	*	
Corporations:	Y		Forbearance Agreement	Gross Medical Opportunities Fund LP	Toronto	Ontario	M9W5Z9	Canada	*	200 Ronson Drive, Suite 103, Toronto, Ontario, M9W 5Z9

Master Contact List

	Beneficial Owner	Other Potential Party	Source of Address	Account Name	City	Province	Postal	Country	Email Service Party	Additional Registered Office Addresses
Corporations:		Y	Forbearance Agreement	Henry Jelinek Enterprises Ltd.	Oakville	Ontario	L6J2Z9	Canada	*	
Corporations:	Y		Corp. Profile	Hybrid Activities Inc.	Richmond Hill	Ontario	L4C 8C4	Canada		
Corporations:		Y	Forbearance Agreement	Jules Gross Limited	Toronto	Ontario	M5M4N3	Canada	*	
Corporations:	Y		Forbearance Agreement	Mark Craig Gross Holdings Inc.	Toronto	Ontario	M9W5Z9	Canada	*	200 Ronson Drive, Suite 101 , Toronto, Ontario, M9W 5Z9
Corporations:	Y		Forbearance Agreement	Randy 88, LLC	Honolulu	Hawaii	96815	United States	*	
Corporations:	Y		Forbearance Agreement	Rastogi Medicine Professional Corporation	Toronto	Ontario	M2L1H6	Canada	*	
Corporations:	Y		Forbearance Agreement	RMK IRA LLC	Mililani	Hawaii	96789	United States	*	
Corporations:		Y	Forbearance Agreement	Rose Baum Management Inc.	Toronto	Ontario	M5S3M5	Canada	*	
Corporations:		Y	Forbearance Agreement	Tanbros Investments Limited	Woodbridge	Ontario	L4L7E8	Canada	*	
Corporations:		Y	Forbearance Agreement	TM Corporate Management Services Inc.	Maple	Ontario	L6A1C8	Canada	*	
Corporations:		Y	Forbearance Agreement	Urban-Line Enterprises Inc.	Woodbridge	Ontario	L4H3J6	Canada	*	8700 Dufferin St., Concord, Ontario, L4K 4S6, Attention: Anthony Agueci
Corporations:		Y	Partnership Profile	Victoria Avenue LP	Toronto	Ontario	M9W5Z9	Canada	*	

This is **Exhibit "B"** referred to in the

Affidavit of Nancy Thompson

sworn before me by video conference
this 9th day of July, 2021

A handwritten signature in blue ink, appearing to read "Jules M.", written over a horizontal line.

A Commissioner, etc.

Jules Monteyne, LSO #72980C

NOTICE OF INTENTION TO ENFORCE SECURITY

(Rule 124)

(Section 244 of the Bankruptcy and Insolvency Act)

TO: **1649750 ONTARIO INC.**
(the “**Debtor**”)
853 Main Street East
Hamilton, Ontario L8M 1L8

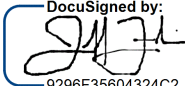
Take notice that:

1. American General Life Insurance Company and National Union Fire Insurance Company of Pittsburgh, P.A. (collectively, the “**Lenders**”) intend to enforce their Security (as defined herein) on the property described on Schedule “A” hereto (collectively, the “**Collateral**”), and all proceeds thereof.
2. The security (“**Security**”) that is to be enforced has been granted to the Lenders under the loan and security documents set out on Schedule “B” hereto (collectively, the “**Loan and Security Documents**”).
3. The total amount of the indebtedness secured by the Security is CAD \$22,825,840.26 as at May 31, 2021, plus all interest, costs, fees, expenses, charges and other amounts whatsoever (including without limitation, all yield maintenance amounts and all legal and financial advisor fees and expenses of the Lenders) that are payable by the Debtor under the Loan and Security Documents.
4. The Lenders will not have the right to enforce the Security until after the expiry of the 10-day period after this notice is sent unless the Debtor consents to an earlier enforcement.

[signature page follows]

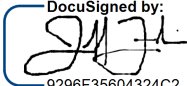
DATED at Houston, Texas, this 22nd day of June, 2021.

AMERICAN GENERAL LIFE INSURANCE COMPANY, by its investment advisor, AIG Asset Management (U.S.), LLC, a Delaware limited liability company

DocuSigned by:

9296F35604324C2...

Per: _____
Name: Jeff Flinn
Title: Managing Director

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, P.A., by its investment advisor, AIG Asset Management (U.S.), LLC a Delaware limited liability company

DocuSigned by:

9296F35604324C2...

Per: _____
Name: Jeff Flinn
Title: Managing Director

SCHEDULE "A"
COLLATERAL

1. All of the Debtor's right, title, estate and interest in the property, assets and undertaking (including the Property) subject to the Mortgage and Loan documentation, together with all proceeds thereof, whether held directly or indirectly by the Debtor for itself or for others, all as defined and more particularly described in the Direction to Nominee and Acknowledgement that is identified on Schedule "B" hereto.

SCHEDULE "B"

LOAN & SECURITY DOCUMENTS

1. Direction to Nominee and Acknowledgement by *inter alia* Gross Capital Inc. (collectively, the "**Beneficial Owners**") to Victoria Avenue North Holdings Inc. and to the Lenders dated as of March 30, 2015 (the "**Direction to Nominee and Acknowledgment**")
2. Charge/Mortgage granted by Victoria Avenue North Holdings Inc. in respect of 304 Victoria Avenue N, Hamilton, Ontario and 414 Victoria Avenue N, Hamilton, Ontario registered on March 31, 2015, as instrument no. WE1027848
3. General Security Agreement dated as of March 30, 2015 granted by Victoria Avenue North Holdings Inc. in favour of the Lenders
4. General Assignment of Leases and Rents in respect of 304 Victoria Avenue N, Hamilton, Ontario and 414 Victoria Avenue N, Hamilton, Ontario, dated as of March 30, 2015 granted by Victoria Avenue North Holdings Inc. in favour of the Lenders
5. Amended and Restated Nominee Agreement dated as of March 31, 2015 between Victoria Avenue North Holdings Inc. and the beneficial owners.
6. Amended and Restated Co-Tenants Agreement dated as of March 31, 2015 between Victoria Avenue North Holdings Inc. and the beneficial owners.
7. Mortgage Loan Application dated as of February 13, 2015

This is **Exhibit "C"** referred to in the
Affidavit of Nancy Thompson
sworn before me by video conference
this 9th day of July, 2021



A Commissioner, etc.

Jules Monteyne, LSO #72980C

RESPONDENTS

Legal Owner	Date of Delivery of 244 Notice	Notes/Comments
Victoria Avenue North Holdings Inc.	21-Jun-21	
Beneficial Owners:	Date of Delivery of 244 Notice	Notes/Comments
1236068 Ontario Limited	21-Jun-21	
1649750 Ontario Inc.	24-Jun-21	
1818019 Ontario Limited	21-Jun-21	
Allan Gross	21-Jun-21	
Errol Yim / Andrea Yim	21-Jun-21	
Ava Gross	21-Jun-21	
Karen Nakagawa / Calvin Nakagawa	21-Jun-21	
Carol Jaxon	21-Jun-21	
Carole Kai Onouye	21-Jun-21	
Charlyn Shizue Honda Masini Trust	21-Jun-21	
Citydrill Inc.	24-Jun-21	
Diane Curtis	24-Jun-21	Residential address not available. Forwarded to the Legal Owner, to the attention of Mark Gross.
Dirk and Dale IRA LLC	21-Jun-21	
Dwight Otani/Theresa Otani, jointly	21-Jun-21	
Edward Bugarin	21-Jun-21	
Ellen Fleishman	24-Jun-21	Joint Notice sent to Ellen Fleishman and Fleishman Family Trust to two possible addresses. One was returned by UPS.
Fleishman Family Trust	24-Jun-21	Joint Notice sent to Ellen Fleishman and Fleishman Family Trust to two possible addresses. One was returned by UPS.
Gemie Arakawa/Ken Arakawa	21-Jun-21	
George Tamashiro	21-Jun-21	
Gross Capital Inc.	23-Jun-21	
Gross Medical Opportunities Fund LP	21-Jun-21	
Guy Pace and Caroline Berdusco, Jointly	24-Jun-21	
Heidi Berger	21-Jun-21	
Henry Ko	21-Jun-21	
Hongwei Su	21-Jun-21	
Hybrid Activities Inc.	24-Jun-21	
J. Zachery Jones Trust	21-Jun-21	
James Brand	21-Jun-21	
Jane Shigeta Revocable Living Trust	21-Jun-21	
Janis Lai Trustee	N/A	Address included only a post office box. Notice sent by regular mail.
Jasen Takei Revocable Living Trust	21-Jun-21	
Jean Morel	21-Jun-21	

RESPONDENTS

Beneficial Owners:	Date of Delivery of 244 Notice	Notes/Comments
Jian Zhang	24-Jun-21	Residential address not available. Forwarded to the Legal Owner, to the attention of Mark Gross
Johann Strasser	21-Jun-21	
John Dattomo and Daniela Dattomo, Jointly	John Dattomo and Daniela Dattomo, Jointly	Residential address not available. Forwarded to the Legal Owner, to the attention of Mark Gross.
Kelly Hiraki/Jonathan Wah Hee	21-Jun-21	
Mark Craig Gross Holdings Inc.	21-Jun-21	
Melvin Shigeta Revocable Living Trust	21-Jun-21	
Randall Y.C. Ho	21-Jun-21	
Randy 88, LLC	21-Jun-21	
Rastogi Medicine Professional Corporation	21-Jun-21	
RMK IRA LLC	21-Jun-21	
Robert Atkinson	21-Jun-21	
Roberta Sunahara/Paul Sunahara	21-Jun-21	
Ruth Hisaye Honda Trust		Package returned by UPS.
S Bucky Revocable Living Trust & Bruce E. Bucky Revocable Living Trust, Jointly	24-Jun-21	Redirected to new address by UPS.
Seymour Kazimirski	21-Jun-21	
Stanley Salcedo	21-Jun-21	
Wallace K. Tsuha Trust	21-Jun-21	

This is **Exhibit "D"** referred to in the

Affidavit of Nancy Thompson

sworn before me by video conference
this 9th day of July, 2021



A Commissioner, etc.

Jules Monteyne, LSO #72980C

Court File No.:

AMERICAN GENERAL LIFE INSURANCY COMPANY *et al.*
Applicants

- and -

VICTORIA AVENUE NORTH HOLDINGS INC. *et al.*
Respondents

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

Proceeding Commenced at Toronto

**AFFIDAVIT OF SERVICE
OF NANCY THOMPSON
Sworn July 9, 2021**

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Pamela L.J. Huff, LSO #27344V
Email: pamela.huff@blakes.com

Aryo Shalviri, LSO #63867A
Email: aryo.shalviri@blakes.com

Jules Monteyne, LSO #72980C
Email: jules.monteyne@blakes.com
Tel: 416-863-5256
Fax: 416-863-2653

Lawyers for the Applicants

APPENDIX “C”



KPMG Inc.
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto ON M5H 2S5

Telephone (416) 777-8500
Fax (416) 777-3364
Internet www.kpmg.ca

September 14, 2021

VIA E-MAIL OR COURIER

Attention: **Potential Beneficial Owner of Property of Victoria Avenue North Holdings Inc.**

Re: Request for Email Contact Information

On August 3, 2021, pursuant to the order of Justice Koehnen of the Ontario Superior Court of Justice [Commercial List], KPMG Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”) of all of the assets acquired for or used in relation to the business of Victoria Avenue North Holdings Inc. (“**Victoria Avenue Inc.**”), which includes the real properties at 304 Victoria Avenue North and 414 Victoria Avenue North in Hamilton, Ontario (the “**Properties**”). The Court-supervised receivership proceedings are referred to herein as the “**Receivership Proceedings**”.

The books and records of Victoria Avenue Inc. available to the Receiver indicate that you may have a beneficial interest in the Properties, and you are receiving this correspondence at the email or mailing address available to the Receiver.

On September 14, 2021, Justice Koehnen granted an order (the “**Service Order**”) approving a “Notification Procedure” directing the Receiver to contact all parties that Victoria Avenue Inc.’s records indicate may have a beneficial interest in the Properties, in order to obtain current email contact information from them for future service of court materials in these Receivership Proceedings. A copy of the Service Order, and the First Report of the Receiver dated September 7, 2021, in support of the Service Order, can be found on the Receiver’s website at: <https://home.kpmg.ca/victoriaholdings>

Victoria Avenue Inc. holds the legal title to the Properties. If you believe that you have a beneficial ownership interest in the Properties, please provide the Receiver with an email address to which notices and service of Court materials may be sent to you pursuant to the instructions below .

(a) Beneficial Ownership Interests held by Individuals, Partnerships or Corporations

If you have received this letter by email, then the Receiver already has your email address and you do not need to take any further steps or contact the Receiver unless you wish to provide an alternative email address.

If you received this letter by email and you do not contact the Receiver, you will continue to receive notices and service of certain Court materials at the email address to which this letter was sent.

If you received this letter by courier at a mailing address, that is because the Receiver

does not have an email address for you. **Pursuant to the Service Order, if you do not contact the Receiver to provide an email address, then effective as of September 24, 2021, you will not be entitled to receive notices or service of Court materials in these Receivership Proceedings until such time as you provide the Receiver with an email address.**

(b) Beneficial Ownership Interests held in a Trust

If you are receiving this letter by email or courier in your capacity as a trustee of a trust that holds a beneficial ownership interest in the Properties, you must respond to this email and confirm (a) the name of the trust; (b) the name(s) of all of the trustee(s) of the trust; and (c) an email address for each such trustee to which notice and service may be sent on behalf of the trust.

Pursuant to the Service Order, if you do not contact the Receiver to provide such information and email address(es), then effective as of September 24, 2021, the trustees for the trust that may hold a beneficial ownership interest in the Properties will not be entitled to receive notices or service of Court materials in these Receivership Proceedings until such time as the required information is provided to the Receiver.

Your receipt of this letter, and your receipt of future notices and service of Court materials, is not an agreement or acceptance by the Receiver that you have a beneficial ownership interest in the Properties. The Receiver may, at a later date, undertake an analysis and assessment of beneficial ownership interests, which future analysis and assessment will be conducted pursuant to a Court order to be obtained on notice to parties to the Service List, and parties claiming a beneficial ownership interest that have provided the Receiver with an email address pursuant to the Service Order.

* * * * *

By providing the Receiver with an email address pursuant to the Service Order (or if you received this letter by email and take no action), you irrevocably authorize the Receiver to disclose your name and email address to any party who reasonably requests such information from the Receiver for the purposes of effective service in these Receivership Proceedings.

In order to provide the Receiver with an email address for future service in these Receivership Proceedings, you must send an email to the Receiver at VictoriaHoldings@kpmg.ca from the address that you wish to provide, including:

1. Your name, if you claim a beneficial ownership interest held in your personal capacity;
2. Your name and title with the corporation or partnership, if you claim a beneficial ownership interest held by such corporation or partnership;

3. The name of the trust, the trustee(s) and email address(es) for such trustee(s) if you claim a beneficial ownership interest held by a trust.

A sample email that you may choose to use to respond is attached hereto as **Appendix “A”**.

Should you have any questions, please direct them to the Receiver at VictoriaHoldings@kpmg.ca.

Yours truly,

KPMG Inc., in its capacity as Receiver
of Victoria Avenue North Holdings Inc.
and not in its personal or corporate capacity

Per:

Katherine Forbes
Senior Vice President

Appendix A

Sample Responding Email

To: VictoriaHoldings@kpmg.ca
From: [Your email address]
Re: Notification by Potential Beneficial Owner

To the Receiver,

[PERSONAL]

My name is *[Your Name]* and I claim a beneficial ownership interest in the property of Victoria Avenue North Holdings Inc.

Any future notices or court materials in the receivership proceedings that are sent to parties claiming a beneficial ownership interest in the property of Victoria Avenue North Holdings Inc. should be sent to me at *[the email address from which this email is being sent]*.

OR

[CORPORATION/PARTNERSHIP]

My name is *[Your Name]*. I am the *[Title]* of the *[Name of Partnership/Corporation]* that claims a beneficial ownership interest in the property of Victoria Avenue North Holdings Inc.

Any future notices or court materials in the receivership proceedings that are sent to parties claiming a beneficial ownership interest in the property of Victoria Avenue North Holdings Inc. should be sent to me on behalf of *[Name of Partnership/Corporation]* at *[the email address from which this email is being sent]*.

OR

[TRUST]

My name is *[Your Name]*. I am a trustee of the *[Name of Trust]*. I confirm that I am the sole trustee of the *[Name of Trust]* OR I confirm the following are trustees of the *[Name of Trust]*: *[List of Trustees]*

Any future notices or court materials in the receivership proceedings that are sent to parties claiming a beneficial ownership interest in the property of Victoria Avenue North Holdings Inc. should be sent to me on behalf of *[Name of Trust]*, at *[the email address from which this email is being sent]*, and the following email addresses for the other trustees, if any:

[Names and email addresses for other trustees, if any].

Thank you,

[Your name]

SCHEDULE "A"

Individuals
Allan Gross
Errol Yim and Andrea Yim, jointly
Ava Gross
Karen Nakagawa and Calvin Nakagawa, jointly
Carol Jaxon
Carole Kai Onouye
Diane Curtis
Dwight Otani and Theresa Otani, jointly
Edward Bugarin
Ellen Fleishman
Gemie Arakawa
George Tamashiro
Guy Pace and Caroline Berdusco, jointly
Heidi Berger
Henry Ko
Hongwei Su
James Brand
Janis L. Lai Trustee
Jean Morel
Jian Zhang
Johann Strasser
John Dattomo and Daniela Dattomo
Kelly Ann Hiraki and Jonathan Wah Hee Hee, jointly
Randall Y.C. Ho
Robert Atkinson
Roberta Sunahara and Paul Sunahara, jointly
Seymour Kazimirski
Stanley Salcedo

Trusts
Charlyn Shizue Honda Masini Trust, by and through its trustee(s)
Fleishman Family Trust, by and through its trustee(s)
J. Zachery Jones Trust, by and through its trustee(s)
Jane Shigeta Revocable Living Trust, by and through its trustee(s)
Jasen Takei Revocable Living Trust, by and through its trustee(s)
Melvin Shigeta Revocable Living Trust, by and through its trustee(s)
Ruth Hisaye Honda Trust, by and through its trustee(s)
S. Bucky Revocable Living Trust & Bruce E. Bucky Revocable Living Trust, by and through its trustee(s)
Wallace K. Tsuha Trust, by and through its trustee(s)
Corporations / Partnerships
1236068 Ontario Limited
1649750 Ontario Inc.
1818019 Ontario Limited
Citydrill Inc.
Gross Capital Inc.
Dirk and Dale IRA LLC
Gross Medical Opportunities Fund LP
Hybrid Activities Inc.
Mark Craig Gross Holdings Inc.
Randy 88, LLC
Rastogi Medicine Professional Corporation
RMK IRA LLC